

# *Oregon*

## *Notary Public*

### *Guide*



Corporation Division – Secretary of State

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# Introduction

Thank you for becoming an Oregon notary public, and welcome to the State of Oregon Notary Public Guide. This publication describes the duties and responsibilities involved in carrying out your notarial commission. It covers laws and rules, Attorney General's opinions, state policy, and common sense guidelines based on broad experience and familiarity with case law. Notaries may be held liable for their misconduct in performing notarizations and could be subject to penalties for any misconduct. Penalties can be administrative, criminal, or civil. In addition, a person injured by a violation of any provision of ORS Chapter 194 may bring an individual action in an appropriate court to recover actual damages. It is important that the duties of a notary public be taken seriously. Remember to use care when applying your seal or signature to documents presented before you. One of the fastest growing areas of litigation in the country is actions against notaries for losses caused by improper notarizations.

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

We recommend that you subscribe to [NotaryNews](#) to receive important changes that impact Oregon notaries. Due to budget reductions, the Secretary of State, Corporation Division will no longer use postcards to notify Oregon notaries of important changes in laws and rules. Oregon notaries should subscribe to [NotaryNews](#), our free email subscription service, to receive updates on Oregon notary law, rules and procedures.

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This is a free email subscription service to receive updates on Oregon notary law, rules and procedures.

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# Chapter 1 – The Notary Public

A notary is “a person of proven integrity appointed by the state to act as an impartial witness” (National Notary Association Home Study Course). The main function of the notary is to witness a legal proceeding so that the courts and other interested parties can be certain that the person signing a document knows what is being signed, is able to understand the action taken, and is in fact the person whose signature is on the document.

## Notaries in History

In the old Roman Republic, *notarii* were public secretaries who were shorthand writers. As scribes became more and more common, they developed a service in the public marketplace to draw up legal documents and other written instruments. Wax seals were used as signatures on documents. Later, ribbons tied together multi-page documents, and wax seals on the knots showed that no one had tampered with the knots. Thus, we came to have notary seals.

Eventually, the state came to regulate and commission these scribes. Witnesses to the drafting of their documents came to be required. Notaries, still in the public marketplace, evolved into both drafters and witnesses to these writings. As *notarii* became essential to commerce and law, royalty found the need to commission and employ them for drawing up and countersigning documents. By the Middle Ages, notaries had to undergo formal training and examinations. Gradually, the government took over sole appointment of notaries, giving them public officer status.

In Europe, Africa, Asia, and Latin American countries, notaries retain many of their attorney-like powers. In the United States, however, notaries are most important for merely witnessing documents drafted by someone else. This disparity in notary authority is the reason Oregon has a law against advertising as a “Notario Publico”, which conveys to Spanish-speaking individuals vastly different powers than notaries have in this state. “A person may not use the term “notario publico” or any equivalent non-English term, in any business card, advertisement, notice, sign or in any other manner that misrepresents the authority of a notary public.” ORS 194.162 (5).

Even within the United States, the duties and responsibilities of a notary public vary greatly from state to state. Oregon law states “A notary may not make representations to have powers, qualifications, rights or privileges that the office of notary does not have including the power to counsel on immigration matters.” ORS 194.162 (2). It is essential, therefore, to become familiar with **Oregon’s** notary laws and rules even if you have previously served as a notary in another state.

## Three Components of a Notary Public

There are three components to the notary public. He or she must be of **proven integrity**, an **officer of the state**, and an **impartial witness** to a particular transaction.

### Proven Integrity

Because a notary’s whole purpose is to detect and deter fraud, Oregon statutes require notaries to be of “good moral character.” If a person has been convicted of embezzlement or fraud, he or she is not considered to be of “good moral character.” A traffic violation such as a speeding ticket, however, isn’t relevant to notarial functions and wouldn’t disqualify one from obtaining a notarial commission. “...the Department of State Police shall furnish to the Secretary of State any information that the department may have in its possession from its central bureau of criminal identification.....” ORS 194.024 (1).

### Ministerial Officer of the State

A notary public is commissioned by the state and acts as an officer of the state. Because the office is ministerial rather than regulatory or judicial, the duties of the office are narrowly defined to certain prescribed acts of limited scope. A notary must follow written rules that allow only limited discretion in performing these acts. A notary needs to remember that they have become a State of Oregon Notary, not their employer’s notary.

## Impartial Witness

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

Impartial means:

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

## Receiving and Maintaining Your Notary Commission

**To be a notary public in Oregon, you must meet the following qualifications, at the time of application:** (A background check is conducted on all applications for a notary public commission).

- **Be 18 years of age or older**
- **Be a resident of the State of Oregon** (You may also qualify if you are a resident of California, Idaho, Nevada, or Washington and carry on a trade or business or are regularly employed within the State of Oregon)
- **Be able to read and write the English language**
- **Be of good moral character**
- **Not have had a notary commission revoked for official misconduct during the previous 5 years**
- **Complete a 3 hour Notary training course** (not required for current Oregon Notaries with an active commission at the time the new application is received in our office.)
- **Not have been convicted of a felony, or of a lesser offense incompatible with the duties of a notary public, during the previous 10 years**
- **Pass the Secretary of State's Notary examination**

When you apply to become a notary, you will need to download an application form and exam at: [www.filinginoregon.com/notary](http://www.filinginoregon.com/notary). The application must be notarized (you will swear an oath or affirm) and completely filled out, even if it is just to renew your commission. The exam is an open-book, true or false and multiple-choice test, based on materials found in the Notary Public Guide and in the live and online seminars. It is meant to be educational: to help you read through the statute and rules, and understand what you have read. It is very important that you take the time to read through the materials and complete the exam properly. Not only will you be denied a commission if you fail, but you will also lose the application fee. The term for a notarial commission is 4 years.

**Oregon Notaries with an active commission are exempt from the training requirement if their application arrives at our office before their commission expiration date.** The education may be provided by the state, employers or private vendors. The Secretary of State only endorses the certified provider's education program curriculum, not the other services or products the vendor may or may not provide. ORS 194.022(1)(h).

For information regarding free state-run seminars, please check: <http://notsem.sos.state.or.us/>. For information regarding the state's free online tutorial, please check our website at: [filinginoregon.com/notaryed/index.htm](http://filinginoregon.com/notaryed/index.htm).

### After Your Application Has Been Approved

1. When you receive your commission from the Secretary of State's office, proofread the commission for the spelling of your name and note the expiration date. If everything is correct, take the Certificate of Authorization to Obtain Official Seal to a maker of rubber stamps to have your seal made. (Note:

you will get a new commission number every 4 years.) If you question any of the information, call this office at (503)986-2593 **BEFORE** ordering the seal.

2. After your seal is made, proofread the seal ensuring that the spelling of your name, commission number and expiration date are correct and read **EXACTLY** as printed on your certificate.
3. Stamp a clear and legible imprint of your seal (in black ink) on the Certificate of Authorization to Obtain Official Seal and return within ten days to complete the requirement of filing your imprint with the Secretary of State. If it is not 100% clear, please stamp again. If necessary, stamp on a separate piece of paper and send that in with your certificate. The address is found near the bottom of the Certificate.
4. After you have purchased your notary journal and have reached the effective date of your commission, you are ready to notarize.

## Seals and Journals

We do not provide these; you must purchase them yourself. Most office supply stores and rubber stamp stores can make notary seals. Most office supply stores either carry journals in stock or through a store catalog.

## Commission Renewal

A notary public commission is not automatically renewed. The Corporation Division will no longer send courtesy renewal notices prior to the expiration of the commission. Notaries are responsible for tracking and renewing their own commission. Each notarial commission is unique, and a new notarial commission number and expiration date will be issued when the renewal application is accepted. The application can be downloaded from our website at [flinginoregon.com/forms/notary.htm](http://flinginoregon.com/forms/notary.htm). ORS 194.063(1)(2), OAR 160-100-0040(1).

If the notary public is renewing, the same notarial journal may be used with the new notarial commission, as long as the information required in the front of the notarial journal is updated. The notary public should indicate where the new notarial commission begins on the next notarial journal entry line.

The official notary seal from the expiring notarial commission must be destroyed by the notary public as soon as the notarial commission expires. It will be invalid with the new notarial commission. OAR 160-100-0310(4).

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

The renewal process takes approximately two weeks.

## Non-renewal of Commission

If the notary public decides not to renew the notarial commission, the notarial journal location form must be completed and submitted to the Secretary of State Corporation Division. OAR 160-100-0310(4). You can download the journal location form from our website. The official notary seal from the expiring notarial commission should be destroyed by the notary public as soon as the notarial commission expires. It must be defaced so that the stamp becomes illegible and unusable. The notarial journal location form must be filled out and submitted. If the notary has an embosser, the plates must be defaced after the notary public's commission expires.

## Loss of Notary Seal

If you lose the notary seal, call the Corporation Division to request a form, you may download the form from our website, or mail a sworn, written notice of the loss to our office **WITHIN TEN (10) DAYS**. There is a \$10.00 fee required. We will issue a new Certificate of Authorization To Obtain Official Notary Seal so you may purchase a new seal, with a new commission number. If you find the original seal, you must mail it to us within ten (10) days with a written explanation.

This affidavit form is used to replace a seal that has been lost, stolen, or broken, and to replace the notarial commission certificate.

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

## Name Change

When a notary public has a legal change of name, he or she is required by law to notify the Corporation Division within thirty (30) days. ORS 194.052, OAR 160-100-0040(6).

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

- Notify the Corporation Division of the change in name and continue to use the notarial commission as it was issued (no fee for notification). When notarizing, continue to sign as the original notarial commission reads, which is your official signature on file.
- Change the notarial commission to the new name. Changing the notarial commission involves a fee of \$10.00 plus the cost of a new official notary seal. The notary will need to sign their name reflecting the name change.

The forms can be downloaded from our website.

## Address Change

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

## We're Here to Help

If you don't know the answer to a notarial question, ask the Corporation Division. Our focus is to educate, not regulate. Although the Notary Section is obligated to respond to complaints and to screen applicants, most of our public contact is educational.

Our aim is to have well-trained, competent, and confident notaries in this state. The better you are, the less regulation we do, and the less chance you have of incurring penalties, through us, or through the courts.

When in doubt, ask—before you make a mistake. But remember, we are not attorneys. We cannot tell you which certificate to use, or advise you on a course of action in a particular situation. The best we can do is to tell you how to uphold the letter of the law. Where the law does not specifically tell you what to do, neither can we.

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[www.filinginoregon.com/notary/subscription.htm](http://www.filinginoregon.com/notary/subscription.htm).

## Notary Education

Our office has raised notary education to a new level. We have free notary seminars scheduled throughout the state to give every notary an opportunity to become properly trained and educated about Oregon laws and good notary procedure. Brush up your notary knowledge and get the answers to your questions by attending a live seminar. The seminars are a comprehensive and thorough examination of notary basics; what a notary is, responsibilities and liabilities, how to notarize, notary certificates and the notary journal. This is your chance to talk to the state agency that regulates notaries, and participate in lively discussions about procedures, practices and notary laws. To view the Notary Seminar schedule or register for a class visit: <http://notsem.sos.state.or.us/>. We also have a Web Tutorial and Exam online that meets the educational requirements for notaries. To sign up for the tutorial go to:

<https://secure.sos.state.or.us/NEO/custom/8838/index.jsp>.



# Frequently Asked Questions:

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

No. The seal with the expired date should be destroyed as soon as possible. ORS 194.151(1)(b). The notary public may only use the official notary seal for the notarial commission they are currently in. Any other seal would have the wrong expiration date and wrong notarial commission number. ORS 194.166(14).

