

# Utah Notary Public

## Study Guide and Handbook



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## Becoming a Notary

### **Qualifications:**

1. Must be at least 18 years old
2. Must lawfully reside in the State of Utah for at least 30 days prior to applying
3. Must be able to read, write and understand English
4. Must be a US citizen, or have permanent resident status under Section 245 of the Immigration and Nationality Act
5. Have not been Revoked or Suspended as a notary without expressed permission from the Office of the Lieutenant Governor
6. Must list any criminal convictions to be reviewed by the Office of the Lieutenant Governor
7. Pass test
8. Pay \$55 Administration fee and \$40 Test fee (after taking test)
9. Obtain Notary Bond
10. Submit the Application, Bond and Oath of Office to the Office of the Lieutenant Governor

### **How to use notary.utah.gov to become a notary:**

1. Create an account
2. Create a username and password
3. Enter your email, name, phone number
  - a. Keep in mind the name you use when creating your account will be as it appears on your commission and stamp
4. Confirm email address
5. Add middle name (optional) and date of birth
6. Enter your home address, mailing address (if different than home address), and business name and address.
  - a. The business address will be made public on notary.utah.gov notary search.
7. Enter phone numbers
  - a. “Work Phone” will be made public on notary.utah.gov notary search. If there is no work phone, your home or cell phone will default to public search.
8. Answer Qualification questions
  - a. If any of the “qualifications” listed above are not answered in accordance with UCA Title 46 Chapter 1, you will not be permitted to proceed with online application.
9. Review your application. If everything is correct you will then proceed with taking the test.

## **Taking the Test:**

There are 35 questions of which 10 are worth 4 points and 25 are worth 1 point making a total of 65 points possible. You must pass with **61 points or higher** in order to apply for your notary commission.

If you do not pass the test, you have 30 days from the date you first took the test to take it again for \$40, after 30 days you will be required to pay the Administrative fee and testing fee of \$95.

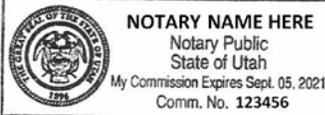
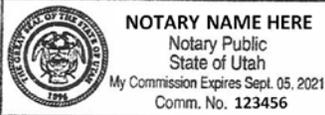
## Top Ten Mistakes of Notaries Public: Preparation for 4-point FUNDAMENTAL questions

1. Leaving out the notarial language
2. Confusing the notarial acts
3. Misinterpreting electronic signature/notarization
4. Failing to require Personal Appearance
5. Failing to name the appearing signer
6. Adopting policies contrary to UCA 46-1-8
7. Failing to require proper I.D.
8. Refusing documents solely for their content
9. Leaving the notary seal and certificate with the employer upon termination of employment
10. Executing “materially incomplete” certificates

1. Leaving out the notarial language: **Never just stamp and sign.** Make sure the proper language, with all necessary material information, is included in the written description of the notarial act (also called a “notarial certificate”).

UCA 46-1-6 lists only five options of notarial acts—three of which deal with notarizing a signature. The definitions of Acknowledgment, Jurat and Signature Witnessing in 46-1-2 describe the information to which **the notary is required to certify**. None of the acts listed in this section of code (46-1-6) are defined as “signature and seal alone.”

To Review: When notarizing a signature, ALWAYS use some variation of one of the two acts below (also found at [www.notary.utah.gov](http://www.notary.utah.gov))

Acknowledgment	Jurat
<p>State of Utah County of <u>Salt Lake</u></p> <p>On this <u>1<sup>st</sup></u> day of <u>July</u>, in the year <u>2019</u>, before me, <u>(notary name)</u>, a notary public, personally appeared, <u>John Doe (signer name)</u>, proved on the basis of satisfactory evidence to be the person(s) whose name is subscribed to this instrument, and acknowledged he executed the same.</p> <p>Witness my hand and official seal.</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;">  </div> <p><i>Notary Name Signature</i></p>	<p>State of Utah County of <u>Salt Lake</u></p> <p>Subscribed and sworn to before me on this <u>1<sup>st</sup></u> day of <u>July</u>, <u>2019</u> by <u>John Doe (signer name)</u>.</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;">  </div> <p><i>Notary Name Signature</i></p>

*Reference: 46-1-6. Powers and limitations. The following notarial acts may be performed by a notary within the state:*

- (1) Jurats*
- (2) Acknowledgements*
- (3) Signature Witnessing*
- (5) Copy Certifications*
- (4) Oaths or Affirmations.*

*Reference: 46-1-9 False or incomplete certificate. A notary may not execute a certificate containing a statement known by the notary to be false or materially incomplete. 46-1-16 Official Seal. A notary may not use a notarial seal independent of a notarial certificate.*

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2. Confusing the notarial acts: Please see the subtle differences between the Jurat, Acknowledgment and Signature Witnessing. Jurat certifies that a voluntary signature was made in the notary's presence under an oath or affirmation, Acknowledgment certifies that a signer has admitted in the notary's presence to voluntarily signing a document, and Signature Witnessing certifies that a voluntary signature was made in the notary's presence. **All 3 require personal appearance, and proof of identity.**

*Reference: 46-1-2(1) "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose identity is personally known to the notary or proven on the basis of satisfactory evidence, has admitted, in the presence of the notary, to voluntarily signing a document for the document's stated purpose.*

*Reference: 46-1-2(5) "Jurat" means a notarial act in which a notary certifies that a signer, whose identity is personally known to the notary or proven on the basis of satisfactory evidence, has made, in the notary's presence, a voluntary signature and taken an oath or affirmation vouching for the truthfulness of the signed document.*

