



NOTARY PUBLIC HANDBOOK



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Revised Spring 2012

MONTANA NOTARY PUBLIC HANDBOOK

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This handbook was designed to provide information to current and prospective notaries public in the State of Montana on how to become a notary public, and to increase understanding of the powers and duties of that office. Please contact us at sosnotary@mt.gov with your suggestions and comments on how the handbook can be improved.

Any statements by the office of the Secretary of State regarding notaries or notarial acts are not intended as legal advice and should not be construed as such. If you have specific legal questions regarding your acts or conduct as a notary, the Secretary of State's office urges you to seek professional legal advice.

This handbook is also available online at www.sos.mt.gov/Notary/Handbook. Alternate accessible formats of their document will be provided upon request. For further information call (406) 444-5379 or for TDD (406) 444-9068.

TABLE OF CONTENTS

CHAPTER 1 – General Information

Overview	1
Qualifications	2
Term of Office	2
Jurisdiction.....	2
The Notary’s Function	3
The Notary’s Responsibility	3
Integrity and Impartiality.....	3
Notary Liability.....	3
Frequently Asked Questions and Quiz.....	4

CHAPTER 2 – Before You Start Notarizing

Notary Terms and Definitions.....	5
Legal Ways to Identify a Person for Notarial Purposes	7
Determining Intent and Comprehension.....	8
Notary Seal/Stamp	9
Notary Journal	10
Sample Journal Entries.....	11
Types of Notarial Acts.....	13
Frequently Asked Questions and Quiz.....	15

CHAPTER 3 – The Process

Instructions For Becoming a Notary Public.....	17
Application for Appointment	18
Instructions For Renewing Your Commission	19
Application for Reappointment.....	20
Instructions for Changing Information During Your Term of Office	21
Instructions For Requesting a Replacement Certificate	21
Instructions For Resigning a Commission	21
Contact Information Update Form	22
Replacement Certificate Request Form	23
Frequently Asked Questions and Quiz.....	24

CHAPTER 4 – The Stuff In the Middle of the Book

Montana-Certified Training Providers.....	25
Notary Associations.....	25
Notary of the Year Program.....	26

CHAPTER 5 – Montana Notary Laws

Montana Code Annotated	27
Review of Recent Changes to Montana Notary Laws.....	32

CHAPTER 6 – The Stuff You Really Want To Know - Proper Notarial Blocks

Completing Proper Notarial Blocks	33
For an Acknowledgement	34
For a Signature	36
For a Jurat	38
For Documents Signed in a Representative Capacity	40
For Documents Without a Preprinted Notarial Block.....	40
For Certifying Copies of Documents	41
Montana Motor Vehicle Titles	42
Sample of Printable Notarial Blocks	44
State Certification of Documents to Be Sent to a Foreign Country - Apostilles and Authentications	45
Request Form for State Certifications.....	46
Frequently Asked Questions and Quiz.....	47

CHAPTER 1 - GENERAL INFORMATION

OVERVIEW

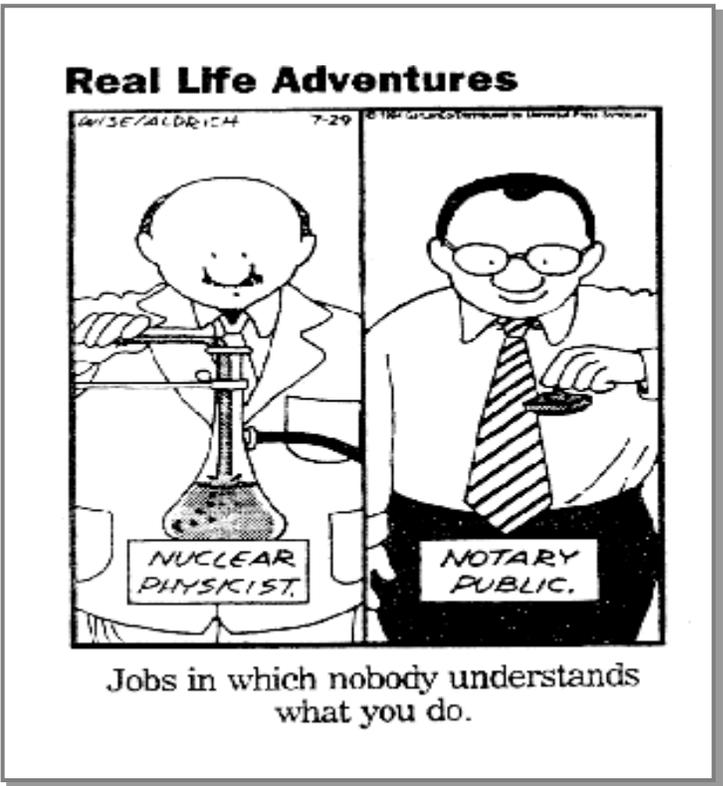
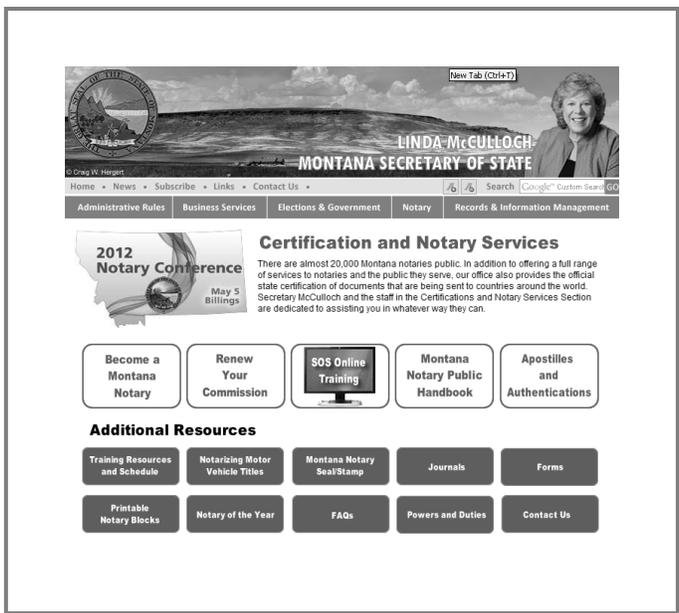
Everybody knows what a notary public is, right? Actually, there is much misunderstanding and confusion about what the proper role and duty of the notary is. A notary public does not “legalize” documents, or verify the accuracy or truthfulness of statements made in a document, and yet the role that a notary plays in ascertaining the identity of the person who signs a document, placing that person under oath, if required, and determining the signer’s intent and willingness to consent to the transaction is vital in modern society.

A notary public is a public official commissioned by the Secretary of State to administer oaths and affirmations, witness signatures, and perform other duties as permitted by state law. A notary has a legal obligation to know Montana notary laws and to follow the standards of reasonable care for performing a notarial act.

HANDBOOK

This handbook provides information to familiarize notaries with their responsibilities in performing notarial acts. As a public official, a notary is not acting on behalf of him/herself or their employer when performing a notarial act, but rather, on behalf of the state of Montana. It is the duty of all notaries to serve the public, and a notary may not unreasonably refuse to perform a notarial act for any member of the public who pays the statutory fee and meets all requirements prescribed by statute. It is equally important that notaries take precautions not to exceed the power of this office.

WEBSITE



The other primary source of information for Montana notaries are the web pages of the Certification & Notary Services section of the Secretary of State’s website: www.sos.mt.gov/Notary. Save this to your favorites so it’s handy whenever the need arises.

The website contains the most current information for notaries. You can download any of our current forms, link directly to the free online notary training course (which is available to anyone, anytime), or register for one of our live training classes, among other things. The website is always available and very user friendly.

We urge you to take a few minutes to familiarize yourself with the information and format of the handbook and the website so that you can find the answers to your questions quickly and easily.

You are also welcome to contact the staff of the Notary and Certifications Section by phone at (406) 444-5379 or (406) 444-1877 or email: sosnotary@mt.gov

QUALIFICATIONS

An individual can apply to become a notary in Montana if:

- They currently live in Montana
- Are at least 18 years of age
- Have been a Montana resident for at least thirty days
- Have never been convicted of, or pled guilty to, a felony
- Have not had a notary commission revoked or terminated in any state.
- Have completed a certified training course (this applies to first-time applicants or to renewing notaries whose previous commission expired more than thirty days earlier).

The application forms and instructions for new and renewal appointments can be found on pages 17 - 20 of this handbook.

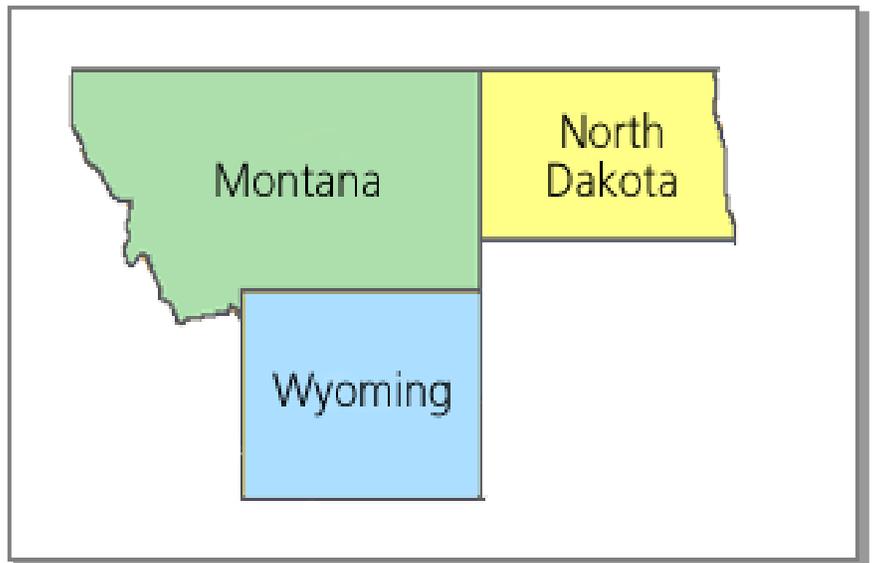
TERM OF OFFICE

The term of office for a notary public is four years. A notary may be reappointed by submitting the required documentation to the Secretary of State's office as required by law. See page 19 for more information on the process for renewing a commission. If the notary moves out of state, the commission is automatically terminated. Malfeasance in office can be grounds for suspension or revocation of a notary's commission by the Secretary of State's office. A change of employment during a notary's term of office *does not* terminate the commission, but must be reported to the Secretary of State's office.

If a notary moves out of state, resigns, or chooses not to renew a commission, or in the event of a notary's death, the notary's journal must, by law, be turned into the clerk & recorder's office in the county where the notary last resided and the notary's seal/stamp must be destroyed.

JURISDICTION

Montana notaries have jurisdiction to perform their official duties in every county in Montana, not just the county in which they live or work. In some cases, a Montana notary public may perform a notarial act in either of two adjoining states – North Dakota and Wyoming. **Even when performing a notarization in either North Dakota or Wyoming, a Montana notary must always follow the laws and rules of Montana.** The statutes that allow this practice are dependent on both Montana and the reciprocal state. Questions about any restrictions or special requirements must be discussed with the appropriate Secretary of State's office.



THE NOTARY'S FUNCTION

A notary acts as an official, unbiased witness to the identity, the comprehension, the intent and signature of the person who comes before the notary for a specific purpose. The person may be taking an oath, giving oral or written testimony, or signing or acknowledging a signature on a legal document. In each instance the notary attests that certain formalities have been observed. Montana law defines certain "Notarial Powers" that a notary may perform. Notaries must constantly be aware that every notarial act affects the legal rights of others. Carelessness or negligence by the notary may injure these rights. Upon conviction of a violation of these rights, the notary may be punished as provided by law.

Integrity and skill are required of notaries in the discharge of their duties, for the mere mechanical performance of their office does not ensure the added degree of authenticity that is the hallmark of the notarial act. **Simply affixing your seal and signing your name does not constitute a proper notarization in the state of Montana.** As you go through this handbook, pay very close attention to the exact requirements for various notarial acts. A notary will be held personally responsible for improper, negligent, or fraudulent actions.

THE NOTARY'S RESPONSIBILITY

If the notary's primary function is to be a witness to the identity, the comprehension, and the intent of a person who is signing a document, taking an oath, or acknowledging a signature, it automatically follows that one of the notary's greatest responsibilities is to be able to unequivocally testify that the notary did in fact witness the act he or she claimed to have notarized. In other words, the person whose signature, oath, or acknowledgment is being notarized **MUST** appear in front of the notary at the time the act takes place.

There are no exceptions to this requirement. It is impossible to be a witness to an event if it does not take place in your presence.

"Notarizing" without the physical presence of the signer at the time of the notarial act is *de facto* negligence and can be just cause for revocation of your notarial commission.

RULE # 1
The person whose signature, oath, or acknowledgment is being notarized MUST appear in front of the notary at the time the notarial act takes place.

INTEGRITY AND IMPARTIALITY

A notary public is expected to be a person of proven integrity appointed by the Secretary of State to act as the state's "official witness" in any matter requiring the notary's services. Because the primary purpose of the notary is to detect and deter fraud, the notary's integrity must be unquestionable.

Every notarial act performed by a notary public is done under the notary's oath of office and the statement made on every notarial block completed by a notary public is done under penalty of perjury. If the notarial block states that the document was "signed before" the notary, that's exactly what the notary's official testimony is claiming: The document was signed in the notary's presence. If the notary block contains the words "Subscribed and sworn to before me", that, too, means that the document was signed in the notary's presence *and* the notary administered an oath to the signer, who swore under penalty of perjury that the statements and information contained in the document were true and correct to the best of his knowledge.

The words contained in the notarial block are not mere formalities; they are the notary's "witness statement" telling what happened, when it happened, and who was involved.

NOTARY LIABILITY

Montana law holds the notary personally responsible for any damages resulting from the notary's official misconduct. Notaries are required to file a \$10,000 surety bond when they apply for a new or subsequent commission. Many notaries think that the bond is insurance that protects them; **that is not the case.** The bond is posted to cover damages incurred by the victim of the notary's negligence or malfeasance. If a successful claim is made against the notary's bond, **the notary will have to pay the bonding company back.** Montana does not require notaries to obtain liability insurance, however it is wise to discuss the need for such coverage with an insurance professional.

A properly kept notary journal is the very best insurance that a notary can have. It provides *prima facie* evidence that the notarial information on a document is true and correct and that the signer was indeed in the notary's presence when the notarization took place.

