

15 Steps to a Proper Notarization

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While it would be impossible to compile an all-inclusive list of the actions constituting reasonable care, Notaries who fully comply with the following 15-step checklist will avert the most common pitfalls that result in legal problems.

Step 1 *Require The Personal Appearance Of Every Constituent.*

The signer must appear in person before the Notary on the date and location stated in the notarial certificate. "Personal appearance" means the signer is in the Notary's physical presence – face-to-face in the same room. A phone call to the Notary is not acceptable as personal appearance.

Step 2 *Make A Careful Identification*

You should identify every constituent through personal knowledge, the word of a personally known credible witness under oath, or through authorized identification documents. When using ID cards, examine them closely to detect alteration, counterfeiting or evidence that they are genuine cards issued to an impostor. Don't rely on a type of card with which you are unfamiliar.

Step 3 *See Whether You Have To Determine The Signer's Representative Status.*

A constituent may be signing as an individual, a corporate officer, an attorney-in-fact, or in any number of other representative capacities. The Notary's exact legal responsibility to determine that a signer has the authority claimed depends on the wording of the acknowledgment certificate.

For example, wording such as "... known to me as the person who executed the within instrument on behalf of the partnership..." requires the Notary only to confirm the signer's personal identity. However, if the certificate has language such as "...known to me to be the partner of the partnership...", the Notary must know the signer is a partner. A Notary establishes a constituent's status as a representative through personal knowledge, documentary proof or signer's verification upon oath or affirmation.

Step 4 *Feel Certain That The Signer Is Competent.*

A conscientious and careful Notary will be certain not only of the signer's identity but also of the person's willingness to sign and ability to understand the document. The ability to understand is called competence.

Secretary of State's Note:

We recommend that you consult with legal counsel regarding competency issues.

Step 5 *Check The Signature.*

Make sure a constituent signs the name appearing on his or her ID's. Also compare the signature the constituent leaves in your journal against the signatures on the document and on ID cards to detect a possible forgery.

Step 6 *Look For Blank Spaces.*

Secretary of State's Note:

Point out the blanks to constituent and explain that others could complete those blanks without permission. Make a note in your journal that this was done and whether your constituent chose to deal with them in any way.

Step 7 *Scan The Document.*

Notaries are not required to read the documents they notarize. However, they should note certain important particulars about a document, such as its title, for recording in the journal. Be sure to count and record the number of pages; this can help show whether pages are later fraudulently added or removed.

Step 8 *Check The Date On The Document.*

A document dated to follow the date on its notarial certificate risks rejection by a recorder, who may question how the document could have been notarized before it was signed.

Secretary of State's Note:

Some documents may be notarized with a future effective date, but the date of the notarization must always be the present date.

Step 9 *Keep A Journal.*

(ORS 194.152 requires that each Oregon Notary Public provide, keep, maintain and protect one or more notarial journals). If a notarized document is lost or altered, or if certain facts about the transaction are later challenged, the journal becomes valuable evidence. It can protect the right of citizens and help Notaries defend themselves against false accusations.

Secretary of State's Note:

TO EMPLOYERS OF NOTARIES PUBLIC - Even though you pay for your employee's notary public commission, seal and journal, the commission is issued to the Notary Public and belongs to that Notary Public under the responsibility requirement of the law. You may not retain the official notary seal when the Notary Public/employee leaves your employ and may only keep the notarial journal if you have entered into a written agreement with the Notary Public/employee.

Step 10 *Complete Your Journal Entry First.*

You should complete the entry entirely before filling out the notarial certificate to prevent signers from leaving before you make the important record of the notarization in your official journal.

Step 11 *Make Sure The Certificate Fits The Notarization.*

“Subscribed (or signed) and sworn” is not appropriate language for a notary certificate unless an oath has been given.

Is it a standard printed form? Some situations may require a special-purpose form, such as when a corporation signs as a partner in a partnership. The Notary who is not an attorney should never prepare these special forms.

Secretary of State's Note:

Although a notary may not determine which certificate is correct when directed by the signer, the notary may draft the appropriate certificate in keeping with Oregon law. Pre-printed notarial language may be incomplete. If so, correct language must be added by the notary public.

Step 12 *Be Attentive To Details.*

When filling out the certificate, make sure the jurisdiction correctly identifies the place of notarization; if the jurisdiction is preprinted or already filled in, the Notary should line through any incorrect state and/or county and write in the proper location. Also pay attention to spaces, which indicate the number and gender of constituents, as well as how they were identified. For example, leave the plural “(S)” untouched or cross it out. Write in “is” or “are”. “_he_” can indicate “he,” “she” or “they”. If the certificate has an identification clause, line through the inapplicable wording and initial.

Secretary of State's Note:

Be sure to determine if the notarization certificate is complete. Jurisdiction consists of the State and County where the document is notarized and is frequently missing from pre-printed certificates.

An Oregon notarial certificate must have: 1. A jurisdiction 2. A statement of who appeared on what day and what they did 3. The Notary's seal (in black ink) and 4. The Notary's signature (just as their seal reads).

Step 13 *Affix Your Signature And Seal Properly.*

Notaries must sign exactly the same as on their official seal and/or embosser. The seal should be placed as close to the Notary's signature as possible without overprinting it or the signer's signature. To prevent illegibility, a notary seal should not be affixed over wording, particularly never over a signature. Although an embossment may be placed over the letters "L.S.", an inked seal should be affixed next to but not over them to ensure legibility of data in the seal.

Step 14 *Protect "Loose" Certificates.*

If you have to attach a notarial certificate to a document, make sure that it's securely stapled to the left margin of the document. Protect against its removal by embossing it together with the document, and writing the particulars of the document to which it is attached in one of the certificate's margins. For example, the note, "This certificate is attached to a partnership agreement between John Smith and Mary Doe, signed July 14, 1986," would discourage fraudulent reattachment.

Secretary of State's Note:

When doing an attachment certificate a seal imprint must be completely on the certificate. A second imprint may overlap the document and certificate as a protection device.

Step 15 *Don't Give Legal Or Immigration Advice And Don't Notarize For Yourself Or Your Family.*

Every state prohibits non-attorneys from practicing law. You should never prepare or complete documents, nor give advice on any matter relating to a document unless you're an attorney or professional in a relevant area of expertise. Use care in selecting the type of certificate or notarization a document needs, as this decision can have important legal ramifications. The Notary could be held liable for any damages resulting from an incorrectly chosen certificate or notarization.

Secretary of State's Note:

Even though Oregon law does not prohibit notarizing documents for relatives, we recommend that the signer(s) obtain the services of a Notary Public a court would consider truly unbiased. The notary should not notarize documents in which they are referred to by name or title - it's against the law in Oregon.