SAMPLE WORKBOOK

Functions and Duties of a California Notary Public

Produced by the
California Secretary of State's
Business Programs Division
Notary Public Section

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Note to education vendors: This Sample Workbook contains all the material a person is expected to know to pass the written notary public examination prescribed by the California Secretary of State pursuant to California Government Code section 8201(a)(4). For your convenience all references to laws are printed in boldface within the text. You may use the Sample Workbook as a pre-approved course of study and change the cover page of the Sample Workbook to fit the title of your course of study but any changes to the pre-approved materials in the Sample Workbook, or use of only excerpts of the pre-approved materials, will require complete review and prior approval of your course of study for use as the complete course of study as prescribed by California Government Code section 8201.2 and California Code of Regulations, title 2, section 20800 et seq.

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Chapter I. Obtaining and Managing a Commission

Part A. Eligibility for Appointment

The California Secretary of State appoints notaries in California. **(California Government Code section 8200.)** The California Secretary of State may appoint as many notaries as necessary for the public convenience. **(California Government Code section 8200.)**

To be eligible for appointment as a notary public, a person must:

- Be a California resident at the time of appointment (unless appointed to serve on a military or naval reservation);
- Be at least 18 years of age;
- Complete a course of study approved by the California Secretary of State;
- Pass a written, proctored, closed-book examination; and
- Pass a background check.

(California Government Code sections 8201, 8201.1 and 8203.1.)

Section 1. Residence/Citizenship Requirement

Except for notaries appointed to serve on military and naval reservations, a notary public appointed in California must be a resident of California at the time of appointment. **(California Government Code sections 8201(a)(1) and 8203.1.)** Similarly, a notary public does not need to be a United States citizen; however, California law requires that a notary public appointed to serve on a military or naval reservation must be a United States citizen. **(California Government Code section 8203.1.)**

Section 2. Age Requirement

All applicants for appointment as a notary public must be at least 18 years of age. **(California Government Code sections 8201(a)(2) and 8203.1.)**

Section 3. Course of Study Requirement

An applicant for a notary public commission must satisfactorily complete a six-hour course of study that is approved by the California Secretary of State that covers the functions and duties of a notary public. **(California Government Code section 8201(a)(3).)** Also, an applicant for a notary public commission who (1) holds an active notary public commission and (2) has satisfactorily completed a six-hour notary public education course approved by the California Secretary of State must satisfactorily complete a three-hour refresher course approved by the California Secretary of State prior to reappointment as a notary public. **(California Government Code section 8201(b)(2).)**

An individual whose commission expires, before applying for a new commission, must take an approved six-hour notary public education course before they can be appointed for another term as a notary public, even if the individual previously satisfactorily completed an approved six-hour course. **(California Government Code section 8201(b)(2).)** Notaries who have satisfactorily completed another six-hour course within two years of applying for reappointment as a notary public have satisfied the three-hour refresher course requirement. **(California Government Code section 8201(a)(3) and (b)(1).)**

Section 4. Examination Requirement

All applicants for appointment as a notary public must pass a written, proctored, closed-book examination prescribed by the California Secretary of State. **(California Government Code section 8201(a)(4).)**

Section 5. Background Check Requirement

All notary public applicants must complete a background check by submitting fingerprints to the California Department of Justice within one year of satisfactorily completing the examination. **(California Government Code section 8201.1(a).)** The Department of Justice will compare the applicant's fingerprints and identity information with California conviction records. The Department of Justice will forward the applicant's fingerprints and other identifying information to the Federal Bureau of Investigation, and both the Department of Justice and Federal Bureau of Investigation will advise the California Secretary of State whether the applicant has a criminal history record anywhere in the United States. An applicant convicted of a disqualifying crime may be denied appointment. **(California Government Code section 8214.1(b).)** A disqualifying crime is any felony, or a lesser offense involving moral turpitude or of a nature incompatible with the duties of a notary public. **(California Government Code section 8214.1(b).)** For more information about disqualifying crimes, review the current Notary Public Disciplinary Guidelines, available on the California Secretary of State's website at www.sos.ca.gov/notary. **(California Code of Regulations, title 2, section 20804.)**

Section 6. Application

All applicants for appointment must complete the Notary Public Application form prescribed by the California Secretary of State each time they apply for a commission, whether the applicant currently holds a commission as a notary public, a previous commission has expired or the applicant is applying for the first time.