CHAPTER 1 - FREQUENTLY ASKED QUESTIONS

Q. I live in Wyoming but work in Montana, can I become a Montana notary?

A. *No, you must be a resident of Montana in order to hold a commission as a Montana notary public. You may, however, be able to obtain a Wyoming notary commission and then be able to notarize documents at your work location in Montana. Please check with the Wyoming Secretary of State's office to determine the qualifications and requirements for becoming a notary public in the state of Wyoming. The same would hold true for individuals who live in North Dakota, but work in Montana. Those individuals should contact the North Dakota Secretary of State's office.*

Q. Must I be a citizen of the United States in order to be a notary?

A. *No, citizenship is not required as a condition for appointment for a notary commission.*

Q. Are notaries allowed to advertise their services?

A. *Yes. There is no legal restriction placed on notaries regarding advertising for notary services.*

Q. Can I notarize something when I didn't actually see the person sign the document?

A. *You can take the person's acknowledgement that he was the one who signed the document, if that's what type of notarial act is called for. See more information about this in Chapter 2. However, the person must appear before you to acknowledge that he is the person who was supposed to sign the documents and you must still verify his identity, verify that the signature is, in fact, his, and confirm that he knowingly and willingly signed the document.*

Q. My employer paid for my bond and filing fee when I became a notary, but I've left that job. Do I have to get a new bond?

A. *A notary commission is issued to the individual, not to the employer, so your commission is not dependent upon your continued employment at the same place. Generally, a bond cannot be cancelled by the employer, but you should verify the status with the surety company which issued it. If the Secretary of State's office is notified that a bond has been cancelled, every effort will be made to notify the notary immediately.*

Q. Can I notarize something when I am in another county or state?

A. *A Montana notary has jurisdiction to perform notarizations in every county in Montana, regardless of the notary's place of residence or employment. As noted previously Montana notaries may notarize in Wyoming and North Dakota also. Notaries may not notarize in any other states or in any foreign country.*

Q. What liabilities does a notary assume?

A. *A Montana Notary Public assumes all liability for any and all damages caused by the notary's official misconduct or negligence. It is important to understand that the surety bond which notaries are required to obtain and submit to the state does not protect the notary in the event that a claim is made against them. If a claim is paid by your bonding company, you will have to pay the amount of the claim to the bonding company. You should consider purchasing "Errors and Omissions Insurance" to provide the desired protection for yourself.*

Q. What is my "notary number?"

A. *Montana notaries do not have a notary, or commission, number.*

CHAPTER 1 – Quiz

- T_____ F_____ 1. The Secretary of State's office will provide each notary with a Certificate of Commission showing the notary's official name, city of residence, and term of the commission.
- T_____ F_____ 2. The surety bond, which Montana notaries are required to post with the state, will protect the notary from any monetary damages caused by his/her improper notarial acts.
- T_____ F_____ 3. You may notarize the signature of a person you know very well even if you didn't see that person actually sign the document, as long as they fax you written permission to do so.

Answers:

1. True; Your Certificate of Commission is the official proof that you are a commissioned notary.
2. False; The bond protects the public - not the notary.
3. Absolutely False! **You may never – under any circumstances – notarize a signature unless the signer is physically in your presence at the time the notarization takes place.** (We're adamant about this – see RULE # 1.)

CHAPTER 2 - BEFORE YOU START NOTARIZING

NOTARY TERMS AND DEFINITIONS

Acknowledgment. A notarial act which requires the person who has already signed a document to *personally appear* before the notary and state (acknowledge) that he/she willingly signed the document for the purposes for which it was intended. The notary does not have to actually see the person sign the document, but does have to *actually witness* the person acknowledge the signature. See page 34 for further clarification.

Affirmation. An oral promise on one's personal honor that the information given is true and accurate to the best of the signer's knowledge. Also known as an oath.

Affidavit. A written statement in which the person swears under penalty of perjury that a statement is true. An affidavit that requires notarization will always require a jurat – verification upon oath or affirmation. A self-proving affidavit need not be notarized. See 1-1-203, MCA, rev. 2011 for more information about self-proving affidavits.

Apostille. A certificate of notarial authority issued by the Secretary of State. It certifies that the notarial block is completed according to Montana statutes and that the notary was commissioned and in good standing at the time the notarization was performed. This type of certification is required for documents to be used in foreign countries which are signatory to The Hague Convention of October 5, 1961. See page 44 for more information.

Attorney-in-fact. A person (not necessarily a lawyer) who is given written authority to sign and/or act on behalf of another individual (the principal), normally through a document called a power of attorney.

Attest. To confirm (usually in writing) that a document is genuine or that statements made in a document are true.

Authentication. A certificate of notarial authority issued by the Secretary of State. It certifies that the notarial block is completed according to Montana statutes and that the notary was commissioned and in good standing at the time the notarization was performed. This type of certification is required for documents to be used in foreign countries which do not require an *Apostille*. See page 44 for more information.

Certificate of Commission. The official document issued by the Secretary of State granting a notary commission. This is the proof that a notary has a valid commission. It shows the notary's official name, the notary's city of residence, and the beginning and ending dates of the commission. The Certificate may be publicly displayed, but should always be secure. If it is lost or stolen, a replacement may be obtained from the Secretary of State's office.

Certified Copy. An exact, complete and unaltered copy of a document attested as a true copy of the original. Montana notaries *cannot certify copies* of public documents unless the original was issued by or is maintained in the office in which the notary works. See page 41 for more information.

Coercion. Forced or compelled into doing something through fear, intimidation, and/or threats. A notary should refuse to notarize a signature or acknowledgment unless all parties are willingly involved.

Comprehension. The ability to understand something. A notary is responsible for determining that all parties understand what they are signing or affirming.

Credible Witness. Someone who is personally known to the notary who can swear to the identity of a person requesting a notarization who is not known to the notary and cannot produce proper identification. The credible witness may not be a person who is also signing the document, is a party to the transaction, or who would benefit from the transaction.

Deposition. A written statement used in legal matters that is transcribed from oral testimony given under oath or affirmation. The notarial act of "taking a deposition" is reserved to those notaries who have been trained to do so, such as court reporters.

Forgery. False signature, written document, or other creation, made to imitate the true signature, document, or creation, with the intent to defraud.

Intent. The purpose for which something is done.

Jurat. “Jurat” is short for the Latin “Juratum est”, meaning “It has been sworn.” It is the notarial act that certifies the notary as having witnessed the signing of a document and administered an oath or affirmation, in which the signer declares the document to be truthful and accurate. See page 38 for further clarification.

Medallion Signature Guarantee. A verification/guarantee of signatures on stocks and bond transactions that can *only* be done by a security broker or dealer participating in a medallion program. *A Medallion Signature Guarantee cannot be performed by a Montana Notary Public unless he/she has also been approved by the Securities Transfer Association, Inc.*

Negligence. Failure to use reasonable care that would be expected of any other person in a similar situation.

Notarial Acts. The official duties and responsibilities performed by a notary public whose function is to administer oaths; to take acknowledgments; to witness or attest signatures; to certify or attest copies; and to note a protest of a negotiable instrument, by affixing a complete notarial certificate including the notary’s official signature and seal, in order to give them credit and authenticity. See Chapter 2, pages 13 – 14 for more information.

Notarial Block/Certificate. The written acts of a notary. The statutory requirements for a proper notarial block in Montana are: 1. The venue (state and county *where the notarial act is being performed.*) 2. The date the notarization took place. 3. The declaration describing the type of notarial act performed. 4. The notary’s original/official signature. 5. The notary’s official name clearly typed, stamped, or printed (under the signature and in addition to the notary’s name in the seal). 6. The notary’s title, “Notary Public for the State of Montana”. 7. Residing at (the city or town *where the notary lives*). 8. Commission expiration date (Month / Day / Four-digit Year). 9. The notary’s official seal. See Chapter 6 for more information.

Notary Public. A public ministerial officer, also an agent of the state, commissioned by the Secretary of State to serve the public as an impartial party to a document, to deter fraud, with duties specified by law.

Notarial Seal. The official seal of the notary. Effective October 1, 2009, all new and renewing notaries are required to use a combination seal/stamp unit. See page 9 for details.

Oath. A statement of truth, either written or verbal, given under penalty of perjury.

Perjury. Making a false statement under oath; generally punishable by fine and/or imprisonment.

Reasonable Care. The use of ordinary prudence and intelligence exercised in similar circumstances. Failure to use reasonable care is negligence.

SS or SCT. Abbreviation of the Latin word *scilicet*, meaning “in particular” or “namely.” (Sometimes included to the right of the venue in a preprinted notarial block.)

Signature Guarantee. See *Medallion Signature Guarantee* above.

Subscribe. To sign.

Surety Bond. A surety bond is a legal instrument that reflects an agreement between three parties. In the case of a notary bond, those parties are the state, the surety company who underwrites the bond, and the notary, individually. A surety bond protects the public from damages caused by the notary; it does not protect the notary.

Swear. To take an oath.

Testify. To make a serious declaration to substantiate a fact; bear witness or give evidence, especially under oath in court.

Venue. The location (state and county) where a notarization was performed. This is a requirement in a notarial block in the state of Montana.

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.

LEGAL WAYS TO IDENTIFY A PERSON FOR NOTARIAL PURPOSES

In the state of Montana there are three ways that you may identify a person who requests a notarization:

- **Personal Knowledge** – A person whom you have known for a considerable period of time and would recognize anywhere, anytime can be identified on the basis of “personal knowledge.” This is a subjective standard, but a notary should be guided by the understanding that, in the event of a legal challenge to the signer’s identity, the notary would have to positively identify the person in court, often many years after the notarization took place. **Montana law views personal knowledge as the best form of identification, and thus requires no further proof of identity.** In Montana, it is generally legal for a notary public to notarize the signature of a spouse or other relative as long as the notary is not personally named in the document being signed or would be a direct beneficiary of the transaction contemplated by the document. The Secretary of State’s office cautions that notaries should seriously consider the potential conflicts that may arise over documents which transfer property or rights (titles, deeds, wills, powers of attorney, etc.) among family members. “Just because you can, doesn’t mean you should” are good words to apply in these situations.
- **Satisfactory Evidence** – Proof that you have positively identified a person who is otherwise unknown, or only slightly known, to you is generally categorized as “satisfactory evidence.” The notary should request **current, signed, and pictured** ID before performing a notarization for someone they do not know well. Acceptable forms of identification include a driver’s license, a military or student ID, a passport, or a government issued ID. Many times it will be necessary to use more than one piece of identification to conclusively identify a person. Notaries are cautioned to understand that some forms of ID, such as bank cards, credit cards, and non-pictured government-issued cards (social security or Medicare cards) are not acceptable as primary identifiers, although they may *in certain circumstances* be used in conjunction with other ID to establish a person’s identity. Notaries are not expected to be authorities on all types of identification, but they are urged to use common sense and reasonable care when presented with identification that appears to have been altered or tampered with in any way, or when the picture or description of the person on the card does not match the person standing in front of the notary. If there is any doubt as to the person’s identity, the only safe practice is to refuse to notarize any signature, oath, or acknowledgment.
- **Credible Witness** – The third means of identifying a person for notarial purposes is the most misunderstood, the most complicated, and the least likely to be available at the time the situation arises. A credible witness is only used when:

- The signer ***is not personally known to the notary***
and
- The signer has ***no acceptable form of ID***

Possible legitimate situations requiring a credible witness are:

- Wallet or purse was lost or stolen and all IDs are missing.
- A minor child who has no legal form of ID.
- A person is *unexpectedly* in a hospital or other institution.

The credible witness must be:

- Personally known to the notary.
- Personally known to the signer.
- An **unbiased third party** who has no interest in, or benefit from, the transaction.

When using a credible witness for identification, three people are together at the time of the notarization and nobody is using an ID card for identification.

Steps to a proper notarization using a credible witness:

1. Determine that the signer has a legitimate reason for not having any other means of ID.
2. Place the credible witness under oath: “Do you swear under penalty of perjury that this is _____?”
3. The credible witness signs the journal.
4. The signer signs the document (if not already signed).
5. The signer signs the journal.
6. The notary completes the notarial block on the document.

When a credible witness is used for identification of a document signer:

- **Personal knowledge is the only means of identification that can be used: NO IDs ALLOWED!**
- **Three people are involved – the notary, the signer, and the credible witness.**
- **All three people must be present when the notarization takes place.**
- **Both the credible witness and the signer must sign the notary’s journal.**



DETERMINING INTENT AND COMPREHENSION

A notary’s duty is not limited to determining the identity of the signer, but also to determine that the signer understands the purpose of the document being signed and intends to sign the document. The standard that a notary is held to for these determinations is one of “reasonable care”. The notary is not expected to be particularly knowledgeable about the ramifications or legal implications of a document; neither is the signer. As long as the signer can communicate what the document is – a title, a power of attorney, a contract – with some measure of understanding which the notary can confirm from a brief review of the document, the standard of reasonable care has been met.

Generally speaking, intent can be inferred simply from the fact that the signer has requested that the notarization be performed. There are, however, situations where additional care must be taken by the notary; for example, when the signer appears to be under pressure or duress, or possibly being medicated or under the influence of alcohol or other substances.

Failure to conclusively establish the identity, comprehension, and intent of the person requesting a notarization to the degree of reasonable care places the notary at risk of being sued for negligence or malfeasance in office.

In situations where there is a question of pressure being put to bear on the signer, the notary should ask any others in the room to leave and then engage the signer in conversation about the transaction. There is a difference between a person being unwilling or pressured to sign a document and being unhappy about the circumstances that have made it necessary for him or her to sign that document. When in doubt, the notary can get an opinion from an attorney or medical professional familiar with the signer.

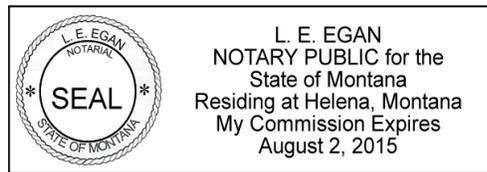
If there is a question about the signer’s ability to understand the document because of age, mental disease or disability, medication, or other factors, the notary may refuse to perform the notarization or suggest that it should be done at a later time as circumstances warrant.

NOTARIAL SEAL AND STAMP

It is the responsibility of the notary to obtain and keep an official seal upon receiving a new or subsequent commission. The State does not provide the seal. They may be purchased from most stationery, stamp, or office supply stores. It is the notary's responsibility to assure that the stamp is correct and complies with the requirements described below. Do not expect that the retailer or manufacturer knows the requirements. Provide this page to the vendor if there are any questions.