*Reference: 46-1-2(13) "Signature Witnessing" means a notarial act in which an individual: appears in person before a notary and presents a document; provides the notary satisfactory evidence of the individual's identity or is personally known to the notary; and signs the document in the presence of the notary.*

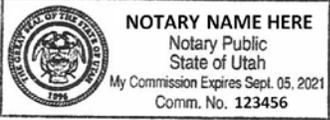
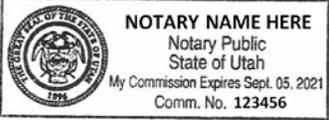
- 
3. Misinterpreting electronic signature/notarization: Notarization of an electronic signature IS VERY RARE and still requires personal appearance. It is a certification of a voluntary signature just the same as any other signature. Notarization of an electronic signature does **NOT** mean by phone, fax, email or video conference. For electronic notarization, the signer is in the presence of the notary using a computer instead of pen and paper. **The rule of personal appearance is not affected by the definition of "Electronic Signature"**

*Reference: 46-4-102(8): "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.*

4. Failing to require Personal Appearance: The signer must always appear before the notary. Title 46 does not allow for variation on this matter. Many fraud cases begin with stories of why the signer cannot personally appear: “He is too ill to come into the office;” “The signer is my grandmother and she asked me to get this notarized;” “You’ve been my friend for years—you know I wouldn’t lie to you.” As convincing as these statements can be, none of them justify notarizing the signature without the signer personally present.

*Reference: 46-1-2 (Definitions of Acknowledgment, Jurat and Signature Witnessing)*

5. Failing to name the appearing signer: If John Doe appears before you, you must certify John Doe appeared before you (it seems simple enough, but many notaries actually forget to name the signer). When more than one signature appears on the document, omitting this material information often leads to confusion. Many fraud cases show that the “defrauder” was able to add a different name in the Jurat or Acknowledgment simply because the notary failed to include the correct name in the first place.

<i>Correct</i>	<i>Incorrect</i>
State of Utah County of Salt Lake  Subscribed and sworn to before me on this 1 <sup>st</sup> day of July, 2019 by <u>John Doe</u> .  	State of Utah County of Salt Lake  Subscribed and sworn to before me on this 1 <sup>st</sup> day of July, 2019 by _____  
<i>Notary Name Signature</i>	<i>Notary Name Signature</i>

*Reference: 46-1-9 False or incomplete certificate. A notary may not execute a certificate containing a statement known by the notary to be false or materially incomplete. (underline added)*

6. Adopting policies contrary to UCA 46-1-8: According to law, a notary may not refuse to enter into a lawful transaction involving a notarial act. Do not adopt policies to refuse transactions unless there is a legal reason to do so. To “pick and choose” who is served

based on personal preferences or prejudices is not legally justified.

Some employers have expressed concern over this law. It is true, employers often carry the burden in finding a balance that complies with the law and, at the same time, allows for reasonable limits to protect the notary’s time and liability. Regardless, all policies should be carefully created while keeping in mind the notary’s main purpose: to serve the public—not just the company.

Reasonable limits may and should be in place to prevent abuse from members of the public who would demand immediate service regardless of the notary’s workload and availability.

The following table may help employers and notaries understand their roles when serving the public:

<b>Employer MAY</b>	<b>Employer MAY NOT</b>
<ul style="list-style-type: none"> <li>● <u>may</u> determine when the notary is available to serve the public DURING work hours</li> </ul>	<ul style="list-style-type: none"> <li>● <u>may not</u> determine when the notary is available to serve the public AFTER work hours</li> </ul>
<ul style="list-style-type: none"> <li>● <u>may</u> establish policy that the notary will only notarize company documents DURING work hours</li> </ul>	<ul style="list-style-type: none"> <li>● <u>may not</u> establish policy that the notary’s service is restricted to the workplace</li> </ul>
<ul style="list-style-type: none"> <li>● <u>may</u> allow the notary to serve the public at determined times DURING work hours</li> </ul>	<ul style="list-style-type: none"> <li>● <u>may not</u> “pick and choose” which documents or customers will be served when the notary is serving the general public (unless the transaction is unlawful)</li> </ul>
<ul style="list-style-type: none"> <li>● <u>may</u> require a \$5 fee for clients or non-clients</li> </ul>	<ul style="list-style-type: none"> <li>● <u>may not</u> require more than \$5 per signature notarized</li> </ul>

*Reference: 46-1-3 . . .the lieutenant governor shall commission as a notary any qualified person . . .*

*Reference: 46-1-8 A notary may not . . . refuse to enter into a lawful transaction involving a notarial act by the notary.*

7. Failing to require proper I.D.:

Valid Identification	Not Valid
<ul style="list-style-type: none"> <li>● Passport (from this or any nation)</li> <li>● I.D. from Government (U.S., any state within the U.S., or Foreign) with the following 3 items:               <ol style="list-style-type: none"> <li>1. Photograph</li> <li>2. Signature</li> <li>3. Physical Description</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>● Driver’s Privilege Card</li> <li>● Birth Certificate</li> <li>● Marriage License</li> <li>● Social Security Card</li> <li>● any other document which does NOT meet the criteria for Valid Identification</li> </ul>

Reference: 46-1-2(12)

(a) "Satisfactory evidence of identity" means identification of an individual based on: (i) valid personal identification with the individual's photograph, signature, and physical description issued by the United States government, any state within the United States, or a foreign government; (ii) a valid passport issued by any nation; or (iii) the oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual.

