

KANSAS NOTARY PUBLIC HANDBOOK



Prepared by the
Office of Secretary of State

Scott Schwab



**For all questions or concerns about
Kansas notaries public, contact:**

Kansas Secretary of State
Attn: Notary Clerk
First Floor, Memorial Hall
120 SW 10th Avenue.
Topeka, KS 66612-1594
(785) 296-4564
Fax: (785) 296-4570
<https://sos.kansas.gov>
notary@ks.gov

Table of Contents

Title	Page
I. Purpose of Notaries Public	4
II. Duties of Notaries Public	5
III. Guidelines for Notaries Public	7
IV. Penalties for Improper Notarizations	14
V. Helpful Hints for Notaries Public	15
VI. Frequently Asked Questions	18
VII. Test Your Notary Knowledge	26
VIII. Glossary of Terms	29

This is an interactive PDF. Click on any chapter title in this table of contents to go to that chapter. Click the running header on any page to return to the table of contents.

I. Purpose of Notaries Public

Notaries hold an important position in Kansas. It is essential that notaries understand the notarial duties and responsibilities under Kansas law. The purpose of this handbook is to provide an overview of notary laws and to help notaries correctly perform their duties.

The purpose of a notary public is to prevent fraud and forgery. The notary acts as an official, unbiased witness to the identity of the person who signs the document. A Kansas notary public has five major duties:

1. Take acknowledgments,
2. Administer oaths and affirmations,
3. Take a verification upon oath or affirmation,
4. Witness or attest a signature, and
5. Certify or attest a copy.

II. Duties of Notaries Public

Kansas notaries public are appointed by the secretary of state. An appointed notary may notarize anywhere within the state, but the powers do not extend beyond the borders of the state.

Under Kansas law, a notary can perform the following duties and any other act permitted by law:

- (A) **Acknowledgments:** A person appears before the notary and acknowledges or declares to the notary that he or she signed the document.
- (B) **Witnessing:** A person signs in the presence of the notary. The notary public must witness the signature.
- (C) **Verification:** A person appears before the notary, who administers an oath to the person. The person then signs in the presence of the notary following the oath (see procedure below for administering oaths).
- (D) **Administering an Oath/Affirmation:** A person raises their right hand or places their right hand on the Bible. The notary administers the oath, which must begin with the words “You do solemnly swear” and end with the words “So help you God.” Those opposed to oaths may perform an affirmation, which begins with the words “You do solemnly, sincerely, and truly declare and affirm” and ends with the words “And this you do under the pains and penalties of perjury.”
- (E) **Certifying Copies:** The notary certifies that the document is a true and correct copy of the original document. The notary must be presented with the original document and make the copy to ensure that the copy is in fact a true copy of the original.

Original documents on file with an office/entity must be certified by that entity (i.e., court documents are certified by the court clerk who retains the originals; corporation documents filed with the Secretary of State's office are certified by the secretary of state; birth/death certificates are certified by the Kansas Department of Health and Environment, Office of Vital Statistics, which maintains the original records, etc.).

This procedure should not be used for publicly recorded documents because the public cannot obtain the original.

III. Guidelines for Notaries Public

Personal Appearance Required

All notary acts require that the person signing the document appear before the notary. *Notaries should not notarize a document outside the presence of the signing party.* State law requires a notary to properly identify the person to ensure that he or she signed the document; the only way to perform this duty is to have the person appear before the notary. Failure to require a personal appearance by the signing party is the leading cause of notary civil and criminal liability and loss of the notary appointment (K.S.A. 53-503).

Notary Seal; Signature; Date of Expiration

Each notary must have a notarial seal, which shall contain the notary's name exactly as it appears on the notary application. The seal must include the words "Notary Public" and "State of Kansas." This seal must be used whenever a notary performs an official act. When notarizing a document, the notary must add to the document the date of expiration of his or her appointment. The notary's seal must be either a seal press or a rubber stamp. If a seal press is used, the impression from the seal must be inked or blackened. If a rubber stamp is used, the stamp must have permanent ink. Both the seal press and the rubber stamp must be capable of legible reproduction after copying. A seal cannot be used until an impression of the seal has been filed with the Secretary of State's office. A seal or stamp is filed as part of the notary's application (K.S.A. 53-105).

A notary seal or stamp can be obtained at any office supply store or in some instances through the bonding company.

