



NOTARY PUBLIC INFORMATION

Web Page Edition
March 2008

Dear Notary Public:

As a Notary Public of the State of Wisconsin, your responsibilities are many. This brochure is provided to help you understand the duties of this office and the trust which has been placed in you as a public official.

Obviously, it is impossible to cover all questions relating to your duties as a Notary Public in the limited space of this brochure. Therefore, I encourage you to contact my office if you have questions concerning your responsibilities. We are here to assist you in any way that we can.

Sincerely,

Doug La Follette

Secretary of State

* * * * *

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Telephones:

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(608)266-5503.

Website: Contact the Secretary of State's office through the agency index on Wisconsin's webpage at "wisconsin.gov".

For an additional copy of this brochure, download it from our website or write to the Secretary of State's Office at the mailing address listed above, attention "Notary Brochure Request". Include a self-addressed envelope with postage for two ounces.

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(The information in this brochure is valid as of September 2001, and is subject to amendment by subsequent legislative acts.)

GENERAL INFORMATION

WHAT IS A NOTARY PUBLIC?

A notary public is an individual issued an appointment by the Governor or Secretary of State to serve the public as an impartial witness, performing notarial acts as are allowed or required by law.

WHO MAY BECOME A NOTARY PUBLIC IN WISCONSIN?

Any United States resident who is at least 18 years of age may apply to become a notary public. "Resident" means a person who maintains a permanent dwelling place in the United States and is in fact living in the United States.

The notary applicant must have at least the equivalent of an 8th grade education, be familiar with the duties and responsibilities of a notary public, and not have an unacceptable arrest or conviction record. Note that under current law, persons convicted in state or federal court of a felony, or persons convicted of a misdemeanor involving a violation of the public trust, may not be commissioned as Notaries Public for the State of Wisconsin unless they have been pardoned of the conviction.

HOW DO I BECOME A NOTARY PUBLIC FOR WISCONSIN?

You must complete an application form and a bond/oath form, and submit both forms to the Office of the Secretary of State with the required \$20 filing fee. Forms are available from the Secretary of State's office upon request or may be downloaded through the Internet. Locate the Secretary of State's office through the agency index on Wisconsin's webpage at "wisconsin.gov".

DOES AN ATTORNEY BECOME A NOTARY PUBLIC AUTOMATICALLY UPON QUALIFYING TO PRACTICE LAW?

NO! Attorneys do not become notaries public upon qualifying to practice law in Wisconsin. An United States resident who is an attorney licensed to practice law in Wisconsin who wishes to be a notary must first submit an application to the Secretary of State. In addition to being eligible for a 4 year commission, an attorney may qualify for a "permanent" commission under §137.01(2), Wis. Stats. for which no bond is required. A permanent commission is valid as long as the attorney remains an United States resident licensed to practice law in Wisconsin. Attorneys

seeking a permanent notary commission should so specify when requesting an application. The completed application and \$50 filing fee should be submitted to the Office of the Secretary of State. **No notarial acts may be performed until notice has been received that a notary commission has been issued.**

WHO SUPPLIES THE NOTARY SEAL OR STAMP?

It is your responsibility to provide an engraved official seal or official rubber stamp prior to completing the application form. For supplies, check the yellow pages in the telephone book under "office supplies", "rubber stamps", or "seals". The seal or stamp may be of any size or shape, but must state only the words "Notary Public", "State of Wisconsin", and your name. You may use initials, or a shortened first name if you wish, but you must use your current last name in full. When ordering your seal or stamp, keep in mind that when you later perform notarial acts, you must always sign your name exactly as set forth on your notary seal or stamp.

WHAT IS REQUIRED IF I HAVE AN ARREST OR CONVICTION RECORD?

Under current law, persons convicted in state or federal court of a felony, or persons convicted of a misdemeanor involving a violation of the public trust, may not be commissioned as Notaries Public for the State of Wisconsin unless they have been pardoned of the conviction. If you have a misdemeanor arrest or conviction record you are required to submit copies of your court papers pertaining to the offense(s) when you apply to become a Notary. Your papers will be reviewed to determine if you are eligible to be granted a Notary commission.

If you wish, you may submit your court papers for an eligibility review prior to submitting your application forms. That would save you the cost of buying a bond and seal if you were found to be ineligible to become a notary public.

HOW LONG WILL MY COMMISSION LAST?

Your notary commission is valid for a period of four years, unless you are an United States resident who is licensed to practice law in Wisconsin and you apply for and are granted a permanent commission.

DO I NEED TO BE BONDED?

A \$500 surety bond is **required for all applicants applying or reapplying for a four-year notary public commission.** No bond is required for United States

residents who are licensed to practice law in Wisconsin who are applying for permanent commissions. The surety bond is an insurance agreement making the surety legally liable to the party who is harmed, for up to \$500 in damages caused by a notary's misconduct or neglect in executing notarial acts.

An issued "blanket bond" for employment purposes does not fulfill this obligation. A separate, specific bond in the amount of \$500 is required by Wisconsin Statutes. Once filed with the Secretary of State's office, your bond cannot be cancelled and will expire in four years with your notary commission. **If you are sued for misconduct or neglect in your notarial duties, any damages beyond \$500 are your personal responsibility.**

HOW MAY I BE BONDED?

The surety bond must be provided by an insurance/surety company licensed to write surety bonds in the State of Wisconsin.

