

Virginia Association of Notaries

Notary News



July , 2024

Issue 3



NOTARY LAW

Reminder Concerning Notary Fee Change

On February 26, 2024, the bill sponsored by Delegate Kathy Tran to raise Virginia Notary fees from \$5.00 to \$10.00 passed the VA Senate. VAN is proud to have supported Delegate Tran in this endeavor. As of July 1, 2024, you may now charge \$10.00 for traditional acts (there has been no change to RON fees).

SPECIAL REPORT: Do it Right or Suffer the Consequences

VAN has been made aware of a few Notaries who have violated VA Code. Sadly, there are many people out there who are either unaware of the VA Code content. Some say that their Notary business is “their” business and they can run it however they wish. What these folks don’t realize is that it can come back to haunt them sooner or later. There are Notaries who have found themselves in court or served with lawsuits stemming from improper acts. VAN wants to make sure that its members are aware of what they, as Notaries Public, should and should not do, and the consequences they could possibly face if they violate any part of the Code, whether it be intentionally or unintentionally.

KNOW THE LAW

If a Notary Public violates any part of the VA Code, whether intentionally or negligently, he/she can be charged with official misconduct. The consequences can include an evidentiary proceeding, suspension or removal from office which includes returning the Notary’s actual commission to the Secretary of the Commonwealth. In addition, a Notary found guilty of misconduct may be subject to a civil penalty not to exceed \$500 for a first violation and a civil penalty not to exceed \$1,000 for a second or subsequent violation.

VAN exists to support and assist all Notaries Public in the Commonwealth of Virginia in performing their duties properly. VAN highly suggests that all Notaries read and re-read the Handbook and look for training. Join VANs Facebook page for more information.

KNOW WHAT YOU CAN DO

Notaries must know and understand what they can and cannot do. According to the Notary Code, Notaries have the power to perform the following acts:

- Take acknowledgments
- Administer oaths and affirmations
- Certify that a copy of any document other than a document in the custody of a court, is a true copy
- Certify affidavits or depositions of witnesses
- Perform verification of a fact

KNOW WHAT YOU CANNOT DO

What types of actions can be considered a violation of the VA Code?

- Notarizing a document if the signer is not in the presence of the Notary at the time;
- Use his/her title or notarial seal to endorse, promote, denounce or oppose any product, service, contest or candidate;
- Notarize a signature on a document that does not contain a proper notarial certificate;
- Affix the Notary's official signature or seal on an incomplete certificate;
- Perform any official act with the intention to deceive or defraud;
- Assist a signer by drafting, completing, selection of, or understanding of a document or transaction to be notarized as this is unauthorized practice of law. A Notary Public cannot offer or provide legal advice on immigration or other legal matters. If, however, the Notary is an attorney licensed in the Commonwealth, they can assist in those acts.
- A Notary Public cannot advertise using the titles, "notario," "notario publico," or "licenciado," or a term in a language other than English that indicates that the Notary is authorized to provide legal advice or practice law unless they are authorized or licensed in Virginia to do so.
- When performing a notarization, make sure:
 - The proper certificate for each type of acknowledgement (i.e. individual, corporation, partnership or attorney-in-fact).
 - The proper wording for an oath or affirmation
 - You are not performing certified copies of birth, death and marriage certificates as well as court related documents.
 - You do not possess software or hardware without permission
 - You are not performing a Notary act to any documents to which you or your spouse is a party to or direct beneficiary on or if you are the signatory named in the document as this is considered a conflict of interest.

KNOW HOW TO AVOID IMPROPER NOTARIZATIONS

The best way to avoid losing your commission or, even worse, ending up in legal and financial trouble is to not only know the law but the Notary must know the proper notarization procedure. Perhaps having a checklist handy when you perform a notarization would help not only new Notaries but it may serve as a reminder to those who have been a Notary for a while. Complacency is not an excuse! Be strong and DO

NOT allow anyone to coerce you into mishandling a notarization. If there is anything amiss, you may decline to notarize a document.

Check out the “Notary Know-How” section of VAN’s newsletters for proper notarization procedure details.

Note: If you feel that another Notary Public is not following the Notary Public Code, you may report them to:

**Office of the Secretary of the Commonwealth
P.O. Box 1795
Richmond, Virginia 23218-1795
(804) 692-2536**

VAN does not have the power to deal with Notaries who are conducting their businesses improperly. VAN is NOT a part of the SoC.