A Notary Public Application form and information regarding the appointment process can be found on the California Secretary of State's website at www.sos.ca.gov/notary.

The California Secretary of State must determine that a Notary Public applicant possesses the required honesty, credibility, truthfulness and integrity to fulfill the responsibilities of the office of notary public. **(California Government Code section 8201.1(a).)** An applicant must disclose any arrest(s) for which trial is pending and all convictions, whether or not the conviction may be a disqualifying conviction, and regardless of where and when the conviction occurred, including any convictions dismissed under California Penal Code sections 1203.4 or 1203.4a. Convictions and arrests for which a trial is pending must be disclosed on every notary public application submitted to the California Secretary of State, even those convictions that were disclosed on a previous application, and including convictions dismissed under California Penal Code sections 1203.4 or 1203.4a. Failure to disclose any conviction or arrest for which a trial is pending may be a substantial and material misstatement or omission on the application and grounds for denial of an application for appointment as a notary public. **(California Government Code section 8214.1(a).)**

Other grounds for denying an application for appointment are detailed later in this course.

NOTE: The key point to remember is that the application for appointment as a notary public must be complete without any omission or misstatement of required information.

Part B. Commission

Section 1. Term of Office

The term of office for a notary public is four years starting with the commencement date stated in the commission issued by the California Secretary of State. **(California Government Code section 8204.)** This is true whether an appointment is for the first time or whether the person has been issued a previous commission. The critical starting date is the commencement date stated in the commission, rather than the date the commission was issued or mailed by the California Secretary of State or the date the commission was received by the person in the mail.

However, a person cannot serve as a notary public until both their oath of office and bond have been filed with the county clerk where the notary public's principal place of business is located, and both must be filed within 30 days of the commencement date of the four-year term stated in the commission. **(California Government Code section 8213.)** A notary public commission issued by the California Secretary of State does not take effect unless the oath of office and bond are filed on time with the county clerk. If the 30-day deadline is missed, the commission is invalid and the applicant must start the process over.

Section 2. Geographic Jurisdiction

A notary public's jurisdiction is not limited to the county in which the notary public's oath and bond are filed, but a California notary public is not authorized to perform notarial acts outside of the borders of California. **(California Government Code section 8200.)** Additionally, a notary public appointed to serve on a military or naval reservation is authorized to act only within the boundaries of the reservation for which he or she is appointed.

Example

Maria Mobile's principal place of business is in Truckee, California. Accordingly, Maria filed her oath and bond at the Nevada County Clerk's office in Nevada County, California. Maria often travels to South Lake Tahoe, in El Dorado County, to perform notarial acts for residents in South Lake Tahoe. Patrick Pressure asks Maria to come to his home in Stateline, Nevada, to perform an acknowledgment on a document to be filed in El Dorado County, California. Maria Mobile must refuse to perform the acknowledgment in the State of Nevada. As an alternative, Maria may request that Patrick meet her in South Lake Tahoe, (El Dorado County), California or any other convenient location in California to perform the acknowledgment.

Section 3. Bond

A notary public must obtain a bond from a California admitted surety insurer in the amount of $15,000. The bond must be filed with the county clerk of the county in which the notary public's principal place of business is located. **(California Government Code section 8212.)** The bond is to provide a limited fund to reimburse members of the public who are damaged by notarial misconduct. However, the notary public and the surety named on the notary public's official bond are liable in a civil action for all the damages sustained from a notary public's misconduct or neglect. **(California Government Code section 8214.)**

Best practice tip: There may be personal liability for the notary public to the surety for the amount paid on the bond as damages and if the damages exceed the amount of the bond.

Therefore, a notary public should consider purchasing errors and omissions insurance, or some other type of liability insurance, to cover damages that may occur in the course of performing their notarial duties. A negligent notary public may still be personally liable for damages, costs and attorney's fees exceeding insurance policy limits and for damages not covered by insurance.

Section 4. Public Employee Notaries Public

The California Secretary of State may appoint an employee of a California state, county or city public agency, or public school district to serve as a notary public for and on behalf of that public entity. These notary public employees only may perform notarial acts for and on behalf of their public entity employer. These notary public employees are not authorized to perform notarial acts on their own time. These notary public employees must maintain personal control of their journal. The public entity employer may pay the costs of the notary public's bond and supplies and any fees collected by the notary public employee must be remitted or turned over to their public entity employer. **(California Government Code section 8202.5.)** If the notary public is terminated or resigns, the termination or resignation is treated as a resignation of the notary public's commission as well.

