

# Oregon

## Notary Public Guide



### **Corporation Division**

Public Service Building, Suite 151

Salem, Oregon 97310-1327

(503) 986-2200

[FilingInOregon.com/notary](http://FilingInOregon.com/notary)

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## Preface

Thank you for becoming an Oregon notary public, and 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.

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

**Secretary of State  
Corporation Division  
255 Capitol St. NE, Ste. 151  
Salem, OR 97310**

**(503) 986-2200**

**[FilingInOregon.com/notary](http://FilingInOregon.com/notary)**

**[oregon.notary@state.or.us](mailto:oregon.notary@state.or.us)**

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# 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 Latin American countries, Europe, Africa and Asia, 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. “A person may not use the term “notario publico” or any equivalent non-English term, in any business card, advertisement, notice, sign or in any other manner that misrepresents the authority of a notary public.” ORS 194.162 (5).

Even 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. He or she 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 notaries to be of “good moral character.” If a person has been convicted of embezzlement or fraud, he or she is not considered to be of “good moral character.” 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. “....the Department of State Police shall furnish to the Secretary of State any information that the department may have in its possession from its central bureau of criminal identification.....” ORS 194.024 (1).

### 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 an Oregon Notary, not their employer’s notary.

### Impartial Witness

The main function of the notary is to witness a legal proceeding. As a witness, the notary must ensure the willingness, competence, and identity of the signer. The notary does not validate or legalize the document or guarantee its truth. It is important to the validity of the witnessed act that the notary be impartial. Impartial means:

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- **The notary has no financial interest or any other beneficial interest in the transaction.** The notary has nothing to gain by notarizing. Otherwise, suspicion of fraud is thrown upon the whole proceeding.
  - **The notary must not be related to the signer.** Although Oregon law does not prohibit notarizing for relatives, it is prudent not to do so. It is easy to construe that a notary may gain from a transaction with relatives, particularly in the case of close relatives.
  - **The notary 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.

## Receiving and Maintaining Your Notary Commission

When you apply to become a notary, you will be sent an application form and an exam. The application must be notarized (you will swear an oath or affirm) and completely filled out, even if it is just to renew your commission. The exam is an open-book, multiple-choice test, based on materials included in your application packet. It is meant to be educational; to help you read through the statute and rules and to understand what you have read. It is very important that you take the time to read through the materials and complete the exam properly. Not only will you be denied a commission if you fail, but you will also lose the application fee.

Beginning July 1, 2006, new applying notaries will be required to complete a 3 hours of instruction. **Notaries with a current commission are exempt from the standard.** The education may be provided by the state, employers or private vendors. ORS 194.022(1)(h).

## Commission Renewal

A notary public commission is not automatically renewed. The Corporation Division sends out a reminder notice two months prior to the expiration of the four-year commission. The notice is sent to the notary public's current mailing address. Each notarial commission is its own entity, and a new notarial commission number and expiration date will be issued when the renewal application is accepted. The application can be downloaded from our website. ORS 194.063(1)(2), OAR 160-100-040(1).

If the notary public is renewing, 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 notarial journal entry line.

The official notary seal from the expiring notarial commission must be destroyed by the notary public as soon as the notarial commission expires. It will be invalid with the new notarial commission. OAR 160-100-300(4).

The notary public will purchase a new official notary seal after the new notarial commission is issued. **The new official notary seal will not be valid until the effective date of the new notarial commission.**

The renewal process takes approximately two weeks.

## Non-renewal of Commission

If the notary public decides not to re-apply for a notarial commission, the notarial journal location form must be completed and submitted to the Secretary of State, Corporation Division. OAR 160-100-300(4). The official notary seal from the expiring notarial commission should be destroyed by the notary public as soon as the notarial commission expires. It must be defaced so that the stamp becomes illegible and unusable. The notarial journal location form must be filled out and submitted. It is sent with the renewal packet, or you can download the form from our website.

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## Loss of Notary Seal

If you lose the notary seal, call the Corporation Division to get a form, download the form from our website, or mail a sworn, written notice of the loss to our office **WITHIN TEN (10) DAYS**. We will issue a new Certificate of Authorization To Obtain a Seal so you may purchase a new official seal, with a new commission number. If you find the original seal, you must mail it to us within ten (10) days with a written explanation.

This affidavit form is used for several purposes:

- To replace a seal that has been lost, stolen, or broken.
- To issue a duplicate seal (only allowed under certain circumstances).
- To get a duplicate notarial commission certificate.

This form is not used when changing the notarial commission name.

## Name Change

When a notary public has a legal change of name, he or she is required by law to notify the Corporation Division within thirty (30) days. ORS 194.052, OAR 160-100-040(6).

The change of name form used by the Corporation Division gives the notary public two choices:

- Notify the Corporation Division of the change in name and continue to use the notarial commission as it was issued (no fee for notification). When notarizing, sign as the notarial commission and official notary seal reads.
- Change the notarial commission to the new name. Changing the notarial commission involves a fee of \$5.00 plus the cost of a new official notary seal.

The form can be downloaded from our website.

## Address Change

When a notary public has a change of address, he or she is required by law to notify the Corporation Division within thirty (30) days. The notary may use the Address Change form available on our website, or send a notice of address change to the Secretary of State indicating the old address and the new address. ORS 194.047.

## 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 the Notary Section is 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 tell you how to uphold the letter of the law. Where the law does not specifically tell you what to do, neither can we.

## Secretary of State

### Corporation Division - Notary Public Section

255 Capitol St. NE, Ste. 151

Salem, OR 97310

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Web: [FilingInOregon.com/notary](http://FilingInOregon.com/notary)

E-mail: [oregon.notary@state.or.us](mailto:oregon.notary@state.or.us)

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## Frequently Asked Questions:

1. *My former employer paid for my notarial commission and kept my official notary seal. 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, official notary seal, 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, official notary seal, and notarial journal move with the notary public. ORS 194.010(1).

The only exception would be if there was a notarial journal retention agreement with the employer. Then the notary public would purchase a new notarial journal for use with the new employer. OAR 160-100-360.

2. *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 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 Notary Public Section 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.

3. *My current commission has expired and I have renewed. May I use my old seal until my new seal is made?*

The notary public may only use the official notary seal for the notarial commission they are currently in. Any other seal would have the wrong expiration date and wrong notarial commission number. ORS 194.166(14).

4. *What should I do if my official notary seal is stolen?*

Report the incident to the police, then report the fact to the Secretary of State, Corporation Division in writing. The Secretary of State, Corporation Division will send a Request for Certificate of Authorization to Obtain Official Seal form, so that the notary public can begin the process of replacing the official notary seal. If the notarial journal was not stolen, indicate on the next available line the date and circumstance of the official notary seal's loss.

5. *May I advertise my services as a notary public in the phone book or newspaper?*

A notary public may advertise as long as they are careful about how they describe their qualifications and services. The term "Notario Publico" must never be used. ORS 194.158(2), ORS 194.162(2)(3)(4)(5).



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## Chapter 2 - Responsibilities of Notaries and Employers

A notary has an ethical obligation to serve as a **notary 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 the business does.

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.

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 194.200(3), if an employer coerces a notary 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, he or she has the right to sue the employer, if it can be proved that the employer forced the employee to do the wrongful act.

Also, ORS 194.990(1)(d) states that any person who seeks to have a notary commit misconduct commits a Class B misdemeanor. On top of the civil penalty stated above, it is also a criminal offense to force improper notarizations.

### 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 it is Oregon law.
- What the fees will be, if any, and where they are posted. OAR 160-100-400.
- The responsibility of the notary for updating commission information and renewals, along with the procedure for doing so.
- Notarization for colleagues on work premises.
- The disposition of notary seals and journals upon termination or resignation of employment.
- 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.

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## **Employers and Notaries**

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: valid notarizations done efficiently.

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## Frequently Asked Questions:

1. *If my employer pays for my commission and my official notary seal, am I only a notary for the business in which I am employed?*

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 194.010(1).

2. *My former employer paid for my notarial commission and kept my official notary seal. 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, official notary seal, 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, official notary seal, and notarial journal move with the notary public. ORS 194.990(1)(c).

The only exception would be if there was a notarial journal retention agreement with the employer. Then the notary public would purchase a new notarial journal for use with the new employer. OAR 160-100-360.

3. *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?*

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 194.200(3), and is guilty of a crime. ORS 194.990(1)(d).

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## 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 in the back of this guide.

Because many people find it difficult to read laws, the Secretary of State's office is available for questions by phone (503-986-2200), fax (503-986-2300) or e-mail ([oregon.notary@state.or.us](mailto:oregon.notary@state.or.us)). Our office presents notary seminars, maintains a web site, and publishes this guide. It is up to the notary to make use of these resources, and to make sure he or she understands 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, rule, or good practice that seeks to benefit the notary in some way, often to defraud the signer of the document.

**Unintentional** misconduct is negligent behavior that causes a notary to make an error in a notarization or to accidentally forget to do what is required. 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.

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 even applies to notarial certificates. As you'll see, a notary may not suggest or select notarial certificates for people. Rather, he or she performs a particular notarization at the direction of the requesting individual.

Notaries public must not prepare 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 securing the notary journal and seal; 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, through carelessness or inaction, unintentionally or intentionally damages the complainant, he or she 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.



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## Protecting Yourself

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

### Avoiding Misconduct - Reasonable Care

Although Oregon statutes do not specifically state this, the standard notaries public must adhere to 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’s 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 covers 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. Most 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.

### Insurance vs. 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. Insurance pays for you and only collects periodic premiums.

Therefore, errors and omissions insurance protects the notary, and bonding protects the public from the notary.

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## Frequently Asked Questions:

1. *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?*

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 194.200(3).

2. *May a notary prepare legal documents?*

Only if the notary public is an attorney. Even then, a notary public should be completely removed from the document in order to be an impartial witness.

3. *May a notary public in Oregon perform a marriage ceremony?*

Only Florida, Maine and South Carolina notaries public may perform a marriage ceremony.

4. *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.

5. *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.

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

An Oregon notary public is appointed to notarize only within the jurisdiction of the state of Oregon. Oregon's jurisdiction does not extend beyond the Oregon border. A Washington notary public will need to notarize documents executed in Washington.

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## Chapter 4 - Notary Fees

The notary public keeps track in the notarial journal of the amounts charged for notarization. Whether the employer or the notary public keeps the fees is an issue to be settled by those two parties. Notarial fees are subject to income tax.

### Maximum Amount of Notary Fees Permitted to be Charged

Notaries who charge for their service may charge less than the amounts listed, but must not charge more.

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

- **\$5** for taking an **acknowledgment**;
- **\$5** for taking a **verification upon an oath or affirmation**;
- **\$5** for **certifying a copy** of a document;
- **\$5** for **witnessing or attesting a signature**;
- **\$5** for **protesting commercial paper**, except a check drawn on an insolvent financial institution in which case the fee is \$0;
- **\$1** for **administering an oath or affirmation** without a signature;
- **\$1** for **taking a deposition, each page**.

### Waiver of Fees

If the notary public signed the fee waiver on the application form, the notary public may not charge anyone at any time. OAR 160-100-420.

To begin charging, the notary public must send the Secretary of State, Corporation Division a letter rescinding the waiver of fees. If the notary public is unsure if a waiver has been signed, the notary public may contact the Notary Section of the Corporation Division at (503) 986-2200.

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 194.164(2), OAR160-100-610(29).

### Notary Fees and Your Employer

Oregon statutes and rules do not address the collection of notary fees by employers, but a written agreement about notary fees is advisable. The statute gives only the notary public the right to charge notary fees, but an employer often includes a notary charge to the customer when notarization takes place. The fees must not be more than established by Oregon Administrative Rule, 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 or her employment. The employer's legal counsel should draw up an appropriate agreement.

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## Frequently Asked Questions:

1. *If I sign the waiver of fees on the application, may I sometimes charge for my notarial services?*

If the notary public signs the 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 160-100-420(1)(2).

2. *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 160-100-410, OAR 160-100-400.

3. *If two people sign the same document, do I charge \$5 or \$10?*

The fee would be \$10. The fee is per signature/person. Even if the notary public is using one notarial certificate, the notary public in this case is identifying and witnessing two separate executions on the document. OAR 160-100-400(4).



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## Chapter 5 - The Notarial Journal

All notaries public must keep and maintain a notarial journal, even if the notarizations normally performed fall under the exempt status. OAR 160-100-230. A notary public may be asked to notarize non-exempt documents at any time.

The information contained in the front of the notarial journal must be kept current. This includes the notary public's name, notarial commission number, expiration date, address, and earliest date the notarial journal may be destroyed. As a notarial commission is renewed or a notary public moves from one employer to another, the law requires that this information be updated. OAR 160-100-200(5).

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

### Importance of the Journal

The notarial journal is a vital component of exercising reasonable care. It is prudent to diligently keep a record of your notarial transactions. 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 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 it can prevent a notary from being named in a suit. 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. 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 and seal are to be secured at all times.

### Disposition of Records

The notary public must retain the journal for seven years after the commission expiration. However, because it is the only record of the notarization and because the statute of limitations is uncertain, the Secretary of State encourages permanent storage. Whether or not a notary keeps the journal for a limited time, the Secretary of State must have a record of the place the journal is currently being stored. ORS 194.154, ORS 194.156.

If there is an employer agreement, as provided in Oregon Administrative Rule 160-100-360, the journal stays with the employer upon termination of the employee. The employer must follow the same rules as the notary would.

Upon revocation of the commission or the death of a notary public who has an active commission, the notarial journal must be sent to the Secretary of State's office.

### Public Record

Because the notary public is an officer of the state and is responsible to the public, the notarial journal falls under the public record disclosure laws if the journal resides with the Secretary of State, or if the notary is a public official or employee. 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, however, unless requested by the Secretary of State or under subpoena. Normally, it will be in the notary's interest to cooperate with an investigation to avoid being named in a suit. But notaries should not allow "fishing expeditions," or possibly malicious attempts to view private information, such as addresses or signatures. There is no reason to allow someone just to browse through your journal.

## Notary Journal Requirements

Get the details required for the journal according to OAR 160-100-210:

- Date and time the notarial act was performed;
- Type of notarial act performed;
- Date of the document notarized;
- Type of document notarized. Name the type of document (e.g., will, contract between “ABC company and Oregon Outfitter’s,” Russian invitation, student transcript, etc.);
- Printed name of the signer;
- Signature of the signer;
- Description of how the notary public identified signer;
- Any other pertinent information;
- Fees collected, if any;
- Unusual circumstances, such as power of attorney, reason for refusal to notarize; corrections made to notarial certificate; representative authority (example: President of ABC Company); etc.

### Example - Notary Journal Entry

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
Required	Required	Required	Required	Required	Recommended	Required	If necessary

## Abbreviated Multiple Entry in Notarial Journal

### Duplicate Original (OAR 160-100-220)

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 notarized.

James L. Howe needs to have 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 copies he/she notarized.

### Example

#### Previous Cite

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
3/2/01 1:30 pm	Ackn.	3/1/01	Bill of Sale	James L. Howe <i>James L. Howe</i>	James' address	ODL 1234567 exp. 12/1/04	25 copies notarized

## Multiple Acts

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.

Deborah 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 act, document dates and documents types in one journal entry.

### Example

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
3/2/01 3:00 pm	Ackn.	3/1/01	Affidavit	<i>Deborah Smith</i> <i>Deborah Smith</i>	Deborah's address	ODL 1234567 exp. 3/2/04	
“ ”	Witness	3/2/01	Deed		“ ”	“ ”	

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 printed name and how the notary identified the signer.

The notary has previously notarized for Deborah Smith, in the journal the notary can indicate a previous journal entry information for the address and how Deborah was identified.

### Example

## Notarial Acts Not Required to be Recorded in Notarial Journal (OAR 160-100-230)

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
3/4/01 11:15 am	Ackn.	3/4/01	Contract	<i>Deborah Smith</i> <i>Deborah Smith</i>	Refer to journal entry #1, pg. 5	Refer to journal entry #1, pg. 5	

A notary public may, but is not required to, record in a notarial journal any information about the following notarial acts performed or documents notarized by the notary public:

- Administering an oath or affirmation;
- Certifying or attesting a copy of a document;
- Affidavits;
- Billing statements for media advertising;
- Protests of commercial paper (to be recorded as provided in ORS 194.090 and 73.0505).
- Verifications upon oath or affirmation.

Although not every act must be written in the journal, the Secretary of State's office recommends that notaries **record all** notarizations in their journals.

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## Frequently Asked Questions:

1. *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 160-100-200.

2. *May I choose not to keep the notarial journal?*

The law states that all notaries **must** keep, maintain, and protect a chronological notarial journal during the term of notarial commission. Penalties can and will be incurred if this is not done. ORS 194.152(1).

3. *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. OAR 160-100-220.

4. *Must I record every notarization in my journal?*

There are some exceptions to the notarial journal entries which are stated in the Oregon Administrative Rules. Exemptions are per Administrative Rule not by a notary public's preference. OAR 160-100-230.

5. *May a notary public have more than one journal?*

A notary public may wish to keep separate notarial journals for business and personal use. ORS 195.152(1). Note in the front of each notarial journal that there is more than one notarial journal and the location of the other journal, (For example: Vol. 1 of 2 at ABC Company office, 123 Nowhere St., Corvallis, OR in desk; and Vol. 2 of 2 at home, 555 E. 220th, Philomath, OR).

6. *Is my notarial journal a public record that anyone may look at? ORS 194.152(4).*

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 160-100-430(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 the public record disclosure 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.

If a customer needs to see their own entry record in the notarial journal, this is reasonable, but the entries above and below should be covered to protect the privacy of those individuals.



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## Chapter 6 - How to Notarize

Don't be rushed. Often you'll 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.

The following are suggested steps for correctly notarizing 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 valid notarization must have an official notarial seal, an official notarial signature, and a complete notarial certificate.**

### 1. Scan the Document

**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 must indicate that in some manner, (e.g., N/A to indicate not applicable).

The 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:

- Ask the customer to initial next to the blanks to indicate his or her knowledge of the deficiency and the notary notes it in the journal.
- 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).
- Refuse to notarize (note in the notarial journal why the notarization was refused).

**Scan the document for information required by the journal** (i.e. document date and type), as well as 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 the date of notarization in your journal where you would indicate the document date. The notarization date is never in the past or future, the notarization date must always be the date that you are notarizing.

### 2. Identify the Signer

**Require the personal appearance of the signer.** The person signing the document must be 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. 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.
- Absolute certainty. You must have no reasonable doubt in your mind that the signer is who he or she claims to be. The test is: Would you be willing to swear to it in court?

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**Credible Witness** – The notary personally knows someone who swears that he or she personally knows the signer. In order to use the credible witness as identification:

- The notary must personally know the witness.
- The witness must personally know the signer.
- Both witness and signer must be present during notarization.
- Witness must take an oath from notary. Sample oath/affirmation:

*“Do you swear (or affirm) that you personally know this document signer to be the individual he/she claims to be (so help you God)?”*

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

**Identification Documents** – The following types of identification may be used to positively identify a client, if they are **current**.

