



SORRY, No Can Do!

Complete answers to your signers'
everyday request for improper notarizations

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NATIONAL
NOTARY
ASSOCIATION

How to Use This Book

Sooner or later as a Notary, you'll have to explain to a signer why you can't notarize a document. Often, this can be difficult because most folks just don't understand the rules, laws and procedures for a proper notarization.

And many just don't want to take your word for it, either.

This book was created to avoid the haggling between you and your customers over what you can and can't notarize. You don't make the rules, but sometimes your signers may think you do. So this book is for them — for you to show them when you cannot notarize their document.

In the pages that follow, you'll find written responses to common requests for improper notarizations. When asked to perform an improper act, just show your customer the relevant page.

Seeing your reason for turning down their notarization in print — and from a respected organization such as the National Notary Association — will give your signers the facts they need to fully understand the situation. They'll understand that you just can't do it and why. And this will help you avoid awkward encounters.

Table of Contents

Identification, awareness, interpreters, credible identifying witnesses.

How to Use This Book i
About the NNA..... v

Signers1
 Absent Signer..... 3
 Identifying Signer 4
 Awareness 5
 Renotarizing 6
 Interpreters..... 7
 Clients..... 8
 Marriage License as ID..... 9
 Spouse as Credible Witness..... 10
 Names on ID Not Matching 11

Signer understanding, blanks or incomplete, conflicts of interest, loan documents.

Documents..... 13
 Understanding Documents..... 15
 Immigration Assistance 16
 Incomplete Documents 17
 Missing Pages..... 18
 Conflict of Interest 19
 No 'Exhibit A' in Loan Docs 20
 Explaining Loan Terms 21
 Revealing Closing Date..... 22

Birth certificates, Forms I-9, photographs, translations, after-hours work.

Notary Requests 23
 Notarizing Birth Certificates 25
 Completing I-9 Forms..... 26
 Notarizing Photographs 27
 Certifying a Translation 28
 Certifying an Object or Event 29
 Obeying Your Boss as a Notary 30
 Resigning Commission..... 31
 After-Hours Notarization 32
 Signing Written Waiver..... 33

Signing and stamping, selecting certificates, sharing seal, ownership of journal.

Notary Tools 35
 Signing and Stamping 37
 Selecting Type of Notarization 38
 Pre-Stamping Certificates 39
 Falsifying a Date 40
 Inspection of Journal Unattended..... 41
 Signing Journal..... 42
 Coworkers Using Seal..... 43
 Completing 'Extra' Certificate 44
 Applying Seal to a Contract 45
 Backdating Loan Documents..... 46

About the NNA

Since 1957, the National Notary Association has been committed to serving and educating the nation's Notaries.

During that time, the NNA® has become known as the most trusted source of information for and about Notaries and Notary laws, rules and best practices.

The NNA serves Notaries through its *NationalNotary.org* website, social media, publications, annual conferences, seminars, online training and the NNA® Hotline, which offers immediate answers to specific questions about notarization.

In addition, the NNA offers the highest quality professional supplies, including official seals and stamps, recordkeeping journals, Notary certificates and Notary bonds.

Though dedicated primarily to educating and assisting Notaries, the NNA supports implementing effective Notary laws and informing the public about the Notary's vital role in today's society.

To learn more about the National Notary Association, visit *NationalNotary.org*.



Signers

Identification, awareness, interpreters, credible identifying witnesses.

Absent Signer	3
Identifying Signer	4
Awareness	5
Renotarizing	6
Interpreters	7
Clients	8
Marriage License as ID	9
Spouse as Credible Witness	10
Names on ID Not Matching	11

“An investment in
knowledge pays
the best interest.”

— Benjamin Franklin

Notarize for an Absent Signer?

SORRY, NO CAN DO!

If you're asking a Notary to notarize the signature of a person who is not present, you're requesting a criminal act. Both you and the Notary could go to jail, be fined or both.

Society trusts the Notary to personally screen each signer for identity, willingness and awareness. This is impossible if the signer is not face to face before the Notary at the time of the notarization. Under law, your word alone is not good enough.

And it is just as unlawful for the Notary to base a notarization on a telephone call or on mere familiarity with someone's signature.

To repeat, the document signer must appear face to face before the Notary at the time of notarization — not before, not later. It is a criminal act to persuade the Notary to violate this rule.

Notarize Without Identifying Signer?

SORRY, NO CAN DO!

A Notary’s most important duty is to positively identify each and every document signer to prevent forgery.

Notaries identify signers in one of three ways: 1) their own personal knowledge* of the signer’s identity; 2) the sworn word of a personally known** third party (a credible witness); or 3) reliable identification documents or ID cards.