The Secretary of State's office cannot provide bonding and cannot recommend companies who sell bonds. Some companies may be listed in the yellow pages of the telephone book under "Notaries Public", "Insurance Companies", or "Bonds".

WHAT IS A NOTARY BONDING AGENCY?

A notary bonding agency is an insurance company or division of any insurance company, licensed to write fidelity insurance in the State of Wisconsin, that specializes in selling notary bonds.

WHAT IS THE TOTAL COST INVOLVED IN BECOMING A NOTARY PUBLIC?

The cost of becoming a notary depends on the type of official notarial seal or stamp you purchase, and the cost of the surety bond you obtain. Additionally, you must pay a \$20 application filing fee to the Office of the Secretary of State.

WHEN MAY I BEGIN TO "NOTARIZE"?

You may begin to perform notarial acts **AFTER** you have been notified by the Secretary of State's office that your commission has been issued. A certificate will be forwarded to the mailing address you list on the application form. It is very important to indicate a complete and current address on your application to ensure delivery of your certificate.

A notary who is applying for the first time will usually receive a certificate within two weeks of mailing the forms and fee to the Secretary of State's office. Effective January 1, 2005, applications for reappointment of commission are processed the Wednesday after receipt. Any time remaining on the previous term lapses when the new commission is issued.

WHERE MAY I NOTARIZE?

You may perform notarial acts in all counties of the State of Wisconsin. A Wisconsin notary public commission is valid in and for the State of Wisconsin only – you may not use your Wisconsin commission to act as a notary public in any other state.

POWERS & LIABILITIES

WHAT EXACTLY IS A NOTARIZATION?

A “notarization” is more precisely called a “notarial act”. “Notarial act” means any act that a notary public 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. (Further information and definitions of some important terms are provided in the next section of this manual, entitled “Notarial Acts”.)

WHAT ARE SOME IMPORTANT STEPS IN PERFORMING ALL NOTARIAL ACTS?

Check identification if you don’t know the signer; use the proper ceremony and written certificate language; sign only and exactly the same name as the one on your notary seal/stamp; affix a legible impression of your seal/stamp; and indicate your commission expiration date.

It is always advisable to check the document to be sure there are no blanks or incomplete statements. If, for instance, the document has blanks for two persons to sign, but you are witnessing only one signature, cross out and initial the blank line. This could prevent another person from signing it later.

MUST I ALWAYS AFFIX MY OFFICIAL SEAL/STAMP?

Yes! Wisconsin Statutes require all notaries public, **including attorneys**, to affix a clear impression of their official notarial seal or stamp **every time** a notarial act is performed.

Rarely a preprinted form that requires notarization will state “Notary seal not required”. A particular filing officer may make that determination for various administrative reasons. If space on the form permits, you should affix your seal or stamp as required by the Wisconsin Statutes.

I WILL BE NOTARIZING A LOT OF DOCUMENTS. MAY I USE A SIGNATURE STAMP INSTEAD OF SIGNING EACH ONE?

No! Every official act of a notary should be attested by his/her handwritten signature.

MAY I PERFORM NOTARIAL ACTS IN ALL COUNTIES OF WISCONSIN?

Yes. Your notary commission allows you to act as a Notary Public in all counties in the State of Wisconsin.

WHAT DOES 'COUNTY OF VENUE' MEAN?

"Venue" is the place where an act is performed. On a notarized document, **IT SHOWS THE LOCATION WHERE THE NOTARIAL ACT TOOK PLACE, not the county where the notary resides.** The venue is usually indicated near the top of a document, as "State of Wisconsin, County of Dane". Indicating the county of venue is an important part of every notarial act.

MAY I PERFORM NOTARIAL ACTS IN ANOTHER STATE?

No. As a Wisconsin Notary Public, you may perform notarial acts only in the State of Wisconsin.

MAY I PERFORM NOTARIAL ACTS ON A SUNDAY OR HOLIDAY?

Yes. There is no section of the Wisconsin Statutes that makes it unlawful for a notary to act on a Sunday or holiday.

MAY I HELP MY CUSTOMERS PREPARE THE PAPERS THEY NEED NOTARIZED?

No, unless you are an attorney licensed to practice law in Wisconsin. A Notary Public who is not an attorney may not engage in the practice of law - which includes the preparation of legal papers, such as wills, contracts, deeds, powers of attorney, etc.

SHOULD I WITNESS MY OWN SIGNATURE?

No. Since a Notary must always be an objective witness, the validity and effectiveness of notarizing your own signature is questionable, and, therefore, not advised. Most filing officers (registers of deeds, county clerks, state offices and courts, etc.) will not accept documents on which a notary has notarized his/her own signature.

MAY I WITNESS THE SIGNATURES OF MY SPOUSE OR RELATIVES?

Yes. A notary is not prohibited from witnessing the signatures of a spouse or relatives. However, if the document were to be questioned for any cause, the notarial act may be scrutinized more closely than if the notary were not a spouse or relative. Also, if the document is one from which you may derive a benefit, your right to receive that benefit may be jeopardized.

SHOULD I NOTARIZE A DOCUMENT THAT IS WRITTEN IN A FOREIGN LANGUAGE?

There is no reference in the Wisconsin Statutes that prohibits you from notarizing a document written in a foreign language. However, if you do not understand the contents of the document, you are encouraged to find another notary who does understand it, or you may wish to refuse to notarize it. You might check with a university language department, or foreign students' office, or a consulate.