- At least one current document issued by the federal government or a state, county, municipal or other local government from the United States and containing the person’s photograph, signature and physical description, such as a driver’s license, Oregon ID card, Concealed Weapon’s Permit, or Military ID card. ORS 194.515(8)(a) **OR**
- Two current United States documents, each issued by an institution, a business entity, the federal government or a state, county, municipal or other local government from the United States and each containing the person’s signature, such as library card, Social Security card, employee identity card, or group membership card. ORS 194.515(8)(b)
- If the notary is also an employee of a financial institution and the person to be identified is a customer of the financial institution, one of the two current documents required under subsection ORS 194.515(8)(b) may be a signature card signed by the customer and held by the financial institution in connection with the financial institution’s transactions with the customer. ORS 194.515(9)

Credit cards may be used under the second category above. A notary may use the card issuer, type (e.g., Visa, Discover, American Express), and expiration date for journal reference.

### **3. Determine the Signer’s Willingness and Ability to Understand What Is Being Signed**

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, such as minors, the infirm, and non-English speaking individuals must sign legal documents.

The notary must make a judgement that the signer has the ability to understand what they are signing. If the notary is questioning the ability 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 sure he or she signs the journal and make the appropriate notation in the notary journal.

### **4. Complete the Notary Journal**

Compare the signature on the document to the signature in the journal and on the identification.

Refer to Chapter 5 for the journal requirements.

### **5. Complete the Notarial Certificate**

Refer to Chapter 7 for the certificate requirements.

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## Frequently Asked Questions:

### 1. *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 an attorney.

### 2. *May I notarize for a minor?*

A minor must provide acceptable ID just as an adult would. ORS 194.505(8), ORS 194.515(6).

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, he or she should refuse to notarize, noting why in the notarial journal, and advise the customer to seek legal advice.

### 3. *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. Competence, or the ability to understand 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 a statement as to the competence of the customer/patient and keep that statement in the notarial journal.

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 why in the notarial journal and advise the customer to seek legal advice.

### 4. *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).

### 5. *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 at (503) 986-2200.

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## Chapter 7 - Notarial Certificates

An Oregon notary public is authorized **only** to take an acknowledgment, verify an oath, 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. Only a fully qualified bank officer should attempt notation of a commercial protest, because of its highly technical and rare nature. If uncertain about the procedure for any type of notarization, call the Secretary of State's office for help.

### Components of a Notarial Certificate

Oregon law requires certain minimum requirements for notary certificates. If necessary certificate information is left out of pre-printed certificates (e.g., no signature line for the swearer to a jurat) the notary must add the appropriate information to make the certificate complete. When in doubt, look up the proper format and complete the certificate.

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

1. **Jurisdiction**, which indicates the **state** and **county** where the notarization takes place;
2. **Statement of particulars** provides details of the notarization such as:
  - **Date** of notarization;
  - **Who** personally appeared;
  - **What** the signer did;
3. **Notary seal imprint**;
4. **Notary signature**, which must be exactly as imprinted on the seal.

**Your stamp and signature by itself is not a correct certificate.**

### Selecting the Certificate

Many times a notary public is confronted with the situation wherein he or she must 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 often doesn't 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, a November 12, 1993, Attorney General's opinion 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 opinion says:

"...the notary public should not advise any party concerning which notarial certificate to select. That action is very likely the practice of law. Only notaries public who are also licensed attorneys should provide that advice.

"...The job of the notary public is to assure that a certificate is complete and contains the required information. ORS 194.565. The notary public cannot execute any certificate which contains a statement known to be false. ORS 194.166(13). However, if neither of these two concerns are present, and the notary still believes that 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 certification, then the notary should complete the notarial act as requested, 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.** (emphasis added)".

There is still the question of how to help an individual who is unsure about the proper certification. All he or she has been told is "Get it notarized." The Attorney General's opinion addresses that aspect:

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“...If the certificate is clearly incorrect, then the notary public must refuse to perform the notarial act and request that the party have the document corrected so that the certificate is not false. The notary public should advise that if the person is uncertain as to the correct certificate to include, the person should consult with an attorney.

“...The notary public may point out ORS 194.565 and the required elements of the certificate, and may suggest that the person consider using one of the “short forms” in ORS 194.575. However, the notary public should not select a form of certificate for the person or otherwise draft a certificate for the person.”

We also suggest that, if appropriate, the notary or the requesting individual contact the agency receiving and/or providing the document to determine exactly what is required. Unfortunately, for the same reasons that notaries cannot give advice, the Corporation Division, Notary Public section, cannot assist parties with the proper form.

“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.”

**A notary public is just an impartial witness, not an expert on legal procedure.**

## Steps to Complete the Notarial Certificate:

1. **Don't advise or select the certificate for the client.** If you do, you may be practicing law illegally.
2. **Certificate must fit the notarization.** If the client asks for one certificate, but a different one is on the document, ask the client to contact either the sender or recipient to confirm which one is appropriate.
3. **Read the certificate carefully.**
  - 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 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 to the certificate after it leaves your hands.
  - Cross out inappropriate wording (e.g., “he/~~she~~ executed it.”). The idea is that the certificate should read smoothly, with no doubt in the reader's mind exactly who did what and when.
  - Make sure all the elements of the certificate are there: jurisdiction, signer, date, etc.
4. **Don't “stamp and sign.”** Create the certificate if there is no certificate given, the client has informed you about the type of notarization, and there is room on the document. Otherwise, attach a “loose” certificate.
5. **Identify the signer.** If you are creating the certificate, remember the certificate must identify the signer: “by Jane Doe.”
6. **Affix the notary signature and seal properly.** The ideal place for the notary seal is immediately left or right of the notarial certificate and notary signature. Do not put the seal over the abbreviation “LS.” Even though “LS” stands for place of the seal, placing the seal there could obscure some of the words or obliterate some writing.



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- The imprint of the rubber stamp seal must be legible and **in black ink**. Also, according to Oregon Administrative Rule 160-100-110(3), “A notary public shall not place an imprint of the notary public’s official seal over any signature in a document to be notarized or in a notarial certificate, nor over any writing in a notarial certificate.” If your seal 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 your seal as close as possible to the certificate.
  - To be recordable, the notary seal, 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 seal on the back. Many times, however, the seal cannot be placed adjacent to the certificate and signature, but will fit in the margin. Indicate the seal’s position in the space provided for the seal (e.g., “See notary seal in left margin.”).
  - If there is no space on the signature page, line out the certificate and either attach a loose certificate, or, preferably, type out the certificate on the back of the document. Check with the receiving agency before using the back of a document. Some places won’t accept it at all, and others will charge extra to record the page. Some agencies, such as the Immigration and Naturalization Service, may have trouble with attaching the certificate. When in doubt, always check with the receiving agency.

## Protect Loose Certificates

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.
- Attach the certificate to the left-hand margin using staples or other fasteners that will make holes if detached.
- The certificate should be above the signature page, directly over the signature, 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 signer should be noted. It is also a good idea to show the number of pages (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.”
- An embosser is especially useful to guard against fraudulent certificate use. Affix the impression so that it rests half on the certificate and half on the signer’s page. Make sure a whole impression is also stamped on the certificate so that an auditor can compare the divided impression to the whole. You can use the notary seal in the same manner, but make sure that the seal does not obscure anything on either paper.
- 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 are liable.

## 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 must be noted in your journal.

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## **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 seal if it has been smeared.

## **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 by either filling in missing information (such as a seal) 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.

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## Frequently Asked Questions:

1. *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. See page 26 for details on correcting errors on notarial certificates.

2. *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 valid notarization, certain elements must be present (jurisdiction—state and county, statement—who appeared, on what day, and what they did sign, sign and swear, etc.), the notary public's signature and official notary seal 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 seal 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.

3. *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."

4. *When using an attachment certificate, must I always put a complete seal impression on the attachment?*

When using an attachment certificate a complete imprint of your official seal must be on the attachment certificate. A second imprint may overlap the document and the certificate as a protection device. OAR 160-100-0110(2).

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## Chapter 8 - Sample Notarial Certificates

The following are sample certificates from ORS 194.575 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. The other certificates are also commonly encountered and may be of use.

- **Acknowledgment in an Individual Capacity** is a statement by a person that he or she has executed an instrument for the purposes stated therein. ORS 194.505(2). The signer must personally appear, acknowledge that he or she willingly and knowingly signed the document, and the notary must identify him or her as the one who did indeed sign. The signature may be made before, but not after, the notarization. **Example on page 30.**
- **Acknowledgment in a Representative Capacity** is similar to the individual acknowledgment, but "...the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified therein." ORS 194.505(2). 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 appear to require it, it is usually best 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. **Example on page 32.**
- **Verification Upon Oath or Affirmation** is a statement by a person who swears upon oath or affirmation that the statement 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 or affirmatively swear to the oath, 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 of forsworn. **Example on page 34.**
- **Witnessing or Attesting a Signature** is where the notary determines that the signature is that of the person appearing before the officer and the one named in the document. Note that this certificate differs from an acknowledgment in that there is no statement of execution of a document, merely the signing of a name. Also, that the signature must be signed in the presence of the notary, whereas an acknowledgment does not have to be. **Example on page 36.**
- **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 that which is copied." ORS 194.515(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 birth or death certificates. **Example on page 38.**

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# Acknowledgment Certificate

## Acknowledgment in an Individual Capacity

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

There are many forms of acknowledgments, but they all say basically the same thing, “I did, of my own 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 notary’s presence unless the language on the certificate requires that (“subscribed/signed before me”). 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 he or she has executed an instrument for the purposes stated therein. ORS 194.505(2). The signer must personally appear, acknowledge that he or she willingly and knowingly signed the document, and the notary must identify him or her as the one who did indeed sign. The signature may be made before, but not after, the notarization.

A notary shall not charge more than **\$5.00** for taking an acknowledgment.

## SAMPLE CERTIFICATE

### Acknowledgment in an Individual Capacity

State of OREGON County of _____  This instrument was acknowledged before me on _____, 20____ by _____.  _____ Notary Public - State of Oregon
--



# EXAMPLE

## ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY

### Case

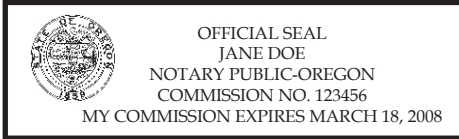
Erik Allen came into the Multnomah City Branch of Oregon Bank on May 23, 2005 at 1:00 p.m., to have his signature notarized on a power of-attorney dated April 15, 2005. This power of attorney will allow his brother, Corey Allen, to sell some jointly held property in Arizona. The document is dated April 15, 2005, and has Erik's signature at the bottom and a blank signature line with the name Corey Allen 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	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
5/23/05 1:00 p.m.	Ackn.	4/15/05	POA	Erik Allen <i>Erik Allen</i>	Erik's address	ODL 1234567 exp. 1/3/08	Blank sign. to be filled in later

## CERTIFICATE

State of OREGON County of <u>Multnomah</u>  This instrument was acknowledged before me on <u>May 23</u> , 20 <u>05</u> by <u>Erik Allen</u> .  <u>Jane Doe</u> (signature) Notary Public - State of Oregon	
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# Acknowledgment Certificate

## Acknowledgment in a Representative Capacity

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

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.
- 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 so ("subscribed/signed before me"). 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.

An **Acknowledgment in a Representative Capacity** is similar to the individual acknowledgment, but "...the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified therein." ORS 194.505(2). 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 appear to require it, it is usually best 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.

A notary shall not charge more than \$5.00 for taking an acknowledgment.

## SAMPLE CERTIFICATE Acknowledgment in a Representative Capacity

<p>State of OREGON County of _____</p> <p>This instrument was acknowledged before me on _____, 20____ by _____ as _____ of _____.</p> <p>_____ Notary Public - State of Oregon</p>
--

# EXAMPLE

## ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY

### Case

Christopher Bathke, President and General Manager of Oregon Outfitter's Corporation (Medford, Oregon), has a contract with Outdoor Gear Corporation of Anchorage, Alaska. This document needs to be signed by Mr. Bathke as President 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, 2005. On July 12, 2005, at 3:00 p.m., Mr. Bathke has come to ABC Insurance Agency next door to his office in hope that Jane Doe, the insurance agent/notary public can help him. How should the notary proceed?

## NOTARY JOURNAL ENTRY

Although not strictly necessary, Jane asked to see documentation that Christopher 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. The date the contract takes effect is noted as the document date in the journal. The date by the signature indicates the date signed (7/12/05).

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
7/12/05 3:00 p.m.	Rep. Ackn.	9/30/05	Contract	Christopher Bathke <i>Christopher Bathke</i>	Oregon Outfitter's address	ODL 1234567 exp. 1/2/08	Proof of position, annual report

## CERTIFICATE

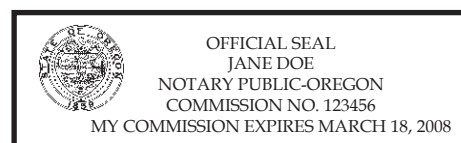
State of OREGON

County of   **Jackson**  

This instrument was acknowledged before me on   **July 12**  , 20   **05**   by   **Christopher Bathke**    
as   **President**   of   **Oregon Outfitter's Corporation**  .

  **Jane Doe**   (*signature*)

Notary Public - State of Oregon



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## 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 statement by a person who swears upon oath or affirmation that the statement 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 to a supreme being of truthfulness; 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 **oath** before the notary.
- Freely and willingly **signed** before the notary.

An oath/affirmation can be a notarial act in its own right, as when a public official is sworn into office. ORS 194.505(5). A verification of oath/affirmation is a statement by a person who asserts its truth and takes an oath about the assertion. ORS 194.505(6).

- 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 he or she 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, using “I” instead of “you,” or by saying, “I do,” or, “I will.”

A notary shall not charge more than **\$5.00** for taking a verification upon oath or affirmation, or no more than **\$1.00** for an oath or affirmation without a signature.

## 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

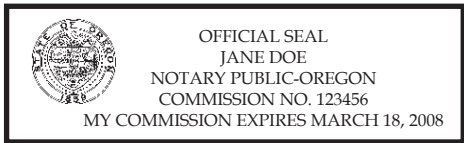
On January 29, 2005, Judy Renee Lao's house caught on fire when her fireplace screen was left open. Among the items destroyed were Judy's stock certificates from General Investments Incorporated. The company requires an affidavit to be filled out concerning the loss of the certificates. The affidavit must be notarized. On April 15, 2005, at 10:00 a.m., after signing the document (provided by General Investments), Judy 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

Judy Renee Lao 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; Judy chose an oath. A journal entry is not required by statute, but is strongly advised.

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
4/15/05 10:00 a.m.	Jurat	4/15/05	Affidavit	Judy Renee Lao <i>Judy Renee Lao</i>	Judy's address	ODL 1234567 exp. 1/5/08	Re-signed before me

## CERTIFICATE

State of OREGON	
County of <u>Marion</u>	
Signed and sworn to ( <del>or affirmed</del> ) before me on <u>April 15</u> , 20 <u>05</u> by <u>Judy Renee Lao</u> .	
<u>Jane Doe</u> ( <i>signature</i> )	
Notary Public - State of Oregon	

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## Witnessing or Attesting a Signature Certificate

Witnessing or attesting a signature is like an acknowledgment, except that the signer **must** sign before 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.
- **Signed** before the notary.

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

A notary shall not charge more than **\$5.00** for witnessing a signature.

### 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
---



# EXAMPLE

## WITNESSING OR ATTESTING A SIGNATURE

### Case


Armondo Maldonado has family members in Quito, Ecuador. He wants to invite his cousin Alicia Duarte to come to the United States for a visit. The form he has received from the Ecuador Consulate requires that his signature be notarized. On Aug. 17, 2005, at 9:00 a.m., Armondo takes the form with him to work where a co-worker, Jane Doe (a notary public) agrees to do the notarization. How should the notary proceed?

## NOTARY JOURNAL ENTRY

Jane has Armondo sign the consulate form in front of her and records in her journal that she witnessed his signature.

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
8/17/05 9:00 a.m.	Witness Signature	8/17/05	Consulate form	Armondo Maldonado <i>Armondo Maldonado</i>	Armondo's address	ODL 1234567 exp. 9/25/08	

## CERTIFICATE

State of OREGON	
County of <u>Umatilla</u>	
Signed or attested before me on <u>Aug. 17</u> 20 <u>05</u> by <u>Armondo Maldonado</u>	
<u>Jane Doe</u> (signature)	
Notary Public - State of Oregon	

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## 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 that which was copied." ORS 194.515(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 full (including the margins!), true, and accurate. 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.

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 seal 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.

Notaries should not copy public records; certified copies are available from the agencies in charge of those records. If an individual wishes you to certify a copy of his or her articles of incorporation, for example, refer him or her to the Corporation Division, which has them on record. It is illegal to make copies, or to certify to copies, of birth or death certificates and marriage or divorce decrees. According to Oregon Revised Statutes, Chapter 432.120 and Oregon Administrative Rule 333-011-101, only the Oregon Center for Health Statistics may make copies of those records. The current number for the Oregon Center for Health Statistics to obtain certified copies of records is (503) 731-4108.

However, some records may be copied, such as the Oregon Driver's License, U.S. Passports and most professional licenses, 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 notary shall not charge more than **\$5.00** for a copy certification.

### SAMPLE CERTIFICATE Attestation of a Copy of a Document

State of OREGON

County of \_\_\_\_\_

I certify that this is a true and correct copy of a document in the possession of \_\_\_\_\_.

Dated: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public - State of Oregon

# EXAMPLE

## CERTIFYING OR ATTESTATION OF A COPY OF A DOCUMENT

### Case

Guy B. Hume, 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, 2005, at 8:30 a.m., Guy 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

A journal entry is not required by statute but is strongly advised.

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
12/2/05 8:30 a.m.	Copy Cert.	1/24/65	Song	Guy. B. Hume <i>Guy B. Hume</i>	Guy's address	ODL 1234567 exp. 2/4/08	

## CERTIFICATE

State of OREGON

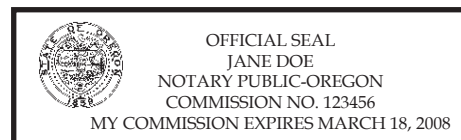
County of Marion

I certify that this is a true and correct copy of a document in the possession of Guy B. Hume.

Dated: December 2, 2005.

Jane Doe (signature)

Notary Public - State of Oregon



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## Attorney-In-Fact Acknowledgment Certificate

An attorney-in-fact acknowledgment is a kind of acknowledgment in a representative capacity. The attorney-in-fact represents the person named in the document and signs on his or her behalf. A power of attorney document is the authorization the attorney-in-fact gets so that he or she can sign documents on the signer's behalf. Those documents may then be accompanied by an attorney-in-fact acknowledgment. When a notary needs to do an attorney-in-fact acknowledgment, he or she often needs to see proof of the signer's authority to sign for another. That proof is the power of attorney.

