

Maine Secretary of State



Notary Public Course of Study

Course of Study Objectives

- To help you better understand your role as a Maine Notarial Officer.
- To help you understand how to perform a traditional in-person notarization vs. remote or electronic notarizations.
- To increase your knowledge of the new Revised Uniform Law on Notarial Acts (RULONA) which was adopted on July 1, 2023.

Role of the Secretary of State

- The Secretary of State cannot provide legal advice.
- The role of the Secretary of State is limited to the appointment and commissioning of notaries public.
- The Secretary of State cannot determine the validity of a notarized document.

What is a Notary Public?

A Notary Public is an official of integrity commissioned by the Secretary of State to serve the public as an **impartial witness** to the identity, comprehension, and intent of a person requesting a notarial act.

Definitions

- “Notary public” means an individual commissioned to perform a notarial act by the Secretary of State.
- “Notarial officer” means a notary public commissioned by the Secretary of State; a judge, justice, clerk or deputy clerk of a court of this State; or an attorney-at-law duly admitted and eligible to practice in the courts of this State; and any other individual authorized by the laws of this State to perform a specific notarial act.
- “Electronic notarization” means a Maine notarial officer’s performance of a notarial act with respect to an electronic record, using an electronic signature and an electronic official stamp.
- “Remote notarization” means a notarial act performed by a notarial officer for a remotely located individual using communication technology approved by the Secretary of State.
- “Electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means.
- “Credible witness” means an honest, reliable, and impartial person who personally knows an individual appearing before a notarial officer and takes an oath or affirmation before the notarial officer to vouch for that individual’s identity.

Definitions Continued

- “Notarial act” means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the laws of this State.
- “Official stamp” means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record and includes an official notary seal.
- “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.
- “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- “Stamping device” means a physical device capable of affixing to or embossing on a tangible record an official stamp or an electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.
- “Direct beneficial interest” for purposes of defining a conflict of interest under 4 M.R.S. § 1904(3)(B), means a fee other than the customary fee for performance of the notarial act, or any advantage, right, title, interest, cash, property or other consideration received in connection with the record.
- “Dedimus Justice” is an officer who performs a single function of swearing in various public officials, including Notaries Public in Maine.

Qualifications of a Notary Public

- Be at least 18 years of age;
- Be a resident of or have a place of employment or practice in this State;
- Be able to read and write English;
- Have passed the examination administered by the Secretary of State; and
- Not be disqualified to receive a commission under 4 M.R.S section 1924;

Grounds to Deny, Refuse to Renew, Revoke, Suspend or Condition Commission of Notary Public

- Failure to comply with RULONA;
- Making a fraudulent, dishonest or deceitful statement or omission in the application for a notary public commission submitted to the Secretary of State;
- A conviction of any crime punishable by one year or more of imprisonment or a crime involving fraud, dishonesty or deceit;
- A finding against, or admission of liability in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit;
- Failure to discharge any duty required of a notary public, by law or rules of the Secretary of State or any federal or state law;
- Use of false or misleading advertising or representing that the notary public has a duty, right or privilege that the notary public does not have;
- Violation of a rule of the Secretary of State regarding a notary public;
- Denial, refusal to renew, revocation, suspension or conditioning of a notary public commission in another state; or
- Violation of Title 21-A, section 903-E. (Notary public providing services for initiative petition of people's veto in addition to notarial acts)

Jurisdiction

Maine notaries public may perform notarial acts **anywhere** within the boundaries of the State of Maine.

Maine notaries may **not** perform notarial acts outside of Maine.

Reminder: Even when a notarial officer is approved by the Secretary of State to do electronic and remote notarizations, the notarial officer must always be in the State of Maine when the transaction occurs.

Conflict of Interest

A notary public may not perform a notarial act:

- For any person if that person is the notary's spouse, domestic partner, parent, sibling or child or an in-law or a step or half relative.
- For a record to which the notary or the notary's spouse, domestic partner, parent, sibling or child or an in-law or a step or half relative is a party or in which any of them has a direct beneficial interest.

Avoiding Prohibited Acts

- Do not draft any legal documents or provide legal advice unless you are an Attorney.
- Do not act as an immigration consultant or an expert on immigration matters.
- Do not advertise your services using the title “notario” or “notario publico”
- If you are advertising your services as a notary public, you must include this statement:

"I am not an attorney licensed to practice law in this State. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities."
- Do not notarize any record or document without personal appearance.
- Do not perform any notarial act for a spouse, domestic partner, parent, sibling or child or an in-law or step or half relative.