(b) "Satisfactory evidence of identity" does not include: (i) a driving privilege card under Subsection 53-3-207(10); or (ii) another document that is not considered valid for identification.

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8. Refusing documents solely for their content: Again, according to 46-1-8, regardless of the type of document, you may **NOT** refuse to enter into "a lawful transaction involving a notarial act . . ."

Many have asked "can I notarize a will"? The answer should be "yes," unless there is some other reason as found in title 46 that would categorize the transaction as unlawful. Company policies cannot "override" the law that requires service on lawful transactions.

What about documents in another language? You should not be reading the document anyway—even if it is in English. However, you must communicate sufficiently with the signer to ensure the signer signed voluntarily.

Reference: 46-1-8 A notary may not . . . refuse to enter into a lawful transaction involving a notarial act by the notary.

Reference: 46-1-14 For every notarial act, the notary may record the following information in the journal . . . a description of the document or proceeding.

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9. Leaving the notary seal and certificate with the employer upon termination of employment: Point 6 has already indirectly addressed this mistake. A notary is commissioned by the Lieutenant Governor—not the employer. When you leave employment, your commission remains in effect until expiration, cancellation, or resignation.

**EXCEPTION:** For State employees with a Risk Management Bond issued before May 9, 2017, when the State employee ceases employment, the coverage and commission are cancelled immediately. (See below for more information)

<b>Employer MAY</b>	<b>Employer MAY NOT</b>
● <u>may</u> pay for the notary's bond	● <u>may not</u> cancel the bond even if the notary ceases employment
● <u>may</u> pay for the notary's seal	● <u>may not</u> confiscate the seal when the notary ceases employment

*Reference:46-1-16(2)(a) A notary shall keep an official notarial seal that is the exclusive property of the notary and that may not be used by any other person*

*Reference:46-1-15 If a notary maintains a journal, the notary shall: keep the journal in the notary's exclusive custody; and ensure that the journal is not used by any other person for any purpose.*

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10. Executing “materially incomplete” certificates: What does “materially incomplete” mean? As already discussed, leaving out the notarial language and failing to name the signer are examples of materially incomplete certificates. Other examples include leaving out where and when the notarization took place. A good rule is “Say what happened!” Title 46-1-6.5 has a suggested forms that, if properly completed, is sufficient under any law of the State of Utah.

*Reference: 46-1-9 False or incomplete certificate. A notary may not execute a certificate containing a statement known by the notary to be false or materially incomplete. (underline added)*

*Reference: 46-1-6.5 A correctly completed affidavit in substantially the form described in this section, that is included in or attached to a document, is sufficient for the completion of a notarization under this Title 46, Chapter 1, Notaries Public Reform Act.*

\*See page 15 for samples of notarial language.

## New Notary Laws 2017 and What They Mean to the Notary

### 1) **46-1-2 Definitions.**

**46-1-2(7) "Notarial Certificate" means the affidavit described in Section 46-1-6.5 that is:**

- a. a part of or attached to a notarized document; and**
- b. completed by the notary and bears the notary's signature and seal**

What this means to the notary:

The law makes certain that an affidavit (notarial language) describing the events of the notarization are formatted similarly to what is described in Title 46-1-6.5 (see examples under number "5").

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### 2) **46-1-2 Definitions.**

**46-1-2(13) "Signature witnessing" means a notarial act in which an individual:**

- a. appears in person before a notary and presents a document;**
- b. provides the notary satisfactory evidence of the individual's identity, or is personally known to the notary; and**
- c. signs the document in the presence of the notary**

What this means to the notary:

This is a new notarial act. This notarial language allows for a notary to just witness a signer's signature or confirm a signer's identity, without placing the signer under oath or affirmation. This still requires the signer to physically appear before the notary. This will be helpful when the notarization does not require the signer to be placed under oath or affirmation for the document's stated purpose.

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### 3) **46-1-4. Bond.**

**A notarial commission is not effective until:**

- 1. the notary named in the commission takes a constitutional oath of office and files a \$5,000 bond with the lieutenant governor that:**
  - a. a licensed surety executes for a term of four years beginning on the commission's effective date and ending on the commission's expiration date; and**
  - b. conditions payment of bond funds to any person upon the notary's misconduct while acting in the scope of the notary's commission; and**
- 2. the oath and bond are approved by the lieutenant governor.**

What this means to the notary:

Previously, a person employed by the State of Utah could be bonded through the state's Risk Management office. After May 8, 2017, the Risk Management office will no longer issue bonds for state employees. A state employee would be required to receive their bond through an insurance company that issues surety bonds. These typically cost about \$50 for the 4-year commission of the notary. If the notary

is currently commissioned under a Risk Management bond, the commission and bond will be valid until the commission expires.

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**4) 46-1-6 Powers and Limitations.**

1. *A notary may perform the following act:*
  - a. *a jurat;*
  - b. *an acknowledgment*
  - c. *a signature witnessing*
  - d. *a copy certification*
  - e. *an oath or affirmation.*
2. *A notary may not:*
  - a. *perform an act as a notary that is not described in subsection (1); or*
  - b. *perform an act described in subsection (1) if the person for whom the notary performs the notarial act is not in the physical presence of the notary at the time the notary performs the act.*

What this means to the notary:

This new addition to “Powers and limitations” adds the option to use “signature witnessing” if the situation calls for it. This change also affirms that acts not described in subsection (1) cannot be completed using your authority as a notary. It also reaffirms personal appearance by the signer when completing a notarization.

