

<h1 style="text-align: center;">Regulatory Analysis Form</h1> <p style="text-align: center;">(Completed by Promulgating Agency)</p> <p style="text-align: center;">(All comments submitted on this regulation will appear on IRRC's website)</p>		<b>INDEPENDENT REGULATORY REVIEW COMMISSION</b>	
<p>(1) Agency <b>Department of State, Bureau of Commissions, Elections and Legislation</b></p>		<div style="border: 1px solid black; padding: 5px;"> <p style="font-size: 1.2em; margin: 0;">RECEIVED</p> <p style="margin: 5px 0 0 40px;">AUG 22 2018</p> <p style="font-size: 0.8em; margin: 0;">Independent Regulatory Review Commission</p> </div>	
<p>(2) Agency Number: 16 Identification Number: 59</p>		<p>IRRC Number: 3212</p>	
<p>(3) PA Code Cite: 4 Pa. Code §§ 161.1, 161.2, 163.1, 165.1 and 167.1—167.127</p>			
<p>(4) Short Title: <b>Regulations Implementing the Revised Uniform Law on Notarial Acts (RULONA)</b></p>			
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p><b>Primary Contact: Martha Brown, Assistant Counsel, 717-783-2804, martbrown@pa.gov</b>  <b>Secondary Contact: Ian Everhart, Assistant Counsel, 717-346-0462, ieverhart@pa.gov</b></p>			
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> <b>Proposed Regulation</b>  <input type="checkbox"/> Final Regulation  <input type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation;  <input type="checkbox"/> Certification by the Governor  <input type="checkbox"/> Certification by the Attorney General</p>	
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p><b>The regulations implement the provisions of the Revised Uniform Law on Notarial Acts (act or RULONA) (57 Pa.C.S. §§ 301–331), which was signed into law on October 9, 2013.</b></p> <p><b>The regulations provide a comprehensive framework for notary public practice and procedure in Pennsylvania and provide necessary detail to implement provisions of the new law. The regulations reflect modern notary practice and mandate currently-optional best practices. The regulations provide detail on qualifications for appointment and commission, the official notary public stamp, stamping device and optional embosser, the notary journal, standards of practice, notarial acts and certificates, electronic notarization, the examination for first-time notaries, basic and continuing education, as well as prohibited acts and sanctions.</b></p>			
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p><b>The regulations are authorized under section 327(a) of the act (57 Pa.C.S. § 327(a)), which authorizes the Department to promulgate regulations to implement RULONA.</b></p>			



(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

**These regulations are required by RULONA, as adopted by the General Assembly in 2013.**

**There is no deadline for promulgation of these regulations, but the majority of the provisions of RULONA did not come into effect until 180 days after the publication of notice of the approval of basic and continuing education courses under 57 Pa.C.S. § 322(b) and (c). This occurred on October 26, 2017. Therefore, these regulations will be effective on the date of final-form publication.**

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

**The regulation is needed because the General Assembly adopted the Revised Uniform Law on Notarial Acts (RULONA). The compelling need for these regulations is to implement the law passed by the General Assembly and provide implementation details for the new statutory requirements.**

**The Commonwealth's approximately 86,000 commissioned notaries will benefit from these regulations, because the rulemaking implements a modernized notary law. The former notary law dates back to 1953 and there have never been comprehensive notary regulations in the Commonwealth. These regulations parallel the provisions of RULONA – they do not broaden the scope of the statute. The regulations reflect current practices and mandate currently-optional best practices, while taking into account different and new technologies. These regulations will provide rules and certainty for notaries, where there was none previously. The notaries of Pennsylvania will benefit by being more prepared and familiar with the specifics of notary practice. They may be less subject to discipline and commit errors less frequently.**

**The 12.8 million citizens of this Commonwealth (among them the many users of notarial services) will benefit from these regulations by having more competent notaries. The rulemaking implements new statutory requirements such as testing for first-time notaries, which will ensure that notaries public are knowledgeable about and qualified to perform notarial acts. Provisions on conflict of interest, advertising, unauthorized practice of law and prohibitions against “notario public” practice will also enhance public protection.**

**Education providers will have the opportunity to develop new continuing education courses for notaries public, covering topics which assist notaries to maintain and enhance their skills. There are currently 13 education providers which have RULONA-compliant basic education courses approved by the Department of State. One examination vendor (PearsonVUE) was awarded a contract to develop and administer the new examination required by RULONA. Estimated number of education and examination vendors' employees, officers, and shareholders: 10,000.**

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(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

**There are no applicable federal notary law or other federal notary standards.**

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

**The original Uniform Law on Notarial Acts (ULONA) was promulgated by the Uniform Law Commission (ULC) in 1982, and was designed to provide a consistent framework for notarial acts and officers among the states. To date, 12 states have adopted ULONA. The Revised Uniform Law on Notarial Acts is an update of the 1982 Act and was approved by the ULC at its 2010 Annual Meeting. To date, nine states have adopted RULONA, two of whom were ULONA states.**

**Of the six states physically surrounding the Commonwealth, West Virginia has enacted RULONA and Delaware has enacted ULONA. Other RULONA states include Colorado, Idaho, Iowa, Montana, North Dakota, Oregon and Washington. RULONA legislation has been introduced in Georgia, Kentucky, Minnesota, New Jersey, Rhode Island and Vermont in 2017. Other ULONA states which have not adopted RULONA include the District of Columbia, Kansas, Minnesota, Montana, Nevada, New Hampshire, New Mexico, Oklahoma, Wisconsin and Wyoming.**

**These regulations are modeled after other RULONA/ULONA states including Oregon, District of Columbia, Kansas, Oklahoma, as well notary regulations found in similarly populous states of Florida, California and North Carolina. The Department of State deemed it necessary to promulgate comprehensive regulations to preserve the uniformity of RULONA/ULONA as enacted by 19 states.**

**The proposed regulations are generally in line with the regulations adopted in surrounding states and will not negatively affect Pennsylvania's ability to compete with other states.**

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

**These regulations will not conflict with or otherwise affect any other regulations.**

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

**An exposure draft of these regulations was released for public comment on December 16, 2014. Twenty-one commentators submitted responses to the draft rulemaking. These included organizations representing Pennsylvania notaries: the Pennsylvania Association of Notaries, National Notary Association, Pennsylvania On-Line Messenger Association, Notaries Equipment Company and American Society of Notaries. Other organizations include Pennsylvania Automotive Association and Friends of Farmworkers. Three individual notaries and five attorneys commented in their personal capacities.**

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(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The Commonwealth's approximately 86,000 commissioned notaries will be affected by these regulations, because the rulemaking implements a modernized notary law (RULONA). The law and regulations reflect current practices and mandate currently-optional best practices, while taking into account different and new technologies. These regulations will provide definitive rules and certainty for notaries, where many rules were previously uncodified. The notaries of Pennsylvania will benefit by being more prepared and familiar with the law and other rules for notary practice.

The definition of "small business" in Section 3 of the Regulatory Review Act points to "small businesses" as defined in 13 C.F.R. § 121.201. Many notaries may work for "small businesses" as defined in the federal regulations; however, the Department of State does not collect this information and has no practical way of verifying how many notaries work for small businesses or otherwise. An informal survey of the Department's records reveals that approximately 90% of notaries list an office address which appears to be an employer business address (as compared to a home address). Whether those employers fall under the definition of small business is unclear. Those 10% of notaries public who list what appears to be a home address as their office address could be considered as individually small businesses/sole proprietors.

According to the Pennsylvania Department of Labor and Industry, notaries public provide their services for a variety of private and public sector employers as "office support workers."

The table below shows the industries that employed the largest number of Office Support Workers, Other) in Pennsylvania in 2012.

Rank	Industry Title	Estimated Number of Office Support Workers, Other Employed	Percent of Total Employment
1	<u>Federal Government</u>	356	11.4%
2	<u>State Government, Excluding Education and Hospitals</u>	273	8.7%
3	<u>Management of Companies and Enterprises</u>	260	8.3%
4	<u>Self-Employed Workers, Primary Job</u>	176	5.6%
5	<u>Colleges, Universities, and Professional Schools</u>	160	5.1%
6	<u>Religious Organizations</u>	117	3.7%
7	<u>Employment Services</u>	114	3.6%
8	<u>Depository Credit Intermediation</u>	31	1%
9	<u>Business Support Services</u>	31	1%
10	<u>Medical and Diagnostic Laboratories</u>	20	.6%



**Anecdotally, notaries are often employed in the following specific fields: law, banking/mortgage lenders and vehicle sales/title and tag shops.**

**Small businesses are defined in Section 3 of the Regulatory Review Act, (71 P.S. § 745.3) which provides that a small business is defined by the SBA's Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to the types of businesses where notaries may work, a small business in Subsector 541 (Professional, Scientific and Technical Services – which includes law offices, title abstract and settlement offices and all other legal services) is one that has \$11.0 million or less in average annual receipts.**

**For those notaries employed in commercial banking, a small business in Subsector 522 (Credit Intermediation and Related Activities) – which includes commercial banking, savings institutions and credit unions) is one that has \$550 million or less in assets. A small business in consumer lending, sales financing, real estate credit and secondary financing is one that has \$38.5 million or less in average annual receipts. Finally, mortgage and nonmortgage loan brokers are considered small businesses if they have \$7.5 million or less in average annual receipts.**

**For those notaries employed in vehicle sales, a small business in Subsector 441 (Motor Vehicle and Parts Dealers) – which includes new and used car dealers and recreational and motorcycle/ATV dealers – is one that ranges from \$25.0 million (for used car dealers) to \$32.5 million (for boat, motor cycle, ATV, and all other motor vehicle dealers) or less in average annual receipts. New car dealers with 200 or fewer employees qualify as small businesses.**

**Based on the variety of employers, the Department believes that many notaries public in Pennsylvania are employed in small businesses. As noted above, the Department does not collect information on the size of the businesses where notaries are employed. However, for purposes of determining the economic impact on small businesses, the Department will assume that a large number of its notaries work for small businesses as that term is defined by the SBA and Pennsylvania's Regulatory Review Act.**

**Although many notaries public may work for "small businesses," whether these small businesses will be impacted by the regulations depends on whether the businesses pay the fees and costs associated with obtaining a notary commission on behalf of employees. Those fees and costs include the exam fee (for new notaries only), education costs (for new and continuing notaries), the application fee and notary equipment costs for the journal and notary stamping device. It should be noted that only the examination fee and the education costs for notaries previously grandfathered are new. All other fees and costs were required by the prior law. Because these fees are charged to individuals applying for initial or renewal appointment and commission, any business (small or otherwise) could avoid these costs by requiring employees to pay their own fees and costs.**

**The 12.8 million citizens of this Commonwealth (among them the many users of notarial services) will also be affected by the new law and regulations by having more competent notaries. The rulemaking implements new statutory requirements such as testing for first-time notaries, which will ensure that notaries public are knowledgeable about and qualified to perform notarial acts. Provisions on conflict of interest, advertising, unauthorized practice of law and prohibitions against "notario public" practice will also enhance public protection.**



Education providers will be affected by the new law and regulations, because these companies will have the opportunity to develop new continuing education courses for notaries public, covering topics which assist notaries to maintain and enhance their skills. There are currently 13 education providers which have RULONA-compliant basic education courses approved by the Department of State. The majority of the 13 are considered to be small businesses by the Department.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

- The 86,000 currently-commissioned notaries, and all future notary applicants, will have to comply with the regulation. Please see question 15 for the analysis relating to “small businesses.”
- Any notary education provider which submits an application for approval of a basic or continuing education course will be affected. There are currently 13 approved basic education providers and the Department anticipates that several will apply for continuing education course approval under RULONA.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

- The cost to sit for the notary examination will be \$65, in addition to the application and education fees which currently exist. The Department estimates that 6,700 new notaries apply annually and will be required to take the examination. A new notary will only have to pass the examination once and not with each commission, unless the notary allows his or her commission to expire. If 6,700 new applicants take the examination each year, the cost to the regulated community will be \$435,500. It is unknown how many notaries have gaps in the commissioning process, such that they would be required to take the examination. Please see question 15 for the analysis relating to “small businesses.”
- Both the former notary law and RULONA require three hours of approved notary education for all notaries every four years, so this is not a new cost. However, there will be continuing education costs for those notaries who were “grandfathered in” by the Pennsylvania Supreme Court ruling in *Tritt v. Cortés*, 578 Pa. 317 (June 22, 2004) and who were not obligated to comply with the education requirement imposed by 2002 amendments to the Notary Public Law. The Department estimates that about 20-30% of the 86,000 currently commissioned notaries (17,200 - 25,800) are exempt from the prior education requirement. These notaries will no longer be exempt under RULONA and will be required to complete three hours of education every four years. The current cost of approved notary education courses is between \$39 and \$99 for a three-hour course. The cost to the regulated community for all grandfathered notaries to take a notary education course would be between \$1,014,800 - \$1,522,200 every four years (or \$253,700 - \$380,550 annually).



- All notaries will be required to comply with the new stamp and journal formats of the new law. The Department encourages all notaries to transition to the new stamp and journal formats as soon as possible after the new law is in effect. However, in the interest of practicality, the regulations provide for a transitional provision on stamping devices and journals wherein a notary public who holds a commission on the effective date of the law may continue to use his or her seal and journal until the expiration of that commission, which may occur after the effective date of the new law. The average cost for a notary stamping device ranges from \$13 to \$24. The cost for a notary journal ranges from \$9 to \$25.95.
- Notary education providers will be assessed a \$700 approval fee for Departmental approval of notary education courses. If all 17 education providers approved under the former law submit new courses, the total cost will be \$11,900. Since course providers charge \$39-\$99 per three-hour course per notary, the Department does not consider this fee to be onerous.
- The financial, economic and social impact of this regulation on the general public is minimal, other than it will receive more competent notary services.
- There will be some costs to the Department of State as it implements RULONA and these regulations, including the cost of enhancements to the notary public database, reviewing notary education courses, revising forms and materials.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

**The public protection benefits of uniformly-educated and competent notaries public will outweigh any costs or adverse effects.**

(19) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

**The Department estimates costs to the regulated community as follows:**

**Examination costs – \$65 exam fee x 6,700 new applicants = \$435,500 per year**

**Average cost of education for previously exempt notaries – 20-30% (17,200 - 25,800) previously exempt notaries x \$59 (average cost of three-hour course) = \$1,014,800 - \$ 1,522,200 every four years (or \$253,700 - \$380,550 per year)**

**Average cost for new stamp and journal – 86,000 notaries x \$34 average cost ÷ 4 years = \$731,000 per year for the next 4 years (if notaries do not take advantage of transitional provisions)**

**Costs for Department approval of education providers - \$11,900**

**See answer to question 17 for details on the costs to the regulated community.**



(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

**There are no direct costs or savings to local governments, but to the extent local governments employ notaries and pay their application, education, examination and equipment fees and costs, those may be affected indirectly by the examination requirement for new notaries and the education requirement for previously-grandfathered notaries.**

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

**There will be some costs to the Department of State as it implements RULONA and these regulations, including the cost of enhancements to the notary public database, reviewing notary education courses, revising forms and materials. However, the actual process of appointing and commissioning notaries public would change little under the new law and regulations. Although the Department already maintains a public searchable database of all notaries public, the public database display must be upgraded to indicate on the notary record whether a notary public is authorized to notarize electronically and so that examination scores can be reported directly and electronically to the Department of State as part of the application process. These enhancements to the current notary public database have been completed under an existing contract and will cost the Department no additional funds.**

**There are no direct costs or savings to other departments of state government otherwise, except to the extent such state governments employ notaries and pay their application, education, examination and equipment fees. State governments paying those fees may be affected indirectly by the examination requirement for new notaries and the education requirement for previously-grandfathered notaries.**

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

**Notary applicants taking the examination will have to schedule a time for exam administration with the exam vendor, and successfully complete the exam, passing with an approved number of correct questions. The Department of State and the vendor will have to log the progress of the examination, passage and failure, in addition to current application and education requirements.**

**The Department does not expect there will be further legal, accounting or consulting procedures, or additional reporting, recordkeeping or other paperwork for local government, state government or the regulated community.**



(22a) Are forms required for implementation of the regulation?

