



# Notary Notes

Newsletter of the Accounting/Notary Unit  
North Dakota Office of the Secretary of State  
Alvin A. Jaeger, Secretary of State

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## Greetings from Secretary of State Al Jaeger

Over the past five years, the number of commissioned notaries public in North Dakota has increased by over 2,000. As of June 30, 2017, North Dakota had 15,422 commissioned notaries public. Notarial officers are entrusted by the public to perform an essential service, which must be done correctly and with integrity. This means that you, as a notary public, need to know the responsibilities of a notary public so that you are able to accurately perform your duties.

Included on page 5 of this newsletter is a list of notarial violations that occurred from July 1, 2016 through June 30, 2017 for which notaries executed settlement agreements with monetary fines or suspensions.

During that same time period, 159 reprimands were issued. These unlawful acts included: failing to leave a clear impression of the notary

stamping device; notarizing an incomplete or blank document; missing or inconsistent dates (day, month, or year); incomplete, wrong, or missing identity of the jurisdiction (state and county) where the notarial act was performed; and incorrect commission expiration dates. All of these situations could have resulted in a fine, suspension or revocation of commission, and in certain cases, criminal proceedings.

Most of the errors and violations by notaries public are discovered on forms submitted to this office and the Office of the Attorney General. Some of these errors and violations are innocent mistakes that could have been prevented had the notary realized what he or she was doing was incorrect.

A notary is an officer of the state and a violation of the notary laws must be addressed even if it was



inadvertent. This is to ensure that the notary is aware of the violation and to educate the notary so that the same mistake is not made when performing future notarial acts. As a notary public, it is your responsibility to review the document you are notarizing and to accurately follow the notarization procedures. Always remember that you are an important officer of the state and people depend on you to perform your service as a notary truthfully and with integrity.

## Notary Law Update! New Notary Laws Adopted by the 65th Legislative Assembly

During the 65th Legislative Assembly, House Bill 1316 was introduced and passed by the legislature, which resulted in changes to the notary law effective August 1, 2017. The most notable change was to the term of a notary public commission. The term was changed from six years to four years. N.D.C.C. § 44-06.1-20(5).

In addition, the bill removed the requirement that papers maintained by a notary public relating to the office be deposited with Secretary of State when the person no longer holds the office of notary public. However, a notary public must still destroy his or her notary stamping device when he or she is no longer acting as a notary public for the state of North Dakota. N.D.C.C. § 44-06.1-17.

Third, the bill clarified that a notary public's official stamp must be affixed to each notarial act performed by the notary public. N.D.C.C. § 44-06.1-23(8). Finally, the bill clarified the process for a notary public to update his or her commission when the notary's name has legally changed. N.D.C.C. § 44-06.1-27. Review the *Notary Name Change* section on page 2 for more information on the process.

## Notary Name Change N.D.C.C. § 44-06.1-27

According to state law, a notary public must notify the Secretary of State's office within 60 days of a name change. This may be accomplished by filing a [Notary Name Change/Notary Seal/Stamp Change \(SFN 51261\)](#) with the Secretary of State's office along with a rider to the notary's surety bond stating both the previous name and the new name. A \$10 filing fee is required.

Upon receipt of the name change notification, rider, and fee, the Secretary of State's office will issue an authorization to purchase a new notary public stamping device. Once the verification of the notary public stamping device is returned to the Secretary of State's office, a new notary commission certificate with the notary's new name will be issued.

After the notary notifies the Secretary of State's office of the name change, but before the notary receives the new commission certificate, the notary may continue to perform notarial acts. However, the notary must sign his or her name as follows:

\_\_\_\_\_  
Notary Public North Dakota

Formerly known and commissioned  
as

\_\_\_\_\_  
My commission expires



## Importance of Reading *Notary Notes* and Staying Up-to-Date on Notary Laws

Reading this newsletter and reviewing the notary laws will help you, as a notary public, understand the duties and responsibilities you undertook when you became a notary public.

This newsletter highlights the most common questions that are received by this office from notaries public and the most common errors made by notaries public. The most recent laws related to notaries public are available on the Secretary of State's website.

## Correct Commission Expiration Date

Some documents that a notary public is requested to notarize may include a place for the notary to write or type his or her expiration date. It is recommended that the notary public not do so since the expiration date included on a notary public's stamp is sufficient evidence of a notary's commission expiration date. If a notary types or writes an incorrect commission expiration date on the document, the discrepancy between the typed or handwritten expiration date and the actual expiration date could expose the notary to a potential violation. It is not legally required that the commission expiration date be written or typed on a document; however, the notary should draw a line through the place.