Failure to Attach Date of Expiration

A notary who willfully neglects or refuses to attach his or her date of expiration of appointment when notarizing a document shall be deemed guilty of a Class C misdemeanor (K.S.A. 53-106). Failure to

attach the date of expiration also may be grounds for revocation of the notary's appointment (K.S.A. 53-118).

Verification of Identity

When notarizing a document, the notary must exercise reasonable care in determining the identity of the person whose signature is being notarized. This is important because the public relies on the notarization as proof of the authenticity of the person's signature on the document (K.S.A. 53-107).

Determining the Type of Notarization

The type of notarization should be evident from the notary block on the document. If the notary block is not already on the document, the signing party or the party drafting/providing the document should instruct the notary which notarial block is required (acknowledgment, witnessing or verification). The type of notarization is generally prescribed in the law that governs the document. The notary should know the correct language to be used when the person explains what type of notarization is needed. Generally, if the form to be notarized does not contain a notary block, the document is not required to be notarized.

Contents of a Notarial Block or Certificate

To complete a notarial block, specific information must be presented. The required information includes:

1. Venue (State of Kansas, County of _____).
2. Declarative wording giving the signing party's name, describing the type of notarization and stating the date of the notarization.
3. Notary's signature.
4. Notary's stamp or seal.
5. Notary's date of expiration.

(This block of information is referred to as the "notarial block" or "notarial certificate.")

Kansas statutes contain forms that meet all legal requirements for a notarization (K.S.A. 53-509).

The following are examples of completed notary blocks:

(a) For an acknowledgment in an individual capacity:

State of Kansas
County of Shawnee

This instrument was acknowledged before me on 99/99/9999 by Jane Doe .

 John Doe .
(Signature of notarial officer)

(Notary stamp)

My appointment expires: 99/99/9999

(b) For an acknowledgment in a representative capacity:

State of Kansas
County of Shawnee

This instrument was acknowledged before me on 99/99/9999 by Jane Doe as
President of ABC, Inc.

 John Doe .
(Signature of notarial officer)

(Notary stamp)

My appointment expires: 99/99/9999

(c) For a verification upon oath or affirmation:

State of Kansas
County of Shawnee

Signed and sworn to (or affirmed) before me on 99/99/9999 by Jane Doe .

 John Doe .
(Signature of notarial officer)

(Notary stamp)

My appointment expires: 99/99/9999

(d) For witnessing or attesting a signature:

State of Kansas
County of Shawnee

Signed or attested before me on 99/99/9999 by Jane Doe .

 John Doe .
(Signature of notarial officer)

(Notary stamp)

My appointment expires: 99/99/9999

(e) For attestation of a copy of a document:

State of Kansas
County of Shawnee

I certify that this is a true and correct copy of a document in the possession of
 Jane Doe .

Dated: 99/99/9999

 John Doe .
(Signature of notarial officer)

(Notary stamp)

My appointment expires: 99/99/9999

(f) For power of attorney in a representative capacity:

State of Kansas
County of Shawnee

This instrument was signed before me on 99/99/9999 by Jane Doe as power of attorney of Joe Bloggs .

_____ John Doe .
(Signature of notarial officer)

(Notary stamp)

My appointment expires: 99/99/9999

Financial or Beneficial Interest

A notary cannot perform any notarial act if the notary has a direct financial or beneficial interest in the transaction. A notary has a direct financial interest if the notary is named individually as a principal to the financial transaction for which a document is being notarized. If the transaction involves real property, the notary has direct financial or beneficial interest if the notary is a party to the transaction (i.e., grantor, grantee, mortgagor, mortgagee, etc.). A notary does not have any financial or beneficial interest in a transaction when the notary acts in the capacity of an agent, employee, insurer, attorney, escrow agent, or lender for a person having a direct financial or beneficial interest (K.S.A. 53-109).

Change of Status

Any changes to a notary public's name, seal, address or phone number must be filed with the Secretary of State's office within 30 days after such change has occurred. If the change is a legal name change that results in a change of seal or if the notary obtains a new seal for any reason, the seal must be on file with the Secretary of State's office prior to being used. The notification form is supplied by the Secretary of State's office at <https://sos.kansas.gov/filing-center/notary-forms> (K.S.A. 53-114).

Resignation of Notary Public Appointment

A notary shall resign their notary appointment by sending a letter of resignation to the Secretary of State's office (K.S.A. 53-116).