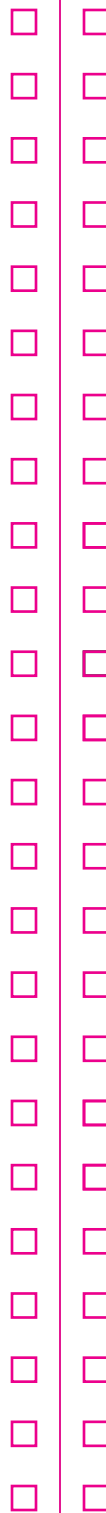
Reliable IDs should be current, government-issued and have a photograph, signature and physical description (height, hair color, etc.) of the signer. Cards such as state driver’s licenses and nondriver’s IDs, military IDs and passports are acceptable.

The following should not be used as identification:

- A birth certificate, Social Security card or other card *without* a photograph
- The informal introduction by a friend, coworker or relative who is not willing to swear to their identity under oath and sign the Notary’s journal
- Casual acquaintance of signer that would impede your ability to positively identify them through personal knowledge

*California Notaries no longer may identify document signers based upon personal knowledge.

**Some states allow Notaries to identify credible witnesses with ID cards.



Uncertain Awareness?

SORRY, NO CAN DO!

A Notary has a duty to screen each signer for three qualities: identity, willingness and awareness.

Awareness is someone’s basic ability to understand what is going on and to be able to handle his or her own personal legal affairs.

A Notary is expected to make a layperson’s commonsense judgment about a signer’s awareness. To do this, the Notary must be able to talk with the signer.

A signer must respond coherently to a Notary’s questions. If a signer is unable to do so, then there is doubt about the person’s awareness and the Notary has no choice but to refuse to notarize.

If medication, weakness or some other temporary cause has left the signer groggy and unable to make sense to the Notary, then the notarization must be postponed.

The Notary may not act based upon your assurance about a signer’s intention, or upon your description of a situation’s urgency.

Unless a Notary clearly sees that a signer is aware of what is going on and is a willing participant, that Notary can’t notarize.

Renotarize Without Signer?

SORRY, NO CAN DO!

If you have asked the Notary to renotarize an altered document, then all of the original signers must appear again before the Notary to confirm their awareness of the changes made in the document.

A renotarization is a brand new, complete notarial act that must stand on its own, with no shortcuts allowed. The Notary must fill out a new certificate with a new date and make a new journal entry.

It would be criminal fraud for the Notary to perform a new notarization without again requiring the physical presence of each signer. Remember, the very purpose of notarization is to verify that a signer is aware of and freely endorses every one of a document's terms.

The signer need not appear again before the same Notary; any Notary may perform this brand new notarization. Indeed, there may be as many different Notaries involved — each completing a different certificate — as there are signers. And multiple signers may appear before the same Notary at different times.

So, please don't insist that the Notary perform a notarization without the signer present. You'd be asking the Notary to break the law.



Use an Interpreter?

SORRY, NO CAN DO!

A Notary must be able to communicate directly with any document signer. So, it is necessary that the Notary and document signer speak a common language and not use an interpreter.*

The communication between Notary and signer must be direct and without reliance on an interpreter, translator or any other third party.

Why no interpreter?

Because the Notary has a personal responsibility to screen each signer for identity, willingness and awareness. This duty cannot reliably be performed through an intermediary who may have a motive for misrepresenting the document or transaction to the signer, the Notary or both.

Without direct questioning of a signer, a Notary could not be sure of that person's intent to sign a particular document.

And without direct communication, the Notary could not administer any required oath, since oaths can't be given through a third party.

So, please don't ask this Notary to notarize for a friend or relative who can't speak the Notary's language — even if you offer to interpret. Find a Notary who can speak the same language as the document signer.

*Arizona law permits a Notary to communicate with a signer through a translator.

Not ‘Embarrass’ Clients?

SORRY, NO CAN DO!

A Notary cannot waive a notarization requirement simply because it might inconvenience or offend an important client, customer or benefactor of the Notary’s company or organization.

Further, it is highly improper for an employer to pressure a Notary employee to overlook or ignore these requirements.

The Notary must perform notarial acts in conformance with the law regardless of the status of any document signer.

You may NOT insist that a Notary-employee accommodate a client or other VIP by:

- Not requiring the client to appear before the Notary in person.
- Dispensing with the oath or affirmation ceremony.
- Not requiring the client to present identification to the Notary.
- Overlooking any other law or rule of notarization because it would inconvenience or “embarrass” the client.

Don’t forget that virtually every client wants you to obey the law so that the transaction at hand will be above legal challenge.



Use Marriage License as ID?

SORRY, NO CAN DO!

It is imprudent and in some states illegal for a Notary Signing Agent to rely upon a marriage license to positively identify a borrower when the borrower’s driver’s license, passport or other “primary” ID carries a different name.