**Yes. All existing forms must be modified to implement certain provisions of RULONA. In addition, a new form for notary public education provider approval or amendment is required.**

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here.** If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

Copies of relevant forms are attached hereto.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY 2016-17	FY +1 2017-18	FY +2 2018-19	FY +3 2019-20	FY +4 2020-21	FY +5 2021-22
<b>SAVINGS:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>COSTS:</b>						
Regulated Community	\$0	\$1,495,525	\$1,495,525	\$1,495,525	\$1,495,525	\$764,525
Local Government						
State Government						
<b>Total Costs</b>	<b>\$0</b>	<b>\$1,495,525</b>	<b>\$1,495,525</b>	<b>\$1,495,525</b>	<b>\$1,495,525</b>	<b>\$764,525</b>
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>



(23a) Provide the past three-year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Division of Commissions, Legislation and Notaries	\$2,036,931.51	\$1,927,212.37	\$1,775,862.86	\$1,840,904.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
  - (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
  - (c) A statement of probable effect on impacted small businesses.
  - (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.
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- (a) As noted in the answer to question 15, the Department believes that many notaries public in Pennsylvania are employed in small businesses. Many of those businesses are in following specific fields: law, banking/mortgage lenders and vehicle sales/title and tag shops.
  - (b) As stated in the answer to questions 17 and 19, the projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation will be limited to new notaries and notaries who have previously been exempted from the education requirement.
  - (c) While many notaries public may work for "small businesses," whether these small businesses will be impacted by the new law and regulations depends on whether the businesses pay the fees and costs associated with obtaining a notary commission on behalf of employees. Those fees include the exam fee (for new notaries and previously-commissioned notaries who allow their commissions to lapse or expire), education costs (for new and continuing notaries), the application fee and notary equipment costs for the register and notary stamping device. It should be noted that only the examination fee and the education costs for notaries previously grandfathered are new. All other fees and costs were required by the prior law. Therefore, it is the opinion of the Department that the proposed regulation will have a *de minimis* adverse impact on any small business, especially because these fees and costs can be amortized over each four-year commission and over the duration of a notary's career with the business.
  - (d) There are no less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.



(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

**The provisions of RULONA and the proposed regulations at § 167.49 (relating to Identification of individual appearing before notarial officer – satisfactory evidence) to include other forms of government identification and identification by a credible witness will mitigate the effect on minority communities and the elderly, insofar as those groups are less likely to have current, unexpired forms of photo identification such as driver's licenses and passports. The provisions of § 167.49 will, to some degree, alleviate those burdens.**

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

**No alternative provisions were considered. The provisions of the regulations are dictated by RULONA.**

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

**No exemptions for small businesses were considered. Notaries and notary applicants are considered individually, rather than as employees or owners of businesses (small or large). To the extent businesses of any size are affected, it is only because (1) they employ, or wish to employ, one or more notaries and are paying the associated fees, and/or (2) the notary himself or herself, is the proprietor of his or her own small business as a notary. To have less stringent requirements for notaries who are employed by small businesses would be contrary to the law's goals of public protection and would not be consistent with the legislative intent of RULONA.**



(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

**The Consumer Price Index calculator on the website of the Bureau of Labor Statistics (BLS) of the United States Department of Labor was used for calculations in contemplation of changing the maximum permissible fees notaries may charge.**

**This rulemaking is not based upon any scientific data, reports, studies or research.**

(29) Include a schedule for review of the regulation including:

- A. The length of the public comment period: **60 days from the date of publication as proposed**
- B. The date or dates on which any public meetings or hearings will be held: **N/A**
- C. The expected date of delivery of the final-form regulation: **Fall 2018**
- D. The expected effective date of the final-form regulation: **Upon final-form publication in the *Pennsylvania Bulletin***
- E. The expected date by which compliance with the final-form regulation will be required: **Upon final-form publication in the *Pennsylvania Bulletin***
- F. The expected date by which required permits, licenses or other approvals must be obtained: **Upon final-form publication in the *Pennsylvania Bulletin***

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

**The Department will actively monitor the effectiveness of the regulations, as part of the annual review process under Executive Order 1996-1. To the extent that the General Assembly further amends the notary law, the Department will make necessary adaptations to the regulations.**



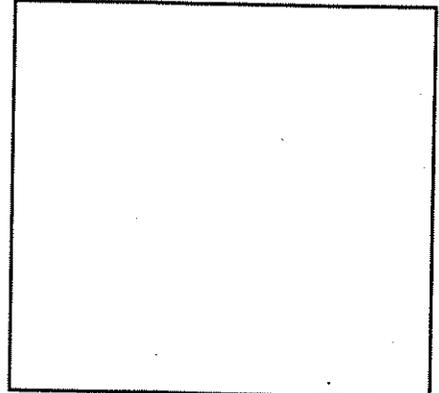


This form may be submitted online at [www.notaries.pa.gov](http://www.notaries.pa.gov)

**PRINT OR TYPE CLEARLY. FILL OUT APPLICATION COMPLETELY. Do not leave any blanks.**  
 Use "none" or "N/A" if applicable. **An incomplete application will delay your appointment.**  
**FEE: \$42** – make check or money order payable to: COMMONWEALTH OF PENNSYLVANIA.

**CHECK ONE:**  **New Appointment**  
 **Reappointment** (have been a notary in Pennsylvania before)

If you have ever been a notary in Pennsylvania before or used a different name:	
Notary commission expiration date	Full name on previous commission
Notary commission ID number	Other name used on previous commission or other/former name(s) you have used



PART I: Applicant Information (NOTE: Employer/Business contact information will be public record)			
First Name	Middle Name or Initial (if used)	Last Name	Suffix (if applicable)
Date of Birth (mm/dd/yyyy)	Social Security Number (xxx-xx-xxxx)	Email Address	
Name of Employer/Business where Notary Commission will be used (Do not leave blank. If not applicable, please indicate.)			
Employer/Business Street Address (P.O. Box alone is insufficient)		City	State Zip Code
Employer/Business Telephone (include area code)		County	
Home Street Address (P.O. Box alone is insufficient)		City	State Zip Code
Home Telephone (include area code)		County	

Part II: Education; Criminal, Disciplinary and Legal History (Check or mark appropriate boxes)	YES (✓)	NO (✓)
I am a notary applicant for initial appointment or reappointment and I have completed a three-hour notary public education course, pre-approved by the Department, within the six-month period immediately preceding this application. I have attached a copy of my course completion certificate and retained my original. Lack of proof of education will result in application rejection.		
Have you ever been convicted or accepted Accelerated Rehabilitative Disposition in resolution of a felony or misdemeanor preceding the date of this application? Conviction includes a finding of guilt by a court or jury, a plea of guilty or nolo contendere or a finding of not guilty due to insanity or of guilty but mentally ill. If yes, attach full details (name of court, plea/conviction/ARD, sentence and length of probation) and appropriate supporting documents with a signed and dated personal explanation.		
Have you ever resigned a notary commission or had a notary commission suspended, revoked or otherwise disciplined by the Commonwealth of Pennsylvania or any other state/jurisdiction preceding the date of this application? If yes, attach full details and appropriate supporting documents with a signed and dated personal explanation.		
Have you ever had any other professional or occupational license suspended, revoked or otherwise disciplined? If yes, attach full details and appropriate supporting documents with a signed and dated personal explanation.		
Have you ever had a judgment levied against you or admitted liability in a legal proceeding for your actions as a notary public? If yes, attach full details and appropriate supporting documents with a signed and dated personal explanation.		

Note that disclosing your social security number on this application is mandatory for the Department of State to comply with the requirements of the federal Social Security Act pertaining to child support enforcement, as implemented in the Commonwealth of Pennsylvania at 23 Pa. C.S. § 4304.1(a). To enforce domestic child support orders, the Commonwealth's licensing boards must provide to the Department of Human Services (DHS) information prescribed by DHS about the licensee, including the social security number.

**APPLICANT AFFIDAVIT:** I am at least 18 years of age; a citizen or permanent legal resident of the United States; a resident of or have a place of employment in Pennsylvania; able to read and write English. I meet all the qualifications for appointment and commission as prescribed by law and have the honesty, integrity, competence and reliability to act as a notary public. I shall furnish additional evidence of these statements, if requested, which shall be satisfactory to the Department of State. To the best of my knowledge and belief, this application contains no misrepresentations or falsifications, omission or concealments of material fact and the information given by me is true and complete. I understand that any false statement made is subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities) and may result in the suspension, revocation, or denial of my notary commission.

Applicant Signature (must match name in Part I)



## PENNSYLVANIA NOTARY PUBLIC APPLICATION – INSTRUCTIONS

### To qualify for appointment and commission as a Pennsylvania Notary Public, you MUST:

- Be at least eighteen (18) years of age
- Be a citizen or permanent legal resident of the United States
- Be a resident of Pennsylvania or have a place of employment or practice within this Commonwealth
- Be able to read and write English.
- Have completed at least three hours of approved notary education within the six months immediately preceding your application (see below for more information)
- Pass an examination (for applicants who do not hold a current and active commission – see below for more information)
- Have the honesty, integrity, competence and reliability to act as a notary public – this is generally the absence of a conviction of, or acceptance of Accelerated Rehabilitative Disposition, by the applicant for a felony or an offense involving fraud, dishonesty or deceit
- Not be otherwise disqualified to receive a commission

### The following persons are NOT eligible to hold the office of Notary Public:

- Any member of the Congress of the United States, and any person, whether an officer, a subordinate officer or agent holding any office or appointment of profit or trust under the legislative, executive, or judicial departments of the government of the United States, to which a salary, fees or perquisites are attached.
- Any member of the General Assembly of Pennsylvania.

### Notary Public Application Procedures

**General instructions:** This application must be **TYPED** or **PRINTED** legibly. Applications will be accepted only on the form approved for use by Department of State. This form may not be altered in any way. Do not send a copy of your completed form; only the original will be accepted. All answers are subject to investigation and false statements (including omissions) will be deemed as adequate grounds for rejection.

**PART I:** Use your full name as you would like it to appear on your commission. Nicknames will not be accepted. You may use any of the following: full first name and last name; full first name, middle initial and last name; full first name, full middle name and last name; first name initial, full middle name and last name. Your signature at the bottom of the application must match the full name printed in this section. Your commission will be prepared and issued in this name. If applicable, employer business information may be the same as home address information (i.e., home office). Note that a home office address and telephone number listed in the employer/business address section of the application will become public information.

**PART II:** Answer all questions. Where "yes" is checked, supply full details and appropriate supporting documents with a signed and dated personal explanation.

**Signature:** The applicant's signature on the application must exactly match the applicant's name as provided on the application. The applicant shall use a legible, recognizable handwritten signature, which can be attributed to the applicant by anyone examining or authenticating the signature. A signature is legible and recognizable if it is distinct, easily readable and understandable, and the notary's full name may be clearly discerned by looking at the signature. If an applicant's preferred signature is not legible and recognizable, the applicant must also legibly print his or her name immediately adjacent to his or her preferred signature.

**To ensure uninterrupted "commissioned" status, completed applications for reappointment should be submitted to the Department of State AT LEAST TWO TO THREE MONTHS prior to the expiration of the current commission. Renewal applicants should allow AT LEAST ONE MONTH for processing after submitting a completed renewal application to the Department.**

**New appointees should allow AT LEAST FOUR TO SIX WEEKS for processing after submitting a completed application to the Department of State. If notice of appointment is not received within this time, contact the Bureau at the address at the top of the application.**

**Fee:** Each application must be accompanied by a check or money order for \$42.00, made payable to "Commonwealth of Pennsylvania," and mailed to 210 North Office Building, Harrisburg, PA 17120. **The fee is non-refundable.** The Department of State is authorized to revoke the notary public commission of a notary public who issues a personal insufficient funds check to the order of any State agency or the Commonwealth.

**Oath of Office, Bond, Recording:** Upon appointment, the Department of State will send notice of appointment to the applicant, with further instructions and an official bond and oath form to be executed by the applicant. These materials will be sent to the applicant's business address as provided on the application. The applicant should record the commission, executed bond and oath form in the Recorder of Deeds in the county where their office is located. This must be completed within **FORTY-FIVE (45) DAYS** after the date of appointment or the commission becomes null and void. **Extensions will not be given.**

**All correspondence from the Department of State concerning your notary public application, notice of appointment to office and bond will be mailed to the employer/business address you have provided on your application. Your name, employer/business name, employer/business address, employer/business telephone number and commissioning history will become public information. If you list your home address, "N/A" or "None" in the employer/business address section of the application, your home address and home telephone number will become public information.**

**NEW Mandatory Education Requirement for all applicants** – The Revised Uniform Law on Notarial Acts, Act 73 of 2013 (effective October 26, 2017), requires all applicants for both initial appointment and reappointment as a notary public to complete at least three hours of approved notary education within the six months immediately preceding the application for appointment or reappointment. Under the new law, the exemption previously available for notaries whose commission was in effect on July 1, 2003 is abolished. All notaries public are required to complete an approved notary education course in order to be appointed or reappointed, including those notaries previously "grandfathered" from the prior education requirement by court ruling.

**NEW Examination Requirement for applicants who do not hold a current notary commission** – The Revised Uniform Law on Notarial Acts (effective October 26, 2017) requires all applicants who do not hold a current commission in Pennsylvania to pass an examination. This includes applicants who have never held a notary commission and all applicants who previously held a notary commission but whose commission has expired at the time their application for appointment is received by the Department. Upon approval of the application, applicants who are required to take the examination will be provided with information on the computer-based testing procedures and sites.





**PRINT OR TYPE CLEARLY. FILL OUT APPLICATION COMPLETELY. Do not leave any blanks.**  
 Use "none" or "N/A" if applicable. **An incomplete application will delay your approval.**  
**FEE: NONE**

**CHECK ONE:**  **New Approval**  
 **Renewal of Approval** (have been an approved e-notary in Pennsylvania before)

Current notary commission information:		YES (√)	NO (√)
Are you currently a commissioned notary public in Pennsylvania? If YES and you wish to apply for electronic notary (e-notary) status, please continue and complete the remainder of this application. If NO, then STOP. You <u>must</u> hold a current commission as a notary public prior to applying for electronic notary status.			
Notary commission expiration date	Notary commission ID Number	Full name on current commission	

**All information provided on this application must match the information on your current notary record.**  
**If any of the information does not match, please provide the correct information on this application with an attached explanation regarding the change(s).**

PART I: Applicant Information (NOTE: Employer/Business contact information will be public record)			
First Name	Middle Name or Initial (if used)	Last Name	Suffix (if applicable)
Date of Birth (mm/dd/yyyy)	Gender (Check One): <input type="checkbox"/> Male <input type="checkbox"/> Female	Social Security Number (xxx-xx-xxxx)	Email Address (Required)
Name of Employer/Business where Notary Commission is used (Do not leave blank. If not applicable, please indicate.)			
Employer/Business Street Address (P.O. Box alone is insufficient)		City	State Zip Code
Employer/Business Telephone (include area code)		County	
Home Street Address (P.O. Box alone is insufficient)		City	State Zip Code
Home Telephone (include area code)		County	

Part II: Criminal, Disciplinary and Legal History (Check or mark appropriate boxes)	YES (√)	NO (√)
Have you ever been convicted or accepted Accelerated Rehabilitative Disposition in resolution of a felony or misdemeanor preceding the date of this application? Conviction includes a finding of guilt by a court or jury, a plea of guilty or nolo contendere or a finding of not guilty due to insanity or of guilty but mentally ill. If yes, attach full details (name of court, plea/conviction/ARD, sentence and length of probation) and appropriate supporting documents with a signed and dated personal explanation.		
Have you ever resigned a notary commission or had a notary commission suspended, revoked or otherwise disciplined by the Commonwealth of Pennsylvania or any other state/jurisdiction preceding the date of this application? If yes, attach full details and appropriate supporting documents with a signed and dated personal explanation.		
Have you ever had any other professional or occupational license suspended, revoked or otherwise disciplined? If yes, attach full details and appropriate supporting documents with a signed and dated personal explanation.		
Have you ever had a judgment levied against you or admitted liability in a legal proceeding for your actions as a notary public? If yes, attach full details and appropriate supporting documents with a signed and dated personal explanation.		