SHOULD I NOTARIZE A DOCUMENT THAT IS WRITTEN IN ENGLISH FOR A FOREIGN-SPEAKING PERSON?

You may proceed with the notarial act if you are certain the signer understands the content of the document and realizes the consequences of signing it.

MAY I MAKE A CERTIFIED COPY OF A BIRTH CERTIFICATE?

NEVER! In fact, you are strictly prohibited from making copies, certified or uncertified, of "vital records", which include certificates of birth, death, divorce, annulment, marriage, etc. Never notarize photocopies of vital records that a person may bring you. Preparing or issuing anything that carries the appearance of an original or copy of a vital record could cause you to be fined not more than \$10,000, imprisoned not more than 3 years, or both.

Copies of vital records are appropriately obtained from their official custodian: a state or county office of vital records, or similar government records office.

IF I AM SUED FOR MISCONDUCT OR NEGLIGENCE, WILL MY BOND PROTECT ME?

No! Your bond protects the parties injured by your misconduct, not you. You cannot collect the \$500 from your bond. On proof of your misconduct, all or part

of your bond would be awarded to the party suing you. In addition, the bond company might sue you to recover the money they had to pay out. **REMEMBER, IF YOU'RE SUED, THE DAMAGES ARE YOUR PERSONAL RESPONSIBILITY!**

HOW MUCH MONEY CAN I CHARGE?

You may charge **no more than 50 cents** for performing most notarial acts. (Refer to § 137.01(9) of the Wisconsin Statutes for further information.)

NOTARIAL ACTS

Performing a notarial act requires more than just affixing a notary seal and signature. **In fact, simply signing and sealing a document is meaningless.** There are several specific types of notarial acts; you must know and use the proper ceremony and written certificate for the type of act you are requested to perform. However, you should not tell your customer what type of notarial act is required to “notarize” their document, unless you are a notary public who is also an attorney.

WHAT IS AN AFFIDAVIT? AN AFFIANT?

An affidavit is a written document made by a person who swears, under oath or affirmation, that the statements in the document are the truth. The person who makes and swears to the affidavit is an affiant.

WHAT IS A JURAT?

“Jurat” is the name given to the notary’s written certificate, which should appear after the signature of a person who has given an oath, or has made a sworn statement. The jurat should specifically recite the date it is completed, the location in which it is written, and the name of the person taking the oath, or swearing to a statement. As a notary public, you would administer an oath to the person executing the document, witness his/her signature and then complete the necessary information in the jurat, including the date, your official notarial signature, a legible impression of your seal or stamp, and your commission expiration date.

MUST MY JURAT ALWAYS BE ON THE SAME PIECE OF PAPER AS THE AFFIANT’S SIGNATURE?

If possible, yes. If there is not enough room at the end of a document to insert a jurat, you may place it on a separate sheet of paper and securely attach it to the sworn statement. When the jurat is not written on the document it applies to, a statement on the document should indicate that a jurat is attached. Also, the jurat should bear a statement identifying the document to which it is attached.

WHAT IS THE DIFFERENCE BETWEEN AN OATH AND AN AFFIRMATION?

Both oaths and affirmations are solemn pledges attesting to the truth of given statements. The difference is that an oath requires swearing, (and may be understood to call upon a Supreme Being as a witness), while an affirmation does not. Both oaths and affirmations are subject to penalties of perjury.

WHAT IS AN ACKNOWLEDGMENT?

An acknowledgment is a formal declaration made by a person, stating that at the time that person signed a document, it was signed voluntarily, and with an understanding of its nature and purpose.

WHAT IS THE DIFFERENCE BETWEEN AN ACKNOWLEDGMENT AND AN OATH?

In an oath or affirmation, a person swears to the truth of statements made. In an acknowledgment, a person is **not** swearing to the **truth** of statements, but is confirming that a document was voluntarily signed by him/her, and that he/she understood the nature and purpose of the document.

MUST A PERSON ALWAYS SIGN THE DOCUMENT IN MY PRESENCE?

If the document is an affidavit or other document requiring an oath, the person MUST sign it in your presence. Check the wording on the jurat (certificate). If the words say "Signed before me..." or "Subscribed and sworn to before me..." the person must indeed appear before you and sign the document in front of you. If the document is already signed, have the person sign again in your presence, above or below the other signature.

If the document is an acknowledgment, the person need not sign in front of you, BUT MUST PERSONALLY APPEAR before you and acknowledge execution of the document. In other words, the signer must appear in person before you and confirm that the signature on the document is his or hers. You must be certain, either from your own personal knowledge or satisfactory evidence, that the person who appears is in fact the person whose signature is on the document. You should also compare an example of that person's signature with the signature on the document. We suggest that you must personally know the signer, identify the signer upon the oath or affirmation of a credible witness personally known to you, or ask the signer for satisfactory identification. Of course, an acknowledgment also may be signed in your presence.

NOTARIAL CEREMONIES

TAKING AN ACKNOWLEDGMENT

When a notary completes a certificate of acknowledgment, it will be assumed that the notary has done all of the following:

1. Required that the acknowledging party be in the notary's presence, in person;
2. Satisfactorily identified the party;
3. Determined that the party knew what kind of document was being signed, and its intended purpose;
4. Determined that the party signed the document voluntarily, of his or her own free will; and
5. Witnessed the acknowledging party actually signing the document, **or, if the document was signed previously**, has shown the signature to the party, and asked the party to confirm having made the signature.

