

CHAPTER 8

ADDITIONAL REQUIREMENTS A NOTARY MUST KNOW

Chapter Objective:

This section covers additional requirements for notaries concerning relocating, name changes and other miscellaneous provisions. Once again, the student will be able to recognize proper and improper notary procedures.

Foreign Language Documents

A notary may notarize a document in a **foreign language** that they are not familiar with, as a notary public is not responsible for the contents of the document. **The notary should be able to identify the type of document being notarized for entry in the notary's journal.** If unable to identify the type of document, the notary must make an entry to that effect in their journal, e.g. "a document in a foreign language."

Change of name, residence of principal place of business

If a notary changes residence or their principal place of business, the notary must inform the Secretary of State, in writing by certified mail within 30 days. The notary is not required to file a new oath and bond within a new county, but may elect to do so. The notification must include: 1) Name of the notary as on the commission, 2) commission number and expiration date of commission, 3) whether change of address is for the business, residence, and/or for mailing purposes, 4) new address, 5) signed and dated by the notary.

Grounds for commission refusal, suspension and revocation

Aside from commission denial as a result of the background check, there are many reasons for a notary to find his or her commission in jeopardy. Any conviction of a misdemeanor or felony including convictions resulting from a plea of nolo contendere (no contest), denial, revocation or suspension of any professional license as a result of misconduct or dishonesty. Additionally, a notary's failure to properly carry out the required duties as a notary can result in criminal prosecution as well as personal liability in addition to commission suspension or revocation. The notary also risks suspension or revocation as a result of being found liable for damages if the suit was based upon fraud or misrepresentation. Finally, if the notary uses false or misleading advertising which suggests that the notary has rights or powers which are prohibited by law, the Secretary of State may suspend or revoke the commission. Previously revoked commissions may be cause for the Secretary of State to deny any future applications from that applicant.

Electronic Signatures

Notarization of electronic signatures is acceptable but the notary must also sign electronically. Except for a California subdivision map, current law requires a notary

seal on the document in order for the document to be properly notarized, but there are exceptions made if the document is electronic. If there is no notary seal present with the notary's electronic signature, new California law ((Government code section 27931(e)(2004)) permits the county recorder to accept the document for recording without the seal as long as the document contains the following information:

- a. The name of the notary
- b. The words "notary public"
- c. The name of the county where the notary's bond and oath are on file
- d. The sequential identification number of the notary (commission number) and the seal manufacture's number

Taking Depositions

If required to take a deposition, the notary should refer these services to an attorney.

Chapter Summary

1. A notary may notarize a document in a **foreign language** that they are not familiar with, as a notary public is not responsible for the contents of the document. **The notary should be able to identify the type of document being notarized for entry in the notary's journal.** If unable to identify the type of document, the notary must make an entry to that effect in their journal, e.g. "a document in a foreign language."
2. If a notary changes his or her name (through marriage for example), the notary **must complete a name change application** and file it with the Secretary of State, whereupon an amended commission will be sent to reflect the new name. The notary will need to obtain a new stamp with the new name, however; **the sequential commission number and the expiration date will remain unchanged.** The notary must also change the name on their bond and re-file the amended bond with the county clerk within 30 days or the commission will not go into effect and will become void. The amended commission will not go into effect until the oath and amended bond are on file and the new notary seal must be obtained within 30 days of filing.
3. If a notary changes his or her residence or principal place of business, the notary must inform the Secretary of State, in **writing by certified mail within 30 days.** The notary is not required to file a new oath and bond within a new county, but may elect to do so. The notification letter must include: 1) Name of the notary as on the commission, 2) commission number and expiration date of commission, 3) whether change of address is for the business, residence, and/or for mailing purposes, 4) new address, and 5) signed and dated by the notary. If the principal place of business

address was changed in the application for name change, either a new bond or a duplicate of the original bond must be filed along with the amendment to the bond.

4. **Grounds for commission refusal, suspension and revocation.** Any conviction of a misdemeanor or felony including convictions resulting from a plea of nolo contendere (no contest), denial, revocation or suspension of any professional license as a result of misconduct or dishonesty. Additionally, a notary's failure to properly carry out the required duties as a notary can result in criminal prosecution as well as personal liability in addition to commission suspension or revocation. The notary also risks suspension or revocation as a result of being found liable for damages if the suit was based upon fraud or misrepresentation. Finally, if the notary uses false or misleading advertising which suggests that the notary has rights or powers which are prohibited by law, the Secretary of State may suspend or revoke the commission. Previously revoked commissions may be cause for the Secretary of State to deny any future applications from that applicant.

5. Notarization of electronic signatures is acceptable, but the notary must also sign electronically. Except for a California subdivision map, current law requires a notary seal on the document in order for the document to be properly notarized, but there are exceptions made if the document is electronic. If there is no notary seal present with the notary's electronic signature, new California law ((Government code section 27931(e)(2004)) permits the county recorder to accept the document for recording without the seal as long as the document contains the following information:
 - a. The name of the notary.
 - b. The words "notary public".
 - c. The name of the county where the notary's bond and oath are on file.
 - d. The sequential identification number of the notary (commission number).
 - e. The seal manufacture's number.

Check your knowledge

1. A notary _____ notarize a document in a foreign language, but the notary should attempt to identify the type of document if possible.

2. Upon completing a name change application, the notary will receive a new authorization to manufacture a seal. The name will be changed but the commission number will be the _____.

3. A notary has _____ days to notify the Secretary of State if they change their residence or place of business and must do so by _____ or _____ mail.

4. A California notary may _____ authorize confidential marriages unless first approved to do so by the County Clerk.

Answers: 1. may 2. same 3. thirty, certified; registered 4. not