It’s against the law to use a marriage license to verify a signer’s name in some states where an identification document must contain certain features — such as a photograph, signature and physical description. At best, a marriage license proves that two people were married on a given date; it does not contain information sufficient to positively identify either party to the marriage.

It is no argument to assert that “if you compare my driver’s and marriage licenses it’s obvious who I am,” or to plead with the Notary to “use it anyway since a rate lock will expire if you don’t, and the loan will fall through.”

Since stolen, tampered or counterfeit marriage licenses can be used by clever identity thieves and scam artists to perpetrate property frauds, reliance on a marriage license to verify identity at the closing table is not a sound practice.

The Notary may be able to proceed with the signing if one or more credible witnesses are willing to vouch that they know you in your married name. Ask the Notary to explore this option with you.

Use Spouse as Credible Witness?

SORRY, NO CAN DO!

When a borrower's identity cannot satisfactorily be proven with an ID card, most states allow a signer to be identified by one or two credible witnesses.

Invariably the question arises: Can a spouse serve as a credible witness? Let's look at a couple of possible scenarios and then draw conclusions.

Scenario 1: Can a spouse who is a party to the loan be a credible witness? *Answer:* No. Common sense dictates — and state law often requires — that credible witnesses be disinterested in the transaction, and even more so if the spouse must swear as part of the oath that he or she is neither named in or a party to the transaction.

Scenario 2: Can a spouse who is not signing on the loan be a credible witness? *Answer:* It is ill-advised, because a spouse may still be an interested party even though he or she is not a signatory. The unnamed spouse, for example, may benefit from the transaction by residing in the purchased or refinanced property with the signing spouse.

The bottom line: Credible witnesses must be neutral, impartial and not affected by the transaction, either directly or indirectly. Otherwise, the transaction may be subject to challenge.



Names Don't Match?

SORRY, NO CAN DO!

The Notary has just informed you at the signing table that a discrepancy between the names appearing on your ID card and on the notarized document is holding up the signing.

Does one of the following scenarios apply in your case?

Scenario 1: You just married. Your ID card contains your *maiden* name, but the deed of trust requires you to sign in your *married* name. Without another state-approved ID issued in the married name, the Notary must halt the signing unless a credible witness (or two, if law requires) can vouch for your identity in the married name.

Scenario 2: A deed requires you to sign in a hyphenated last name, but the ID card has only one of the names. Ditto the above: you must be identified in the full hyphenated name.

Scenario 3: Your ID contains an initial for a middle name, but the mortgage instrument contains your complete middle name. To proceed, you must satisfactorily prove your full name. Again, reliance on the vouching of one or two credible witnesses who personally know your identity may be the solution.

Scenario 4: Your ID contains a stage name, but you must sign in your given name. Same answer.



Documents

Signer understanding, blanks or incomplete, conflicts of interest, loan documents.

- Understanding Documents 15
- Immigration Assistance..... 16
- Incomplete Documents.....17
- Missing Pages..... 18
- Conflict of Interest..... 19
- No 'Exhibit A' in Loan Docs 20
- Explaining Loan Terms 21
- Revealing Closing Date.....22

“Learning is never ending”

— Aristotle

Help Understanding Your Documents?

SORRY, NO CAN DO!

It is illegal for Notaries who are not attorneys to help other persons prepare documents, especially important documents like yours that have legal ramifications.

The Notary who offers such assistance may be fined or imprisoned for the unauthorized practice of law.

Please do not ask the Notary to explain words or phrases in the document, or to give you any advice about how to proceed. The Notary is actually prohibited by state law from doing so.

Even answering seemingly harmless questions like, “What goes in this space?” or, “What does this mean?” or, “Is this the only document I need?” can get the Notary into big trouble — and result in the wrong advice for you.

A Notary is authorized to identify the document’s signer, give you an oath (if required), make a journal record of the notarization, and ascertain your willingness and awareness to sign and fill out a Notary certificate at the end of the document. Anything more is taboo.

If you need help filling out your document, call the office that gave you the document, or the office where you will file it. Or you may contact an attorney who is authorized by law to give you advice about how to fill out your document.

Help With Immigration?

SORRY, NO CAN DO!

It is illegal for a Notary Public of the United States to give advice about immigration documents.

Please understand that the office of Notary in the United States is completely different from the office of the *Notario Publico* in Spanish-speaking nations. While a *Notario Publico* has broad authority to prepare documents and give legal advice, the U.S. Notary is an official with very narrow authority — to give oaths and identify document signers.

In the United States, unscrupulous persons often call themselves *Notarios Publicos* to mislead and illegally charge Spanish-speaking clients huge amounts of money for advice they have no authority or expertise to give. Taking advantage of the innocent immigrant's unfamiliarity with the U.S. legal system, these dishonest persons actually harm someone's chances of immigrating legally.