Reappointment

A notary's appointment is not automatically renewed. A notary must reapply for a notary appointment every four years. A new application may be submitted three months before the expiration date. It is important to renew early so the appointment does not expire. A notary cannot perform notarial duties after the appointment has expired.

Refusal or Revocation of Appointment

The secretary of state may refuse to appoint any person as a notary or may revoke the appointment of a notary upon any of the following grounds:

1. A substantial or material misstatement or omission in the application;
2. a conviction of a felony or a lesser offense involving moral turpitude or of a nature that would be incompatible with the duties of a notary public (a plea of *nolo contendere* is deemed a conviction);
3. the revocation, suspension or denial of a professional license if such action was for misconduct, dishonesty or any cause substantially relating to the duties of a notary public;
4. the applicant or notary is or becomes incapable of reading or writing the English language;
5. a notary fails to exercise the powers and duties of a notary public in accordance with the statutes; or
6. a violation of the requirements concerning advertising in a foreign language.

Any person whose notary appointment is revoked due to reasons one through five may not apply for another appointment until four years from the date of revocation, and any person whose appoint-

ment is revoked due to reason six may not apply or receive an appointment for such person's lifetime (K.S.A. 53-118).

Oaths or Affirmations

All oaths must be administered with the person's right hand either uplifted or upon the Bible (K.S.A. 54-102). An oath must begin with "You do solemnly swear" and conclude with "So help you God."

A person having religious or conscientious objections to oaths may affirm. An affirmation must begin with "You do solemnly, sincerely and truly declare and affirm" and conclude with "And this you do under the pains and penalties of perjury" (K.S.A. 54-103, 54-104).

Advertising in a Foreign Language

A notary who is not licensed to practice law in the state of Kansas and who advertises the notarization of documents in a foreign language shall include the disclaimer:

"I am not authorized to practice law and have no authority to give advice on immigration law or other legal matters."

A notary who is not licensed to practice law within the state of Kansas shall not use the term "notario publico" or any similar language unless it is accompanied by the disclaimer.

Failing to comply with this law could result in a permanent loss of notary appointment; a violation of the Consumer Protection Act, K.S.A. 50-626; a fine of \$5,000 for each infraction; a Class B misdemeanor with a fine of up to \$1,000; and a sentence of up to six months in jail (K.S.A. 53-121).

IV. Penalties for Improper Notarizations

If a notary improperly notarizes a document the following actions can be taken against the notary:

1. A claim can be filed on the notary's bond.
2. The notary can be sued individually based on negligent or willful misconduct.
3. The notary can be prosecuted on a Class C misdemeanor for failing to attach the date of expiration.
4. The notary can be prosecuted for other crimes, such as false writing.
5. The notary can have his or her appointment revoked by the secretary of state.

State law limits the filing of a lawsuit on notarial acts to three years after the cause of the action accrues (K.S.A. 53-113).

V. Helpful Hints for Notaries Public

Signing in Representative Capacity: If the person signs in a representative capacity (i.e., John Smith, as President of ABC Corporation), the notary is not required to check the person's *authority*, meaning the notary does not check to see if John Smith is in fact president of ABC Corporation. Notaries only must verify the person's legal name (e.g., check driver's license or passport). The notary should ensure that the notarial block indicates that the person is signing in a representative capacity for the principal (K.S.A. 53-509(b)).

Signing as Attorney-in-Fact, i.e., Power of Attorney (POA): An agent authorized by power of attorney to sign for a principal is not required to show the POA at the time of notarization. The notary does not check the person's authority to sign, but merely *checks* the identity of the agent signing. The document should be signed with the principal's name and the agent's name, with disclosure of the relationship ("by POA" or "as Attorney-in-Fact"). The notary should ensure that the notarial block indicates that the person is signing in a *representative capacity for the principal* (K.S.A. 53-509 (b)).

Signing Under Penalty of Perjury Instead of Under Oath: K.S.A. 53-601 allows a signature under penalty of perjury instead of a notarized, sworn statement. When an affidavit or verification is required, the person can add a statement certifying that he or she is signing under penalty of perjury instead of requiring him or her to sign under oath before a notary. The statute contains some exceptions, so notaries should consult the statute before using this alternative. The statute requires the following statement prior to signature: (1) If executed outside this state: "I declare under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct." (2) If executed in this state: "I declare under penalty of perjury that the foregoing is true and correct."