Note that disclosing your social security number on this application is mandatory for the Department of State to comply with the requirements of the federal Social Security Act pertaining to child support enforcement, as implemented in the Commonwealth of Pennsylvania at 23 Pa. C.S. § 4304.1(a). To enforce domestic child support orders, the Commonwealth's licensing boards must provide to the Department of Human Services (DHS) information prescribed by DHS about the licensee, including the social security number.

**APPLICANT AFFIDAVIT:** To the best of my knowledge and belief, this application contains no misrepresentations or falsifications, omission or concealments of material fact and the information given by me is true and complete. I understand that any false statement made is subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities) and may result in the suspension, revocation, or denial of my approval to act as an electronic notary.

Applicant Signature (must exactly match name in Part I)

Applicant Printed Name (must match name in Part I)

Date



### IMPORTANT NOTICE

In order to obtain approval from the Department of State to electronically notarize, you must first be a duly appointed and commissioned notary public in the Commonwealth of Pennsylvania, holding a current and unrestricted commission. DO NOT apply for approval to electronically notarize if you fail to meet this requirement. Please contact the Department of State or visit our website at [dos.pa.gov/notaries](http://dos.pa.gov/notaries) for information on how to become a notary public in Pennsylvania.

#### General Instructions

- Use your name and business address as they appear on the notary public commission records of the Department of State.
- Use your notary commission ID number as it appears on your notary commission issued by the Department of State.
- Applications will be accepted only on the form approved for use by the Secretary of the Commonwealth.
- All answers are subject to investigation and false statements will be deemed as adequate grounds for rejection. Please be advised that a felony conviction or a plea of guilty or nolo contendere to certain misdemeanors or a commission revocation in the Commonwealth or any other state within the last five years prior to application will result in application rejection.
- **Filing Fee: NONE.**
- All correspondence, notices and reminders from the Department of State concerning your electronic notary public application and approval will be mailed to the business address as it appears on your notary public commission and/or the e-mail address provided on this application.
- Upon approval as an electronic notary, the Department of State will notify the applicant by mail and e-mail with an Electronic Notary Approval Letter. The applicant must complete the process for obtaining an electronic notary solution **within 45 days** of the date the Electronic Notary Approval Letter is issued or the approval becomes null and void. **Extensions will not be given.**
- The Secretary may, for good cause, reject any notary public application subject to the right of appeal.





A notary public must notify the Department of State within 30 days of any change in the information on file with the Department, including the notary's legal name. Such notice may be made in writing or electronically and shall state the effective date of such change. Notice of a change in legal name on file with the Department shall be on a form prescribed by the Department and accompanied by evidence of the name change (such as marriage certificate, court order or divorce decree). Notice of a change in legal name on file with the Department shall also be made to the recorder of deeds of the county in which the notary public maintains an office. When the legal name of a notary is changed, the notary may continue to perform official acts, in the name in which he or she was commissioned, until the expiration of his or her term. Application for reappointment of such notary shall be made in the new name.

For Official Use Only

**PRINT OR TYPE CLEARLY. FILL OUT FORM COMPLETELY.** Do not leave any blanks. Use "none" or "N/A" if applicable. There is no fee for filing this form with the Department of State. Please check with the applicable Recorder of Deeds office whether this form may be used and for any recording fee.

Notary commission expiration date	Date of Birth (mm/dd/yyyy)
Notary commission ID number	Email address where you can be contacted about this form

This form may be submitted online at [www.notaries.pa.gov](http://www.notaries.pa.gov)  
 (link to "Update Notary Info")

**PART I: Full name as it appears on your current commission:**

First Name	Middle Name or Initial (if used)	Last Name	Suffix (if any)
------------	----------------------------------	-----------	-----------------

**PART II: Name has changed to:**

First Name	Middle Name or Initial (if used)	Last Name	Suffix (if any)
------------	----------------------------------	-----------	-----------------

Original bond and commission recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, **OR** under Instrument Number \_\_\_\_\_ in the office of Recorder of Deeds, \_\_\_\_\_ County, Pennsylvania.

Effective date of name change: \_\_\_\_/\_\_\_\_/\_\_\_\_ Reason for change of name (circle one): Marriage / Divorce / Court Order / Other  
 Please provide proof of name change (e.g. marriage certificate, court order, divorce decree)

**APPLICANT AFFIDAVIT:** I shall furnish additional evidence of these statements, if requested, which shall be satisfactory to the Department of State. To the best of my knowledge and belief, this filing contains no misrepresentations or falsifications, omission or concealments of material fact and the information given by me is true and complete. I understand that any false statement made is subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities) and may result in the suspension, revocation, or denial of my notary commission.

\_\_\_\_\_  
**Notary Signature** (must exactly match new name in Part II)      **Notary Printed Name** (must match new name in Part II)      **Date**

----- THIS SECTION FOR USE AT RECORDER OF DEEDS OFFICE ONLY -----

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 This record was acknowledged before me  
 on \_\_\_\_\_ (date)  
 by \_\_\_\_\_ (name of individual).

This acknowledgment is not required to be completed when filing this form with the Department of State. If using this form to notify applicable Recorder of Deeds of your name change, **have this acknowledgment completed and notarized prior to submitting the form to Recorder of Deeds office.**

\_\_\_\_\_  
 Signature of Notarial Officer      Stamp/Seal





A notary public must notify the Department of State within 30 days of any change in the information on file with the Department, including the notary's office address or home address. Such notice may be made in writing or electronically and shall state the effective date of such change.

This form may be submitted online at [www.notaries.pa.gov](http://www.notaries.pa.gov) (link to "Update Notary Info")

**PRINT OR TYPE CLEARLY. FILL OUT FORM COMPLETELY. Do not leave any blanks.** Use "none" or "N/A" if applicable. There is no fee for this filing.

For Official Use Only

Notary commission expiration date	Notary commission ID number	Email address where you can be contacted about this form
Full name as commissioned	Date of birth (mm/dd/yyyy)	Effective date of address change (mm/mm/yyyy)

**Office Address of Record (place of employment or practice) currently on file with Department**

Employer/Business Name

Employer/Business Street Address (P.O. Box alone is insufficient)	City	State	Zip Code
Employer/Business Telephone (include area code)		County	

**New Office Address of Record (NOTE: Office Address contact information will be public record)**

Employer/Business Name

Employer/Business Street Address (P.O. Box alone is insufficient)	City	State	Zip Code
Employer/Business Telephone (include area code)		County	

**Home Address of Record currently on file with Department**

Home Street Address (P.O. Box alone is insufficient)	City	State	Zip Code
Home Telephone (include area code)		County	

**New Home Address of Record**

Home Street Address (P.O. Box alone is insufficient)	City	State	Zip Code
Home Telephone (include area code)		County	

**APPLICANT AFFIDAVIT:** I shall furnish additional evidence of these statements, if requested, which shall be satisfactory to the Department of State. To the best of my knowledge and belief, this filing contains no misrepresentations or falsifications, omission or concealments of material fact and the information given by me is true and complete. I understand that any false statement made is subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities) and may result in the suspension, revocation, or denial of my notary commission.

\_\_\_\_\_  
**Notary Signature** (must match name on commission)

\_\_\_\_\_  
**Notary Printed Name** (must match name on commission)

\_\_\_\_\_  
**Date**





If a notary public neither resides nor works in the Commonwealth, that notary public shall be deemed to have resigned from the office of notary public as of the date the residency ceases or employment within the Commonwealth terminates. A notary may also voluntarily resign from the duties of office at any time during the course of the notary commission. A notary public who resigns his or her commission shall notify the Department of State within 30 days of the effective date of the resignation.

This form may be completed and printed at [dos.pa.gov/OtherServices/Notaries/NotaryServices](http://dos.pa.gov/OtherServices/Notaries/NotaryServices) (link to "Update Information")

**PRINT OR TYPE CLEARLY. FILL OUT FORM COMPLETELY. Do not leave any blanks.**  
 Use "none" or "N/A" if applicable. There is no fee for this filing.

For Official Use Only

Notary commission expiration date	Date of Birth (mm/dd/yyyy)
Notary commission ID number	Telephone number (including area code)

Email address where you can be contacted about this form: \_\_\_\_\_

PART I: Full name as it appears on your current commission:			
First Name	Middle Name or Initial (if used)	Last Name	Suffix (if applicable)

Effective date of resignation: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Month                      Day                      Year

**Reason for resignation (check and complete one):**

- I no longer live or work in the Commonwealth of Pennsylvania.
- Other (please specify):

**NOTE:** Pursuant to 57 Pa.C.S. § 319(e)(2), notaries public must deliver their register to the office of the recorder of deeds in the county where the notary public last maintained an office within 30 days of resignation. Pursuant to 57 Pa.C.S. § 318(a)(2), on resignation of a notary public commission or on the expiration of the date set forth on the notary stamp/seal, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing or securing it against use in a manner which renders it unusable. Do not send your notary stamping device to the Department of State if you are resigning or when your commission expires.

**APPLICANT AFFIDAVIT:** I shall furnish additional evidence of these statements, if requested, which shall be satisfactory to the Department of State. To the best of my knowledge and belief, this filing contains no misrepresentations or falsifications, omission or concealments of material fact and the information given by me is true and complete. I understand that any false statement made is subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities) and may result in the suspension, revocation, or denial of my notary commission.

\_\_\_\_\_  
**Notary Signature** (must match name on commission)                      \_\_\_\_\_  
**Notary Printed Name** (must match name on commission)                      \_\_\_\_\_  
 \_\_\_\_\_  
**Date**



Commonwealth of Pennsylvania – Department of State  
 Bureau of Commissions, Elections and Legislation  
 Division of Commissions, Legislation and Notaries  
 210 North Office Building  
 Harrisburg, PA 17120  
 Tel: (717) 787-5280  
 Web: [dos.pa.gov/notaries](http://dos.pa.gov/notaries)



**NOTARY PUBLIC EDUCATION PROVIDER  
 APPLICATION/AMENDMENT  
 (9/2/2016)**

**CHECK ONE:**  New Course Approval - \$700  
 Course Revision / Course Reapproval - \$200

**PRINT OR TYPE CLEARLY. FILL OUT APPLICATION COMPLETELY.**  
 Use "none" or "N/A" if applicable.

For Official Use Only

Name of Company or Organization			
State of Incorporation/Organization		PA Business Registration Number	
Mailing Address of Company Headquarters		City	State
			Zip Code
Name and Title of Principal Contact Person			
Mailing Address of Principal Contact Person		City	State
			Zip Code
Principal Contact Person Phone Number	Principal Contact Person Email		Principal Contact Person Fax
Name of notary education course			
Type of course (check one): <input type="checkbox"/> Basic Education Course <input type="checkbox"/> Continuing Education Course		How course offered (check at least one): <input type="checkbox"/> Classroom instruction <input type="checkbox"/> Correspondence course <input type="checkbox"/> Online <input type="checkbox"/> Other _____	
Checklist for submission: <input type="checkbox"/> Completed and signed application <input type="checkbox"/> Lesson Plan (see 4 Pa. Code § 167.93) <input type="checkbox"/> Fee (make check or money order payable to "Commonwealth of Pennsylvania")			

I certify that the information provided in this application, including all statements and attached documentation, is true and correct to the best of my knowledge, information and belief. I understand that the falsification of any statement or document made is subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities) and may result in the denial of approval for this notary public education course or the termination of any certificate of approval issued for this course.

\_\_\_\_\_  
 Signature of Principal/Duly Authorized Representative

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Printed Name of Principal/Duly Authorized Representative

\_\_\_\_\_  
 Title of Principal/Duly Authorized Representative



**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)**

**RECEIVED**  
AUG 22 2018  
Independent Regulatory  
Review Commission

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

BY: *Angela M. Elliott*  
(DEPUTY ATTORNEY GENERAL)

AUG 09 2018

DATE OF APPROVAL

Check if applicable.  
Copy not approved.  
Objections attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Department of State  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16-59

DATE OF ADOPTION: \_\_\_\_\_

BY: *Robert Torres*  
Robert Torres

TITLE Acting Secretary of the Commonwealth  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

BY: *John Fawcett*

MAY 02 2018

DATE OF APPROVAL

(Exec. Deputy General Counsel/  
Chief Counsel, Independent Agency)  
(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

**PROPOSED RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF COMMISSIONS, ELECTIONS AND LEGISLATION  
4 Pa. Code Part VIII, Subpart C (Chapters 161 - 167)  
NOTARIES PUBLIC - REVISED UNIFORM LAW ON NOTARIAL ACTS**



16-59 Revised Uniform Law on Notarial Acts  
Proposed Preamble  
August 22, 2018

The Department of State (Department) proposes to amend §§ 161.1 and 163.1 (relating to schedule of fees and applicability of general rules), to adopt new § 161.2 (relating to notary public fee schedule); to rescind § 165.1 (relating to lesser offenses incompatible with the duties of a notary public—statement of policy) and to adopt a new chapter, Chapter 167 (relating to notaries public), to read as set forth in Annex A.

*Statutory Authority*

Chapter 167 (relating to notaries public) and § 161.2 (relating to notary public fee schedule) are authorized under section 327(a) of the Revised Uniform Law on Notarial Acts (Act or RULONA) (57 Pa.C.S. § 327(a)), which authorizes the Department to promulgate regulations to implement the Act and under section 329.1(a) of RULONA, which states that the fees of notaries public shall be fixed by the Department by regulation. The amendments to § 161.1 (relating to schedule of fees) and 163.1 (relating to applicability of general rules) are authorized under section 506 of the Administrative Code of 1929 (71 P.S. § 186), which states that the heads of all administrative departments are hereby empowered to prescribe rules and regulations, not inconsistent with law, for the government of their respective departments, the conduct of their employes and clerks, the distribution and performance of their business, and the custody, use, and preservation of the records, books, documents, and property pertaining thereto. Furthermore, Article VIII of the Administrative Code of 1929 (relating to Powers and Duties of the Department of State and Its Departmental Administrative Board) grants the Department the power and the duty “to furnish to any person, upon request and the payment of such charges as may be required and fixed by law, certificates of matters of public record in the department, or certified copies of public papers or documents on file therein.” 71 P.S. § 272(b). Concurrently, the Department of State is authorized to adopt rules and regulations pertaining to its powers and duties under the Administrative Code. 71 P.S. § 282.

*Effective Date*

The amendments will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

*Background and Need for Amendments*

The act of October 9, 2013 (P.L. 609, No. 73) (Act 73 of 2013) adopted the Revised Uniform Law on Notarial Acts (RULONA) (57 Pa.C.S. §§ 301—331) which, when it became fully effective on October 26, 2017, completely replaced the former Notary Public Law and Uniform Acknowledgment Act with modern language and best practices.

Under section 5 of Act 73 of 2013, immediately effective on October 9, 2013, was the Department’s authority to promulgate regulations to implement the new law; the Department’s authority to approve basic and continuing notary education courses; and the Department’s

authority to fix the fees of notaries public by regulation. The Department also needed to have an examination in place for first-time applicants and those applicants with expired commissions, as required by the new law. A contract for development, administration and maintenance of the exam was awarded in June 2016, with a requirement that the notary public examination be available in the summer of 2017. The Department issued a call for new notary education courses on September 13, 2016 and began the process of reviewing and approving notary education which is RULONA-compliant. On April 29, 2017, the Department published notice in the *Pennsylvania Bulletin*, at 47 Pa.B. 2518, that it had approved notary education courses and that the remainder of RULONA would take effect October 26, 2017, 180 days after publication of the notice.

At the same time, the Department deemed it necessary to adopt comprehensive regulations to implement the law. Under Executive Order 1996-1, the Department sought comments and suggestions on a Draft Rulemaking released for public comment on December 16, 2014. Written comments were received from 21 commentators. The Department has reviewed those comments and made revisions to the rulemaking. The Department now sets forth the proposed rulemaking in Annex A.