On termination or resignation from employment with the public entity:

1) The employee must immediately send written notice of resignation to the California Secretary of State;
2) All notarial records must be delivered to the county clerk within 30 days; and
3) The notary public's seal must be defaced or destroyed.
(California Government Code section 8209.)

The California Secretary of State may appoint federal civil service employees to serve as notaries for military and naval reservations within the State of California. **(California Government Code sections 8203.1 and 8203.3.)** A notary public appointed to serve on a military or naval reservation within the State of California must be a U.S. citizen, but does not have to be a California resident. **(California Government Code section 8203.1.)** These notaries may perform notarial acts only on the reservation for which they are appointed and they cannot collect fees for any service. **(California Government Code sections 8203.2 and 8203.6.)** These notary public federal civil service employees must maintain personal control of their journal. If the notary public stops being a federal civil service employee, the commanding officer of the military or naval reservation must notify the California Secretary of State of the termination, and the termination is treated as a resignation of the notary public's commission. **(California Government Code section 8203.4.)** Again, upon termination or resignation from employment with the military or naval reservation, all notarial records must be delivered to the notary's county clerk within 30 days and the notary public's seal must be defaced or destroyed. **(California Government Code section 8209.)**

Part C. Managing a Commission

Section 1. Filing the Oath and Bond

A notary public's commission takes effect on the date the notary public files their oath of office and a surety bond in the amount of $15,000 with the county clerk's office where the notary public's principal place of business is located. A notary public must file both the oath and bond within 30 days of the commencement date stated in the commission. If the oath and bond are not filed within 30 days of the commencement date stated in the commission, the commission is invalid. There are no exceptions. **(California Government Code section 8213.)**

The oath and bond must be filed with the county clerk in the county where the notary public maintains his or her principal place of business. The address entered in the business location portion of the notary public's most recently submitted Notary Public Application is the notary public's principal place of business.

A notary public with a new commission is permitted to take and subscribe the oath in front of another notary public as long as the oath is administered in the county where the oath and bond for the new commission will be filed. In such a case, the completed oath and bond must be sent by certified mail or any other means of physical delivery that provides a receipt to the county clerk for filing. **(California Government Code section 8213.)**

Best practice tip: The oath of office should be taken and subscribed in person at the county clerk's office to avoid mail and processing delays that may prevent the oath and bond from being filed by the county clerk's office on time. The commission will not be valid if mail or other processing delays prevent the oath and bond from being received and filed by the county clerk's office within 30 days of the commencement date stated in the commission. When a notary public visits the county clerk's office in person, an authorized employee of the county clerk will administer the oath of office, observe the notary public sign the oath, and file both the oath and bond the same day. The notary public must present an identification document meeting the requirements of Civil Code section 1185(b)(3)(A) or (B) or Civil Code section 1185(b)(4)(A) or (E) as proof of identity. **(California Government Code section 8213.)**

Section 2. Address Change

California law requires a notary public to notify the California Secretary of State of address changes to ensure that the California Secretary of State and members of the public are able to contact the notary public about notarial acts the notary public performed. Notaries must notify the California Secretary of State by certified mail or any other means of physical delivery that provides a receipt within 30 days of changing their business or residence address. Willful failure to notify the California Secretary of State of a change of address is punishable as an infraction by a fine of up to $500. **(California Government Code section 8213.5.)**

a. Address Requirements

An applicant must provide both a business address and a residence address on the Notary Public Application. **(California Government Code sections 8201.5 and 8213.5.)** The notary public applicant may provide a mailing address that is different from their business and residence addresses.

i. Business Address

As part of the business address, a notary public must state the name of the business for which the notary public will perform a majority of their notarial services. Notaries who will perform services for an employer or at their employer's business location should list the name and address of their employer. If the notary public is not performing a majority of their notarial services for an employer, is not employed or is self-employed, then the California Secretary of State's office requests that "self" or "self-employed" be entered for the name of the business on the application. If there will be no single location where the notary public will perform a majority of their notarial services, the business address will be the location where the notary public performs the greatest number of notarial services, or the address where the notary public receives mail related to their notary public commission.