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**5) 46-1-6.5. Form of notarial certificate for document notarizations.**

1. *A correctly completed affidavit in substantially the form described in this section, that is included in or attached to a document, is sufficient for the completion of a notarization under this Title 46, Chapter 1, Notaries Public Reform Act.*
2. *A notary shall ensure that a signer takes the following oath or makes the following affirmation before the notary witnesses the signature for a Jurat: "Do you swear or affirm under penalty of perjury that the statements in your document are true?"*

*An affidavit for a jurat that is in substantially the following form is sufficient under Subsection (1):*

*"State of Utah*

*§*

*County of \_*

*Subscribed and sworn to before me (notary public name), on this (date) day of (month), in the year (year), by (name of document signer).*

*(Notary Seal) \_*

*Notary Signature".*

3. *An affidavit for an acknowledgment that is in substantially the following form is sufficient under Subsection (1):*

*"State of Utah*

*§*

County of \_

*On this (date) day of (month), in the year (year), before me (name of notary public), a notary public, personally appeared (name of document signer), proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to in this document, and acknowledged (he/she/they) executed the same*

(Notary Seal) \_

*Notary Signature"*.

4. *An affidavit for a copy certification that is in substantially the following form is sufficient under Subsection (1):*

*"State of Utah*

*§*

*County of \_*

*On this (date) day of (month), in the year (year), I certify that the preceding or attached document is a true, exact, and unaltered photocopy of (description of document), and that, to the best of my knowledge, the photocopied document is neither a public record nor a publicly recorded document.*

(Notary Seal) \_

*Notary Signature"*.

5. *An affidavit for a signature witnessing that is in substantially the following form is sufficient under Subsection (1):*

*"State of Utah*

*§*

*County of \_*

*On this (date) day of (month), in the year (year), before me, (name of notary public), personally appeared (name of document signer), proved to me through satisfactory evidence of identification, which was (form of identification), to be the person whose name is signed on the preceding or attached document in my presence.*

(Notary Seal) \_

*Notary Signature"*.

What this means to the notary:

The addition to the law provides examples of notarial language for Jurat, Acknowledgement, Copy Certification, and Signature Witnessing. This will be very helpful to the notary, as the notary can replicate this language for any of the aforementioned acts, or use something substantially similar in format to produce a notarial certificate during a notarization. There is also an example of the verbal language for completing an oath or affirmation before administering a Jurat. The notary is required to read this language to the signer before completing a lawful Jurat. (See additional examples of notarial language in Title 57)

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#### **6) 46-1-7. Disqualifications.**

*A notary may not perform a notarial act if the notary:*

1. *is a signer of the document that is to be notarized except in case of a self-proved will as provided in Section 75-2-504;*
2. *is named in the document that is to be notarized except in the case of a:*
  - a. *self-proved will as provided in Section 75-2-504;*

- b. *licensed attorney that is listed in the document only as representing a signer or another person named in the document; or*
- c. *licensed escrow agent, as defined in Section 31A-1-301, that:*
  - i. *acts as the title insurance producer in signing closing documents; and*
  - ii. *is not named individually in the closing documents as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, vendor, vendee, lessor, lessee, buyer, or seller;*
- 3. *will receive direct compensation from a transaction connected with a financial transaction in which the notary is named individually as a principal; or*
- 4. *will receive direct compensation from a real property transaction in which the notary is named individually as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, lessee, buyer, or seller.*

What this means to the notary:

If the notary is a licensed escrow agent in good standing with the Utah Insurance Department, the notary is now able to explain closing documents and be named in the documents that will be notarized. This does not cover “notary signing agents” as there is no provision in State law that authorizes a notary to explain documents or accept money for services beyond the \$5 notary fee, unless the notary is a licensed attorney or a licensed escrow agent.

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**7) 46-1-15. Inspection of journal – Safekeeping and custody of journal.**

- 1) *If a notary maintains a journal, the notary shall:*
  - a. *Keep the journal in the notary’s exclusive custody; and*
  - b. *Ensure that the journal is not used by any other person for any purpose*
- 2) *The notary’s employer may not require the notary to surrender the journal upon termination of the notary’s employment.*

What this means to the notary:

The length to which the notary should keep their journal after they are no longer a notary is left up to the notary to decide. We do suggest the notary keep the journal for a sufficient amount of time to be able to use as evidence if a notarization is called into question. The nationwide standard is 10 years.

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**8). 46-1-16. Official signature – Official seal – Seal impression.**

- 6) *A notary may not use a notarial seal independent of a notarial certificate*

What this means to the notary:

Every notarization is required to have the notary’s seal (stamp), notarial language, and notary’s signature. A notary’s seal may not be used unless there is notarial language and a signature in place.

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**9) 46-1-18. Liability.**

- 3) It is a class B misdemeanor, if not otherwise a criminal offense under this code, for:**
- a. A notary to violate a provision of this chapter; or**
  - b. The employer of a notary to solicit the notary to violate a provision of this chapter.**

What this means to the notary:

The criminal penalty for violating any provision under this chapter is now a class B misdemeanor. Previously this only applied to certain parts in the chapter.

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**10) 46-4-20. Change of name or address – Bond policy rider.**

- 1. Within 30 days after the day on which a notary changes the notary's name, the notary shall provide to the lieutenant governor:**
  - a) The notary's new name, including official documentation of the name change; and a bond policy rider that a notary obtains in accordance with Subsection (2).**
- 2. To obtain a bond policy rider, the notary shall**
  - a) Notify the surety for the notary's bond**
  - b) obtain a bond policy rider reflecting both the old and new name of the notary;**
  - c) return the bond policy rider;**
  - d) destroy the original commission; and**
  - e) destroy the old official seal**
- 3. A notary is not required to change the notary's name by adopting the surname of the notary's spouse.**
- 4. Within 30 days of the day on which a notary's residential or business address changes, the notary shall provide the notary's new residential or business address to the lieutenant governor.**

What this means to the notary:

If a notary has legally changed their name, the notary has 30 days to notify the Lt. Governor's office of the change. There are times when a notary may not adopt their spouse's surname, in which case the notary may continue to use their original stamp until expiration. The notary will no longer have to pay a \$5 fee to change the notary's name on the commission, or send in the original certificate when requesting the change. The notary is now required to update the notary's business and residential address within 30 days of the change.