## Important Information on Website

The Secretary of State's office encourages notaries public to review the valuable information contained in the Notaries Public section on its website, which includes the notary laws and past editions of *Notary Notes*.



The website also contains:

- **New** Step by Step Guide
- Examples of certificates for notarial acts
- Frequently asked questions
- Notary public responsibilities
- Common terms and definitions
- Requirements for notary public stamping devices
- Forms

**A North Dakota notary  
public is a notary public  
for the entire state of  
North Dakota.**

## Changed Addresses? N.D.C.C. § 44-06.1-20(9)

State law requires that a notary public notify the Secretary of State's office within 60 days of any address change. To satisfy this requirement, complete the [Notary Change of Address \(SFN 50445\)](#) form, available on the Secretary of State's website, and submit it to this office.

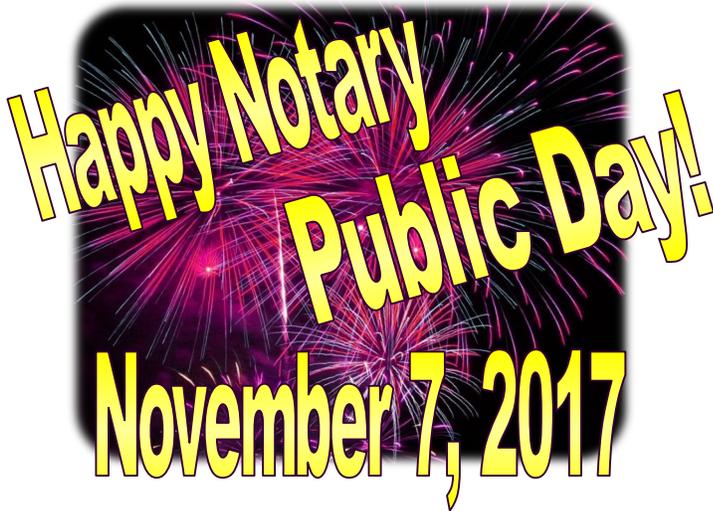


## Personal Appearance Required for Notarial Acts

The notarial acts of witnessing/attesting a signature and acknowledging a record can be a difficult task for some to differentiate. When a notary is asked to witness or attest a signature, the person must personally appear before the notary and sign the document in the presence of the notary prior to completion of the notarial certificate. The notary is merely witnessing the signature of an identified individual.

If a notary is requested to acknowledge a record, the person must still personally appear before the notary and satisfy the notary that the individual is who he or she claims to be. However, the person whose signature is being notarized must declare before the notary that the individual has signed the record for the purpose stated in the record and that the signature on the document is his or her signature. Therefore, for an acknowledgment, the person whose signature is being notarized may sign the document prior to appearing before the notary public, but make the declaration regarding the record and signature at the time of the notarial act; or the person may sign at the time the notarial act is performed.

Each of these has its own notarial certificate. Refer to N.D.C.C. § 44-06.1-19 for examples of these notarial certificates. Remember, no matter which notarial act is being performed, personal presence is required!



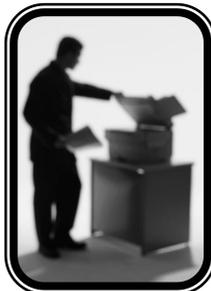
## Certified Copies

N.D.C.C. § 44-06.1-23(7)

North Dakota law states that a notary public may not make or purport to make any copy of the following types of documents:

- Vital records;
- Recordable instruments; and
- Public records containing an official seal

This includes birth certificates, death certificates, and marriage licenses. These documents may only be certified by the office that issues them.



## Clear Impression

A notary public's stamping device must leave a clear impression and the impression of the stamp should not be placed over any other text on the document. This is to ensure that all of the information on the impression of the stamp is readable. If the impression of the stamping device is not clear on a document, simply place another impression of the stamping device on the document.



## Jurisdiction (State and County) N.D.C.C. § 44-06.1-14(1)(c)

One of the most common errors made by a notary public is not including the jurisdiction in which the notarial act was performed, which means the state and county where the notarial act was performed, as part of the notarial certificate text. If a notarial certificate is preprinted with a jurisdiction that is not accurate, the notary may correct the jurisdiction in the notarial certificate section and initial next to the changes.