### *Description of Proposed Amendments*

#### Overview

The Department's Bureau of Commissions, Elections and Legislation (Bureau) is responsible for the appointing and commissioning of notaries public. The proposed regulations amend existing regulations relating to Bureau and notary fees. The regulations also create a new Chapter 167, where ten subchapters pertaining to notary public qualifications, practice and procedure, and discipline complement and further clarify the requirements of the Act. There are approximately 86,000 commissioned notaries in Pennsylvania who will be affected by the Act and these regulations. The regulations parallel the statute – they do not broaden the scope of the Act – but instead reflect current practices and mandate currently-optional best practices. Where appropriate, the Department incorporated into these regulations the details and explanations provided by the Uniform Law Commission's comments to the RULONA text, dated November 15, 2010. These comprehensive regulations serve to preserve the uniformity of the Revised Uniform Law on Notarial Acts (and its predecessor the Uniform Law on Notarial Acts or ULONA) as enacted by 19 states to date.

#### Fees

As part of its revision of Subpart C (relating to Commissions) of Part VII of Title 4 of the Pennsylvania Code (relating to the Bureau of Commissions, Elections and Legislation), the Department is updating the Bureau's existing regulation on schedule of fees relating to commissions. The authority for amended Chapter 161 is varied and is explained under Statutory Authority *supra*.

16-59 Revised Uniform Law on Notarial Acts  
Proposed Preamble  
August 22, 2018

The amendments to Chapter 161 repeal Bureau bond fees which are no longer collected under the County Officer and Employee Fiscal Security Act (Act 106 of 2011) (16 Pa.C.S. §§ 1121-1133), but were previously authorized by Section 809 of the Administrative Code of 1929. That section requires the Department to file bonds of county officers in addition to issuing commissions to those county elected officials. Act 106 of 2011 mandates that, after filing a copy of the recorded fiscal security documents with the Department, no tax, fee, or other charge shall be imposed as a result of the issuance of the commissions to elected county officials (16 Pa.C.S. §1131(b)(3)). Since the enactment of Act 106, the Department has not charged the enumerated fees for the issuance of commissions specified under 4 Pa. Code §161.1 and is now deleting these fees from regulation, as part of the overhaul of Subpart C (relating to Commissions).

The amendments to Chapter 161 also codify existing Bureau policies for duplicate commissions, blank bonds, copying and authentication of documents or matters of public record. New fees are proposed for lists of notaries public, data requests and pre-approval of notary public education courses. List and data requests are frequently made by companies seeking to contact notaries for commercial purposes. The generation of such lists involves both Bureau and information technology staff time to generate. The fee for pre-approval of notary public courses is based on the estimated Bureau and legal staff time to review and approve the 3-hour education courses.

The fees that may be charged by notaries public are fixed by the Department and are moved to new § 161.2 (relating to notary public fee schedule). A new fee for “witnessing or attesting a signature” (a new notarial act per RULONA) is added, while “taking depositions, per page” is deleted. RULONA does not contain “taking depositions” as a distinct notarial act, but it does include “Certifying or attesting a copy or deposition” as a notarial act. As notarial officers authorized to administer oaths or affirmation, notaries public may continue to take depositions and charge for administering the oath and latter certifying or attesting the deposition. Nothing in these regulations or RULONA precludes a notary from charging for his or her services in taking depositions.

The remaining existing maximum permissible fees which may be charged by notaries public are carried forward to new § 161.2. Three commentators, all companies or associations representing approximately 40,300 notaries, requested that notary fees be doubled from \$5 to \$10. The Department declines to raise the fees that notaries may charge at this time. The Department acknowledges that notary fees were set at \$2 in 1984 and were last raised from \$2 to \$5 on May 28, 2005. The Department also acknowledges that RULONA will impose additional costs on some notaries – an examination cost for first-time notary applicants and continuing education costs for those notaries who were “grandfathered in” by the Pennsylvania Supreme Court ruling in Tritt v. Cortés, 578 Pa. 317 (June 22, 2004) and not obligated to comply with the education requirement imposed by 2002 amendments to the Notary Public Law. Notary operating expenses, such as the option for professional liability insurance (Errors and Omissions), have also increased over the

past 10 years.

Clearly, notaries perform valuable services preventing fraud and forgery and providing confidence that a signature is authentic and was made voluntarily. However, the Consumer Price Index does not justify a doubling of fees at this time. Raising notary fees to \$10 would make Pennsylvania notary fees higher than those of surrounding states. According to the National Association of Secretaries of State as of April 2016, the states surrounding Pennsylvania (DE, DC, MD, NJ, NY, OH, WV) cap fees at levels between \$2 and \$5 per notarial act for most transactions. Eight states (CA, CO, FL, MI, NH, OR, SD, WA) permit fees up to \$10 for at least some notarial acts. Six states (AK, IA, KS, LA, MA, TN) have no specific cap on permissible fees. Other states specify various caps ranging from 50 cents to \$10. Finally, while there are organized notary associations coordinating the request to raise fees, there is no organized group representing the users of notary services to request lower or unchanged fees.

Lastly, § 161.2 also codifies several long-standing but unwritten policies as to receipts and display of fees by notaries public.

#### Section 163.1 and Section 165.1

The name of Bureau is corrected to make it clear that the provisions of the general rules of administrative practice and procedure apply to the activities of the Department of State pertaining to commissions and notaries public. The statement of policy at § 165.1 (relating to lesser offenses incompatible with the duties of a notary public) is moved to new § 167.111 (relating to offenses involving fraud, dishonesty or deceit).

#### Subchapter A. General Provisions

The first subchapter of new Chapter 167 sets forth the scope of these regulations in § 167.1 (relating to scope) and definitions for terms used in the chapter in section 167.2 (relating to definitions). The term “address” is specified to include street and number, because a post office box is not a sufficient address for Department of State records.

#### Subchapter B. Qualifications for appointment and commission

This subchapter clarifies the eligibility for appointment and commission as a notary public stated in section 321 of the Act (57 Pa.C.S. § 321) in §§ 167.11 – 167.13 (relating to eligibility for appointment and commission – applicants not residing in the Commonwealth; eligibility for appointment and commission – applicants holding state and federal office; and eligibility for appointment and commission – deemed resignation). The existing procedures for appointment and commission remain the same under RULONA, with the addition of the examination, and are codified in §§ 167.14 – 167.18. Section 167.15 (relating to notary public examination) sets forth details on the examination required by section 322(a) of the Act for first-time applicants and those

notaries who previously held a commission but whose commission has since expired. This section establishes the rules for passing scores and retaking the examination, which will be administered by the Department's examination vendor PearsonVUE. Computer-based testing will be available widely throughout the Commonwealth. PearsonVUE has made available 80 testing sites across the Commonwealth in 44 counties.

Subchapter C. Official Stamp, Stamping Device and Embosser

Section 167.21 (relating to official stamp) sets forth the requirements for the appearance of the former notary seal, now known as the official stamp under RULONA. The section adds the notary commission identification number to the stamp, which will enable the public to distinguish between notaries when there is a common name and large county (e.g., John Smith, Philadelphia County). This section also sets forth a visual example of the required stamp and a transitional provision permitting a notary public who holds a current commission to continue to use the notary's existing seal until the expiration of the notary's current commission.

Section 167.22 (relating to stamping device) sets forth the requirements for use, security and reporting of loss of the stamping device used to make the official stamp. Existing policy on embossers is continued in § 167.23 (relating to embosser).

Subchapter D. Notary Journal

Sections 167.31 – 167.36 implement the requirements in section 319 of the Act (57 Pa.C.S. § 319) for the notary journal (formerly called a register). Section 167.31 (relating to identification of notary in journal) requires the attribution of the notary in each journal. Section 167.32 (relating to journal entries) clarifies the provisions of section 319(c) of the Act. The definition of "personal financial or identification information" is modeled after the definition of "personal information" in section 2 of the Breach of Personal Information Notification Act (73 P.S. § 2302). Section 167.32 (relating to journal entries) also sets forth a transitional provision permitting a notary public who holds a current commission to continue to use the notary's existing or current journal until the expiration of the notary's current commission.

The proposed regulations specify the form and content of journals maintained on a tangible medium (typically paper) or electronically at §§ 167.33 and 167.34 (relating to form and content of notary journal maintained on a tangible medium; and form and content of an electronic notarial journal), respectively. Section 167.35 (relating to physical possession of journal; notification of lost or stolen journal) details the process a notary must follow in reporting the loss or theft of a journal. Finally, § 167.36 (relating to inspection and certified copies of notary journal; response to subpoenas and investigative requests) codifies existing policy as to requests for a copy of a notary's journal.

Subchapter E. Standards of Practice

Subchapter E sets forth the standards of practice for notaries public, most of which have been the best practices recommended by the Department for years. Section 167.41 (relating to name of notary public) details the format of the name under which a notary public may be commissioned. Name change and other notification procedures are also the same and similarly codified at §§ 167.42 and 167.43 (relating to notification of change in information; and change of name). Section 167.44 (relating to authority of notary public to perform notarial act) states the authority of the notary to perform acts only inside the Commonwealth, unless authorized by another jurisdiction to perform notarial act. Section 167.45 (relating to conflict of interest) further explains the prohibition in section 304(b) of the Act (57 Pa.C.S. § 304(b)) that a notary public may not perform a notarial act with respect to a record in which the notary public or the notary's spouse has a direct or pecuniary interest. Section 167.46 (relating to duty of candor) codifies a duty of candor to the Department.

Section 167.47 (relating to personal appearance) clarifies that personal appearance before the notary public, as required by section 306 of the Act (57 Pa.C.S. § 306), requires physical presence before the notary public and does not include what is often referred to as "remote notarization" or "distance notarization." Sections 167.48 and 167.49 (relating to identification of individual appearing before notary public – personal knowledge; and identification of individual appearing before notary public – satisfactory evidence) address the concepts of "personal knowledge" and "satisfactory evidence." Both are terms from former law, but section 307(b) of the Act (57 Pa.C.S. § 307(b)) applies a more stringent standard as to the documents that may be used by a notary for "satisfactory evidence" of identity of an individual appearing before a notary. The regulations describe what specific documentation may be used.

Section 167.50 (relating to language and use of interpreter) describes the permissible use of an interpreter and dealing with documents in other languages. Section 167.51 (relating to refusal to perform notarial acts) clarifies the general authority to refuse to perform notarial acts provided in section 308(b) of the Act (57 Pa.C.S. § 308(b)) to make clear that notaries may not refuse to perform notarial acts on a discriminatory basis. Section 167.52 (relating to notarizing documents which contain blank spaces) continues the best practice prohibition on notarizing documents which contain blank spaces. Section 167.53 (relating to employer-employee relationship) clarifies the employer-employee relationship contemplated in sections 319(h) and 329.1(d) of the Act (57 Pa.C.S. § 319(h) and 57 Pa.C.S. § 329(d)) in relation to a notary commission and notary services provided in the context of an employment relationship.

#### Subchapter F. Notarial Acts

Subchapter F (sections 167.61 – 167.66) details the requirements for performing each of the six notarial acts defined by RULONA (acknowledgements, oaths and affirmations, verifications on oath or affirmation, witnessing or attestation of signatures, certified or attested copies and depositions, and protests of negotiable instruments). The text of § 167.65 (relating to

certified or attested copies and depositions) is based on the Uniform Law Commission's comments to the RULONA text on certified copies. It also states the Department's policy on issuing authentications, which is to prefer to certify copies of documents officially certified by the custodian of the archive when available, as these certifications are official evidence of the state of the public archive or collection, and they may be better evidence of the original record than a copy certified by a notary public. The text of § 167.66 (relating to protests of negotiable instrument) is based on the text of the Uniform Commercial Code at 13 Pa.C.S. § 3505(b) (relating to evidence of dishonor).

#### Subchapter G. Notarial Certificates

While RULONA sets forth the language for short form certificates in section 316 of the Act (57 Pa.C.S. § 316), section 167.71 (relating to certificate of notarial act) further clarifies rules pertaining to certificates.

#### Subchapter H. Use of Electronic Notarization

Sections 167.81 and 167.82 (relating to notification regarding use of electronic notarization; and electronic notarization requirements) retain the current process for obtaining authorization as an "electronic notary" or "e-notary" prior to performing notarial acts with respect to electronic records.

#### Subchapter I. Notary Public Education

This subchapter (§§ 167.91 – 167.104) sets forth the procedures the Department will use in the approving notary education courses of study required by section 322(b) and (c) of the Act (57 Pa.C.S. § 322(b) and (c)) for all notaries. This is essentially a codification of the approval process used under former law. All education providers must obtain approval, evidenced by a certificate of approval, from the Department for each course offered, prior to offering the class to notaries public. The subchapter also provides for providers to issue certificates of education to attendees and to maintain a list of attendees for a period of 5 years. The proposal also includes provisions governing situations in which a course is cancelled or delayed, a provider's certificate of approval is terminated, or a provider cancels its certificate of approval.

#### Subchapter J. Subchapter K. Prohibited Acts and Sanctions

Sections 167.111 and 167.112 (relating to offenses involving fraud, dishonesty or deceit; and rebuttable presumption against appointment) clarify which crimes or offenses are considered to involve fraud, dishonesty or deceit under section 323 of the Act (57 Pa.C.S. § 323). This construct is patterned after the statement of policy previously codified at § 165.1 (relating to lesser offenses incompatible with the duties of a notary public—statement of policy). An individual who

has been convicted of, pled guilty or nolo contendere, has been found not guilty due to insanity, found guilty but mentally ill or accepted Accelerated Rehabilitative Disposition for any felony offense or any misdemeanor offense involving fraud, dishonesty or deceit may rebut the presumption of ineligibility for appointment by providing evidence of rehabilitation. Such evidence could include references, participation in civic, charitable and religious organizations and the absence of further convictions.

Section 167.113 (relating to reporting of crimes, disciplinary action and other matters) requires that notaries who are convicted of crimes, disciplined by another notary commissioning authority, found guilty of unauthorized practice of law, or have been found guilty or admitted liability in any criminal, civil or administrative proceeding must notify the Department within 30 days of the conclusion of that event. Because the Department is authorized to discipline notaries for these actions, it is imperative that the Department receive these reports in a timely manner and not only when notaries renew their commissions every 4 years.

Section 167.114 (relating to conduct providing the basis for disciplinary action) specifies actions which may provide the basis for disciplinary action of a notary commission. This list is meant to be provide examples and not to be exhaustive. Section 167.115 (relating to factors considered in disciplinary action) incorporates existing practice as to the factors the Department considers when determining whether to deny an application or take disciplinary action against a notary public. Section 167.116 (relating to unauthorized practice of law) states the factors that the Department will rely upon in a determination that a notary public has engaged in the unauthorized practice of law. Finally, § 167.117 (relating to advertising) sets forth the definition of "prominently" pertaining to advertising as used in section 325(d) of the Act (57 Pa.C.S. § 325(d)).

#### *Fiscal Impact and Paperwork Requirements*

The proposed amendments will have some adverse fiscal impact on the Department and the Bureau. The Bureau will incur additional costs in implementing this regulation, largely for enhancements and changes to the notary public database, staff and legal time in writing the regulations and altering all forms, materials and website. The Bureau will need to communicate the changes in the law and regulations to notaries public, other notarial officers and notary education providers. Additionally, due to the changes in the law, all 17 formerly-approved notary education providers are required to overhaul their notary education courses, develop and submit new curricula, each of which must be approved by the Department prior to being offered to notaries. Twelve new RULONA-compliant basic education courses have been approved to date. In order to comply with the examination required by RULONA, the Department had to establish a psychometrically sound and legally defensible notary public examination. However, the actual process of appointing and commissioning notaries public changes little under the new law.

The proposed amendments will also have little adverse fiscal impact on the Commonwealth or its political subdivisions. There will be no additional paperwork requirements

upon the Commonwealth or the counties, because the actual process of appointing and commissioning notaries public changes little under the new law. County recorders of deeds offices remain instrumental in recording the bond, oath and commission of each notary, while the prothonotary's office remains the site where each notary registers an official signature.