**DISCLAIMER:** This document is not a substitute for Utah State Code, and it is not intended to be comprehensive or an authoritative statement of law. For further legal information, please consult Utah State Code or other appropriate legal resources. Updated May 8, 2017.

## Examples of Notarial Certificates

- Acknowledgment
- Attorney-in-Fact-Acknowledgment
- Copy Certification
- Credible Witness Acknowledgment
- Jurat
- Signature Witnessing
- Corporate Acknowledgment

# Acknowledgment

State of Utah )

§

County of \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me, \_\_\_\_\_ a notary  
date month year notary public name

public, personally appeared \_\_\_\_\_, proved on the basis of satisfactory  
name of document signer

evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged

(he/she/they) executed the same.

Witness my hand and official seal.

\_\_\_\_\_  
(notary signature)

(seal)



# Copy Certification

State of Utah)

§

County of \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_\_, I certify that the preceding or attached  
date month year

document, is a true, exact and unaltered photocopy of \_\_\_\_\_, and that,  
description of document

to the best of my knowledge, the photocopied document is neither a public record nor a publicly  
recorded document.

Witness my hand and official seal.

\_\_\_\_\_  
(notary signature)

(seal)

# Credible Witness Acknowledgment

State of Utah )

§

County of \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_\_, personally appeared before me  
date month year

\_\_\_\_\_, and satisfactorily proved to be the signer of the above document  
name of document signer

by the oath of \_\_\_\_\_, who is personally known to me and is a competent  
name of credible witness

and credible witness for that purpose, by me duly sworn, and (he/she) acknowledged that (he/she)  
executed the same.

Witness my hand and official seal.

\_\_\_\_\_

*(notary signature)*

*(notary seal)*

# Jurat

State of Utah)

§

County of \_\_\_\_\_)

Subscribed and sworn to before me on this \_\_\_\_\_ of \_\_\_\_\_, in the year 20\_\_\_\_\_, by  
date month year

\_\_\_\_\_.

name of document signer

Witness my hand and official seal.

\_\_\_\_\_

*(notary signature)*

*(seal)*





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### **Chapter 1**

#### **Notaries Public Reform Act**

##### **46-1-1 Short title.**

This chapter is known as the "Notaries Public Reform Act."  
Repealed and Re-enacted by Chapter 222, 1988 General Session

##### **46-1-2 Definitions.**

As used in this chapter:

- (1) "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose identity is personally known to the notary or proven on the basis of satisfactory evidence, has admitted, in the presence of the notary, to voluntarily signing a document for the document's stated purpose.
- (2) "Commission" means:
  - (a) to empower to perform notarial acts; or
  - (b) the written document that gives authority to perform notarial acts, including the Certificate of Authority of Notary Public that the lieutenant governor issues to a notary.
- (3) "Copy certification" means a notarial act in which a notary certifies that a photocopy is an accurate copy of a document that is neither a public record nor publicly recorded.
- (4) "Electronic signature" means the same as that term is defined in Section 46-4-102.
- (5) "Jurat" means a notarial act in which a notary certifies:
  - (a) the identity of a signer who:
    - (i) is personally known to the notary; or
    - (ii) provides the notary satisfactory evidence of the signer's identity;
  - (b) that the signer affirms or swears an oath attesting to the truthfulness of a document; and
  - (c) that the signer voluntarily signs the document in the presence of the notary.
- (6) "Notarial act" or "notarization" means an act that a notary is authorized to perform under Section 46-1-6.
- (7) "Notarial certificate" means the affidavit described in Section 46-1-6.5 that is:
  - (a) a part of or attached to a notarized document; and
  - (b) completed by the notary and bears the notary's signature and seal.
- (8) "Notary" means any person commissioned to perform notarial acts under this chapter.
- (9) "Oath" or "affirmation" means a notarial act in which a notary certifies that a person made a vow or affirmation in the presence of the notary on penalty of perjury.
- (10) "Official misconduct" means a notary's performance of any act prohibited or failure to perform any act mandated by this chapter or by any other law in connection with a notarial act.

(11) "Personally known" means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.

(12)

(a) "Satisfactory evidence of identity" means identification of an individual based on:

(i) valid personal identification with the individual's photograph, signature, and physical description that the United States government, any state within the United States, or a foreign government issues;

(ii) a valid passport that any nation issues; or

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(iii) the oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual.

(b) "Satisfactory evidence of identity" does not include:

(i) a driving privilege card under Subsection 53-3-207(10); or

(ii) another document that is not considered valid for identification.

(13) "Signature witnessing" means a notarial act in which an individual:

(a) appears in person before a notary and presents a document;

(b) provides the notary satisfactory evidence of the individual's identity, or is personally known to the notary; and

(c) signs the document in the presence of the notary.

Amended by Chapter 259, 2017 General Session

**46-1-3 Qualifications -- Application for notarial commission required -- Term.**

(1) Except as provided in Subsection (3), the lieutenant governor shall commission as a notary any

qualified person who submits an application in accordance with this chapter.