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

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

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

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

4. *How old do I need to be to become a Notary public?*

You must be at least 18 years of age at the time of appointment.

5. *Do I need to be a resident of this state?*

You must be a resident of this state, or be a resident of an adjacent state and be regularly employed or carry on a trade or business within this state. If you live and are employed in an adjacent state and are an Oregon notary, you must perform all notarizations in the state of Oregon (this qualifies as carrying on a trade or conducting business in Oregon).

6. *Must I be able to read and write the English language?*

Yes.

7. *How long is a commission good for?*

The term of office for a Notary Public is 4 years. They must retake the test, not more than 2 ½ months before their commission expires.

8. *How long does it take to get my application processed?*

It takes 6 to 8 days to process a notary application. If the applicant does not pass the test, the applicant may retake it immediately but must pay the application fee again.

# Chapter 2-Responsibilities of Notaries and Employers

A notary has an ethical obligation to serve as a **notary public**. Notaries exist, not for the convenience of a business, but to serve the common good. The public needs access to the services of notaries, just as the business does.

At the same time, under Oregon law, an employer may limit access to employee notaries public during work hours. For example, a bank may only allow its employees to notarize documents involving bank business or documents for people with accounts at that bank. Such a policy should be carefully reviewed by legal staff, however, to protect the employer from lawsuits based on protected class considerations.

Employers may not prohibit notaries from notarizing on their own time and off work premises. However, if a notary has signed the fee waiver and does not charge for notarizations at work, the fee waiver still applies when notarizing after hours.

If your employer insists that you notarize a document in a manner inconsistent with Oregon laws and rules, you and the employer should be aware of laws regarding notaries who are forced to break the law, or “commit misconduct.” For example, if your employer asks you to notarize an acknowledgment without the signing party present, that action would be intentional misconduct and subject to penalty of the notary.

According to ORS 194.200(3), if an employer coerces a notary into misconduct, the employer can be liable to the notary for damages recovered from the notary. This means that if a notary is successfully sued, he or she has the right to sue the employer, if it can be proved that the employer forced the employee to do the wrongful act.

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

## Employer Notarization Policies

Companies that employ notaries should have a policy on notarizations. Such a policy should address at least the following issues:

- What times a notary will be available.
- What types of documents will be permitted. For example, a hospital might allow notarization of only healthcare documents. Although an Attorney General’s opinion (DOJ 165-300-0093) states, “...the notary public may, under the notaries public laws, either serve the entire public which desires notary services, a portion of the public (such as customers of a business or fellow employees) or no one at all,” notaries may be seen as having an obligation to respond to any reasonable request for a notarization, and employers may wish to uphold that duty. Restriction of notary services must be carefully crafted, so that the possibility of lawsuits based on perceived discrimination is minimized.
- A statement to the effect that the “Notary has the sole responsibility to refuse a notarization,” as that is Oregon law.
- What the fees will be, if any, and where they are posted. OAR 160-100-0400.
- The responsibility of the notary for updating commission information and renewals, along with the procedure for doing so.
- Notarization for colleagues on work premises.
- The disposition of notary journals upon termination or resignation of employment. (The seal should always be retained by the notary).
- Education requirements for notary employees.
- Other items of concern or policy, such as the extent and conditions of liability coverage under the employer’s insurance.

## **Employers and Notaries**

It is important to discuss notary requirements and other issues with your employer ahead of time. It is unlikely that an employer will listen calmly and rationally to your concerns when your biggest client is off to the airport without signing your journal and you won't complete the notarization! Employers need to know that you are an officer of the state as well as their employee and that cooperation is the best way of getting what everyone wants: valid notarizations done efficiently.

Should your employer purchase the journal and seal for you to perform notarial acts, they do so as a convenience for the office. The journal and seal are the tools a notary uses to perform notarial acts and should be kept in a secure location accessible only to the notary. An embosser is an optional device used only in conjunction with a notary seal and should likewise be kept in a secure location. It is important that the notary and employer understand that the journal, seal and/or embosser is the exclusive property of the notary.

Upon termination of employment, the notary seal is the exclusive property of the notary. The notary journal should also be retained by the notary unless the notary and employer have entered into a journal agreement. If a journal agreement has been entered into, the notary shall hand the journal over to the employer and the notary shall retain a written copy of the agreement, which may be examined by the Secretary of State upon request (160-100-0360). A copy of the journal agreement may be sent to the Secretary of State's office.

## Frequently Asked Questions:

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

No. The notarial commission and its related tools belong to the notary public and not the employer. A notary public is commissioned by the State of Oregon to provide a service to the public. The law does not state that notaries **MUST** serve the public, but if service is refused without just cause, the notary public and their employer could face a civil law suit. ORS 194.010(1).

2. *My former employer paid for my notarial commission and kept my official notary seal. Can they do that and can I still be a notary?*

An individual, not an employer, is commissioned as a notary public. It does not matter who paid for the notarial commission, official notary seal, and notarial journal—**they belong to the notary public**. During a notarial commission term, a notary public may change employers several times, and the notarial commission, official notary seal, and notarial journal move with the notary public. ORS 194.990(1)(c).

The only exception would be if there is a signed journal agreement with the employer. The notary public would then purchase a new notarial journal for use with the new employer. OAR 160-100-0360.

3. *My employer wanted me to notarize a document signed by a client who came in while I was at lunch. I told him that I couldn't notarize unless the client appeared before me. Was I correct?*

Yes. All notarizations require the signer to be present at the time of the notarization. The notary public needs the signer to sign the notarial journal and give appropriate identification information.

An employer who threatens or coerces a notary public into an act of misconduct can be liable to the notary public for damages resulting from that misconduct, ORS 194.200(3), and is guilty of a crime. ORS 194.990(1)(d).

# Chapter 3-Misconduct, Liability & Protecting Yourself

A notary public is responsible for knowing and understanding Oregon laws and administrative rules relating to notaries. These are found in Oregon Revised Statutes Chapter 194 and Oregon Administrative Rules Chapter 160-100. The application examination is based on those laws and rules, and a full copy of them can be found in the back of this guide.

Because many people find it difficult to read laws, the Secretary of State's office is available for questions by phone 503-986-2200, or email [corporation.division@state.or.us](mailto:corporation.division@state.or.us). Our office presents notary seminars, maintains a web site, and publishes this guide. It is up to the notary to make use of these resources, and to make sure he or she understands what is required.

## Misconduct

Negligent or purposeful improper notarization is called "misconduct." Misconduct can be either **intentional** or **unintentional**.

**Intentional** misconduct is deliberate disobedience of notarial statute, rule, or good practice that seeks to benefit the notary in some way, often to defraud the signer of the document.

**Unintentional** misconduct is negligent behavior that causes a notary to make an error in a notarization or to accidentally forget to do what is required. For example, failure to supply the name of the county in the venue portion of a notarial certificate could be an omission that is deemed unintentional misconduct.

Most misconduct is the result of disobeying the law, whether the notary gives help beyond what the law allows, or fails to do everything the law requires.

Non-attorney notaries public must not give legal advice. Do not tell people which legal procedure to do, how to do it, or what they need to do to get a legal action accomplished. You may think you know what to do, but you open yourself to a lawsuit even if you are right. The Oregon State Bar takes a dim view of unlicensed individuals giving out legal advice. This also applies to notarial certificates. As you'll see, a notary may not suggest or select notarial certificates for people. Rather, he or she performs a particular notarization at the direction of the requesting individual.

Notaries public must not prepare documents. Don't fill out documents or finish drafting them, even as a favor. It takes an attorney to know what is legally appropriate for a document.

Common examples of misconduct include: not requiring personal appearance of the signer; not securing the notary journal and seal; not keeping a journal; and just "stamping and signing" on a document.

## Liability

Because so many documents and judgments based on those documents rely on the validity of the notarization, breaches of notarial law are taken very seriously. There are three kinds of penalties notaries can incur through their misconduct: administrative, criminal, and civil penalties.

**Administrative penalties** are levied by the Secretary of State, and can range from an advice letter to revocation of the commission and a fine. It is important to avoid such penalties because they may have other consequences. For example, many licensing agencies will not issue a license if a notary commission has been revoked or suspended.

**Criminal penalties** are given in cases of fraud, coercion, or other criminal action. In these cases, the notary has intentionally committed misconduct and is prosecuted in the same way as for any crime.

**Civil penalties** are the penalties notaries public are most often afraid of incurring. If a notary, through carelessness or inaction, unintentionally or intentionally damages the complainant, he or she is liable for monetary damages without limit. For example, if an improperly notarized grant deed causes the deal to fall through, and that deal costs the signer thousands of dollars, the notary can be sued so the signer recovers those losses.

## Protecting Yourself

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

### Avoiding Misconduct - Reasonable Care

Although Oregon statutes do not specifically state this, the standard notaries public must adhere to is **Reasonable Care**. Reasonable care is “that degree of care which a person of ordinary prudence would exercise in the same or similar circumstances,” according to *Black’s Law Dictionary*. If a notary acts with reasonable care when performing a notarization, the courts have always held that the notary acted with sufficient diligence and is not subject to damages. **The Notary’s best defense against liability is to take Reasonable Care when notarizing.**

### Obey all Laws and Regulations

The most important thing to remember about Reasonable Care is that you are required to know and understand what the law requires of you. In other words: *Do what the law says you should do and don’t do what it says you shouldn’t.*

### Good Judgment and Common Sense

Many situations the notary public encounters are not precisely spelled out in law. The law gives general guidelines but relies on the notary’s common sense to properly evaluate each situation. For example, notaries may use a driver’s license to identify a signer, but if the ID looks false (a tampered photo, obviously incorrect birth date, sex, or height, etc.), then the notary has a duty to act appropriately. Although many of the instructions in this guide have no direct counterpart in statute, they are good sense practices that will help the notary avoid any appearance of wrongdoing or insufficient care.

### Errors and Omissions Insurance

Errors and omissions insurance covers a notary if he or she is sued over the performance of a notarization. If a notary is sued, the insurance company will handle the litigation, bringing in expertise that the average person is hard-pressed to match. The company will negotiate a settlement if it finds a compelling reason to do so. Of course, it will pay the amount against the defendant up to the limit of the policy. However, there are two overriding factors that reduce the usefulness of this insurance.

First is the payoff ceiling. By its very nature, insurance will only pay assessed damages up to a certain amount. Most policies don’t go over \$50,000. Yet the liability has no limit. Notaries can be and have been sued for millions of dollars. Obviously, a notary cannot rely on insurance as an adequate safety net.

The second limitation is that errors and omission insurance covers only what the insurance company believes is accidental or negligent misconduct. If a court determines that the misconduct was intentional, even if not done with criminal intent, the notary may not be covered.

### Insurance vs. Bonding

Oregon does not require notaries to post a bond. If you have filed a bond and are required to pay damages, the bondsman pays for you out of the bond amount, but you still have to pay the bondsman back. Insurance pays for you and only collects periodic premiums.

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

## Frequently Asked Questions:

*1. May a notary prepare legal documents?*

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

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

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

*3. Am I required to be bonded or have liability(errors and omissions) insurance?*

Oregon does not require its notaries public to be bonded or to have liability insurance. This is left to the discretion of the notary public.

*4. What should I do about issues that are not covered specifically in the law?*

Use reasonable care and caution. If something does not seem right, do not proceed. Use the notarial journal to make notes as to why the notarization was refused for possible future reference.