ii. Residence Address

A notary public may not use a private commercial mailbox or post office box as the address for his or her residence, or principal place of business, unless the notary public also provides the California Secretary of State with a physical street address of their principal place of residence. The California Secretary of State must have record of a notary public's actual residence street address. **(California Government Code section 8213.5.)**

iii. Mailing Address

A mailing address different from the business and residence addresses is not required but may be used if a notary public receives mail at a post office box or private commercial mailbox.

b. Address Change Procedures

Any change to any of the three addresses inserted in the Notary Public Application, or to any previous address change notification, must be reported to the California Secretary of State. For example, if a notary public indicated on the application for appointment that the notary public would perform services at the employer's location and the notary public's employment ends for any reason, then the notary public must notify the California Secretary of State of another business address and may state that they are now "self" or "self-employed," or provide the name and address of the new employer. If a notary public moves to a new home, then the notary public must notify the California Secretary of State of the new residence address. If a notary public chooses to have correspondence sent to a post office box and the notary public cancels the post office box contract, then the notary public must notify the California Secretary of State of a new mailing address.

The notification to the California Secretary of State can be sent by letter or by the change of address form that can be found on the California Secretary of State's website at www.sos.ca.gov/notary.

Best practice tip: In addition to the new address, the notification should include the name of the notary public (exactly as it appears on the commission), the commission number, and whether the address being changed is a business, residence or mailing address. If the change is to a business address, the notification should state the name of the business that is located at the new address, if that is where the notary public will perform a majority of the notarial services, or that the notary public will be self-employed. There is no fee to submit an address change form or address change letter.

If the address of a notary public's principal place of business changes from one county to another, although not required, the notary public may take and file a new oath of office and bond, or may file a new oath of office and a copy of the original bond, in the county where the new business address is located. **(California Government Code section 8213(b).)** If the notary public decides to make a new filing, within 30 days of filing the notary public must obtain a new official seal that includes the name of the new county where the notary public has relocated and the old official seal should be defaced or destroyed.

Best practice tip: When a new seal is obtained, the old seal should be defaced or destroyed since it no longer complies with the statutory requirement to state the county where the oath and bond are filed. **(California Government Code section 8207.)**

Section 3. Name Change

If a notary public changes his or her name, the notary public must complete and send a name change form to the California Secretary of State. **(California Government Code section 8213.6.)** The form is available at www.sos.ca.gov/notary. There is no fee charged for updating a notary public's name with the California Secretary of State. The notary public will receive an amended commission from the California Secretary of State with the new name, but the commission number and commission expiration date will remain the same. **(California Government Code section 8213.6.)** Within 30 days of the date of issuance of the amended commission, the notary public must file a new oath of office and an amendment to the bond with the county clerk of the county in which the principal place of business is located. **(California Government Code section 8213(c).)**

Section 4. Responding to Written Requests from the California Secretary of State

A notary public has two separate duties to respond to written requests from the California Secretary of State.

- A notary public must respond by certified mail or any other means of physical delivery that provides a receipt within 30 calendar days of receiving a written request for information from the California Secretary of State relating to official acts performed by the notary public. **(California Government Code section 8205(b)(2).)**
- Within the time specified in the written request by the California Secretary of State, a notary public must furnish the California Secretary of State certified copies of his or her notarial journal, or any portion of the journal. **(California Government Code section 8205(b)(1).)**

  NOTE: The 30-day time period for requests for information does not apply to the requirement to provide certified copies of the notarial journal or portions of the journal. Respond as directed in the written request.

Section 5. Agreements with Private Employers

A notary public employed by a private employer may be called upon to provide notarial services as part of his or her employment. The law permits a private employer and an employee who is a notary public to agree that the employer will pay the premiums on the notary public's official

surety bond and the cost of any stamps or other supplies required in connection with the appointment as a notary public or for performing notarial duties for the employer. The agreement may provide that fees collected by the notary public for performing notarial acts as part of his or her employment are to be remitted or turned over to the employer for deposit in the fund from which the employee is paid. **(California Government Code section 8202.7.)**

If the employer and notary public employee have an agreement for the employer to pay bond premiums and costs for performance of notarial duties, the employer may limit the employee to provide notarial services solely to transactions directly associated with the business purpose of the employer during work hours. **(California Government Code section 8202.8.)** However, the notary public employee still can perform notarial acts outside of the ordinary course of employment on their own time.