There is no specific required language for performing the notary "ceremony" of taking an acknowledgment, **but** whatever language you use should satisfy the items numbered 1. through 5. listed just above. The following script is an example of ceremonial language which satisfies those requirements:

Notary: Do you have some forms of identification showing your name and address, and with pictures and signatures, that I could use to verify your identity? I'd like at least two.

Acknowledging Party: Yes. I have a driver's license and a student ID with my picture on it. Here, will they do?

Notary: (Examines and returns identification.) Yes. Thank you. Please don't put your ID's away. I'll need to look at them later. Would you please show me the document you need to have notarized?

Acknowledging Party: Here.

Notary: Thank you. In order to certify to your acknowledgment, I am required to make sure that you know what kind of document you are signing, and that you have signed it for the purpose for which it is intended. I am also required to make sure that you are signing of your own free will.

Acknowledging Party: O.K.

Notary: So, what kind of document is this?

Acknowledging Party: It's a deed. (Notary confirms this.)

Notary: And are you signing it of your own free will, and for the purpose of deeding?

Acknowledging Party: Yes.

Notary: Please sign here. (Notary witnesses signing.) Now, may I please see your ID's again? (Notary verifies that signature on document matches the signatures on the ID's.)

The Notary then completes an appropriate certificate of acknowledgment, and signs and seals it. The following text in bold type is an example of the language which could be used in a satisfactory certificate of acknowledgment:

**State of Wisconsin
County of Dane**

This instrument was acknowledged before me in Madison on June 1, 2001 by Jane Doe.

**(Signed by) John Smith, Notary Public
My commission expires on November 9, 2003.**

Seal is then impressed upon certificate.

(Note: All commissioned notaries public, including attorneys, must impress their notary seal on the notarial certificates they issue. Other notarial officers specifically authorized by statute to perform notarial acts without a notary public commission – such as judges, court commissioners, and county clerks – should state their title, and use their seals of office if they are required to have one.)

NOTARIZING AN UNSWORN SIGNATURE

When a notary notarizes an unsworn signature, it will be assumed that the notary has done all of the following:

1. Required that the signing party be in the notary's presence, in person;
2. Satisfactorily identified the party; and
3. Witnessed the party actually signing the document.

There is no specific required language for performing the notary "ceremony" of notarizing an unsworn signature, but whatever language you use should satisfy the items numbered 1. through 3. listed just above. The following script is an example of ceremonial language which satisfies those requirements:

Notary: Do you have some forms of identification showing your name and address, and with pictures and signatures, that I could use to verify your identity? I'd like at least two.

Signing Party: Yes. I have a driver's license with a picture and a signature, and a picture credit card. Here, will they do?

Notary: (Examines and returns identification.) Yes. Thank you. Please don't put your ID's away. I'll need to look at them later. Would you please show me the document you need to have notarized?

Signing Party: Here.

Notary: Thank you. In order to notarize this document, I will need to have you sign it in front of me. Are you prepared to do that?

Signing Party: Yes.

Notary: Please sign here. (Notary witnesses signing.) Now, may I please see your ID's again? (Notary verifies that signature on document matches the signatures on the ID's.)

The notary then completes notarization certificate for witnessing a signature, and signs and seals it. The following text in bold type is an example of the language which could appear in a certificate for witnessing a signature:

**State of Wisconsin
County of Dane**

This instrument was signed before me in Madison on June 1, 2001 by Jane Doe.

**(Signed by) John Smith, Notary Public
My commission expires on November 9, 2003.**

Seal is then impressed upon certificate.

(**Note:** All commissioned notaries public, including attorneys, must impress their notary seal on the notarial certificates they issue. Other notarial officers specifically authorized by statute to perform notarial acts without a notary public commission – such as judges, court commissioners, and county clerks – should state their title, and use their seals of office if they are required to have one.)

NOTARIZING A STATEMENT SWORN TO, OR TAKEN UNDER OATH OR AFFIRMATION, AND PROVIDING A “JURAT”

When a notary takes a sworn statement, or a statement made under oath or affirmation, it will be assumed that the notary has done all of the following:

1. Required that the party making the statement be in the notary’s presence, in person;
2. Satisfactorily identified the party;
3. Required the party to specifically confirm that he or she swears, or affirms under penalty of perjury, that the statements in the document to be notarized are true; and
4. Witnessed the party actually signing the document.

There is no specific required language for performing the notary “ceremony” of notarizing a sworn or affirmed document, but whatever language you use should satisfy the items numbered 1. through 4. listed just above. The following script is an example of ceremonial language which satisfies those requirements:

Notary: Do you have some forms of identification showing your name and address, and with pictures and signatures, that I could use to verify your identity? I’d like at least two.

Signing Party: Yes. I have a driver’s license with a picture and a signature, and a picture credit card. Here, will they do?

Notary: (Examines and returns identification.) Yes. Thank you. Please don’t put your ID’s away. I’ll need to look at them later. Would you please show me the document you would like to swear to and have notarized?

Signing Party: Here.

Notary: Thank you. In order to notarize this document, I will need to have you specifically swear to me that the statements made in it are true. Are you willing to do that?