## Notarial Certificates

Requirements of a notarial certificate:

- State and county where the notarial act was performed;
- Date of the notarial act;
- Signature of the notary public;
- Certificate text; and
- Signature of individual whose signature is being notarized.

## Renewal of Commission

Approximately two months prior to the expiration date of a notary's commission, the Secretary of State's office mails to the notary public renewal information for the notary to renew his or her notary commission. The mail is marked as "official mail." However, private companies may send renewal information to a notary public prior to or around the same time. Some of these companies may include forms very similar to those provided by the Secretary of State's office and may offer additional products or services that are not required to renew a notary commission.

To apply for a renewal of a notary commission, a new application, surety bond, and application fee must be submitted. After the application, surety bond, and fee have been received and approved, a Certificate of Authorization is issued allowing the applicant to purchase a new notary stamping device from a vendor of his or her choice. When the stamping device is received from the vendor, an impression of it must be affixed to the Verification of Notary Stamping Device form (included with the Certificate of Authorization). The form must then be returned to the Secretary of State's office on or before the date indicated on the Verification form.

After the Verification form is received and approved by this office, a new notary commission will be issued to the notary. When the certificate is received by the notary, the notary public may begin using the new stamping device on or after the commencement date listed on the commission certificate.

Please contact the Secretary of State's office with any questions on the requirements for renewing a notary commission.



## New Notary Commission Term

**FOUR Years!!!**

### Identification When Performing Notarial Acts N.D.C.C. § 44-06.1-06(2)

Prior to performing a notarial act, a notary must identify the individual appearing before the notary. State law provides three ways to verify an individual's identity:

- Personal knowledge - This is the easiest method. The individual is personally known to the notary through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.
- Identification card or papers - Driver's license, passport, government-issued nondriver identification card, or another form of government identification that contains the individual's signature or a photograph of the individual and is satisfactory to the notary. These types of ID must be currently valid or expired not more than three years.
- Credible witness - A credible witness is a third person who has personal knowledge of the signer's identity. The credible witness must verify on oath or affirmation the individual's identity and the notary must be able to identify the credible witness by personal knowledge or by identification card or papers.

*"Notaries do not simply perform meaningless clerical functions. They perform an essential service to the public."*

### Notary Signature

When applying for a notary commission, an applicant should consider how the applicant will sign his or her signature when performing notarial acts. When an application is approved, the notary's commission will be issued with the notary's name as listed on the application, and, when performing notarial acts, a notary public must sign his or her name exactly as it appears on the notary public's commission. Therefore, if a notary public's full middle name or middle initial is included on the commission, the notary public must sign his or her name in that manner. Only include a middle name or initial if that is how the name will be signed when performing notarial acts.



**REMEMBER: A notary may not notarize a signature on a document drafted in a language other than English unless an English translation is permanently affixed to the document.**

## Notary Violations from July 1, 2016 through June 30, 2017

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

**July 26, 2016** – Notary violated § 44-06.1-23(6)(a) by notarizing a document not signed or acknowledged in the notary's presence: three-month suspension

**October 11, 2016** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$50.00 fine

**October 14, 2016** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$75.00 fine

**October 14, 2016** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$75.00 fine

**October 14, 2016** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$75.00 fine

**October 18, 2016** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$50.00 fine

**October 18, 2016** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$75.00 fine

**October 26, 2016** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$50.00 fine

**November 8, 2016** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$50.00 fine

**November 9, 2016** – Notary violated § 44-06.1-23(6)(e) by notarizing a document with different dates: \$125.00 fine

**November 28, 2016** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$75.00 fine

**December 6, 2016** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$75.00 fine

**December 6, 2016** – Notary violated § 44-06.1-23(6)(a) by notarizing a document not signed or acknowledged in the notary's presence: three-month suspension

**December 9, 2016** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$50.00 fine

**December 23, 2016** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$50.00 fine

**January 30, 2017** – Notary violated § 44-06.1-23(6)(a) by notarizing a document not signed or acknowledged in the notary's presence: three-month suspension