All notaries with a commission expiration date of October 1, 2013 or later are required to have an ink stamp unit, rectangular in shape and approximately 1" x 2 ½" in size, that contains a seal (as described below) and the additional statutorily mandated information: the notary's printed name; the title, "Notary Public for the State of Montana"; the words, "Residing at" with the name of the city or town where the notary *lives*; and the notary's commission expiration date, shown as Month/Day/Four Digit Year. The stamp may be either **blue or black ink only**.

The following is an illustration of the combination seal/stamp unit that is now mandated for Montana notaries with commission dates expiring on October 1, 2013 or later:



IMPORTANT Notes:

- **All information as shown above must be included. The commission expiration date must be complete. It is not acceptable to "fill in" the year.**
- **If any of the information contained in the seal/stamp changes during the notary's term of office, the stamp must be replaced. Handwritten corrections are not allowed.**
- **The rectangular border is a REQUIRED part of the stamp.**
- **Notaries will have to purchase a new stamp for each term of office.**
- **When you use this seal/stamp, you do not have to enter this information again by hand on a notarial block.**

For "Grandfathered" Notaries ONLY:

*A currently commissioned (Commission expiration date prior to October 1, 2013) Montana notary may use either a crimper-type or an ink-type seal; it is a matter of personal preference. In choosing between an embosser or ink-type seal, notaries should give consideration to the increased use of electronic transmission of documents. The ink-type offers a higher degree of legibility when documents are faxed or copied frequently. **Currently commissioned notaries may continue to use the seals they presently use (even crimpers) until the end of their current term as long as they are compliant with the requirements for the notary seal:***

Montana statute requires the notary's seal to bear only the following information; **anything additional renders the image invalid as a Montana Notarial seal:**

The notary's name exactly as it appears on the Certificate of Commission
The words State of Montana
The words Notarial Seal or Notary Public

A notary public may never use the Great Seal of the State of Montana as all or part of a notarial seal/stamp

NOTARY JOURNAL

All Montana notaries are required by law to “keep and maintain an **official notary journal** recording the **details of each notarial act** performed, including the **date**, the **type of notarial act**, the **type of document**, **date of document**, the **name, address, and signature** of the individual for whom the notarization was performed, the **type of identification used**, and any **other information prescribed by the secretary of state.**” [1-5-416(1)(g), MCA] {Emphasis added.}

“An official notary journal” is a commercially bound book designed specifically for this purpose. They may be obtained from a local office supply store or other retailer, or they are available online from many sources. There are different formats available; you may choose whichever you prefer as long as the pages are numbered and the book is designed in such a way as to prohibit any alteration or modification of the pages. You may not use a loose-leaf notebook, or any kind of electronic record.

*The information that Montanan notaries are required to keep in the journal should not be of a nature to violate the privacy rights of the signers. Specific information unique to the identity of the signer, such as license numbers, social security numbers, or birthdates **should never be entered** into the notary journal.*

A Montana notary journal must contain the following information:

- 1.) The **date of the notarization**;
- 2.) The **type of notarial act performed**;
- 3.) The **type of document**;
- 4.) The **date of the document**;
- 5.) The **name, address, and signature** of the person for whom the notarization was performed; and
- 6.) The **type of identification** used.

You may include other information regarding the specific circumstances or other *non-private* information relevant to the identification of the party or to the situation. This information is basic and all commercially available notary record books (journals, logs) will accommodate this information.

The journal should state the **type of identification used** – i.e., “Montana driver’s license”, “Canadian passport”, “personal knowledge”, “Oath of _____, acting as a credible witness”, etc. Many journals on the market have space for additional information not required by Montana law. This is to accommodate the requirements of other states. Montana notaries do not have to include any information not statutorily mandated; however, if a notary chooses to include the signer’s fingerprint or contemporaneous notes pertaining to the specific situation, that is acceptable.

The most important and critical element of the journal is the **signature of the person for whom you are performing the notarization**, along with the person’s printed name and address. That one single element provides conclusive proof that the signer was physically present to the notary when the document was notarized, and is the most effective tool notaries have to protect themselves against becoming the victim of fraud or having to defend themselves against claims of fraud.

As noted above, the notary journal is a valuable tool that protects notaries as well as their employers and the public. It is absolutely mandatory that every single notarial act be recorded, however, or the effectiveness of the tool can be negated. Notaries who frequently notarize for the same person may find ways to group a

collection of documents, perhaps by file number or date, so that one validating signature can suffice for several related notarial acts performed **on the same date**. The Notary Section of the Montana Secretary of State’s Office will assist notaries individually in determining appropriate ways of complying with the legal requirements and minimizing unnecessary redundancies. Please contact a notary specialist by phone or e-mail to discuss your specific situation. On the following pages are examples of proper journal entries.

SAMPLE JOURNAL ENTRIES

The Secretary of State has not defined a specific format for the Notary Journal. You may choose the design that fits your particular demands best. There are several designs on the market; all of them include spaces for the information required by Montana law. You do not need to fill out sections requesting information not required by law, such as thumbprints.

Below is a list of the information that must be included in every journal entry, regardless of the format:

- **Date Notarized:** This is the date on which you actually performed the notarization; it may or may not be the same as the date of document, which may be earlier but not later than the date of notarization.
- **Type of Notarization:** You only have six possibilities: an ACKNOWLEDGEMENT, a SIGNATURE, a JURAT, an OATH, a CERTIFIED COPY, or a DEPOSITION. See pages 13 - 14 for more information about the types of notarial acts and how you determine which act a particular document demands.
- **Date of Document:** This date can be the date the document was issued or the date it was signed and is usually printed on the document before it is signed. If no date appears on the document, you may consider the date of notarization as the date of the document.
- **Type of Document:** This can be a very generic term of art (i.e., "contract", "motion"), a form number, or a short description of the document. The signer must be able to explain to you what type of document is being signed if it is not obvious to you.
- **Type of ID:** Again, your possible entries are limited: If you know the signer well, enter PERSONAL KNOWLEDGE; if you are relying on SATISFACTORY EVIDENCE, you should just enter the issuing entity and type of document; and finally, if you rely on a CREDIBLE WITNESS your journal should reflect that you performed two separate notarial acts, including the oath of the credible witness and the acknowledgement, signature, or jurat of the signer.
- **The Printed Name, Signature, And Address of the Signer:** The **absolutely most important entry in the journal**. This proves that the signer was in your physical presence at the time the notarization was performed. Whenever possible, the printed name and address should be entered by the customer; the signature, of course, must always be entered by the customer.
- **Other Information:** Use this space to include any information that may be pertinent to the situation. It is especially helpful to note anything usual or additional that occurred or was a part of the transaction. Many journal entries will not require any additional information.

When performing a notarization, we recommend that you complete the journal entry first and have the signer enter his/her printed name, address, and signature before you complete the notarial block on the document.

TYPES OF NOTARIAL ACTS

There are seven legally authorized notarial acts in Montana law:

- Taking acknowledgements.
- Witnessing signatures.
- Verification upon oath or affirmation.
- Administering oaths.
- Certifying copies.
- Taking (transcribing) depositions.
- Making protests of instruments.

When we talk about “notarizing a document” most of the time we really mean notarizing a signature in some way – the three most common notarial acts. Notarizing a signature might loosely be defined as authenticating that signature. In Montana law there are three levels of authenticating a signature. These standard actions are described in the first three subparagraphs of [1-5-603, MCA](#):

1-5-603. Notarial acts.

(1) In taking an **acknowledgment**, the notarial officer shall determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument. (2) In taking a **verification upon oath or affirmation**, the notarial officer shall determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified. (3) In **witnessing or attesting a signature**, the notarial officer shall determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the officer and named in the instrument.

Acknowledgment - The least exacting process is the taking of an **acknowledgment**. Although this process requires the signer to appear before the notary, it does **not** require the notary to witness the act of signing. Often the party has mistakenly signed before realizing it should be done before a notary. In most cases, the requirement will be met if the signer acknowledges before the notary that he/she signed the document, and the notary then merely attests to the fact that the signer personally acknowledged the signature in the presence of the notary and that the notary has determined the identity of the signer as otherwise required, and has verified the signature to be that of the signer (usually by comparing the signature on the document to the signature on the ID and the one made by the signer in the notary’s journal.) See pages 34 - 35 for examples of proper acknowledgements by individuals.

An acknowledgement can also be made by an individual acting (signing) on behalf of another person or entity. This is called an **acknowledgment in a representative capacity** and the person who is appearing before the notary will be signing on behalf of a business or corporation, a trust, a Power of Attorney or with some other authorization that allows them to sign for another person or legal entity. When notarizing a document that is being signed by someone other than the person or entity designated as the signer, the notary should determine (1) the **identity** of the person who is actually signing the document, (2) the **capacity** of the person to sign on behalf of the person or entity, and (3) the **authority** to sign for that person or entity in this particular transaction. See page 40 for more information and examples of proper acknowledgements by persons signing in a representative capacity.

Verification upon oath or affirmation – JURAT - The most demanding process is taking a **verification upon oath or affirmation**. The notary not only witnesses the signature which must be made in his/her presence and must authenticate the identity of the signer, but he/she must also administer an oath and affix a **jurat** to reflect that the signer swore or affirmed the truth of the document signed. A **jurat** includes an oath by the signer that the statements made in the document are true. For some legal uses, the document would be inadmissible or useless if the jurat is not properly prepared. Montana motor vehicle titles and contractor license applications are two of the most commonly seen documents requiring jurat notarizations. See pages 38 - 39 for examples of correct formats for this type of notarial block.

Administering Oaths - Although notaries are fully authorized to administer oaths, most of the time they are done in conjunction with a signature – a jurat. There is no standardized verbiage mandated for various situations requiring an oath. In most cases the accompanying document will include the proper language for the specific oath that is to be administered.

Suggested oath to be administered when performing a jurat notarization: *“Do you swear that the information contained in this document is true and complete to the best of your knowledge and ability?”*

Witnessing or attesting a signature - Witnessing or attesting a signature is probably the most common of notarial acts requiring the notary to witness the signature by the signer who appears in person before the notary to do the signing. The notary also must authenticate the identity of the signer by approved methods. See pages 36 - 37 for examples of correct formats for this type of notarial block.

Certifying copies - A Montana Notary Public may be asked to certify or attest that a copy of a document or other item is a full, true, and accurate transcription or reproduction of that which was copied. There are two ways to fulfill a request for a certified copy of a document:

CERTIFICATION OF COPY - When someone brings an *original* document or when the original document is kept in the office where the notary works, the notary personally makes a copy of the document and then affixes a notarial block as shown on page 41. The customer does not sign the document at all – only the notary’s signature appears on the document. The notary must complete a journal entry for this type of notarization, however the requester’s signature, printed name, and address is not required, but it is certainly acceptable to include it.

NOTE: Montana notaries are prohibited from making and certifying copies of public documents, such as birth certificates, death certificates, marriage licenses, school transcripts, FBI fingerprint cards, and other official records that are issued by state or other government officials. Generally any document that must be certified by the issuing agency, such as a clerk & recorder, a clerk of court, or the department of vital records cannot be copied and certified by a notary public. Other government-issued documents, such as drivers’ licenses, diplomas, passports, or professional licenses may be copied by the notary and certified as being true and accurate copies. If you are unsure whether you can certify a copy of a particular record or document, contact the Secretary of State’s office.

CERTIFICATION BY DOCUMENT CUSTODIAN – A person may bring you a copy of a document and request that it be certified. In this situation, the notary should require the customer to certify that the copy is a true and accurate copy and sign the statement of certification. The notary then places the customer under oath and performs a jurat notarization of the customer’s signature. In this situation, it is the customer who is attesting, under oath, to the authenticity of the document, not the notary. **“Certification by a document custodian” cannot be used to certify copies of public records that cannot be certified by a notary public.** The notary’s journal entry for this type of notarization would reflect that a jurat notarization was performed on a certification by document custodian as the type of notarial act. See the example on page 41.

Taking (transcribing) depositions and Making protests of instruments – These two types of notarial acts require additional training and cannot be performed by a notary unless they are also court reporters or have been specifically trained by a financial institution to do protests. We will not discuss those notarial acts in any further detail in this handbook.

FREQUENTLY ASKED QUESTIONS FOR CHAPTER 2

Q. HOW DOES A NOTARY KNOW WHAT TYPE OF NOTARIAL ACT TO PERFORM?

A. If the document contains a preprinted notarial block, the “description” tells you what to do. See pages 13 - 14 of this handbook for more detailed information about how to determine what type of notarial act the notarial block is directing you to perform.

If the document does not have a preprinted notarial block, you must ask the person requesting the notarization what type of notarization is needed. A notary cannot make that determination, as that would constitute the unauthorized practice of law. If the person doesn't know, the notary should advise them to contact the source of the document to find out the desired notarial act and then use the appropriate format.

Q. Must I keep a journal?

A. Effective October 1, 2009, Montana law requires that Montana notaries keep a journal of their notarial acts. A journal is a record of the notarial acts performed and can be vital in protecting the notary from possible liability. The journal must be a bound book where the following information is recorded for each transaction: date of the notarial act; type of notarial act; type of document; signature, printed name and address of each person for whom a notarial act is performed; and type of identification used.

Q. Can I notarize my spouse's or other family member's signature?

A. Yes – as long as you are not named in, or a direct beneficiary of, the transaction referenced in the document being signed you may notarize the signature of a family member.

Q. What is a “signing agent”?

A. A “Signing Agent” is a notary public who specializes in the process of obtaining and notarizing the signatures of the party(ies) involved in real estate loan documents for the purpose of closing a real estate loan transaction. Montana statutes do not specifically reference this term.

CHAPTER 2 – Quiz

- T_____ F_____ 1. There are three ways to properly identify a person for notarial purposes in Montana: (a) personal knowledge; (b) satisfactory evidence, or; (c) a credible witness.
- T_____ F_____ 2. A notary may accept a copy of a document and certify it as a true and correct copy of the original.
- T_____ F_____ 3. The most important part of the notary's job is to create a written record of his or her official acts because this serves as *prima facie evidence* to prove the statements made by the notary in the notarial block are true.
- T_____ F_____ 4. Every Montana notary is empowered to perform five notarial acts; notaries with additional training may also perform two other types of notarial acts.
- T_____ F_____ 5. A notary may not notarize the signature of a minor child.

Answers:

1. True.
2. False. The notary *must make the* copy of an original document before certifying it to be a true and original copy.
3. True. The notary's journal is the key to protecting the notary, the notary's employer, and the public from fraud.
4. True.
5. False. As long as the child can be properly identified and can express an understanding of, and willingness to sign the document, a notary may perform a notarization regardless of the person's age.