In the United States, it is wise to avoid any person self-titled as a *Notario Publico* who offers immigration advice for hundreds of dollars — he or she may be a swindler and could cheat you out of your money and harm your chances of immigrating.

For immigration advice, go to an immigration attorney or to an office of the U.S. Citizenship and Immigration Service.



Notarize an Incomplete Document?

SORRY, NO CAN DO!

It would be as foolish for the Notary to notarize a blank or incomplete document as it would be for you to sign a blank or incomplete check.

In fact, it is illegal to notarize an incomplete document in several states, including California, Florida and Colorado. And in every other state, Notaries are officially discouraged from doing so.

Why?

Because signing blank or incomplete documents may facilitate fraud and often results in lawsuits, both criminal and civil. Document signers are often startled at the information put in blank spaces that they have trusted someone else to complete.

Complete your document first. Telephone to get the needed information, if you have to. If certain spaces don't apply, line through or initial them, or write "N/A" ("Not Applicable") in the blank. Then ask the Notary to notarize the document.

See Only the Signature Page?

SORRY, NO CAN DO!

You can't hide your document from the Notary by presenting just the signature page of a document.

Why not?

For the same reason you wouldn't sign a contract and agree only to look at its last page, the Notary would be foolhardy to officially sign and seal a document that could be a *deed to the Brooklyn Bridge* or its equivalent.

Certainly, your document may be very private and no one has any business reading it. However, the Notary does have the right to hold and quickly visually scan the document to ascertain certain particulars about it for the record — such as its title (or general type), its date, the name(s) of its signer(s), the number of pages and whether it contains any incomplete spaces that would make notarization inadvisable.

Remember, you go to a Notary to protect your rights by having your signature on the document validated and the existence of your document noted in the public record. For this protection, you necessarily must give up some privacy.

To repeat, the Notary has a right to hold and quickly examine your document so that it may be accurately described in the public record for your own protection. A Notary who doesn't do this is not performing a proper notarization.



Conflict of Interest?

SORRY, NO CAN DO!

In some cases, it may be possible for one person to sign before a Notary on behalf of another (the principal) as a subscribing witness, as an attorney in fact or in another representative capacity.

However, when the subscribing witness, attorney in fact or other representative would gain — or have the potential of gaining — from the notarized document, the Notary is obligated not to notarize because of the clear-cut conflict of interest.

A Notary would be unwise, for example, to notarize a power of attorney for a subscribing witness when the witness is the very person who would thereby be appointed attorney in fact. The witness has an obvious self-interest in the document and a possible motive for lying about the genuineness of the signature.

Likewise, a Notary would be unwise to notarize a deed for an attorney in fact acting on behalf of an absent person when the attorney in fact would thereby be granted the property.

With all such conflicts of interest, the conscientious Notary should decline to perform the notarization.

So, if you are signing in a representative capacity, please don't ask a Notary to notarize in cases where you have an obvious conflict of interest.

No ‘Exhibit A’ in Loan Documents?

SORRY, NO CAN DO!

When a space for a legal property description on a deed of trust or mortgage document references an attached “Exhibit A” and the exhibit is not included or attached, the document should not be notarized.

Why?

The borrower in essence is being asked to sign — and the Notary Signing Agent to notarize — a document with a gaping blank space.

In such an important financial dealing as a refinance transaction, a signed and notarized deed or mortgage without a legal property description would be rejected by a county recorder. Any delay caused by the Notary negligently notarizing the incomplete deed could result in an interest rate lock expiring or a missed funding deadline, placing the entire transaction in jeopardy and opening the door to a lawsuit against the Notary.

In addition, it is against the law in several states to notarize incomplete documents because of the risk posed to unwary signers. A closing agent who is “swamped” and rushing to close the loan could inadvertently insert an incorrect property description into a deed. Even worse, an unauthorized person could insert a false one.



Explain Loan Terms?

SORRY, NO CAN DO!

You have questions about your loan. What then could be more natural than to ask the Notary sitting across from you for the answers?

However, you may not be aware that the Notary cannot answer your specific questions for at least three reasons:

First, the law in every state prohibits nonattorney Notaries from offering advice in connection with legal documents. All of the papers connected with your loan are legal documents.

Second, your Notary is often specifically directed by the lender, signing service or title company to avoid explaining the loan terms.

Third, the Notary is an expert on performing notarizations, not on making real estate loans. If you have a question about the terms of the loan, you should ask an expert such as the lender or your own attorney.

The most helpful “advice” your Notary can give you is to explain his or her limitations, and encourage you to seek answers from somebody in the know who is legally qualified to provide expert guidance.

Reveal Closing Date?

SORRY, NO CAN DO!

It is inadvisable for a Notary Signing Agent to disclose or inform a borrower of the date a loan will close or fund. There are several good reasons why Notaries should avoid this practice.