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

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

# Chapter 4 - Notary Fees

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

## Maximum Amount of Notary Fees Permitted to be Charged

Notaries who charge for their service may charge less than the amounts listed, but must not charge more. A schedule of fees must be prominently displayed or handed to customers prior to notarization; they have the right of refusal if they do not wish to pay.

- **\$10** for taking an **acknowledgment**;
- **\$10** for taking a **verification upon an oath or affirmation**;
- **\$10** for **certifying a copy** of a document;
- **\$10** for **witnessing or attesting a signature**;
- **\$10** for **protesting commercial paper**, except a check drawn on an insolvent financial institution in which case the fee is \$0;
- **\$10** for **administering an oath or affirmation** without a signature;

## Waiver of Fees

A notary public may file with the Secretary of State a statement waiving the right to charge a notary fee. If a waiver is filed the notary shall not charge, attempt to charge or receive any notary fee for a notarial act performed after the date the notary filed the statement of waiver. OAR 160-100-0420.

To begin charging, the notary public must send the Secretary of State Corporation Division a letter rescinding the waiver of fees or they may download the form from our website. If the notary public is unsure if a waiver has been signed, the notary public may contact the Notary Section of the Corporation Division at (503) 986-2200. Not signing a waiver of fees does not require the notary public to charge. It is an option, not a requirement.

Some elected and public officials may not charge for their notarial services. Check with legal counsel if in doubt.

## Travel Fee

When a notary public is asked to travel to perform a notarial act, the notary public may charge a travel fee, separate from the notarial fee. The travel fee amount must be agreed upon prior to meeting with the customer. ORS 194.164(2), OAR160-100-0610(30).

## Notary Fees and Your Employer

Oregon statutes and rules do not address the collection of notary fees by employers, but a written agreement about notary fees is advisable. The statute gives only the notary public the right to charge notary fees, but an employer often includes a notary charge to the customer when notarization takes place. The fees must not be more than established by Oregon Administrative Rule, and the agreement should make it clear that the notary gives the employer the right to collect and retain the appropriate revenue. The notary public, however, should be allowed to keep fees collected when notarizations are not connected to his/her employment. The employer's legal counsel should draw up an appropriate agreement.



## Frequently Asked Questions:

*1. If I submit a waiver of fees, may I sometimes charge for my notarial services?*

If the notary public submits a waiver of fees, the notary has stated that he or she will not charge for **any** notarial services performed. The notary public may rescind the waiver by notifying the Secretary of State, Corporation Division, in writing. OAR 160-100-0420(1)(2).

*2. Am I required to display a list of the notary fees that I may charge?*

If the notary public is going to charge for services, the fees must either be prominently displayed or handed to the customer, prior to the notarization, so that the customer can refuse notarial services if the customer does not wish to pay. OAR 160-100-0410, OAR 160-100-0400.

*3. If two people sign the same document, do I charge \$10 or \$20?*

The fee would be \$20. The fee is per notarial act. Even if the notary public is using one notarial certificate, the notary public in this case is identifying and witnessing two separate executions on the document. OAR 160-100-0400(4).

# Chapter 5 - The Notarial Journal

All notaries public must keep and maintain a notarial journal, even if the notarizations normally performed fall under the exempt status. OAR 160-100-0230. A notary public may be asked to notarize non-exempt documents at any time. The Secretary of State recommends that all acts be recorded in the journal. A notarial journal may not be shared; each notary public must keep and maintain his/her own notarial journal, sharing an “office” journal is not allowed.

The information contained in the front of the notarial journal must be kept current. This includes the notary public’s name, notarial commission number, expiration date, address, and earliest date the notarial journal may be destroyed. As a notarial commission is renewed or a notary public moves from one employer to another, the law requires that this information be updated. OAR 160-100-0200(5).

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

## Importance of the Journal

The notarial journal is a vital component of exercising reasonable care. It is prudent to diligently keep a record of your notarial transactions. If anyone wishes to make inquiries about a notarization, few people can trust their memory to perfectly recall the incident, and fewer still would accept something that wasn’t written down.

The journal reminds a notary to ask for necessary information and provides a reason to get that information if the client is reluctant. It serves as evidence that your side of the story is true. Most of the time the journal can prevent a notary from being named in a law suit. The Secretary of State relies on journal entries when a complaint has been lodged against a notary.

If it is necessary to alter a notarial certificate, the journal can help to verify the point in question. It is also the place of record that the correction was made.

In the final analysis, you need to keep a journal properly because it is the law. Statutes require a notarial journal, and administrative rule states what must be kept in the journal. The notary needs to make sure that their journal and seal are secure at all times.

## Disposition of Records

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

If there is an employer agreement, as provided in Oregon Administrative Rule 160-100-0360, the journal stays with the employer upon termination of the employee. The employer must follow the same rules as the notary would.

Upon revocation of the commission the notarial journal must be sent to the Secretary of State’s office. Upon the death of a notary public the notarial journal must be sent to the Secretary of State’s office unless the notary public entered into a written agreement with his/her employer. The notary public’s official seal and official seal embosser, if any, shall be sent to the Secretary of State’s office.

## Public Record

Because the notary public is an officer of the state and is responsible to the public, the notarial journal falls under the public record disclosure laws if the journal resides with the Secretary of State, or if the notary is a public official or employee. If the Secretary of State deems that it is in the public interest not to disclose such information, then the journal is kept private.

Every other notary is exempt from being required to disclose the journal contents, unless requested by the Secretary of State or under subpoena. Normally, it will be in the notary’s interest to cooperate with an

investigation to avoid being named in a suit. Notaries should not allow “fishing expeditions,” or malicious attempts to view private information, such as addresses or signatures. There is no reason to allow someone just to browse through your journal.

## **Can an Oregon Notary Use ENJOA?**

ENJOA is a commercial product of the National Notary Association that seeks to take the notary journal into the electronic age. ENJOA stands for “Electronic Notary Journal of Official Acts” and basically is a database of notarial act records. A journal entry can be signed using a digitized image of the handwritten signature, an electronically recorded thumbprint and can include a digital photograph.

The Secretary of State’s office has received several inquiries about the acceptability of ENJOA for Oregon notaries. After extensive review, we conclude that an Oregon Notary Public may not use ENJOA. There are several reasons:

### **Journal Requirements**

Oregon Administrative Rule 160-100-0200 details the form and content of the Oregon Notarial Journal. Despite the National Notary Associations’ claims, ENJOA does not meet each requirement.

The Journal must, according to rule, meet the “physical requirements set out” in the rule, which include a binding that prevents insertion/deletion of pages and consecutive numbering on pre-printed pages. The purpose of this rule is to both easily ascertain all the possible entries of the journal, and to detect if there has been any tampering.

Notwithstanding the electronic (as opposed to physical) nature of the product, ENJOA is the functional equivalent of a three-ring binder that may be added to at any time. Most investigations would not discover any tampering, or if there were illegal additions or deletions.

### **Administrative Needs**

The Secretary of State has the statutory duty of investigating notarial complaints, which includes review of journal entries. ENJOA would require us to have compatible software resident on our systems. Our experience has shown us that proprietary software can represent an insurmountable problem when and if that software becomes obsolete, upgraded, or desupported. Version control can become a major burden. Security, especially the problem of virus protection, becomes an issue.

If the records are instead downloaded or printed, there is no assurance in ENJOA that the records delivered to the Secretary of State are the actual and complete records of that transaction.

The problems become more acute when, as in the case of notarial death or revocation of the commission, the Secretary of State must store the journal on behalf of the notary.

### **Privacy and Security Considerations**

ENJOA requires a thumb or fingerprint, in addition to the signature of the signer. Oregon law does not require a thumbprint for any notarization, and there has been a fair amount of resistance to the issue in the past. Many Oregonians do not want to give up their thumbprint to have something notarized. It seems an invasion of privacy to them. No law in any state requires a picture of the document signer, yet ENJOA encourages notaries to take and store them.

Related to that, perhaps, is the understanding that the notary is collecting a potentially large database of signatures, biometric data and photographs that may be subject to abuse. Identity theft, by the notary or someone with access to a notary’s computer, would be a relatively simple affair. Victims would have an enormously difficult time repudiating their thumbprint, and might not have any idea how their identity was stolen.

Picture a notary that works for a bank or other large firm. All it would take would be one or two abuses of the stored information to generate handsome profits. There would be little recourse for the victim.

ENJOA is a fine product, but does not meet the current standards for Oregon notarial journals. When standards for electronic journals are created, then the Secretary of State will re-evaluate ENJOA according to those criteria.

## Notary Journal requirements

Get the details required for the journal according to OAR 160-100-0210:

- Date and time the notarial act was performed;
- Type of notarial act performed;
- Date of the document notarized;
- Type of document notarized. Name the type of document; will, contract, Russian invitation, student transcript, etc.;
- Printed name of the signer;
- Signature of the signer;
- Description of how the notary public identified signer; If identification documents were used to identify the signer, the description shall consist of the name of the organization that issued the document; the type of document and the document's expiration date (e.g. ODL, exp. 8-8-2014). Do not record personal numbers in your journal.
- Any other pertinent information;
- Fees collected, if any;
- Unusual circumstances, such as power of attorney, reason for refusal to notarize; corrections made to notarial certificate; representative authority (example: President of ABC Company); etc.

### Example - Notary Journal Entry

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

## Abbreviated Multiple Entry in Notarial Journal

### Duplicate Original (OAR 160-100-0220)

If a notary public notarizes duplicate originals of a single statement or document for the same person on the same date, the notary public may fill out one journal entry indicating how many originals notarized.

James L. Howe needs to have 25 copies of his Bill of Sale notarized. Instead of filling out 25 different journal entries, the notary may fill out one journal entry, indicating how many copies he/she notarized.

### Example

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
3/2/09 1:30 pm	Ack.	3/1/09	Bill of Sale	James L. Howe <i>James L. Howe</i>	James' address	ODL exp. 12/1/14	25 copies notarized

## Multiple Acts I

If a notary notarizes different statements or documents for the same person on the same date, the notary public may fill out one journal entry, indicating the different notarial acts, document dates, and document types.

Deborah Smith needs to have an Affidavit and a Deed notarized, instead of filling out two different journal entries, the notary can indicate both types of act, document dates and document types in one journal entry.

### Example

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
3/2/09 3:00 pm	Swear	3/1/09	Affidavit	Deborah Smith	Deborah's address	ODL exp. 3/2/14	Two separate documents notarized
	Witness	3/2/09	Deed	<i>Deborah Smith</i>			

## Multiple Acts II

If a notary notarizes different statements or documents for the same person on the same date, the notary public may fill out separate journal entries and where the information is the same, may use ditto marks to indicate the same information that is carried over. The signer does not need to sign separate journal entries. The notary may draw a horizontal line across the signature area and have the signer sign on the line.

Deborah Smith needs to have several different documents notarized. The notary lists all items to be notarized as separate journal entries and has Deborah sign on the horizontal line.

### Example

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
3/4/09 11:15 am	Ack.	3/4/09	Contract	<i>Deborah Smith</i> Deborah Smith	Deborah's address	ODL exp. 10/8/2011	
" "	Aff.	" "	Declaration		" "	" "	
" "	Sign.	" "	Order		" "	" "	
" "	Copy	" "	Corp. Resolution		" "	" "	

## Previous Cite

If a notary public notarizes more than one statement, signature or document for the same person but not on the same date, the notary public may refer to previous journal entries in regards to the signer's address and how the notary identified the signer.