Recognition of Out-of-State Notarizations: The full faith and credit clause of the U.S. Constitution requires a state to recognize documents validly executed and notarized under another state's law. If the document satisfies the requirements of its home state it must be recognized and received by another state. K.S.A. 58-2228 states that all deeds, mortgages, POAs and other instruments for conveyance or encumbrances of lands that are executed and acknowledged in any other state in conformity with the laws of that state shall be valid in Kansas.

Recognition of Documents in Foreign Countries: The Kansas Secretary of State can authenticate documents intended for use in a foreign country. The Kansas Secretary of State either issues an "apostille" or an "authentication" depending on whether the country has adopted The Hague Convention treaty. The document must be notarized by a Kansas notary or by another authorized person in Kansas in order for the secretary of state to issue an apostille or authentication.

Notary Journals: Although not required by law, maintaining a journal of all notarizations performed by the notary protects the notary. The notary should record the name of the person signing, the date of the signature and the type of document notarized. The notary should have the signing party sign the notebook so the notary has an example of his or her signature. Journals are available from office supply stores and notary supply catalogs.

Charging Fees for Notarial Acts: Kansas notaries may collect a fee for their services. There is no statutory fee schedule that a notary must follow; however, the fee must be reasonable for the service provided.

Notarizing Wills: A notary may not serve as both a witness and a notary on a will. K.S.A. 59-606 requires the notary to notarize the signature of the testator and the witnesses. Because a notary cannot witness and notarize his or her own signature, a notary may not serve as both a witness and the notary on a will executed in Kansas.

Notary Public's Commission is Personal Property: A notary commission belongs to the notary public, regardless of who paid the fees associated with the commission. The stamp and journal are personal property of the notary. Upon leaving an employer, the notary should take the notary seal and notary journal for *his or her own protection*.

Public Officials Serving as Notaries Public: Certain public officials may perform notarizations without receiving an official notary appointment from the secretary of state. Kansas judges, court clerks and deputies, county clerks and deputies, and election commissioners and deputies can notarize documents in the state. Notarizations from other states' judges and court clerks and deputies must be given recognition in Kansas as if the notarization occurred here. Notarizations by federal judges, federal court clerks and clerk deputies, military officers, and foreign service and consular officers also must be given recognition in Kansas. In addition, registers of deeds can acknowledge instruments conveying or affecting real estate within Kansas (K.S.A. 58-2211).

Notarizing Documents to be Recorded with a County Register of Deeds: If the name or names of the signer or signers or any notary public to any instrument to be recorded with a register of deeds are not plainly typed or printed under the signatures affixed to the instrument, the register of deeds shall charge and collect a fee of \$1 (K.S.A. 28-115 (d)).

VI. Frequently Asked Questions

Q. When may I begin notarizing documents?

A. A notary may begin notarizing documents after receipt of a certificate of appointment from the secretary of state.

Q. What types of notary seals are acceptable in Kansas?

A. The notary's seal shall either be a seal press or a rubber stamp. The notary's seal must contain the notary's name and the words "Notary Public" and "State of Kansas." If a seal press is used, the impression must be inked or blackened so that it may be photocopied.

Q. What is a surety?

A. A surety guarantees that if the notary fails to properly perform a notarization the surety will indemnify a third party for any damages caused by the notary's negligence or misconduct, up to \$7,500.

Q. What is Errors and Omissions Insurance and do I need it?

A. Errors and Omissions Insurance (commonly called E & O) is a form of liability insurance that protects the notary public from claims or suits that are the result of the notary's negligent acts, errors or omissions. Much like car insurance, this type of insurance covers investigation, defense and settlement of committed or alleged acts by the insured notary, subject to policy limits and provisions. Kansas law does not require errors and omissions insurance; therefore, it is up to the notary to determine if he or she wants the additional coverage.

Q. Can information about a notary application or appointment be given to other people?

A. Yes. All notary public applications and appointments are open records and subject to public inspection pursuant to the Kansas Open Records Act.

Q. What are the most common errors or omissions made by notaries public in notarizing documents?

A. The most common errors by notaries in notarizing documents are: (1) Failing to attach the notary seal; (2) neglecting to attach the notary's date of expiration of appointment; (3) failing to sign the notarized document; (4) omitting names and dates from the acknowledgments, oaths and affirmations, etc.; and (5) failing to properly administer the oath.

Q. What is the most serious error made by notaries in notarizing documents?

A. The most serious error made by notaries is failure to require the person to appear before the notary before notarizing the document. The person who signed the document must *always* appear in person. Failure to observe this requirement may result in criminal and civil liability and the loss of the notary's commission.

