

Virginia Association of Notaries

Notary News



January 15, 2025

Issue 5

HAPPY NEW YEAR!!!! We wish you all a Happy, Peaceful and Prosperous 2025!



NOTARY KNOW-HOW

PROPER NOTARIZATION PROCEDURE - Sign and Affix Seal on the Notary Certificate

Since we began our quarterly newsletter one year ago, we have featured in the Notary Know-How section, how to perform proper notarizations step by step. Those steps are:

- Require Personal Appearance (April 2024)
- Visually Scan or Review the Document(s) (July 2024)
- Properly Identify Your Signer; Accept Proper Proof of ID (January 2024)
- Perform Verbal Ceremony (Oath/Affirmation/Acknowledgment) (in the April 2024 Article)
- Complete Notarial Certificate (in the April 2024 Article)
- Record Information for the Notarization in Your Journal (October 2024)

The final step is to sign and affix stamp/seal. Once you are satisfied that the certificate contains the proper wording according to Virginia Notary Law, and that you have filled in all necessary information correctly, you will need to sign and place your stamp/seal on the certificate. When signing your name, make sure to print and sign your name exactly as it appears on your Notary commission. Be diligent when placing your seal on the certificate. Do not place it over wording. Make sure it is legible and is photographically reproducible and can be reproduced on a copy.

Be sure that the certificate contains and that you correctly fill out:

- Venue (Location) - State, City/County
- Date of the Act
- Proper Notarial Statement
- Notary Commission Expiration Date
- Your Registration Number
- Your Signature
- Your Stamp/Seal

If you are not sure what “proper notary statement wording” should include, samples of various notarial certificates can be found on the Secretary of the Commonwealth’s website within the Notary Handbook. You can also find downloadable certificates on our website, vanotaryassoc.org.



NOTARY TIPS

I-9 FORM (EMPLOYMENT ELIGIBILITY VERIFICATION)

This form is to be used by U.S. employers in the course of hiring an employee. Its use began November 7, 1986. The purpose is to verify the identity and employment eligibility of an applicant. The employee applying for a position is given this form and must fill it out and return it accordingly in order to be hired. Section 1 is completed by the applicant. Section 2 is to be filled out by the employer or a representative authorized by the employer to do so. The older forms mentioned utilizing a Notary Public as the authorized representative. That has caused confusion. Employers would send the applicants to Notaries for completing Section 2. When the applicant returned the form, the applicant would go back to the Notary upset because he/she did not “notarize” the form. Employers would assume that the Notary Public was to fill the section out and not just fill out the verification section, but also sign and place his/her notarial seal on the form.

Let’s begin by stating that “The I-9 Form Does Not Need To Be Notarized!” Nowhere in the instructions for filling out Form I-9 states that the form is to be notarized. More recent forms do not mention the Notary Public anymore. The applicant must present the Notary (Representative) with the completed form and required identification. On page 3 of the I-9 Form is the “Lists of Acceptable Documents.” It also states just under the title of this page that “All Documents Must Be UNEXPIRED.” Acceptable identification forms listed in column A are types of documentation that satisfies the Homeland Security Administration’s request for proof of identification and employment authorization. Those listed in column B satisfies the request for proof of identification ONLY while those listed in column C satisfies the request for proof of employment authorization.

SIGNATURES

Occasionally a customer’s signature can be a little tricky. There are some people who use a power-of-attorney to allow another person to sign on their behalf. There are also those clients who may be physically unable to produce a signature, but can produce an “X” or mark as their signature. You may also have to notarize a minor’s signature. (Refer to the January, 2024 edition of our newsletter for identifying certain signers.) Keep in mind that in certain cases, you will have to do statements for witnesses to sign. When it comes to use of a power-of-attorney, have the signer sign using the title, “Attorney-in-fact” for himself/herself and “Principal” for the person they are signing for, such as “John Doe, Attorney-in-fact for John Smith, Principal or “John Smith, by John Doe, Attorney-in-Fact.”

HOW LONG TO KEEP NOTARY JOURNALS

States that require Notaries to keep journals also provide guidelines on how long to keep completed journals and what to do with them when you are no longer a Notary. In the Commonwealth of Virginia, Notaries are not required to keep a journal. VAN strongly suggests all Notaries use a Notary journal and include as much pertinent information for each notarial transaction in case a notarization is called into question and you must defend yourself. Since there is no requirement for a journal, it is suggested that you keep your completed journals for at least 10 years. In the meantime, keep these journals in a safe and secure place.