In the example below, the notary has previously notarized for Deborah Smith. The notary has indicated previous journal information for the address and how Deborah was identified.

### Example

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
3/4/09 11:15 am	Ack.	3/4/09	Contract	Deborah Smith <i>Deborah Smith</i>	See page 2 line 3	See page 2 line 3	

## Notarial Acts Not Required to be Recorded in Notarial Journal (OAR 160-100-0230)

A notary public may, but is not required to, record in a notarial journal any information about the following notarial acts performed or documents notarized by the notary public. However, the Secretary of State recommends all notarial acts be recorded in the journal.

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

# Frequently Asked Questions:

## *1. May I make my own journal?*

As long as the regulations set out in the laws and rules are adhered to in creating the notarial journal. OAR 160-100-0200.

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

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

## *3. What if I have multiple entries for my journal?*

Duplicate originals with the same name and date may be recorded as a single entry in the notarial journal. OAR 160-100-0220.

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

There are some exceptions to the notarial journal entries which are stated in the Oregon Administrative Rules. Exemptions are per Administrative Rule, not by a notary public's preference. OAR 160-100-0230.

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

A notary public may not keep more than one journal at a time. If a notary public has questions about this, please call our office at 503-986-2200.

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

Most notaries public are exempt from disclosing the notarial journal contents unless requested by the Secretary of State, Corporation Division, or when required by subpoena. OAR 160-100-0430(2).

If the notarial journal is in the possession of the Secretary of State's office, or if the notary public is a public official or public employee, then the notarial journal falls under the public record disclosure laws. Should the Secretary of State, Corporation Division, deem that it is in the public interest not to disclose such information, the notarial journal would not be made public.

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

## *7. Should I keep copies of every document that I notarize?*

No, a notary should not keep copies of the documents that they notarize. Your journal entry is sufficient evidence for the purpose of recording a notarial act.

## *8. Should I keep copies of identification that I use to identify the signer?*

No, a notary should not keep copies of identification that they use to identify the signer. Your journal entry is sufficient evidence for the purpose of recording how you identified the signer.

## *9. May I use an electronic journal?*

No, an Oregon notary public must use a paper-bound journal. No electronic journals have been approved for use in Oregon. Before you purchase one, please contact the Secretary of State.

## *10. There are several notaries public in my office, can we all just use one journal to record our notarial acts?*

No, each Oregon Notary Public is required to keep and maintain their own notarial journal. ORS 194.152(1).

# Chapter 6 – How to Notarize

Don't allow yourself to be rushed. You'll often have a client impatiently waiting to get through the “red tape” of notarizing a document. It is important to remain calm and make sure you notarize correctly or you may later wish you had been more careful.

Sometimes a client or employer may insist that you do something contrary to notary law. It's important to stand your ground the first time, because chances are it won't happen again once they've seen you mean business. Remind your boss (in a less stressful moment) that it's important to *both* of you that the notarization is properly done. A few extra minutes taken now can save days later.

We suggest the following steps to correctly notarize a document. They help to ensure that you get the information you need before the notarization process is complete and the client has left.

**A valid notarization must have an official notarial seal, an official notarial signature, and a complete notarial certificate.**

## 1. Review the Document

**Check the document for blank spaces.** Blank spaces that can be filled in later have a potential for fraudulent use. If blanks are intended to be left blank, the customer should indicate that in some manner, (e.g., N/A to indicate not applicable).

The non-attorney notary public can point out the blanks to the customer, but may not tell the customer how to fill them in. If the customer chooses not to fill in the blanks, the notary public can, using his or her best judgment:

- Ask the customer to initial next to the blanks to indicate his or her knowledge of the deficiency and the notary notes it in the journal.
- Complete the notarization (noting in the notarial journal that there were blanks in the document and that the customer was aware of the blanks, but chose not to fill them in).
- Refuse to notarize (note in the notarial journal why the notarization was refused).

**Review the document for information required for the journal** (i.e. document date and type), as well as information that may implicate the notary in misconduct, such as being named in the document.

**Check the date on the document.** The date on the document may be different than the date notarized. If the document does not have a date, indicate the date of notarization in your journal where you would indicate the document date. The notarization date is never in the past or future, the notarization date must always be the date that you are notarizing.

**Staple the document together.** If the document to be notarized consists of more than one page, staple the entire document together, making it a whole and complete organic document.

## 2. Identify the Signer

**Require the personal appearance of the signer.** The person signing the document must physically be in your presence for the notarization to be valid.

**Make a careful identification of the signer.** There are three possible ways for a notary to verify the identity of a signer: personal knowledge, credible witness, or ID documents. Only one of these is necessary before performing the notarization. A notary should accept a statutorily valid means of identification, unless there is a question of fraud or forgery. The criteria for valid identification are:

**Personal Knowledge**—In order to claim that a notary personally knows the signer, there should be:

- A long-term relationship. You cannot use personal knowledge as identification for someone the boss introduced you to this morning.
- Sufficient breadth of knowledge. You should know more about the individual than what a nodding acquaintanceship would bring.
- Absolute certainty. You must have no reasonable doubt in your mind that the signer is who he or she claims to be. The test is: Would you be willing to swear to it in court?

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

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

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

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

**Identification Documents**—the following types of identification may be used to positively identify a client, if they are **current**, i.e. not expired.

- A current drivers’ license or current identity card issued by any state.
- A current United States passport or a current officially recognized passport of a foreign country. A United States passport means a U.S. passport and a U.S. passport card issued by the U.S. Department of State.
- A current United States military identification card.
- A current identity card issued by a federally recognized Indian tribe.
- Produces at least one current document issued by the federal government or a state, county, municipal or other local government and containing the person’s photograph, signature and physical description.

If a person is confined in a correctional facility and needs to have documents notarized, identification used to identify the person incarcerated shall be that which is used in the facility to positively identify through examination or comparison of official government documents or records.

The Oregon DMV has made a change in their procedure when issuing renewed and replacement drivers’ licenses and identification cards. The old card will be invalidated with a hole punched in the name and address area and returned to the person, rather than requiring that the card be surrendered and destroyed by the DMV. The old drivers’ license or ID card with a hole punched in it has been made invalid, and therefore cannot be used as identification by itself. For identification purposes when notarizing documents, notaries can continue to use the temporary paper drivers’ license and ID cards issued by the DMV, as long as they are current.

**Identification Document NOT Acceptable for ID**—The following type of identification **may not** be used for identification purposes:

**Matricular Consular ID:**

Several Latin American countries, particularly Mexico, are allowing their consulates to issue matricular consular ID to their citizens in the United States, or issue the matricular consular ID to those who come to the U.S. **Oregon does not recognize** matricular consular ID. We’ve been advised by our Deputy Attorney General that ORS 194.515 (8) and (9) sets out an exclusive list of “Identification Documents” a notary may rely on in verifying the identity of a person. That list does not include matricular consular ID.



### **3. Determine the Signer's Willingness to Sign and Awareness of What Is Being Signed**

The notary, by the act of notarizing, declares that the signer did so freely and willingly. This can be especially important when people who are easily victimized must sign legal documents; i.e., minors, the infirm, and non-English speaking individuals.

The notary must make a judgment that the signer is aware of what they are signing. If the notary is questioning the awareness of the signer, the notary can engage in normal conversation with the individual. After a few minutes, it should be apparent if he or she is incoherent, disoriented, or otherwise incapacitated. When in doubt, the notary can get the opinion of a doctor or an attorney. Make sure the doctor or attorney signs the journal, and then make the appropriate notation in the journal that they attest the signer has sufficient awareness of the notarial act to execute that act.

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

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

Refer to Chapter 5 for the journal requirements.

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

Refer to Chapter 7 for the certificate requirements.

# Frequently Asked Questions:

## *1. May I use a subscribing witness when doing a notarization?*

Not according to notary law. There is a special provision in Real Estate Law which allows for a subscribing witness in a limited number of real estate transactions. Should this come up, the notary public would need to consult with the Real Estate Division.

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

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

Have the minor put his or her age next to the signature so that the receiving party realizes that they are dealing with a minor. Note the age of the minor in the notarial journal.

Minors must be competent when signing. Ask questions of the minor such as “What kind of document are you signing?” “What will the document do?” “Do you want to sign the document?” If the notary public is not comfortable with the answers the minor gives, he or she should refuse to notarize, noting why in the notarial journal, and advise the customer to seek legal advice.

## *3. Must a notary always notarize?*

A notary is not always required to notarize. In fact, when you are in doubt because something appears fraudulent (the ID looks fake), or some other aspect of the notarization appears amiss, you **should not** notarize. However, if it is merely discomfort with the particular type of act, such as certifying to a copy, then you should consult either with a more experienced notary, or call the Notary Public section at (503) 986-2200.

It is your responsibility to maintain your expertise, since you are commissioned for **all** the permitted acts and not a specialty. Finally, you must be careful not to pick and choose whom you will notarize for, or you may be subject to a civil action for discrimination. At this time, notaries may be required by their employer to notarize only for customers of that employer, if that is the employer’s consistent policy and is not discriminating against a protected class.

## *4. May I notarize for someone in a hospital or nursing home?*

Special care must be taken when notarizing for the elderly or those in a medical care setting. Awareness may need to be established by someone in authority (e.g., doctor, nurse, or attorney). Medications can alter the customer’s reasoning abilities. Consult with the signer’s doctor/nurse/attorney and write down their remarks in the notarial journal. Have the authority sign a statement as to the awareness of the customer/patient and keep that statement in the notarial journal.

Prior to notarizing, ask the customer some questions about the document to be sure that they understand what they are signing and seem competent in their responses. Common sense, as well as reasonable care and caution, are the prime indicators on whether to proceed. When in doubt, don’t notarize, noting why in the notarial journal, and advise the customer to seek legal advice.

## *5. Should I notarize a blank or incomplete document?*

Common sense would prevent most notaries from notarizing a signature on a completely blank sheet of paper, knowing that a fraudulent document could be created on the blank sheet.

Even blank spaces that can be filled in later have a potential for fraudulent use. If blanks are intended to be left blank, it is up to the customer to indicate that in some manner (e.g., N/A to indicate not applicable).

## *6. What should I do about issues that are not covered specifically in the law?*

Use reasonable care and caution. If something does not seem right, do not proceed. Use the notarial journal to make notes as to why the notarization was refused for possible future reference. Please do not hesitate to call our office at (503) 986-2200.

## *7. Can a notary public sign in any color of ink?*

Yes. It is preferable that they sign in black or dark blue ink. **The notary stamp, however, must be in black ink.**

## *8. May a signer use a signature stamp on the document they want notarized?*

Yes, if the signature stamp is used by a blind or disabled person. ORS 194.578.

# Chapter 7 - Notarial Certificates

An Oregon notary public is authorized **only** to take an acknowledgment, verify an oath, witness a signature, certify to a copy, and make or note a commercial protest. Notaries should be prepared to notarize any of these acts, except a commercial protest. Commercial protests are highly technical and rare in nature. Because of this only qualified notaries may protest commercial paper.

## Notarizing A Commercial Protest

A notary public may protest commercial paper **only** if the notary public is:

- An officer or employee of a financial institution or investment company, or a person serving under the direct supervision of the officer or employee **or**
- An active member of the Oregon State Bar, or a person serving under the direct supervision of an active member of the Oregon State Bar.

A notary public may not protest any commercial paper owned or held for collection by a financial institution or investment company if the notary is individually a party to the commercial paper.