Avoiding Prohibited Acts Continued

- Do not perform any notarial act with respect to a record to which the notarial officer or spouse, domestic partner, parent, sibling or child or an in-law or step or half relative is a party or in which any of them has direct beneficial interest.
- Do not take the acknowledgement of an instrument by or to a bank or other corporation of which the notarial officer is a stockholder, director, officer or employee when the notarial officer is a party to the instrument, either individually or as a representative of the bank or other corporation.
- Do not administer an oath or affirmation to a circulator of a **petition for a direct initiative or people's veto referendum** if the notarial officer also provides other services to initiate or promote the initiative or people's veto.
- Do not make or note a protest of a negotiable instrument unless the notarial officer is an employee of a financial institution acting in the course and scope of the notarial officer's employment with the financial institution.

Acceptable Forms of Identification

1. Personal Knowledge - The notarial officer has personal knowledge of the identity of the individual appearing before them.

2. Evidence of Identity - The notarial officer has satisfactory evidence of the identity of the individual appearing before the officer if the officer can identify the individual by:

- A passport, driver's license or government-issued nondriver identification card; or
- Another form of government identification issued to an individual that contains the signature or a photograph of the individual and is satisfactory to the notarial officer; or

3. Credible Witness - By a verification on oath or affirmation of a credible witness personally appearing before the notarial officer and known to the officer or whom the officer can identify based on a passport, driver's license or government-issued nondriver identification card.

Keep in mind that a notarial officer may require an individual to provide additional identification credentials necessary to assure the officer of the identity of the individual.

Journal Requirements

A notarial officer **MUST** maintain a journal for all electronic and remote notarizations.

A journal is not required for in-person paper notarizations. However, the Secretary of State strongly suggests that you maintain a journal for all notarial acts.

A journal may be created in a permanent, bound register which contains page numbers or in an electronic format, which must be in a permanent, tamper-evident electronic format complying with the rules of the Secretary of State.

For all in-person paper notarizations: You may only keep one journal at any one time.

For all remote and electronic notarizations: You are permitted to keep more than one journal at the same time.

Additional Journal Requirements

The entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

- The date and time of the notarial act;
- A description of the record, if any, and type of notarial act;
- The full name and address of each individual for whom the notarial act is performed;
- If the identity of the individual is based on personal knowledge, a statement to that effect;
- If the identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the dates of issuance and expiration of any identification credential; and
- The fee, if any, charged by the notarial officer.

Journals must be retained for 10 years after the performance of the last notarial act recorded in the journal.

Notary Public Official Stamp Requirements

A notarial act regarding an in-person paper record does not require the use of a notary public stamp. However, the Secretary of State strongly suggests that a notary stamp be used on all notarizations, unless the use of the stamp is prohibited.

However, use of a notary public stamp is **required** on all electronic or remote notarizations.

A notary public's official notary stamp must include:

- The Notary Public's name as it appears on their commission
- The words "Notary Public" and "State of Maine" or "Maine"
- The Notary Public's commission expiration date

The notary stamp must be **capable of being copied** together with the record to which it is affixed or attached or logically associated.

Reasons Why a Notary Should Not Act

- The signer is not in your presence.
- You cannot identify the signer through accepted forms of identification or if they are not personally known to you.
- There is reason to believe that the signer does not understand the consequences of the transaction or record being notarized.
- The signer is not acting of their free will.
- The record presented for copy certification is a vital record, public record or a publicly recorded document that is available as a certified copy from an official source other than a notary public.
- You are a party to or are named in the record except for the sole purpose of receiving notices relating to the document.
- The signer is an immediate family member of the notary public.
- The record or notarial certificate contains information known by the notary to be false.

You Should Not Refuse To Act Because...

- Of your feelings about a person's race, age, gender, sexual orientation, religion, national origin, health or disability.
- The document that is presented to you is in a language you do not understand.
- You do not have time to perform the notarization, or you just do not want to.

Remember, you can offer your services at a different time if you cannot perform the notarization at the time it is requested.

Maine's Authorized Notarial Acts



Acknowledgement

A declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

Reminder: Even though for an acknowledgment the individual may sign the record before notarization or during it, **Personal Appearance** before the notary is still required!

