

So you want to be a Notary Public...

- ❖ **What Is a Notary Public?**
- ❖ **What can a Notary do?**
*(and what a notary **can't** do?)*
- ❖ **How do you do what a Notary does?**
- ❖ **How do you become a notary or renew your commission?**

What is a Notary Public?

A **public official** who acts as the unbiased, third-party **witness** to the identity and signature of the person **who comes before the notary** for a specific purpose

The underlying assumption for every notarial act is that the transaction contemplated within the document is of a nature that at sometime in the future, someone will contest the validity, authenticity, or accuracy of the transaction or document.

WHAT IS A WITNESS???

A person called upon to observe an event, a transaction, signing, etc., in order to testify concerning it if it is later held in question or challenged

THE NOTARY AS A WITNESS...

RULE # 1

The person whose signature, oath, or acknowledgement is being notarized MUST appear in front of the notary at the time the notarial act takes place.

ALWAYS.
EVERY TIME.
NO EXCEPTIONS!

THREE THINGS TO “OBSERVE”

- **Identity** - that the person in your presence is the signer of the document and is who they say they are...
- **Understanding** - that the signer understands what the document is and what the implications of the transaction are...
- **Intent** - that the signer is freely and willingly signing the document

How Do You
“Conclusively
Establish”
Someone’s Identity???

In
MONTANA
there are only
3 WAYS
For notarization purposes
to properly identify a person

1. Personal Knowledge

YOU'VE known for a LONG TIME

SOMEONE

CHILDREN

SPOUSE

FAMILY

BFF

Long-time co-worker

And would **RECOGNIZE**

anytime

Anywhere!

2. SATISFACTORY EVIDENCE

Current

Government

Student ID

TRIBAL ID

SIGNED

DRIVER'S LICENSE

issued

PASSPORT

PICTURED

3. Credible Witness

IS ONLY USED WHEN...

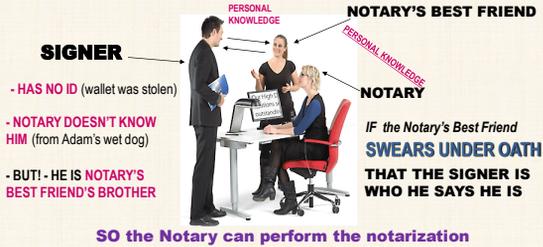
...the signer **doesn't have any ID**

And **ISN'T** personally known by the notary



Notarizing with a Credible Witness

Works like this....



WHAT A CREDIBLE WITNESS ISN'T...

A CREDIBLE WITNESS IS NOT A THIRD PARTY WHO APPEARS TO THE NOTARY AND ATTESTS TO THE SIGNATURE OF ANOTHER PERSON WHO IS NOT IN THE NOTARY'S PRESENCE.

So – What Does a Notary Do?

TYPES of Notarial Acts [1-5-603, MCA]

- ❖ **Acknowledgement** – NPH p. 34 - 35
- ❖ **Signature** - NPH p. 36 - 37
- ❖ **Jurat** – [Verification upon oath or affirmation] - NPH p. 36 - 37
- ❖ **Oath** -
- ❖ **Certification of copy** - NPH p. 41

Deposition & Affidavits**

Protest of Instrument**

**Requires additional knowledge and training

What Kinds of Documents Can You Notarize?

It doesn't matter!

You **DON'T** notarize documents!!!

You can perform:

- Any authorized notarial act
- On any document
- From anywhere in the world

...As long as the person who signs the document is in your physical presence at the time of the notarization!
(And the notarial block is in English)

“THOU SHALT NOTS”

- Notarize your own signature
- Notarize anyone's signature on a document in which you are personally named or from which you will directly benefit
- Certify a document issued by a public entity unless you work in the office where the original is kept
- Sign as a representative of an entity and then notarize any signature on that same document

How Do You Know What Type of Notarial Act You're Supposed to Do?