A general acknowledgment notarial certificate is usually used for a power of attorney document (i.e., someone giving someone else the power to sign documents for him). The notary should be extra careful about the competence of the signer.

The attorney-in-fact acknowledgment is always an acknowledgment, never a jurat. One can never swear an oath on behalf of another.

If the certificate requires it, or you feel uncomfortable about the transaction, ask to see the original power of attorney, or a certified copy, if it was filed in the county. Check for proof (the power of attorney) that the signer has this power, especially in real estate matters where it should be of record. Note the proof in the journal.

The notary is not required to judge whether the power of attorney is valid for that particular transaction. However, if something is blatantly wrong, such as the document is obviously expired, or clearly says it is not to be used for the type of document being notarized, then the notary should not notarize, and should make a notation to that effect in the journal.

The signer must sign the document for the principal and for self. For example, "Helen Steinkamp by Jean Parker, as attorney-in-fact." The notarial certificate must state that Jean Parker is signing on behalf of Helen Steinkamp. The signer should sign both names in the notarial journal.

A notary shall not charge more than **\$5.00** for an attorney-in-fact acknowledgment.

### SAMPLE CERTIFICATE Acknowledgment Through Power of Attorney

State of OREGON

County of \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared \_\_\_\_\_,  
(proved to me on the basis of satisfactory evidence) (personally known to me) to be the person whose  
name is subscribed to the within instrument (Type of Document: \_\_\_\_\_)  
as the attorney in fact of: \_\_\_\_\_, and acknowledged that (he)(she) subscribed the name  
of \_\_\_\_\_ thereto as principal, and (his)(her) own name as attorney in fact.

\_\_\_\_\_  
Notary Public - State of Oregon

# EXAMPLE

## ATTORNEY-IN-FACT ACKNOWLEDGMENT CERTIFICATE

### Case

Jean Parker currently has power of attorney for Helen G. Steinkamp, her mother-in-law. Helen is currently out of the country but needs to sell her 1998 Honda Accord. Jean has a buyer but needs to get the bill of sale notarized. Jean goes to her Credit Union asking for a notary. How should the notary proceed?

## NOTARY JOURNAL ENTRY

Jane should verify the power of attorney giving Jean Parker the right to sign for Helen. She also has Jean sign both Helen's name and her own in her journal.

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
2/28/05 2:30 p.m.	Rep. Ackn.	2/28/05	Bill of Sale - 1998 Honda	Helen G. Steinkamp <i>Helen G. Steinkamp</i> by Jean Parker <i>Jean Parker</i>	Jean's address	Jean Parker ODL 1234567 exp. 6/10/08	Verified power of attorney

## CERTIFICATE

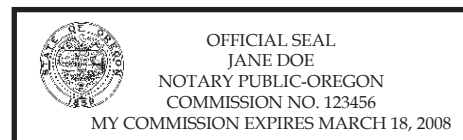
State of OREGON

County of Clackamas

On this 28th day of February, 2005, before me personally appeared Jean Parker,  
(proved to me on the basis of satisfactory evidence) (~~personally known to me~~) to be the person whose  
name is subscribed to the within instrument (Type of Document: Bill of Sale - 1998 Honda Accord)  
as the attorney in fact of: Helen G. Steinkamp, and acknowledged that ~~he~~(she) subscribed the name  
of Helen G. Steinkamp thereto as principal, and ~~his~~(her) own name as attorney in fact.

Jane Doe (signature)

Notary Public - State of Oregon



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## Notarizing a Signature by Mark

The Signature by Mark certificate is an option for persons who cannot fully sign their names. It allows a person to make a mark indicating his or her intent to sign a document, with witnesses to verify the proceeding. It is used when the signer cannot make a full signature because of infirmity or physical handicaps. Oregon statutes do not speak to notarizing a signature by mark. The following directions indicate “best practice” as understood by the Secretary of State.

The notary must be directed to do this type of notarization; he or she does not recommend or suggest it. Similarly, the notary must not recommend or direct extraordinary procedures, such as making a mark by holding the pen in the mouth. An attorney is best qualified to make such determinations and should be consulted before proceeding.

It is especially important that the notary be attentive to competence issues. Make sure the signer understands what the document does and is willing to sign.

**On the Document:** There must be two witnesses **in addition to the notary**, who of course must be present when the signer makes an “X” on the signature line. One witness then writes the signer’s name next to the mark or symbol. Each witness signs the document as a witness to the signature.

Witnesses should be without financial or other beneficial interest in the transaction. It is preferable that they not be related to the signer.

**On the Certificate:** The printed name of the signer must be included within the certificate language, as well as the witnesses’ names. The witness who wrote name of signer should be indicated.

The notary must have the witnesses swear a jurat that they witnessed the signature and should have a witness affidavit that they can sign. The witness affidavit is not attached to the document, unless so stated, but is kept in the notary’s records.

**Journal:** Information on the signer should be obtained as usual; the signer should put a mark on the signature line. Witnesses, too, should be identified and they must sign the journal.

The notary always has the right of refusal. The notary is not the last resort. The document may be signed by an attorney-in fact, a guardian, or conservator may be appointed by a court.

A notary shall not charge more than **\$5.00** for a Signature by Mark Certificate.

### SAMPLE CERTIFICATE SIGNATURE BY MARK

STATE OF OREGON County of _____  On this ____ day of _____, 20 ____, before me personally appeared _____, (proven to me on the basis of satisfactory evidence) (personally known by me) to be the person who made and acknowledged (his)(her) mark on the within instrument (Type of document: _____) in my presence and in the presence of the two persons who have signed the within instrument as witnesses, one of whom, _____, also wrote the name of the signer by mark near the mark.  _____ Notary Public, State of Oregon
---



**Witness Affidavit for Signature by Mark - To Be Retained By Notary For Records**

**SAMPLE CERTIFICATE**

**WITNESS AFFIDAVIT for Signature by Mark - TO BE RETAINED BY NOTARY FOR RECORDS**

STATE OF OREGON  
County of \_\_\_\_\_  
\_\_\_\_\_ and \_\_\_\_\_,  
after first (being by me duly sworn)(affirming to me), declare that: We saw \_\_\_\_\_,  
the person who executed the foregoing instrument (Type of Document: \_\_\_\_\_),  
subscribe the same for the purposes and considerations therein expressed, and that we signed the same  
as witnesses at the request of the person who executed the same.

_____	_____	_____	_____
Signature	Date	Signature	Date

Subscribed and (sworn) (affirmed) before me by \_\_\_\_\_, and  
\_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public - State of Oregon

# EXAMPLE

## NOTARIZING SIGNATURE BY MARK

Anita Carol needs to have her Family Trust notarized but is unable to fully sign her name due to having cerebral palsy. There are two witnesses available to witness her mark, Gage W. Hunt and Jestine B. Andres. Anita instructs the notary, Jane Doe, that she would like her to notarize her mark. Jane and the two witnesses watch Anita make her mark on the document. Gage then writes out Anita's name next to her mark on the signature line. Both Gage and Jestine sign the documents as witnesses. How should the notary proceed?

## NOTARY JOURNAL ENTRY

Jane indicates in her journal that she notarized a Signature by Mark. Jane prints Anita's name in the journal and Anita puts her mark on the signature line.


Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
5/9/05 4:00 p.m.	Sig. by mark	5/9/05	Family Trust	Anita Carol "X"	Anita's address	Anita Carol ODL 1234567 exp. 11/1/08	Witness Affidavit on file

## CERTIFICATE

STATE OF OREGON  
County of Marion

On this 9th day of May, 20 05, before me personally appeared Anita Carol,  
(proven to me on the basis of satisfactory evidence) (~~personally known by me~~) to be the person who made  
and acknowledged (~~his~~)(her) mark on the within instrument (Type of document: Family Trust)  
in my presence and in the presence of the two persons who have signed the within instrument as  
witnesses, one of whom, Gage W. Hunt, also wrote the name of the signer by  
mark near the mark.

Jane Doe (signature)  
Notary Public, State of Oregon



OFFICIAL SEAL  
JANE DOE  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 123456  
MY COMMISSION EXPIRES MARCH 18, 2008

# EXAMPLE

## WITNESS AFFIDAVIT FOR SIGNATURE BY MARK


Jane completes a Witness Affidavit for her records. Both Gage and Jestine affirmed to Jane that they witnessed Anita make her mark on the Family Trust.

### NOTARY JOURNAL ENTRY

Jane takes down both their information and has them sign her journal.

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
5/9/05 4:00 p.m.	Affirmation	5/9/05	Witness Affidavit	Gage W. Hunt <i>Gage W. Hunt</i>	Gage's address	Gage W. Hunt ODL 1234567 exp. 5/12/08	Witness for Anita Carol
“ ”	“ ”	“ ”	“ ”	Jestine B. Andres <i>Jestine B. Andres</i>	Jestine's address	Jestine B. Andres ODL 7654321 exp. 9/28/08	“ ”

### CERTIFICATE

STATE OF OREGON			
County of <u>Marion</u>			
<u>Gage W. Hunt</u>		and <u>Jestine B. Andres</u>	
after first ( <del>being by me duly sworn</del> )(affirming to me), declare that: We saw <u>Anita Carol</u> ,			
the person who executed the foregoing instrument (Type of Document: <u>Family Trust</u> ),			
subscribe the same for the purposes and considerations therein expressed, and that we signed the same			
as witnesses at the request of the person who executed the same.			
<u><i>Gage W. Hunt</i></u>	<u>5/9/05</u>	<u><i>Jestine B. Andres</i></u>	<u>5/9/05</u>
Signature	Date	Signature	Date
Subscribed and ( <del>sworn</del> ) (affirmed) before me by <u>Gage W. Hunt</u> , and			
<u>Jestine B. Andres</u> this <u>9th</u> day of <u>May</u> , 20 <u>05</u> .			
<u><i>Jane Doe</i></u> (signature)			
Notary Public - State of Oregon			

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## Notarizing for Business Entities

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: an officer, director, partner, or attorney-in-fact. A common type of acknowledgment is the Acknowledgment in a Representative Capacity. Normally, this means signing on behalf of a business.

Always use the Acknowledgment in a Representative Capacity form. Oregon law provides a short-form certificate. ORS 194.575(2). The notary **cannot** use a jurat, because a representative can’t swear for an organization.

It is good practice to determine if the signer has the authority to represent the company, but the notary **must** have proof if the certificate requires it, through wording like “known by me,” or “proved to me to be.”

- **Personal knowledge.** If the notary has a long-time acquaintance with the individual and would be willing to swear in court that the person 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, or a 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.
- **Oath of a third party**, personally known to notary, can sometimes be used like a credible witness identification. It should be a last resort, because the opportunity for fraud is even 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.

A notary shall not charge more than **\$5.00** for taking an Acknowledgment in a Representative Capacity.

### SAMPLE CERTIFICATE Acknowledgment in a Representative Capacity

State of OREGON
County of _____
This instrument was acknowledged before me on _____, 20____ by _____
as _____ of _____.
_____
Notary Public - State of Oregon

## EXAMPLE

Summer Bathke, Secretary of Oregon Outfitter's Corporation, needs to have an Amendment to the Contract between Oregon Outfitter's Corporation and Outdoor Gear Corporation of Alaska notarized. Summer is signing on behalf of Oregon Outfitter's Corporation in the position of Secretary. On October 31, 2005, at 1:00 p.m., Summer has come to Jane Doe to have this amendment notarized. How should the notary proceed?

## NOTARY JOURNAL ENTRY

Although not strictly necessary, Jane calls the Corporation Division at (503) 986-2200, to verify that Summer Bathke is listed as the Secretary of Oregon Outfitter's Corporation, she indicates this in her journal.

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
10/31/05 1:00 p.m.	Rep. Ackn.	10/2/05	Amend. to Contract	Summer Bathke <i>Summer Bathke</i>	Summer's address	ODL 1234567 exp. 6/1/08	Proof of position, Corp. Division

## CERTIFICATE

State of OREGON

County of   **Jackson**  

This instrument was acknowledged before me on   **October 31**  , 20   **05**   by   **Summer Bathke**    
as   **Secretary**   of   **Oregon Outfitter's Corporation**  .

  **Jane Doe**   (*signature*)

Notary Public - State of Oregon



OFFICIAL SEAL  
JANE DOE  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 123456  
MY COMMISSION EXPIRES MARCH 18, 2008

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## Chapter 9 - Secretary of State Certificates

One of the Notary Public section's main task is to certify to the status of a notary using either a certificate or an apostille. These papers are attached to documents that require some official acknowledgment that the notarization was performed by a notary, commissioned in Oregon, in good standing. Foreign jurisdictions often require them before they will accept the notarized document. Even though the counties can, by statute, issue certificates, it saves much time and trouble to go directly to our office, because we hold the notary records, and the counties cannot issue the state-level certification required by some foreign governments.

### Authentication Certificates

An authentication certificate verifies the notary's signature and official notary seal matches what is on file with Secretary of State, Corporation Division. It does not validate the completeness or correctness of the notarization.

Authentication certificates certify to the same information (seal and signature), but the format differs depending on the country of receipt. If the country belongs to the Hague convention, the **Apostille** is used.

If the country is not a member of the Hague Convention, a general Authentication Certificate is used. Signatures that can be authenticated include:

- Notaries public.
- State Registrar of Health Statistics, such as birth, death, and marriage certificates.
- Corporation Division signers.
- County documents (with certain limitations) through certifying the law allowing them to copy their records.

Authentication Certificates are prepared at the Secretary of State, Corporation Division, Public Service Building, Notary Public Section, 255 Capitol St. NE #151, Salem, OR, 97310-1327, (503) 986-2200.

### Certificate of Good Standing

The Certificate of Good Standing proves that the notarial commission of a notary public exists on the Secretary of State, Corporation Division records. No document is involved and this certificate cannot 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. ORS 194.010(2).

### Certificate of Authorization To Obtain Official Seal

This certificate provides the specifications for making the official notary seal/embosser. Information includes the particular name, notarial commission number and expiration date of the notary public, and place for vendor (maker) of the official notary seal to sign off on the date of release to the notary public. ORS 194.010(2).



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## Chapter 10 - Foreign Language Documents

Increasing international commerce has made foreign language document notarizations more common. A notary public who fluently reads and writes a 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 journal.
- The notary may be unable to complete the notarial certificate correctly because he or she can't follow the document's instructions, or does not recognize blank spaces.
- The notary may be unable to detect blatant frauds.
- 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.

When in doubt, a notary can always refuse to notarize and refer the customer to a bilingual notary. These can be found at consulates and embassies, in an ethnic community, at universities and community colleges, and sometimes in the Yellow Pages. Translators are often notaries.

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 translation signed by the signer in the original document and the signed, original document itself.

### Foreign Language 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, and the certificate meets the minimum requirements of Oregon statute. ORS 194.565, ORS 194.575. 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 and refuse to accept the document because of it, so it is always best for the customer to check first.

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## Acknowledgment in an Individual Capacity

State of OREGON

County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public - State of Oregon

## Acknowledgment in a Representative Capacity

State of OREGON

County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_  
as \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public - State of Oregon

## 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

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## Witnessing or Attesting a Signature

State of OREGON

County of \_\_\_\_\_

Signed or attested before me on \_\_\_\_\_ 20\_\_\_\_ by \_\_\_\_\_.

\_\_\_\_\_

Notary Public - State of Oregon

## Attestation of a Copy of a Document

State of OREGON

County of \_\_\_\_\_

I certify that this is a true and correct copy of a document in the possession of \_\_\_\_\_.

Dated: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Notary Public - State of Oregon

## Acknowledgment Through Power of Attorney

State of OREGON

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_,  
(proved to me on the basis of satisfactory evidence) (personally known to me) to be the person whose  
name is subscribed to the within instrument (Type of Document: \_\_\_\_\_)  
as the attorney in fact of: \_\_\_\_\_, and acknowledged that (he)(she) subscribed the name  
of \_\_\_\_\_ thereto as principal, and (his)(her) own name as attorney in fact.

\_\_\_\_\_

Notary Public - State of Oregon

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

**Credible Witness:** A believable witness worthy of confidence. Creates a chain of personally known individuals from the notary public to the signer of a document.

**Dispose:** To store in an orderly manner. In relation to notarial journal, to store for seven years.

**Duress:** Constraint by threat, coercion.

**Emboss:** A pliers-like device, that when squeezed together with paper between the jaws, makes raised areas and indentations on paper. Used as a protection device. Not an official notary seal; but may be used in addition to the official notary seal.

**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:** An affidavit declaring when, where, and before whom it was sworn.

**Jurisdiction/Venue:** The locality where a cause of action occurs. The state and county where a notarization takes place.

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

**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 as witness.

**Official Notary Seal:** Rubber stamp that conforms to the laws and rules.

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**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.

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

**Revoke:** To cancel or rescind.

**S.S. or SCT:** Indicates where the notarization is performed. Latin term *Silicet* means "in particular" or "namely." Commonly referred to as jurisdiction.

**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/Jurisdiction:** The locality where a cause of action occurs. The state and county where a notarization takes place.

**Verification:** A confirmation of the truth of a theory or 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.

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# Chapter 194

2005 EDITION

## NOTARIES PUBLIC

### NOTARIES PUBLIC (Definitions)

**194.005** Definitions for ORS 194.005 to 194.200

### (Appointment and Commission)

- 194.010** Appointment of notary public; Certificate of Authorization; office may be nonlucrative; functions not official duties; rules
- 194.012** Term of office
- 194.014** Application for appointment and commission
- 194.020** Fee for application
- 194.022** Qualifications; written examination; education course
- 194.024** Investigation of applicant; consent
- 194.028** Notary public education courses; rules
- 194.031** Notarial seal; exception for notarization of certain plats; filing of sample imprint; replacement seal; rules
- 194.040** Record of appointments and commissions; Secretary of State's power to certify status of notary
- 194.043** Scope of appointment and commission
- 194.047** Change of address
- 194.052** Change of name; fee; rules
- 194.063** Application for new commission; resignation

### (Commercial Paper)

- 194.070** Protesting commercial paper
- 194.090** Record of protest; effect as evidence
- 194.100** Powers of notary connected with corporation; limitations
- 194.130** Disposition of records on vacancy in office; penalty for failure to properly dispose of records or for destroying or altering records
- 194.150** Recovery of forfeitures

### (Duties; Prohibitions)

- 194.152** Journal of notarial acts; rules; disclosure
- 194.154** Disposition of seal and notarial journal upon resignation, revocation or expiration of commission; rules
- 194.156** Disposition of seal and notarial journal upon death of notary; rules
- 194.158** Prohibited acts
- 194.162** Misrepresentation of notarial powers; notice of notarial powers and fees

### (Fees for Notarial Acts)

**194.164** Maximum fees for notarial acts; exception; rules

### (Refusal to Appoint; Revocation and Suspension of Commissions)

- 194.166** Grounds for refusal to appoint; revocation or suspension of commission
- 194.168** Hearing on refusal to issue, suspension or revocation of commission
- 194.200** Action for damages or injunction for violation of ORS 194.166; attorney fees and costs; employer's liability

### (Enforcement)

**194.330** Attorney General to investigate or prosecute violation; payment of expenses

### (Rules)

**194.335** Rules

### UNIFORM LAW ON NOTARIAL ACTS

- 194.505** Definitions for ORS 194.005 to 194.200 and 194.505 to 194.595
- 194.515** Notarial acts
- 194.525** Who may perform notarial acts; acts performed under federal authority
- 194.535** Notarial acts in other jurisdictions of the United States
- 194.545** Notarial acts under federal authority
- 194.555** Foreign notarial acts
- 194.565** Certificate of notarial acts
- 194.575** Short forms
- 194.578** Use of signature stamp by person who is blind or who has disability; rules
- 194.582** Use of electronic signatures; rules
- 194.585** Uniformity of application and construction
- 194.595** Short title

### FUNDING

**194.700** Disposition of moneys

### PENALTIES

- 194.980** Civil penalties; factors; notice; hearing; rules
- 194.985** Official Warning to Cease Official Misconduct
- 194.990** Criminal penalties

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## NOTARIES PUBLIC

### (Definitions)

**194.005 Definitions for ORS 194.005 to 194.200.** As used in ORS 194.005 to 194.200:

(1) “Commercial paper” means such instruments as are within the scope of ORS chapter 73, including drafts, checks, certificates of deposit and notes.