The proposed amendments will have minimal adverse fiscal impact on currently-commissioned notaries public, most of whom must already comply with education requirements. Since July 1, 2003, all Pennsylvania notaries have been required by law to complete 3 hours of education with each 4-year appointment. Those who had active commissions on July 1, 2003, were subsequently exempted from the education by a court decision. Those notaries who are currently "grandfathered" and excluded from notary education make up about 20-30% of the current notary population. Since the remainder of the Act went into effect on October 26, 2017, all notaries are required to complete 3 hours of notary education every 4 years, at an estimated cost of \$39 - \$99 per course. The new examination requirement imposed by RULONA will predominantly affect the approximately 6,700 persons that are newly commissioned as notaries public each year. The cost of the exam, which is set by PearsonVUE (the professional testing organization under contract with the Department to develop and administer the test) will be \$65. Finally, the transitional provisions relating to procurement of the official stamp and the notary journal will not require a currently-commissioned notary to procure a new stamping device or journal until his or her next commission.

#### *Sunset Date*

The Secretary of the Commonwealth and the Department monitor the regulations of the Bureau on a continuing basis. Therefore, no sunset date has been assigned.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Department submitted a copy of this proposed regulation on August 22, 2018 to the Independent Regulatory Review Commission (IRRC), the Senate State Government Committee and the House State Government Committee. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), IRRC may convey any comments, recommendations or objections to the proposed rulemaking to the Department within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of comments, recommendations and objections by the Department, the General Assembly, and the Governor prior to final publication of the regulations.

16-59 Revised Uniform Law on Notarial Acts  
Proposed Preamble  
August 22, 2018

*Public Comment*

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Martha H. Brown, Assistant Counsel, Department of State, Office of Chief Counsel, 401 North Street, Room 306, Harrisburg, PA 17120, within 60 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16-59 (Revised Uniform Law on Notarial Acts) when submitting comments.

ROBERT TORRES  
Acting Secretary of the Commonwealth

**TITLE 4  
ADMINISTRATION**

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**PART VIII. Bureau of Commissions, Elections and Legislation**

**Subpart C. Commissions and Notaries Public**

**Chapter 161. Fees**

**§ 161.1. Schedule of fees.**

(a) [The Bureau of Commissions fee schedule shall conform with the following table] The fees of the Bureau of Commissions, Elections and Legislation (Bureau) relating to commissions and notaries public, including fees for the public acts and transactions of the Secretary of the Commonwealth and the Department of State administered through the Bureau, are as follows:

*Description*

COMMISSIONS

[Commissioner of Deeds	\$25
Notary Public Commission	\$25
Railroad Police or Institutional Police Commission	\$5
Notice of Election of Sheriff (called Sheriff's Writ)	\$5
Treasures Commission	\$5
District Justices	\$3
Register of Wills Bond	\$2
Recorder of Deeds Bond	\$2]
<u>Duplicate copy of commission</u>	<u>\$15</u>
<u>Duplicate copy of blank bond</u>	<u>\$3</u>

CERTIFICATES

[Great Seal Certificate	\$10
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Certificate requiring Secretary's Seal \$7]

For certifying copies of any public papers or documents on file  
with the Bureau, the copy fee (if the Bureau furnished the copy),

plus \$15

For certifying matters of public record with the Bureau  
(including no record), the copy fee (if the Bureau furnished the copy),

plus \$15

MISCELLANEOUS

[Writs including Great Seal \$5

Filing Bond for any Public Office \$2

Filing Recognizance for any Public Office \$2]

Photocopies (per page) \$1

Master list of notaries public \$50

Master list of notaries public approved to electronically notarize \$50

Other notary public-related lists and data requests \$25

Approval of notary public education course \$700

Approval of revised lesson plan or re-approval of notary public  
education course \$200

(b) [Department of State] The Bureau may charge equivalent fees for any service not specified.

[NOTARY PUBLIC FEE SCHEDULE

Executing affidavits (no matter how many signatures) \$5

Executing acknowledgments \$5

In executing acknowledgments each additional name	\$2
Executing certificates (per certified copy)	\$5
Administering oaths (per individual taking an oath)	\$5
Taking depositions, per page	\$3
Executing verifications	\$5
Executing protests, per page	\$3]

**§ 161.2. Notary public fee schedule.**

(a) The fees of notaries public as fixed by the Department of State under section 329.1 of the Revised Uniform Law on Notarial Acts (Act) (57 Pa.C.S. § 329.1) for the notarial acts authorized under the Act are:

<u>Taking acknowledgment</u>	<u>\$ 5</u>
<u>Taking acknowledgment (each additional name)</u>	<u>\$ 2</u>
<u>Administering oath or affirmation</u>	
<u>(per individual taking oath or affirmation)</u>	<u>\$ 5</u>
<u>Taking verification on oath or affirmation</u>	
<u>(no matter how many signatures)</u>	<u>\$ 5</u>
<u>Witnessing or attesting a signature (per signature)</u>	<u>\$ 5</u>
<u>Certifying or attesting a copy or deposition</u>	
<u>(per certified copy)</u>	<u>\$ 5</u>
<u>Noting a protest of a negotiable instrument (per page)</u>	<u>\$ 3</u>

(b) A notary public shall provide an itemized receipt for all fees charged by the notary.

(c) A notary public may not charge any fee under subsection (a) for notarizing the supporting affidavit required in an Emergency Absentee Ballot or the affidavit of a person needing assistance to vote an absentee ballot.

(d) A notary public may not charge a fee under subsection (a) when other applicable law dictates that no fee may be charged. For example, see 51 Pa.C.S. § 9101 (relating to acknowledgments and administering oaths without charge).

(e) A notary public shall display or provide fees in accordance with section 329.1(c)(3) of the Act. For purposes of display of fees, a place of business is the notary public's business office, residence or any other location where the notary public performs a notarial act.

### **Chapter 163. Special Rules of Administrative Practice and Procedure**

#### **§ 163.1. Applicability of general rules.**

Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure), are applicable to the activities of and proceedings before the [Commission Bureau] Department of State relating to commissions and notaries public.

### **Chapter 165. [Notaries Public] (Reserved).**

#### **[§ 165.1. Lesser offenses incompatible with the duties of a notary public—statement of policy.**

(a) The Secretary of the Commonwealth reviews applications for appointment to the office of notary public under section 5 of The Notary Public Law (Act) (57 P. S. § 151). Section 5(b)(1) of the act requires that the applicant may not have been convicted of or pled guilty or nolo contendere to a felony or a lesser offense incompatible with the duties of a notary public during the 5-year period preceding the date of the application.

(b) Misdemeanor crimes involving a lack of honesty or elements of falsehood and fraud (crimen falsi) are considered incompatible with the duties of a notary public, regardless of the jurisdiction in which crimes were committed.

(c) Under Pennsylvania law, misdemeanors include, but are not limited to, the following:

(1) Forgery and fraudulent practices which includes bad checks, insurance fraud and identity theft. See 18 Pa.C.S. Chapter 41 (relating to forgery and fraudulent practices).

(2) Theft which includes receiving stolen property and retail theft. See 18 Pa.C.S. Chapter 39 (relating to theft and related offenses).

(3) Criminal conspiracy if the underlying crime is incompatible. See 18 Pa.C.S. § 903 (relating to criminal conspiracy).

(4) Bribery. See 18 Pa.C.S. § 4701 (relating to bribery in official and political matters).

(5) Perjury or falsification in official matter which includes false swearing, unsworn falsification to authorities and tampering with evidence. See 18 Pa.C.S. Chapter 49, Subchapter A (relating to perjury and falsification in official matters).

(6) Obstructing governmental operations. See 18 Pa.C.S. Chapter 51, Subchapter A (relating to definition of offenses generally).

(d) The Secretary will consider all similar crimes committed in the courts of the United States or any other state, territory, possession or country to be incompatible with the duties of a notary public.]

**Chapter 167. Notaries Public**

**Subchapter A. General Provisions**

**§ 167.1. Scope.**

The rules in this chapter implement the Revised Uniform Law on Notarial Acts (57 Pa.C.S. §§ 301—331). The rules govern the qualification, commissioning, notarial acts, conduct and discipline of notaries public in the Commonwealth of Pennsylvania.

**§ 167. 2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Revised Uniform Law on Notarial Acts (57 Pa. C.S. §§ 301—331).

*Address*—Includes office and home. Must include street and number.

*Applicant*—An individual who seeks appointment or reappointment to the office of notary public.

*Appoint or Appointment*—The naming of an individual to the office of notary public after determination that the individual has complied with section 321(a) and (b) of the Act and Subchapter B (relating to qualifications for appointment and commission).

*Appointee*—An individual who has been appointed or reappointed to the office of notary public but who has not yet recorded the bond, oath of office and commission in compliance with section 321(d.2)(1) or (2) of the Act.

*Bureau*—The Bureau of Commissions, Elections and Legislation of the Department or any successor Bureau of the Department.

*Department*—The Department of State of the Commonwealth.

*Examination*—The examination described in § 167.15 (relating to notary public examination).

Reappoint or reappointment—The naming of an individual who previously held a commission as a notary public to the office of notary public after determination that the individual has complied with section 321(a) and (b) of the Act and Subchapter B (relating to qualifications for appointment and commission). Includes the term “renewal of appointment.”

Spouse – An individual holding a marriage license issued or recognized under Chapter 13 of the Domestic Relations Code (23 Pa.C.S. §§ 1301—1310) who is married to a notary public.

Tangible – When used in conjunction with “record,” “medium” or “symbol,” means perceptible by touch.

### **Subchapter B. Qualifications for Appointment and Commission**

#### **§ 167.11. Eligibility for appointment and commission – applicants not residing in the Commonwealth.**

- (a) If an applicant is not a resident of the Commonwealth, the applicant must have a place of employment or practice in this Commonwealth.
- (b) Employment or practice in this Commonwealth must be on an ongoing basis.
- (c) The Bureau may request that employment or practice in this Commonwealth be evidenced by written confirmation from the employer that a notary public commission is required for such employment or practice.

#### **§ 167.12. Eligibility for appointment and commission – applicants holding state and federal office.**

The disqualifications of 65 P.S. § 1 (relating to State and federal offices) apply to individuals who are elected or appointed to any office under the legislative, executive or judiciary departments of the United States government. Individuals who are employed by the legislative, executive or

judiciary departments of the United States government, but who are neither elected nor appointed to office, are eligible for appointment and commission as a notary public.

**§ 167.13. Eligibility for appointment and commission – deemed resignation.**

If a notary public neither resides nor works in the Commonwealth, that notary public will be deemed to have resigned from the office of notary public as of the date the residency ceases or employment within the Commonwealth terminates. A notary public who resigns that notary public's commission in accordance with this section shall notify the Department in writing or electronically within 30 calendar days of the effective date of the resignation.

**§ 167.14. Application for appointment.**

- (a) The first-time applicant shall submit evidence of successful completion of a basic education course with the application for appointment.
- (b) The applicant for renewal of appointment shall submit evidence of successful completion of a continuing education course with the application for reappointment.
- (c) Applications for appointment shall be typed or legibly written.
- (d) The applicant's signature on the application must match the applicant's name as provided on the application. The applicant shall use a legible handwritten signature, which can be attributed to the applicant by anyone examining or authenticating the signature. If an applicant's preferred signature is not legible, such that the name on the application cannot be discerned from the signature alone, the applicant must also legibly print his or her name immediately adjacent to his or her preferred signature. For the purposes of this subsection, a signature is legible if the letters are distinct and easily readable and the notary public's full name may be determined by looking at the signature.

**§ 167.15. Notary public examination.**

(a) Under section 322(a) of the Act (57 Pa.C.S. §322(a)), an applicant for a commission as a notary public who does not hold a current commission in this Commonwealth must pass an examination as a condition of appointment. An applicant who does not hold a current commission as a notary public includes an applicant who never held a commission as a notary public and an applicant who previously held a commission as a notary public but whose commission has since expired.

(b) The written examination prescribed by the Department to determine the fitness of an applicant to exercise the functions of the office of notary public is a proctored examination administered by the Department or an agent of the Department. The examination will be administered by a professional testing organization under contract with the Department at times, places and costs established by the professional testing organization, but in no case prior to submission of and approval by the Department of an application for appointment.

(c) Examination results will be valid for a period of 1 year from the date of the examination.

(d) An applicant must attain a scaled score of 75 to pass the examination.

(e) An applicant may retake the examination within a 6-month period as many times as necessary to pass. The maximum frequency with which the examination may be repeated is one time per 24-hour period.

(f) More information about the examination is available through the Department's website at [www.dos.pa.gov/OtherServices/Notaries](http://www.dos.pa.gov/OtherServices/Notaries).

**§ 167.16. Appointment and issuance of commission.**

(a) Upon determination that an applicant has complied with all requirements of the Act and this chapter, the Department will appoint or reappoint the applicant to the office of notary public and issue a commission certificate.

(b) The Department will send the commission certificate to the Recorder of Deeds of the county where the appointee maintains an office.

(c) The Department will send the appointee notice that:

(1) The commission certificate has been issued and sent to the proper Recorder of Deeds.

(2) The appointee shall obtain a bond without delay.

(3) The appointee shall appear within 45 calendar days of the date of appointment to take the oath of office before the Recorder of Deeds in the proper county and record the bond, oath and commission in the office of the Recorder of Deeds.

(4) The appointee shall register his or her official signature in the proper county and office within 45 calendar days of the date of appointment in accordance with section 321(d.1) of the Act (57 Pa.C.S. § 321(d.1)).

(d) Before taking the oath of office or registering an official signature, an appointee shall present satisfactory evidence of the appointee's identity as set out in section 307(b) of the Act (57 Pa.C.S. § 307(b)).

(e) After administering the oath of office, the Recorder of Deeds shall deliver the commission certificate to the notary public.

**§ 167.17. Appointment if bond, oath and commission not recorded within 45 days.**

(a) The commission of a notary public who fails to record the bond, oath and commission or register his or her official signature within 45 calendar days of appointment shall be null and void.

(b) An appointee who fails to record the bond, oath and commission within 45 calendar days of appointment may apply for appointment or reappointment as set forth in subsection (c).

(c) The appointee shall do all of the following:

(1) Submit a new application for appointment or reappointment.

(2) Submit another application fee.

(3) Submit evidence of completion of education in compliance with section 167.14(a) or (b) (relating to application for appointment). The certificate of education must be valid at the time of application.

(4) Comply with section 167.15 (relating to notary public examination). Examination results must be valid at the time of application.

#### **§ 167.18. Reappointment.**

Applications for reappointment to the office of notary public must be filed at least 60 calendar days prior to the expiration of the commission under which the notary public is acting.

#### **Subchapter C. Official Stamp, Stamping Device and Embosser**

#### **§ 167.21. Official stamp.**

(a) The official stamp of a notary public must show clearly in the following order:

(1) The words “Commonwealth of Pennsylvania – Notary Seal.”

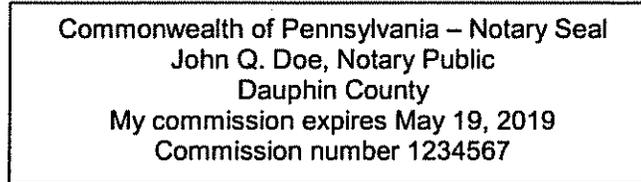
(2) The name as it appears on the commission of the notary public and the words “Notary Public.”

(3) The name of the county in which the notary public maintains an office.

(4) The date the notary public’s current commission expires.

(5) The seven-digit commission identification number assigned by the Department.

Example of stamp:



- (b) No words or terms on the official stamp may be abbreviated, except for name suffixes as specified in section 167.41(d) (relating to name of notary public).
- (c) The official stamp must be stamped or affixed to the notarial certificate near the notary public's signature or attached to or logically associated with an electronic record containing the notary public's signature.
- (d) A notary public may not place an imprint of the notary public's official stamp over any signature in a record to be notarized or over any writing in a notarial certificate.
- (e) A notary public may not alter or deface the official stamp.
- (f) A notary public may not use the notary public's official stamp for any purpose other than to perform a notarial act.
- (g) A notary public may not permit any other person to use the notary public's official stamp for any purpose.
- (h) A notary public may not use any other notary public's official stamp in lieu of the notary public's own official stamp to perform a notarial act.
- (i) Transitional provision. A notary public who holds a commission on the effective date of this section may continue to use his or her official stamp until the expiration of that commission, which may occur after the effective date of this section.