CHAPTER 3 – THE PROCESS

There are certain formalities that must be observed in order to obtain a notary commission from the State of Montana. It is the objective of the Notary & Certifications Section of the Secretary of State's office to make the process of applying for a new or renewal commission as easy as possible; however, there are specific statutory requirements that must be met. On this and the following pages, you will find detailed information on how to become a notary, how to renew your commission, how to change your name on your commission, and when and how to notify the office of other changes that the law requires. You will also find the forms that should accompany your requests and notifications. The information in this chapter is current as of the date of this edition of the handbook; however you should check the website www.sos.mt.gov/Notary for the most accurate and up-to-date information and requirements.

The basic process for obtaining a commission involves these five steps:

1. Complete a certified training class if required
2. Obtain a notary surety bond
3. Complete the appropriate application, statement and oath and have it notarized
4. Make out a check for \$25 for the filing fee
5. Send the application, the original bond, and the filing fee to the Secretary of State's office

WARNING: "The devil is in the details!" Carefully read and follow the full instructions for the specific process that you are pursuing. There are statutory time constraints and other mandates that apply depending on the circumstances. Failure to follow the directions correctly will result in delays, frustration, and unnecessary expense.

Some important things to note about the notary application process:

- You do not have to use your full legal name for the commission – We can accept an application that uses at least one initial and your surname, or an application using your nickname, as long as you can prove your identity to the notary who notarizes your application, statement and oath of office. **The important thing is that you be consistent: The name on the bond, on the application, and the signatures on those documents must be exactly the same.**
- There are statutory time guidelines that must be followed:
 - All requests for commissions (new and renewal) must be filed within 30 days of the effective date of the bond if one is shown on the bond. (Some bonding companies leave the effective date blank, so there is usually no time limit on those bonds.)
 - Requests for reappointment cannot be made more than thirty days before the expiration date of the current commission. If you send your renewal paperwork in too early, it will be returned. If you send it in too late, you will be required to complete the requirements for a new commission, including completion of a certified training class, before you can resubmit the documents for processing
- You must send the application, the bond and the filing fee together. (State employees whose filing fee is paid for by their department must arrange for an IUJ to be issued before submitting the documents to the Secretary of State's office.)
- **The notary is solely responsible for submitting the required documents** for requesting a commission or for updating contact information during the term of office.

If you have any questions about any of these processes, feel free to contact the Notary and Certifications Section of the Secretary of State's office.

Application Instructions for a NEW Notary Commission in Montana: “APPOINTMENT”

1. Beginning with commissions issued or after July 1, 2010, all persons applying for an appointment as a notary public for the State of Montana **must satisfactorily complete a certified training course first**. A list of available classes can be found at the Secretary of State’s website at www.sos.mt.gov/notary.
2. Read through these instructions thoroughly. If there is *anything* that you don’t understand, please visit the Secretary of State’s website at www.sos.mt.gov/notary or contact the office at (406) 444-5379. It is strongly suggested that you become familiar with the responsibilities and legal liabilities imposed upon Montana notaries public **before** applying for a commission.
3. Make arrangements to obtain a \$10,000 surety bond written for a term of four years. These are available through most insurance companies licensed to do business in Montana. **A surety bond is not insurance for the notary**. It is meant to protect the public from any claim made against the State as a result of your actions. In the event of such a claim, the bonding company would look to you, the notary, for repayment of the claim amount. You may wish to discuss with your insurance agent the need for Errors & Omissions Insurance to provide personal coverage to protect yourself.
4. Complete the form titled “Application, Statement, and Oath of Office for APPOINTMENT to a Commission as a Notary Public.” A copy is on the next page. **This form must be correctly notarized.** Please note the following:
 - Enter your name exactly the way you normally make your signature.** This is the name in which your notary commission will be issued and it must match the name on the surety bond and your signature. (If your legal name is “John Quincy Public”, but you normally sign “J. Q. Public”, then enter J. Q. Public on the application.)
 - Make sure you follow the directions on the form and provide all the information requested.** Incomplete applications will be returned for completion; this will delay the processing of your commission request. Be sure to include your mailing address to ensure delivery of your Certificate of Commission.
 - Be sure to enter the information about the training course you completed on the application form.**
5. When you receive the bond:
 - Make sure all appearances of your name on both the application and the bond are exactly the same.**
 - If the city and county are listed on the bond make sure they are where you live, *not* where you work.**
 - Sign the bond on the line for the “Principal”.**
6. Send the **original** application form and bond and the filing fee of \$25 (check or money order) **within 30 days (before or after) of the effective date of the bond (if shown) to:**

Montana Secretary of State
Certification and Notary Services
PO Box 202801
Helena MT 59620-2801

7. You should receive your commission certificate within ten days to two weeks. Verify that your name and city of residence are correct and note your commission dates. You are responsible for procuring your official notary seal/stamp.

**YOU ARE NOT A NOTARY PUBLIC FOR THE STATE OF MONTANA
UNLESS YOU HAVE RECEIVED AN OFFICIAL CERTIFICATE OF COMMISSION
SHOWING YOUR NAME, CITY OF RESIDENCE, AND THE DATES OF YOUR TERM OF OFFICE.**

DO NOT ORDER YOUR SEAL/STAMP UNTIL YOU HAVE RECEIVED YOUR CERTIFICATE!!!

**APPLICATION, STATEMENT, AND OATH OF OFFICE FOR
APPOINTMENT AS A NOTARY PUBLIC**

03/12 Filing Fee \$25.00

NOTE: The applicant's name on this form and the associated surety bond must be exactly the same!

Your Name _____
(as it appears on the enclosed bond and will be on your commission certificate and official seal)

Date of Birth _____ **Email address** _____

Date of Certified Training Class Attended _____ **Location** _____ **Presented by** _____

Home Mailing Address

Street/Box # _____ Apt/Unit _____ **HOME (or CELL) PHONE** _____
City _____ State MT Zip _____

Physical/Residence Address (if different)

Street _____ Apt/Unit _____
City _____ State MT Zip _____

Employment Information*

Employer Name _____ **WORK PHONE** _____
Employer Address _____ City _____ State _____ Zip Code _____

**If you are presently unemployed or retired, please enter "N/A" for Employer. Enter "Work at Home" if your work address is the same as your home address.*

STATEMENT & OATH of OFFICE

I, _____, the undersigned, making application for a Commission as Notary Public in and for the State of Montana affirm, and at the date hereon swear that: I am eighteen (18) years of age or older, I have resided in the State of Montana for the period of time required by Montana law, I have never been convicted of a felony, I have never had a Notary Commission denied, revoked, or restricted in any state, the information on this application is true and complete to the best of my knowledge, and I am qualified to be appointed and commissioned as a Notary Public for the State of Montana.

I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the State of Montana, and that I will discharge the duties of my office of Notary Public for the State of Montana with fidelity (so help me God).

Applicant's signature _____
(Must match the name printed/typed above and on bond!)

State of Montana
County of _____

Sworn to and subscribed before me this _____ day of _____, 20____, by _____.

(Signature of Notary)

[Montana notaries must complete the following if not part of stamp at left]

(Printed name of notary public)
Notary Public for the State of _____
Residing at: _____
My commission expires: _____

(Affix Notarial Seal/Stamp Above)

DO NOT ORDER YOUR SEAL/STAMP UNTIL YOU HAVE RECEIVED YOUR OFFICIAL CERTIFICATE OF COMMISSION!!!

Instructions for Renewing a Notary Commission: “REAPPOINTMENT”

The single, most-frequently asked question for the notary section of the Secretary of State’s office is: “How do I renew my commission?” Following the enactment of SB299, there is a difference between the initial and subsequent appointments.

1. Effective July 1, 2010 you are eligible for reappointment as a Montana Notary Public if you meet the following criteria:
 - You are currently commissioned as a Notary Public for the State of Montana, and;
 - You successfully submit the required documents within the sixty day statutorily allowed time period (thirty days before your commission expires and thirty days after). If you submit your documents too early, they will be returned and must be resubmitted. **If you miss the deadline, you will have to apply for a “new” commission and complete a certified training course before submitting the documents again.**
2. When you have determined that you qualify for a reappointment, then follow the steps below:
 - Make arrangements to obtain a \$10,000 surety bond written for a term of four years. These are available through most insurance companies licensed to do business in the state of Montana. **A surety bond is not insurance for the notary.** It is meant to protect the public from any claim made against the State as a result of your actions. In the event of such a claim, the bonding company would look to you, the notary, for repayment of the claim amount. You may wish to discuss with your insurance agent the need for Errors & Omissions Insurance to provide personal coverage to protect yourself.
 - Fill out the form titled, “Application, Statement, and Oath of Office for REAPPOINTMENT to a Commission as a Notary Public.” This form must be correctly notarized. A copy is on the next page.
 - Enter your name exactly the way you normally make your signature.** This is the name in which your notary commission will be issued and it must match the name on the surety bond and your signature. (If your legal name is “John Quincy Public,” but you normally sign “J. Q. Public,” then enter J. Q. Public on the application.)
 - Make sure you follow the directions on the form and provide all the information requested.** Incomplete applications will be returned for completion; this will delay the processing of your commission request. Be sure to include your mailing address to ensure delivery of your Certificate of Commission.
3. When you receive the bond:
 - Make sure all appearances of your name on both the application and the bond are exactly the same.**
 - If the city and county are listed on the bond, make sure they are where you live, *not* where you work.**
 - Sign the bond on the line for the “Principal.”**
4. Send the **original** application form and bond and the filing fee of \$25 (check or money order) **within 30 days (before or after) of the effective date of the bond to:**

Montana Secretary of State
Certifications and Notary Services
PO Box 202801
Helena MT 59620-2801

The Secretary of State’s website, www.sos.mt.gov/notary, will always have the most current and updated information, as well as any necessary forms and instructions. You are encouraged to visit the website, or feel free to contact the office at (406) 444-5379 or (406) 444-1877.

YOU ARE NOT A NOTARY PUBLIC FOR THE STATE OF MONTANA UNLESS YOU HAVE RECEIVED AN OFFICIAL CERTIFICATE OF COMMISSION SHOWING YOUR NAME, CITY OF RESIDENCE, AND THE DATES OF YOUR TERM OF OFFICE.

DO NOT ORDER YOUR SEAL/STAMP UNTIL YOU HAVE RECEIVED YOUR OFFICIAL CERTIFICATE OF COMMISSION!!!

**APPLICATION, STATEMENT, AND OATH OF OFFICE FOR
REAPPOINTMENT AS A NOTARY PUBLIC**

03/12 Filing Fee \$25.00

NOTE: The applicant's name on this form and the associated surety bond must be exactly the same!

Your Name _____
(as it appears on the enclosed bond and will be on your commission certificate and official seal)

Date of Birth _____ **Email address** _____

Expiration Date of Current Commission _____ **Name on Current Commission** _____

Home Mailing Address

_____ **HOME (or CELL) PHONE** _____
Street/Box # _____ Apt/Unit _____

City _____ State MT Zip _____

Physical/Residence Address (if different)

_____ Apt/Unit _____
Street _____

City _____ State MT Zip _____

Employment Information*

_____ **WORK PHONE** _____
Employer Name _____

_____ City _____ State _____ Zip Code _____
Employer Address _____

**If you are presently unemployed or retired, please enter "N/A" for Employer. Enter "Work at Home" if your work address is the same as your home address.*

STATEMENT & OATH of OFFICE

I, _____, the undersigned, making application for a Commission as Notary Public in and for the State of Montana affirm, and at the date hereon swear that: I am eighteen (18) years of age or older, I have resided in the State of Montana for the period of time required by Montana law, I have never been convicted of a felony, I have never had a Notary Commission denied, revoked, or restricted in any state, the information on this application is true and complete to the best of my knowledge, and I am qualified to be appointed and commissioned as a Notary Public for the State of Montana.

I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the State of Montana, and that I will discharge the duties of my office of Notary Public for the State of Montana with fidelity (so help me God).

Applicant's signature _____
(Must match the name printed/typed above and on bond!)

State of Montana
County of _____

Sworn to and subscribed before me this _____ day of _____, 20____, by _____.

(Signature of Notary)

[Montana notaries must complete the following if not part of stamp at left]

(Printed name of notary public)
Notary Public for the State of _____
Residing at: _____
My commission expires: _____

(Affix Notarial Seal/Stamp Above)

DO NOT ORDER YOUR NEW SEAL/STAMP UNTIL YOU HAVE RECEIVED YOUR OFFICIAL CERTIFICATE OF COMMISSION!!!

INSTRUCTIONS FOR UPDATING YOUR PERSONAL INFORMATION

Montana law requires notaries to notify the Secretary of State's office in writing if any of their contact information changes during the term of their commission. [\[1-5-409\(1\) and \(2\), MCA\]](#) You may photocopy and use the form on the following page to submit such changes to the Secretary of State's office at the address below, or you may download a copy from our website. Send to the address listed on the form.

Requests for changes to the **notary's name** must be accompanied by a rider or stipulation issued by the bonding company.

The Secretary of State will issue an amended certificate for notaries who are submitting changes to their name or city of residence so that the notary can obtain a new seal/stamp as required.

There is no charge for these changes. The **Contact Information Update** form is on the next page.

INSTRUCTIONS FOR OBTAINING REPLACEMENT CERTIFICATES

The Certificate of Commission is the official document certifying that you are a commissioned notary for the State of Montana. You should be diligent in maintaining your certificate in a safe and secure place where you can easily access it when you are asked for it. You should never give the original certificate to anyone else.

The request form **must be signed by the notary**, using the notary's official signature. A verification of the signature will be made prior to issuing the replacement.

The **Replacement Certificate Request** form is on page 23. There is a \$10 fee for a replacement certificate.

INSTRUCTIONS FOR RESIGNING YOUR COMMISSION

Should you find it necessary to resign your commission during your term of office, please notify the Secretary of State's office in writing of your intent, including the date on which you intend the resignation to be effective. If you resign at the end of a term and choose not to request a reappointment, it is not necessary to advise this office.

Upon resignation or termination of your commission, whether voluntary or involuntary, the law requires that you turn your notary journal over to the clerk and recorder's office in the county in which you last resided and destroy your seal/stamp. If a notary dies while in office, the law requires that the notary's personal representative turns the journal(s) into the clerk and recorder's office and destroys the seal.

