



# NOTARY NOTES

Newsletter of Licensing Division  
North Dakota Secretary of State's Office  
Alvin A. Jaeger, Secretary of State

July 2010

Vol 11 No. 14

## *Greetings!*

When a person applies to become a notary public, he or she is required to take an oath of office because, when commissioned, they become an officer of the state. The oath is printed on the application form, which is signed by the applicant before a notary. Then, the notary public completes the jurat under the applicant's signature. When doing so, the notary is confirming that the applicant subscribed and swore to the following oath.

"I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of North Dakota and that I will faithfully discharge the duties of the office of Notary Public according to the best of my ability, so help me God."

It is a personal commitment not to be taken lightly. It requires the notary to be knowledgeable about the law and about his or her duties and responsibilities. I emphasize this because a notary holds a position of trust, which requires him or her to perform their duties with the utmost integrity.

It is not a meaningless clerical function. If done incorrectly, it could jeopardize the legality of a document, delay an important happening, become an issue in court, or possibly result in a personal liability issue for the notary. I highlight this because of the many notary related violations that occur each year.

In another portion of this newsletter are listed cases in which over 90 notaries executed settlement agreements drafted by the Office of the Attorney General that involved monetary fines or suspensions. All of them had the potential of resulting in the revocation of the notary's commission.

In certain cases, criminal proceedings could be initiated through a State's Attorney whereby the violating notary could be found guilty of an infraction (\$500 maximum fine). In addition to the settlement agreements, letters of reprimand were issued to 225 notaries from July 1, 2009, through June 30, 2010.

What is particularly surprising is that only a few of these violations were reported by sources from outside the Secretary of State's office. Most of the violations occurred on forms and documents submitted to the Secretary of State's office or the Office of the Attorney General. Because they are violations, they cannot be ignored, even if some of them might be accidental. Many are because the notary was not paying attention to what they were doing or not reading the text.

Although not an exhaustive list, the violations included missing dates (day, month or year); incomplete, wrong, or missing venues; no acknowledgement or jurat text; erroneous commission expiration dates; unlawful use of an embosser style notary seal; notarizing one's own signature; not witnessing the signature being affixed to the document or not even having a signature on the document and still completing the notarization; and failing to affix an impression of the notary stamp.

I urge you to thoroughly read this newsletter and review the attached notary law and periodically refer to it as a refresher. Additionally, review the previous editions of *Notary Notes* on the Notary Section on the Secretary of State's website at [www.nd.gov/sos/notaryserv/](http://www.nd.gov/sos/notaryserv/).

Your position is important and many people depend on you. Do your job well and legally correct.

Al Jaeger  
Secretary of State

## *Commissioned ~ When To Begin?*

If you are a commissioned notary public, use your commission ending at midnight of its expiration. Upon renewing your notary commission use the new expiration date starting at midnight.

## *Commission Posted?*

By law, you must have a current commission certificate posted before you can begin notarizing. If you have not received your new certificate, contact the Secretary of State's office immediately to determine if you are an active notary.

## *Commission Expiration Date*

The notary stamp you purchased should have your expiration date on it. Since the date is already on your stamp, there is no need to write it on any documents. Even if the document has a blank designated to insert the date, the stamped date is sufficient. Since notary commissions are for six years you could easily insert the wrong date and end up with a violation.



## Embossed Seals

Legislation was passed six years ago to eliminate the embossed seal. Occasionally, it is found that this seal is still being used, along with the new stamp, for nostalgic reasons. Please destroy this embosser as it is not legal and may also cause you to be in violation of state law.

## Notarial Wording

The definition and examples of the Acknowledgement and Jurat are located on the Secretary of State's website at [www.nd.gov/sos](http://www.nd.gov/sos). Click on Notary Public on the left hand navigation bar, click on certifications, and scroll to the examples.

## A Few Things To Check Before Notarizing

- Always scan your document to be sure there are no blanks.
- If the document is in a foreign language, be sure to have an English translation attached and both documents need to be signed and notarized in English.
- Be sure your customer has signed the document.
- All dates need to be complete with a month, day, and year.
- If any line in the notarization block is pre-filled, be sure to cross out any incorrect information, fill in the correct information and initial.
- If the document, you are notarizing, does not contain any notarial wording you must ask the signer if they want to take an acknowledgement or jurat.

Double check your notarial act for accuracy before sending your customer on their way.

Be sure your notarial act contains:

1. A Venue: State of \_\_\_\_\_  
County of \_\_\_\_\_
2. Wording for an acknowledgement or jurat.
3. Customer signature and date.
4. Notary signature and date.
5. Impression of the notary stamp, which includes an expiration date. (A stamp which has been approved by the Secretary of State's office.)