A notary public employee is responsible for following California law, regardless of their employer's demands. Performing an improper notarial act could result in civil or criminal liability for the employer and for the notary public employee. An employer who requests that a notary public perform acts that do not comply with California law should be referred to **California Government Code section 8225**, which provides that any person who coerces or in any manner influences a notary public to perform an improper act is guilty of a misdemeanor. The notary public must keep their journal and seal under their exclusive control.

Example

Perry Paralegal is employed by a California lawyer, Andi Attorney, who is a sole practitioner and specializes in wills, trusts and probate. Andi Attorney requested that Perry Paralegal obtain a notary public commission. So, Andi Attorney paid for Perry Paralegal to attend a notary public education class and paid for Perry Paralegal's exam and bond. After a commission was issued to Perry Paralegal, Andi Attorney reimbursed Perry Paralegal for the costs of filing his oath and bond and the costs of buying his seal, journal and a supply of attachable jurat and acknowledgment certificates. Perry Paralegal signed a written agreement to perform notary public services during regular office hours only at Andi Attorney's direction, to collect fees for all services performed during regular office hours and to deliver all fees collected for services performed during regular office hours to Andi Attorney's accountant. Perry Paralegal's sister, Sissy, asks Perry Paralegal to come to her house after work to acknowledge an Interspousal Transfer Deed she signed. Perry Paralegal may perform the acknowledgment after regular office hours, even though Andi Attorney has not directed Perry Paralegal to perform the acknowledgment. Perry Paralegal may also perform the acknowledgment and charge the statutorily permitted fee for his service if he wishes, without delivering the fee to Andi Attorney's accountant.

Chapter II. Notarial Acts and Procedures

Part A. Tools to Function as a Notary Public

Section 1. The Notarial Journal

a. One Active Journal

A notary public must keep only **one** active sequential journal at a time containing all notarial acts. **(California Government Code section 8206(a)(1).)** Keeping more than one active journal is never allowed. For example, if a notary public performs notarial acts at multiple offices, that notary public cannot use and store a separate notarial journal at each office. Instead, that notary public must use one journal and take that one journal to each office where services are performed.

b. Securing the Journal

No person except the notary public can have access to the notary public's journal outside of the notary public's presence including an employer who paid for the notary public's journal. The journal must be stored in a locked and secured area that is under the direct and exclusive control of the notary public, for example a locking file cabinet, a safe or locked office. **(California Government Code section 8206(a)(1).)** An office safe or file cabinet that any other person has access to is not an area under the direct and exclusive control of the notary public. It is unacceptable, for example, to keep the journal in a locked desk at home, if other family members have access to the contents of the desk. Failure to secure the journal may result in suspension or revocation of the notary public's commission and civil and criminal penalties. **(California Government Code sections 8214.1(o), 8214.15(b), and 8228.1.)**

c. Sequential Recording of Official Acts

All official acts performed as a notary public must be recorded in the notary public's single active journal at the time the act is performed. The journal entries must be made sequentially by recording each notarial act in order of occurrence one after the other. **(California Government Code section 8206(a)(1).)**

A notary public is guilty of a misdemeanor if the notary public willfully fails to properly maintain his or her notarial journal. **(California Government Code sections 8206(a) and 8228.1(a).)**

d. Copying and Inspection of Journal

Any member of the public may request a photostatic copy of the journal entry representing a transaction. The request must be in writing and must include the name of the parties, the type of document, and the month and year in which the notarial act occurred. The notary public may charge no more than thirty cents per page for copy requests. **(California Government Code section 8206(c).)** However, a member of the public is not entitled to obtain a copy of other line items that may be on the same page of the notary public's journal and care should be taken to ensure that only the requested line item entry is disclosed. The notary public must respond within 15 days of receipt of the request with either a plain copy (not certified) of the requested journal entry or an acknowledgment that no such line item exists. **(California Government Code section 8206.5.)**

A notary public performing notarial duties for an employer must permit the employer or the employer's auditor or agent to inspect and copy journal entries. However, the inspection and copying must be done in the presence of the notary public and the journal entries being inspected and copied must be directly associated with the business purposes of the employer. The notary public, upon request of the employer, must provide plain copies (not certified) of all journal entries that are directly associated with the business purposes of the employer. **(California Government Code section 8206(d).)**