**§ 167.22. Stamping device.**

(a) A stamping device, as used in sections 302 and 318 of the Act (57 Pa.C.S. §§ 302 and 318), does not include a non-inking embosser or crimper.

(b) A stamping device must be capable of affixing or logically associating the official stamp such that the record to which the official stamp is affixed or associated may be copied, filmed, scanned or otherwise legibly reproduced.

(c) The stamping device is the exclusive property of the notary public. The notary public shall maintain custody and control of the stamping device at all times during the duration of the notary public's commission. When not in use, the stamping device must be kept in a secure location and accessible only to the notary public. A secure location includes in the notary public's sole possession or in a locked location to which only the notary public has access.

(d) Notification of loss or theft of stamping device under section 318(b) of the Act must be made in writing or electronically to the Department within 10 calendar days after the date the notary public or personal representative or guardian discovers that the stamping device was lost or stolen. The notification must include:

(1) A statement of whether the stamping device is lost or stolen.

(2) An explanation of how the stamping device became lost or stolen.

(3) The date the notary public discovered that the stamping device was lost or stolen.

(4) A statement that the notary public does not possess the stamping device and does not know who possesses it or where it is located.

(5) A statement that if the notary public subsequently reacquires possession of the stamping device, the notary public shall file a written statement with the Department within 10 calendar days after the date the notary public reacquires possession of the lost or stolen stamping device.

(e) If a notary public subsequently reacquires possession of a lost or stolen stamping device, the notary public shall file with the Department a written statement of explanation of how the stamping device was recovered within 10 calendar days after the date the notary public reacquires possession of the stamping device.

(f) An individual whose notary public commission has been suspended or revoked shall deliver the stamping device to the Department within 10 calendar days after notice of the suspension or revocation from the Department.

**§ 167. 23. Embosser.**

(a) A notary public may use an embossed or crimped image in the performance of a notarial act but only in conjunction with the use of an official stamp.

(b) A notary public may not place the embossing or crimping over any signature or printed material in a record to be notarized or over any signature or printed material in a notarial certificate.

**Subchapter D. Journal**

**§ 167.31. Identification of notary public in journal.**

(a) Each journal of a notary public, whether maintained on a tangible medium or in an electronic format, must contain the following information in any order:

- (1) The name of the notary public as it appears on the commission.
- (2) The notary public's commission number.
- (3) The notary public's commission expiration date.
- (4) The notary public's office address of record with the Department.

(5) A statement that, in the event of the death of the notary public, the journal shall be delivered or mailed to the office of the recorder of deeds in the county where the notary public last maintained an office.

(6) The meaning of any not commonly abbreviated word or symbol used in recording a notarial act in the notarial journal.

(7) The signature of the notary public.

(b) If a notary public's name, commission expiration date or address changes before the notary public ceases to use the notarial journal, the notary public shall add the new information after the old information and the date which the information changed.

**§ 167.32. Journal entries.**

(a) *Separate entries.* Each notarial act shall be indicated as a separate entry in the journal.

(b) *Optional entries.* In addition to the entries required by section 319(c) of the Act (57 Pa.C.S. § 319(c)), a journal may contain the signature of the individual for whom the notarial act is performed and any additional information about a specific transaction that might assist the notary public to recall the transaction.

(c) *Prohibited entries.* A journal may not contain any personal financial or identification information about the notary public's clients, such as complete Social Security numbers, complete drivers' license numbers or complete account numbers. Terminal numbers for these types of numbers, including the last four digits of a Social Security number, may be used to clarify which individual or account was involved.

(d) *Fees.* Each notarial fee charged should correspond to the notarial act performed. If a fee is waived or not charged, the notary public shall indicate this fact in the journal entry, using notations

such as “n/c”, “0” (zero) or “—” (dash). Clerical and administrative fees, if charged, must be separately itemized in the journal.

(e) Address. For purpose of journal entries, address means the city and state only.

(f) Definition. For the purpose of subsection (c), “personal financial or identification information” means:

(1) An individual’s first name or first initial and last name in combination with and linked to any one or more of the following data elements when the data elements are not encrypted or redacted:

(i) Social Security number.

(ii) Driver's license number or a State identification card number issued in lieu of a driver's license.

(iii) Financial account number, credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual’s financial account.

(2) The term does not include publicly available information that is lawfully made available to the general public from Federal, State or local government records.

(g) Transitional provision. A notary public who holds a commission on the effective date of this section may continue to use the notary public’s journal until the expiration of that commission, which may occur after the effective date of this section.

**§ 167.33. Form and content of journal maintained on a tangible medium.**

(a) A journal maintained on paper or on any other tangible medium may be in any form that meets the physical requirements set out in this section and the entry requirements set out in section 319(c) of the Act (57 Pa.C.S. § 319(c)).

(b) The cover and pages inside the cover must be bound together by any binding method that is designed to prevent the insertion, removal or substitution of the cover or a page. This includes glue, staples, grommets or another binding, but does not include the use of tape, paperclips or binder clips.

(c) Each page must be consecutively numbered from the beginning to the end of the journal. If a journal provides two pages on which to record the required information about the same notarial act, then both pages may be numbered with the same number or each page may be numbered with a different number. A page number must be preprinted.

(d) Each line (or entry if the journal is designed with numbered entry blocks) must be consecutively numbered from the beginning to the end of the page. If a line extends across two pages, the line must be numbered with the same number on both pages. A line or entry number must be preprinted.

**§ 167.34. Form and content of an electronic notarial journal.**

(a) A journal maintained in electronic format may be in any form that meets the requirements set out in this section and the entry requirements set out in section 319(c) of the Act (57 Pa.C.S. § 319(c)).

(b) A journal maintained in electronic format must be designed to prevent the insertion, removal or substitution of an entry.

(c) A journal maintained in electronic format must be securely stored and recoverable in the event of a hardware or software malfunction.

(d) Entries from the notarial journal must be available upon request by the Department in a PDF format.

(e) If a signature of a signer is contained in an electronic notarial journal, the signature must be:

(1) Attached to or logically associated with the electronic journal.

(2) Linked to the data in such a manner that any subsequent alterations to the electronic notarial journal entry are detectable and may invalidate the electronic notarial journal entry.

(f) A journal maintained in electronic format which is delivered to the office of the recorder of deeds in compliance with section 319(e) of the Act must be delivered in a format prescribed by the receiving recorder of deeds.

**§ 167.35. Custody and control of journal; notification of lost or stolen journal.**

(a) The notary public shall maintain custody and control of the journal at all times during the duration of the notary public's commission. When not in use, the journal must be kept in a secure location and accessible only to the notary public. A secure location includes in the notary public's sole possession or in a locked location to which only the notary public has access.

(b) Notification of loss or theft of journal under section 319(d) of the Act (57 Pa.C.S. § 319(d)) must be made in writing or electronically within 10 calendar days after the date the notary public or personal representative or guardian discovers the loss or theft of a journal. For the purpose of this section, the term "loss" includes journals that are misplaced, destroyed or otherwise made unavailable. The notification must include:

(1) A statement of whether the journal is lost or stolen.

(2) An explanation of how the journal became lost or stolen.

(3) The date the notary public discovered that the journal was lost or stolen.

(4) A statement that the notary public does not possess the journal and does not know who possesses it or where it is located.

(5) A statement that if the notary public subsequently reacquires possession of the journal, the notary public shall file a written statement with the Department within 10 calendar days after the date the notary public reacquires possession of the lost or stolen journal.

(c) If a notary public subsequently reacquires possession of a lost or stolen journal, the notary public shall file with the Department a written statement of explanation of how the journal was recovered within 10 calendar days after the date the notary public reacquires possession of the journal.

**§ 167.36. Inspection and certified copies of journal; response to subpoenas and investigative requests.**

(a) *Inspection.* The notary public shall permit inspection of the journal to any person requesting to view the journal.

(b) *Certified copies.* Requests for certified copies of the journal made in accordance with section 319(g.1) of the Act (57 Pa.C.S. § 319(g.1)) must be reasonable in scope and specify the particular entry or time period sought. Requests may, but are not required to be, in writing. The notary public shall provide the certified copy within 10 calendar days of receipt of the request. If the scope of the request is not clear, the notary public may offer to have the requester inspect the journal at the notary public's office to identify the specific pages or dates that the requester is seeking.

(c) *Subpoenas and investigative requests.* A request for inspection or certified copies of a journal made through an investigative request by law enforcement or by the Department or in a subpoena in the course of criminal or civil litigation must be complied with in the manner specified in the request or subpoena.

**Subchapter E. Standards of Practice**

**§ 167.41. Name of notary public.**

(a) Whenever the Act and this chapter refer to the name of a notary public, the reference is to the legal name of the notary public as it appears on the notary public's current commission and oath of office.

(b) For the purposes of this chapter, the legal name on the notary public commission and oath of office must be proven by satisfactory evidence in accordance with section 307(b) of the Act (57 Pa.C.S. § 307(b)). Unless proven otherwise, the name of a notary public consists of any one of the following:

(1) A first personal name (first name), additional name(s) or initial(s) (middle name or initial) and surname (family or last name).

(2) A first name and last name, omitting the middle name or middle initial.

(3) A first initial, middle name and last name.

(c) Neither initials alone nor nicknames will be accepted on the application or as part of the signature required on a notarial act.

(d) The name of a notary public may include suffixes such as Junior, Senior, II, III, IV or any abbreviations thereof. The name of a notary public may not include prefixes, suffixes or titles such as "Doctor," "Reverend" or "Esquire" or any abbreviations thereof.

**§ 167.42. Notification of change in information.**

(a) A notary public shall notify the Department within 30 calendar days of any change in the information on file with the Department, including the notary public's:

(1) Legal name.

(2) Office address (includes place of employment or practice in this Commonwealth, if not a resident of the Commonwealth).

(3) Home address.

(4) Name of electronic notarization vendor.

(5) Voluntary resignation.

(b) The notice may be made in writing or electronically and must state the effective date of the change.

(c) Notice of a change in legal name on file with the Department must be on a form prescribed by the Department and accompanied by evidence of the name change (such as a marriage certificate, court order or divorce decree).

(d) Notice of a change in legal name on file with the Department must also be made to the recorder of deeds of the county in which the notary public maintains an office.

**§ 167.43. Change of name.**

(a) When the legal name of a notary public is changed, the notary public may continue to perform official acts in the name in which he or she was commissioned until the expiration of his or her term.

(b) The Department will mark the public records relating to the notary public name change. Application for reappointment of the notary public must be made in the new name.

**§ 167.44. Authority of notary public to perform notarial act.**

(a) A notary public may perform the notarial acts authorized by the Act in any county of this Commonwealth.

(b) Notaries public may not perform the notarial acts authorized by the Act outside the geographical borders of this Commonwealth or in other states or jurisdictions, unless authorized by the other state or jurisdiction to perform such acts.

**§ 167.45. Conflict of interest.**

(a) In accordance with section 304(b) of the Act (57 Pa.C.S. § 304(b)), a direct or pecuniary interest includes an interest in the transaction or record that results in actual or potential gain or advantage, financial or otherwise, other than receiving a regular salary, hourly wage or notarial fees. Regular salary or wage includes bonuses, provided the bonus is not related to or contingent upon the completion of a notarial act.

(b) A notary public may not perform a notarial act with respect to a record that the notary public is signing. A notary public may perform a notarial act with respect to a record that the notary public's spouse is signing, only if the notary public and the notary public's spouse have no direct or pecuniary interest in the record.

**§ 167.46. Duty of candor.**

A notary public or an applicant for appointment and commission as a notary public has a duty of candor to the Department in all matters relating to the appointment and commission of the notary public and the performance of notarial acts, including an application for appointment or reappointment, and any request for information made by the Department.

**§ 167.47. Personal appearance.**

(a) To appear personally before a notary public under section 306 of the Act (57 Pa.C.S. § 306) is to be physically present before the notary public when the notarial act is executed.

(b) The notary public must be able to observe and interact with the individual making the statement or executing the signature.

(c) The notary public and the individual for whom a notarial act is being performed must be able to see, hear, communicate with and give identification documents to each other without the use of electronic devices such as telephones, computers, video cameras or facsimile machines.

(d) Personal appearance does not include:

(1) Appearance by video technology even if the video is live or synchronous.

(2) Appearance by audio technology.

**§ 167.48. Identification of individual appearing before notary public – personal knowledge.**

When a notary public has personal knowledge of the identity of an individual, satisfactory evidence is not required.

**§ 167.49. Identification of individual appearing before notary public – satisfactory evidence.**

(a) General.

(1) For the purposes of section 307(b)(1)(i) of the Act (57 Pa.C.S. § 307(b)(1)(i)), a notary public may rely upon any of the following:

(i) A passport or passport card issued by the United States Department of State which is current and unexpired.

(ii) A passport issued by a foreign government, which is current and unexpired, provided it uses letters, characters and a language that are read, written and understood by the notary public.

(iii) A driver's license or nondriver identification card issued by a state of the United States, which is current and unexpired.

(iv) A driver's license or nondriver identification card issued by a state or territory of Canada or Mexico, which is current and unexpired, provided it uses letters, characters and a language that are read, written and understood by the notary public.

(2) For the purposes of section 307(b)(1)(ii) of the Act, other forms of government identification must be current, contain the signature or photograph of the individual to be identified and must be satisfactory to the notary public. When there is a date of issuance on the other form of government identification specified in paragraph (3), it must be a date prior to the notarial act.

(3) For the purposes of section 307(b)(1)(ii) of the Act, other forms of government identification may include:

(i) An identification card issued by any branch of the United States armed forces.

(ii) An inmate identification card issued by the Pennsylvania Department of Corrections (DOC) for an inmate who is currently in the custody of the DOC.

(iii) An identification card issued by the United States Department of Homeland Security.

(iv) A Social Security card.

(v) A Medicare card.

(vi) A Pennsylvania state and state-related university identification card.

(b) Credible Witness.

(1) The identity of the individual appearing before the notary public may be established by the affidavit of a single credible witness personally known to the notary public and who personally knows the document signer.

(2) A credible witness may not have a direct or pecuniary interest with respect to the record being notarized.

(3) The credible witness must make a verification on oath or affirmation that the following is true:

(i) The individual appearing before the notary public is the person named in the document.

(ii) The credible witness personally knows the individual appearing before the notary public through dealings sufficient to provide the credible witness with reasonable certainty that the individual has the identity claimed.

**§ 167.50. Language and use of interpreter.**

(a) A notary public shall be able to communicate directly with the individual for whom a notarial act is being performed in a language they both understand or indirectly through an interpreter who is physically present with the signer and notary public at the time of the notarization and communicates directly with the individual and the notary public in a language the interpreter understands.

(b) The certificate of notarial act must be worded and completed using the English language. The certificate may be simultaneously worded and completed in another language that is read, written and understood by the notary public and must be immediately adjacent to the English-language certificate, but the English-language certificate shall prevail in the event of any conflict between the translations.

(c) A notary public may perform a notarial act on a document that is a translation of a document that is in a language that the notary public does not understand only if the person performing the translation signs a verification on oath or affirmation stating that the translation is accurate and complete. The notarized translation and verification must be attached to the document and must comply with the Act and this chapter relating to certificate of notarial act.

**§ 167.51. Refusal to perform notarial acts.**

A notary public may not refuse to provide notarial services on the basis of a customer's race, color, National origin, religion, sexual orientation, sex or gender (including pregnancy), gender identity or expression, disability or marital status.

**§ 167.52. Notarizing documents which contain blank spaces.**

(a) A notary public may not perform a notarial act with respect to a record which is designed to provide information within blank spaces, when either of the following circumstances exist:

(1) The missing information has not been entered into a blank space.

(2) The signature of an individual signing the record is not present, unless the individual is signing in the presence of the notary public.

(b) For the purpose of subsection (a)(1), missing information does not include:

(1) An empty space with N/A or a line drawn through it.