Q. May I notarize my own signature and the signatures of my spouse, children, parents or other relatives?

A. A notary may not notarize his or her own signature, but may notarize the signatures of his or her spouse, children, parents or other relatives. However, the power is limited by K.S.A. 53-109 (prohibited notarial acts; financial or beneficial interest).

Q. May I notarize documents that originate from out of state?

A. Yes. Documents originating from another state may be notarized as long as the signature and the notarial act are performed in Kansas and the notarial certificate indicates "State of Kansas, County of _____" to identify the jurisdiction in which the notarial act took place.

Q. May I notarize documents when I am physically outside the state of Kansas?

A. No. A Kansas notary only has jurisdiction to perform notarial acts while the notary is in the state of Kansas.

Q. Why does the notary block have blanks for state and county, and how do I fill them out?

A. The beginning of each notarial certificate should include jurisdictional information that indicates where the document was notarized, similar to the following:

State of _____)
County of _____)

This information indicates where the notarization took place. The notary completes the venue block by inserting “Kansas” and adding the county where the notarization occurred. A Kansas notary can notarize documents in all counties of Kansas but cannot notarize outside the state of Kansas.

Q. What if the prepared form contains an inaccurate notarial block, such as a notarial block that contains references to another state?

A. The notary can cross through any incorrect information and write in the correction. The notary should place his or her initials by the correction. White-out should not be used, as the receiving party may reject the notarized document if it contains white-out. White-out raises questions about what information was deleted, whereas simply crossing through the incorrect information allows the receiving party to see what information has been altered.

Example: STATE OF ~~MISSOURI~~ KANSAS **jd**
 COUNTY OF ~~JACKSON~~ JOHNSON **jd**

Q. Should I charge a fee for my services as a notary?

A. There is no statutory fee schedule in Kansas that a notary must follow, nor is there a prohibition against a notary charging a fee. Therefore, a notary may charge a reasonable fee for the performance of a notarial act.

Q. Should I keep a log book of the notarizations that I perform?

A. There is no statutory requirement in Kansas that a notary keep a log book or journal. However, it is recommended that a notary keep one for his or her own records and for protection from liability.

Q. Can my employer keep my journal or notary stamp after I leave my job?

A. No. A notary appointment is personal to the notary public. The stamp and journal belong to the notary and must be safeguarded by the notary to prevent forgeries and other misuse. Even if an employer pays for the notary appointment, the employer cannot *convert* the stamp and journal. However, if the employer provided the notary's surety bond, the employer may cancel the bond.

Q. How do I report a change in my name, address or seal while I am serving as a notary?

A. You must report the change to the secretary of state on a form supplied by that office within 30 days after such change has occurred. <https://sos.kansas.gov/filing-center/notary-forms>

Q. What are the liabilities and penalties for notary public misconduct?

A. A notary who fails to carry out notary duties correctly may be subject to civil liability for any damages caused by the failure or error. If the notary's error enables a forgery, false writing or other crime to occur, the notary also may be held criminally liable as an accessory to the crime. The secretary of state also may revoke the notary's appointment. Failure to attach the date of expiration to a notarization is a Class C misdemeanor.

Q. What if my employer insists that I notarize a document when the person has not signed or acknowledged his or her signature in my presence?

A. Explain that Kansas law requires that the person appear before you personally before you can notarize the document. Failure to fol-

low this procedure could result in civil and criminal liability for both you and your employer. Also, the document may be invalidated by a court if it is improperly notarized.

Q. If my notary appointment expires but I have applied for a new appointment, may I continue to exercise my notarial powers?

A. No. There is no carryover or grace period for a notary once his or her appointment has expired. A person whose notary appointment has expired may not perform any notarial acts until he or she has received a new certificate of appointment.

Q. As a Kansas notary, can I take a person's acknowledgment in another state, then return to Kansas and complete the notarial certificate here?

A. No. You cannot perform one part of a notarial act outside the state and the other part inside the state. Both parts must be executed at the same time and the same place inside Kansas. A Kansas notary cannot notarize a document outside of Kansas.

Q. A person whose identification indicates a first name of "Robert" has asked me to take his acknowledgment on a document he has signed as "Bob." Should I insist that he sign as "Robert?"

A. Not necessarily. As long as the name that is printed on the document matches the name that is printed on the identification of the signer, the signature does not have to be legible or identical to the printed name.