Notaries who do not meet this requirement **cannot** notarize Commercial Protests. A notary public who violates this law will be **subject to revocation** of their notarial commission. Each notary public who protests any commercial paper shall take the actions required by ORS 73.0505

## Components of a Notarial Certificate

Oregon law states certain minimum requirements for notary certificates. If necessary certificate information is left out of pre-printed certificates, (e.g., no signature line for the swearer to a jurat) the notary must add the appropriate information to make the certificate complete. Please note that just the notary public's signature and seal imprint, without a certificate, constitutes official misconduct. When in doubt, look up the proper format and complete the certificate.

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

**1. Jurisdiction**, which indicates the **state** and **county** where the notarization takes place. Notaries are commissioned for the whole state of Oregon and may notarize in all counties.

**2. Statement of particulars** provides details of the notarization such as:

- **Date** of notarization;
- **Who** personally appeared;
- **What** the signer did;

**3. Notary seal imprint\***.

**4. Notary signature**, which must match the official signature, signed on the notarial application. The notary's signature may be in any color of ink that is easily reproducible; black and dark blue are recommended.

\*An exception is made for subdivision, condominium or partition plats. A notary seal is not required on these documents because the materials they are printed on (mylar) will not hold the seal imprint using the type of ink normally associated with a notarial seal. ORS 194.031 (4)

Instead of affixing a notarial seal to these documents, the following must appear beneath the notary's signature on the document:

- The printed name of the notary public as it is written on the notary's commission certificate,
- The words **NOTARY PUBLIC – OREGON**;
- The words **COMMISSION NO.**, immediately followed by the notary's commission number;
- The words **MY COMMISSION EXPIRES**, immediately followed by the notary's commission expiration date expressed in the terms of the month spelled out, 2 digit date, and complete year, (i.e. January 02, 2014).

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

## Selecting the Certificate

Many times a notary public is confronted with the situation wherein he or she must notarize a document that has no notarial certificate attached. Even worse, some documents may have what clearly seems to be the wrong certificate (e.g., an affidavit is using an individual acknowledgment form). Unfortunately, the client requiring the notarization often doesn't know what the certificate should be.

The natural inclination in such cases is to suggest, or even automatically provide, the certificate that seems to be indicated. However, a November 12, 1993, Attorney General's opinion clearly and emphatically states that a notary public must not give advice or draft a certificate. Not only could the notary be liable if the certificate is incorrect and invalidates the document, but he or she is also probably illegally practicing law. The Attorney General's opinion says:

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

"...The job of the notary public is to assure that a certificate is complete and contains the required information. ORS 194.565. The notary public cannot execute any certificate which contains a statement known to be false. ORS 194.166(13). However, if neither of these two concerns are present, and the notary still believes that the certificate is not the proper one for that type of document, the most the notary public should do is recommend that the person reexamine the document and consult with an attorney. If the person insists that this is the correct certificate, then the notary should complete the notarial act as requested, or decline to provide the notarial service. **The notary public should not take it upon himself or herself to select or substitute a certificate on behalf of the person.** (emphasis added)".

There is still the question of how to help an individual who is unsure about the proper certificate or notarial act. All he or she has been told is "Get it notarized." The Attorney General's opinion addresses that aspect: "...If the certificate is clearly incorrect, then the notary public must refuse to perform the notarial act and request that the party have the document corrected so that the certificate is not false. The notary public should advise that if the person is uncertain as to the correct certificate to include, the person should consult with an attorney.

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

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

"In conclusion, I advise that the Corporation Division should not assist notaries public with the selection of proper certificates, and should further advise notaries public that they should not be recommending or selecting notarial certificates for persons requesting notarial certificates. So long as nothing in the certificate is false, and the necessary information is included, the notary public may complete the certificate. If the notary public has a concern about whether a particular certificate is correct, the notary public should recommend that the person seek legal advice before selecting another certificate."

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

## Steps to Complete the Notarial Certificate:

1. **Don't advise or select the certificate for the client.** If you do, you may be practicing law illegally.
2. **Certificate must fit the notarization.** If the client asks for one certificate, but a different one is on the document, ask the client to contact either the sender or recipient to confirm which one is appropriate.
3. **Read the certificate carefully.**
  - If it says “subscribed and sworn,” make sure you administer an oath and witness the signature.
  - “County” is always the county where you perform the notarization.
  - Watch the name blanks: In a certificate that says, “before me, \_\_\_\_\_, personally appeared \_\_\_\_\_,” the notary’s name goes first, then the signer’s.
  - Fill in all the blanks. If you don’t know what to put in a blank, talk with signer and get the information. If he or she doesn’t have it, then you may need to get in touch with the sender or recipient.
  - Draw a line to fill extra space. For example, if the name of the signer doesn’t fill the whole space left for it, put a line through the remaining portion so that no one can add to the certificate after it leaves your hands.
  - Cross out inappropriate wording (e.g., “he/~~she~~ executed it.”). The idea is that the certificate should read smoothly, with no doubt in the reader’s mind exactly who did what and when.
  - Make sure all the elements of the certificate are there: jurisdiction, signer, date, etc.
4. **Don't “stamp and sign.”** Create the certificate if there is no certificate given, the client has informed you about the type of notarization, and there is room on the document. Otherwise, attach a “loose” certificate.
5. **Identify the signer.** If you are creating the certificate, remember the certificate must identify the signer: “by Jane Doe.”
6. **Affix the notary signature and seal properly.** The ideal place for the notary seal is immediately left or right of the notarial certificate and notary signature. Do not put the seal over the abbreviation “LS.” Even though “LS” stands for place of the seal, placing the seal there could obscure some of the words or obliterate some writing.
  - The imprint of the rubber stamp seal must be legible and **in black ink**. Also, according to Oregon Administrative Rule 160-100-0110(3), “A notary public shall not place an imprint of the notary public’s official seal over any signature in a document to be notarized or in a notarial certificate, nor over any writing in a notarial certificate.” If your seal is smudged so that it is illegible, or is obscured by lines or other graphics on the page, initial the first attempt and re-stamp your seal as close as possible to the certificate.
  - To be recordable, the notary seal, certificate, and the notary’s signature should be close enough to be contained on one microfilm image. That is one reason the certificate cannot be on the front side of the signature page and the seal on the back. Many times, however, the seal cannot be placed adjacent to the certificate and signature, but will fit in the margin. Indicate the seal’s position in the space provided for the seal (e.g., “See notary seal in left margin.”).
  - If there is no space on the signature page, line out the certificate and either attach a loose certificate, or, preferably, type out the certificate on the back of the document. Check with the receiving agency before using the back of a document. Some places won’t accept it at all, and others will charge extra to record the page. Some agencies, such as the Immigration and Naturalization Service, may have trouble with an attached certificate. When in doubt, always check with the receiving agency.

## Protect Loose Certificates

An attached or “loose” certificate is filled out like any other notarial certificate with a few additional details. Because a loose certificate is not an integral part of a document, it is very important to guard against its fraudulent use. The object is to make sure that the certificate may be used with one, and only one, particular document.

- Any notarial wording on the document itself that the certificate is replacing should be crossed out and the words “SEE ATTACHED NOTARIAL CERTIFICATE” should be typed or written on the page.
- Attach the certificate to the left-hand margin using staples or other fasteners that will make holes if detached.
- The certificate should be above the signature page, directly over the signature, so that a recorder can easily film the certificate in sequence with the signature that goes with it.
- On the certificate itself, the document’s date, type, and signer should be noted. It is also a good idea to show the number of pages (e.g., “Attached to declaration, signed by John Hancock on July 4, 1776, two pages.”).
- Write in the notarial journal, “used loose certificate” or “attached certificate.”
- An embosser is especially useful to guard against fraudulent certificate use and is used only in addition to the seal imprint. Affix the impression so that it rests half on the certificate and half on the signer’s page. Make sure a whole impression is also on the certificate so that an auditor can compare the divided impression to the whole. You can use the notary seal in the same manner, but make sure that the seal does not obscure anything on either paper.
- Attach the certificate yourself, don’t allow someone else to do it. Sometimes a client will call later and ask for a “corrected certificate.” If there is a mistake, the document, and often the signer, will have to reappear before you. An unattached certificate is like a blank check; you are liable.

## Making Corrections

Mistakes do happen. A California certificate may be presented for use in an Oregon notarization. The notary may accidentally put yesterday’s date on the certificate. The signer’s name may be misspelled on the certificate. All of these things can be corrected. Any corrections must be noted in your journal.

## Correcting During the Notarization

- Don’t use white-out.
- Line through incorrect information in ink, print the correct information immediately above and initial and date nearby.
- Reapply seal if it has been smeared.

## Correcting After the Notarization

- Never allow anyone else to change your certificate. It is your responsibility to correct errors and omissions on the certificates you complete.
- Never send a completed certificate for someone else to attach. The document should be returned and you must attach the corrected certificate.
- Make corrections by either filling in missing information (such as a seal) or line through incorrect information in ink. Print the correct information immediately above and initial and date nearby.
- Don’t make a correction unless you can confirm it from a journal entry or the signer can verify.
- Record any changes in the journal.

## Frequently Asked Questions:

1. *May I correct a mistake I made in a notary certificate several days after it was executed?*

Corrections can be made. Only the notary public may make corrections that are needed, and the corrections must be made on the original certificate.

2. *A notarial certificate that was pre-printed on a document did not have a jurisdiction or a signature line for the notary. What should I have done?*

To have a valid notarization, certain elements must be present: jurisdiction—state and county, statement—who appeared, on what day and what they did (acknowledge, sign and swear, etc.), the notary public’s signature and official notary seal imprint.

When a certificate is not complete, the notary public can add the necessary information. In the case mentioned, the notary public should type or hand write at the beginning of the notarial certificate the jurisdiction where the notarization was taking place, and then create a signature line near where the official notary seal imprint was placed.

A note should be made in the notarial journal entry that a correction was done to the notarial certificate at the time of notarization.

3. *May I choose a notarial certificate to go on a document?*

An Attorney General’s opinion states:

“The notary public should not take it upon himself or herself to select or substitute a certificate on behalf of the person. In addition to the risk that the notary public may be found to be unlawfully practicing law, there is also some possibility that the notary public may become involved in litigation if the document is later found not to accomplish what was intended by the parties, and the problem is with a certificate that the notary public selected.”

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

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

# Chapter 8 - Sample Notarial Certificates

On pages 52 and 53 are sample certificates from ORS 194.575 for your use. You may copy them and use them as attachment certificates, if necessary. However, you should be aware that these are not the only or even the ideal certificates for a given notarial act. Oregon law declares that these are the minimum certificates sufficient to fulfill notary law requirements. Other certificates on the following pages are also commonly encountered and may be of use.