(2) “Commission” means to empower to perform notarial acts and the written authority to perform those acts.

(3) “Good moral character” means character other than that which reflects moral turpitude and conduct which would cause a reasonable person to have substantial doubts about an individual’s honesty, fairness and respect for the rights of others and for the laws of the state and the nation. To be relevant to deciding whether a person is of “good moral character,” conduct of questionable good moral character must be rationally connected to the applicant’s fitness to be a notary public.

(4) “Notarial act” and “notarization” have the meaning given those terms under ORS 194.505.

(5) “Notarial certificate” and “certificate” mean the part of, or attachment to, a notarized document for completion by the notary and bearing the notary’s signature and official seal.

(6) “Notarial journal” means the journal described under ORS 194.152.

(7) “Notary public” and “notary” mean any person commissioned to perform notarial acts under ORS 194.005 to 194.200.

(8) “Official misconduct” means a notary’s performance of or failure to perform any act prohibited or mandated respectively by ORS 194.005 to 194.200 or 194.505 to 194.595, or any rule adopted under ORS 194.005 to 194.200 or 194.505 to 194.595, or any other law governing notarization. [1967 c.541 §12; 1983 c.393 §12a; 1989 c.976 §1]

### (Appointment and Commission)

**194.010 Appointment of notary public; Certificate of Authorization; office may be nonlucrative; functions not official duties; rules.**

(1) Upon application as prescribed under ORS 194.014, the Secretary of State shall appoint and commission individual persons as notaries public.

(2) Upon appointment as a notary public, the Secretary of State shall send to the person appointed a notarial commission and a Certificate of Authorization with which the person appointed shall obtain an official seal.

(3) The notary public shall retain the commission during the term of appointment.

(4)(a) Only upon presentation by the notary public of

the Certificate of Authorization is a vendor authorized to provide the notary with the official seal described under ORS 194.031.

(b) A vendor of official seals shall make note of the receipt of a Certificate of Authorization by a signature of the vendor or an authorized representative of the vendor upon the Certificate of Authorization.

(c) Subject to the procedures set forth under ORS 194.980, any vendor of official seals who furnishes an official seal to any person in violation of paragraph (a) of this subsection may incur a civil penalty in an amount, established by rule of the Secretary of State, that is within the limits set forth under ORS 194.980 (2)(a). Once incurred, the penalty shall be treated in all respects as a civil penalty incurred under ORS 194.980.

(5) Each notary public may file with the Secretary of State a statement waiving the fees specified under ORS 194.164 (1); and in such case the office of notary public is considered nonlucrative.

(6) The functions of a notary public are not considered official duties under section 1, Article III of the Oregon Constitution. [Amended by 1961 c.498 §1; 1967 c.541 §1; subsection (2) enacted as 1967 c.541 §8; 1975 c.161 §3; 1977 c.128 §1; 1983 c.393 §13; 1985 c.487 §1; 1989 c.976 §2]

**194.012 Term of office.** The term of office of a notary public is four years commencing with the effective date specified in the notarial commission. A notary public may perform notarial acts during the term of the commission, or until the commission is revoked, but may not perform notarial acts during any period when the commission is suspended. [1989 c.976 §6]

**194.014 Application for appointment and commission.** Every individual person, before entering upon the duties of a notary public, shall file with the Secretary of State a completed application for appointment and commission as a notary public. Application shall be made on a form prescribed by the Secretary of State and shall include an oath of office, the legal name and an official signature. Each applicant for appointment and commission as a notary public shall swear, under penalty of perjury, that the answers to all questions on the application are true and complete to the best of the applicant’s knowledge, and that the applicant is qualified to be appointed and commissioned as a notary public. The application process shall be ordered or arranged so that applications may be readily submitted by mail. [1989 c.976 §4]

#### **194.020 Fee for application.**

(1) To defray costs incurred by the Secretary of State to process the application made under ORS 194.014, each applicant for appointment as a notary public shall pay in advance to the Secretary of State a nonrefundable application fee not to exceed \$20.

(2) Any fee received by the Secretary of State under subsection (1) of this section shall be deposited in the State



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Treasury and credited to the Operating Account under ORS 56.041, and is in lieu of any fee charged under ORS 177.130. [Amended by 1957 s.s. c.7 §1; 1967 c.541 §3; 1983 c.393 §16; 1989 c.976 §9; 1993 c.66 §10]

**194.022 Qualifications; written examination; education course.**

(1) A person appointed and commissioned as a notary public must:

(a) Be 18 years of age or older at the time of appointment.

(b) Be a resident of this state at the time of appointment, or be a resident of an adjacent state and be regularly employed or carry on a trade or business within this state at the time of appointment.

(c) Be able to read and write the English language at the time of appointment.

(d) Be of good moral character.

(e) Not have had a notary commission revoked for official misconduct during the five-year period preceding the date of application.

(f) Not have been convicted of a felony, or of a lesser offense incompatible with the duties of a notary public, during the 10-year period preceding the date of application.

(g) Have satisfactorily completed a written examination prescribed by the Secretary of State to determine the fitness of the person to exercise the functions of the office of notary public.

(h) Have satisfactorily completed a three-hour notary public education course that:

(A) Includes, but is not limited to, instruction on the laws, rules, practices and procedures relating to notaries public; or

(B) If the person is employed, includes, but is not limited to, instruction on the laws, rules, practices and procedures relating to the notary public functions to be performed by a notary public in the course of employment.

(2) The Secretary of State shall:

(a) Make the written examination required by subsection (1) of this section a part of the application form.

(b) Furnish study materials relating to the written examination without charge upon request of the applicant. [1989 c.976 §7; 2005 c.733 §3]

**Note:** The amendments to 194.022 by section 3, chapter 733, Oregon Laws 2005, become operative July 1, 2006, and apply to applications for appointment as a notary public made on or after July 1, 2006. See sections 5 and 6, chapter 733, Oregon Laws 2005. The text that is operative until July 1, 2006, is set forth for the user's convenience.

**194.022.** Every person appointed and commissioned as a notary public shall:

(1) Be at the time of appointment 18 years of age or older.

(2) Be at the time of appointment a resident of this state, or be a resident of an adjacent state and be regularly employed or carry on a trade or business within this state.

Secretary of State - Corporation Division

employed or carry on a trade or business within this state.

(3) At the time of appointment, be able to read and write the English language.

(4) Be of good moral character.

(5) Not have had a notary commission revoked for official misconduct during the five-year period preceding the date of application.

(6) Not have been convicted of a felony, or of a lesser offense incompatible with the duties of a notary public, during the 10-year period preceding the date of application.

(7) Have satisfactorily completed a written examination prescribed by the Secretary of State to determine the fitness of the person to exercise the functions of the office of notary public. The written examination shall be included as part of the application form and the examination shall allow questions to be answered on an open-book basis. Answers to the questions shall be discernible from a review of the application materials furnished to the applicant.

**194.024 Investigation of applicant; consent.**

(1) To assist in determining the identity of an applicant for notary public, or if the applicant has been convicted of a felony or of a lesser offense incompatible with the duties of a notary public, upon consent of the person making application for appointment as notary public and upon request of the Secretary of State, the Department of State Police shall furnish to the Secretary of State any information that the department may have in its possession from its central bureau of criminal identification, including but not limited to manual or computerized information and any information to which the department may have access, including but not limited to the Law Enforcement Data System established in ORS 181.730. For purposes of receiving the information described in this subsection, the Secretary of State is a "criminal justice agency" under ORS 181.010 to 181.560 and 181.715 to 181.730 and the rules adopted under ORS 181.555.

(2) A person making application for appointment as notary public shall be deemed, upon signing or with signature upon the application filed under ORS 194.014, to have given the consent necessary for purposes of subsection (1) of this section. [1989 c.976 §8; 1993 c.188 §14]

**194.028 Notary public education courses; rules.**

(1) The Secretary of State:

(a) Shall offer one or more notary public education courses each calendar year.

(b) May certify providers of notary public education courses, including employers of notaries public, to provide the courses required by this subsection if the secretary determines that the provider offers an education program curriculum similar to the education program curriculum offered by the secretary.

(c) Shall adopt rules establishing the requirements for certification as a provider of notary public education courses.

(2) A person may satisfy the notary public education requirement under ORS 194.022 by taking a course offered by the secretary or by a provider of notary public education courses certified by the secretary. [2005 c.733 §2]

**Note:** 194.028 becomes operative July 1, 2006, and applies to applications for appointment as a notary public made on or after July 1, 2006. See sections 5 and 6, chapter 733, Oregon Laws 2005.

**194.030** [Amended by 1961 c.498 §2; repealed by 1967 c.541 §5 (194.031 enacted in lieu of 194.030)]

**194.031 Notarial seal; exception for notarization of certain plats; filing of sample imprint; replacement seal; rules.**

(1) The official seal of a notary public shall be a stamp made of rubber or some other substance capable of making a legible imprint on paper in black ink. The imprint must legibly reproduce under photographic methods.

(2) The Secretary of State shall adopt rules prescribing the size and form of the imprint of the official seal to promote uniformity, legibility and permanency.

(3) Except as provided in subsection (4) of this section, the attempt to notarize an instrument required to be notarized shall be of no effect unless it bears an imprint of the official seal of the notary who performed the notarization made in the manner required under subsections (1) and (2) of this section.

(4) The imprint of the official seal of a notary public shall not be required to effectuate a notarization of a subdivision or partition plat required under ORS 92.010 to 92.190 or a condominium plat required under ORS 100.115, or any replat, supplement or amendment thereto, if the following appear below the notary's signature:

(a) The printed name of the notary public;

(b) The words "NOTARY PUBLIC - OREGON";

(c) The words "COMMISSION NO." immediately followed by the notary public's commission number; and

(d) The words "MY COMMISSION EXPIRES" immediately followed by the date the notary public's commission expires, expressed in terms of the month, by name not abbreviated, two-digit date and complete year.

(5) Upon delivery of an official seal to a notary public, the notary public shall cause an imprint of the official seal to be filed in the office of the Secretary of State, together with any other information that is by rule required. The filing shall be done in the manner and within the time prescribed by rule.

(6) Any notary whose official seal is lost, misplaced, destroyed, broken, damaged or that is otherwise unworkable shall immediately mail or deliver written notice of that fact to the Secretary of State. The Secretary of State shall issue a Certificate of Authorization which the notary public may use to obtain a replacement seal.

(7) A seal embosser may be used as an adjunct to the official seal. The use of the seal embosser shall be in compliance with any rules adopted by the Secretary of

State. [1967 c.541 §6 (enacted in lieu of 194.030); 1983 c.393 §17; 1989 c.976 §10; 2001 c.63 §1]

**194.040 Record of appointments and commissions; Secretary of State's power to certify status of notary.**

(1) The Secretary of State shall keep a record of appointment and commission of each notary public. The Secretary of State may certify as to the term of office of such notary public and imprint upon all instruments requiring a notarial certificate.

(2) Full faith and credit shall be given to all protestations, attestations and other instruments of publication of all notaries public appointed under ORS 194.010. [Amended by 1967 c.541 §9; 1983 c.393 §18; 1989 c.976 §11]

**194.043 Scope of appointment and commission.** Each notary public appointed and commissioned by the Secretary of State may perform notarial acts anywhere within this state. A notary public so appointed and commissioned may not perform notarial acts in another state, but may notarize a document originating in another state if the notarization is performed in this state. [1989 c.976 §5]

**194.045** [1969 c.394 §§2,3,4; 1977 c.641 §1; 1983 c.393 §19; 1989 c.976 §16; repealed by 2005 c.68 §1]

**194.047 Change of address.** Any person appointed and commissioned as a notary public whose residential or business address is changed shall, within 30 days after the change, mail or deliver a notice of address change to the Secretary of State. The notice shall include the old address and the new address. [1989 c.976 §13]

**194.050** [Amended by 1961 c.498 §3; 1967 c.541 §4; repealed by 1983 c.393 §26]

**194.052 Change of name; fee; rules.**

(1) A notary public with a change of name under ORS 33.410 to 33.440 or otherwise may continue to use the current commissioned name until the expiration date of the commission. If the notary, however, wishes to use the new name in performing a notarial act, the notary must apply for an amended commission by completing a Change of Name Form and submitting the required fee for amended commission, as adopted by rule. The Secretary of State shall send an amended notarial commission to the person appointed, together with a Certificate of Authorization with which the notary shall obtain a new seal, the new seal to be as described under ORS 194.031.

(2) If a notary public whose name is changed does not wish to change the commission to the new name, the notary public shall, in any case, within 30 days after the change is effective, mail or deliver a notice of name change to the Secretary of State. The notice shall include the old name and the new name. [1989 c.976 §14]

**194.060** [Repealed by 1967 c.541 §22]

**194.063 Application for new commission; resignation.**

(1) A person may not be automatically reappointed as a notary public.

(2) Prior to expiration of a commission, a notary public may apply for a new commission in the manner provided by ORS 194.005 to 194.200, except that the person is not required to take the notary public education course described in ORS 194.022.

(3) A person shall resign a notarial commission by mailing or delivering a letter of resignation indicating the effective date of the resignation to the Secretary of State, if:

(a) The person no longer desires to be commissioned as a notary public;

(b) The person ceases to reside in Oregon, or if the person is a nonresident notary, ceases to be regularly employed or to carry on a trade or business within Oregon; or

(c) The person becomes unable to read or write. [1967 c.541 §11; 1977 c.128 §2; 1983 c.393 §21; 1985 c.487 §2; 1989 c.976 §17; 2005 c.733 §4]

**Note:** The amendments to 194.063 by section 4, chapter 733, Oregon Laws 2005, become operative July 1, 2006, and apply to applications for appointment as a notary public made on or after July 1, 2006. See sections 5 and 6, chapter 733, Oregon Laws 2005. The text that is operative until July 1, 2006, is set forth for the user's convenience.

#### **194.063.**

(1) No person may be automatically reappointed as a notary public.

(2) Prior to expiration of a commission, a notary public may apply for a new commission in the manner provided by ORS 194.005 to 194.200, and subject to the qualifications prescribed therein.

(3) A person shall resign a notarial commission by mailing or delivering a letter of resignation indicating the effective date of the resignation to the Secretary of State, if:

(a) The person no longer desires to be commissioned as a notary public;

(b) The person ceases to reside in Oregon, or if the person is a nonresident notary, ceases to be regularly employed or to carry on a trade or business within Oregon; or

(c) The person becomes unable to read or write.

**194.067** [1967 c.541 §18; repealed by 1989 c.976 §37]

### **(Commercial Paper)**

**194.070 Protesting commercial paper.** Each notary public who protests any commercial paper shall take such actions as are required by ORS 73.0505. [Amended by 1967 c.541 §13; 1993 c.545 §123]

**194.080** [Repealed by 1967 c.541 §22]

**194.090** Record of protest; effect as evidence. Each notary public shall cause a record to be kept of all protests of commercial paper made by the notary public  
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under ORS 73.0505. Such record is competent evidence to prove notice of dishonor for purposes of ORS 73.0505. [Amended by 1967 c.541 §14; 1993 c.545 §124]

#### **194.100 Powers of notary connected with corporation; limitations.**

(1) A notary public who is a stockholder, director, officer or employee of a bank or trust company or other corporation may:

(a) Take the acknowledgment of any party to any written instrument executed to or by such corporation;

(b) Administer an oath to any other stockholder, director, officer, employee or agent of such corporation; and

(c) Protest commercial paper owned or held for collection by such corporation.

(2) A notary public shall not:

(a) Take the acknowledgment of an instrument executed by or to a bank or trust company or other corporation of which the notary is a stockholder, director, officer or employee, if the notary is a party to such instrument, either individually or as a representative of such corporation; or

(b) Protest any commercial paper owned or held for collection by such corporation, if the notary is individually a party to the instrument. [Amended by 1967 c.541 §15]

**194.110** [Repealed by 1989 c.976 §37]

**194.120** [Amended by 1961 c.498 §4; repealed by 1989 c.976 §37]

**194.130** Disposition of records on vacancy in office; penalty for failure to properly dispose of records or for destroying or altering records. (1) Whenever the office of a notary public becomes vacant, the record referred to in ORS 194.090 kept by the notary public, together with all the papers relating to such record, shall be deposited in the office of the Secretary of State. Any notary public neglecting for the space of three months after resignation or removal from office to deposit such record and papers in the Secretary of State's office, or any executor or administrator of a deceased notary public neglecting for the space of three months after the acceptance of that trust to lodge in the Secretary of State's office such record and papers as come into the hands of the notary public, shall forfeit not more than \$500.

(2) If any person knowingly destroys, defaces, materially alters or conceals any record or paper of a notary public, that person shall forfeit not more than \$500, and shall be liable to an action for damages by the party injured. [Amended by 1967 c.541 §19]

**194.140** [Repealed by 1989 c.976 §37]

**194.150 Recovery of forfeitures.** All forfeitures under ORS 194.130 shall be recovered in a civil action in any court having jurisdiction of the same in the county where the notary public resides or is employed or is carrying on business. One-half shall be paid to the person bringing the action and one-half shall be paid to the State Treasurer to be credited to the General Fund. [Amended by 1967 c.541 §20; 1985 c.487 §3]

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**(Duties; Prohibitions)**

**194.152 Journal of notarial acts; rules; disclosure.**

(1) Each notary public shall provide, keep, maintain and protect one or more chronological journals of notarial acts performed by the notary public except for administering an oath or affirmation or certifying or attesting a copy.

(2) The Secretary of State shall adopt rules prescribing the form of the notarial journal to promote uniformity and establish the retention or disposition of the notarial journal and other notarial records, and prescribe rules to provide for exceptions to the notarial journal.