**January 30, 2017** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$50.00 fine

**February 23, 2017** – Notary violated § 44-06.1-23(6)(c) by notarizing own signature: four-month suspension

**May 17, 2017** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$50.00 fine

**May 17, 2017** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$75.00 fine

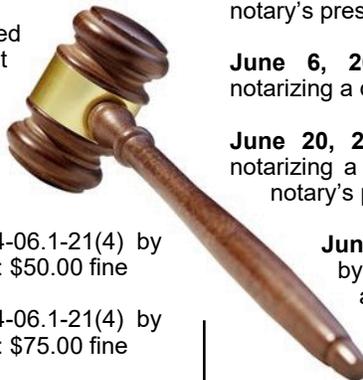
**June 5, 2017** – Notary violated § 44-06.1-23(6)(b) by notarizing a document to which the notary was a party: \$50.00 fine

**June 5, 2017** – Notary violated § 44-06.1-23(6)(a) by notarizing a document not signed or acknowledged in the notary's presence: three-month suspension

**June 6, 2017** – Notary violated § 44-06.1-21(4) by notarizing a document without a commission: \$50.00 fine

**June 20, 2017** – Notary violated § 44-06.1-23(6)(a) by notarizing a document not signed or acknowledged in the notary's presence: \$125.00 fine

**June 28, 2017** – Notary violated § 44-06.1-23(6)(a) by notarizing a document not signed or acknowledged in the notary's presence: \$125.00 fine



### Oath of a Notary Public

**"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 (or under pains and penalties of perjury)."**

### Correct and Complete Date

Each notarial act must include the actual date on which the notarial act was performed. Neither the notary nor the person whose signature is being notarized may predate or postdate the document and the date must include the month, day, and year.

## Secretary of State

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option 7  
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Visit the Secretary  
of State's Website  
[sos.nd.gov](http://sos.nd.gov)

Review the  
Notary Laws  
[sos.nd.gov/notaries-  
public](http://sos.nd.gov/notaries-public)

Notary Notes is a  
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Unit in the Secretary of  
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American Society of  
Notaries  
[www.asnnotary.org](http://www.asnnotary.org)

National Notary  
Association  
[www.nationalnotary.org](http://www.nationalnotary.org)

Notary Law Institute  
[www.notarylaw.com](http://www.notarylaw.com)

Notary Rotary  
[www.notaryrotary.com](http://www.notaryrotary.com)

## Reciprocity to Perform Notarial Acts N.D.C.C. § 44-06.1-09(4)

At times, a notarial public may question whether he or she may perform a notarial act in another state. The only state that currently has reciprocity in regards to performing notarial acts is Montana, which means that a North Dakota notary public may perform notarial acts in Montana. However, the North Dakota notary must still follow the laws of North Dakota when performing a notarial act in Montana. Since laws change from time to time, it is best to doublecheck the law prior to performing a notarial act in another state in case the reciprocity laws are modified.

At this time, a notary may not perform a notarial act in South Dakota or Minnesota because neither state extends reciprocity to North Dakota notaries public.

### Test Your Knowledge (True or False)

- 
1. The commission term for a North Dakota notary public is four years.
  2. If a notary changes his or her name, the notary must stop performing notarial acts until his or her commission is updated with the new name.
  3. If a notary has a change of address, the notary must notify the Secretary of State's office within six months of the address change.
  4. A notary public is not allowed to make a certified copy of a birth certificate.
  5. The state and county where a notarial act is performed is a required element of a notarial certificate.
  6. A notary should always handwrite his or her commission expiration date next to the notary's signature.
  7. When renewing a notary commission, a notary must obtain a new notary stamping device.
  8. If a document to be notarized is drafted in a language other than English, an English translation of the document must be permanently attached before the notarial act may be performed.
  9. When performing notarial acts in a state that extends reciprocity to a North Dakota notary, the North Dakota notary must follow the laws of the state in which the notarial act is being performed.
  10. The notary's stamp must leave a clear impression on the document being notarized.
  11. An individual whose signature is being notarized must personally appear before the notary public.
  12. A notarial certificate must contain the date the notarial act is actually performed.
  13. A person no longer acting as a notary public must deliver his or her notary stamping device to the Secretary of State's office.
  14. The number of commissioned notaries public in North Dakota is decreasing.
  15. When performing notarial acts, a notary public must sign his or her name exactly as it appears on the notary's commission.

Answers: 1. True (page 4); 2. False (page 2); 3. False (page 2); 4. True (page 3); 5. True (page 3); 6. False (page 2); 7. True (page 4); 8. True (page 4); 9. False (page 6); 10. True (page 3); 11. True (page 3); 12. True (page 5); 13. False (page 1); 14. False (page 1); 15. True (page 4)