**MONTANA NOTARY PUBLIC
CONTACT INFORMATION UPDATE**

03/12 No Charge

Indicate the item(s) to be changed:

Name** Home Mailing Address Physical Residence Address** Employment Information

Home/Cell Telephone Number Work Telephone Number Email Address

Your name as it appears on your current Certificate of Commission:

Email address _____ Commission expiration date _____
(Month/Day/YYYY)

For name-change requests only (You MUST submit a rider or endorsement from the bonding company with this form.)

Your New Name:

New Home Mailing Address:	New Home/Cell Phone Number:	New Email Address:
_____	_____	_____
Street/Box # _____ Apt/Unit _____		
City _____ County _____ State <u>MT</u> Zip _____		
New Physical/Residence Address (if different):		

Street _____ Apt/Unit _____		
City** _____ County _____ State <u>MT</u> Zip _____		

New Employment Information:	New Work Phone Number:
_____	_____
Employer Name _____	

Employer Address _____ City _____ State _____ Zip Code _____	

SIGNED _____ (sign with **new** name, if applicable)

DATE _____

** An Amended Certificate will be issued for requested **name and city of residence changes** only. You must order a new seal/stamp with the updated information when you receive your new certificate.

DO NOT ORDER YOUR NEW SEAL/STAMP UNTIL YOU HAVE RECEIVED YOUR AMENDED CERTIFICATE OF COMMISSION!

Linda McCulloch
Montana Secretary of State
PO Box 202801
Helena MT 59620-2801

REQUEST FORM FOR REPLACEMENT OF NOTARY CERTIFICATE OF COMMISSION	Fee \$10.00
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PLEASE PROVIDE THE FOLLOWING INFORMATION:

Name

Phone Number

Address

City State Zip Code

Email Address

Signature

Expiration Date of Current Commission _____

Enclose check or money order for the amount of **\$10.00** made payable to the **Secretary of State**.

Mail your request to:
**SECRETARY OF STATE
NOTARY AND CERTIFICATION SERVICES
PO BOX 202801
1301 6TH AVENUE
HELENA MT 59620**

If you have any questions please visit our website www.sos.mt.gov/Notary.
Contact us at (406)444-5379

or by email at

sosnotary@mt.gov

FREQUENTLY ASKED QUESTIONS FOR CHAPTER 3

Q. I just got married/divorced – how do I change my name on my commission?

A. Start by contacting your insurance agent and requesting a “name change rider”. Once the rider is sent to you, you need to send the rider, along with a completed Contact Information Update form, to: Montana Secretary of State, PO Box 202801, Helena MT 59620-2801. A certificate reflecting the name change will be sent to you and you can then replace your official notarial seal/stamp.

Q. Do I have to notify the state if I move or change jobs?

A. Yes. Please send a Contact Information Update form with your updated information to: Montana Secretary of State, PO Box 202801, Helena MT 59620-2801, so that the records reflect your current residence and business information, including addresses and phone numbers. If you move to a different city, an amended certificate reflecting the change of city will be sent to you and you can then replace your official notarial seal/stamp, if your commission expires after Oct. 1, 2013.

Q. How do I renew my commission?

A. The instructions for renewing a commission can be found on page 19 of this handbook; however there may be changes in the process from time to time. You are encouraged to visit the Secretary of State’s website www.sos.mt.gov/Notary to check out the most current requirements.

Q. I am moving out of state – what do I do with my journal and seal?

A. When terminating a commission for any reason, the notary must deposit all his or her journals with the county clerk and recorder in the county where the notary last resided and destroy the seal.

Q. My former employer paid for my bond and my seal and I have changed jobs. Do I have to get a new bond? Do I leave my journal and seal with my former employer?

A. The bond is a contract between the notary, personally, and the bonding company, regardless of who paid for it; only the notary, the bonding company, or the State of Montana (as the obligee) may cancel or change the terms of the bond. Even if your employer paid for the bond, he cannot cancel it without your knowledge and approval. Likewise, your journal and seal/stamp are yours, and you have the legal responsibility for keeping and maintaining them in your possession or under your control at all times.

CHAPTER 3 – Quiz

T_____ F_____ 1. The process for applying for a new appointment is the same as the process for applying for a reappointment, except that new notary applicants must complete a certified training course before applying.

T_____ F_____ 2. You can renew your commission anytime within three months of your commission expiration date.

T_____ F_____ 3. When sending the paperwork to the Secretary of State’s office for a notary commission, you should send an original application, a copy of the bond, the errors and omissions insurance, and the filing fee.

Answers:

1. True.

2. False: Renewals must be submitted no more than thirty days before, or thirty days after, your current commission expiration date.

3. False: **When applying for a commission (new or renewal) you send an original application, the original bond, and the filing fee.** Nothing more is necessary; nothing less is acceptable.

CERTIFIED TRAINING PROVIDERS

The following individuals or organizations have been authorized by the Montana Secretary of State's Office to provide notary training that meets the statutory requirements for certified training. If you are considering a class from a person or entity not on this list, it may not qualify for the training requirement for new appointments. Please check with the Secretary of State's office to determine the status of any notary class you may be considering.

If you are interested in becoming a certified trainer, either for the public or for your organization, contact the Notary and Certifications Section of the Secretary of State's office at (406) 444-5379 for details.

ONLINE TRAINING

Montana Secretary of State's Office
www.sos.mt.gov/Notary/Training/online

The National Notary Association
9350 De Soto Ave
PO Box 2402
Chatsworth CA 91313-2402
1-800-876-6827
www.NationalNotary.org

The Notary Law Institute
P.O. Box 1932
Orem UT84057
1-800-722-8708
www.notarylaw.com

Notary.net
311 Starling Lane
Franklin TN 37064
1-888-263-1977
www.notary.net

NOTARY ASSOCIATIONS

American Society of Notaries
PO Box 5707
Tallahassee FL 32314
1-850-671-5164
www.Notaries.org

Montana Notary Association
PO Box 102
Ramsay, MT 59748
(406) 491-2070
montananotaryassociation@yahoo.com

Montana Notary Guild
PO Box 275
Billings MT
(406) 294-5545
www.montanatnotaryguild.org

National Notary Association
9350 DeSoto Ave
PO Box 2402
Chatsworth CA 91313-2402
1-800-876-6827
www.NationalNotary.org

Notary Law Institute
PO Box 1932
Orem, UT 84057
1-800-722-8708
www.notarylaw.com

Notary.net
311 Starling Lane
Franklin TN 37064
1-888-263-1977
www.notary.net

LIVE TRAINING CLASSES

All live classes that are open to the public will be posted on the SOS website – www.sos.mt.gov/Notary/Schedule.

Montana Secretary of State's Office
Lori Hamm

Glacier Bank System (Private)
Carolyn Barton

L B Gomes & Associates
Lydia Gomes

Missoula Federal Credit Union (Private)
Certified Instructor as Listed per class

The Notary Law Institute
Richard Burton
Dru Burton

The National Notary Association
Certified Instructor as Listed per class

Montana Notary Guild
H. Elwood English

Sky Federal Credit Union (Private)
Debra Kelly

MONTANA NOTARY OF THE YEAR PROGRAM

In 2009 Secretary of State Linda McCulloch began a new program to recognize the service that Montana notaries provide, saying, **“We instituted this award to raise the visibility of the invaluable work done by notaries in Montana. Notaries are the first line of defense against many types of fraud because they are responsible for determining the identity of the person who signs a document, swears an oath, or performs any of the other acts that require a notary public.”**

Nominations for the award are taken during the summer and a committee selects the finalists and the eventual winner. Criteria that are considered include the length of time the nominee has been a notary, the type and variety of documents the notary is requested to notarize, exceptional notary service, use of a journal and other best practices, and community service.

Secretary McCulloch will present the winner with a plaque and other gifts and nominate the Montana Notary of the Year as the state’s official nominee for the National Notary Association Notary of the Year Award.

NOTARY OF THE YEAR 2009

Debra Kelly
Sky Federal Credit Union
Livingston, Montana



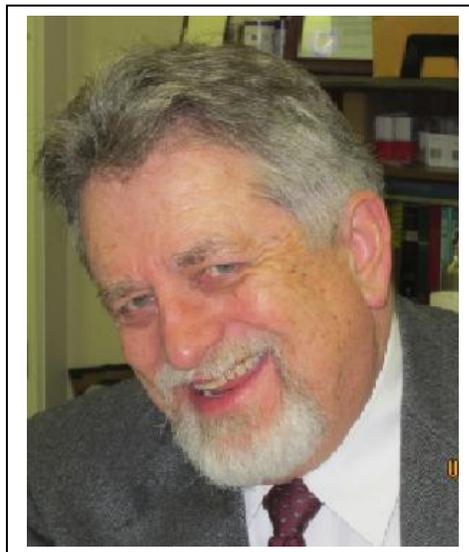
NOTARY OF THE YEAR 2010

Carolyn Barton
Glacier Bank
Kalispell, Montana



NOTARY OF THE YEAR 2011

H. Elwood English, Esq.
The Montana Notary Guild
Billings, Montana



Visit the website at www.sos.mt.gov/Notary/Awards to learn more about the program and download the nomination form if you know someone who deserves this award.

CHAPTER 5 - MONTANA CODE ANNOTATED

TITLE 1. GENERAL LAWS AND DEFINITIONS

CHAPTER 5. PROOF AND ACKNOWLEDGMENT OF INSTRUMENTS - NOTARIES PUBLIC

Part 4. Notaries Public

1-5-401. Appointment. The secretary of state may appoint and commission as many qualified notaries public for the state of Montana as in the secretary of state's judgment is considered appropriate.

1-5-402. Qualifications -- training -- residence. (1) A person may not be appointed as notary public unless the person has satisfactorily completed a training program certified by the secretary of state. (2) A person may not be reappointed as a notary public if at any time during the notary's term a complaint has been filed against the notary or the secretary of state's office has received evidence of improperly notarized documents by the notary unless the person has satisfactorily completed a training program certified by the secretary of state. (3) A person appointed or reappointed as a notary public may not, at the time of appointment, be a convicted felon. Each person appointed or reappointed as a notary public must be a resident of Montana for at least 30 days immediately preceding appointment or reappointment and must continue to reside within the state of Montana. Removal from the state or conviction of a felony vacates the office and is equivalent to resignation.

1-5-403. Term of office -- limit on commissions. (1) The term of office of a notary public is 4 years from the date of commissioning. (2) A person may not have more than one Montana notary public commission in effect at one time.

1-5-404. Penalties -- revocation of commission -- prosecution for violation of law. (1) Upon 10 days' notice, the secretary of state may revoke the commission of a notary public for just cause. (2) The county attorney of a county in which a violation of this chapter or another law applicable to notaries public or notarial acts occurs shall prosecute the violation.

1-5-405. Bond and commission -- dates -- fees and documents. (1) Each notary public shall submit an application, a signed oath of office, and an official bond in the amount of \$10,000 for each 4-year term of office. The application and bond must be approved by the secretary of state. Upon the approval of the application and the bond, the payment of fees, and the filing in the office of the secretary of state of the official oath of the notary public, the secretary of state may issue a commission. (2) The effective date of the surety bond and the notary commission must be the same. (3) All required fees and required and properly completed documents must be submitted to the office of the secretary of state within 30 days before or within 30 days after the effective date of the surety bond.

1-5-406. Liabilities on official bond. For the official misconduct or neglect of a notary public, he and the sureties on his official bond are liable to the parties injured thereby for all damages sustained.

1-5-407. Certifying the official character of a notary. The secretary of state may certify to the official character of such notary public. Any notary public may file a copy of his commission in the office of any county clerk of any county in the state, and thereafter said county clerk may certify to the official character of such notary public.

1-5-408. Fees for filing or amending commission and issuing certificates. The secretary of state shall set and deposit fees in accordance with 2-15-405 for filing or issuing, in the manner provided for in 1-5-407, certificates. The secretary may charge a fee for changes made in the commission of a notary public, during the term of that commission, regarding the notary's name, residential address, business address, or residential or business telephone number. The secretary of state shall use application forms soliciting the information required by this part. The county clerk of any county in this state must receive a fee, as provided in 7-4-2631, for filing a copy of the commission and certifying to the official character.

1-5-409. Information to be filed -- amendments to commission. (1) A person appointed as a notary public shall file the person's business, if any, and residential addresses and telephone numbers with the office of the secretary of state. If the notary public changes the notary's address or telephone number during the notary's term of commission, the notary shall notify the office of the secretary of state in writing and shall sign the writing using the same signature that is used for notarial acts. (2) A notary public wishing to change the notary's name during the notary's term of commission shall file with the secretary of state a rider or other document from the notary's surety company showing the change of name. The notary public shall also file with the secretary of state a written example of the notary's new official signature.

1-5-410 through 1-5-414 are reserved.

1-5-415. Jurisdiction. A person receiving a commission as notary public has jurisdiction to perform the person's official duties and acts in every county of the state of Montana irrespective of the person's place of residence within the state. A notary public may perform notarial acts outside Montana pursuant to 1-5-605.

1-5-416. Powers and duties. (1) A notary public shall: (a) subject to subsection (2), take the acknowledgment or proof of any power of attorney, mortgage, deed, grant, transfer, or other instrument executed by any person and give a certificate of the proof or acknowledgment, endorsed on or attached to the instrument; (b) take depositions and affidavits, if the notary is knowledgeable of the applicable legal requirements, and administer oaths and affirmations in all matters incident to the duties of the notary public's office or to be used before any court, judge, officer, or board in this state; (c) whenever requested and upon payment of the required fees, make and give a certified copy of any record kept or that originated in the notary public's place of employment; (d) provide and keep an official ink stamp and seal prescribed by the secretary of state; (e) authenticate with the notary public's official seal, and the notary's original signature, which must be in blue or black ink, as it appears on the notary's certificate of commission, all official acts. Whenever the notary public signs officially as a notary public, the notary public shall add to the signature the words "Notary Public for the State of Montana, residing at.... (stating the name of the town or city of the notary public's post office)" and shall endorse upon the instrument the date, showing the month, day, and four-digit year, of the expiration of the notary public's commission. (f) on every document on which the notary's seal of office is used, type, stamp, or legibly print the notary's name, as shown on the notary's certificate of commission, after or below the original signature of the notary; (g) keep and maintain an official notary journal recording the details of each notarial act performed, including the date, the type of notarial act, the type of document, the date of the document, the name, address, and signature of the individual for whom the notarization was performed, the type of identification used, and any other information prescribed by the secretary of state. (2) A notary public may not: (a) notarize the notary's own signature; (b) notarize a document in which the notary is individually named or has an interest from which the notary will directly benefit by a transaction involving the document; or (c) certify a document issued by a public entity, such as a birth, death, or marriage certificate, unless the notary is employed by the entity issuing or holding the original version of that document.