Steps for an Acknowledgment:

1. Require personal appearance of the person acknowledging their signature.
2. Verify the identity of the individual, if not personally known to you.
3. Review the individual's signature if the record is already signed; or require the individual to sign the record in your presence if the record is not yet signed.
4. Take the individual's acknowledgement by asking, "Do you acknowledge signing this record willingly, for the purposes stated in it?"
5. Complete the notarial certificate.
6. Record the notarial act in your journal. Although using a journal is not required on all notarizations in Maine, we strongly suggest that you record the details of all notarial acts requested.

ACKNOWLEDGMENT

State of Maine

County of _____

This record was acknowledged before me this _____ day of _____,
20____ by (Name(s) of Person(s) Acknowledging).



Signature of Notarial Officer
Stamped or Printed Name of Notarial Officer
Title of Notarial Officer, State of Maine
My commission expires: _____

Verification on Oath or Affirmation (Jurat)

A declaration made by an individual on oath or affirmation before a notarial officer that a statement in a record is true.

A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

The difference between an oath or an affirmation is the nature of the individual's spoken pledge, which should be left up to the individual:

- An oath is a spoken pledge to God or to a higher power.
- An affirmation is a spoken pledge made on the individual's personal honor.

Steps for a Verification on Oath or Affirmation:

1. Require personal appearance of the person swearing the oath or making the affirmation.
2. Verify the identity of the individual, if not personally known to you.
3. Require the individual to sign the record in your presence. If the record is already signed, it must be signed again in your presence.
4. Ask the individual to raise their right hand, to emphasize the seriousness of the process.
5. Administer the oath or affirmation by asking the individual to swear to or affirm the truthfulness of their statement. For an oath, ask “Do you solemnly swear the contents of this document are true, so help you God?” For an affirmation, ask “Do you affirm the contents of this document are true?”
6. Complete the notarial certificate.
7. Record the notarial act in your journal. Although using a journal is not required on all notarizations in Maine, we strongly suggest that you record the details of all notarial acts requested.

OATH OR AFFIRMATION (JURAT)

State of Maine
County of _____

Sworn to (or affirmed) and subscribed before me this _____ day
of _____, 20____ by (Name of Person Making Statement).



Signature of Notarial Officer
Stamped or Printed Name of Notarial Officer
Title of Notarial Officer, State of Maine
My commission expires: _____

Witnessing or Attesting to a Signature

A notary public who witnesses or attests to a signature determines, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notary and signing the record has the identity claimed. No verbal ceremony is necessary for witnessing or attesting to a signature.

Steps for Witnessing or Attesting to a Signature:

1. Require personal appearance of the person signing the record.
2. Verify the identity of the individual, if not personally known to you.
3. Require the individual to sign the record in your presence. If the record is already signed, it must be signed again in your presence.
4. Complete the notarial certificate.
5. Record the notarial act in your journal. Although using a journal is not required on all notarizations in Maine, we strongly suggest that you record the details of all notarial acts requested.

WITNESSING OR ATTESTING TO A SIGNATURE

State of Maine

County of _____

Signed (or attested) before me this _____ day of _____, 20____ by
(Name of Person Making Signing).



Signature of Notarial Officer
Stamped or Printed Name of Notarial Officer
Title of Notarial Officer, State of Maine
My commission expires: _____

Certifying or Attesting a Copy of a Record

A notary public who certifies or attests a copy of a record or an item that was copied determines that the copy is full, true and an accurate transcription or reproduction of the record or item.

Please note: The notary public is **not** guaranteeing the authenticity of the record presented for copying, its contents, or its effects. Nor is the notary public taking an oath or affirmation or making an acknowledgement. Instead, the notary public is simply stating in the notarial certificate that the notary made, or witnessed being made, a “true” copy of the record that was presented (or carefully compared a copy to the original and found it to be full, true and accurate).

A notary public is **not authorized** to make any certified or attested copies of **public records** or **vital records**. A notarial officer may not certify a copy of any record that states on its face that it is illegal to make copies of the document.

Steps for certifying or attesting a copy of record:

1. Verify the record custodian's identity, if not personally known to you.
2. Observe whether the record is an original. (Must not be a public record or vital record).
3. Personally make the copy or witness the making of the photocopy.
4. Complete, sign and securely attach the notarial certificate to the photocopy using a staple, which would leave some indication of tampering if removed.
5. Record the notarial act in your journal. Although using a journal is not required on all notarizations in Maine, we strongly suggest that you record the details of all notarial acts requested.