Upon receipt of a subpoena duces tecum (In Latin, *duces tecum* means "*you shall bring with you.*" Subpoena duces tecum is a type of subpoena that requires the witness to produce documents, books, records, or other evidence pertinent to a legal proceeding) or a court order, the notary public must provide the journal for examination and copying while the notary public remains present and the notary public must certify those copies, if requested. **(California Government Code section 8206(e).)**

e. Surrender, Loss or Destruction of Journal

The notary public's journal is the exclusive property of the notary public and cannot be surrendered to anyone (except as required with respect to a peace officer and county clerk as specified below). Even if the notary public's private or public employer has paid all of the costs to obtain the notary public's commission and has paid for all the costs to provide notarial services, the notary public cannot allow their employer to handle the journal outside the notary public's presence, and cannot surrender the journal to the employer upon termination of employment. **(California Government Code section 8206(d).)**

A notary public must surrender their official journal immediately, or as soon as possible if the journal is not present, to a peace officer acting in his or her official capacity who has reasonable suspicion the journal contains evidence of a criminal offense and who is investigating that criminal offense. **(California Government Code section 8206(d).)** If the notarial journal is surrendered to a peace officer, the notary public must obtain a receipt for the journal and must notify the California Secretary of State by certified mail or any other means of physical delivery that provides a receipt within 10 days of the date of surrender. **(California Government Code section 8206(d).)** The notification must include the dates covered for the journal entries in the surrendered journal, the notary public's commission number, the expiration date of the notary public's commission and a copy of the receipt given by the peace officer for the journal.

If a notary public's official journal is stolen, lost, misplaced, destroyed, damaged, or otherwise rendered unusable, the notary public must immediately notify the California Secretary of State by certified or registered mail or any other means of physical delivery that provides a receipt. The notification must include the dates covered for the journal entries, the notary public's commission number, the expiration date of the notary public's commission, and, when applicable, a photocopy of any police report that specifies the theft of the journal. **(California Government Code section 8206(b).)**

If a notary public surrenders the official journal, or if the notary public's official journal is stolen, lost, misplaced, destroyed, damaged, or otherwise rendered unusable, the notary public must obtain a new journal. If the old journal is returned or found, entries must not be made in the old journal. The notary public must continue to use the new journal. **(California Government Code section 8206(d).)**

If a notary public resigns, is disqualified, or is removed from office, the notarial journal and all other notarial records must be delivered to the clerk of the county in which the notary public's current oath is on file within 30 days of the resignation, disqualification or removal. Additionally, if a notary public's commission expires and the notary public has not obtained reappointment within 30 days after the expiration of the commission, then the notarial journal and other notarial records must be delivered within the next 30 days to the county clerk. Even if a notary public has applied for reappointment, but, for whatever reason, is not granted a commission within 30 days after expiration of their commission, the notary public must deliver the notarial journal and other notarial records to the county clerk within the next 30 days. Willful failure to deliver the notarial journal and other notarial records to the county clerk within the appropriate time is a misdemeanor, and the notary public is personally liable for damages to any person injured by the non-delivery. **(California Government Code section 8209(a).)**

Section 2. Seal

A notary public must have and use a seal purchased from a vendor or manufacturer authorized by the California Secretary of State. **(California Government Code sections 8207, 8207.2, and 8207.3.)**

a. Form of Seal

The notary public seal may be in the form of a tangible seal or an electronic seal. The notary public seal must be photographically reproducible, have a serrated or milled edge border, must clearly and legibly contain the State Seal, the words Notary Public, the notary public's name, the commission expiration date, the county wherein the oath and bond are filed, the commission number assigned to the notary public, and the sequential identification number assigned to the manufacturer or vendor by the California Secretary of State. **(California Government Code section 8207.)**

The seal may be circular, but not over two inches in diameter, or may be rectangular and not more than one inch in width by two and one-half inches in length. **(California Government Code section 8207.)**

Best practice tip: Because the seal must be photographically reproducible, the rubber stamp seal and the electronic seal have become almost universal. However, notaries may use an embosser seal in addition to the rubber stamp or may use an embosser seal as the official seal if the embosser seal is inked.

b. Obtaining a Seal

A notary public can purchase a seal only from a manufacturer or vendor authorized by the California Secretary of State. **(California Government Code sections 8207.2 and 8207.3.)** The California Secretary of State issues certificates of authorization with which a notary public can obtain an official notary public seal. Only the original certificate of authorization, not a copy, can be used to purchase the seal. A certificate of authorization to obtain an official seal will be provided by the California Secretary of State with the notary public's commission. **(California Government Code sections 8207.2 and 8207.3.)**

c. Securing the Seal

The notary public's seal must be kept in a locked and secured area, under the direct and exclusive control of the notary public. **(California Government Code section 8207.)**

For an electronic seal, the notary public shall keep the electronic seal in a secure encrypted manner under the direct and exclusive control of the notary public. **(California Government Code section 8207(e).)** For purposes of satisfying the requirements of this subdivision, the notary public's electronic seal may be kept on a storage device or online media that is accessed by the notary public with a secure means of multifactor authentication and protected by, at minimum, security requirements as set forth by the California Secretary of State. The notary public shall not allow another person to access or use the notary public's electronic seal. The notary public shall take all reasonable steps to protect the notary public's electronic seal from unauthorized disclosure, access, or use.