To access the Virginia Code:

<https://www.governor.virginia.gov/media/governorvirginiagov/secretary-of-the-commonwealth/pdf/notary/Code-of-Virginia.pdf>

The following list of sections in the Notary Code can be referenced for more details on the content of this article:

Section 47.1-2 Definitions - “Official Misconduct”

Section 47.1-12 Powers

Section 47.1-15 Prohibitions

Section 47.1-15.1 Additional prohibition on advertising; penalties

Section 47.1-23 Grounds for removal from office

Section 47.1-24 Removal of notary by administrative process; surrender of commission; penalty

Section 47.1-25 Disqualification from office

Section 47.1-26 Civil liability of Notary

Section 47.1-27 Civil liability of employer of notary

Section 47.1-28 Willful misconduct a misdemeanor

Section 47.1-29 Impersonation of a notary a felony

Section 47.1-29.1 Wrongful possession of software or hardware

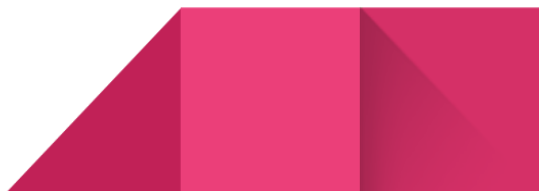
Section 47.1-30 Conflicts of Interest



NOTARY KNOW-HOW

PROPER NOTARIZATION PROCEDURE - REVIEWING DOCUMENTS

We have covered the first two vital steps in performing a notarization: personal appearance and identification. The next step is to review or visually scan the document prior to performing the notarization. Carefully examine the document(s) for:



1. Blank Spaces - missing information can lead to fraud. Spaces left for additional signatures or spaces reserved for use solely by government officials are the only exceptions. It is the responsibility of the signer or originator to complete the document not the Notary Public.
2. Notarial Certificate - make sure that there is a certificate for you to fill out to complete the notarial act. If there is no certificate, you may attach (staple to document) a loose certificate. The signer or originator must decide what type of certificate (acknowledgement v. jurat) to be used for the document. If you should make the choice or advise the signer which type of certificate to use, you will be in violation of the law against illegally practicing law. If there is a certificate, make sure that it contains wording that meets the requirements per Virginia's Notary Code. Note: if the Notary signature line is missing, you can still sign the certificate near the Notary seal.
3. Check the Number of Pages - Missing pages can lead to fraud. If there are pages missing, refuse notarization of the document. You will also want to jot down the number of pages in your Notary Journal. You can annotate the number of pages on the certificate at the very bottom left corner (i.e. "4 Pages Attached").
4. Check the Number of Signers - As you review the document, make sure that all signers listed on the document are present to sign. If only one signer will be present to sign in front of you and the document will be sent to the other signer(s), correct the certificate by putting a single line through the names of the absent signers, initial and date the correction. The Notary Public who will be handling the notarization of other signers can attach a loose certificate to reflect the change. In reverse, if the signer brings a document that was signed by other signers and notarized by another Notary, attach a loose certificate with just your signer(s) name(s).
5. Check the Date(s) - There may be a date on which the document is drafted or a future date on which the document goes into effect. These dates do not have to be the same as the date of the notarization. The date signed, however, must be the same as the date of notarization. The date signed indicates that the signature was made in the presence of the Notary.

As you perform this step, record pertinent information concerning the document in your Notary journal for reference if the notarization is ever called into question at a later time. Provided all of the above are present and/or correct, you can go on to the next step of performing the notarization. If the document is missing pages, information, blank spaces or anything else, you should attempt to get it corrected. If you cannot, you can refuse to perform the notarization

Section 47.1-2 Definitions "Notarial Certificate", or "Certificate"

Section 47.1-16 Notarizations to show date of act, etc.



NOTARY TIPS

MAKING CORRECTIONS

Mistakes happen. But what is the proper procedure to make a correction? If the issue is an incorrect entry in your Notary journal, then use this procedure:

1. Draw a single line through the incorrect information
2. Print the correct information legibly as close to the incorrect information as possible
3. Initial and date the correction
4. Record the correction in your Notary journal

If the issue is incorrect information on a notarial certificate, then use this procedure:

1. Attach a separate replacement certificate.
2. Draw a single line through the original certificate and write, "See attached certificate."
3. Initial and date the original, incorrect certificate.
4. Complete and attach the new certificate
5. Record the correction in your Notary journal.