Signing Party: Yes. (If, as a matter of conscience, a party says “no” because he or she is unwilling to “swear” or take an oath, the party may instead “affirm” to the truth of his or her statements, “under penalty of perjury”. If that is the party’s choice, the words “affirm under penalty of perjury” may be substituted for the word “swear” in the following statement, and the words “so help you God” eliminated.)

Notary: Would you please raise your right hand. Now, do you solemnly swear that the statements in the document you have asked me to notarize are the truth, the whole truth, and nothing but the truth, so help you God?

Party: Yes, I do.

Notary: Please sign here. (Notary witnesses signing.) Now, may I please see your ID’s again?

(Notary verifies that signature on document matches the signatures on the ID’s.)

(**Note:** Certain legal documents which are sworn to, such as affidavits or deposition transcripts may require special notarization language. Legal advice may be necessary to determine the proper wording.)

The notary then completes the notarization certificate, and signs and seals it. The certificate used on a statement which is signed and sworn to is called a jurat. The following text in bold type is an example of appropriate language to use in a jurat, or certificate notarizing a signed and sworn statement:

**State of Wisconsin
County of Dane**

**This instrument was signed and sworn to before me in Madison on June 1, 2001
by Jane Doe.**

**(Signed by) John Smith, Notary Public
My commission expires on November 9, 2003.**

Seal is then impressed upon certificate.

(**Note:** All commissioned notaries public, including attorneys, must impress their notary seal on the notarial certificates they issue. Other notarial officers specifically authorized by Wisconsin Statutes to perform notarial acts without a notary public commission – such as judges, court commissioners, and county clerks – should state their title, and use their seals of office if they are required to have one.)

WHEN A PARTY IS SIGNING A NOTARIZED DOCUMENT IN A REPRESENTATIVE CAPACITY

If a party is signing a notarized document in a representative capacity for another person or entity – for example, a corporation president signing on behalf of a corporation, or a personal representative or executor signing on behalf of an estate – the notary should specifically have the party confirm that he or she is “duly authorized” to sign on behalf of the person or entity being represented:

Notary: Are you signing on behalf of the ABC Corporation?

Party: Yes.

Notary: And have you been duly authorized by the ABC Corporation to sign on its behalf as its President?

Party: Yes.

(Note: 1. The preceding language confirming that a party is duly authorized to sign in a representative capacity should be added to any of the ceremonies described in this booklet, when appropriate.

2. When a document is signed in a representative capacity, language indicating that should be included in the notary certificate. Proper language to be added to a notary certificate to indicate a “representative” signature may read, for example, as stated in the following bold text:

a) For an acknowledgment: This instrument was acknowledged before me in Madison on June 1, 2001, by Sarah Smith, **as the duly authorized executrix of the estate of John Smith.**

b) For an unsworn signature: This instrument was signed before me in Madison on June 1, 2001, by Robert Jones, **as the duly authorized President of the ABC Corporation.)**

MAINTENANCE

WHAT SHOULD I DO IF I CHANGE MY ADDRESS?

The statutes require that a notary give written notice of any change of address to the Secretary of State within 10 days of the change. When you write to the Office of the Secretary of State regarding your change of address, be sure to include your expiration date so the information can be applied to the correct file.

Keeping your address current will also ensure delivery of your commission expiration notice.

WHAT IF I CHANGE MY NAME?

If you change your name for any reason, **it is strongly suggested** that you purchase a new seal or rubber stamp stating your new name (and the words "State of Wisconsin" and "Notary Public") **and** obtain a Change of Name form from the Secretary of State's office. You are required to complete and submit the Change of Name form to the Office of the Secretary of State **PRIOR** to using your new name and seal for notary purposes.

For the remainder of your present commission, however, it is permissible to continue to perform notarial acts using a previous name if you sign your name **exactly** as stated on your seal or rubber stamp. A new or different name may **not** be signed in addition to the previous name, as in parentheses or in a hyphenated manner. **For notarization purposes, your signature must always exactly match the name indicated on your official notary seal or stamp.**

Only the exact name you give and the seal or stamp you provide for filing with this Office may be used for notarization purposes. No other name, seal, or stamp may be used when performing notarial acts unless the Secretary of State's office is notified in writing prior to usage. When you apply for another commission after your current term expires, you may not apply under an old or previous name. Each commission must be applied for and issued in your current last name.

I WANT TO USE AN INKED STAMP INSTEAD OF AN ENGRAVED SEAL ON CERTAIN DOCUMENTS. WHAT SHOULD I DO?

You may use both a rubber stamp and an engraved seal (embosser) **provided** that samples of each are on file in the Office of the Secretary of State prior to use. When you order a second seal/stamp, be sure your name is set forth **exactly** as it appears on your original seal/stamp. **Before using** the new seal /stamp, send samples to the

Secretary of State's office along with your signature, commission expiration date, and future date of intended use.

WHAT IF MY NOTARY SEAL IS LOST OR STOLEN?

Notify the Secretary of State's office in writing immediately! Then, order a new seal or stamp that has a different appearance than your previous one. When the new seal/stamp is received, send samples to the Secretary of State's Office **before** using it.

CAN MY COMMISSION CERTIFICATE BE REPLACED?

A new certificate may be ordered by submitting a written request and \$10 fee to the Secretary of State's office.

MAY THE INFORMATION ON MY FILED APPLICATION AND BOND FORMS BE GIVEN OUT TO THE PUBLIC?