Remember, like the notary journal, no one else except the notary public can have access to the seal. An office safe or file cabinet that is accessible by others, even if locked, is not acceptable, nor is a locked desk at home, if other family members have access to the contents of the desk.

Failure to secure the seal may result in suspension or revocation of the commission and civil and criminal penalties. **(California Government Code sections 8214.1(d) and (o), 8214.15(a) or (b), and 8228.1(a).)**

The notary public seal is the exclusive property of the notary public and must not be surrendered to an employer upon termination of employment, whether or not the employer paid for the seal. **(California Government Code section 8207.)** The only exception to this rule is when a seal is surrendered in response to a court order and will be discussed in detail later.

d. Use of the Seal

A notary public must use the seal solely for the purpose of carrying out the duties and responsibilities of a notary public. **(California Government Code section 8207.)**

There is only one situation when the seal is not required. The use of the seal is not required for acknowledgments on California subdivision maps since the material used for such maps is generally not compatible with ink used on seals. In this one case, the notary public's name, the county of the notary public's principal place of business, and the commission expiration date must be typed or printed below or immediately adjacent to the notary public's signature on the acknowledgment. **(California Government Code section 66436(c).)**

Many documents that are acknowledged may later be submitted to a county for recording. The county recorder might not accept a document if the notary public seal is illegible. All elements of the seal must be visible. The seal should not be placed over signatures or any printed matter on the document. If the seal impression is not clear, the notary public should affix a new impression and never attempt to fix the old one, even if this requires attaching a separate notarial certificate.

e. Lost or Damaged Seal; Destroying Seal

Any notary public whose official seal is lost, misplaced, destroyed, broken, damaged or is rendered otherwise unworkable must immediately mail or deliver written notice of that fact to the California Secretary of State. If requested by the notary public, the California Secretary of

State will issue a new certificate of authorization for a seal within five working days after receipt of the notice, which a notary public may use to obtain a replacement seal. **(California Government Code section 8207.3(e).)**

The notary public, or his or her representative, must destroy or deface the seal upon termination, resignation, or revocation of the notary public's commission or the death of the notary public. **(California Government Code section 8207.)**

Part B. Types of Notary Public Acts and How to Perform the Acts

Part B explains the most frequent and important acts in California law that a notary public may perform.

NOTE: A notary public only can use the notary public's seal for purposes described in California Government Code and only can use the title "notary public" to render notarial services. **(California Government Code section 8207.)**

A notary public must refuse to perform any notarial act that is not described in California law. For example, a notary public is prohibited from using the official seal and title "notary public" either on documents that are not described in California law or without the required notarial wording. **(California Government Code sections 8202, 8205 and 8207; California Civil Code section 1189).)** Doing either of these prohibited acts may cause the notary public's commission to be revoked or suspended or application denied.

Most notarial acts relate to another person signing or certifying a document. When a notary public performs an act in relation to a document, the document is commonly said to be "notarized." In fact, a notary public only notarizes the signature of the person who signed the document. However, a notary public cannot notarize his or her own signature or a transaction in which the notary public has a direct financial or beneficial interest. **(California Government Code sections 8224 and 8224.1.)**