(3) A notary public who is an employee may enter into an agreement with the employer pursuant to which agreement the notarial journal or journals of the notary, in compliance with rules adopted under subsection (2) of this section, are retained or disposed of by the employer upon termination of employment.

(4) A notarial journal in the possession of a notary public who is not a public official or employee is exempt from disclosure under ORS 192.410 to 192.505. A notarial journal in the possession of the Secretary of State, or in the possession of a notary public who is a public official or employee, is not exempt from disclosure under ORS 192.410 to 192.505 unless the Secretary of State or other custodian determines that the public interest in disclosure is outweighed by the interests of the parties in keeping the journal record of the notarial act confidential. A determination by the Secretary of State or other custodian under this subsection is subject to review under ORS 192.410 to 192.505.

(5) This section does not apply to the record of protests of commercial paper which shall be as provided in ORS 194.090. [1989 c.976 §15]

**194.154 Disposition of seal and notarial journal upon resignation, revocation or expiration of commission; rules.**

(1)(a) A notary public whose notarial commission is resigned or revoked shall deliver the official seal to the Secretary of State within the time specified under subsection (2) of this section for disposition of the notarial journal and records.

(b) Upon normal expiration of a notarial commission, the notary public shall destroy the official seal as soon as is reasonably practicable.

(2) Except as provided under subsection (3) of this section, a notary public whose notarial commission is resigned, revoked or expired shall dispose of the notarial journal and records pursuant to rules adopted by the Secretary of State within 30 days after the effective date of the resignation, revocation or expiration, whichever occurs first.

(3) A former notary who intends to apply for a new commission need not dispose of the notarial journal and records within 30 days after commission expiration, but

must do so within three months after expiration unless newly commissioned within that period. [1989 c.976 §19]

**194.156 Disposition of seal and notarial journal upon death of notary; rules.** If a notary dies during the term of commission, the notary's heirs or personal representative, as soon as reasonably practicable after death, shall:

(1) Deliver the official seal to the Secretary of State; and

(2) Notify the Secretary of State in writing of the date of death and of the manner in which the notarial journal and records have been disposed. Disposition, after death, of the notarial journal and records shall be as provided by rule. [1989 c.976 §20]

**194.158 Prohibited acts.**

(1) A notary public may not perform a notarial act if the notary is a signer of or named in the document that is to be notarized.

(2) A notary may not indorse or promote any product, service, contest or other offering if the notary's title or seal is used in the indorsement or promotional statement. [1989 c.976 §§21,22]

**194.160** [Amended by 1967 c.541 §16; repealed by 1989 c.976 §37]

**194.162 Misrepresentation of notarial powers; notice of notarial powers and fees.**

(1) A notary public may select notarial certificates pursuant to ORS 194.005 to 194.200 and 194.505 to 194.595.

(2) A notary may not make representations to have powers, qualifications, rights or privileges that the office of notary does not have including the power to counsel on immigration matters.

(3) A notary who is not licensed to practice law in this state and who advertises notarial services in a language other than English shall include in the advertisement, notice or sign, in the same language and in English, the following:

(a) A statement, prominently displayed: "I am not licensed to practice law in the State of Oregon and I am not permitted to give legal advice on immigration or other legal matters or accept fees for legal advice."; and

(b) The fees for notarial acts specified under ORS 194.164.

(4) The notary shall post the notice required under subsection (3) of this section in a conspicuous place in the notary's place of business.

(5) A person may not use the term "notario publico" or any equivalent non-English term, in any business card, advertisement, notice, sign or in any other manner that misrepresents the authority of a notary public. [1989 c.976 §23]



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**(Fees for Notarial Acts)**

**194.164 Maximum fees for notarial acts; exception; rules.**

(1) The Secretary of State shall adopt by rule a schedule fixing the maximum fees that a notary public may charge for performing notarial acts. The schedule shall include, but not be limited to, maximum fees for the following notarial acts:

- (a) Acknowledgments.
- (b) Oaths or affirmations without a signature.
- (c) Verifications upon oath or affirmation.
- (d) Copy certifications.
- (e) Protesting commercial paper, except that no fees shall be allowed for protesting a check because of the insolvency of the financial institution upon which the check was written.

(2) A notary public may charge an additional fee for traveling to perform a notarial act if:

(a) The notary explains to the person requesting the notarial act that the fee is in addition to the fee specified under subsection (1) of this section and is not required by law; and

(b) The person requesting the notarial act agrees in advance upon the amount of the additional fee.

(3) Notaries shall display an English-language schedule of fees for notarial acts, as specified under subsection (1) of this section. [1989 c.976 §24; 1997 c.631 §424]

**(Refusal to Appoint; Revocation and Suspension of Commissions)**

**194.166 Grounds for refusal to appoint; revocation or suspension of commission.** The Secretary of State may refuse to appoint any person as notary public or may revoke or suspend the commission of any notary public upon any of the following grounds:

(1) Failure to meet or maintain the qualifications required under ORS 194.005 to 194.200 or refusal of the consent described under ORS 194.024.

(2) Substantial and material misstatement or omission of fact in the application submitted to the Secretary of State.

(3) Engaging in official misconduct.

(4) Conviction of a felony, or of a lesser offense incompatible with the duties of a notary public.

(5) Revocation, suspension, restriction or denial of a professional license issued by a governmental entity, if the revocation, suspension, restriction or denial was for misconduct, dishonesty or any cause substantially relating to the duties or responsibilities of a notary public.

(6) When adjudged liable for damages in any suit grounded in fraud or misrepresentation or in any suit based upon a failure to discharge fully and faithfully the duties as notary public.

(7) The use of false or misleading advertising wherein the notary public has represented that the notary public has powers, qualifications, rights or privileges that the office of notary does not have, including the power to counsel on immigration matters.

(8) Engaging in the unauthorized practice of law.

(9) Charging more than the maximum fees adopted by the Secretary of State by rule under ORS 194.164.

(10) Failure to comply with ORS 194.162 (3) and (4).

(11) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit the notary public or another or substantially injure another.

(12) Failure to complete an acknowledgment at the time the notary's signature and official seal are affixed to the document.

(13) Execution of any certificate as a notary public containing a statement known to the notary public to be false.

(14) Using officially an official seal, seal embosser or other device making an imprint or impression that does not conform to ORS 194.031 or to the rules of the Secretary of State.

(15) Failure to give notice of change of address as required under ORS 194.047 or apply for, or give notice of, a change of name as required under ORS 194.052. [1989 c.976 §25]

**194.168 Hearing on refusal to issue, suspension or revocation of commission.**

(1) If the Secretary of State proposes to refuse to issue, or to suspend or revoke, a commission of a notary public, opportunity for hearing shall be accorded as provided in ORS chapter 183 for a contested case. If the notary public does not request a hearing, revocation or suspension of the commission shall be effective 10 days after service of the Secretary of State's order.

(2) Judicial review of orders under subsection (1) of this section shall be as provided under ORS chapter 183 for a contested case. [1989 c.976 §26]

**194.170** [Amended by 1983 c.393 §20; repealed by 1989 c.976 §37]

**194.180** [1961 c.91 §1; repealed by 1971 c.250 §1]

**194.190** [1983 c.506 §3; repealed by 1989 c.976 §37]

**194.200 Action for damages or injunction for violation of ORS 194.166; attorney fees and costs; employer's liability.** In addition to other remedies provided by law:

(1) A person injured by a violation of ORS 194.166 (7), (8), (10) or (11) may bring an individual action in an appropriate court to recover actual damages or \$200, whichever is greater. The court or the jury, as the case may be, may award punitive damages and the court may provide such equitable relief as it deems necessary or proper. In addition to any other remedies awarded by the court, the prevailing party may be awarded attorney fees and costs and disbursements, at trial and on appeal.

(2) The Secretary of State or any private individual injured by a violation of ORS 194.166 (7), (8), (10) or (11) may bring a civil suit to enjoin the violation. In addition to any other remedies awarded by the court, the prevailing party may be awarded attorney fees and costs and disbursements, at trial and on appeal.

(3) An employer of a notary is liable to the notary for all damages recovered from the notary as a result of official misconduct that was coerced by threat of the employer, if the threat, such as that of demotion or dismissal, was made in reference to the particular notarization. [1983 c.506 §4; 1989 c.976 §29]

**194.210** [Repealed by 1969 c.394 §5]

**194.220** [Repealed by 1969 c.394 §5]

**194.310** [Amended by 1961 c.498 §5; 1981 c.11 §4; 1983 c.506 §1; repealed by 1989 c.976 §37]

**194.320** [Amended by 1981 c.11 §5; repealed by 1989 c.976 §37]

### (Enforcement)

**194.330 Attorney General to investigate or prosecute violation; payment of expenses.** If, in the opinion of the Secretary of State, any alleged violation of ORS 194.005 to 194.200, 194.505 to 194.595 or 194.990 is not being investigated or prosecuted, the Secretary of State may direct the Attorney General to take full charge of the investigation or prosecution. If so directed, the Attorney General shall take full charge of the investigation or prosecution and the provisions of ORS 180.070, 180.080 and 180.090 shall apply. Notwithstanding ORS 180.070 (3), expenses associated with the Attorney General's investigation or prosecution shall be paid from the Operating Account under ORS 56.041. [1983 c.393 §23; 1989 c.976 §30; 1993 c.66 §11]

### (Rules)

**194.335 Rules.** Subject to ORS chapter 183, the Secretary of State may adopt rules to carry out the purposes of ORS 194.005 to 194.200 and 194.505 to 194.595. [1989 c.976 §32]

**194.410** [Amended by 1963 c.428 §1; repealed by 1977 c.404 §2 (194.500 to 194.580 enacted in lieu of 194.410)]

**194.420** [Repealed by 1977 c.404 §2 (194.500 to 194.580 enacted in lieu of 194.420)]

**194.430** [Repealed by 1977 c.404 §2 (194.500 to 194.580 enacted in lieu of 194.430)]

**194.500** [1977 c.404 §11 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

## UNIFORM LAW ON NOTARIAL ACTS

**194.505 Definitions for ORS 194.005 to 194.200 and 194.505 to 194.595.** As used in ORS 194.005 to 194.200 and 194.505 to 194.595, unless the context requires otherwise:

(1) An "acknowledgment" is a statement by a person that the person has executed an instrument for the purposes stated therein and, if the instrument is executed in a representative capacity, that the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified therein.

(2) "In a representative capacity" means:

(a) For and on behalf of a corporation, partnership, trust or other entity, as an authorized officer, agent, partner, trustee or other representative;

(b) As a public officer, personal representative, guardian or other representative, in the capacity recited in the instrument;

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

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

(3) A "notarial act" or "notarization" is any act that a notary public of this state is authorized to perform, and includes taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy and noting a protest of a negotiable instrument.

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

(5) "Oath" and "affirmation" mean a notarial act or part thereof in which a notary certifies that a person made a vow in the presence of the notary on penalty of perjury.

(6) A "verification upon oath or affirmation" is a statement by a person who asserts it to be true and makes the assertion upon oath or affirmation. [1983 c.393 §2; 1989 c.976 §33; 1997 c.185 §1]

**194.510** [1977 c.404 §10 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

### **194.515 Notarial acts.**

(1) In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument.

(2) In taking a verification upon oath or affirmation, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified.

(3) In witnessing or attesting a signature the notarial officer must determine, either from personal knowledge or

from satisfactory evidence, that the signature is that of the person appearing before the officer and named therein.

(4) In certifying or attesting a copy of a document or other item, the notarial officer must determine that the proffered copy is a full, true and accurate transcription or reproduction of that which was copied.

(5) In making or noting a protest of a negotiable instrument a notarial officer must determine the matters set forth in ORS 73.0505.

(6) A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document if that person:

(a) Is personally known to the notarial officer;

(b) Is identified upon the oath or affirmation of a credible witness personally known to the notarial officer; or

(c) Is identified on the basis of identification documents.

(7) For purposes of this section, “personally known” means familiarity with a person resulting from interactions with that person over a period of time sufficient to eliminate every reasonable doubt that the person has the identity claimed.

(8) For purposes of subsection (6)(c) of this section, a notarial officer has satisfactory evidence upon which to identify a person if:

(a) The person produces at least one current document issued by the federal government or a state, county, municipal or other local government and containing the person’s photograph, signature and physical description;

(b) The person produces at least two current documents, each issued by an institution, a business entity, the federal government or a state, county, municipal or other local government and each containing the person’s signature; or

(c) The person is confined in a correctional facility and has been positively identified through examination or comparison of official government documents or records.

(9) If a notarial officer is also an employee of a financial institution, as defined in ORS 706.008, and the person to be identified is a customer of the financial institution, one of the two current documents required under subsection (8)(b) of this section may be a signature card signed by the customer and held by the financial institution in connection with the financial institution’s transactions with the customer. [1983 c.393 §3; 1993 c.545 §125; 1997 c.185 §2; 1999 c.59 §49; 2003 c.533 §1]

**194.520** [1977 c.404 §3 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.525 Who may perform notarial acts; acts performed under federal authority.**

(1) A notarial act may be performed within this state by the following persons:

(a) A notary public of this state; or

(b) A judge, clerk or deputy clerk of any court of this state.

(2) Notarial acts performed within this state under federal authority as provided in ORS 194.545 have the same effect as if performed by a notarial officer of this state.

(3) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title. [1983 c.393 §4]

**194.530** [1977 c.404 §4 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.535 Notarial acts in other jurisdictions of the United States.**

(1) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state, if performed in another state, commonwealth, territory, district or possession of the United States by any of the following persons:

(a) A notary public of that jurisdiction;

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

(c) Any other person authorized by the law of that jurisdiction to perform notarial acts.

(2) Notarial acts performed in other jurisdictions of the United States under federal authority as provided in ORS 194.545 have the same effect as if performed by a notarial officer of this state.

(3) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(4) The signature and title of an officer listed in subsection (1)(a) or (b) of this section conclusively establish the authority of a holder of that title to perform a notarial act. [1983 c.393 §5]

**194.540** [1977 c.404 §5 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.545 Notarial acts under federal authority.**

(1) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if performed anywhere by any of the following persons under authority granted by the law of the United States:

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

(b) A commissioned officer on active duty with the military services of the United States;

(c) An officer of the foreign service or consular officer of the United States; or

(d) Any other person authorized by federal law to perform notarial acts.

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

(3) The signature and title of an officer listed in subsection (1)(a) to (c) of this section conclusively



establish the authority of a holder of that title to perform a notarial act. [1983 c.393 §6]

**194.550** [1977 c.404 §6 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.555 Foreign notarial acts.**

(1) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by any of the following persons:

- (a) A notary public or notary;
- (b) A judge, clerk or deputy clerk of a court of record;

or

(c) Any other person authorized by the law of that jurisdiction to perform notarial acts.

(2) An "Apostille" in the form prescribed by the Hague Convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the designated office.

(3) A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of that nation stationed in the United States, conclusively establishes any matter relating to the authenticity or validity of the notarial act set forth in the certificate.

(4) An official stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds the designated title.

(5) An official stamp or seal of an officer listed in subsection (1)(a) or (b) of this section is prima facie evidence that a person with that title has authority to perform notarial acts.

(6) If the title of office and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, it conclusively establishes the authority of an officer with that title to perform notarial acts. [1983 c.393 §7]

**194.560** [1977 c.404 §7 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.565 Certificate of notarial acts.**

(1) A notarial act must be evidenced by a certificate signed and dated by a notarial officer. The certificate must include identification of the jurisdiction in which the notarial act is performed and the title of the office the notarial officer holds and may include the official stamp or seal of office. If the officer is a notary public, the certificate must also indicate the date of expiration, if any, of the commission of office, but omission of that information may subsequently be corrected. If the officer is a commissioned officer on active duty with the military services of the United States, it must also include the

officer's rank.

(2) A certificate of a notarial act is sufficient if it meets the requirements of subsection (1) of this section and it:

- (a) Is in the short form set forth in ORS 194.575;
- (b) Is in a form otherwise prescribed by the law of this state;

state;

(c) Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(d) Sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

(3) By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by ORS 194.515. [1983 c.393 §8]

**194.570** [1977 c.404 §8 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.575 Short forms.** The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by ORS 194.565 (1):

**(1) For an acknowledgment in an individual**

**capacity:**

State of \_\_\_\_\_

County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_ (date) by \_\_\_\_\_ (name(s) of person(s))

\_\_\_\_\_  
(Signature of notarial officer)

(Seal, if any)

\_\_\_\_\_  
Title (and Rank)

My commission expires: \_\_\_\_\_

**(2) For an acknowledgment in a representative**

**capacity:**

State of \_\_\_\_\_

County of \_\_\_\_\_

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

\_\_\_\_\_  
(Signature of notarial officer)

(Seal, if any)

\_\_\_\_\_  
Title (and Rank)

My commission expires: \_\_\_\_\_

**(3) For a verification upon oath or affirmation:**

State of \_\_\_\_\_  
County of \_\_\_\_\_  
Signed and sworn to (or affirmed) before me on \_\_\_\_\_ (date) by \_\_\_\_\_ (name(s) of person(s) making statement)

\_\_\_\_\_  
(Signature of notarial officer)  
(Seal, if any)

\_\_\_\_\_  
Title (and Rank)  
My commission expires: \_\_\_\_\_

**(4) For witnessing or attesting a signature:**

State of \_\_\_\_\_  
County of \_\_\_\_\_  
Signed or attested before me on \_\_\_\_\_ (date) by \_\_\_\_\_ (name(s) of person(s))

\_\_\_\_\_  
(Signature of notarial officer)  
(Seal, if any)

\_\_\_\_\_  
Title (and Rank)  
My commission expires: \_\_\_\_\_

**(5) For attestation of a copy of a document:**

State of \_\_\_\_\_  
County of \_\_\_\_\_  
I certify that this is a true and correct copy of a document in the possession of \_\_\_\_\_.  
Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature of notarial officer)  
(Seal, if any)

\_\_\_\_\_  
Title (and Rank)  
My commission expires: \_\_\_\_\_ [1983 c.393 §9]

**194.578 Use of signature stamp by person who is blind or who has disability; rules.**

(1) As used in this section, “blind person” and “visually impaired individual” have the meanings given those terms in ORS 346.110.

(2) Notwithstanding any provision of ORS 194.005 to 194.200 or ORS 194.505 to 194.595:

(a) A blind person, a visually impaired individual or a person with a disability who is unable to sign any document because of the disability may use a signature stamp whenever the signature of the person is required on any document presented for notarization;

(b) In performing any notarial act involving the signature of a person described in paragraph (a) of this subsection, a notarial officer, in the manner prescribed by the Secretary of State by rule, shall witness the use of the signature stamp and accept the stamp in lieu of the signature of the person; and

(c) The notarial certificate of an act signed with a signature stamp shall contain the phrase “signed by stamp before me” or words to that effect. [1999 c.333 §2]

**194.580** [1977 c.404 §9 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.582 Use of electronic signatures; rules.**

(1) As used in this section, “electronic signature” has the meaning given that term in ORS 84.004.