First: prior to the signing, the Notary Signing Agent is not required — and is often requested by lenders and title companies specifically to not — read the documents to discover a closing date or any other loan terms. An Agent only glances through the documents to determine if everything is in place for notarization.

Second: at the signing, the Notary Signing Agent's sole concern is to ensure the proper execution and notarization of the documents. The Agent assumes the borrower agrees with the loan terms, understands the logistics of the loan process and wishes to proceed to sign the documents.

Finally, the Agent cannot control events transpiring after the signing and which may affect the closing date. Holidays, inclement weather, backlogs, disputes and other mitigating factors make it impossible and unwise to estimate a precise closing date.

If you have any questions about the closing date, please ask your loan agent or title company representative.



Notary Requests

Birth certificates, Forms I-9, photographs, translations, after-hours work.

Notarizing Birth Certificates.....	25
Completing I-9 Forms.....	26
Notarizing Photographs	27
Certifying a Translation	28
Certifying an Object or Event	29
Obeying Your Boss as a Notary	30
Resigning Commission	31
After-Hours Notarization	32
Signing Written Waiver.....	33

“Success usually comes to those who are too busy to be looking for it.”

— Henry David Thoreau

Notarize a Birth Certificate?

SORRY, NO CAN DO!

A Notary is not authorized to *notarize* or *certify* a copy of a birth certificate, despite what you may have been told by a travel agency or airline.

Only a custodian of vital records can properly certify an original or copy of a birth certificate. Only that official can verify that the birth information is accurate. Any other so-called certification by a Notary or anyone else is improper.

Furthermore, some states (including New York) flatly prohibit Notaries from certifying copies of any document. Other states (including Texas and Florida) prohibit Notaries from certifying copies of documents that come from another public official, such as a custodian of birth records. And all states prohibit Notaries from using their seals just to make documents *look official*.

If you were born in the United States, you may readily obtain a certified copy of a birth certificate by calling or writing the department of health or registrar of vital statistics in the capital city of the state where you were born.

If you've been told to get a *notarized birth certificate* to travel to Mexico or another nation, you'll just have to obtain other proof of U.S. citizenship. The most common document used for proof of citizenship is a U.S. passport.

Complete an I-9 Form?

SORRY, NO CAN DO!

It is illegal for Notaries who are not attorneys to help other persons prepare documents, especially important documents like yours that have legal ramifications.

Employers must complete an I-9 form for each new employee they hire. The purpose of the form is to prove the employee is authorized to work in the United States.

Employers are allowed to assign this task to someone else, and Notaries are a popular choice. When Notaries complete and sign an I-9, they're certifying the facts in the form under penalty of perjury as the agent of the employer; they're not signing the form in their official capacity as Notaries. I-9 forms don't have Notary certificate wording on them, so it is improper and unlawful for Notaries to put their official seal or title on these forms.

If your employer has told you to take an I-9 form to a Notary and have that Notary complete and "notarize" the form, you can let your employer know that this is not an official notarial act and can't be performed by a Notary.



Notarize a Photograph?

SORRY, NO CAN DO!

Notaries have no authority to *notarize* or *certify* photographs to verify their contents. It just can't lawfully be done, even for a foreign passport or medical license application.

Unfortunately, foreign governments and misinformed U.S. agencies sometimes demand that Notaries perform actions (such as notarize a photograph) that statutes give them no authority to do.

However, there may be a solution.

Often acceptable in place of a *notarized photograph* is your notarized signature beneath your written statement ("This is a photograph of myself..." etc.) in which YOU are stating the photograph is an accurate picture and the statement is written on a paper attached to the photo — or on the back of the photo, if it is large enough. You would then take an oath in front of the Notary declaring your statement was true. With this solution, of course, the Notary is certifying the genuineness of your oath and signature and not the photograph.

Contact the agency requiring the *notarized photo* to see if they will accept this substitute; otherwise, this action can't be completed as requested.

Certify a Translation?

SORRY, NO CAN DO!

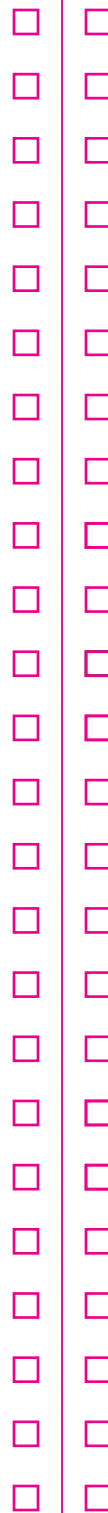
Notaries in the United States are not authorized to certify translations, even if they are fluent in a particular foreign language.

A Notary's seal and title may not lawfully be used to guarantee the accuracy of a translation, nor to make it official or valid. A Notary could get into serious trouble with the law for misusing an official seal in this way.