(2) Additional signature lines designated for additional signers, if it is clear that the notarial act does not apply to the blank signature lines.

(c) A notary public performing a notarial act on nomination petitions or nomination papers with remaining empty lines for signatures shall mark a line through those blank spaces for

signatures, or an "X" across the blank spaces for signatures, to prevent the later addition of signatures after the notarization.

**§ 167.53. Employer-employee relationship.**

Notwithstanding that an individual who holds a notary commission is responsible for exercising the duties and responsibilities of the notary commission, an employer, under an agreement with an employee who is, or seeks to become, a notary public, may pay for the education, testing, application or bond and the cost of the official stamp or other supplies required in connection with the appointment, commission or performance of the duties of the notary public. The agreement may also provide for the remission of fees collected by the notary public to the employer, for the increased compensation of the notary public for the amount of notary public fees collected and for reimbursement of the costs of obtaining a commission should the employee or employer terminate the employment.

**Subchapter F. Notarial Acts**

**§ 167.61. Acknowledgments.**

- (a) The individual making the acknowledgment shall appear personally before the notary public.
- (b) The notary public shall have personal knowledge or satisfactory evidence of the identity of the individual making the acknowledgment.
- (c) A record may be signed in the notary public's presence or a record may be signed prior to the acknowledgment. A record may not be signed subsequent to an acknowledgment.

(d) If the record is signed prior to appearance before the notary public, the individual making the acknowledgment shall acknowledge that the signature on the record is his or her own voluntary act.

(e) The notary public shall compare the signature on the record to the signature of the individual on the identification presented.

**§ 167.62. Oaths and affirmations.**

(a) The individual taking the oath or affirmation shall appear personally before the notary public.

(b) The notary public shall have personal knowledge or satisfactory evidence of the identity of the individual taking the oath or affirmation.

(c) An oath or affirmation may be verbal or in writing. If in writing, the oath or affirmation must be signed in the presence of the notary public.

(d) In administering an oath or affirmation, the notary public shall require the individual taking the oath or affirmation to voluntarily swear or affirm that the statements contained in the oath or affirmation are true or that the individual will perform an act or duty faithfully and truthfully.

**§ 167.63. Verifications on oath or affirmation.**

(a) The individual making the verification on oath or affirmation shall appear personally before the notary public.

(b) The notary public shall have personal knowledge or satisfactory evidence of the identity of the individual making the verification on oath or affirmation.

(c) A record containing a statement that is being verified on oath or affirmation must be signed in the notary public's presence. A record containing a statement that is being verified may not be signed subsequent to the verification on oath or affirmation.

(d) The notary public shall compare the signature on the statement verified to the signature of the individual on the identification presented.

(e) In taking a verification on oath or affirmation, the notary public shall administer an oath or affirmation to the individual making the statement and require that the individual voluntarily swear or affirm that the statements contained in the record are true.

**§ 167.64. Witnessing or attestation of signatures.**

(a) The individual signing the record shall appear personally before the notary public.

(b) The notary public shall have personal knowledge or satisfactory evidence of the identity of the individual signing the record.

(c) A record containing a signature that is being witnessed or attested must be signed in the notary public's presence. A record containing a signature that is being witnessed or attested may not be signed subsequent to the witnessing or attestation of the signature.

(d) The notary public shall compare the signature on the record signed to the signature of the individual on the identification presented.

(e) The notarial act of witnessing or attesting a signature differs from an acknowledgment in that the party relying on the record may know for certain that the record was signed on the same date that the notary public affixed the official stamp and signature to the document.

(f) The act of witnessing or attesting a signature differs from a verification on oath or affirmation in that the signer is merely signing the record, not swearing or affirming that the contents of the record are true.

**§ 167.65. Certified or attested copies and depositions.**

(a) The notary public shall be presented with the record, which may be in the possession of the requester, or in the case when there is an official repository of records, in the care and possession of the notary public who may be the custodian of the official archive or collection.

(b) For paper records, the notary public shall compare the original document to a copy made by the requester or by the notary public to determine that the copy is a complete and accurate transcription or reproduction of the original record.

(c) For electronic records, the notary public shall compare the original record to a copy made by the requester or by the notary public to determine that the copy is a complete and accurate transcription or reproduction of the original record.

(d) The notary public shall examine the record for alteration or tampering and to ensure that the original record itself is not a copy.

(e) In issuing a certified or attested copy, the notary public does not guarantee the authenticity of the original document, its contents or its effects.

(f) Records for which a notary public may not issue a certified copy include:

(1) Vital records (birth and death certificates).

(2) United States Naturalization Certificates.

(3) Any government-issued record that on its face states “do not copy,” “illegal to copy” or words of similar meaning.

(4) Any record that is prohibited by law to copy or certify.

(g) Subject to the provisions of subsections (f)(4) and (h), records for which a notary public may issue a certified copy include:

(1) Public records.

- (2) Passports.
- (3) Drivers' licenses.
- (4) Transcripts.
- (5) Diplomas.
- (6) Contracts.
- (7) Leases.
- (8) Bills of sale.
- (9) Medical records, consents or waivers.
- (10) Powers of attorney.

(h) For purpose of this section, a public record is defined as any record that is filed in or issued by a domestic or international Federal, state or local government agency. If the record is intended to be sent overseas and will require an apostille or certification from the United States Department of State or from the Department, the record must be certified by the office where the original or official copy of the record is maintained or by the public official who issued the record. Examples include deeds, marriage records, court orders and corporate documents filed with a state office or state repository as the official record.

**§ 167.66. Protests of negotiable instruments.**

(a) A protest is a certificate of dishonor made by a United States consul or vice consul or a notary public or other person authorized to administer oaths by the law of the place where dishonor occurs. It may be made upon information satisfactory to that person. The protest must:

- (1) Identify the negotiable instrument.
- (2) Certify either that presentment has been made or, if not made, the reason why it was not made.

- (3) State that the instrument has been dishonored by nonacceptance or nonpayment.
- (b) The protest may also certify that notice of dishonor has been given to some or all parties.
- (c) The individual requesting the protest shall appear personally before the notary public and be identified in the protest as the holder of the dishonored negotiable instrument.
- (d) The notary public shall have personal knowledge or satisfactory evidence of the identity of the individual requesting the protest.

**Subchapter G. Notarial Certificates**

**§ 167.71. Certificate of notarial act.**

- (a) “Commonwealth of Pennsylvania” may be used instead of “State of Pennsylvania” on certificates of notarial acts.
- (b) For a certificate to be sufficient, it must contain the information required by section 315(c) of the Act (57 Pa.C.S. § 315(c)). A certificate may contain such other information as may be required to satisfy any legal requirements, or to satisfy ethical or legal concerns, or the business needs of the parties to the transaction.
- (c) For purposes of attaching a notarial certificate to a tangible record, “securely attached” means stapled, grommited or otherwise bound to the tangible record. The term “securely attached” does not include the use of tape, paperclips or binder clips.
- (d) When signing a paper certificate, the notary public shall use a legible, recognizable handwritten signature, which can be attributed to the notary public performing the notarial act by anyone examining or authenticating the signature. If a notary public’s preferred signature is not legible and recognizable, the notary public must also legibly print his or her name immediately adjacent to his or her preferred signature. For the purposes of this subsection, a signature is legible

and recognizable if the letters are distinct and easily readable and the notary public's full name may be clearly discerned by looking at the signature.

### **Subchapter H. Use of Electronic Notarization**

#### **§ 167.81. Notification regarding use of electronic notarization.**

(a) A notary public who wishes to perform notarial acts with respect to electronic records shall hold a current and unrestricted commission.

(b) A notary public who wishes to perform notarial acts with respect to electronic records shall be authorized by the Department to act as an "electronic notary public" or "e-notary" prior to performing notarial acts with respect to electronic records.

(c) To obtain authorization as an "electronic notary public" or "e-notary," a notary public shall submit the following information to the Department in a manner prescribed by the Department:

- (1) Name of notary public.
- (2) Commission number.
- (3) Office address.
- (4) Email address.
- (5) Name of electronic notarization solution provider.
- (6) Contact information for solution provider.
- (7) Website for solution provider.

#### **§ 167.82. Electronic notarization requirements.**

(a) A notary public performing notarial acts with respect to electronic records shall use an electronic notarization solution approved by the Department. Before performing any electronic

notarization, the notary public shall take reasonable steps to ensure that the solution used is valid and has not expired, been revoked or been terminated by the solution provider.

(b) All requirements of a notarial act performed with respect to a tangible record apply to an electronic record, including the personal appearance and identification of the individual appearing before the notary public, completion of a notarial certificate, use of an official stamp and recording of the notarial act in the journal.

### **Subchapter I. Notary Public Education**

#### **§ 167.91. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Certificate of approval*—A certificate issued by the Department under § 167.92 (relating to provider certificate of approval) signifying that the provider named therein offers an education program curriculum preapproved by the Department and has complied with the requirements of this subchapter. The certificate of approval does not imply endorsement of any other products or services offered by the provider.

*Certificate of education*—A certificate issued by a provider under § 167.97 (relating to certificate of education) signifying that the person named therein has successfully completed the approved education program provided by the provider.

*Course of study*—Basic or continuing education, offered via live classroom instruction, correspondence course or interactive distance education means, such as online via the Internet or other network technologies.

*Notary public applicant*—A person who is required to attend a course of study to qualify for a commission as a notary public.

Pennsylvania business registration number—The number assigned by the Department’s Bureau of Corporations and Charitable Organizations to a business entity or fictitious name registrant that is authorized to conduct business in the Commonwealth.

Provider—An individual or business entity that offers, supplies or provides an approved notary public education course of study.

**§ 167.92. Provider certificate of approval.**

(a) Before offering any course of study under section 322(b) or (c) of the Act (57 Pa.C.S. § 322(b) or (c)), a provider shall obtain a certificate of approval from the Department for each course of study offered.

(b) To apply for a certificate of approval, a provider shall submit to the Department a completed “Notary Public Education Provider Application or Amendment” form on a form prescribed by the Department, an active Pennsylvania business registration number, the fee required by the Department and a lesson plan satisfying the requirements of § 167.93 (relating to lesson plan).

(c) The Department will issue either a certificate of approval, in accordance with subsection (d), or a deficiency notice, in accordance with § 167.94 (relating to deficient application or lesson plan), within 90 calendar days of receipt of an application and lesson plan.

(d) Upon approval of an application and lesson plan, the Department will send a certificate of approval to the provider by first class mail to the address listed on the “Notary Public Education Provider Application or Amendment” form.

(e) The certificate of approval will include the following:

(1) The name of the provider.

- (2) The name of the approved course of study and whether it is basic education or continuing education.
- (3) The date the course of study was approved by the Department.
- (f) A provider may not alter or substitute the lesson plan reviewed and approved by the Department, unless the revisions are approved by the Department in accordance with § 167.96 (relating to lesson plan revisions).
- (g) A provider is responsible for all employees, agents, instructors, contractors and subcontractors providing or involved in providing an approved course of study on behalf of the provider and the acts of the employees, agents, instructors, contractors and subcontractors will be deemed the acts of the provider.
- (h) The certificate of approval will expire 3 years from the date of issuance. A provider may reapply for reapproval of a notary public course of study up to 90 calendar days before the expiration of the certificate of approval.
- (i) A certificate of approval is non-transferable and may not be conveyed to another provider or applied to another course of study.

**§ 167.93. Lesson plan.**

- (a) A lesson plan must meet the following requirements:
- (1) The lesson plan must be based on the laws, regulations, procedures and ethics of Pennsylvania concerning the functions and duties of a notary public.
- (2) The lesson plan must contain a table of contents, and the pages of the lesson plan must be consecutively numbered.

(3) The lesson plan must provide sufficient detail to enable the Department to evaluate the specific information to be presented and to determine the accuracy of the information to be presented.

(4) The lesson plan must contain the procedures to establish the identity of a person physically attending a classroom course of study or virtually attending a course of study via interactive means to whom proof of completion may be issued in accordance with § 167.97 (relating to certificate of education).

(5) The lesson plan must contain the procedures to ensure that the information contained in the certificate of education under § 167.97 cannot be viewed by any person other than the approved vendor issuing the certificate, an employee, agent, instructor, contractor or subcontractor of the approved vendor issuing the certificate, or the notary public applicant or notary public named in the certificate.

(6) The lesson plan must contain the procedures to ensure that a person physically attending a classroom course of study or virtually attending a course of study via interactive means is present for the required time.

(7) The lesson plan must include a schedule of the time allotted for the following:

(a) Break periods, if any.

(b) Each major subject area.

(c) Each audio-visual aid to be used, if any.

(d) Each student participation activity, if any.

(e) Completion, correction and discussion of any practice tests used and the method of correction to be used, if any.

(8) If any movie or video is used for instruction, the lesson plan must include a brief synopsis of the information presented therein. The synopsis must detail the specific information presented by the movie or video. In addition, the provider shall include the movie or video in the materials presented to the Department for review.

(b) Copies of any handout materials, workbooks, visuals aids, description of student participation exercises, and practice tests used during the course of study must be submitted for approval with the lesson plan.

(c) If the course provides for an evaluation by the students, time to complete the evaluation must not be included as part of the course of study.

(d) All materials submitted to the Department under this section become the property of the Department and may be returned to the provider at the sole discretion of the Department.

**§ 167.94. Deficient application or lesson plan.**

(a) If the Department determines that a “Notary Public Education Provider Application or Amendment” form is incomplete, or that a lesson plan does not satisfy the requirements of section 322 of the Act (57 Pa.C.S. § 322) or this chapter, the Department will issue a deficiency notice containing an itemized description of the deficiencies identified. The deficiency notice will be sent by first class mail to the provider's address listed on the “Notary Public Education Provider Application or Amendment” form or communicated in a manner agreed to by the Department and the provider.

(b) A provider has 60 calendar days from the date on which the deficiency notice was sent or communicated by the Department to submit documentation to the Department curing the deficiencies identified in the deficiency notice.

(c) The Department may issue more than one deficiency notice to a provider regarding the same “Notary Public Education Provider Application or Amendment form” and lesson plan at any time during the review process.

(d) The Department may disapprove a “Notary Public Education Provider Application or Amendment” form if the deficiencies are not cured in accordance with subsection (b).

(e) The disapproval of a provider’s application or amendment is subject to the right of notice, hearing and adjudication and the right of appeal therefrom in accordance with 2 Pa.C.S. Chapter 5 Subchapter A (relating to practice and procedure of Commonwealth agencies) and Chapter 7 Subchapter A (relating to judicial review of Commonwealth agency action), known as the Administrative Agency Law.

**§ 167.95. Notification of changes of provider information.**

Within 30 calendar days of any changes in the information contained in the most recent application approved by the Department, a provider must submit to the Department a “Notary Public Education Provider Application or Amendment” form identifying the changes. A provider may confirm receipt by the Department by phone or e-mail.

**§ 167.96. Lesson plan revisions.**

(a) A provider shall revise an approved lesson plan as necessary to ensure that the information provided in an approved course of study reflects a new law, regulation, court decision or administrative action.

(b) Proposed revisions to the contents or methods of instruction detailed in an approved lesson plan must be approved by the Department prior to implementing the proposed revisions in an approved course of study.

(c) To apply for a certificate of approval for a revised lesson plan, a provider must submit a completed “Notary Public Education Provider Application or Amendment” form, the fee required by the Department, and a revised lesson plan in accordance with § 167.92 (relating to provider certificate of approval).

(d) The provisions in §§ 167.92—167.94 (relating to provider certificate of approval; lesson plan; and deficient application or lesson plan) apply to a revised lesson plan.

(e) Upon approval of a revised lesson plan, the Department will issue a certificate of approval in accordance with § 167.92.

(f) A provider shall follow the lesson plan corresponding to the most current certificate of approval.

**§ 167.97. Certificate of education.**

(a) A provider shall issue a certificate of education to a notary public applicant upon completion of an approved course of study.

(b) The certificate of education shall be issued by the provider to a notary public applicant only after the person has successfully completed the approved course of study.