All forms and documents submitted to this Office regarding your Notary Public commission are public records and are subject to Wisconsin's Open Records Law. Any person may have the right to inspect and copy your file upon request. Bonding companies will often obtain the names and addresses of notaries whose commissions are about to expire so they can mail out bond information.

WHAT IS AN "ERRORS AND OMISSIONS" POLICY?

An Errors and Omissions policy is **optional insurance that protects you** as a notary public in the event you are sued. **Your bond**, on the other hand, **protects the public**. You cannot collect the \$500 from your bond for yourself if you are sued, but an Errors and Omissions policy could help pay your legal fees and damages. Most companies who sell notary bonds will have Errors and Omissions policies available. **Errors and Omissions policies are not filed with the Secretary of State's Office.** Keep them in your own personal records.

AM I REQUIRED TO KEEP A NOTARIAL LOG BOOK?

Keeping a notarial log book, or journal, is not required in Wisconsin, although you are encouraged to do so. Depending on the amount and types of documents

you are handling, recording your notarial acts in a journal may prove useful later if you need to recall specifics of a particular case.

If you decide to keep a notarial log book, include items such as the date and type of notarial act, names and signatures of persons involved, and numbers from identification cards and driver's licenses presented.

IS A NOTARY COMMISSION RENEWED AUTOMATICALLY?

No, but notaries may be reappointed. The Secretary of State's office is required by statute to mail an expiration notice to each notary's last-known address. The re-appointment procedure is the same as the initial appointment, including the required bond, oath, application, an application fee, and arrest and conviction documents, if any.

AUTHENTICATIONS AND APOSTILLES

A DOCUMENT I'VE NOTARIZED NEEDS TO BE AUTHENTICATED. WHAT DOES THIS MEAN?

"Authenticating" a document may also be called "flagging", "verifying", "certifying", or "attaching a certificate of magistracy". It means that an official certificate confirming the existence of your notary commission must be attached to the document you have notarized. An authentication certificate may be required when a document is sent to another state or to a foreign country. Business transactions, foreign adoptions, and high school and university transcripts are examples of documents that frequently require authentication certificates.

WHO PROVIDES AUTHENTICATION CERTIFICATES?

The Office of the Secretary of State can provide authentication certificates for all Wisconsin notaries public.

Use of your original commission certificate (or a copy of it) for authentication purposes is not appropriate.

HOW MUCH DOES AUTHENTICATION COST?

The required fee is \$10 per certificate.

WHAT IS AN APOSTILLE?

An "apostille" is a certificate issued by the Office of the Secretary of State used for notary authentication that is required by certain countries. Therefore, when submitting a request to the Secretary of State's office for authentication certificates, it is important to state which foreign country is involved, so this Office can determine if an apostille or "regular" authentication certificate is necessary. Use of the wrong certificate can cause a document to be rejected by the foreign country. The fee is \$10, the same as a "regular" authentication certificate.

STATUTORY REFERENCES

137.01 NOTARIES

137.01 Notaries.(1) NOTARIES PUBLIC WHO ARE NOT ATTORNEYS. (a) The governor shall appoint notaries public who shall be United States residents and at least 18 years of age. Applicants who are not attorneys shall file an application with the secretary of state and pay a \$20 fee.

(b) The secretary of state shall satisfy himself or herself that the applicant has the equivalent of an 8th grade education, is familiar with the duties and responsibilities of a notary public and, subject to ss. 111.321, 111.322 and 111.335, does not have an arrest or conviction record.

(c) If an application is rejected the fee shall be returned.

(d) Qualified applicants shall be notified by the secretary of state to take and file the official oath and execute and file an official bond in the sum of \$500, with a surety executed by a surety company and approved by the secretary of state.

(e) The qualified applicant shall file his or her signature, post-office address and an impression of his or her official seal, or imprint of his or her official rubber stamp with the secretary of state.

(f) A certificate of appointment as a notary public for a term of 4 years stating the expiration date of the commission shall be issued to applicants who have fulfilled the requirements of this subsection.

(g) At least 30 days before the expiration of a commission the secretary of state shall mail notice of the expiration date to the holder of a commission.

(h) A notary shall be entitled to reappointment.

(2) NOTARIES PUBLIC WHO ARE ATTORNEYS. (a) Except as provided in par. (am), any United States resident who is licensed to practice law in this state is entitled to a permanent commission as a notary public upon application to the secretary of state and payment of a \$50 fee. The application shall include a certificate of good standing from the supreme court, the signature and post-office address of the applicant and an impression of the applicant's official seal, or imprint of the applicant's official rubber stamp.

(am) If a United States resident has his or her license to practice law in this state suspended or revoked, upon reinstatement of his or her license to practice law in this state, the person may be entitled to receive a certificate of appointment as a notary public for a term of 4 years. An eligible notary appointed under this paragraph is entitled to reappointment for 4-year increments. At least 30 days before the expiration of a commission under this paragraph the secretary of state shall mail notice of the expiration date to the holder of the commission.

(b) The secretary of state shall issue a certificate of appointment as a notary public to persons who qualify under the requirements of this subsection. The certificate shall state that the notary commission is permanent or is for 4 years.

(c) The supreme court shall file with the secretary of state notice of the surrender, suspension or revocation of the license to practice law of any attorney who holds a permanent commission as a notary public. Such notice shall be deemed a revocation of said commission.