(2) Notwithstanding any provision of ORS 194.005 to 194.200 or 194.505 to 194.595:

(a) A person may use an electronic signature in the manner prescribed by the Secretary of State by rule whenever the signature of the person is required on any electronic document presented for notarization;

(b) In performing any notarial act involving an electronic signature of a person described in paragraph (a) of this subsection, a notarial officer, in the manner prescribed by the Secretary of State by rule, shall accept the electronic signature of the person; and

(c) In addition to the requirements of ORS 194.505 to 194.595, the notarial certificate of an act signed with an electronic signature shall be attached electronically by the notarial officer in the manner prescribed by the Secretary of State by rule and shall contain the phrase “signed by electronic signature” or words to that effect.

(3) The Secretary of State shall adopt rules necessary to implement this section. [1999 c.718 §5; 2001 c.535 §29]

**194.585 Uniformity of application and construction.** ORS 194.505 to 194.575 shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of ORS 194.505 to 194.575 among states enacting it. [1983 c.393 §11]

**194.595 Short title.** ORS 194.505 to 194.595 may be cited as the Uniform Law on Notarial Acts. [1983 c.393 §12]

**FUNDING**

**194.700 Disposition of moneys.** All moneys received by the Secretary of State under this chapter shall be paid into the State Treasury and credited to the Operating Account under ORS 56.041. [1983 c.393 §15; 1993 c.66 §9]

**PENALTIES**

**194.980 Civil penalties; factors; notice; hearing; rules.**

(1) In addition to any other penalty provided by law, any notary public who is found to have performed an act of official misconduct may incur a civil penalty in the amount adopted under subsection (2) of this section, plus any costs of service or recording costs.

(2)(a) The Secretary of State shall by rule establish the amount of civil penalty that may be imposed for a

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particular act of official misconduct. A civil penalty shall not exceed \$1,500 per act of official misconduct.

(b) In imposing a penalty authorized by this section, the Secretary of State may consider the following factors:

(A) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any official misconduct.

(B) Any prior acts of official misconduct.

(C) The gravity and magnitude of the official misconduct.

(D) Whether the official misconduct was repeated or continuous.

(E) Whether the cause of the official misconduct was an unavoidable accident, negligence or an intentional act.

(F) Any relevant rule of the Secretary of State.

(G) The notary's cooperativeness and efforts to correct the act of official misconduct.

(c) The penalty imposed under this section may be paid upon those terms and conditions as the Secretary of State determines to be proper and consistent with the public benefit. Upon request of the notary incurring the penalty, the Secretary of State shall consider evidence of the economic and financial condition of the notary in determining whether a penalty shall be paid.

(3) Imposition or payment of a civil penalty under this section shall not be a bar to any action or suit described in ORS 194.200, to a criminal proceeding or to a proceeding under ORS 194.168.

(4) A civil penalty shall not be imposed under this section until the notary public incurring the penalty has been given notice in writing from the Secretary of State specifying the violation. The notice is in addition to the notice required under ORS 183.745 and shall be served in the same manner as the notice required under ORS 183.745.

(5)(a) After initial notice as provided in subsection (4) of this section, a civil penalty may be imposed in the manner provided in ORS 183.745.

(b) The Secretary of State may delegate to a hearings officer appointed by the Secretary of State, upon such conditions as deemed necessary, all or part of the authority to conduct hearings required under ORS 183.745.

(6) Notwithstanding ORS 180.070 (3), expenses incurred by the Secretary of State or Attorney General under subsections (1) to (5) of this section or under ORS 194.200 (2) shall be paid from the Operating Account under ORS 56.041.

(7) All civil penalties and costs recovered under this section shall be paid into the Operating Account under ORS 56.041. [1989 c.976 §28; 1991 c.734 §11; 1993 c.66 §12]

**194.985 Official Warning to Cease Official Misconduct.** In lieu of a civil penalty imposed under ORS 194.980, the Secretary of State may deliver a written Official Warning to Cease Official Misconduct to any notary whose actions are judged by the Secretary of State

to be official misconduct. [1989 c.976 §27]

**194.990 Criminal penalties.**

(1) If punishment therefor is not otherwise provided for:

(a) A notary who knowingly and repeatedly performs or fails to perform any act prohibited or mandated respectively by ORS 194.005 to 194.200 or 194.505 to 194.595, or rules adopted thereunder, is guilty of a Class B misdemeanor.

(b) Any person not a notary public who knowingly acts as or otherwise impersonates a notary public is guilty of a Class B misdemeanor.

(c) Any person who knowingly obtains, conceals, defaces or destroys the official seal, journal or official records of a notary public is guilty of a Class B misdemeanor.

(d) Any person who knowingly solicits, coerces or in any way influences a notary public to commit official misconduct is guilty of a Class B misdemeanor.

(2) The remedies of subsection (1) of this section supplement other remedies provided by law.

(3) The clerk of the court in which a conviction under any provision of subsection (1) of this section is had shall forthwith transmit to the Secretary of State a duly certified copy of the judgment, which is sufficient grounds for revocation of the commission of the convicted notary public. [Amended by 1967 c.541 §21; 1989 c.976 §34]

**OREGON ADMINISTRATIVE RULES**  
**SECRETARY OF STATE, CORPORATION DIVISION**  
**CHAPTER 160**  
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**NOTARIES PUBLIC  
DIVISION 100  
GENERAL**

**Definitions — ORS 194.335**

**160-100-0000** As used in ORS 194.005 to 194.200, ORS 194.505 to 194.595 and OAR 160-100-0000 to 160-100-0620:

- (1) “Days” means calendar days.
- (2) “File”, “Filed” and “Deliver” means cause to be actually received by the Secretary of State.
- (3) “Notarial Record” means any record of any notarial act performed by a notary public, except when a specified record or act is excluded.
- (4) “Notary Fee” means any money or other thing of value as consideration for performing a notarial act. A notary fee does not include a fee for traveling to perform a notarial act.
- (5) “Official Seal” or “Official Notary Seal” means a stamp made of any substance, capable of making a legible imprint on paper in black ink that can be legibly reproduced by a photographic method and that meets the description of OAR 160-100-0100. An official seal does not include the mechanism to which the stamp is attached.
- (6) “Official Seal Embosser” or “Official Notary Seal Embosser” means any device capable of creating an embossed imprint on paper that meets the description of OAR 160-100-0120. An official seal embosser does not include the mechanism to which the embosser plate is attached.
- (7) “Secretary of State” means the Notary Public Section of the Secretary of State’s office.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.335  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0000

**Date of Mailing — ORS 194.335**

**160-100-0010** Whenever ORS 194.005 to 194.200, ORS 194.505 to 194.595 and OAR 160-100-0000 to 160-100-0620 require or permit a document or object to be mailed to the Secretary of State, the date of mailing shall be the date the document or object was personally delivered to the U.S. Postal Service or a private courier service or placed in a mail depository used by such postal or courier service, as evidenced by a postmark date imprinted on the envelope or package containing the document or object or on a receipt issued by the postal or courier service.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.335  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0010

**Name of Notary Public — ORS 194.335**

**160-100-0020** Whenever ORS 194.005 to 194.200, ORS 194.505 to 194.595, except ORS 194014, and OAR 160-100-0000 to 160-100-0620 refer to the name of a notary public, the name shall be the name of the notary public as it appears on the notary public’s written commission.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.335  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0020

**Signature of Notary Public — ORS 194.335**

**160-100-0030** Whenever ORS 194.005 to 194.200, ORS 194.505 to 194.595 and OAR 160-100-0000 to 160-100-0620 require or permit a notary public to sign his or her name, the notary public shall sign the name as it appears on the notary public’s written commission.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.014  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0030

**Administrative Services Fees — ORS 177.130, 192.440(3), 194.020(1) and 194.052(1)**

**160-100-0040** The Secretary of State shall charge the following fees for performing the administrative services indicated:

- (1) \$20, nonrefundable, for processing each application, including written examination, for a commission as a notary public.
- (2) \$10 for apostilles for public officials and notaries public.
- (3) \$10 for each notary public certificate of good standing.
- (4) \$5 for each duplicate notary public commission.
- (5) \$5 for each duplicate Certificate of Authorization to Obtain Official Seal.
- (6) \$5 for processing a request to change the notary public’s name on the notary public’s written commission.
- (7) \$1 for copying each page of a document.
- (8) \$200 for each computer tape of notary public databases or portions of databases, new tapes to be provided by purchasers.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 177.130, ORS 192.440, ORS 194.020 & ORS 194.052  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; Suspend by SOS-AD 2-1992(Temp), f. & cert. ef. 2-14-92;

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0040; CORP 1-1994, f. 12-30-94, cert. ef. 1-1-95

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

### **Certificate of Authorization, Official Seal, and Official Seal Embosser**

#### **Description of Imprint of Official Seal — ORS 194.031(1) - (2)**

**160-100-0100** (1) An outline of an imprint of an official seal of a notary public shall be a rectangle measuring 3/4 inch high and 2-3/8 inches long formed by a continuous solid or braided line.

(2) The imprint of an official seal of a notary public shall contain within the outline border:

(a) The state seal, as described in ORS 186.020, measuring one half inch in diameter and located in the upper left corner of the official seal;

(b) The following words, in descending order, centered in the official seal to the right of the state seal:

(A) The words “**Official Seal**”. The words shall be printed in not less than 8 point sized type and in capital letters;

(B) The name of the notary public. The name shall be printed in not less than 8 point sized type, bold print, and in capital letters;

(C) The words “**Notary Public -- Oregon**”. The words shall be printed in 8 point sized type and in capital letters;

(D) The words “**Commission No.**” immediately followed by the commission number. The words shall be printed in not less than 8 point sized type and in capital letters;

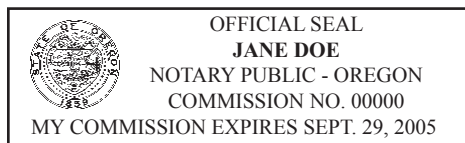
(E) The words “**My Commission Expires**”, immediately followed by the notary public’s expiration date, expressed in terms of the month, day and year, i.e. “January 1, 1990” and printed in not less than 8 point sized type and in capital letters.

(3) The imprint of an official seal of a notary public shall be made with black ink:

(a) Of a type that will not be removable under normal conditions; or

(b) Of a type considered permanent, such as India ink, when applied to plastic or mylar surfaces.

#### **EXAMPLE:**



Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.031

Hist.: SD 7-1978, f. & ef. 8-10-78; Renumbered from 165-027-0010; SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0100

#### **Use of Official Seal — ORS 194.005(5), 194.031(3) and 194.335**

**160-100-0110** (1) A notary public shall use the notary public’s official seal to perform a notarial act.

(2) A notary public shall use the notary public’s official seal by placing a legible imprint of the official seal on a notarial certificate.

(3) A notary public shall not place an imprint of the notary public’s official seal over any signature in a document to be notarized or in a notarial certificate, nor over any writing in a notarial certificate.

(4) When a notarial certificate is on a separate piece of paper attached to the document to be notarized or when there are attachments to the document to be notarized, such as pictures, a notary public may use an additional imprint of the notary public’s official seal to mark for identification the document or attachment if the imprint does not make any part of the document or attachment illegible.

(5) A notary public shall not use the notary public’s official seal for any purpose other than to perform a notarial act.

(6) A notary public shall not permit any other person to use the notary public’s official seal for any purpose.

(7) A notary public shall not use any other notary public’s official seal or any other object in lieu of the notary public’s official seal to perform a notarial act.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.005 & ORS 194.031

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0110

#### **Description of Official Seal Embosser — ORS 194.031(6) and 194.335**

**160-100-0120** (1) An official seal embosser of a notary public shall be two concentric circles each formed by a continuous solid or intermittent line. The outer circle shall measure not less than one and one half inches and not more than two inches in diameter.

(2) The embossment of the official seal embosser of a notary public shall contain the following printed in capital letters:

(a) The name of the notary public centered at the top and between the two circles;

(b) The words “**STATE OF OREGON**” centered at the bottom and between the two circles;

(c) The word “NOTARY” above the word “PUBLIC” both centered within the inner circle.

**EXAMPLE:**



Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.031  
Hist.: SD 7-1978, f. & ef. 8-10-78; Renumbered from 165-027-0005; SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0120

**Use of Official Seal Embosser — ORS 194.031(6) and 194.335**

**160-100-0130** (1) A notary public may use an official seal embosser to perform a notarial act but only *in addition* to the notary public’s official seal.

(2) If a notary public uses an official seal embosser, the notary public shall use it by placing the embossment on a notarial certificate.

(3) A notary public shall not place the embossment over any signature in a document to be notarized or in a notarial certificate nor over any writing in a notarial certificate.

(4) When a notarial certificate is on a separate piece of paper attached to the document to be notarized or when there are attachments to the document to be notarized, such as pictures, a notary public may use an additional embossment of the notary public’s official seal to mark for identification the document or attachment if the embossment does not make any part of the document or attachment illegible.

(5) A notary public shall not use the notary public’s official seal embosser for any purpose other than to perform a notarial act.

(6) A notary public shall not permit any other person to use the notary public’s official seal embosser for any purpose.

(7) A notary public shall not use any other notary public’s official seal embosser or any other object in lieu of the notary public’s official seal embosser to perform a notarial act.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.031

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0130

**Filing Imprint of Official Seal with Secretary of State — ORS 194.031(4)**

**160-100-0140** A notary public shall file the following information with the Secretary of State within ten days after the date the notary public receives the notary public’s official seal and Certificate of Authorization from a vendor of official seals:

(1) An imprint of the notary public’s official seal. The imprint shall be placed in the location designated for the imprint on the Certificate of Authorization;

(2) The Certificate of Authorization. The Certificate of Authorization shall be the original Certificate of Authorization issued by the Secretary of State to the notary public. The Certificate of Authorization shall be completed by the vendor with the information required on the Certificate of Authorization.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.031  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0140

**Notification of Secretary of State That Certificate of Authorization is Unusable — ORS 194.335**

**160-100-0150** (1) A notary public whose Certificate of Authorization is lost, misplaced, destroyed or otherwise unusable shall file with the Secretary of State a written statement, under oath or affirmation, within ten days after the date the notary public discovers that the Certificate of Authorization was lost, misplaced, destroyed or otherwise unusable.

(2) The statement shall set forth:

(a) A statement of whether the Certificate of Authorization is lost, misplaced, destroyed or in some other manner made unusable;

(b) An explanation of how the Certificate of Authorization became unusable;

(c) The date the notary public discovered that the Certificate of Authorization was unusable;

(d) If lost or misplaced, a statement that the notary public does not possess the Certificate of Authorization and does not know who possesses it or where it is located;

(e) If lost or misplaced, a statement that if the notary public subsequently reacquires possession of the lost or misplaced Certificate of Authorization, then the notary public shall file it with the Secretary of State within ten days after the date the notary public reacquires possession of the lost or misplaced Certificate of Authorization;



(f) A request that the Secretary of State issue a duplicate Certificate of Authorization to the notary public.

(3) The Secretary of State shall issue a duplicate Certificate of Authorization to the notary public as if the notary public had made a request pursuant to ORS 194.031(5).

(4) A notary public who is issued a duplicate Certificate of Authorization pursuant to this rule shall use it to comply with the requirements of ORS 194.010(4) and OAR 160-100-0140. To comply with OAR 160-100-0140, the notary public shall file with the Secretary of State an imprint of the notary public's seal and the duplicate Certificate of Authorization within ten days after the notary public receives the completed duplicate Certificate of Authorization from a vendor of official seals.

(5) If a notary public subsequently reacquires possession of a lost or misplaced Certificate of Authorization, then the notary public shall file with the Secretary of State a written statement of explanation and the lost or misplaced Certificate of Authorization within ten days after the date the notary public reacquires possession of the lost or misplaced Certificate of Authorization.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.335  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0150

#### **Notification of Secretary of State That Official Seal is Unworkable — ORS 194.031(5)**

**160-100-0160** (1) A notary public whose official seal is lost, misplaced, destroyed, broken, damaged or otherwise unworkable shall personally deliver or mail to the Secretary of State a written statement, under oath or affirmation, within ten days after the date the notary public discovers that the seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable.

(2) The statement shall include:

- (a) A statement of whether the official seal is lost, misplaced, destroyed, broken, damaged or in some other manner made unworkable;
- (b) An explanation of how the official seal became unworkable;
- (c) The date the notary public discovered that the official seal was unworkable;
- (d) If lost or misplaced, a statement that the notary public does not possess the official seal and does not know who possesses it or where it is located;
- (e) If lost or misplaced, a statement that if the notary public subsequently reacquires possession of the lost or misplaced official seal, then the notary public shall file it with the Secretary of State within ten days after the date the notary public reacquires possession of the lost or misplaced official seal;

(f) A request that the Secretary of State issue a duplicate Certificate of Authorization to the notary public.

(3) A notary public who is issued a duplicate Certificate of Authorization pursuant to ORS 194.031(5) and this rule shall use it to comply with the requirements of ORS 194.010(4) and OAR 160-100-0140. To comply with OAR 160-100-0140, the notary public shall file with the Secretary of State an imprint of the notary public's official seal and duplicate Certificate of Authorization within ten days after the notary public receives the completed duplicate Certificate of Authorization from the official seal vendor or vendor's representative.

(4) If a notary public subsequently reacquires possession of a lost or misplaced official seal, then the notary public shall file with the Secretary of State a written statement of explanation and the lost or misplaced official seal within ten days after the date the notary public reacquires possession of the lost or misplaced official seal.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.031  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0160

### **Notarial Journal**

#### **Form and Content of Notarial Journal — ORS 194.152(2)**

**160-100-0200** A notarial journal of a notary public may be in any form that meets the physical requirements set out in this rule and the entry requirements set out in OAR 160-100-0210:

(1) The cover and pages inside the cover shall be bound together by any binding method that is designed to prevent the insertion or removal of the cover or a page;

(2) Each page shall be consecutively numbered from the beginning to the end of the journal. If a journal provides two pages on which to record the required information about the same notarial act, then both pages may be numbered with the same number or each page may be numbered with a different number. A page number shall be preprinted;

(3) Each line shall be consecutively numbered from the beginning to the end of the page. If a line extends across two pages, the line shall be numbered with the same number on both pages. A line number shall be preprinted;

(4) A notarial journal of a notary public shall contain on the inside of the front cover or on the first page the following information in any order:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The notary public's residence or business street or mailing address;

(e) The earliest date the journal may be destroyed, which shall be seven years after expiration of the last commission in which entry was made in the journal;

(f) One of the following statements:

(A) That, in the event of the decease of this notary public, the journal shall be delivered or mailed to the Secretary of State; or

(B) That, in the event the notary public has entered into a written agreement with his/her employer pursuant to OAR 160-100-0360, the date such written agreement was entered into, the name and address of the employer and instructions that the journal shall be delivered or mailed to the employer in the event of the decease of the notary public;

(g) The meaning of any not commonly abbreviated word or symbol used in recording a notarial act in the notarial journal;

(h) The signature of the notary public;

(i) At the respective time of entry, the dates of the first and last notarial acts recorded in the notarial journal.