- **Acknowledgment in an Individual Capacity** is a statement by a person that he or she has executed an instrument for the purposes stated therein. ORS 194.505(2). The signer must personally appear, acknowledge that he or she willingly and knowingly signed the document, and the notary must identify him or her as the one who did indeed sign. The signature may be made before, but not after, the notarization. **Example on page 33.**
- **Acknowledgment in a Representative Capacity** is similar to the individual acknowledgment, but "...the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified therein." ORS 194.505(2). There are many types of representatives, including: officers or agents signing on behalf of a corporation or other business entity; partners or trustees; guardians or personal representatives; and attorneys-in-fact. Although the Oregon Short Form Certificate does not appear to require it, it is usually best to see some confirmation of the person's representative capacity, such as the power of attorney, company annual report (stating officers), official minutes, partnership agreement, etc. **Example on page 35.**
- **Verification Upon Oath or Affirmation** is a statement by a person who swears upon oath or affirmation that the statement is true. This is also known as a jurat, and may be part of an affidavit. The notary must require that the signer personally appear, verbally or affirmatively swear to the oath, and sign before the notary. An oath is a solemn pledge of truthfulness to a Supreme Being; an affirmation is a solemn personal pledge of honor that something is true. Both carry the penalty of perjury if forsworn. **Example on page 37.**
- **Witnessing or Attesting a Signature** is where the notary determines that the signature is that of the person appearing before the officer and the one named in the document. Note that this certificate differs from an acknowledgment in that there is no statement of execution of a document, merely the signing of a name. Also, that the signature must be signed in the presence of the notary, whereas an acknowledgment does not have to be. **Example on page 39.**
- **Certifying to a Copy of a Document** is where the notary determines that the copy is "a full, true and accurate transcription or reproduction of that which is copied." ORS 194.515(4). It is important to note that the notary is responsible for the faithful reproduction of the original. Therefore, the notary is the one that should make the copy, usually a photocopy. Notaries should not copy public records; certified copies are available from the agencies in charge of those records. It is illegal, for example, to certify to copies of Oregon birth or death certificates. **Example on page 41.**



# Acknowledgment Certificate

## Acknowledgment in an Individual Capacity

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

There are many forms of acknowledgments, but they all say basically the same thing, “I did, of my own free will, sign this document.” By witnessing to that statement, the notary shows that the signer:

- Personally **appeared** before the notary.
- Was positively **identified** by the notary.
- Freely and willingly **acknowledged** his or her signature.

An acknowledgment does not have to be signed in notary’s presence unless the language on the certificate requires that (“subscribed/signed before me”). If the certificate indicates the notary witnesses the signing, then the document must be re-signed before the notary, even if it had been previously signed. It is permissible to notarize a document that was signed several years ago. The document may be an original or a photocopy. It is not permissible for the document to be signed **after** the notarization.

There are two primary types of acknowledgment—Acknowledgment in an Individual Capacity and Acknowledgment in a Representative Capacity.

An **Acknowledgment in an Individual Capacity** is a statement by a person that he or she has executed an instrument for the purposes stated therein. ORS 194.505(2). The signer must personally appear, acknowledge that he or she willingly and knowingly signed the document, and the notary must identify him or her as the one who did indeed sign. The signature may be made before, but not after, the notarization.

A notary shall not charge more than **\$10.00** for taking an acknowledgment.

## SAMPLE CERTIFICATE

### Acknowledgment in an Individual Capacity

State of OREGON

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

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

by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

# EXAMPLE

## ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY

### Case

Jacob Ray Stinger came into the Multnomah City Branch of Oregon Bank on May 23, 2009 at 1:00 p.m., to have his signature notarized on a power-of-attorney dated April 15, 2009. This power of attorney will allow his brother, Corey Allen, to sell some jointly held property in Arizona. The document is dated April 15, 2009, and has Jacob's signature at the bottom and a blank signature line with the name Corey Allen typed underneath. How should the notary proceed?

## NOTARY JOURNAL ENTRY

Write in the journal that there was a blank where another signature was to be filled in at a later date.

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
5/23/09 1:00 p.m.	Ack.	4/15/09	POA	Jacob Ray Stinger <i>Jacob Ray Stinger</i>	Jacob's address	ODL exp. 1/3/14	Blank signature to be filled in later

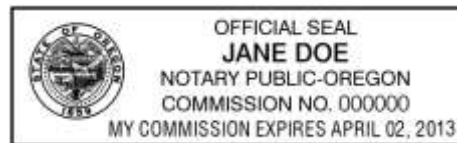
## CERTIFICATE

State of OREGON  
County of Multnomah

This instrument was acknowledged before me on May 23, 2009  
by Jacob Ray Stinger.

*Jane Doe* (signature)

Notary Public – State of Oregon



# Acknowledgment Certificate

## Acknowledgment in a Representative Capacity

Corporations and other business entities are viewed as legal or corporate persons with the same rights as “natural” individuals, but they cannot sign on their own; they need a representative; an officer, director, partner, or attorney-in-fact, etc. Acknowledgment in a Representative Capacity is similar to the individual acknowledgment, but “...the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified therein.” ORS 194.505(2). Normally, this means signing on behalf of a business.

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

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

- **Personal knowledge.** If the notary has a long-time acquaintance with the individual and would be willing to swear in court that the person is an officer of the company, then he or she can rely on that knowledge for the notarization.
- **Documentary evidence** such as a partnership agreement, corporate annual report, trust agreement, or verification from the Corporation Division, may be used as proof of representative capacity. Business cards and stationery are not sufficient evidence, and should not be relied upon.
- **Oath of a third party**, personally known to the notary, and impartial to the transaction, can sometimes be used as proof. It should be a last resort, because the opportunity for fraud is even greater when relying on someone else’s veracity and knowledge.

Combination certificates may be required where corporate entities are representatives for other entities. For example, a combination certificate might state a person is representing a corporation and is signing the document on its behalf, where the corporation is signing on behalf of a limited partnership in which it is a partner. Combination certificates can be very confusing and should be drafted by an attorney. If you don’t understand what the certificate wants you to do, don’t notarize. You can always call the office that produced the certificate, or talk to other experienced notaries, if you are unsure what is required of you.

Make sure that you note in the journal the evidence you used, any complexities in the notarization, and how the certificate was explained, if necessary.

A notary shall not charge more than **\$10.00** for taking an acknowledgment.

## SAMPLE CERTIFICATE Acknowledgment in a Representative Capacity

State of OREGON

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

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

as \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

# EXAMPLE

## ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY

### Case

Lucy B. Meeks, President and General Manager of Oregon Outfitter's Corporation (Medford, Oregon), has a contract with Outdoor Gear Corporation of Anchorage, Alaska. This document needs to be signed by Ms. Meeks as President of Oregon Outfitter's Corporation and notarized. The contract does not have a date on it; however, next to the signature line is a space that states "date" underneath. The document states that the contract takes effect at midnight on September 30, 2009. On July 12, 2009, at 3:00 p.m., Ms. Meeks has come to ABC Insurance Agency next door to her office in hope that Jane Doe, the insurance agent/notary public can help her. How should the notary proceed?

## NOTARY JOURNAL ENTRY

Jane asked to see documentation that Lucy is in fact President of Oregon Outfitter's Corporation, and indicated it in the journal. One option to confirm appointment, if there is no documentation, is to call the Corporation Division, Business Registry Section at (503) 986-2200 or go online at [filinginoregon.com](http://filinginoregon.com). Please note that the Corporation Division only records president, secretary and registered agent information. The date the contract takes effect is noted as the document date in the journal. The date by the signature indicates the date signed (7/12/09).

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
7/12/09 3:00 p.m.	Rep. Ack.	9/30/09	Contract	Lucy B. Meeks <i>Lucy B. Meeks</i>	Oregon Outfitter's address	ODL Exp. 1/2/14	Proof of position, annual report

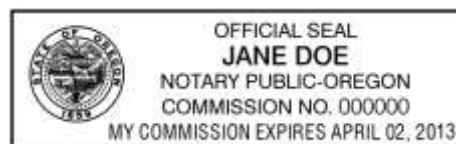
## CERTIFICATE

State of OREGON  
County of Jackson

This instrument was acknowledged before me on July 12, 2009 by Lucy B. Meeks  
as President of Oregon Outfitter's Corporation.

*Jane Doe (signature)*

Notary Public – State of Oregon



# Verification Upon Oath or Affirmation Certificate

The purpose of this type of notarization, sometimes known as a jurat, is to compel truthfulness in the signer. A jurat is a statement by a person who swears upon oath or affirmation that the statement is true. The notary must require that the signer personally appear, verbally swear the oath or affirm to the truth, and sign before the notary. An oath is a solemn pledge to a Supreme Being of truthfulness; an affirmation is a solemn personal pledge of honor that something is true. Both carry the penalty of perjury if forsworn.

By notarizing this type of certificate, the notary shows that the signer:

- Personally **appeared** before the notary.
- Was positively **identified** by the notary.
- Took an **oath** before the notary.
- Freely and willingly **signed** before the notary.

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

- An oath cannot be done on behalf of someone else, including a corporation.
- Oaths cannot be given over the telephone. The oath-taker must be in the physical presence of the notary.
- A person who objects to taking an oath may instead make an affirmation, the legal equivalent that does not refer to a Supreme Being. By taking an oath or affirmation in an official proceeding, a person may be subject to criminal penalties for perjury, should he or she fail to be truthful.

## Sample Oath/Affirmation

Unless otherwise indicated, an Oregon notary public may use the following or similar words in administering an oath:

- “Do you solemnly swear (or affirm) that the statements in this document are true (so help you God?)”
- “Do you solemnly swear (or affirm) that the information you are about to give (or have given) is the truth, the whole truth, and nothing but the truth (so help you God?)”

The oath-taker shows compliance with the oath either by repeating the words, using “I” instead of “you,” or by saying, “I do,” or, “I will.”

A notary shall not charge more than **\$10.00** for taking a verification upon oath or affirmation, or no more than **\$10.00** for an oath or affirmation without a signature.

## SAMPLE CERTIFICATE Verification upon Oath or Affirmation

State of OREGON

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

Signed and sworn to (or affirmed) before me on \_\_\_\_\_, 20\_\_ by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

# EXAMPLE

## VERIFICATION UPON OATH OR AFFIRMATION

### Case

On January 29, 2005, Ronda L. Wilson's house caught on fire when her fireplace screen was left open. Among the items destroyed were Ronda's stock certificates from General Investments Incorporated. The company requires an affidavit to be filled out concerning the loss of the certificates. The affidavit must be notarized. On April 15, 2009, at 10:00 a.m., after signing the document (provided by General Investments), Ronda went to the Marion County Clerk's office to have the document notarized. Jane Doe, the staff notary, was on duty that morning. How should the notary proceed?

## NOTARY JOURNAL ENTRY

Ronda will have to re-sign the document in front of Jane Doe and Jane should note this in her journal. Affidavits must be signed in front of the notary and the notary must have the individual make an oath or affirmation; Ronda chose an oath. A journal entry is not required by statute, but is strongly advised.

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
4/15/09 10:00 a.m.	Jurat	4/15/09	Affidavit	Ronda L. Wilson <i>Ronda L. Wilson</i>	Ronda's address	ODL exp. 1/5/14	Re-signed before me

## CERTIFICATE

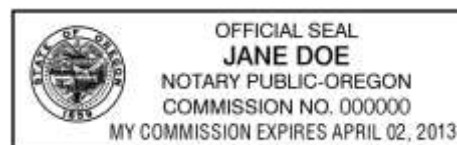
State of OREGON

County of Marion

Signed and sworn to (~~or affirmed~~) before me on April 15, 2009 by Ronda L. Wilson.

*Jane Doe (signature)*

Notary Public – State of Oregon



# Witnessing or Attesting a Signature Certificate

Witnessing or attesting a signature is like an acknowledgment, except that the signer **must** sign before the notary. Also, take note that the signer must re-sign the document in the notary public's presence if the document has already been signed. A notation in the notarial journal should be made indicating that the signer re-signed the document in front of the notary.

By notarizing this type of certificate, the notary shows that the signer:

- Personally **appeared** before the notary.
- Was positively **identified** by the notary.
- **Signed** before the notary.