1-5-417. Authority of notaries who are stockholders, officers, or employees of banks or other corporations. (1) Except as provided in this section, a notary public who is a stockholder, director, officer, or employee of a bank or other corporation may: (a) take the acknowledgment of a party to a written instrument executed to or by that bank or corporation; (b) administer an oath to any other stockholder, director, officer, employee, or agent of that bank or corporation; or (c) protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes, and other negotiable instruments that may be owned or held for collection by that bank or other corporation. (2) A notary public who is a stockholder, director, officer, or employee of a bank or other corporation and is individually named in an instrument or signs an instrument as a representative of the bank or other corporation may not: (a) take the acknowledgment of that instrument by or to that bank or other corporation; or (b) protest a negotiable instrument owned or held for collection by that bank or other corporation. (3) A notary public who violates this section is guilty of a misdemeanor and upon conviction must be punished as provided by law.

1-5-418. Maximum fees of notaries. Maximum fees of notaries public are as follows: (1) for drawing an affidavit, deposition, or other paper for which a maximum fee is not otherwise specified, \$3.50 a page; (2) for taking an acknowledgment or proof of a deed or other instrument, including the seal and the writing of the certificate, for the first signature, \$5; (3) for each additional signature of the same person as referred to in subsection (1), \$1; (4) for administering an oath or affirmation, \$5; (5) for certifying an affidavit, with or without seal, including oath, \$5; and (6) for mileage or other charge to travel to or from or to and from the place of the notarial act, the amount provided by law for state employees when using the same mode of travel and traveling on state business.

1-5-419. Transfer of records upon termination of office. (1) A notary public, upon resignation or removal from office or at the expiration of his term, if the notary public is not reappointed, or, in case of the notary public's death, the notary public's legal representative shall: (a) transfer in a timely manner all the journals kept by the notary public to the office of the county clerk and recorder of the county in which he was resident; and (b) destroy the notary's official stamp and seal. (2) A knowing failure to take the actions prescribed in subsection (1) makes the offending person liable for damages to any person injured by the failure.

1-5-420. Powers and duties of clerk with whom records deposited. It is the duty of each clerk aforesaid to receive and safely keep all such records and papers of the notary in the case above named and to give attested copies of them under his seal, for which he may demand such fees as by law may be allowed to the notaries, and such copies shall have the same effect as if certified by the notary.

Part 6. Notarial Acts

1-5-601. Short title. This part may be cited as the "Uniform Law on Notarial Acts".

1-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Acknowledgment" means a declaration by a person that the person has executed an instrument for the purposes stated in the instrument and, if the instrument is executed in a representative capacity, that the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified in the instrument. (2) "In a representative capacity" means: (a) for and on behalf of a corporation, partnership, trust, or other entity as an authorized officer, agent, partner, trustee, or other representative; (b) as a public officer, personal representative, guardian, or other representative in the capacity recited in the instrument; (c) as an attorney in fact for a principal; or (d) in any other capacity as an authorized representative of another. (3) "Notarial act" means any act that a notary public of this state is authorized to perform and includes taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument. (4) "Notarial officer" means a notary public or other officer authorized to perform notarial acts. (5) "Verification upon oath or affirmation" means a declaration that a statement is true made by a person upon oath or affirmation.

1-5-603. Notarial acts. (1) In taking an acknowledgment, the notarial officer shall determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument. (2) In taking a verification upon oath or affirmation, the notarial officer shall determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified. (3) In witnessing or attesting a signature, the notarial officer shall determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the officer and named in the instrument. (4) In certifying or attesting a copy of a document or other item, the notarial officer shall determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied. (5) (a) In making or noting a protest of a negotiable instrument, the notarial officer shall identify the instrument and certify either: (i) that due presentment has been made; or (ii) the reason why it is excused and that the instrument has been dishonored by nonacceptance or nonpayment. (b) The protest may also certify that notice of dishonor has been given to all parties or to specified parties. (6) A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document if that person is: (a) personally known to the notarial officer; (b) identified upon the oath or affirmation of a credible witness personally known to the notarial officer; or (c) identified on the basis of a current identification document or documents that show a photograph and signature of the person.

1-5-604. Notarial acts in this state. (1) A notarial act may be performed within this state by the following persons: (a) a notary public of this state; (b) a judge, clerk, or deputy clerk of any court of this state; or (c) any other person authorized to perform the specific act by the law of this state. (2) Notarial acts performed within this state under federal authority as provided in 1-5-607 have the same effect as if performed by a notarial officer of this state. (3) Subject to the provisions of 1-5-605, notarial acts performed within Montana by notarial officers of bordering states have the same effect as if performed by a notarial officer of Montana. (4) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

1-5-605. Reciprocity of notarial acts. (1) A Montana notarial officer may perform a notarial act in a bordering state if the state recognizes the officer's authority within the state. (2) A notarial act performed in Montana by a notarial officer of a bordering state has the same effect under Montana law as if the act were performed by a Montana notarial officer, provided that the bordering state grants Montana's notarial officers similar authority within the bordering state.

1-5-606. Notarial acts in other jurisdictions of the United States. (1) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if it is performed in another state, commonwealth, territory, district, or possession of the United States by any of the following persons: (a) a notary public of that jurisdiction; (b) a judge, clerk, or deputy clerk of a court of that jurisdiction; or (c) any other person authorized by the law of that jurisdiction to perform notarial acts. (2) Notarial acts performed in other jurisdictions of the United States under federal authority as provided in 1-5-607 have the same effect as if performed by a notarial officer of this state. (3) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title. (4) The signature and indicated title of an officer listed in subsection (1)(a) or (1)(b) conclusively establish the authority of a holder of that title to perform a notarial act.

1-5-607. Notarial acts under federal authority. (1) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if it is performed anywhere by any of the following persons under authority granted by the law of the United States: (a) a judge, clerk, or deputy clerk of a court; (b) a commissioned officer on active duty in the military service of the United States; (c) an officer of the foreign service or consular officer of the United States; or (d) any other person authorized by federal law to perform notarial acts. (2) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title. (3) The signature and indicated title of an officer listed in subsection (1)(a), (1)(b), or (1)(c) conclusively establish the authority of a holder of that title to perform a notarial act.

1-5-608. Foreign notarial acts. (1) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if it is performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by any of the following persons: (a) a notary public or notary; (b) a judge, clerk, or deputy clerk of a court of record; or (c) any other person authorized by the law of that jurisdiction to perform notarial acts. (2) An "apostille" in the form prescribed by the Hague Convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office. (3) A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed or a certificate by a foreign service or consular officer of that nation stationed in the United States conclusively establishes any matter relating to the authenticity or validity of the notarial act set forth in the certificate. (4) An official stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds the indicated title. (5) An official stamp or seal of an officer listed in subsection (1)(a) or (1)(b) is prima facie evidence that a person with the indicated title has authority to perform notarial acts. (6) If the title of office and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

1-5-609. Certificate of notarial acts. (1) A notarial act must be evidenced by a certificate signed and dated by a notarial officer. The certificate must include identification of the jurisdiction in which the notarial act is performed, the date on which the notarial act is performed, the type of notarial act being performed, and the title of the office of the notarial officer and must include the official seal of office. If the officer is a Montana notary public, the certificate must also indicate the place of the notarial officer's residence and the date of expiration of the commission of office, but omission of that place or date may subsequently be corrected. If the officer is a commissioned officer on active duty in the military service of the United States, it must also include the officer's rank. (2) A certificate of a notarial act is sufficient if it meets the requirements of subsection (1) and it: (a) is in the short form set forth in 1-5-610; (b) is in a form otherwise prescribed by the law of this state; (c) is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or (d) sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act. (3) By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by 1-5-603.

1-5-610. Short forms. The following short-form certificates of notarial acts are sufficient for the purposes indicated if they are completed with the information required by 1-5-416(1)(e) and (1)(f) and 1-5-609(1):

(1) For an acknowledgment in an individual capacity:

State of _____

County of _____

This instrument was acknowledged before me on (date) by (name(s) of person(s)) _____

(Signature of notarial officer)

(Seal, if any)

(Name - typed, stamped, or printed)

Title (and Rank)

(Residing at)

[My commission expires: _____]

(2) For an acknowledgment in a representative capacity:

State of _____

County of _____

This instrument was acknowledged before me on (date) by (name(s) of person(s)) as (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed) _____

(Signature of notarial officer)

(Seal, if any)

(Name - typed, stamped, or printed)

Title (and Rank)

(Residing at)

[My commission expires: _____]

(3) For a verification upon oath or affirmation:

State of _____

County of _____

Signed and sworn to (or affirmed) before me on (date) by (name(s) of person(s) making statement) _____

(Signature of notarial officer)

(Seal, if any)

(Name - typed, stamped, or printed)

Title (and Rank)

(Residing at)

[My commission expires: _____]

(4) For witnessing or attesting a signature:

State of _____

County of _____

Signed or attested before me on (date) by (name(s) of person(s)) _____

(Signature of notarial officer)

(Seal, if any)

(Name - typed, stamped, or printed)

Title (and Rank)

(Residing at)

[My commission expires: _____]

(5) For attestation of a copy of a document:

State of _____

County of _____

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

Dated _____

(Signature of notarial officer)

(Seal, if any)

(Name - typed, stamped, or printed)

Title (and Rank)

(Residing at)

[My commission expires: _____]

1-5-611. Uniformity of application and construction. This part must be applied and construed to effectuate the general purpose to make uniform the law with respect to the subject of this part among states enacting it.

REVIEW OF THE RECENT CHANGES IN NOTARY LAWS

Senate Bill 299 was passed into law by both houses of the Montana Legislature and signed by Governor Brian Schweitzer on April 18, 2009. There are several changes to the notary laws as a result. **No changes to Montana notary law were enacted in 2011.**

Effective October 1, 2009:

- All Montana notaries are required to “keep and maintain an official notary journal recording the details of each notarial act performed, including the date, the type of notarial act, the type of document, the date of the document, the name, address, and signature of the individual for whom the notarization was performed, the type of identification used, and any other information prescribed by the secretary of state.” [1-5-416(1)(g), MCA]
- The use of a crimper type seal is no longer allowed for notaries who receive a new or renewal commission. Currently commissioned notaries who use a crimper may continue to use the crimper only until the end of their current term. [1-5-416(1)(d), MCA]
- All new and renewing notaries must use a black or blue ink seal/stamp as prescribed by the Secretary of State. The only acceptable design is illustrated on page 2 of this handbook. Other seal and stamp designs may be used only until the end of a notary’s current term. [1-5-416(1)(d), MCA]
- The notary’s official signature must be in blue or black ink. [1-5-416(1)(e), MCA]
- Upon resignation or removal from office, a notary (or in the event of the notary’s death, the legal representative) must transfer the notary’s journal to the office of the clerk & recorder in the county in which the notary resided. [1-5-419(1)(a), MCA]
- Upon resignation or removal from office, a notary (or in the event of the notary’s death, the legal representative) must destroy the notary’s official seal. [1-5-419(1)(b), MCA]
- Knowing failure to transfer the journal or to destroy the seal makes the offending person liable for damages caused by the offense. [1-5-419(2), MCA]

Effective July 1, 2010:

- All persons applying for appointment to a **new*** commission must satisfactorily complete a training program certified by the Secretary of State. [1-5-402(1), MCA]
- Those persons applying for reappointment as a notary who have been notified by the Secretary of State’s office that, due to evidence of improper notarization, must satisfactorily complete a training program certified by the Secretary of State. [1-5-402(2), MCA]
- The residency requirement for becoming a notary will be 30 days instead of one year. [1-5-402(3), MCA]

NO CHANGES WERE MADE TO MONTANA NOTARY LAWS IN 2011.

* A commission is considered new if the person has never held a notary commission in the state of Montana prior to making application or if a previous commission was not renewed within thirty days after the expiration of the previous commission as allowed by 1-5-405, MCA. [ARM 44.15.101]

CHAPTER 6 - COMPLETING PROPER NOTARIAL BLOCKS

You've completed all the requirements, you've received your Certificate of Commission, you have your stamp and your journal – you're ready to go forth and notarize...

But you'd really like a little more information about how to recognize what type of notarization you should perform and how to complete the notary block? That's what this chapter is here for. On the next few pages, there will be examples of various situations and notarial blocks that you are likely to have presented to you and explanations of the proper way to complete them.

First of all, there are **nine elements required for every notarial block completed by a Montana notary public**. As a notary you are required by law to include every single one of these items in every notarial block you complete – even if the preprinted form on the document does not call for it.

As ministerial officials, notaries cannot determine what type of notarial act is required on a document; they must look to the preprinted wording on the notarial block, the author or creator of the document, or the customer for instruction as to what type of block is required.

A notary may never change the type of notarial act that is specified in the notarial block.

*****[The first four elements describes the specifics of the particular notarization.]*****

1. The **venue** - this is the **state and county where the notarization is performed**. *This is not always the state and county in which the notary resides or works. See "Jurisdiction" on page 2.*
2. The **date when the notarization was performed**. *This may not always be the same date that the document was completed and/or signed.*
3. A **written description of what type of notarial act** the notary performed including **the name of the person** for whom the notarization was performed. This is called the "Statement of Particulars." *The notary may need to refer to [1-5-610, MCA](#), or Chapter 6 of this notary handbook, to help with the wording and format.*
4. The **notary's official signature in blue or black ink**, not a facsimile of their signature. *The official name on the Notarial Seal and the notary's official signature must correspond with the notary's commissioned name on file with the Office of the Secretary of State.*

*****[The following information identifies the notarial officer and validates the notarization.]*****

5. The **notary must type, stamp or print their official name** legibly after their official signature. *This is in addition to their official name contained in their notarial seal. (The notary's name should appear three times on every notarial block.)*
6. **Title of the official** who is performing the notarial act. *If a commissioned notary it would be "Notary Public for the State of Montana". If not a commissioned notary, it would be the official title that gives them the authority to notarize documents in and for the State of Montana.*
7. The words "**residing at**" and the notary's city/town of residence. *This is not necessarily where the notary works or where the notarial act is being performed. It does not include the street or mailing address nor the county or state*
8. The notary must also endorse the instrument with their current **commission expiration date** using month, day, & full four digit year. *The notary should make sure they are using the expiration date referenced on their certificate of commission.*
9. The notary must affix their official "**Notarial Seal**." *A commissioned notary's official seal must bear their name, exactly as it appears on their Certificate of Commission, the words "Notarial Seal" or "Notary Public" and "State of Montana". If not a commissioned notary, then the official seal would be that of the office that gives the person the authority to notarize in and for the State of Montana. Military personnel are not required to have a seal. **NOTE: Montana Notaries commissioned on or after October 1, 2009 must use a blue or black ink seal/stamp as shown on page 9 of this handbook.***

The new prescribed combination seal/stamp unit (required for all notaries with an expiration date of October 1, 2013 or later) contains items 5 – 9 and fulfills the statutory requirement for this information.