**EXAMPLE:** First entry on July 6, 1990, last entry on January 7, 1992.

(5) If a notary public's name, commission number, commission expiration date, destruction date or address that is written in the notarial journal changes before the notary public ceases to use the notarial journal, the notary public shall draw a single line through the old information and write the new information to the side of the old information.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.152

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0200

### **Information Required to be Recorded in Notarial Journal — ORS 194.152(2)**

**160-100-0210** Except as provided in OAR 160-100-0220 and 160-100-0230, a notary public shall record in a notarial journal the following information about each notarial act performed by the notary public:

(1) The date and time the notarial act was performed;

(2) The type of notarial act performed;

(3) The date of the document notarized;

(4) The type of document notarized;

(5) The printed name of the person whose statement, signature or document was notarized;

(6) The signature of the person whose statement, signature or document was notarized.

(7) A description of how the notary public identified the person whose statement, signature or document was notarized. The description shall be as follows:

(a) If the notary public identified such person by personally knowing the person, then the description shall

consist of the statements either “personally known” or “personal knowledge”;

(b) If the notary public identified such person by seeing and hearing a credible witness personally known to the notary public testify under oath or affirmation, then the description shall consist of, in the following order, the legal name and residence street address of the witness;

(c) If the notary public identified such person by seeing identification documents, then the description shall consist of, in the following order, the name of the organization that issued the document; the type of document and the number of the identification document, if any. For example, Oregon driver's license number 1234567.

(8) An entry may contain any other information.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.152

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0210

### **Abbreviated Multiple Entry in Notarial Journal**

**160-100-0220** (1) 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, in lieu of recording individually in the notarial journal the information required by OAR 160-100-0210 for each notarized duplicate original, record a single entry in the notarial journal for all notarizations of the statement or document, which shall set forth all the information required by OAR 160-100-0210, and the total numbers of the statement or document notarized.

(2) If a notary notarizes different statements or documents for the same person on the same date, the notary public may, in lieu of recording individually in the notarial journal the information required by OAR 160-100-0210 for each notarized statement or document, record a single entry in the notarial journal for all notarizations of such statements or documents, which shall set forth the number of statements or documents and the information required by OAR 160-100-0210(1), (2), (5), (6) and (7), and for each statement or document the information required by OAR 160-100-0210(3) and (4) and, if there are duplicate originals of any statement or document, the total number of the statement or document notarized.

(3) 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, in lieu of recording individually in the notarial journal the information required by OAR 160-100-0210(5) and (7) for each notarization for that person, record a reference to a prior entry in the notarial journal for that person (identifying the page and line numbers of the prior entry) which prior entry shall set forth the information required by OAR 160-100-0210(5) and (7).

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.152  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0220

**Notarial Acts Not Required to be Recorded in Notarial Journal — ORS 194.152(1) - (2) and (5)**

**160-100-0230** A notary public may, but is not required to, record in a notarial journal any information about the following notarial acts performed or documents notarized by the notary public:

- (1) Administering an oath or affirmation;
- (2) Certifying or attesting a copy of a document;
- (3) Affidavits;
- (4) Billing statements for media advertising;
- (5) Protests of commercial paper (to be recorded as provided in ORS 194.090 and 73.0505).
- (6) Verifications upon oath or affirmation.

Stat. Auth.: ORS 194.152(2)  
Stats. Implemented: ORS 194.152  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; SOS-AD 3-1990(Temp), f. & cert. ef. 7-2-90; SOS-AD 1-1991, f. & cert. ef. 1-7-91; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0230

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the Secretary of State.]

**Information Required to be Recorded in Record of Protests — ORS 194.090**

**160-100-0240** A notary public shall maintain a record of information about each protest of commercial paper performed by the notary public consisting of copies of source originals.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.090  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-240

**Disposition of Notarial Records Upon Termination of Commission, Termination of Commission Due to Expiration — No Application for New Commission — ORS 194.154**

**160-100-0300** (1) A notary public whose commission was terminated because of expiration, and who has not applied for a new commission within 30 days after the date of termination shall arrange for the storage of his/her notarial records, except records of protests of commercial paper (see OAR 160-100-0350), in any form and at any location. The records or any reproduction of the records must be readable and the notary public must be able to

obtain possession of such records within 15 days of receipt of a request for such records.

(2) A notary public shall file a statement with the Secretary of State within ten days after the date the notary public stored such records. The statement shall include:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The cause of termination of the notary public's commission, i.e., expiration;
- (e) The date the notary public stored such notarial records;
- (f) The street address and exact location at such address where such records are stored and any subsequent relocation of such records.

(3) A notary public shall store such records for a period of seven years after the date of commission expiration. After the seven-year period, the notary public may destroy such records.

(4) A notary public shall destroy the official seal and/or official seal embosser immediately upon expiration of the commission.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.154  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0300

**Termination of Commission Due to Expiration — Application for New Commission Made Within 30 Days — ORS 194.154**

**160-100-0310** (1) A notary public whose commission was terminated because of expiration and who has filed with the Secretary of State an application for a new commission within 30 days after the date of termination shall retain his/her notarial records at the notary public's residence or business location. Such records may be retained in any form as long as such records or any reproduction of such records are readable.

(2) If the notary public is issued a new commission within three months after the date of termination, then the notary public shall continue to retain his/her notarial records at the notary public's residence or business location. Such records may be retained in any form as long as such records or any reproduction of such records are readable. Such records shall be retained for a period of seven years after the date of expiration of the prior commission during which the records were kept. After the seven-year period, the notary public may destroy such records.

(3) If the notary public is not issued a commission for any reason within three months after the date of expiration, then the notary public shall arrange for the storage of his/her notarial records as required by OAR 160-100-0300.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.154  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP  
1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from  
164-100-0310

**Termination of Commission Due to Resignation**  
— **ORS 194.154**

**160-100-0320** (1) A notary public whose commission was terminated because of resignation shall arrange for the storage of his/her notarial records, except records of protests of commercial paper (see OAR 160-100-0350), in any form and at any location within 30 days following resignation. The records or any reproduction of the records must be readable and the notary public must be able to obtain possession of such records within 15 days of receipt of a request for such records.

(2) A notary public shall file a statement with the Secretary of State within ten days after the date the notary public stored such records. The statement shall include:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The cause of termination of the notary public's commission, i.e., resignation and an explanation why the notary public is resigning;
- (e) The notary public's resignation date;
- (f) The date the notary public stored such notarial records;

(g) The street address and exact location at such address where such records are stored and any subsequent relocation of such records.

(3) A notary public shall store such records for a period of seven years after the date of resignation. After the seven-year period, the notary public may destroy such records.

(4) At the same time that the notary public files the statement required by section (2) of this rule with the Secretary of State, a notary public shall file with the Secretary of State the notary public's official seal and official seal embosser, if any. The Secretary of State may destroy the official seal and/or official seal embosser upon receipt.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.154  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP  
1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from  
164-100-0320

**Termination of Commission Due to Revocation — ORS 194.154**

**160-100-0330** (1) A notary public whose commission was terminated because of revocation shall file his/her notarial records with the Secretary of State within 30 days after the date of revocation.

(2) At the same time that the notary public files such records with the Secretary of State, a notary public shall file a statement with the Secretary of State. The statement shall include:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The cause of termination of the notary public's commission, i.e., revocation;

(e) The notary public's commission revocation date.

(3) At the same time that the notary public files such records and statement with the Secretary of State, a notary public shall file with the Secretary of State the notary public's official seal and official seal embosser, if any.

(4) The Secretary of State shall store such records for a period of seven years after the date of revocation. After the seven-year period, the Secretary of State may destroy such records. The Secretary of State may destroy the official seal and/or official seal embosser upon receipt.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.154  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP  
1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from  
164-100-0330

**Termination of Commission Due to Death — ORS 194.156**

**160-100-0340** (1) Within 30 days of termination of a notary public's commission as a result of death, an heir or personal representative of the notary public shall file the notary public's notarial records with the Secretary of State, unless the notary public entered into a written agreement with his/her employer pursuant to OAR 160-100-0360.

(2) The heir or personal representative shall file a statement with the Secretary of State. The statement shall include:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The cause of termination of the notary public's commission, i.e., the notary public is deceased;
- (e) The notary public's date of death.

(3) At the same time that an heir or personal representative files such record and statement with the Secretary of State, an heir or personal representative shall file with the Secretary of State the notary public's official seal and official seal embosser, if any.

(4) The Secretary of State shall store such records for a period of seven years after the date of decease of the notary public. After the seven-year period, the Secretary of State may destroy such records. The Secretary of State may destroy the official seal and/or official seal embosser upon receipt.



Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.156  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0340

### **Record of Protests of Commercial Paper — ORS 194.130**

**160-100-0350** (1) A notary public whose commission terminates because of expiration, resignation or revocation, shall file his/her records of protests of commercial paper and any other notarial record relating only to protests of commercial paper with the Secretary of State within 30 days after the date of termination.

(2) At the same time that the notary public files such records with the Secretary of State, a notary public shall file a statement with the Secretary of State. The statement shall include:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The cause of termination of the notary public's commission, i.e., expiration, resignation or revocation;
- (e) The notary public's commission termination date.

(3) The Secretary of State shall store such records for a period of seven years after the date of termination. After the seven-year period, the Secretary of State may destroy such records.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.130  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0350

### **Notary Public's Responsibilities When Agreement Has Been Entered into with Employer — ORS 194.154 and 194.335**

**160-100-0360** A notary public who has entered into an agreement with his/her employer relating to the employer's retention and disposal of the notary public's notarial records following termination of employment pursuant to ORS 194.152(3) shall retain a written copy of the agreement which may be examined by the Secretary of State upon request. The agreement shall contain at least the following information:

- (1) Date agreement was entered into;
- (2) Names of parties to agreement;
- (3) Terms of agreement, including retention of records by the employer for a period not less than seven years after termination of the notary's commission;
- (4) Signatures of all parties to agreement.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.152

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0360

### **Notarial Fees and Waiver of Notarial Fees**

#### **Maximum Amount of Notary Fees Permitted to be Charged — ORS 194.160(1)**

**160-100-0400** A notary public shall not charge, attempt to charge, or receive a notary fee that is more than:

- (1) \$5 for taking an acknowledgment;
- (2) \$5 for taking a verification upon an oath or affirmation;
- (3) \$5 for certifying a copy of a document;
- (4) \$5 for witnessing or attesting a signature;
- (5) \$5 for protesting commercial paper, except a check drawn on an insolvent financial institution in which case the fee is \$0;
- (6) \$1 for administering an oath or affirmation without a signature;
- (7) \$1 for taking a deposition, each page;
- (8) \$1 for all other notarial acts not specified in this rule.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.164  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0400

#### **Displaying List of Notary Fees — ORS 194.160(3) and 194.162(3)(b)**

**160-100-0410** A notary public who charges a fee for a notarial act shall either display a list of notary fees specified in OAR 160-100-0400 in a conspicuous location in the notary public's place of business or give a copy of the notice to any person requesting a notarial act to read before having the notarial act performed. A place of business is the notary public's residence, business office or any other location in which the notary public performs a notarial act.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.162  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0410

#### **Filing Statement of Waiver of Notary Fees; Withdrawing Statement of Waiver — ORS 194.010(5)**

**160-100-0420** (1) A notary public may file with the Secretary of State a statement waiving the right to charge a notary fee.

(2) If a notary public files a written statement of waiver, then the notary public shall:

(a) Not charge, attempt to charge or receive any notary fee for a notarial act performed after the date the notary public filed the statement of waiver;

(b) Not display a list of notary fees otherwise required by OAR 160-100-0410.

(3) If a notary public who has filed a statement of waiver wants to charge a fee to perform a notarial act, then notary public shall file with the Secretary of State a written statement withdrawing the statement of waiver and shall comply with the requirements of OAR 160-100-0400 and 160-100-0410.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.010

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0420

### **Complaints Against Notaries Public**

#### **Filing Complaint Against Notary Public; Investigation of Notary Public by Secretary of State — ORS 194.335**

**160-100-0430** (1) A person may file a complaint against a notary public with the Secretary of State. A complaint shall be submitted on the standard form provided by the Secretary of State, signed and dated by the person filing the complaint. A complaint that does not comply with the requirements of this section shall not be filed, responded to or acted upon by the Secretary of State.

(2) The Secretary of State may commence an investigation of a notary public as a result of information received from any source.

(3) Complaint forms received by the Secretary of State are not exempt from disclosure under Public Records Law, and shall be available to the accused notary public and others under ORS 192.410 to 192.505.

(4) Notwithstanding paragraph (3), personal information of the complainant revealed in a notary public complaint shall not be disclosed if:

(a) The complainant can show that public disclosure thereof would constitute an unreasonable invasion of privacy, unless

(b) In the determination of the Secretary of State, the public interest by clear and convincing evidence requires disclosure in the particular instance.

(c) “Personal information” shall, in this context, include but not be limited to the residence address, phone number and identifying information, such as Social Security Number, driver’s license. The name of the complainant and incidental information do not fall within the definition of “personal information.”

(5) An investigation of the Secretary of State under paragraphs (1) and (2) of this section may include:

(a) An initial request for information from the accused notary;

(b) A copy of the complaint forwarded to the accused; and

(c) A request for supporting documentation and other sources of information.

(6) A notary, upon request by the Secretary of State, shall disclose the contents of the notary’s journal or journals, or any parts thereof, as part of the investigative process. The notary shall provide accurate, true and complete copies of the requested information, and/or shall provide the journal in question for examination by the Secretary of State.

(7) Upon a finding by the Secretary of State, copies of the finding shall be mailed to the complainant and the accused.

(8) Failure of an accused notary to comply with Secretary of State investigation directives shall result in revocation of the commission, subject to the provisions of ORS 183.413 to 183.470.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.166 & ORS 194.335

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0430; CORP 1-2001, f. 6-14-01, cert. ef. 7-1-01

#### **Conviction of a Notary Public or Notary Public Applicant of a Felony or Lesser Offense Incompatible with the Duties of a Notary Public**

#### **Notification of Secretary of State of Conviction — ORS 194.335**

**160-100-0500** Within 30 days of having been convicted of any felony or lesser offense incompatible with the duties of a notary public, the notary public shall file a written statement with the Secretary of State containing the following information:

(1) The name of the notary public;

(2) The notary public’s commission number;

(3) The notary public’s Commission expiration date;

(4) Type of conviction;

(5) Court and jurisdiction of court in which convicted;

(6) Sentence imposed by court.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.166 & ORS 194.335

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0500

#### **Conviction of a Lesser Offense Incompatible with the Duties of a Notary Public — ORS 194.166, 194.335 and 194.990**

**160-100-0510** “Conviction of a lesser offense incompatible with the duties of a notary public” as cited in ORS 194.166(4) and OAR 160-100-610(67) shall mean having

been convicted in any court of the State of Oregon or any other state or federal jurisdiction of one of the crimes listed below or any comparable crime:

- (1) 162.075 -- False swearing;
- (2) 162.085 -- Unsworn falsification;
- (3) 162.235 -- Obstructing governmental or judicial administration;
- (4) 162.295 -- Tampering with physical evidence;
- (5) 162.305 -- Tampering with public records;
- (6) 162.335 -- Compounding a felony;
- (7) 162.355 -- Simulating legal process;
- (8) 162.365 -- Criminal impersonation;
- (9) 162.375 -- Initiating a false report;
- (10) 162.385 -- Giving false information to police officer for a citation;
- (11) 162.425 -- Misuse of confidential information;
- (12) 165.007 -- Forgery in the 2nd degree;
- (13) 165.017 -- Criminal possession of a forged instrument in the 2nd degree;
- (14) 165.037 -- Criminal simulation;
- (15) 165.042 -- Fraudulently obtaining a signature;
- (16) 165.080 -- Falsifying business records;
- (17) 165.095 -- Misapplication of entrusted property;
- (18) 165.100 -- Issuing a false financial statement;
- (19) 165.102 -- Obtaining execution of documents by deception;
- (20) Any misconduct identified of the notary offenses listed in ORS 194.990;
- (21) Any other offense of a similar nature to the above listed crimes which is incompatible with the duties of a notary public.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.166  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0510

### **Administrative Actions**

#### **Refusal to Issue, Revocation, Suspension, Civil Penalties and Official Warning for Official Misconduct — ORS 194.166 and 194.980**

**160-100-0600** (1) OAR 160-100-0610 identifies official misconduct, as defined in ORS 194.005(8), and identifies sanctions that may be taken by the Secretary of State for first acts of misconduct, including refusing to issue, revoking, or suspending a commission in ORS 194.166, assessing a civil penalty in ORS 194.980, or issuing an official warning in ORS 194.985.

(2) The Secretary of State may assess increasingly severe sanctions up to and including a \$1500 civil penalty and revocation of a notary public's commission, where applicable, for:

(a) Failure to correct or cease official misconduct within time periods specified by the Secretary of State in a Secretary of State - Corporation Division

final order (final notice of assessment) or Official Warning letter;

(b) A repeated act or acts of official misconduct which occur subsequent to any previous sanction assessed by the Secretary of State for the same type of misconduct;

(c) Accumulation of more than one different notary misconducts occurring during a seven-year period.

Stat. Auth.: ORS 194  
Stats. Implemented: ORS 194.166, ORS 194.980 & ORS 194.985  
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0600

#### **Conduct Which Constitutes Official Misconduct — ORS 194.166 and 194.980**

**160-100-0610** As provided in OAR 160-100-0600, the following conduct constitutes official misconduct, as defined in ORS 194.005, for purposes of refusing to issue, revoke or suspend a notary public's commission pursuant to ORS 194.166, assessing a civil penalty against a person pursuant to ORS 194.980, or issuing an official warning to a person pursuant to ORS 194.985:

(1) A person, who is in the business of making or selling official seals, provided an official seal to a person who did not present to such vendor the original Certificate of Authorization issued by the Secretary of State to the person pursuant to ORS 194.010(2). See ORS 194.010(4)(a). Sanction for First Act of Misconduct: Official warning.

(2) A person performed a notarial act within the state of Oregon when the person was not commissioned as a notary public. See ORS 194.012. Sanction for First Act of Misconduct: Refuse to commission. (Class B Misdemeanor)

(3) A notary public used as an official seal an object that was not a stamp, or was a stamp but the stamp was made of a substance that was incapable of making a legible imprint on paper or was incapable of making an imprint that could be legibly reproduced under a photographic method. See ORS 194.031(1). Sanction for First Act of Misconduct: Official warning.

(4) A notary public, who received the notary public's official seal from a vendor of official seals, did not file with the Secretary of State an imprint of the notary public's official seal and the information required by OAR 160-100-0140 within ten days after the date the notary public received the official seal from the vendor. See ORS 194.031(5). Sanction for First Act of Misconduct: Official warning.