(3) NOTARIAL SEAL OR STAMP. (a) Every notary public shall provide an engraved official seal which makes a distinct and legible impression or official rubber stamp which makes a distinct and legible imprint on paper. The impression of the seal or the imprint of the rubber stamp shall state only the following: "Notary Public," "State of Wisconsin" and the name of the notary. But any notarial seal in use on August 1, 1959, shall be considered in compliance.

(b) The impression of the notarial seal upon any instrument or writing or upon wafer, wax or other adhesive substance and affixed to any instrument or writing shall be deemed an affixation of the seal, and the imprint of the notarial rubber stamp upon any instrument or writing shall be deemed an affixation of the rubber stamp.

(4) ATTESTATION. (a) Every official act of a notary public shall be attested by the notary public's written signature or electronic signature, as defined in s. 137.04(2).

(b) All certificates of acknowledgments of deeds and other conveyances, or any written instrument required or authorized by law to be acknowledged or sworn to before any notary public, within this state, shall be attested by a clear impression of the official seal or imprint of the rubber stamp of said officer, and in addition thereto shall be written or stamped either the day, month and year when the commission of said notary public will expire, or that such commission is permanent.

(c) The official certificate of any notary public, when attested and completed in the manner provided by this subsection, shall be presumptive evidence in all cases, and in all courts of the state, of the facts therein stated, in cases where by law a notary public is authorized to certify such facts.

(5) POWERS. Notaries public have power to act throughout the state. Notaries public have power to demand acceptance of foreign and inland bills of exchange and payment thereof, and payment of promissory notes, and may protest the same for nonacceptance or nonpayment, may administer oaths, take depositions and acknowledgments of deeds, and perform such other duties as by the law of nations, or according to commercial usage, may be exercised and performed by notaries public.

(5m) CONFIDENTIALITY. (a) Except as provided in par. (b), a notary public shall keep confidential all documents and information contained in any documents reviewed by the notary public while performing his or her duties as a notary public and may release the documents or the information to a 3rd person only with the written consent of the person who requested the services of the notary public.

(b) Deposition transcripts may be released to all parties of record in an action. A notary public may not release deposition transcripts that have not been made part of the public record to a 3rd party without the written consent of all parties to the action and the deponent. When a deposition transcript has been made part of the public record, a notary public who is also a court reporter may, subject to a protective order or agreement to the contrary, release the deposition transcript or sell the transcript to 3rd parties without the consent of the person who requested the services of the notary public.

(c) Any notary public violating this subsection shall be subject to the provision of sub. (8) and may be required to forfeit not more than \$500.

(6) AUTHENTICATION. (a) The secretary of state may certify to the official qualifications of any notary public and to the genuineness of the notary public's signature and seal or rubber stamp.

(c) Any certificate specified under this subsection shall be presumptive evidence of the facts therein stated.

(6m) CHANGE OF RESIDENCE. A notary public does not vacate his or her office by reason of his or her change of residence within the United States. Written notice of any change of address shall be given to the secretary of state within 10 days of the change.

(7) OFFICIAL RECORDS TO BE FILED. When any notary public ceases to hold office the notary public, or in case of the notary public's death the notary public's executor or administrator, shall deposit the notary public's official records and papers in the office of the secretary of state. If any such notary or any executor or administrator, after such records and papers come to his or her hands, neglects for 3 months to deposit them, he or she shall forfeit not less than \$50 nor more than \$500. If any person knowingly destroys, defaces or conceals any records or papers of any notary public, the person shall forfeit not less than \$50 nor more than \$500, and shall be liable to the party injured for all damages thereby sustained. The secretary of state shall receive and safely keep all such papers and records in their office.

(8) MISCONDUCT. If any notary public shall be guilty of any misconduct or neglect of duty in office the notary public shall be liable to the party injured for all the damages thereby sustained.

(9) FEES. A notary public shall be allowed the following fees:

(a) For drawing and copy of protest of the nonpayment of a promissory note or bill of exchange, or of the nonacceptance of such bill, \$1 in the cases where by law such protest is necessary, but in no other case.

(b) For drawing and copy of every other protest, 50 cents.

(c) For drawing, copying and serving every notice of nonpayment of a note or bill, or nonacceptance of a bill, 50 cents.

(d) For drawing any affidavit, or other paper or proceeding for which provision is not herein made, 50 cents for each folio, and for copying the same 12 cents per folio.

(e) For taking the acknowledgment of deeds, and for other services authorized by law, the same fees as are allowed to other officers for similar services, but the fee per document shall not exceed 50 cents.

69.01(26) VITAL RECORDS

69.01(26) "Vital Records" means certificates of birth, death, divorce or annulment, marriage documents and data related thereto.

69.24(1)(a) PENALTIES

69.24 Penalties. (1) Any person who does any of the following shall be fined not more than \$10,000 or imprisoned for not more than 3 years or both:

(a) Other than as authorized under s. 69.21(2)(d), prepares or issues any paper or film which purports to be, or carries the appearance of, an original or a copy of a vital record, certified or uncertified, except as provided under this subchapter or s. 610.50 and except for any hospital which issues any written announcement of the birth of a person to the parents of the person if the announcement contains plain notice that the announcement is not for official use.

706.07

UNIFORM LAW ON NOTARIAL ACTS

706.07 Uniform law on notarial acts. (1) DEFINITIONS. In this section:

(a) "**Acknowledgment**" means a declaration 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.