## Errors and Omissions Insurance

Errors and Omissions insurance is not required by law. If you decide to purchase this insurance it is not necessary to send a copy to our office. The policy is for you to keep for your records.



## Intimidating Customers

Some signers think bullying the notary will work in their favor and they try to force the notary to break the rules. Stand your ground and stick to the law. If you have questions on state notary laws, review the attached copy of the current statutes, search the website or call the Secretary of State's office. Relying on a fellow notary may not always be the best choice for information.

## Public Document?

Under section 44-06-13.1 prohibited acts it states in part:

A notary public may not notarize a signature on a document if:

Except as otherwise provided by law:

1. The document is a copy or certified copy of any vital record authorized or required by law to be registered or filed;
2. The document is a copy or certified copy of an instrument entitled by law to be recorded; or
3. The document is a copy or certified copy of a public record containing an official seal.
4. The notary did not obtain satisfactory evidence of the identity of the signer, unless the signer is personally known to the notary.



## Renewal Information

Confused with all the official looking information arriving from various companies regarding your notary and bond renewal?

The Secretary of State's office will send the renewal information to you two months prior to your expiration. It will arrive in an envelope that indicates it is official mail. When you receive that notification, you will know it is time to start the renewal process.

Remember these other companies are looking for your business. Some may be out-of-state companies and not your local agent that you purchased your bond through. The choice is yours to use your local agent or one of the other companies.

*Notary Violations From  
July 1, 2009, through June 30,  
2010*



**Note:** The circumstances surrounding each violation are often different and result in varying penalties even though some of the following abbreviated summaries may appear to be similar in nature. All violations are a matter of public record under the state's open records laws.

**July 2, 2009** . Notary violated 44-06-13.1(1)(a) by notarizing a document not signed in notary's presence: six-month suspension.

**July 6, 2009** . Notary violated 44-06-12 by failing to affix the name of the state and county (venue) to the document: suspension through end of commission in 2012.

**July 22, 2009** . Notary violated 44-06-04 by not affixing stamp to the document: \$50 penalty.

**August 7, 2009** . Notary violated 44-06-12 by failing to affix the name of the county on the venue: \$35 penalty

**August 27, 2009** . Notary violated 44-06-13.1(1)(e) by failing to fill in the year the notarization took place: three-month suspension.

**September 8, 2009** . Notary violated 44-06-04 by failing to affix stamp to the document: three-month suspension

**September 14, 2009** . Notary violated 44-06-13.2(1) by pleading guilty to Theft of Property; therefore, notary commission was revoked by order of default: six-year suspension.

**September 25, 2010** . Notary violated 44-06-12 by failing to affix the name of the state and county (venue) to the document: two-month suspension.

**October 5, 2009** . Notary violated 44-06-04 by failing to affix stamp to the document: \$50 penalty.

**October 5, 2009** . Notary violated 44-06-13.1(1)(c) by notarizing own signature: \$150 penalty.

**October 14, 2009** . Notary violated 44-06-13.1(1)(c) by notarizing own signature: three-month suspension.

**November 2, 2009** . Notary violated 44-06-04 by failing to affix stamp to the document: three-month suspension.

**November 3, 2009** – Notary violated 44-06-13.1(1)(c) by notarizing own signature: \$150 penalty.

**November 5, 2009** – Notary violated 44-06-04 by failing to affix stamp to the document: \$50 penalty.

**November 9, 2009** – Notary violated 44-06-13.1(1)(c) by notarizing own signature: \$150 penalty.

**December 2, 2009** – Notary violated 44-06-13.1(1)(a) by notarizing a document not signed in notary's presence: \$50 penalty.

**December 2, 2009** – Notary violated 44-06-13.1(1)(e) by failing to fill in the year the notarization took place: \$125 penalty

**December 2, 2009** – Notary violated 44-06-04 by failing to affix stamp to the document: \$50 penalty.

**December 7, 2009** . Notary violated 44-06-13.1(1)(a) by notarizing a document not signed in notary's presence: two-month suspension.

**December 8, 2009** – Notary violated 44-06-04 by failing to affix stamp to the document: \$50 penalty.

**December 9, 2009** . Notary violated 44-06-04 by failing to affix stamp to the document: 3-month suspension.

**December 9, 2009** – Notary violated 44-06-13.1(1)(c) by notarizing spouse's signature: \$150 penalty.

**January 11, 2010** – Notary violated 44-06-13.1(1)(c) by notarizing own signature: \$150 penalty.

**January 11, 2010** – Notary violated 44-06-04 by failing to affix stamp to the document: \$50 penalty.

**January 11, 2010** – Notary violated 44-06-04 by failing to affix stamp to the document: \$50 penalty.

**January 19, 2010** . Notary violated 44-06-13.1(1)(e) by notarizing the signature and affixed a different date than on the jurat: \$125 penalty.