However, a Notary may notarize the signature of another person on a translator's declaration — as long as the Notary is not the translator and notarizing his or her own signature. Such a declaration would state the translator's qualifications and that the translation is accurate to the best of the translator's knowledge and belief.

The translator must provide the exact wording for any translator's declaration.

If you've been asked to submit a Notary-certified translation, you'll have to explain to the requesting agency that U.S. Notaries just aren't authorized to do this. A court-certified translator, though, might be able to provide you with the needed certified translation.



Certify an Object or Event?

SORRY, NO CAN DO!

Notaries have limited powers. Basically, they may only certify that they have identified a document signer, administered an oath or, in some states, determined a photocopy is identical to an original document.

Notaries are not authorized to certify objects.

They have no power to certify a design, drawing, artwork, plan, map, scorecard, ticket or photograph. They have no power to put a seal on a document in order to *certify, validate or guarantee* the information it contains or to make it *look official*.

In addition, Notaries have no power to certify that an event has occurred, such as the fact that a letter was mailed at a particular time. (There is one exception to this: Only in Washington state may a Notary lawfully certify "that an event has occurred or an act has been performed.")

Further, Notaries are specifically prohibited from using their title or seal to endorse or promote any product, service, contest or other commercial offering.

If Notaries have done such things for you in the past, then they have acted improperly.

So, please don't ask this Notary to perform a certification for which he or she has no legal authority — you'd be asking the Notary to break the law.

Always Obey the Boss During a Notarization?

SORRY, NO CAN DO!

As state officials, Notaries must always obey the laws of notarization — even when they conflict with the wishes or orders of an employer.

Don't forget that your Notary-employee is a state-commissioned official who is obligated to follow strict rules of impartiality and honesty when performing notarial acts.

Violation of these notarial rules can result in criminal penalties against the Notary and against any person who influences the Notary to break the law.

For example, it is a criminal act for a Notary to falsify an official certificate by inserting a purposely incorrect date, declaring that a signer appeared in person before the Notary when he or she did not or declaring that a signer who did not present identification was satisfactorily identified.

As an employer or supervisor, you are fully entitled to set all rules in your business or office. When it comes to notarization, however, the state sets the rules and the state-commissioned Notary you employ must follow them.



Resign Commission Upon Departure?

SORRY, NO CAN DO!

An employer has no right to demand that a departing Notary-employee resign a commission simply because he or she is leaving the company.

Nor can the employer compel the Notary to surrender the commission paper itself.

As an employer, you certainly have the power to “hire and fire,” but you have no authority to make a Notary resign. The state commissions Notaries to serve the public as a whole, not just one company.

The Notary's commission was issued exclusively to the Notary, and no one but the Notary has a right to possess the commission paper.

It makes no difference whether or not you paid for the Notary's commission, bond and notarial supplies. The commission belongs to the Notary and no one else.

Further, no one but the official who appointed or commissioned the Notary has the authority to revoke a commission or abridge the Notary's term of office.

Preventing or hindering a public official such as a Notary from carrying out official duties is a very serious matter, and you are strongly advised not to further obstruct this Notary.

Ban After-Hours Notarizations?

SORRY, NO CAN DO!

A Notary is a Notary 24 hours a day, and an employer has no authority to restrict employees from notarizing outside the workplace on their own time — even when the employer has paid for the Notary’s commission, bond and notarial supplies.

You may be reluctant to allow your employees to perform off-hours notarizations because you think the company could be sued if the Notary makes a mistake. By law, it’s the Notary who’s ultimately responsible, and your company could only be held liable if you directed the Notary to notarize improperly.

Other members of the public need a Notary’s services, too. In the evenings, your employee may wish to earn extra income by providing needed notarial services to neighbors. Shut-ins and bedridden elderly may have no other way of gaining access to a Notary. Or your employee may wish to donate his or her services at a senior center, hospital or a nonprofit organization as a way to give back to the community.

You have no authority to order your employees to perform notarizations during working hours only. In doing so, you are unduly restricting public officials from helping the general public they were commissioned to serve.



Sign Written Waiver?

SORRY, NO CAN DO!

It is completely unnecessary and legally pointless to require a Notary Signing Agent to sign a waiver or release stating that all notarizations in a loan transaction were lawfully performed.

If your company requires its Notary Signing Agents to submit such a form as protection against the Notary’s mistakes and misconduct, then consider:

A signed certificate for a notarial act is better proof than any waiver that the act was performed correctly. For Notary Signing Agents, signing an acknowledgment or jurat certificate that is inaccurate or false carries severe consequences for the Notary. A waiver imposes no more liability on a Notary than does the signed and sealed notarial certificate, and such a waiver may itself be prohibited by state authorities.

State laws clearly specify that Notaries Public are liable to any party injured as a result of the Notary’s misconduct or negligence.