Q. Can I notarize documents that I will be signing as an officer on behalf of a corporation?

A. No. You can never notarize your own signature, whether you are signing for yourself or for a corporation.

Q. May a notary give legal advice or draft legal documents?

A. No. Unless the notary also is an attorney, the notary cannot act as a legal advisor and cannot prepare legal documents. For example, if a

document does not contain a notarial certificate, the notary cannot advise as to the proper type of notarization. An attorney should be consulted to determine the proper notarization required for the document (acknowledgment, witnessing or verification).

Q. Is notarization required by law?

A. Notarization is required for many documents. The Kansas law governing the document will state whether the document must be notarized. The determination whether a document is required to be notarized cannot be made by the notary public.

Q. How does a notary identify a signer?

A. A notary identifies a signer by carefully examining the identification presented by that person and comparing the signatures the person has made on the document with the signature on the identification. Proper identification should include a photograph and signature on an identification card, such as a driver's license or other government-issued identification. It also is considered sufficient identification if, under oath, a credible witness personally known by the notary identifies the person.

Q. Must a notary determine the competence of the person signing the document?

A. Although there are differing opinions on whether a notary public has a duty to determine the person's competency, many experts recommend that the notary make a limited inquiry into the person's ability to understand the contents of the document that the person is signing. The notary can make a quick assessment by asking the person if he or she understands the document. Clearly, a notary should refuse to notarize the signature of a person who unquestionably has no ability to understand the document.

Q. How do I renew my notary appointment?

A. A notary must apply for appointment and follow the same procedures required for a new appointment. An existing appointment

cannot be automatically renewed. Application should be made sufficiently prior to expiration to ensure uninterrupted authority, generally three months prior to the expiration of the current appointment.

Q. Can I only notarize documents in my own county?

A. No, a Kansas notary has authority throughout Kansas. The county in which the notarial act took place should be inserted in the appropriate blank above the notary's signature.

Q. Must the person sign the document in my presence?

A. If the document is an affidavit, verification or other document requiring an oath, the person *must* be properly sworn in and sign the document in your presence. If the document requires acknowledgment, it is sufficient for the person to appear before you and acknowledge execution of the document. If the document requires witnessing, you must personally see the person sign the document.

Never notarize an unsigned document, and never notarize a document outside the presence of the person. Do not notarize a document in which the notarial certificate contains untrue statements. You cannot take a notarization over the phone. You cannot notarize a document just because someone else assures you that the signature is genuine. You cannot take an acknowledgment just because you recognize the person's signature.

Q. Can I advertise my notary services in a foreign language?

A. Yes. However, a person who is not admitted to the practice of law in this state and who advertises notarial services in a language other than English must include a statement that is prominently displayed in the same language on all advertisements, notices, letterhead or signs. The statement must say, "I am not authorized to practice law and have no authority to give advice on immigration law or other legal matters."

Q. When can I use the term “notario publico?”

A. A notary who is not admitted to the practice of law in this state cannot use the term “notario publico” or any equivalent non-English term on any business card, advertisement, notice or sign unless it is accompanied by a statement that is prominently displayed in the same language that the notarial services are offered, stating: “I am not authorized to practice law and have no authority to give advice on immigration law or other legal matters.”

Q. Does Kansas law allow notarization of an electronic document?

A. Kansas law (K.S.A. 16-1611) authorizes the use of electronic notarization, and the procedures are set out in K.A.R. 7-43-1 *et seq.*

Q. What should I do when I have a question about performing a notarial act?

A. Contact the Secretary of State’s office for assistance or your legal counsel for advice.

Q. Where does a person report illegal, improper or questionable acts by a notary public?

A. Reports can be made to the Kansas Secretary of State, First Floor, Memorial Hall, 120 SW 10th Avenue, Topeka, KS 66612-1594; by calling (785) 296-4564; or by email at notary@ks.gov.

VII. Test your Notary Knowledge

Test your notarial I.Q. with this pop quiz. Answers follow the quiz. More detailed explanations are found elsewhere in the handbook.

1. Your employer asks you to “notarize” a document that was signed by a customer while you were at lunch. You should:

- (a) Ask your employer to swear that the customer whose name appears on the document really signed it.
- (b) Call the customer to ask if he really did sign the document.
- (c) Explain that you cannot notarize a document when the customer did not personally appear before you.
- (d) “Notarize” the document only if you personally know the customer and recognize the signature.