**January 19, 2010** – Notary violated 44-06-04 by failing to affix stamp to the document: two-month suspension.

**January 26, 2010** – Notary violated 44-06-04 by failing to affix stamp to the document: two-month suspension.

**February 16, 2010** . Notary violated 44-06-13 by exercising duties of a notary without a commission: \$300 penalty & six-month suspension.

**February 16, 2010** – Notary violated 44-06-13.1(1)(e) by notarizing a document with the wrong date: \$50 penalty.

**February 22, 2010** – Notary violated 44-06-04 by failing to affix stamp to the document: \$50 penalty.

**March 1, 2010** – Notary violated 44-06-13 by exercising duties of a notary without a commission: \$50 penalty.

**March 1, 2010** – Notary violated 44-06-13.1(1)(a) by notarizing a document not signed in notary's presence: \$150 penalty.

**March 3, 2010** . Notary violated 44-06-12 by failing to affix signature to the document: \$50 penalty.

**March 3, 2010** . Notary violated 44-06-13.1(1)(a) by notarizing a signature when it did not appear on the document: three-month suspension.

**March 12, 2010** . Notary violated 44-06-12 by failing to affix signature to the document: three-month suspension.

**March 12, 2010** . Notary violated 44-06-13.1(1)(c) by notarizing spouse's signature: three-month suspension.

**March 12, 2010** . Notary violated 44-06-12 by failing to affix stamp to the document: two-month suspension.

**March 12, 2010** . Notary violated 44-06-04 by failing to affix stamp to the document: \$50 penalty.

**March 12, 2010** . Notary violated 44-06-04 by failing to affix stamp to the document: \$50 penalty.

**March 12, 2010** . Notary violated 44-06-12 by failing to affix signature to the document: three-month suspension.

**March 15, 2010** . Notary violated 44-06-04 by failing to affix stamp to the document: \$50 penalty.

**March 31, 2010** . Notary violated 44-06-04 by failing to affix stamp to the document: \$50 penalty.

**March 31, 2010** . Notary violated 44-06-04 by failing to affix stamp to the document: \$50 penalty.

**March 31, 2010** . Notary violated 44-06-13.1(1)(a) by notarizing a signature when it did not appear on the document: \$125 penalty.

**April 7, 2010** . Notary violated 44-06-13.1(1)(a) by notarizing a document not signed in notary's presence: \$50 penalty.

**April 23, 2010** . Notary violated 44-06-13.1(1)(h) by notarizing a signature on a blank document: \$75 penalty.

**April 23, 2010** . Notary violated 44-06-04 by notarizing without receiving a commission: \$50 penalty.

**April 23, 2010** . Notary violated 44-06-13 by notarizing without receiving a commission: \$50 penalty.

**May 5, 2010** . Notary violated 44-06-04 by failing to affix stamp to the document: two-month suspension.

**May 5, 2010** . Notary violated 44-06-13.1(1)(a) by notarizing a signature when it did not appear on the document: \$50 penalty.

**May 5, 2010** . Notary violated 44-06-12 by failing to affix signature to the document: \$50 penalty.

**May 5, 2010** . Notary violated 44-06-04 by failing to affix stamp to the document: \$50 penalty.

**May 5, 2010** . Notary violated 44-06-13.1(1)(a) by notarizing a signature when it did not appear on the document: \$100 penalty.

**May 10, 2010** . Notary violated 44-06-13.1(1)(a) by notarizing a signature when it did not appear on the document: three-month suspension.

**May 10, 2010** . Notary violated 44-06-13.1(1)(a) by notarizing a signature when it did not appear on the document: three-month suspension.

**May 12, 2010** . Notary violated 44-06-13.1(1)(a) by notarizing a signature when it did not appear on the document: three-month suspension.

**May 12, 2010** . Notary violated 44-06-04 by failing to affix stamp to the document: \$50 penalty.

**May 12, 2010** . Notary violated 44-06-13 by notarizing a document without a certificate of commission issued: \$50 penalty.



**Copy of the Law**  
Attached to this newsletter is a copy of the North Dakota law as it pertains to Notaries Public.

*Notary Notes* is a newsletter of the Licensing Unit in the Secretary of State's Office, 600 East Boulevard Avenue, Dept 108, Bismarck ND 58505-0500, (701) 328-2901 or Toll Free: 1-800-352-0867, ext. 8-2901; [www.nd.gov/sos](http://www.nd.gov/sos)

Mary Feist.....Operational Management Director  
Charlotte Zander ..... Licensing Specialist  
Al Jaeger ..... Secretary of State  
Jim Silrum..... Deputy Secretary of State  
Kim Shaw ..... Executive Assistant/Editor

Enjoy the summer!