1. Check the verbs in the preprinted block
 - “Acknowledged” = **Acknowledgement**
 - “Signed”, “subscribed”, or “executed” = **Signature**
 - “Signed & sworn”; “subscribed & affirmed”; “executed & attested” = **Jurat**
2. Ask the customer
3. Refer to the author of the document

Creating a Notarial Block When the Document Doesn't Have a Pre- printed One...

1. Determine what type of notarial act is needed
(Signature, acknowledgment, attestation, or copy certification)
Customer determines - not you!
 2. Print, type, or write appropriate notarial block
*See “Completing Proper Notarial Blocks”
on page 33 - 41 of Handbook*
- ...or use “Cheat Sheets” from Our Website!!!

The Notarial Block*

**Also Known as a
“Notarial Certificate”*

Tells a Story

Where - Venue

When - Date

What - Description

Who Dunit - the Signer

By Whom - the Notary

(and we need to know all about the notary)

NOTARIAL BLOCK

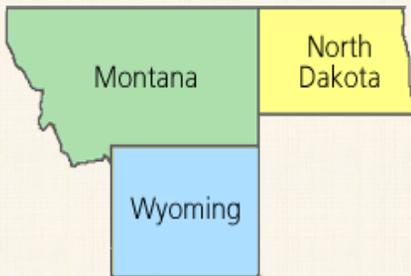
9 Required Elements

1. **VENUE** - State and County where the notarial act is being performed.

Examples:

State of Montana
County of Yellowstone
Or
State of Wyoming
County of Laramie

Jurisdiction – 3 States, 132 Counties



NOTARIAL BLOCK

9 Required Elements - continued

2. **Date** on which the notarization took place

Example:

“On this 25th day of February, 2011...”

3. **Declaration** [“Statement of particulars”] describing the type of notarial act performed and who it was performed for.

Example:

“...this instrument was signed before me by John Doe...”

NOTARIAL BLOCK

9 Required Elements - continued

4. The notary's official signature

Notes:

✓ **The name on the seal and the notary's certificate must match the signature on file with the Secretary of State's Office**

✓ **The signature must be original - not stamped or electronic**

✓ **The signature must be in blue or black ink only**

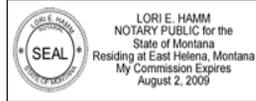
NOTARIAL BLOCK

9 Required Elements - continued

Steps 5 - 9 **All Contained in NEW Style Combination Seal/Stamp**

Seal: (Step 9) →
Notary's Name
"State of Montana"
"Notarial Seal"

[1-5-416(1)(d), MCA]



↑ **Stamp:**

Notary's Printed Name (Step 5)
Title [Notary Public for the
State of Montana] (Step 6)
"Residing at" + City (Step 7)
Commission expiration date (Step 8)

Dissecting a Notary Block

State of _____ }
County of _____ } **Venue**

This instrument was signed or acknowledged before me on _____ }
by _____ } **S. o. P.**
Print name of signer(s)

{ **Seal/Stamp** } _____ } **Notary's Signature**
Notary Signature

**A Montana Notary Public
has
unlimited liability
for
any and all damages
caused by
negligence or malpractice**

1-5-406, MCA

How Do You Protect yourself

if someone challenges a
notarization you've done -
even
**Five, Ten, or Twenty Years
Later?**

Three Ways...

- ✓ Obtain "Errors & Omissions Insurance"
- ✓ Make sure you know what to do - and do it right

And most importantly....

✓ Your Notary JOURNAL

✓ **PROOF**

✓ **PROTECTION**

✓ **PREVENTION**

In order to provide evidentiary value and protection...

...Your Notary Journal...