(c) The certificate of education must consist of a certificate signed by a provider or an employee, agent, instructor, contractor or subcontractor of a provider, which contains the following information:

(1) The name of the education provider as it appears on the certificate of approval issued by the Department for the approved course of study.

(2) The name of the approved course of study and whether it is basic education or continuing education.

(3) The name of the notary public applicant who completed the approved course of study.

(4) The date the notary public applicant completed the approved course of study.

(5) The statement that the certificate of education is valid for a period of 6 months from the date of issuance.

(d) A provider shall submit all revisions to the contents or appearance of the certificate of education to the Department for approval at least 30 calendar days prior to issuing the revised certificate to a notary public.

**§ 167.98. List of attendees.**

(a) A provider shall maintain a list of persons who attend each session of an approved course of study, whether they physically attend a classroom course of study or virtually attend a course of study offered via interactive means.

(b) The list of attendees must be maintained for a period of 5 years from the date of issuance of the certificates of education corresponding to that session.

(c) The list of attendees must include the following:

(1) The name of the provider as listed in the certificate of approval for the approved course of study.

(2) The name of the instructor or instructors who taught the approved course of study.

(3) The date, time and location of the approved course of study.

(4) The names of all the attendees in alphabetical order by the last name of the attendee.

(d) A provider may not collect the Social Security numbers of any attendees.

(e) Upon request, a provider shall submit a list of attendees in the data format specified by the Department.

**§ 167.99. Representatives of the Department attending approved course of study.**

A provider shall permit representatives of the Department to attend any approved course of study, without prior notice and at no charge, for the purpose of observation, monitoring, auditing and investigating the instruction given.

**§ 167.100. Duty to respond to a written request from the Department.**

A provider shall respond in writing within 30 calendar days of receiving a written request for information from the Department. A written request may be sent to the mailing address, facsimile number or e-mail address listed on the most current “Notary Public Education Provider Application or Amendment” form.

**§ 167.101. Cancellation or delay of scheduled approved course of study.**

(a) Before charging any fees to a notary public applicant for an approved course of study, a provider shall disclose the refund policy of the provider.

(b) A provider shall refund all fees within 30 calendar days of a scheduled course date to any notary public applicant who registered to attend an approved course of study if one of the following occurs:

(1) An instructor fails to appear at the scheduled time, date or place of the approved course of study.

(2) An approved course of study is delayed in starting more than 15 minutes after the scheduled time, a notary public applicant immediately informs the provider of his or her request for a refund, and the notary public applicant leaves the approved course of study before its start.

(3) The provider does not hold a current certificate of approval for the course of study.

**§ 167.102. List of approved notary public education courses.**

(a) The Department will make a list of approved education courses available online at the Department's website. The approved course list will include the following information:

(1) Name of the approved course and whether it is approved for basic or continuing education.

(2) Name and contact information for the provider, including mailing address, telephone number, e-mail address and website address.

(b) The Department will update the list of approved courses to add, delete or amend provider information that is filed in accordance with § 167.95 (relating to notification of changes of education provider information) and add or delete courses that are approved or terminated in accordance with this subchapter.

**§ 167.103. Termination of certificate of approval.**

(a) The Department may terminate a certificate of approval upon any of the following grounds:

(1) Violation of any of the provisions of the Act or this chapter.

(2) Misrepresentation of the laws of the Commonwealth concerning the duties and functions of a notary public.

(3) Deviation from the lesson plan for a course of study approved by the Department.

(4) Failure to respond to a request for information from the Department.

(5) Representations by the provider that any other product, goods, or services provided by the provider are endorsed or recommended by the Department.

(6) Failure to prepare course attendees to pass the notary public examination such that an adequate pass rate is not maintained.

(b) Termination of a certificate of approval is subject to the right of notice, hearing and adjudication and the right of appeal therefrom in accordance with 2 Pa.C.S. Chapter 5 Subchapter A (relating to practice and procedure of Commonwealth agencies) and Chapter 7 Subchapter A (relating to judicial review of Commonwealth agency action), known as the Administrative Agency Law.

**§ 167.104. Cancellation of certificate of approval.**

(a) A provider may cancel its certificate of approval by submitting a written notice of cancellation to the Department. Unless otherwise stated in the notice of cancellation, the effective date of the cancellation of the certificate of approval is 30 calendar days after receipt of the notice of cancellation. The provider may confirm receipt by the Department by phone or e-mail.

(b) Within 30 calendar days of the effective date of a cancellation of a certificate of approval, a provider shall refund all fees to individuals who paid to take an approved course from a provider, if the course is scheduled after the effective date of the cancellation.

**Subchapter J. Prohibited Acts and Sanctions**

**§ 167.111. Offenses involving fraud, dishonesty or deceit.**

(a) Conviction of, or acceptance of Accelerated Rehabilitative Disposition in resolution of, offenses involving a lack of honesty or elements of falsehood and fraud (*crimen falsi*) will be considered to be evidence of a lack of honesty, integrity, competence or reliability to act as a notary public, regardless of the jurisdiction in which the crimes were committed.

(b) Under Pennsylvania law, offenses involving fraud, dishonesty or deceit include, but are not limited to, the following:

- (1) Theft and related offenses, which includes all offenses defined in 18 Pa.C.S. Chapter 39 Subchapter B (relating to theft and related offenses).
  - (2) Forgery and fraudulent practices, which includes all offenses defined in 18 Pa.C.S. Chapter 41 (relating to forgery and fraudulent practices).
  - (3) Bribery and related offenses, which includes all offenses defined in 18 Pa.C.S. Chapter 47 (relating to bribery and corrupt influence).
  - (4) Perjury or falsification in official matters and related offenses, which includes all offenses defined in 18 Pa.C.S. Chapter 49, Subchapter A (relating to perjury and falsification in official matters).
  - (5) Obstructing governmental operations and related offenses, which includes all offenses defined in 18 Pa.C.S. Chapter 51 Subchapter A (relating to definition of offenses generally).
  - (6) Abuse of office and related offenses, which includes all offenses defined in 18 Pa.C.S. Chapter 53 (relating to abuse of office).
  - (7) Criminal attempt if the underlying crime involves fraud, dishonesty or deceit. See 18 Pa.C.S. § 901 (relating to criminal attempt).
  - (8) Criminal solicitation if the underlying crime involves fraud, dishonesty or deceit. See 18 Pa.C.S. § 902 (relating to criminal solicitation).
  - (9) Criminal conspiracy if the underlying crime involves fraud, dishonesty or deceit. See 18 Pa.C.S. § 903 (relating to criminal conspiracy).
- (c) The Department will consider all convictions or comparable dispositions obtained in the courts of the United States, this Commonwealth or any other state, territory, possession or country involving fraud, dishonesty or deceit.

**§ 167.112. Rebuttable presumption against appointment.**

(a) Any person who has been convicted of or accepted Accelerated Rehabilitative Disposition (ARD) for any felony offense or any misdemeanor offense involving fraud, dishonesty or deceit as set forth in § 167.121 (relating to offenses involving fraud, dishonesty or deceit) within 5 years preceding the date of application for appointment is presumed ineligible for appointment as a notary public.

(b) The presumption of ineligibility for appointment may be rebutted in extraordinary circumstances by a showing of clear and convincing evidence of the applicant's full rehabilitation. It is the intent of this provision that overcoming this presumption will occur only infrequently and in truly exceptional circumstances.

(c) There is no presumption of ineligibility for conviction of or acceptance of ARD for a felony or an offense involving fraud, dishonesty or deceit more than 5 years preceding the date of application for appointment, but the conviction and related facts may be considered in determining whether the applicant has the requisite honesty, integrity, competence or reliability to act as a notary public.

(d) The 5-year period will be measured from the date of the conviction or acceptance into ARD, rather than the date of the act or acts which constituted the offense.

(e) For the purposes of this subchapter, the terms "conviction" and "convicted of" include a conviction after a bench or jury trial, a guilty plea, a plea of *nolo contendere* or a finding of not guilty due to insanity or of guilty but mentally ill. Acceptance of ARD is also included, regardless of whether the court considers it a conviction or a form of judgment without verdict.

**§ 167.113. Reporting of crimes, disciplinary action and other matters.**

(a) A notary public shall notify the Department of a conviction of or acceptance of Accelerated Rehabilitative Disposition in resolution of a felony or a misdemeanor offense involving fraud, dishonesty or deceit within 30 calendar days of the disposition or on the next application for appointment and commission, whichever is sooner.

(b) A notary public shall notify the Department of disciplinary action in the nature of a final order taken against the notary public's commission by the commissioning authority of another state, territory or country within 30 calendar days of receiving notice of the disciplinary action or on the next application for appointment and commission, whichever is sooner.

(c) A notary public shall notify the Department of a finding against, or admission of liability by, the notary public in any criminal, civil or administrative proceeding within 30 calendar days of conclusion of the legal proceeding or on the next application for appointment and commission, whichever is sooner.

(d) A notary public shall notify the Department of a finding by the Pennsylvania Bar Association or the courts of this Commonwealth or the bar or courts of any other state or nation finding that the notary public has engaged in the unauthorized practice of law within 30 calendar days of conclusion of the proceeding or on the next application for appointment and commission, whichever is sooner.

**§ 167.114. Conduct providing the basis for disciplinary action.**

(a) In addition to the acts and omissions specified by section 323(a) of the Act (57 Pa.C.S. § 323(a)), the following acts or omissions demonstrate that an individual lacks the honesty, integrity, competence or reliability to act as a notary public:

(1) Notarizing his or her own signature or statement.

- (2) Notarizing a spouse's signature or statement, when the notary public or the spouse has a direct or pecuniary interest in the record.
- (3) Notarizing records in blank.
- (4) Post-dating or pre-dating notarial acts.
- (5) Altering a document after it has been notarized.
- (6) Issuing to the order of any State agency or the Commonwealth a personal check without sufficient funds on deposit.
- (7) Performing a notarial act within the Commonwealth when the person was not commissioned as a notary public or was otherwise not authorized to perform a notarial act.
- (8) Performing a notarial act in another state under the authority of the notary public's Pennsylvania commission.
- (9) Making a representation that the notary public has powers, qualifications, rights or privileges that the notary public does not have.
- (10) Use of the term "notario," "notario publico," "notario publica" or any non-English equivalent term in a manner which misrepresents the authority of the notary public.
- (11) Engaging in the unauthorized practice of any regulated profession, including but not limited to, law.
- (12) Endorsing or promoting a product, service, contest or other offering by using the notary public's title or official stamp.
- (13) Failure to require the physical presence of an individual making a statement in or executing a signature on a record.
- (14) Failure to have personal knowledge or satisfactory evidence of the identity of an individual appearing before the notary public.

(15) Executing a notarial certificate that contains a statement known to the notary public to be false.

(16) Using the notary public's official stamp for a purpose other than to perform a notarial act.

(17) Using another notary public's stamping device or embosser to perform a notarial act.

(18) Relating to commercial protests as defined in 13 Pa.C.S. § 3505(b) (relating to evidence of dishonor), failure to identify the negotiable instrument, certify either that presentment has been made or, if not made, the reason why it was not made, and certify that the instrument has been dishonored by nonacceptance or nonpayment, or any combination of the above.

(19) Issuance of a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in 13 Pa.C.S. § 3505(b)) that was owned or held for collection by a financial institution, trust company or investment company when the notary public was a party to the commercial paper in an individual capacity.

(20) Issuance of a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in 13 Pa.C.S. § 3505(b)) of a non-commercial or other record that does not fit the definition of negotiable instrument as defined in 13 Pa.C.S. § 3104 (relating to negotiable instrument).

(21) Issuance of a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in 13 Pa.C.S. § 3505(b)) in a manner not in accordance with 13 Pa.C.S. § 3505.

(22) Submission of the following types of records to the Department or Secretary of the Commonwealth in reply to correspondence from the Department or other government agency or initiating proceedings through the following record types:

(A) Conditional Acceptance, or a similar record purporting to “conditionally accept” presentment of an official record, and demanding proof of a list of claims in order to fully accept the official record.

(B) Affidavit in Support of Conditional Acceptance, or a similar record purporting to attest to the facts of a record and signed by the same notary public who is attesting.

(C) Notice of Dishonor, or a similar record purporting to give notice that a Conditional Acceptance has not been accepted by the government agency to which it was sent and thereby was dishonored.

(D) Accepted for Value, or similar stamp or certificate purporting to accept for a disclosed or undisclosed value an official record sent to the notary public by the Department, the Secretary of the Commonwealth or other governmental agency. The certificate claims to establish an amount of money payable or accrued to the signor of the certificate.

(E) Notice of Protest, or a similar record purporting to be a Protest of Commercial Paper that has been dishonored, when the Commercial Paper is not, in fact, a negotiable instrument under 13 Pa.C.S. Division 3 (relating to negotiable instruments) and subject to the laws stated therein regarding dishonor and protest.

(F) Other records attempting to apply 13 Pa.C.S. Division 3 to non-negotiable instruments or other records not included in the scope of Division 3.

(G) Other record types purporting to follow the Uniform Commercial Code (UCC) and not related to a filing under 13 Pa.C.S. Division 9 (relating to secured transactions).

**§ 167.115. Factors considered in disciplinary action.**

When determining whether to deny an application or take disciplinary action against a notary public, the Department may consider a variety of factors including:

- (1) Nature, number and severity of any acts, offenses, official misconduct or crimes under consideration.
- (2) Evidence pertaining to the honesty, credibility, truthfulness and integrity of the applicant or notary public.
- (3) Actual or potential monetary or other harm to the general public, group, individual or client.
- (4) History of complaints received by the Department.
- (5) Prior disciplinary record or warning from the Department.
- (6) Evidence in mitigation.
- (7) Evidence in aggravation.
- (8) Occupational, vocational or professional license disciplinary record.
- (9) Evidence of rehabilitation, such as reference letters and proof of class attendance.
- (10) Criminal record
- (11) Reports from law enforcement agencies.
- (12) Willfulness.
- (13) Negligence.

**§ 167.116. Unauthorized practice of law.**

(a) In determining whether a notary public has assisted a person in drafting legal records, gave legal advice or is otherwise practicing law in violation of section 325 of the Act (57 Pa.C.S. § 325), the Department will take into consideration the factors in Pennsylvania Bar Association Unauthorized Practice of Law (UPL) Committee Formal Opinion 2006-01 or any successor document to that opinion.

(b) Among the acts that constitute the practice of law are the preparation, drafting or selection or determination of the kind of any legal document, or giving advice in relation to any legal documents or matters.

(c) No person who represents himself in a legal matter will be considered to have engaged in the unauthorized practice of law.

**§ 167.117. Advertising.**

For the purpose of the statements required by section 325(d) of the Act (57 Pa.C.S. § 325(d)) (relating to representations), the term “prominently” in section 325(d)(ii) means that the entire statement “I am not an attorney” must be in at least 10-point type and the term “prominently” in section 325(d)(iii) means that the entire statement “I am not an attorney” must be displayed in an area open and accessible to the public at the place of performance of the notarial act.



**COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL**

August 22, 2018

The Honorable George D. Bedwick, Chairman  
Independent Regulatory Review Commission  
14th Floor, Harristown 2  
333 Market Street  
Harrisburg, PA 17101

Re: Proposed Rulemaking  
Bureau of Commissions, Elections and Legislation  
16-59: Revised Uniform Law on Notarial Acts

Dear Chairman Bedwick:

Enclosed is a copy of the proposed regulation of the Bureau of Commissions, Elections and Legislation pertaining to notaries public and the Revised Uniform Law on Notarial Acts.

The Bureau will be pleased to provide your committee with any assistance it may require during the course of its review of this regulation.

Sincerely,

A handwritten signature in black ink that reads "Martha H. Brown".

Martha H. Brown  
Counsel, Division of Commissions, Legislation and Notaries  
Bureau of Commissions, Elections and Legislation

**Enclosures**

cc: Jonathan Marks, Commissioner, Bureau of Commissions, Elections and Legislation  
Kalonji Johnson, Director of Policy, Department of State  
Cynthia Montgomery, Regulatory Counsel, Department of State  
Julio Peña, Manager, Division of Commissions, Legislation and Notaries