(2) To qualify for a notarial commission an individual shall:

(a) be at least 18 years old;

(b) lawfully reside in the state for at least 30 days immediately before the individual applies for a notarial commission;

(c) be able to read, write, and understand English;

(d) submit an application to the lieutenant governor containing no significant misstatement or omission of fact, that includes:

(i) the individual's:

(A) name as it will appear on the commission;

(B) residential address;

(C) business address;

(D) daytime telephone number; and

(E) date of birth;

(ii) an affirmation that the individual meets the requirements of this section;

(iii) an indication of any criminal convictions the individual has received, including a plea of admission or no contest;

(iv) all issuances, denials, revocations, suspensions, restrictions, and resignations of a notarial

commission or other professional license involving the applicant in this or any other state;  
(v) an indication that the individual has passed the examination described in Subsection (5);  
and  
(vi) payment of an application fee that the lieutenant governor establishes in accordance with Section 63J-1-504; and

(e)

(i) be a United States citizen; or

(ii) have permanent resident status under Section 245 of the Immigration and Nationality Act.

(3) The lieutenant governor may deny an application based on:

(a) the applicant's conviction for a crime involving dishonesty or moral turpitude;

(b) any revocation, suspension, or restriction of a notarial commission or professional license issued to the applicant by this or any other state;

(c) the applicant's official misconduct while acting in the capacity of a notary; or

(d) the applicant's failure to pass the examination described in Subsection (5).

(4)

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(a) An individual whom the lieutenant governor commissions as a notary may perform notarial acts in any part of the state for a term of four years, unless the person resigns or the commission is revoked or suspended under Section 46-1-19.

(b)

(i) After an individual's commission expires, the individual may not perform a notarial act until the individual obtains a new commission.

(ii) An individual whose commission expires and who wishes to obtain a new commission shall submit a new application, showing compliance with the requirements of this section.

(5)

(a) Each applicant for a notarial commission shall take an examination that the lieutenant governor approves and submit the examination to a testing center that the lieutenant governor designates for purposes of scoring the examination.

(b) The testing center that the lieutenant governor designates shall issue a written acknowledgment to the applicant indicating whether the applicant passed or failed the examination.

(6)

(a) A notary shall maintain permanent residency in the state during the term of the notary's notarial commission.

(b) A notary who does not maintain permanent residency under Subsection (6)(a) shall resign the notary's notarial commission in accordance with Section 46-1-21.

Amended by Chapter 259, 2017 General Session

**46-1-4 Bond.**

A notarial commission is not effective until:

(1) the notary named in the commission takes a constitutional oath of office and files a \$5,000 bond with the lieutenant governor that:

(a) a licensed surety executes for a term of four years beginning on the commission's effective date and ending on the commission's expiration date; and

(b) conditions payment of bond funds to any person upon the notary's misconduct while acting in

the scope of the notary's commission; and  
(2) the oath and bond are approved by the lieutenant governor.  
Amended by Chapter 259, 2017 General Session

**46-1-6 Powers and limitations.**

(1) A notary may perform the following acts:

- (a) a jurat;
- (b) an acknowledgment;
- (c) a signature witnessing;
- (d) a copy certification; and
- (e) an oath or affirmation.

(2) A notary may not:

- (a) perform an act as a notary that is not described in Subsection (1); or
- (b) perform an act described in Subsection (1) if the person for whom the notary performs the notarial act is not in the physical presence of the notary at the time the notary performs the act.

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Repealed and Re-enacted by Chapter 259, 2017 General Session

**46-1-6.5 Form of notarial certificate for document notarizations.**

(1) A correctly completed affidavit in substantially the form described in this section, that is included

in or attached to a document, is sufficient for the completion of a notarization under this Title 46, Chapter 1, Notaries Public Reform Act.

(2)

(a) A notary shall ensure that a signer takes the following oath or makes the following affirmation

before the notary witnesses the signature for a jurat:

"Do you swear or affirm under penalty of perjury that the statements in your document are true?"

(b) An affidavit for a jurat that is in substantially the following form is sufficient under Subsection

(1):

"State of Utah

§

County of \_

Subscribed and sworn to before me (notary public name), on this (date) day of (month), in the year (year), by (name of document signer).

(Notary Seal) \_

Notary Signature".

(3) An affidavit for an acknowledgment that is in substantially the following form is sufficient under

Subsection (1):

"State of Utah

§

County of \_

On this (date) day of (month), in the year (year), before me (name of notary public), a notary public, personally appeared (name of document signer), proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to in this document, and acknowledged (he/she/they) executed the same.

(Notary Seal) \_

Notary Signature".

(4) An affidavit for a copy certification that is in substantially the following form is sufficient under

Subsection (1):

"State of Utah

§

County of \_

On this (date) day of (month), in the year (year), I certify that the preceding or attached document is a true, exact, and unaltered photocopy of (description of document), and that, to the best of my knowledge, the photocopied document is neither a public record nor a publicly recorded document.

(Notary Seal) \_

Notary Signature".

(5) An affidavit for a signature witnessing that is in substantially the following form is sufficient under Subsection (1):

"State of Utah

§

County of \_

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On this (date) day of (month), in the year (year), before me, (name of notary public), personally appeared (name of document signer), proved to me through satisfactory evidence of identification, which was (form of identification), to be the person whose name is signed on the preceding or attached document in my presence.

(Notary Seal) \_

Notary Signature".