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

There are documents that may require more than one signature to be notarized. If all the signers are present at the time of the notarization, only one certificate listing all the signers may be used. If the signers are appearing before the notary public at different times, a separate certificate is required for each notarial act. ORS 194.565 (1)

A notary shall not charge more than **\$10.00** for witnessing a signature.

## SAMPLE CERTIFICATE

### Witnessing or Attesting a Signature

State of OREGON

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

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

\_\_\_\_\_  
Notary Public – State of Oregon

# EXAMPLE

## WITNESSING OR ATTESTING A SIGNATURE

### Case

Jesse Cota has family members in Barcelona, Spain. He wants to invite his cousin David Sherman to come to the United States for a visit. The form he received from the Spanish Consulate requires that his signature be notarized. On Aug. 17, 2009, at 9:00 a.m., Jesse takes the form with him to work where a co-worker, Jane Doe (a notary public), agrees to do the notarization. How should the notary proceed?

## NOTARY JOURNAL ENTRY

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

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
8/17/09 9:00 a.m.	Witness Signature	8/17/09	Consulate form	Jesse Cota <i>Jesse Cota</i>	Jesse's address	ODL exp. 9/17/14	

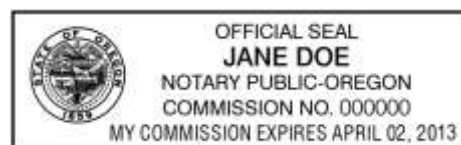
## CERTIFICATE

State of OREGON  
County of Umatilla

Signed or attested before me on August 17, 2009 by Jesse Cota.

*Jane Doe* (signature)

Notary Public – State of Oregon





# Copy Certification Certificate

A notary public may also certify or attest to a copy of a document. For this type of notarization, the notary officer must determine that the copy being certified is “a full, true, and accurate transcription or reproduction of that which was copied.” ORS 194.515(4).

In this case, the signer is not stating anything about the document, the notary is. It is vital that the notary make the copy or carefully oversee its making. In addition, the transcription or reproduction must be full (including the margins!), true, and accurate. For this reason, it is best to photocopy the document. A certified copy does not have to be made from an original if the certificate does not specify “original document.” It may be a copy of a copy. If a notary knowingly makes a copy of a photocopy, the certificate wording “a copy of a photocopy” may be used. Personal appearance is required by the person requesting the certified copy.

**A photograph cannot be notarized.** No photograph is a full, true, and accurate reproduction, and it does not have the elements of a document: a personal statement by the constituent and the constituent’s signature. The notary public may notarize a statement about the photograph. After the notarial certificate is completed, one may use the official notary seal a second time so that it overlaps the photograph and the paper it is attached to (be careful not to cover the face on the photo). This is a protection device which allows the receiving agency to know that the photograph is the one attached to the document at the time of notarization.

Notaries should not copy public records that are certified by a custodian of records, such as a county clerk. Certified copies are available from the agencies in charge of those records. If an individual wishes you to certify a copy of his or her articles of incorporation, for example, refer him or her to the Corporation Division, which has them on record. It is illegal to make copies, or to certify to copies, of Oregon birth or death certificates and marriage or divorce decrees. According to Oregon Revised Statutes Chapter 432.121 and Oregon Administrative Rule 333-011-101, only the Oregon Center for Health Statistics may make copies of those records. To obtain certified copies of records from the Oregon Center for Health Statistics call (971) 673-1190.

However, some records may be copied such as the Oregon Driver’s License, U.S. Passports and most professional licenses, because copies of these documents cannot be obtained otherwise. Check to see if the document has a “Do Not Copy” warning on it, or call the agency in question.

A notary shall not charge more than **\$10.00** for a copy certification.

## SAMPLE CERTIFICATE Certifying to a Copy of a Document

State of OREGON

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

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

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

\_\_\_\_\_  
Notary Public – State of Oregon

# EXAMPLE

## CERTIFYING TO A COPY OF A DOCUMENT

### Case

Chase Houston, an autograph collector, has an original handwritten song, dated January 24, 1965, and signed by the artist, that he wants to sell. Rather than sending the original, the Verification Unit at Music U.S.A. has asked him to send a certified copy for them to examine. On December 2, 2009, at 8:30 a.m., Chase takes the song into the Salem branch of his Credit Union, where he has an account, and asks for a notary. Customer Service Representative Jane Doe comes to help. How should the notary proceed?

## NOTARY JOURNAL ENTRY

Jane takes a photocopy of the handwritten song. A journal entry is not required by statute but is strongly advised.

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
12/2/09 8:30 a.m.	Copy Cert.	1/24/65	Song	Chase Houston <i>Chase Houston</i>	Chase's address	ODL exp. 2/4/14	

## CERTIFICATE

State of OREGON

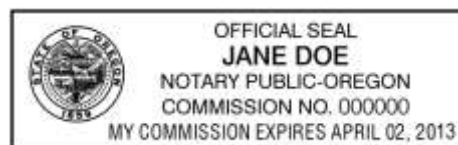
County of Marion

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

Dated: December 2, 20 09.

*Jane Doe* (Signature)

Notary Public – State of Oregon



# Attorney-In-Fact Acknowledgment Certificate

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

A general acknowledgment notarial certificate is usually used for a power of attorney document, i.e. someone giving someone else the power to sign documents for him/her.

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

Check for proof (the power of attorney) that the signer has this power, especially in real estate matters where it should be of record. Note the proof in the journal.

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

The signer must sign the document for the principal and for self. For example, "Effie M. Stone by Susan Brown, as attorney-in-fact." The notarial certificate must state that Susan Brown is signing on behalf of Effie M. Stone. The signer should sign both names in the notarial journal.

A notary shall not charge more than **\$10.00** for an attorney-in-fact acknowledgment.

## SAMPLE CERTIFICATE Acknowledgment Through Power of Attorney

State of OREGON

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

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

\_\_\_\_\_  
Notary Public – State of Oregon

# EXAMPLE

## ATTORNEY-IN-FACT ACKNOWLEDGMENT CERTIFICATE

### Case

Susan Brown currently has power of attorney for Effie M. Stone, her mother-in-law. Effie is currently out of the country but needs to sell her 2004 Honda Accord. Susan has a buyer but needs to get the bill of sale notarized. Susan goes to her Credit Union asking for a notary. Jane Doe comes to help. How should the notary proceed?

### NOTARY JOURNAL ENTRY

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

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
2/28/09 2:30 p.m.	Rep. Ack.	2/28/09	Bill of Sale 2004 Honda	Effie M. Stone <i>Effie M. Stone</i> Susan Brown <i>Susan Brown</i>	Susan's address	Susan Brown ODL exp. 6/10/14	Verified power of attorney

### CERTIFICATE

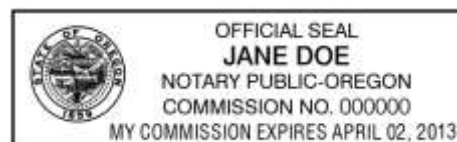
State of OREGON

County of Clackamas

On this 28th day of February, 2009, before me personally appeared Susan Brown, (proved to me on the basis of satisfactory evidence)(~~personally known to me~~) to be the person whose name is subscribed to the within instrument (Type of Document: Bill of Sale-2004 Honda Accord) as the attorney in fact of: Effie M. Stone, and acknowledged that (~~he~~)(she) subscribed the name of Effie M. Stone thereto as principal, and (~~his~~)(her) own name as attorney in fact.

*Jane Doe* (signature)

Notary Public – State of Oregon



# Notarizing a Signature by Mark

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

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

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

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

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

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

The notary must have the witnesses swear a jurat that they witnessed the signature and should have a witness affidavit that they can sign. The witness affidavit is attached to the document.

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

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

A notary shall not charge more than **\$10.00** for a Signature by Mark Certificate.

## SAMPLE CERTIFICATE SIGNATURE BY MARK

State of OREGON

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, (proved to me on the basis of satisfactory evidence)(personally known to me) to be the person who made and acknowledged (his)(her) mark on the within instrument (Type of Document: \_\_\_\_\_) in my presence and in the presence of \_\_\_\_\_ and \_\_\_\_\_ who have signed the within instrument as witnesses, one of whom, \_\_\_\_\_, also wrote the name of the signer by mark near the mark.

\_\_\_\_\_  
Notary Public – State of Oregon

## Witness Affidavit for Signature by Mark

The witness affidavit should be attached to the document.

### SAMPLE CERTIFICATE WITNESS AFFIDAVIT for Signature by Mark

State of OREGON

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

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

Signature

Date

Signature

Date

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

\_\_\_\_\_  
Notary Public – State of Oregon

# EXAMPLE

## NOTARIZING SIGNATURE BY MARK

Grace E. May needs to have her Family Trust notarized but is unable to fully sign her name due to having cerebral palsy. There are two witnesses available to witness her mark, Debra J. Warren and Mary D. Kemble. Grace instructs the notary, Jane Doe, that she would like her to notarize her mark. Jane and the two witnesses watch Grace make her mark on the document. Debra then writes out Grace's name next to her mark on the signature line. Both Debra and Mary sign the documents as witnesses. How should the notary proceed?

## NOTARY JOURNAL ENTRY

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

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
5/9/09 4:00 p.m.	Sig. by mark	5/9/09	Family Trust	Grace E. May "X"	Grace's address	Grace E. May ODL exp. 11/1/14	Witnessed by Debra J. Warren & Mary D. Kemble

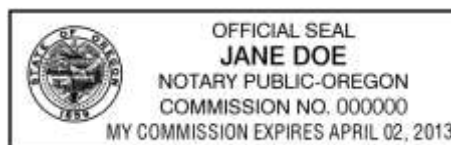
## CERTIFICATE

State of OREGON  
County of Marion

On this 9th day of May, 2009, before me personally appeared Grace E. May, (proved to me on the basis of satisfactory evidence)(~~personally known to me~~) to be the person who made and acknowledged (~~his~~)(her) mark on the within instrument (Type of Document: Family Trust) in my presence and in the presence of Debra J. Warren and Mary D. Kemble who have signed the within instrument as witnesses, one of whom, Debra J. Warren, also wrote the name of the signer by mark near the mark.

*Jane Doe* (signature)

Notary Public – State of Oregon



# EXAMPLE

## WITNESS AFFIDAVIT FOR SIGNATURE BY MARK

Jane completes a Witness Affidavit which is attached to the notarized document. Both Debra and Mary affirmed to Jane that they witnessed Grace make her mark on the Family Trust.

## NOTARY JOURNAL ENTRY

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

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
5/9/09 4:00 p.m.	Affirmation	5/9/09	Witness Affidavit	Debra J. Warren <i>Debra J. Warren</i>	Debra's address	Debra J. Warren ODL exp. 5/12/14	Witness for Grace E. May
" "	" "	" "	" "	Mary D. Kemble <i>Mary D. Kemble</i>	Mary's address	Mary D. Kemble ODL Exp.9/28/14	" "

## CERTIFICATE

State of OREGON  
County of Marion

Debra J. Warren and Mary D. Kemble,

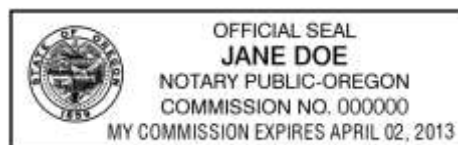
after first (~~being by me duly sworn~~)(affirming to me), declare that : We saw Grace E. May, the person who executed the foregoing instrument (Type of Document: Family Trust), subscribe the same for the purposes and considerations therein expressed, and that we signed the same as witnesses at the request of the person who executed the same.