CERTIFYING OR ATTESTING A COPY OF RECORD

State of Maine

County of _____

On this _____ day of _____, 20____, I certify that the attached record is a true, exact, complete, and unaltered photocopy made by me of (Description of Record), presented to me by the document's custodian (Person Presenting Record), and, to the best of my knowledge, that the original record is neither a vital or public record.



Signature of Notarial Officer
Stamped or Printed Name of Notarial Officer
Title of Notarial Officer, State of Maine
My commission expires: _____

CERTIFYING OR ATTESTING A COPY OF RECORD

State of Maine

County of _____

On this _____ day of _____, 20____, I certify that I carefully compared the attached copy of (Description of Record) with the original presented to me by the document's custodian (Person Presenting Record), and it is an exact, complete, unaltered copy of the original record.



Signature of Notarial Officer
Stamped or Printed Name of Notarial Officer
Title of Notarial Officer, State of Maine
My commission expires: _____

Common Notarial Errors

- The signer did not personally appear before the notary.
- The notary did not properly identify the signer.
- The notary did not screen for willingness and competency of the signer.
- The notary failed to perform the verbal oath or affirmation.
- The notary did not attach a notarial certificate.
- The notarial certificate was left incomplete.

Fees For Notarial Services

The State of Maine does not statutorily set fees for notarial services. Any fee to be charged by a commissioned notary public for performing a notarial act must be disclosed in writing to the individual requesting the services of the notary public before the notarial act is performed **and** the notary public must obtain the individual's agreement to any fee to be charged prior to performing the notarial act.

Secretary of State suggests that notaries adopt a fee schedule to be provided when notarial services are requested.

Electronic Or Remote Notarizations Requirements

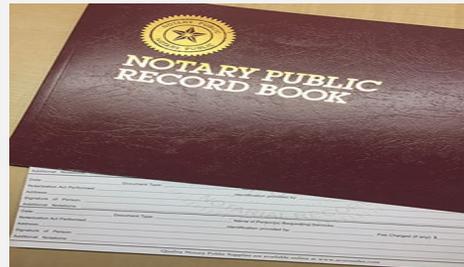
Before a notarial officer can perform a **remote notarization** or a notarial act with respect to an **electronic document** or using an **electronic signature**, the notarial officer **must** complete and submit the “Notice to Perform Electronic and/or Remote Online Notarizations” form to the Secretary of State and must receive **approval** by the Secretary of State.

Additional Requirements for Approval By Secretary of State To Do Electronic or Remote Notarizations

- The name(s) of the provider(s) of technology **APPROVED** by the **Secretary of State** that the notarial officer has selected to use;
- A certification from each provider of technology confirming that the notarial officer has received **training** in the use of that technology and has been **approved** as a user of that technology;
- A certification by the notarial officer that the officer has read and understands the requirements of 4 M.R.S. chapter 39 and the administrative rules; and
- An example of the notarial officer's **electronic signature** and **official electronic stamp**.

Your Notary Public commission, any notary stamp or journal belongs to you, not to your employer, even if your employer has paid for these!

If a notary stamp or journal is lost or stolen, the officer must promptly notify the Secretary of State!



YOUR NAME HERE
NOTARY PUBLIC
State of Maine
My Comm. Expires Month Day Year

Should A Notary Public Act As Both A Witness and a Notary Public on a Document?

As a general guideline, the office of the attorney general has advised the Secretary of State that a notary public should not act as both a witness and as a notary public for the same transaction.

WHAT IS AN APOSTILLE OR AUTHENTICATION?

These are certifications issued by the Secretary of State that authenticate the authority of the Notary Public who notarized the document or the public official who certified the document.

The difference between an Apostille and an Authentication is determined by the country who is the recipient of the document:

- The Hague Convention established a system that allows Secretaries of State to process these special certifications for documents that are going to certain countries which are party to the Hague Convention. This special certification is called an **Apostille**.
- Requests for certifications for documents that are going to countries which are not party to the Hague Convention receive a certification called an **Authentication**.

**Thank you for making the time to take the Secretary of State's
Course of Study to enhance your knowledge of the duties and
responsibilities of notaries public in Maine!**

Have Questions?

Call us: (207) 624-7752

Email us: cec.notaries@maine.gov