2. Your wife, the sole owner of a used car lot, has asked you to “notarize” her signature transferring title of an automobile. You are not named individually as a party to the transaction. You may “notarize” the document.

True or False.

3. You have been asked to administer an oath for a person signing an affidavit. You must ask the person to:

- (a) Provide adequate identification (if you do not know the person).
- (b) Either raise his or her right hand or place it upon the Bible.
- (c) Either swear or affirm using the statutory language.
- (d) Do all of the above.

4. A seal press is an acceptable notary seal but its impression must be blackened so that it can be photocopied.

True or False.

5. A notary may not charge more than \$2 to administer an oath.

True or False.

6. To properly identify a person, it is sufficient to:

- (a) Examine a driver's license with signature.
- (b) Be casually acquainted with the person.
- (c) Have a person you know identify the person under oath.
- (d) Do any of the above.

7. State law requires a notary to maintain a log of all notarizations performed, showing the date performed, the parties appearing and the type of document.

True or False.

8. A Kansas notary may perform notarial duties anywhere in Kansas as long as the county in which the duty is performed is entered in the appropriate space.

True or False.

9. In order to properly complete the notarial certificate the notary must do which of the following:

- (a) Enter the county where the notarization took place.
- (b) Affix the seal and blacken the impression if a seal press is used.
- (c) Sign and write the date that the notary's appointment expires.
- (d) All of the above.

10. You are a Kansas notary and resident, but your place of employment is in Kansas City, Missouri. You may perform notarial acts in Missouri.

True or False.

11. You are a resident of Nebraska, but your place of employment is in Kansas. You may become a Kansas notary public.

True or False.

12. A notary public who is not admitted to the practice of law in this state and who advertises notarial services in a language other than English must include a disclaimer stating: "I am not

authorized to practice law and have no authority to give advice on immigration law or other legal matters.”

True or False.

Answers: 1. c; 2. True; 3. d; 4. True; 5. False; 6. d; 7. False; 8. True; 9. d; 10. False; 11. True; 12. True

VIII. Glossary of Terms

Acknowledge – The act of admitting or recognizing the existence and authenticity of the contents of a document and that the document shall be binding and in full force and effect.

Acknowledgment – The act of admitting and recognizing the contents of a document, the person’s execution of the document, and that the document is binding.

Affirm – See Oath.

Affirmation – Spoken promise that the contents of the document are true, without requirement of swearing under oath to God. An affirmation is made by a person having conscientious or religious objections to oaths. An affirmation in Kansas begins with “You do solemnly, sincerely and truly declare and affirm” and concludes with “And this you do under the pains and penalties of perjury.”

Certified Copy – A document verified as an accurate reproduction of an original document.

Competence – Ability to understand.

Electronic Notarization or e-Notarization – An electronic signature and seal that is placed on a document using a Kansas digital signature.

Electronic Notary or e-Notary – A notary who is authorized to electronically notarize documents.

Electronic Signature – An electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign a record.

Execute – To sign one’s name. To perform, complete or accomplish.

Notarial Block or Certificate – The statement that appears at the end of a document that is completed and signed by the notary. This statement indicates the venue, the type of notarization required (acknowledgment, verification or witnessing), the name of the signing party and the date of the notarization.

Notary Bond – The surety company or individuals agree to indemnify or reimburse anyone who suffers damage caused by the notary public’s improper performance of notarial acts up to the amount of the bond (\$7,500). The surety can demand reimbursement from the notary if a claim is properly paid. Furthermore, the notary is personally liable for the full amount of any judgment rendered against the notary.

Notary Public – A person appointed by the Kansas Secretary of State to serve the public as a disinterested witness who takes acknowledgments and verifications, witnesses signatures, administers oaths and affirmations, and certifies copies.

Oath – A sworn statement made before a notary or other authorized officer. In Kansas, an oath begins with “You do solemnly swear” and concludes with “So help you God” and is made with the right hand uplifted or placed upon the Bible.

Sureties – A guarantee that if the notary public fails to properly perform a notarization the surety will indemnify a third party for any damages caused by the notary’s negligence or misconduct up to \$7,500. Commercial sureties are licensed with the Kansas Insurance Department and actively participate in the surety bond field. A fee is charged to the applicant for guaranteeing a bond. (See also Notary Bond.)

Sworn – See Oath.

Venue – The state and county location where the notarization was performed, as indicated at the top of the notarial certificate.