ACKNOWLEDGEMENTS

As discussed in Chapter 2, the notarial act of taking an acknowledgement means that the person who may or may not have already signed a document must *personally appear* before the notary and state (acknowledge) that he/she willingly signed the document for the purposes for which it was intended. The notary does not have to actually see the person sign the document, but does have to *actually witness* the person acknowledge the signature and verify that the signature on the document is that of the signer. In taking an acknowledgement, the notary will do the following:

- Identify the signer as the person who is supposed to sign the document
- Verify that the signature on the document is the signer's, either by watching them sign the document, or if it has already been signed, by comparing the signature to one on the signer's ID and the signature made by the signer in the notary's journal
- Have the signer **acknowledge** that the signature is his or hers and that it was made knowingly and willingly

Examples of typical notary blocks for ACKNOWLEDGEMENTS

1. This is a simple, basic form that contains all nine required elements for a proper Montana notarial block:

State of Montana County of _____	
This instrument was acknowledged before me on _____ by _____ <i>Print name of signer(s)</i>	
Affix seal/stamp as close to signature as possible.	_____ <i>Notary Signature</i> [Montana notaries must complete the following, if not part of stamp.]
	_____ <i>Printed Name</i>
	Notary Public for the state of _____
	Residing at _____ My Commission expires: _____, 20_____

2. This is a longer form; the only difference is it contains a longer written statement – all nine elements are included:

State of Montana County of _____	
On this _____ day of _____, _____, before me, a Notary Public for the State of _____, personally appeared _____, known to me to be the person named in the foregoing, and acknowledged to me that _____ executed the same as _____ free act and deed, for the uses and purposes therein mentioned.	
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.	
Affix seal/stamp as close to signature as possible.	_____ <i>Notary Signature</i> [Montana notaries must complete the following, if not part of stamp.]
	_____ <i>Printed Name</i>
	Notary Public for the state of _____
	Residing at _____ My Commission expires: _____, 20_____

SIGNATURES

Witnessing a signature is exactly that: You watch the signer sign the document. Occasionally someone will bring a document to you that has already been signed, although the preprinted form calls for you to witness the person sign the document. In situations like that, you must have the person sign the document again in your presence. It is not necessary for the signer to cross out the first signature; he or she should just sign again as close to the original signature as possible. When witnessing a signature, the notary will do the following:

- Identify the signer as the person who is supposed to sign the document
- Determine that the signer is knowingly and willingly signing the document
- Have the signer ***sign the document*** as you watch

Examples of typical notary blocks for SIGNATURES

1. This is a version of the basic form as described in 1-5-610(4), MCA:

State of Montana County of _____
This instrument was signed before me on _____ by _____. <i>Print name of signer(s)</i>

<i>Notary Signature</i>
[Montana notaries must complete the following, if not part of stamp.]

<i>Printed Name</i>
Notary Public for the state of _____
Residing at _____
My Commission expires: _____, 20_____
Affix seal/stamp as close to signature as possible.

2. This is another style of notarial block that you may see:

In the County of _____, State of _____, On this _____ day of _____, _____, before me, the undersigned Notary Public personally appeared _____, personally known to me, proved to me through documentary evidence, or identified by a credible witness to be the person named in the foregoing, and executed the same.

<i>Notary Signature</i>
[Montana notaries must complete the following, if not part of stamp.]

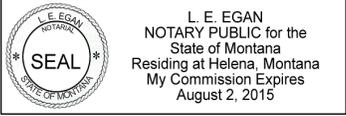
<i>Printed Name</i>
Notary Public for the state of _____
Residing at _____
My Commission expires: _____, 20_____
Affix seal/stamp as close to signature as possible.

Here's how the previous signature blocks should be completed:

1. The basic signature block should be completed like this:

State of Montana
 County of Yellowstone

This instrument was signed before me on May 5 2012 by John Doe (only).
Print name of signer(s)



L. E. EGAN
 NOTARY PUBLIC for the
 State of Montana
 Residing at Helena, Montana
 My Commission Expires
 August 2, 2015

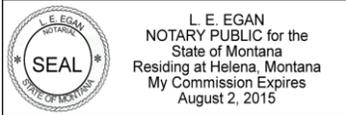
L E Egan
Notary Signature
**[Montana notaries must complete the following,
 if not part of stamp.]**

Printed Name
 Notary Public for the state of _____
 Residing at _____
 My Commission expires: _____, 20_____

Affix seal/stamp as close to signature as possible.

2. This is how to complete a more elaborate notarial block:

In the County of Yellowstone, State of Montana, on this 5th day of May, 2012, before me, the undersigned Notary Public personally appeared John Doe (only), who was personally known to me, proved to me through documentary evidence, or identified by a credible witness to be the person named in the foregoing, and executed the same.



L. E. EGAN
 NOTARY PUBLIC for the
 State of Montana
 Residing at Helena, Montana
 My Commission Expires
 August 2, 2015

L E Egan
Notary Signature
**[Montana notaries must complete the following,
 if not part of stamp.]**

Printed Name
 Notary Public for the state of _____
 Residing at _____
 My Commission expires: _____, 20_____

Affix seal/stamp as close to signature as possible.

Notes:

- The format of the notarial block may vary, as seen in the above examples; as long as all information required by law is included, the style of the notarial block is not important.
- The key words to look for to determine whether you are to witness the signature are “signed,” “subscribed,” or “executed.”
- It is a good habit to enter the word “only” in parentheses after entering the name(s) of the signer(s), so that additional names cannot be entered later in an attempt to indicate that other signatures were notarized.
- If you have the combination seal/stamp you don’t have to enter the information below your signature – it’s in the stamp!
- A diagonal line through the last part of the form will indicate that the information has not been forgotten or ignored, but is contained in the stamp.

JURATS

Performing a jurat requires a notary to do two things: (1) Witness the person signing the document – just like the signature witnessing above, and (2) Administer an oath, placing the person under penalty of perjury if the statements made in the document are proven false. A notary is not responsible for the truthfulness or accuracy of the document, and the person who takes the oath may, in fact, not be telling the truth. As long as you have administered an oath, you have done your job. When called upon to perform a jurat notarization, the notary will do the following:

- Identify the signer as the person who is supposed to sign the document.
- Determine that the signer is knowingly and willingly signing the document.
- Have the signer **sign the document** as you watch.
- Administer the following (or similar) oath:

A Sample Oath...

“Do you swear that the statements or information contained in this document are true and correct to the best of your knowledge and ability?”

Examples of typical notary blocks for JURATS

1. The first one is from 1-5-610(3), MCA:

State of Montana
 County of _____

Signed and sworn to before me on _____ by _____.
Print name of signer(s)

Notary Signature

[Montana notaries must complete the following, if not part of stamp.]

Printed Name
 Notary Public for the state of _____
 Residing at _____
 My Commission expires: _____, 20_____

Affix seal/stamp as close to signature as possible.

2. Another type of jurat block:

State of Montana
 County of _____

On this _____ day of _____, 20____, _____ personally appeared before me and having been duly sworn did herein execute the above instrument for the purposes stated.

Notary Signature

[Montana notaries must complete the following, if not part of stamp.]

Printed Name
 Notary Public for the state of _____
 Residing at _____
 My Commission expires: _____, 20_____

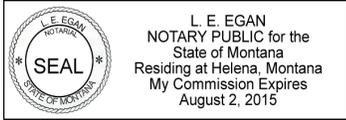
Affix seal/stamp as close to signature as possible.

For Documents Signed in a Representative Capacity

There are several instances when the person who requests a notarization will be signing the document on behalf of another person or another entity. This is called “signing in a representative capacity,” and usually happens when someone is signing on behalf of a corporation, a trust, or as a personal representative or with a power of attorney.

Montana law specifies that such notarial blocks must be completed with the name of the person who signed the document, the capacity in which it was signed, and the name of the party or entity on whose behalf it was signed.

Here’s an example of how to complete such a notarial block (This is how you would complete the information if the signer is using a Power of Attorney as the basis for signing the document):

State of Montana County of <u>Yellowstone</u>	
This instrument was signed or acknowledged before me on <u>May 5, 2012</u> by <u>Mary Doe</u> , as <u>Attorney-in-Fact</u> of or for <u>John Doe</u> .	
	<u>L. E. Egan</u> Notary Signature [Montana notaries must complete the following, if not part of stamp.] Printed Name _____ Notary Public for the state of _____ Residing at _____ My Commission expires: _____, 20_____
Affix seal/stamp as close to signature as possible.	

NOTES:

- When notarizing a document that is being signed by someone other than the person or entity designated as the signer, the notary should determine:
 1. the **identity** of the person who is actually signing the document,
 2. the **capacity** of the person to sign on behalf of the person or entity, and
 3. the **authority** to sign for that person or entity in this particular transaction.
 - The above information can be determined using the same methods that are used to identify
 - Personal knowledge
 - Satisfactory evidence
 - Credible witness
- Most documents’ notarial blocks do not anticipate that the document will be signed by someone other than the person or entity whose name appears on the document, so the notary will have to adjust the preprinted notarial block accordingly.

Documents Without Preprinted Notarial Blocks

From time to time, notaries are asked to notarize a document that does not have a notary block. If the requester can specify the type of notarial act that is needed, the notary may complete a proper notarial block by handwriting, typing, or otherwise affixing the appropriate form to the document. The **notary may not decide** what type of block to use: The person requesting the notarization, the author of the document, or the receiving entity must determine and communicate to the notary what type of notarial act, and thus which notarial block, should be completed. Pages of printable notarial blocks for all of the types of notarial acts are available for downloading from our website at www.sos.mt.gov/Notary/Forms.

CERTIFYING COPIES OF DOCUMENTS

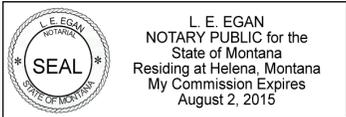
As explained in Chapter 2, there are two ways to certify a copy of a document. The simplest and easiest is simply to make a copy of the original document and add the properly-completed notarial block on the front or back of the copy. The easiest way to do that is by using the appropriate printable notarial block forms available on our website: www.sos.mt.gov/Notary/assets/blocks/Copy_Certification.pdf. You can download these forms on mailing labels or regular paper and stick one right on the copy.

Here are completed examples of the properly-completed notarial block for each of these situations:

1. Direct certification:

State of Montana
 County of Yellowstone

I certify this to be a true and correct copy of the diploma from Montanan State University issued to John Doe made by me on May 5 2012.



Affix seal/stamp as close to signature as possible.

L E Egan
Notary Signature
[Montana notaries must complete the following, if not part of stamp.]

Printed Name _____
 Notary Public for the state of _____
 Residing at _____
 My Commission expires: _____, 20_____

The second way is to have the person who brings in the document certify the document’s accuracy and then the notary performs a jurat notarization attesting to the fact that the document custodian certified the document was true and correct. You can use the downloadable form for this process too.

2. Certification by document custodian:

First, have the customer write the certification statement on the document:

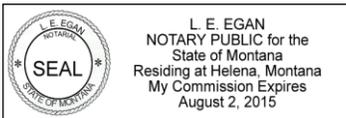
I certify that this is a true and correct copy of my diploma from Montana State University in my possession and made by me on May 5, 2012.

Signed John Doe

When that is completed attach the jurat form: www.sos.mt.gov/Notary/assets/blocks/Jurat.pdf.

State of Montana
 County of Yellowstone

This instrument was signed and sworn to before me on May 5 2012 by John Doe (only).
 Print name of signer(s)



Affix seal/stamp as close to signature as possible.

L E Egan
Notary Signature
[Montana notaries must complete the following, if not part of stamp.]

Printed Name _____
 Notary Public for the state of _____
 Residing at _____
 My Commission expires: _____, 20_____

NOTARIZING MONTANA MOTOR VEHICLES TITLES

Montana requires that the seller(s) signature(s) on a Montana Motor Vehicle Title be notarized. Once notarized, the title becomes a “negotiable instrument” and ownership is readily transferred to the person holding the title. For this reason, Montana notaries are urged to be particularly conscientious when asked to notarize a title.

- The preprinted notary blocks on most, if not all, of the older Montana titles do not accurately contain all the information required in a proper notarial block. You are responsible for including all nine elements of a proper notarial block. **NOTE:** The “venue” is missing on most (though not all) existing title forms. You must include the location where the notarization was performed: “State of Montana, County of _____”.
- If there are two or more owners listed on a title, they **do not** have to have their signatures notarized at the same time or by the same notary. The sellers sign and print their names on the lines provided on the title; the first notary should use the “preprinted block” and be sure to specify whose signature was notarized (“Signed and sworn before me by John Doe (only)”). The subsequent notary completes a full notarial block either on the title (in the lien holder’s section, if there is enough room) or on a separate piece of paper.
- The Montana Motor Vehicles Division will not accept a title with information that has been in any way corrected or crossed out. If an error is made by the signers or the notary, a **Statement of Fact** will have to be completed and filed with the Title. A copy of this form is available online at: www.doj.mt.gov/driving/forms/mv100.pdf.
- Notaries may place their seals in the lien holder section, just to the left of the signature in the notarial block on the older title forms. The new version has a space specifically designed for the new seal/stamp units that will be easier to use.
- Notaries may notarize “open titles,” per the message below:

SEE NEXT PAGE FOR ILLUSTRATION OF PROPERLY NOTARIZED MONTANA MOTOR VEHICLE TITLE

10/27/2010

AN IMPORTANT MESSAGE FROM THE MOTOR VEHICLE DIVISION:

MVD is in the process of redesigning the Montana certificate of title to allow more space for entry of information needed for assignment of a vehicle title, to conform with current notarial requirements – in particular, the accommodation of the new rectangular notarial stamp and the inclusion of all nine components of a notarial act – and to remove the admonition about notarizing an open title (e.g., “DO NOT NOTARIZE OR VERIFY UNLESS ... PURCHASER NAME(S) IS LISTED”).