Enacted by Chapter 259, 2017 General Session

#### **46-1-7 Disqualifications.**

A notary may not perform a notarial act if the notary:

(1) is a signer of the document that is to be notarized except in case of a self-proved will as provided in Section 75-2-504;

(2) is named in the document that is to be notarized except in the case of a:

(a) self-proved will as provided in Section 75-2-504;

(b) licensed attorney that is listed in the document only as representing a signer or another person named in the document; or

(c) licensed escrow agent, as defined in Section 31A-1-301, that:

(i) acts as the title insurance producer in signing closing documents; and

(ii) is not named individually in the closing documents as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, vendor, vendee, lessor, lessee, buyer, or seller;

(3) will receive direct compensation from a transaction connected with a financial transaction in

which the notary is named individually as a principal; or  
(4) will receive direct compensation from a real property transaction in which the notary is named individually as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, lessee, buyer, or seller.

Amended by Chapter 259, 2017 General Session

**46-1-8 Impartiality.**

(1) A notary may not influence a person to enter into or to refuse to enter into a lawful transaction involving a notarial act by the notary.

(2) A notary shall perform notarial acts in lawful transactions for any requesting person who tenders the appropriate fee specified in Section 46-1-12.

Repealed and Re-enacted by Chapter 287, 1998 General Session

**46-1-9 False or incomplete certificate.**

A notary may not:

(1) execute a certificate containing a statement known by the notary to be false or materially incomplete; or

(2) perform any notarial act with intent to deceive or defraud.

Repealed and Re-enacted by Chapter 287, 1998 General Session

**46-1-10 Testimonials prohibited.**

A notary may not endorse or promote any product, service, contest, or other offering if the notary's title or seal is used in the endorsement or promotional statement.

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Repealed and Re-enacted by Chapter 287, 1998 General Session

**46-1-11 Prohibited acts -- Advertising.**

(1) A nonattorney notary may not provide advice or counsel to another person concerning legal documents or legal proceedings, including immigration matters.

(2)

(a)

(i) A nonattorney notary who advertises notarial services in any language other than English shall include in the advertisement a notice that the notary public is not an attorney.

(ii) The notice under Subsection (2)(a)(i) must include the fees that a notary may charge pursuant to Section 46-1-12 and the following statement:

"I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN UTAH AND MAY NOT GIVE LEGAL ADVICE ABOUT IMMIGRATION OR ANY OTHER LEGAL MATTER OR

ACCEPT FEES FOR LEGAL ADVICE."

(b)

(i) The notice required by Subsection (2)(a) shall be in English and in the language of the advertisement and in letters of a conspicuous size.

(ii) If the advertisement is by radio or television, the statement may be modified, but must include substantially the same message.

(c)

(i) Literal translation of the phrase "Notary Public" into any language other than English is

prohibited if the literal translation implies that the notary is a licensed attorney.

(ii) In this Subsection (2)(c), "literal translation" means the translation of a word or phrase without regard to the true meaning of the word or phrase in the language that is being translated.

Amended by Chapter 95, 2007 General Session

**46-1-12 Fees and notice.**

(1) The maximum fees that may be charged by a notary for notarial acts are for:

- (a) acknowledgments, \$5 per signature;
- (b) certified copies, \$5 per page certified;
- (c) jurats, \$5 per signature; and
- (d) oaths or affirmations without a signature, \$5 per person.

(2) A notary may charge a travel fee, not to exceed the approved federal mileage rate, when traveling to perform a notarial act if:

- (a) the notary explains to the person requesting the notarial act that the travel fee is separate from the notarial fee in Subsection (1) and is neither specified nor mandated by law; and
- (b) the notary and the person requesting the notarial act agree upon the travel fee in advance.

(3) A notary shall display an English-language schedule of fees for notarial acts and may display a

nonEnglish-language schedule of fees.

(4)

(a) The fee of a notary shall not exceed \$5 per individual for each set of forms relating to a change of that individual's immigration status.

(b) The fee limitation in Subsection (4)(a) shall apply whether or not the notary is acting as a notary but does not apply to a licensed attorney, who is also a notary rendering professional services regarding immigration matters.

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Amended by Chapter 287, 1998 General Session

**46-1-13 Journal may be kept.**

A notary may keep, maintain, and protect as a public record, and provide for lawful inspection a chronological, permanently bound official journal of notarial acts, containing numbered pages.

Repealed and Re-enacted by Chapter 287, 1998 General Session

**46-1-14 Entries in journal.**

(1) For every notarial act, the notary may record the following information in the journal at the time

of notarization:

- (a) the date and time of day of the notarial act;
- (b) the type of notarial act;
- (c) a description of the document or proceeding;
- (d) the signature and printed name and address of each person for whom a notarial act is performed;
- (e) the evidence of identity of each person for whom a notarial act is performed, in the form of:
  - (i) a statement that the person is "personally known" to the notary;
  - (ii) a description of the identification document, its issuing agency, its serial or identification number, and its date of issuance or expiration; or

(iii) the signature and printed name and address of a credible witness swearing or affirming to the person's identity; and

(f) the fee, if any, charged for the notarial act.

(2) A notary may record in the journal the circumstances in refusing to perform or complete a notarial act.

Amended by Chapter 21, 2006 General Session

**46-1-15 Inspection of journal -- Safekeeping and custody of journal.**

(1) If a notary maintains a journal, the notary shall:

(a) keep the journal in the notary's exclusive custody; and

(b) ensure that the journal is not used by any other person for any purpose.

(2) The notary's employer may not require the notary to surrender the journal upon termination of the notary's employment.

Amended by Chapter 259, 2017 General Session

**46-1-16 Official signature -- Official seal -- Seal impression.**

(1) In completing a notarial act, a notary shall sign on the notarial certificate exactly and only the name indicated on the notary's commission.