Debra J. Warren      5/9/09  
Signature                                  Date

Mary D. Kemble      5/9/09  
Signature                                  Date

Subscribed and (~~sworn~~)(affirmed)before me by Debra J. Warren and Mary D. Kemble this 9th day of May, 2009.

Jane Doe (signature)  
Notary Public – State of Oregon





# Notarizing for the Blind, Visually Impaired or Disabled

A notary public may notarize for the visually impaired. Oregon law permits a person who is blind, has a visual impairment or a disability which renders the inability to sign a document, to use a “signature by stamp”. “...A person who is blind, a person with a visual impairment or a person with a disability who is unable to sign any document because of the disability may use a signature stamp whenever the signature of the person is required on any document presented for notarization.” ORS 194.578 (2)(a)

When performing any notarial act involving a “signature by stamp”, the notary public shall witness the use of the signature stamp and accept the stamp in lieu of the signature of the person.

The notarial certificate shall contain the phrase “signed by stamp before me” or words to that effect.

Make sure that you note in the journal that a “signature by stamp” was used.

By witnessing this act, the notary shows that the signer:

- Personally **appeared** before the notary.
- Was positively **identified** by the notary.
- Freely and willingly **signed by stamp** before the notary.

A notary shall not charge more than **\$10.00** for a Signature by Stamp Certificate.

## SAMPLE CERTIFICATE

### Notarization Using Signature by Stamp

State of OREGON

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

Signed by stamp before me on \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

# EXAMPLE

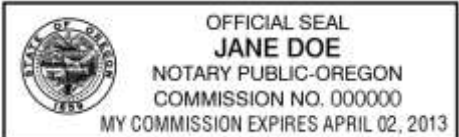
Jay Johnston, a visually impaired person, wants to attend college in Atlanta, GA in the fall. He needs to send his College Entrance Exam to the Dean of Admissions' Office in Atlanta. The form he received from the Deans office requires that his signature be notarized. On April 20, 2009 at 1:00 p.m., Jay takes the form with him to the admissions office where he currently attends college, so the college secretary, Jane Doe (a notary) can perform the notarization. How should the notary proceed?

## NOTARY JOURNAL ENTRY

Jane watches while Jay uses his signature stamp to affix an impression on the form and records in her journal that she witnessed his stamp.

Date/Time of Act	Type of Act	Document Date	Document Type	Name & Signature	Address	ID	Additional Info
4/20/09 1:00 p.m.	Witness Stamp	4/20/09	College Entrance Exam	Jay Johnston <i>Jay Johnston</i>	Jay's address	Oregon ID Card exp. 6/1/14	Signed By Stamp

## CERTIFICATE

State of OREGON County of <u>Jackson</u>
Signed by stamp before me on <u>April 20</u> , 2009 by <u>Jay Johnston</u> .
<i>Jane Doe</i> (Signature) Notary Public – State of Oregon


## Frequently Asked Questions:

1. *May a notary public notarize a will?*

YES, but only with extreme care and caution. In Oregon, wills are not required to be notarized, merely witnessed. However, the witnesses often are required to sign a “self-proving affidavit” that is notarized. So, the notary generally doesn’t witness the will signer’s signature, but the witnesses’ signatures on their affidavits.

It is advisable to notarize wills only under the direction of an attorney. Wills are perhaps the most contested documents notaries public become involved with, and even when they are done correctly, a notarization may be called into question. When an estate goes into probate, a will can be invalidated if the notarization is incorrect, and the notary public could be held liable for damages by the benefactors.

## Chapter 9 - Secretary of State Certificates

One of the Notary Public section's main task is to certify to the status of a notary using either a certificate or an apostille. These papers are attached to documents that require some official acknowledgment that the notarization was performed by a notary, commissioned in Oregon, in good standing. Foreign jurisdictions often require them before they will accept the notarized document. The Secretary of State's office is the only one who issues these certificates because we hold the notary records.

### Authentication Certificates

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

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

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

- Notaries public.
- State Registrar of Health Statistics, such as birth, death, and marriage certificates.
- Corporation Division signers.
- County documents, with certain limitations.

Authentication Certificates are prepared at the Secretary of State Corporation Division, Public Service Building, Notary Public Section, 255 Capitol St. NE #151, Salem, OR, 97310-1327, (503) 986-2200. For additional information on authentication certificates please go to:

<http://www.filinginoregon.com/notary/index.htm>

### Certificate of Good Standing

The Certificate of Good Standing proves that the notarial commission of a notary public exists on the Secretary of State, Corporation Division records. No document is involved and this certificate cannot be attached to a document.

### Notary Public Notarial Commission Certificate

This certificate is issued to a notary public to show the term of appointment and the name the notarial commission was issued under. ORS 194.010(2). It is for the notary public's record and is suitable for framing.

### Certificate of Authorization To Obtain Official Seal

This certificate provides the specifications for making the official notary seal/embosser. Information includes the commission name, notarial commission number and expiration date of the notary public, and place for vendor (maker) of the official notary seal to sign off on the date of release to the notary public. ORS 194.010(2). This certificate needs to be returned to the Secretary of State's office with a clear and legible impression of the notary seal.

## Chapter 10 - Foreign Language Documents

Increasing international commerce has made foreign language document notarizations more common. A notary public who fluently reads and writes a language may notarize the signature on a document written in that language. The notarization takes place in the same way as any other, but the notary should note the foreign language factor in the notarial journal.

A document written in a language the notary cannot read can cause the following problems:

- The notary may be unable to get accurate data for journal.
- The notary may be unable to complete the notarial certificate correctly because he or she can't follow the document's instructions, or does not recognize blank spaces.
- The notary may be unable to detect blatant frauds.
- If the document is written in a non-Roman alphabet, such as Arabic, Chinese, or Japanese, the notary may be unable to determine that the signer is signing the same name as the party named in the document, or if the notary is named in the document.

**It is for these reasons** that the Secretary of State recommends that a notary public should not notarize a document written in a language they cannot read nor use a notarial certificate written in a language that they cannot read. When in doubt, a notary can always refuse to notarize and refer the customer to a bilingual notary. The Secretary of State has a list of notaries that can notarize in various languages. Log onto: <http://www.filinginoregon.com/Oregon/Notaries.htm> for more information. We encourage you to add your name to this list if you can read and write another language. Other bilingual notaries can be found at consulates and embassies, in an ethnic community, at universities and community colleges, and sometimes in the Yellow Pages. Translators are often notaries.

As an alternative, a notary can notarize signed, English translations, but these may not be acceptable to the receiving agency. It is best to confirm that option first. If a non-Roman alphabet is used, some recorders require translation. The usual procedure is to notarize the oath of the translator of the document to the accuracy and completeness of the translation. The translation is attached to the original, together with the translator's oath, and the notary notarizes both the translation signed by the signer in the original document and the signed original document itself.

### Foreign Language Certificates

A notary public may use a certificate written in a foreign language, if he or she can read and write the language on the certificate (keeping in mind that the words *Notary Public* must be in English), and the certificate meets the minimum requirements of Oregon statute. ORS 194.565, ORS 194.575. Otherwise, the notary could offer to type or attach an English language certificate chosen by the customer. Some countries may object to an attached English certificate and refuse to accept the document because of it, so it is always best for the customer to check first.

## Acknowledgment in an Individual Capacity

State of OREGON  
County of \_\_\_\_\_

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

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

## Acknowledgment in a Representative Capacity

State of OREGON  
County of \_\_\_\_\_

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

as \_\_\_\_\_ of \_\_\_\_\_.

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

## Verification upon Oath or Affirmation

State of OREGON  
County of \_\_\_\_\_

Signed and sworn to (or affirmed) before me on \_\_\_\_\_, 20\_\_\_\_ by\_\_\_\_\_.

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

## Witnessing or Attesting a Signature

State of OREGON  
County of \_\_\_\_\_

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

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

## Certifying to a Copy of a Document

State of OREGON  
County of \_\_\_\_\_

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

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

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

## Acknowledgment Through Power of Attorney

State of OREGON  
County of \_\_\_\_\_

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

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

# Glossary of Notarial Terms

**Acknowledge:** To admit the existence or truth of a statement and accept responsibility.

**Acknowledgment:** A formal declaration made to authoritative witness by the person who executed the document that it was freely executed.

**Administer:** To give or apply in a formal way.

**Affiant:** One who makes a swearing statement in an affidavit.

**Affidavit:** A written declaration made under oath before a notary public or other authorized officer.

**Affirmation:** To declare positively or firmly; maintain to be true. An affirmation replaces “swearing before God.”

**Affix:** To secure (an object) to another; to attach; add to.

**Apostille:** Authentication document for Hague Convention members.

**Appointment:** The act of designating for an office or position.

**Attest:** To affirm to be correct, true, or genuine; corroborate.

**Authenticate:** To prove or verify as genuine.

**Certificate:** 1) A document testifying to a fact, qualification, or promise; or 2) A written statement legally authenticated.

**Civil Action:** Not a criminal action. A lawsuit for the purpose of protection of private (not public) rights and compensation for their violation.

**Civil Liability:** The responsibility and obligation to make compensation to another person for damages caused by improper performance of duties and acts.

**Commercial Paper:** 1) Any of various short-term negotiable papers originating in business transactions; or 2) A document whose purpose is to transfer money such as a check, bill of exchange or draft.

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

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

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

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

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

**Felony:** A crime more serious than a misdemeanor and punishable by a more stringent sentence.

**Journal of Notarial Acts:** Notarial journal prescribed by law to record notarial acts.

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

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

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

**Misconduct:** Behavior not conforming to prevailing standards or laws.

**Misdemeanor:** An offense of lesser gravity than a felony for which punishment may be a fine or imprisonment.

**Oath:** A statement by a person who asserts it to be true, calling upon God as witness.



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

**Personally Known:** Familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.

**Power of Attorney:** A legal instrument authorizing one to act as another's agent or attorney.

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

**Revoke:** To cancel or rescind.

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

**Satisfactory Evidence:** Sufficient means of identifying a signer which meets criteria set forth by law.

**Sanctions:** The penalty for noncompliance specified in a law or decree.

**Subscribe:** To sign one's name in attestation, testimony, or consent

**Suspend:** To cause to stop for a period; interrupt.

**Swear/Sworn:** To make a solemn promise; to vow, usually before God.

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

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

**Waiver of Fees:** A statement which waives or gives up the right to charge for notarial services.

**Witness:** A person who watches an action take place.

# **Oregon Notary Laws & Rules**

To view the laws and rules that govern notaries public please use the following links:

[Notary Public Laws – Oregon Revised Statutes \(ORS\) Chapter 194](#)

[Notary Public Rules – Oregon Administrative Rule \(OAR\) Chapter 160](#)

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## Review

- Never notarize your own signature.
- Never notarize if you are named in the document or could benefit from the transaction.
- Never give legal advice by instructing signers on how to complete the document.
- Never notarize if the signer or oath-taker does not personally appear.
- Never notarize unless you can identify the signer through personal knowledge, a personally known credible witness, or reliable identification cards.
- Never notarize if you doubt someone's willingness to sign or ability to understand what is being signed.
- Never sign and seal a document without first filling out the journal.
- Never allow a notarial act to go unnoted in your journal.
- Keep an accurate and complete record.
- Never charge more notary fees than the law allows.
- Contact the Secretary of State Corporation Division if you have any questions.



**Corporation Division  
Office of the Secretary of State**

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Oregon Notary Guide  
Publication No. 1500  
**January, 2011**