MANAGING YOUR NOTARY COMMISSION

If any of your personal information changes during your appointment as a Notary Public, it is extremely important that you update the information on your Notary commission (i.e. name, address, location) so as to avoid fines, suspension or revocation of your commission. Report any change to the Secretary of the Commonwealth through your online account or in writing to the Secretary's office immediately,

It is also very important to apply for your commission renewal early to avoid expiration before you receive your renewal. Here's a tip for those who have a commission that expires in January, February or March: applications approved prior to January will result in a commission expiration one year earlier than expected. Use the express renewal in your Notary management account.

Section 47.1-17 Change of Name

Section 47.1-18 Notice change of address, etc.





SPECIAL REPORT

SCAMS: A FOUR-PART REPORT

Part 3: What You Should Do and Should Not Do

What You Should Do

Hearing the horror stories from those who have been victimized by these thieves can make you fearful. You hope and pray that you won't fall victim to these crooks. Here are a couple of things you should do to be proactive:

If You Are Contacted About a Loved One: Have a family code word for family members to use if they are, indeed, in trouble. If you receive a call from someone saying they are a loved one, ask them for the code word. This way you can tell if it is a voice cloning situation.

If Your Account is at Risk: If you are contacted about a charge to one of your accounts that you know is bogus, the first thing you should do is go to the account to see if, in fact, it was charged. Nine chances out of ten it will not be charged. Then, delete the email. Better yet, if you are able, block that email address. It probably won't stop them.....they'll just use another one. You just have to keep on your toes.

If Payment is Requested for One of the Aforementioned Tactics: Should someone who you do not know contact you in any way (phone, email, text, etc.), uses one of the aforementioned tactics to convince you to make a payment or give personal information and requests that you pay via gift card, prepaid debit card, cryptocurrency, wiring or money transfer or cash wrapped up in magazines and sent via mail or shipping service, **immediately hang up and report the incident to authorities.**

What You Should Not Do

You may think that you wouldn't fall for any scam. What you may not realize is that scammers are cunning and have the ability to obtain just enough information about you to use along with tactics like those we mentioned earlier (camaraderie, fear of losing out, flattery, anxiety, terror, seduction and intimidation) to convince you that they are on the up-and-up. The following list are things NOT to do when you are approached in some way by potential scams. Keep these in mind or keep the list where you can refer to them should the need arise.

- Never download software when asked by an unknown person or allow anyone to download anything or give access to any of your electronic devices.
- If you do receive an email stating that your account was charged for maybe computer equipment, security software, or even something like eHarmony for anywhere from \$200 to \$1,000, DO NOT OPEN IT.
- Never click on pop-ups, links or attachments that are linked to texts or emails.
- Never call a phone number included in a pop-up, text, email or voicemail.

- Never send cash via mail or any shipping company.
- Never download an app without checking the app developers or customer reviews.
- Never give out personal or financial information.
- Never download apps as tools for investing unless you can verify their legitimacy.
- Never be intimidated by urgency or threats (ex. Your account will be closed....).
- Never respond to unsolicited attachments or links even if they are included in messages from someone you know or even if your antivirus says it's clean (these people use spoofing).
- NEVER say the word, "yes" on the phone. If asked, "Is this Mrs. Jones?" say, "This is Mrs. Jones." (If you are not that person, hang up!) No matter the question, answer it by repeating the information back. Again, NEVER, NEVER say the word, "Yes." Scammers record you and after the recording use it against you by proving you said yes to whatever they are selling or doing with the altered recording.

In the next issue: The Best Offense is a Good Strong Defense



QUARTERLY QUOTE

"Trust is hard-earned, easily lost and difficult to reestablish." --Carol Folt



DID YOU KNOW.....

- ❖ Christopher Columbus included Notaries on all of his voyages to assure all discoveries were accounted for.
 - ❖ Celebrities who are also Notaries Public:
 - Mark Twain, through notarial acts, authenticated documents and administered oaths.
 - Jennifer Lopez worked in a law office after high school and is a Notary Public as a result of what she learned working there.
 - Stanley Tucci is a Notary Public to help people get their documents notarized.
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ATTENTION VAN MEMBERS

VAN is looking for members to volunteer for positions on various committees and for seats on the Board of Directors. We would love to have you join us in our endeavors as we grow. If you would like to be a part of our team, please email us membership@vanotaryassoc.org.