(2)

(a) A notary shall keep an official notarial seal that is the exclusive property of the notary and that

may not be used by any other person.

(b) Upon the resignation, revocation, or expiration of a notarial commission, the notary shall destroy the notary's seal.

(c) Each notarial seal obtained by a notary shall use purple ink.

(3)

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(a) A notary shall obtain a new seal:

(i) when the notary receives a new commission; or

(ii) if the notary changes the notary's name of record at any time during the notary's commission.

(b) A notary shall affix the seal impression near the notary's official signature on a notarial certificate and shall include a sharp, legible, and photographically reproducible ink impression of the notarial seal that consists of:

(i) the notary public's name exactly as indicated on the notary's commission;

(ii) the words "notary public," "state of Utah," and "my commission expires on (commission expiration date)";

(iii) the notary's commission number, exactly as indicated on the notary's commission;

(iv) a facsimile of the great seal of the state; and

(v) a rectangular border no larger than one inch by two and one-half inches surrounding the required words and seal.

(4) A notary may use an embossed seal impression that is not photographically reproducible in addition to, but not in place of, the photographically reproducible seal required in this section.

(5) A notary shall affix the notarial seal in a manner that does not obscure or render illegible any information or signatures contained in the document or in the notarial certificate.

- (6) A notary may not use a notarial seal independent of a notarial certificate.
- (7) A notarial certificate on an annexation, subdivision, or other map or plat is considered complete without the imprint of the notary's official seal if:
  - (a) the notary signs the notarial certificate in permanent ink; and
  - (b) the following appear below or immediately adjacent to the notary's signature:
    - (i) the notary's name and commission number appears exactly as indicated on the notary's commission;
    - (ii) the words "A notary public commissioned in Utah"; and
    - (iii) the expiration date of the notary's commission.
- (8) A notarial certificate on an electronic message or document is considered complete without the imprint of the notary's seal if the following information appears electronically within the message:
  - (a) the notary's name and commission number appearing exactly as indicated on the notary's commission; and
  - (b) the words "notary public," "state of Utah," and "my commission expires on\_ (date)".

Amended by Chapter 259, 2017 General Session

**46-1-17 Obtaining a seal.**

- (1) A vendor may not provide a notarial seal, either inking or embossing, to a person claiming to be a notary, unless the person presents a photocopy of the person's notarial commission, attached to a notarized declaration substantially as follows:

Application for Notary Seal

I, \_ (name of person requesting seal), declare that I am a notary public duly commissioned by the state of Utah with a commission starting date of \_ , a commission expiration date of \_ , and a commission number of \_ . As evidence, I attach to this paper a photocopy of my commission.

- (2) A vendor who provides a notarial seal in violation of this section is guilty of a class B misdemeanor.

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Repealed and Re-enacted by Chapter 287, 1998 General Session

**46-1-18 Liability.**

- (1) A notary may be liable to any person for any damage to that person proximately caused by the notary's misconduct in performing a notarization.
- (2)
  - (a) A surety for a notary's bond may be liable to any person for damages proximately caused to that person by the notary's misconduct in performing a notarization, but the surety's liability may not exceed the penalty of the bond or of any remaining bond funds that have not been expended to other claimants.
  - (b) Regardless of the number of claimants under Subsection (2)(a), a surety's total liability may not exceed the penalty of the bond.
- (3) It is a class B misdemeanor, if not otherwise a criminal offense under this code, for:
  - (a) a notary to violate a provision of this chapter; or

(b) the employer of a notary to solicit the notary to violate a provision of this chapter.

Amended by Chapter 259, 2017 General Session

**46-1-19 Revocation or suspension.**

The lieutenant governor may revoke or suspend a notarial commission on any ground for which an application for a notarial commission may be denied under Section 46-1-3.

Amended by Chapter 136, 2003 General Session

**46-1-20 Change of name or address -- Bond policy rider.**

(1) Within 30 days after the day on which a notary changes the notary's name, the notary shall provide to the lieutenant governor:

(a) the notary's new name, including official documentation of the name change; and  
(b) a bond policy rider that a notary obtains in accordance with Subsection (2).

(2) To obtain a bond policy rider, the notary shall:

(a) notify the surety for the notary's bond;  
(b) obtain a bond policy rider reflecting both the old and new name of the notary;  
(c) return the bond policy rider;  
(d) destroy the original commission; and  
(e) destroy the old official seal.

(3) A notary is not required to change the notary's name by adopting the surname of the notary's spouse.

(4) Within 30 days of the day on which a notary's residential or business address changes, the notary shall provide the notary's new residential or business address to the lieutenant governor.

Amended by Chapter 259, 2017 General Session

**46-1-21 Resignation.**

(1) A notary who resigns a notarial commission shall provide to the lieutenant governor a notice indicating the effective date of resignation.

(2) A notary who ceases to reside in this state or who becomes unable to read and write as provided in Section 46-1-3 shall resign the commission.

(3) A notary who resigns shall destroy the official seal and certificate.

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Amended by Chapter 136, 2003 General Session

**46-1-22 Notice not invalidated.**

If a notarial act is performed contrary to or in violation of this chapter, that fact does not of itself invalidate notice to third parties of the contents of the document notarized.

Enacted by Chapter 287, 1998 General Session

**46-1-23 Dedication of fees.**

The lieutenant governor shall deposit all money collected under this chapter into the General Fund as a dedicated credit to be used by the lieutenant governor to administer this chapter.

Amended by Chapter 391, 2010 General Session