SPECIAL REPORT

THE EMPLOYEE NOTARY PUBLIC

There are companies that have a constant flow of documents that, many times, need to be notarized. They also may have clientele who regularly utilize the company's services. These companies find it more efficient to have someone in-house to take care of that workload. In the majority of cases, the employer will pay the costs of applying to become a Notary and the Notary equipment. But there are some things that both the employer AND the employee Notary need to be made aware of.

Employers Need to Know:

- The Notary commission, seal/stamp and journal are the property of the Notary even if the employer paid for everything.
- The employer cannot take possession of or give to another person the commission or any Notary equipment even if the Notary is no longer with the company.
- The employer cannot direct the Notary to take short-cuts or perform a notarial act that does not follow the state Notary law. The employer and the employee-Notary can face charges should a document be questioned. (*see article below in "Don't Let This Happen To You" section*)
- Although the employer has the right to control what notarial work is done by the employee-Notary during business hours, the employer may not control what and when an employer-Notary does after business hours.

**From the Virginia Notary Handbook:*

Liability of the Notary's Employer

The employer of a notary may be civilly or criminally liable for certain acts. The employer may be liable for damages caused by the notary's official misconduct if:

- 1. The misconduct was performed as part of the notary's employment*
- 2. The employer knew about the misconduct or should have known about it.*

Any employer who encourages, threatens, or otherwise intentionally causes an employee to violate the notary laws may be found guilty of a misdemeanor.

Employee-Notaries Need to Know:

- Only the Notary can use the notarial equipment.
- Your employer CANNOT instruct you to perform a notarization that does not adhere to the state's Notary law. If the employer expects you to, refuse. You AND your employer could face charges if the document is questioned. (*see article below in "Don't Let This Happen To You" section*)
- If you leave your employment, your Notary commission and equipment go with you.
- Your employer does not have the right to dictate what you do outside business hours.
- You may notarize the company's documents as employment does not constitute financial interest in the transaction being notarized.

- When notarizing documents in the workplace for fellow employees, proof of identity is just as important as if you were notarizing for someone you do not know. You can use personal knowledge as proof of identification (make notation in your journal) provided:
 - You have interacted enough to feel confident of the signer's identification
 - You know the person enough to know what they do at work and a little personal information

**From the Virginia Notary Handbook:*

"An employer may require a notary to perform notarial acts in connection with the notary's employment without charging a fee for such notarial acts. If a fee is charged, however, an employer may not require that the fee be surrendered to the employer."



DON'T LET THIS HAPPEN TO YOU.....

It happens all of the time: an employer filling out and signing documents then leaving them for his employee-Notary Public to notarize without the employer's presence. Doesn't sound like a big deal? Well, it really is a big deal. On some documents are the words, "signed and sworn to..." indicating that the Notary is required to administer an oral oath or affirmation. Who will know? Let's see:

The employer lied about his background information on an application for a government job. As it turned out, the government agency in charge of this position did their due diligence and ran a thorough background check based on the information the employer provided on the application and found it to be fraudulent. The employer was charged with a felony crime of perjury because of the affidavit that was part of the application. The employee-Notary was charged with official misconduct for not performing a proper notarization. The Notary's charges were dropped in return for her cooperation with the case against her employer. The employer's charges were eventually dropped as the Notary did not administer the oath that was required for that notarization. However, the case was covered by the local media. The charges may have been dropped, but both the employer and the employee Notary were publicly humiliated and their reputations were tarnished.

You can avoid a terrible experience like this one by never skipping a step in properly handling a notarization. Demand personal appearance and perform the oath/affirmation/acknowledgment when required. Record the facts in your journal. Never take shortcuts for your employer or anyone else. By following these rules every time, you can avoid fall-out like this Notary had to endure.



QUARTERLY QUOTE

"I may not be famous, but I get paid for my signature." —Unknown Notary





DID YOU KNOW.....

- ❖ President Calvin Coolidge, the 30th President of the United States was sworn in by his father, John Coolidge, a Notary Public. President Coolidge is the only US President to be sworn in by a Notary Public
 - ❖ Salvadore Dali's father wanted his son to follow in his footsteps and become a Notary Public. He clearly had other plans.
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Disclaimer:

VAN does not have the power to handle situations in which Notaries are conducting their businesses improperly. VAN is NOT a part of the SoC.

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***

To access the Virginia Code:

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