- ❖ Must be the property of the individual notary, who has sole responsibility for its safekeeping and contents *Your employer has no legal interest or rights to your journal (or seal)*
- ❖ Must be a bound book, designed to deter alteration or a commercially produced electronic journal
- ❖ Must record every notarial act in chronological order
- ❖ Must contain the specific details as required by 1-5-416(1)(g), MCA
- ❖ Must be turned into **Secretary of State's Office** when notary ceases to be a notary

What Must be Recorded in the Journal

1-5-416(1)(g), MCA

The **DATE** of the **Notarization**

The **DATE** of the **Document**

The **TYPE** of **Document**

The **TYPE** of **Notarial Act**

The **TYPE** of **Identification** used *and issuing entity*
and most importantly

The **NAME, SIGNATURE, & ADDRESS** of the person for whom the notarization was performed

Odds & Ends

- √ Motor Vehicle Titles
- √ Notarizing in a Representative Capacity
- √ Certifying Copies of Documents
- √ Applying for a new commission, renewing a commission, or updating your contact information

Almost * **Everything** you *always wanted to know* about **notarizing**
MONTANA
motor vehicle titles
But were afraid to ask...
...can be found on pages 42 and 43 of the Handbook

Or... you can attend the workshop
“Notarizing Motor Vehicle Titles”
tomorrow morning!

(Just About) * Everything you **EVER** **Wanted**
to KNOW About
Notarizing when the signer is acting in a Representative Capacity

* Even if you didn't know you wanted to know about it

“Signing in a representative capacity”
means:

The person who is signing the document is not the same entity named in the document

- ❖ Corporate Officer signing on behalf of a business
- ❖ Person signing for another with a Power of Attorney
- ❖ A Trustee, a Guardian, Personal Representative, etc.

Three Things to Verify
when someone is signing in a representative capacity:

- ❖ **Identity of the person**
(same as always)
- ❖ **Capacity in which they are signing**
(*POA, Trustee, Corporate Officer*)
- ❖ **Proof of Authority**
(*to sign that particular document or type of transaction*)

Montana law specifies that such notarial blocks must be completed with:

1. The name of the person who signed the document,
2. The capacity in which it was signed, and
3. The name of the party or entity on whose behalf it was signed.

See example on page 40 of Handbook

If you really want the full story you can attend one or both of these workshops tomorrow:

“Proving Authority & Capacity”

or

“Who’s Signing Here?”

EVERYTHING

(Practically)

You Wanted to Know About

Certifying Copies of Documents

1. Certifying Private Documents –

Original private papers, letters, passports, diplomas, drivers' licenses, etc. ~

Montana notaries may make and certify copies of these kinds of documents

2. Certifying Public Documents –

Birth certificates, death certificates, court documents, school transcripts, “certified copies” of any official record ~

Montana notaries may NOT make and certify copies of these kinds of documents

Two ways to certify:

1. Certification by Notary:

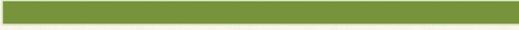
State of _____
County of _____

I certify that this is a true and exact photocopy of the (type of document) in the possession of (name of person) made by me on (date).

[SEAL/STAMP]

Signature of Notary

See Handbook Page 41



2. Certification by Document Custodian

I certify that this is a true and exact photocopy of the (type of document) in my possession on (date).

(Signature of Person with Document)

State of _____
County of _____

Signed before me on _____ by (name of person above).

[SEAL/STAMP]

Signature of Notary

See Handbook Page 41



For more information on this subject, you need...

“Notary 201 – Advanced Class”



The PROCESS

Applying for a new commission –

“Appointment”

Instructions on p. 17

Renewing a commission –

“Reappointment”

(You snooze, you lose)

Instructions on p. 19

Notary Application Process (Readers' Digest Version)

1. Complete Certified Training - if required
2. Obtain a Notary Bond from an insurance agent
3. Complete appropriate Application Form
4. Send completed Application, Bond, and Filing Fee to Secretary of State's Office

Note: **Complete** instructions on pages 17 or 19 of Handbook –
READ and FOLLOW carefully!!!!

When you have successfully completed the application process, you will receive...

Certificate of Commission

- ❖ Official proof that you are a legally commissioned notary
 - ❖ Shows your official name and city of residence
 - ❖ May be displayed – **MUST** be secured
- Do not order your stamp until you receive your Certificate of Commission!!!**

Thank You!