If you want written proof that a Notary understands that he or she must abide by the law, obtain a copy of the Notary’s official commission, the Notary’s bond or the Notary’s oath of office.



Notary Tools

Signing and stamping, selecting certificates, sharing seal, ownership of journal.

- Signing and Stamping..... 37
- Selecting Type of Notarization..... 38
- Pre-Stamping Certificates 39
- Falsifying a Date.....40
- Inspection of Journal Unattended.....41
- Signing Journal 42
- Coworkers Using Seal..... 43
- Completing 'Extra' Certificate 44
- Applying Seal to a Contract..... 45
- Backdating Loan Documents 46

“It is the mark
of an educated
mind to be able
to entertain a
thought without
accepting it.”

— Aristotle

Just Stamp and Sign?

SORRY, NO CAN DO!

It is a completely meaningless act for a Notary to merely *stamp and sign* any document — this does not constitute a valid and legal notarization.

Why not?

Because every notarization requires *Notary certificate* wording to indicate exactly what took place during the notarization.

Did the Notary give you an oath? The certificate wording must say so. Did the Notary positively identify you? The certificate wording must state this also.

If there is no certificate wording preprinted at the end of your document, then you must find out what type of notarial act is needed from the office that issued the document, or the office where it is to be filed. You should ask whether a jurat certificate (requiring the Notary to give you an oath and watch you sign) or an acknowledgment certificate (requiring the Notary to positively identify you) is required.

Once you know what type of certificate is needed, the Notary can either type in the required wording or staple a certificate to your document.

But, please don't pressure the Notary to just stamp and sign your document. This would most likely lead to your document being rejected, further delaying the process you needed to get accomplished in the first place.

Select the Notarization?

SORRY, NO CAN DO!

Going to a Notary and merely saying, “Notarize this,” is like going into a restaurant and saying, “Bring me some food.”

Naturally, you’ll be asked, “What kind of food do you want?” Likewise, the Notary must ask, “What kind of notarization do you want?”

You see, there are different kinds of notarizations. By far, the two most common are the acknowledgment and the jurat. In most cases, the *certificate* preprinted at the end of the document will clearly indicate what the Notary must do.

However, your document has no certificate wording to direct the Notary. And as nonattorneys, Notaries cannot decide the type of notarization on their own, since this choice can have important legal ramifications.

So you must ask the person or agency who told you to have your document notarized what kind of notarization is appropriate.

Or, you may decide for yourself. For an acknowledgment, the Notary positively identifies you and confirms you made the signature willingly. For a jurat, the Notary watches you sign and gives you an oath.

If you don’t know, or don’t want to choose, you must find out.



Asking for a Notarized Certificate?

SORRY, NO CAN DO!

It is improper and unwise for a Notary to give another person an official signed and sealed Notary certificate and then to trust that individual to attach it to an intended document out of the Notary’s presence.

Even if it is the Notary’s error that makes a corrected certificate necessary, the original notarized document must be returned so that the Notary may attach the corrected certificate and dispose of the incorrect one.

Though it may be inconvenient to return the original document to the Notary, there is no other proper way to have a corrected certificate attached. Sending the Notary a fax or photocopy of the document is not good enough.

Understand that no one but the Notary may lawfully fill out, sign, seal and attach a Notary certificate. It would be very careless of the Notary to mail or hand over a completed certificate without personally attaching it to the intended document; if the certificate were then fraudulently placed on another document, the Notary would have little defense against personal responsibility for damages.

Falsify a Date?

SORRY, NO CAN DO!

It is a criminal act for a public official such as a Notary to knowingly certify false information as true and correct.

If you are asking the Notary to write a date other than today's date — the *actual* date of notarization — on an official Notary certificate, then you may be accused of soliciting an illegal act, which is itself a crime.

The only date the Notary may lawfully write on a jurat or acknowledgment certificate is the date the signer *actually* appeared in person for the notarization.

Society places great trust and faith in the truthfulness of facts in a Notary's certificate, since these facts can decide a lawsuit or result in the transfer of valuable property. That's why the penalties for untruthfulness by a Notary are so severe.

Indeed, even though Notaries aren't required to read the documents they notarize, they are expected to withhold their services if they happen to know that a document contains a false date or any other deceptive information.

Even if you feel, "Who's gonna know?", please don't ask the Notary to be a party to any falsehood. Both you and the Notary would risk criminal prosecution.



Inspect Journal Unattended?

SORRY, NO CAN DO!

When you want to inspect or copy an employee's journal of notarial acts, please recognize the Notary is the "gatekeeper" of the journal and must be present to oversee the inspection.

Why?

The Notary has an ironclad duty to protect the official journal from loss, damage or tampering at all times. Some states even require the Notary to keep the journal locked and secure when not in use.

It would be a careless neglect of the law for the Notary to release the journal from his or her control, even for a few minutes.