“Open title” refers to a situation where a vehicle owner signs the transfer or assignment section of a title but doesn’t write in the name of the person to whom the vehicle is being sold (and usually odometer information is left blank as well). The open title can then be passed to a buyer (or through a series of buyers) without the statutorily mandated title and registration transactions being performed, the odometer disclosure statement being executed by the original seller or acknowledged by the original buyer, or any official record of the transfers being made. The risk of fraud and tax avoidance greatly increases when open titles are circulated. Additionally, open titles facilitate unlicensed “dealing” of motor vehicles, which then places legitimate dealers at a disadvantage.

The new title format will not be implemented for several months, however, consistent with the upcoming change, a notary may disregard the open title admonition on the current title (versions 2006 to present) and proceed with notarization of the vehicle owner’s (seller’s) signature – even though the purchaser’s name and address is not entered in section 1 of the title - if the notary has properly identified the signatory in accordance with the requirements of their commission. The notary is not required to interpret and/or enforce Montana title laws when acknowledging signatures on a Montana title document.

Likewise, a county treasurer, a deputy county treasurer, or a clerk who has been authorized by the treasurer to use the county seal under the authority of MCA § 61-3-220(2) (“an employee or authorized agent of the department”) may acknowledge the signature of a vehicle owner (seller), even though the owner has not entered the purchaser’s name and address in section 1 of the title.

It is the seller’s responsibility to execute a transfer (i.e., enter the purchaser’s name and address information) on the Montana title. Additionally, the seller has the duty to ensure that the odometer disclosure is complete and inherent in that process is naming a purchaser (transferee) who then by law must acknowledge the disclosure. MVD or county officials may inform a vehicle owner of state law requirements for transferring a vehicle to another person.

Brenda Nordlund, Administrator

SAMPLE NOTARIZED MOTOR VEHICLE TITLE

SIX STEPS TO NOTARIZING A TITLE:

1. Have the signer print and sign his/her name in the spaces provided. It is imperative that the seller's name be exactly as shown at the top of the title.
2. After witnessing the seller sign his/her name, place the seller under oath, swearing that the information entered on the title is true and correct.
3. Complete the notarial block. Be sure you print the name of the person(s) whose signature and oath you are notarizing. NOTE: Many of the older versions of the title do not have spaces for the venue – you must enter it wherever you can fit it in.
4. If you are using the combination seal/stamp you may place it in the lien holder section (as shown in the graphic).
5. Then draw a diagonal line below your signature (so no one can enter additional information).
6. If you are a "grandfathered" notary using a crimper or other style seal, be sure you complete the entire notarial block! Try to place your seal so that no information is covered.

STATE OF MONTANA
DEPARTMENT OF JUSTICE - MOTOR VEHICLE DIVISION
CERTIFICATE OF TITLE

TITLE NUMBER	YEAR	MAKE/MANUFACT.	MODEL	BODY STYLE/LENGTH
VEHICLE/VESSEL IDENTIFICATION NUMBER	UNLADEN WEIGHT/MATERIAL	TON/PROPULSION	VESSEL NUMBER	
ODOMETER READING	DATE ISSUED			
OTHER PERTINENT DATA				

OWNER(S) NAME AND ADDRESS

SAMPLE

This entire section must be completed when selling, trading or transferring your vehicle/vessel.

STEP 1 – OWNER(S) ASSIGNMENT OF TITLE TO PURCHASER(S)
 Owner(s) shown above must enter the name and address of the purchaser(s) here. Do not leave these lines blank – doing so constitutes an "open title" and is a violation of state law.

Print Name of Purchaser(s), whether individual(s) or business

Address

STEP 2 – OWNER(S) MILEAGE DISCLOSURE AND RELEASE OF INTEREST
 Warning: Federal and state law requires that you state the mileage of the vehicle – failure to do so or providing a false statement may result in fines and/or imprisonment.
 I/we state that this (check one) 5 or 6 digit odometer now reads (no tenths) _____ miles, date read _____ and to the best of my/our knowledge it reflects the actual mileage **unless one of the following statements is checked:**

DO NOT CHECK UNLESS APPLICABLE The odometer reading reflects the amount of mileage in excess of its mechanical limits.
 The odometer reading is not the actual mileage. **Warning - odometer discrepancy.**

I/we certify under penalty of law (Section 45-7-203 Unsworn Falsification to Authorities) that the statements made on this certificate are true and correct to the best of my/our knowledge, information and belief, that I am/we are the same person(s) named above, and if signing for a commercial entity, I/we have full authority to do so.
 All owners must sign in ink. If commercial entity, enter business name.
 X Myrna Loy Printed Name – must be same as signature (do not type)
 Signature of Seller (if more than one) – or – Business Name

1

Printed Name – must be same as signature (do not type)
 DO NOT NOTARIZE OR VERIFY UNLESS SIGNED IN YOUR PRESENCE AND PURCHASER NAME(S) IS LISTED.
 State of Montana County of Lewis & Clark
 Subscribed and affirmed to before me on (date) April 30, 2009 by (clearly print name of person appearing before you) Myrna Loy
 Notary signature Lori Hamm Affix
 Title or rank _____ Notary
 For the State of _____ County of _____ Seal
 Residing at _____ Here
 My commission expires _____

3

STEP 3 – PURCHASER(S) ACKNOWLEDGMENT OF MILEAGE DISCLOSURE
 I am/we are the above odometer certification made by the seller(s).
 X _____ Signature of Purchaser – only one signature is required Date of Sale: _____
 Printed Name – must be same as signature (do not type)
PURCHASER(S): See reverse side for Title Application (Section E) or Dealer/Insurer Reassignment (Sections A,B,C,D)

5

4

LORI E. HAMM
 NOTARY PUBLIC for the State of Montana
 Residing at East Helena, Montana
 My Commission Expires August 2, 2009

TITLE AND REGISTRATION BUREAU
 1003 BUCKSKIN DRIVE
 DEER LODGE MT 59722-2375

CONTROL NO. **0000000**
 (This is not a title number)

Rev. 03/06

KEEP IN SAFE PLACE-ANY ALTERATION-USE OF CORRECTION FLUID-ERASURE - VOIDS THIS TITLE.

VERIFY PRESENCE OF WATERMARK - HOLD TO LIGHT TO VIEW

STATE CERTIFICATION OF DOCUMENTS TO BE SENT TO A FOREIGN COUNTRY

APOSTILLE – AUTHENTICATION

The Montana Secretary of State's office can provide state certification for documents that are to be sent to, or used in, a foreign country. Both types of certification – *apostille* and *authentication* – verify that the notary public, clerk of court, clerk & recorder, or vital records administrator is authorized to provide the notarization or certification and that he/she has done so in accordance with the Montana Code Annotated. Additional certification of a notary public by an official at the local or county level is not provided in Montana. Whether the document requires an apostille or authentication depends completely on which country will be receiving the document. The Secretary of State's office will determine this.

If you are asked to notarize something that will be submitted for either type of certification, there is nothing special that you are being asked to do – except do the notarial block 100% correctly! As long as you follow the appropriate instructions as provided in this handbook and complete a full notarial block, the requested state certification can be provided.

Based on the experience of the Secretary of State's office, there are some common errors that cause the documents to be returned. Be aware of the following:

- If you are asked to certify a copy of a document, refer to the information on page 41 of this handbook before complying with the request. Be sure you are authorized to certify the document and then be sure to do so according to statutory regulation.
- Printable notarial blocks for certifying a copy of a document can be downloaded from our website at www.sos.mt.gov/Notary/assets/blocks/Copy_Certification.pdf
- In most cases you will be notarizing someone's signature; all the notary rules apply:
 - Make sure there is a signature to notarize.
 - Make sure you witnessed the signing or the acknowledgment of the signature. The person who signed the document must have appeared in front of you.
 - Complete a full notarial block – even if the preprinted form does not require certain information.
 - If there is no preprinted notarial block, ask the customer what kind of notarization is required (*see page 13 of this handbook*). If the customer does not know, advise them to find out from the entity requesting the document or the author of the document.

SPECIAL NOTE: Notarizing and/or Certifying Official School Records for Foreign Use

State-certified copies of school transcripts or diplomas are frequently requested for foreign exchange students. These require an additional step before the apostille or authentication can be issued.

1. An authorized school official (Principal, Registrar, etc.) must certify the document:

- **Sample wording for school official certifying an *original* school document:**

On (date) , I the undersigned, do hereby certify that this is a true and original (specify the type of document) issued by (name of school) .

[Signature of school official]

[Printed name and official title]

- **Sample wording for school official certifying a *copy* of a school document:**

On (date) , I the undersigned, do hereby certify that this is a true and unaltered copy of the original (specify the type of document) issued by (name of school) .

[Signature of school official]

[Printed name and official title]

2. A notary public must then notarize the school official's signature using the form on page 36 of this handbook or one of the printable versions downloaded from our website.

**STATE CERTIFICATION - APOSTILLE OR AUTHENTICATION
REQUEST FORM**

Filing Fee: \$10.00 per document

Please charge to my Prepaid Account # _____

**Enclosed is a check or money order for \$ _____ to cover the cost of _____ documents.
Make payable to Secretary of State.**

1. THE DOCUMENT(S) IS/ARE BEING CERTIFIED FOR THE COUNTRY OF: _____

The documents require:

_____ **Apostille**

_____ **Authentication**

2. PLEASE INCLUDE A SELF-ADDRESSED STAMPED ENVELOPE FOR THE RETURN OF THE DOCUMENTS.

3. COMPLETE YOUR CONTACT INFORMATION:

NAME

(AREA CODE) PHONE NUMBER

ADDRESS

CITY STATE ZIP CODE

EMAIL ADDRESS

Mail your request to:

**SECRETARY OF STATE
NOTARY AND CERTIFICATION SERVICES
PO BOX 202801
1301 6TH AVENUE
HELENA MT 59620-2801**

If you have any questions please visit our website www.sos.mt.gov/notary
Contact us at (406)444-1877 or sosnotary@mt.gov

FREQUENTLY ASKED QUESTIONS FOR CHAPTER 6

Q. If I am notarizing a signature on a document that has a preprinted notarial block, do I use that or do I have to use a format as shown in this chapter?

A. *A correct notarial block in Montana must contain all nine elements as described on page 33. If the preprinted form does not have one or more of the required elements, you should add it/them to the document, even if the placement is slightly different from the suggested form.*

Q. I have the combination seal/stamp, do I have to also enter that information on a preprinted form that has the lines for it under my signature?

A. *No, you do not have to enter that information again if it is in your stamp. You should draw a diagonal line through that part of the preprinted block to indicate that you have not simply disregarded the information.*

Q. What do I do if my stamp impression is not legible?

A. *If the impression of your name, commission expiration date, and seal are readable, that should be acceptable. If the impression is not clear enough to read that information, then you should make another impression as close to the original as possible. **NOTE: On motor vehicle title, contact the Title & Registration Bureau at (406) 846-6000 for instructions on how to handle this situation on a title.***

Q. May a Montana notary public use an ink stamp or an electronic signature on a document he or she is notarizing?

A. *No, a notary must always make an original signature using a blue or black ink pen.*

Q. If you are asked to notarize a signature on a document and there is not enough room for the notarial block on the page with the signature, what are your options?

A. *Whenever possible the notarization should be right below the signature that is being notarized; however, when that is not possible, the next best choice is to place it on the back of the page with the signature. If neither of those options is possible, you may attach a "loose certificate" that can be stapled to the page with the signature. In both situations you should indicate under the signature that the notarization is on the back or the attached page as appropriate.*

Q. Is there a way to obtain printed notarial blocks that can be attached to a document if needed?

A. *Yes! On the Secretary of State's website, we have downloadable forms for all of the statutory notarial acts for Montana notaries. They are designed to be printed on shipping-type labels, but can also be printed on regular paper that can be glued, taped, or stapled to the original document. Once attached, the information can be filled in and the seal/stamp affixed to any document.*

CHAPTER 6 – Quiz

T___ F___ 1. The venue on a notary block is always the state and county where you currently live.

T___ F___ 2. If the preprinted notarial block contains information such as the venue that is not where the notarization was actually performed, the notary should cross out the incorrect information and enter the correct information.

T___ F___ 3. The three things that are required in the "statement of particulars" of any notarial block are: a.) the date on which the notarization was performed; b.) the type of notarial act that was performed, and; c.) the name or names of the person or persons for whom the notarization was performed or the type of document being copied and certified.

Answers:

1. **False.** The venue is the state and county where the notarization was performed; it may or may not be where you live or work.
2. **True.** The notary should correct any information in a preprinted block that is incorrect or inaccurate.
3. **True.** All of that information is required by Montana law to be entered on every notarial block

The MUSTS & MUSTN'TS for MONTANA NOTARIES PUBLIC

There is one absolute: The person whose signature, acknowledgement, or oath is being notarized **MUST** be in your physical presence when the notarization takes place.
ALWAYS. EVERYTIME. NO EXCEPTIONS – EVER.

There are nine elements to a proper notarial block in Montana; all of them are statutorily mandated; **NONE** is optional. A Montana notary **MUST** complete a full notarial block regardless of the preprinted format. The prescribed combination seal/stamp unit includes 5 of the required 9 elements.

Every Montana notary **MUST** “keep and maintain an official notary journal recording the details of each notarial act performed...” [1-5-416(1)(g), Eff. 10/1/2009]

A Montana notary **MUST** use the full four-digit year when placing the commission expiration date on the notarial block.

In a proper notarial block, the notary's name **MUST** appear three times: the notary's signature; the notary's name printed, typed, or stamped below the signature; and in the notary's Official Seal.

All notarial blocks shall be placed as close to the notarized signature as possible. A separate piece of paper should only be used as a last resort.

A notary is expected to know, understand, and follow all statutes, rules, and standards applicable to the professional conduct of the role of a Montana Notary Public.



(Continued on back)

The MUSTS & MUSTN'TS (CON'T.)

You mustn't **EVER** notarize your own signature.

You mustn't notarize anyone's signature on a document in which you are named or from which you will directly benefit.

You mustn't certify a document issued by a public entity unless you work in the office where the original is maintained.

You mustn't sign as a representative of an entity and then notarize any signature on that same document.

Your notary seal/stamp mustn't be placed in such a way as to obstruct any other part of the notarial block, if at all possible.

A notarization does not render a document legal or illegal; an improper notarization can result in a document being useless for the purpose for which it was intended.



For More Information, visit our website at www.sos.mt.gov/Notary

ALWAYS REMEMBER...

RULE NUMBER ONE

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

**ALWAYS.
EVERY TIME.
NO EXCEPTIONS.**