(b) "**In a representative capacity**" means:

1. For and on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative;
2. As a public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;
3. As an attorney in fact for a principal; or
4. In any other capacity as an authorized representative of another.

(c) "**Notarial act**" means 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.

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

(e) “Verification upon oath or affirmation” means a declaration that a statement is true made by a person upon oath or affirmation.

(2) NOTARIAL ACTS. (a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) In making or noting a protest of a negotiable instrument, the notarial officer must determine the matters set forth in s. 403.505(2).

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

1. Is personally known to the notarial officer;
2. Is identified upon the oath or affirmation of a credible witness personally known to the notarial officer; or
3. Is identified on the basis of identification documents.

(3) NOTARIAL ACTS IN THIS STATE. (a) A notarial act may be performed within this state by the following persons of this state:

1. A notary public;
2. A judge, clerk or deputy clerk of a court of record;
3. A court commissioner;
4. A register of deeds or deputy register of deeds;
5. A municipal judge; or
6. A county clerk or deputy county clerk.

(b) Notarial acts performed within this state under federal authority as provided in sub. (5) have the same effect as if performed by a notarial officer of this state.

(c) 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) NOTARIAL ACTS IN OTHER JURISDICTIONS OF THE UNITED STATES. (a) 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:

1. A notary public of that jurisdiction;
2. A judge, clerk, or deputy clerk of a court of that jurisdiction; or
3. Any other person authorized by the law of that jurisdiction to perform notarial acts.

(b) Notarial acts performed in other jurisdictions of the United States under federal authority as provided in sub. (5) have the same effect as if performed by a notarial officer of this state.

(c) 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.

(d) the signature and indicated title of an officer listed in par. (a) 1. or 2. conclusively establish the authority of a holder of that title to perform a notarial act.

(5) NOTARIAL ACTS UNDER FEDERAL AUTHORITY. **(a)** 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:

1. A judge, clerk, or deputy clerk of a court;
2. A commissioned officer on active duty in the military service of the United States;
3. An officer of the foreign service or consular officer of the United States; or
4. Any other person authorized by federal law to perform notarial acts.

(b) 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.

(c) The signature and indicated title of an officer listed in par. (a) 1., 2. or 3. conclusively establish the authority of a holder of that title to perform a notarial act.

(6) FOREIGN NOTARIAL ACTS. **(a)** 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:

1. A notary public or notary;
2. A judge, clerk or deputy clerk of a court of record; or
3. Any other person authorized by the law of that jurisdiction to perform notarial acts.

(b) 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 indicated office.

(c) 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.

(d) 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 indicated title.

(e) An official stamp or seal of an officer listed in par. (a) 1. or 2. is prima facie evidence that a person with the indicated title has authority to perform notarial acts.

(f) 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, the authority of an officer with that title to perform notarial acts is conclusively established.

(7) CERTIFICATE OF NOTARIAL ACTS. **(a)** 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 of the notarial officer 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 in the military service of the United States, it must also include the officer's rank.

(b) A certificate of a notarial act is sufficient if it meets the requirements of par. (a) and it:

1. Is in the short form set forth in sub. (8);
2. Is in a form otherwise prescribed by the law of this state;
3. Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or
4. Sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

(c) By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determination required by sub. (2).

(8) SHORT FORMS. The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by sub. (7)(a):

(a) 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:....]

(b) 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:....]

(c) 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:....]

(d) 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:....]

(e) 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:....]

FOR FURTHER INFORMATION CONSULT:

- 1) **The Office of the Secretary of State of the State of Wisconsin** is located at 30 West Mifflin Street, 10th floor, Madison, WI 53702.
Telephones: for general notary information: (608)266-5594; for authentication or apostille information: (608)266-5503.
Mailing address: P.O. Box 7848, Madison, WI 53707-7848.
Website: wisconsin.gov (see the agency index)

The Office of the Secretary of State processes applications for Wisconsin Notary commissions, issues authentications and apostilles, and maintains records regarding Wisconsin Notaries Public.

- 2) **The American Society of Notaries**, P.O. Box 5707, Tallahassee, FL 32314-5707.
Telephone: (800)522-3392
Fax: (850)671-5165
Website: www.asnnotary.org
Email: info@asnnotary.org

This society describes itself as "a nonprofit, tax exempt educational organization formed in 1965 to improve notarial practices and to uphold high standards for notaries".

- 3) **The National Notary Association**, 9350 De Soto Ave., P. O. Box 2402 Chatsworth, CA 91313-2402
Fax: (800)833-1211
Telephones: (800)876-6827
Website: www.nationalnotary.org
Email: services@nationalnotary.org

This association describes itself as "a non-profit educational organization, to impart knowledge, understanding and unity among all Notaries Public".

- 4) **United States Notary Association**, 14 Wood Street, Pittsburgh, Pa 15222
Telephone: (800)587-2588
Fax: (800) 707-7075
Website: www.enotary.org
E-mail: usna@enotary.org

This society describes itself as "a membership organization dedicated to the professional development of notaries public in all 50 states and the District of Columbia."

NOTES

Name on notary seal:

Address on file with the Office of the Secretary of State:

Expiration date:

Bonding company:

Sample of seal/stamp on file with the Office of the Secretary of State:

(Note that the seal/stamp on file is the ONLY seal/stamp that may be used when performing notarial acts. See pages 17 and 18 for more information.)