Further, vigorous new privacy laws and the rise in identity theft mean the Notary must keep the personal information of all customers confidential. In short, you can inspect the journal entries that involve your business, but no one else's, and the Notary must be present to ensure this.

Not Sign Journal?

SORRY, NO CAN DO!

You need to sign the Notary’s journal each time your signature is notarized.

Even if law in your state does not require you to sign the journal at each appearance for a notarization — as it does in many states, including California — doing so is a sound and widespread notarial practice.

This practice can protect your legal rights in the event that your notarized document is later lost, stolen or tampered with.

Your signature in the Notary’s journal proves you were present at the time of notarization, were positively identified and that you fully intended to sign the document.

This documentary proof is invaluable evidence if your valid signature were ever challenged.

Your employee-Notary is protecting you by insisting that you sign the journal. Carefully documenting an official notarial act is in your best interest, so please take the time to sign.



Coworker Use Seal?

SORRY, NO CAN DO!

It is fraud and a criminal act for anyone to use a Notary seal who is not the Notary named in that seal.

Any documents so “notarized” will not withstand legal challenge. In other words, they are null and void because they bear a forged signature and a false certificate.

Thus, no person may use a Notary’s seal to perform notarizations when the Notary is out of the office. A manager may not authorize another coworker to use the seal in the Notary’s absence because “we cannot afford to be without a Notary for two weeks.”

A Notary seal is not a business tool that can be passed around the workplace like a stapler or holepunch, but it is an official emblem of public office that may be used only by the Notary named in the seal.

Any person who unlawfully possesses or uses a Notary seal may be prosecuted for impersonating a Notary — a criminal offense — and subject to imprisonment, fines or both.

For these reasons, the seal should remain under the direct and exclusive control of the Notary at all times and securely stored when a Notary is away from the office.

Complete ‘Extra’ Certificate?

SORRY, NO CAN DO!

It is unethical at best, and in some states expressly illegal, for a Notary Signing Agent to complete a “spare” acknowledgment or jurat certificate and return it with the signed loan documents to the title or escrow company for use as a replacement in case it is later discovered that the Notary made a mistake in notarizing one of the documents.

State laws generally prohibit a Notary from completing an acknowledgment or jurat certificate except at the time of notarization and require that the certificate wording be part of, or an attachment to, the document that is notarized. *The Notary Public Code of Professional Responsibility*, Section IV-C-3, forbids a Notary to trust any other person to attach a signed and sealed certificate outside of the Notary’s presence.

The Notary alone is responsible for correcting any errors or inaccuracies. If a mistake is discovered — such as a wrong date or the omission of a seal impression — the Notary alone can correct the mistake and only after the original document is returned to the Notary.

If a new certificate is needed, the Notary must personally attach the certificate to the document. Giving or sending anyone a signed and sealed Notary certificate without an attached document is an open invitation to fraud.



Apply Seal to a Contract?

SORRY, NO CAN DO!

As a company utilizing the services of Notary Signing Agents, you may think that it is harmless to ask a Notary Signing Agent to affix an impression of the official seal to a contract as proof that the Notary holds a valid commission.

However, use of a seal for this purpose is often a violation of state law. One state’s typical code is clear: “A Notary Public shall not use the official notarial seal except for the purpose of carrying out the duties ... as set forth in this chapter.”

Explanation: a Notary can use the seal only to perform official acts, such as acknowledgments and jurats. A Notary cannot use the seal merely to prove that he or she is a Notary in order to acquire business, and that includes stamping the seal on a contract for services.

Please, do not pressure the Notary to do this. There are other ways to determine that the Notary holds a valid commission. Scrutinizing the commission document itself (or a copy) or a certificate of authority from the state or county is one way. Another is to call the state commissioning office or the county where the Notary’s oath/bond is on file for verification.

Backdate Loan Documents?

SORRY, NO CAN DO!

It is inadvisable for a Notary Signing Agent to disclose or inform a borrower of the date a loan will close or fund. There are several good reasons why Notaries should avoid this practice.

There is *never* a good reason to comply with a request from a lender, broker, title agent, escrow officer, attorney or a borrower to backdate or otherwise falsify loan documents.

Entering into a Notary certificate any other date than the actual date of notarization has potentially adverse and far-reaching consequences that must not be taken lightly. By completing a certificate with a date that the Notary knew was false, the Notary could lose his or her commission, be sued in a civil lawsuit and be prosecuted for a criminal act.

As a public official, a Notary has sworn to certify truthfully the facts of any notarization as they actually happened. A Notary must only write down and certify the date on which the signer(s) actually appeared in the Notary's presence for the notarization.

Requests to backdate documents are almost always *urgent* (a rate lock will soon expire) and *shortsighted* (a sales commission is on the line). You may have a lot to lose, but the Notary has more. Don't ask the Notary to break the law.



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