(5) A notary public, whose official seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable, did not personally deliver or mail to the Secretary of State a written notice of that fact within ten days after the date the notary public discovered that the notary public's



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official seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable. See ORS 194.031(6) and OAR 160-100-0160(1). Sanction for First Act of Misconduct: Official warning.

**(6)** A notary public used the notary public's seal embosser in lieu of the notary public's official seal. See ORS 194.031(7) and OAR 160-100-0130(1). Sanction for First Act of Misconduct: Official warning.

**(7)** A notary public performed a notarial act in another state pursuant to the authority of the notary public's Oregon commission. See ORS 194.043. Sanction for First Act of Misconduct: Official warning.

**(8)** A notary public did not deliver or mail to the Secretary of State a written notice of change of address within 30 days after the date the notary public changed the notary public's residence or business street or mailing address. See ORS 194.047 and 194.166(15). Sanction for First Act of Misconduct: Official warning.

**(9)** A notary public performed a notarial act using a new name different than the notary public's name as it appeared on the notary public's written commission. See ORS 194.052(1). Sanction for First Act of Misconduct: Official warning.

**(10)** A notary public did not deliver or mail to the Secretary of State a written notice of change of name within 30 days after the date the notary public's name changed. See ORS 194.052(2) and 194.166(15). Sanction for First Act of Misconduct: Official warning.

**(11)** A notary public issued a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in ORS 73.0505(2)) but in the certificate did not identify the negotiable instrument protested, certify that due presentment was made or the reason why presentment was excused, or certify that the instrument protested was dishonored by nonacceptance or nonpayment, as required by ORS 73.0505(2). See ORS 194.070. Sanction for First Act of Misconduct: Official warning.

**(12)** A notary public did not keep a record of all certificates of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) issued by the notary public during the term of a commission. See ORS 194.090. Sanction for First Act of Misconduct: Official warning.

**(13)** A notary public performed an acknowledgment of a document executed by a corporation of which the notary public was a shareholder, director, officer or employee at the time of the notarization when the notary public was a party to the document either in an individual or representative capacity. See ORS 194.100(2)(a). Sanction for First Act of Misconduct: Official warning.

**(14)** A notary public issued a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in ORS 73.0505(2)) that was owned or held for collection by a corporation of which the notary public was a shareholder, director,

officer or employee of a corporation at the time of the notarization when the notary public was a party to the negotiable instrument in an individual capacity. See ORS 194.100(2)(b). Sanction for First Act of Misconduct: Official warning.

**(15)** A notary public issued a certificate of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) of a non-commercial or other document that does not fit the definition of negotiable instrument as defined in ORS 73.0104. See ORS 194.070. Sanction for First Act of Misconduct: Official warning.

**(16)** A notary public issued a certificate of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) in a manner not in accordance with ORS 73.0505. See ORS 194.070. Sanction for First Act of Misconduct: Official warning.

**(17)** A notary public did not provide, keep, maintain or protect a chronological journal of notarial acts performed by the notary public during the term of a commission. See ORS 194.152(1). Sanction for First Act of Misconduct: Official warning.

**(18)** A notary public whose commission was terminated because of expiration and who did not reapply did not arrange for the storage of his/her notarial records, file a statement with Secretary of State or destroy the notary public's official seal and official seal embosser, if any. See ORS 194.154 and OAR 160-100-0300. Sanction for First Act of Misconduct: Official warning.

**(19)** A notary public whose commission terminated because of resignation did not arrange for the storage of his/her notarial records, file a statement or the notary public's official seal and official seal embosser, if any, with the Secretary of State. See ORS 194.154 and OAR 160-100-0320. Sanction for First Act of Misconduct: Official warning.

**(20)** A notary public whose commission terminated because of revocation did not file his/her notarial records, a statement or the notary public's official seal and official seal embosser, if any, with the Secretary of State. See ORS 194.154 and OAR 160-100-0330. Sanction for First Act of Misconduct: \$500.

**(21)** A notary public whose commission terminated because of expiration and who filed an application for a new commission within 30 days after the date of termination but was not issued a new commission within 90 days after the date of termination, did not dispose of the notary public's notarial records in accordance with OAR 160-100-0310 within 90 days after the date of termination. See ORS 194.154(3). Sanction for First Act of Misconduct: Official warning.

**(22)** A notary public notarized a document in which the notary public signed or was named other than as a notary public. See ORS 194.158(1). Sanction for First Act of Misconduct: Official warning.

**(23)** A notary public endorsed or promoted a product, service, contest or other offering by using the notary

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public's title or official seal. See ORS 194.158(2). Sanction for First Act of Misconduct: \$500 civil penalty.

**(24)** A notary public made a representation that the notary public had powers, qualifications, rights or privileges that the notary public did not have. See ORS 194.162(2). Sanction for First Act of Misconduct: \$500 civil penalty.

**(25)** A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not include in the advertisement the statement: "I am not licensed to practice law in the state of Oregon and I am not permitted to give legal advice on immigration or other legal matters or accept fees for legal advice." This should be written in the same language used in the advertisement and in English and prominently displayed. See ORS 194.162(3)(a) and 194.166(10). Sanction for First Act of Misconduct: Official warning.

**(26)** A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not include in the advertisement a list of notarial fees specified in OAR 160-100-0410. See ORS 194.162(3)(b) and 194.166(10). Sanction for First Act of Misconduct: Official warning.

**(27)** A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not display the statement and list of notarial fees required by ORS 194.162(3) in a conspicuous place in the notary public's place of business. See ORS 194.162(4) and 194.166(10). Sanction for First Act of Misconduct: Official warning.

**(28)** A notary public used the term "notario publico" or a non-English equivalent term in a business card, advertisement, notice, sign or in any other manner which misrepresents the authority of the notary public. See ORS 194.162(5). Sanction for First Act of Misconduct: Official warning.

**(29)** A notary public who charged a fee for traveling to perform a notarial act did not explain to the person who requested the notarial act that the traveling fee was in addition to the fee to perform the notarial act or was not required by law, or did not obtain in advance the agreement of the person who requested the notarial act to the amount of the traveling fee. See ORS 194.164(2). Sanction for First Act of Misconduct: Official warning.

**(30)** A notary public, except a notary public who filed with the Secretary of State a statement waiving the right to charge a notary fee, did not comply with the fee display requirements specified in OAR 160-100-0410. See ORS 194.164(3). Sanction for First Act of Misconduct: Official warning.

**(31)** A notary public failed to maintain the qualifications to be a notary public required under ORS 194.022. See ORS 194.166(1). Sanction for First Act of Misconduct: Revocation of commission.

**(32)** A notary public purports to be a citizen of a country other than one officially recognized by the United States Department of State. See ORS 194.005(3). Sanction for First Act of Misconduct: Official warning.

**(33)** A notary public or notary public applicant made a substantial and material misstatement or omission of fact in an application submitted to the Secretary of State. See ORS 194.166(2). Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

**(34)** A notary public or notary public applicant was convicted of a felony, or of a lesser offense incompatible with the duties of a notary public. See ORS 194.166(4) and OAR 160-100-0510. Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

**(35)** A notary public or a notary public applicant had a professional license that was issued by a governmental entity revoked, suspended, restricted or denied for misconduct, dishonesty or a cause substantially relating to the duties or responsibilities of a notary public. See ORS 194.166(5). Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

**(36)** A notary public was judicially determined to be liable for damages in a suit for fraud or misrepresentation or in a suit for failing to discharge fully and faithfully the duties as a notary public. See ORS 194.166(6). Sanction for First Act of Misconduct: Revocation of commission.

**(37)** A notary public used a false or misleading advertisement in which the notary public represented that the notary public had powers, qualifications, rights or privileges that the office of notary public does not have, including but not limited to the power to counsel on immigration matters. See ORS 194.166(7). Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

**(38)** A notary public engaged in the unauthorized practice of law. See ORS 194.166(8). Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

**(39)** A notary public charged a notary fee that was more than the maximum fee specified in OAR 160-100-0400. See ORS 194.166(9). Sanction for First Act of Misconduct: \$500 civil penalty.

**(40)** A notary public committed an act involving dishonesty, fraud or deceit with the intent to substantially benefit the notary public or another or substantially injure another. See ORS 194.166(11). Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

**(41)** A notary public executed a notarial certificate that contained a statement known to the notary public to be false. See ORS 194.166(13). Sanction for First Act of Misconduct: \$500 civil penalty.

**(42)** A notary public used an official seal or official seal embosser that did not conform to ORS 194.031, OAR 160-100-0100 and 160-100-0120 to perform a notarial act.

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See ORS 194.166(14). Sanction for First Act of Misconduct: Official warning.

**(43)** A notary public did not determine either from personal knowledge as defined in ORS 194.515(7) or from satisfactory evidence as defined in ORS 194.515(6) and 194.515(8) that the person acknowledging a document as defined in ORS 194.505(1) in the presence of the notary public was the person whose signature was on the document. See ORS 194.515(1). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

**(44)** A notary public did not determine either from personal knowledge as defined in ORS 194.515(7) or from satisfactory evidence as defined in ORS 194.515(6) and 194.515(8) that the person verifying a statement by oath or affirmation as defined in ORS 194.505(3) in the presence of the notary public is the person whose signature was on the statement. See ORS 194.515(2). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

**(45)** A notary public did not determine either from personal knowledge as defined in ORS 194.515(7) or from satisfactory evidence as defined in ORS 194.515(6) and 194.515(8) that the signature on a document was the signature of the person signing the document in the presence of the notary public and named in the document. See ORS 194.515(3). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

**(46)** A notary public did not determine from satisfactory knowledge as defined in ORS 194.515(6) and 194.515(8) that the copy of a document presented to the notary public was a complete and correct transcription or reproduction of the document presented. See ORS 194.515(4). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

**(47)** A notary public did not determine or from satisfactory knowledge as defined in ORS 194.515(6) and 194.515(8) the identity of the negotiable instrument, that presentment was required and made, or that presentment was excused and not made and the reason why presentment was excused, that the instrument was dishonored by nonacceptance or nonpayment, or all or any combination of the above. See ORS 194.515(5). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

**(48)** A notary public did not evidence a notarial act by issuing a notarial certificate as defined in ORS 194.005(5) containing the signature of the notary public, the title of the notary public, the date the notary public's commission expires, the date the notary public performed the notarial act, the name of the governmental jurisdiction in which the notarial act was performed, the official seal of the notary public, and, if a United States commissioned officer on active duty, then also the notary public's military rank. See ORS 194.565(1). Sanction for First Act of Misconduct: Official warning.

**(49)** A notary public did not evidence a notarial act by a notarial certificate as defined in ORS 194.005(5) in a form prescribed by a law of the United States or of the State of Oregon or, if not prescribed, then in a form permitted by ORS 194.575 or in a form designed by the notary public that describes the acts of the notary public and such acts meet all of the requisite elements of the notarial act. See ORS 194.565(2). Sanction for First Act of Misconduct: Official warning.

**(50)** A notary public engaged in any other act or omission involving any act prohibited or mandated by ORS 194.005 to 194.200, 194.505 to 194.595 or any rule adopted by the Secretary of State or any other law governing notarization. See ORS 194.005(8). Sanction for First Act of Misconduct: \$500 civil penalty.

**(51)** A notary public did not use the notary public's official seal in performing a notarial act. See OAR 160-100-0110(1). Sanction for First Act of Misconduct: Official warning.

**(52)** A notary public used the notary public's official seal or official seal embosser to perform a notarial act but did not place an imprint of the official seal or official seal embosser on a notarial certificate. See OAR 160-100-0110(2) and 160-100-0130(2). Sanction for First Act of Misconduct: Official warning.

**(53)** A notary public used the notary public's official seal or official seal embosser to perform a notarial act but placed an imprint of the official seal or official seal embosser over any signature in a document to be notarized or in a notarial certificate or over any writing in a notarial certificate. See OAR 160-100-0110(3) and 160-100-0130(3). Sanction for First Act of Misconduct: Official warning.

**(54)** A notary public used the notary public's official seal or official seal embosser for a purpose other than to perform a notarial act. See OAR 160-100-0110(5) and 160-100-0130(5). Sanction for First Act of Misconduct: Official warning.

**(55)** A notary public permitted another person to use the notary public's official seal or official seal embosser. See OAR 160-100-0110(6) or 160-100-0130(6). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days and \$500 civil penalty.

**(56)** A notary public used another notary public's official seal or official seal embosser or an object in lieu of the notary public's official seal or official seal embosser to perform a notarial act. See OAR 160-100-0110(7) and 160-100-0130(7). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days and \$500 civil penalty.

**(57)** A notary public, whose Certificate of Authorization was lost, misplaced, destroyed or otherwise unusable, did not file with the Secretary of State a written statement, under oath or affirmation within ten days after the date the notary public discovered that the Certificate of Authoriza-



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tion was lost, misplaced, destroyed or otherwise unusable. See OAR 160-100-0150(1). Sanction for First Act of Misconduct: Official warning.

**(58)** A notary public, whose Certificate of Authorization was lost, misplaced, destroyed or otherwise unusable, did not file with the Secretary of State a written statement containing the information required by OAR 160-100-0150(2). See OAR 160-100-0150(2). Sanction for First Act of Misconduct: Official warning.

**(59)** A notary public, who was issued a duplicate Certificate of Authorization pursuant to OAR 160-100-0150 and 160-100-0160, did not file with the Secretary of State an imprint of the notary public's seal and duplicate Certificate of Authorization within ten days after the notary public received the completed duplicate Certificate of Authorization from a vendor of official seals. See OAR 160-100-0150(4) and 160-100-0160(3). Sanction for First Act of Misconduct: Official warning.

**(60)** A notary public who subsequently reacquired possession of a lost, misplaced, destroyed or otherwise unusable Certificate of Authorization did not file with the Secretary of State a written statement of explanation within ten days after the date the notary public reacquired possession of the unusable Certificate of Authorization. See OAR 160-100-0150(5). Sanction for First Act of Misconduct: Official warning.

**(61)** A notary public, whose official seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable, did not file with the Secretary of State a written statement containing the information required by OAR 160-100-0160(2). See OAR 160-100-0160(2) Sanction for First Act of Misconduct: Official warning.

**(62)** A notary public who subsequently reacquired possession of a lost or misplaced official seal did not file with the Secretary of State a written statement of explanation and the lost or misplaced official seal within ten days after the date the notary public reacquired possession of the lost or misplaced official seal. See OAR 160-100-0160(4). Sanction for First Act of Misconduct: Official warning.

**(63)** A notary public used a notarial journal that was not in the form required by OAR 160-100-0200. See OAR 160-100-0200. Sanction for First Act of Misconduct: Official warning.

**(64)** A notary public did not enter in a notarial journal the information about each notarial act performed by the notary public required by OAR 160-100-0210. See OAR 160-100-0210. Sanction for First Act of Misconduct: Official warning.

**(65)** A notary public recorded information about multiple notarial acts performed by the notary public in a manner that did not comply with the requirements of OAR 160-100-0220. See OAR 160-100-0220. Sanction for First Act of Misconduct: Official warning.

**(66)** A notary public used a record of protests that did not contain the information about each certificate of dishonor issued by the notary public required by OAR 160-100-0240. See OAR 160-100-0240. Sanction for First Act of Misconduct: Official warning.

**(67)** A notary public whose commission was terminated because of expiration, resignation or revocation did not file with the Secretary of State the notary public's record of protests and any other notarial records relating only to protests of commercial paper in accordance with OAR 160-100-0350 within 30 days after the date of termination. See OAR 160-100-0350(1). Sanction for First Act of Misconduct: Official warning.

**(68)** A notary public whose commission was terminated because of expiration, resignation or revocation did not file with the Secretary of State the statement required by OAR 160-100-0350(2) within 30 days after the date of termination. See OAR 160-100-0350(2). Sanction for First Act of Misconduct: Official warning.

**(69)** A notary public who entered into an agreement with an employer relating to the employer's retention and disposal of the notary public's notarial records following termination of employment pursuant to ORS 194.152(3) did not retain a written copy of the agreement or make such available upon request of the Secretary of State. See OAR 160-100-0360. Sanction for First Act of Misconduct: Official warning.

**(70)** A notary public who was convicted for a felony or lesser offense incompatible with the duties of a notary public did not file a statement with the Secretary of State within 30 days of conviction. See OAR 160-100-0500. Sanction for First Act of Misconduct: \$500 civil penalty.

**(71)** A notary public who submits the following types of documents to the Secretary of State in reply to correspondence from the Secretary of State or other government agency or seeks to initiate proceedings through the following document types:

(a) Conditional Acceptance, or a similar document purporting to "conditionally accept" presentment of an official document, and demanding proof of a list of claims in order to fully accept the official document.

(b) Affidavit in Support of Conditional Acceptance, or a similar document purporting to attest to the facts of a document described in paragraph (71)(1) and signed by the same notary public who is attesting.

(c) Notice of Dishonor, or a similar document purporting to give notice that a Conditional Acceptance (see paragraph (71)(1)) has not been accepted by the government agency to which it was sent and thereby was dishonored.

(d) Accepted for Value, or similar stamp or certificate purporting to accept for a disclosed or undisclosed value an official document sent to the notary public by the Secretary of State or other governmental agency. The certificate claims to establish an amount of money payable or accrued to the signor of the certificate.

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(e) Notice of Protest, or a similar document purporting to be a Protest of Commercial Paper that has been dishonored, when said Commercial Paper is not, in fact, a negotiable instrument under Oregon Revised Statute Chapter 73 and subject to the laws stated therein regarding dishonor and protest.

(f) Other documents attempting to apply Oregon Revised Statute Chapter 73 to non-negotiable instruments or other documents not included in the scope of said chapter.

(g) Other document type purporting to follow the Uniform Commercial Code (U.C.C.), and not related to an Oregon Revised Statute Ch. 79 filing.

(h) Other document type purporting to be according to Oregon Revised Statute Ch. 79 that does not constitute filing under ORS Ch. 79.0516. See ORS 194.166. Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.166 & ORS 194.980

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0610; CORP 1-2003, f. 3-14-03, cert. ef. 4-1-03

#### **Appeal Process — ORS 183.413 - 183.500, 194.168, and 194.990**

**160-100-0620** In the event the Secretary of State sanctions a notary public for official misconduct or proposes to refuse to appoint or proposes to revoke or suspend a commission, an opportunity for a public hearing will be provided pursuant to ORS 194.168, 194.990, the contested case procedures set out in ORS 183.413 through 183.500 and the Attorney General's Model Rules of Procedure for Contested Cases.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.168

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0620

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## Seminar Review

- 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, a personally known credible witness, or reliable identification cards.
- Never notarize if you doubt someone's willingness to sign or ability to understand what is being signed.
- Never sign and seal a document without first filling out the journal.
- Never allow a notarial act to go unnoted in your journal.
- Keep an accurate and complete record.
- Never charge more notary fees than the law allows.
- Contact the Secretary of State, Corporation Division if you have any questions.