Section 1. Essential Basics

a. Examine Document

i. Incomplete Documents

A notary public cannot take an acknowledgment on a document that is incomplete. **(California Government Code section 8205.)** When presented with a document containing a signature to be notarized, the notary public should visually scan the document to determine if the document is complete. Blank spaces and blank lines should be examined to ensure information is not missing. Also, if a notary public has experience with a particular type of document, and knows what information should be stated in the document, and that information is missing or incomplete, the notary public must refuse to notarize the signature. **(California Government Code section 8205(a)(2).)**

ii. Foreign Language Documents

A notary public can notarize a signature on a document written in a foreign language, whether or not the notary public is familiar with the language, since a notary public's function only relates to the signature and not the contents of the document. However, a notary public must be able to communicate with the customer in order for the signer to swear or affirm the contents of an affidavit or to acknowledge the execution of a document, as well as to enable the notary public to obtain proper identification of the signer and to complete the required journal entries. An interpreter should not be used because vital information could be lost in the translation. If a notary public is unable to communicate with a customer, the customer should be referred to a

notary public who speaks the customer's language. **(See generally California Civil Code sections 1189 and 1195; California Government Code sections 8202, 8205 and 8206.)**

The notary public should be able to identify the type of document for entry in the notary public's journal. If unable to identify the type of document, the notary public must make an entry to that effect in the journal, e.g., "a document in a foreign language." As in all cases, the notary public should determine if the document is complete and must not notarize the signature if the document appears to be incomplete. The notarial certificate in a foreign language document or attached to a foreign language document, e.g., the acknowledgment, jurat, or proof of execution by a subscribing witness must be written in English. California law requires these forms to be followed exactly and they appear in California law in the English language. **(California Civil Code sections 1188, 1189 and 1195; California Government Code section 8202.)**

NOTE: Special rules apply to advertising notarial services in a language other than English. These rules will be discussed later.

b. Verify Identity of the Signer

Before performing most notarial acts, the notary public must confirm the identity of the person signing the document. For acknowledgments and jurats, a notary public is required to obtain satisfactory evidence of the signer's identity. **(California Civil Code sections 1185(a) and (b), and 1189; California Government Code section 8202.)**

i. Satisfactory Evidence

Satisfactory evidence is the absence of any information, evidence, or other circumstances which would lead a reasonable person to believe that the individual is not the individual he or she claims to be and (A) identification documents meeting certain requirements or (B) the oath of a single credible witness or (C) the oaths of two credible witnesses. **(California Civil Code section 1185(b).)** Since January 1, 2008, a notary public's personal knowledge of a signer is not sufficient to establish the identity of the signer.

ii. Identification Documents

The identity of the signer can be established by the notary public's reasonable reliance on the presentation of identification documents meeting the requirements of **California Civil Code section 1185(b)(3) or (b)(4)**. In addition, there must be no information or circumstances leading a notary public to believe a signer is not who the signer claims to be.

The types of identification documents listed below may be presented to a notary public to establish identity. These identification documents must be current or have been issued within the previous five years. **(California Civil Code section 1185(b)(3).)**

- An identification card or driver's license issued by the California Department of Motor Vehicles; or
- A United States passport, including United States passport cards; or
- An inmate identification card issued by the California Department of Corrections and Rehabilitation, if the inmate is in custody in California state prison; or
- Any form of inmate identification issued by a sheriff's department, if the inmate is in custody in a local detention facility.

Other California approved identification cards, consisting of any one of the following, that contain a serial or other identifying number, a photograph of the named person, a description of the named person, and the signature of the named person are also acceptable. These forms of identification must also be current, or have been issued within the previous five years **(California Civil Code sections 1185(b)(4).)**:

- A valid consular identification document issued by a consulate from the applicant's country of citizenship, or a valid passport from the applicant's country of citizenship;
- A driver's license issued by another state or by a Canadian or Mexican public agency authorized to issue drivers' licenses;
- An identification card issued by another state (this does not include an identification card issued by a Canadian or Mexican public agency);
- An identification card issued by any branch of the Armed Forces of the United States (military identification cards must still contain all of the information required by California Civil Code section 1185(b)(4) or they cannot be used as identification); or
- An employee identification card issued by an agency or office of a California city, a California county, a California city and county, or the State of California;
- An identification card issued by a federally recognized tribal government.

iii. Oath or Affirmation of a Single Credible Witness

If there is no information or circumstances leading a notary public to believe a signer is not who the signer claims to be, and it would be very difficult or impossible for the signer to present a paper identification document, the identity of the signer can be established by the oath of a single credible witness who personally knows the signer. However, the notary public also must personally know the credible witness and the credible witness must present a proper identification document. **(California Civil Code section 1185(b)(1).)**

"Personally known" is not defined currently in California law. But it is interpreted for notarial purposes in California to have the same meaning as defined in former California Civil Code section 1185(b), (see Volume 8, West's California Annotated Civil Code section 1185(b), (2007 edition), page 63), which is having an acquaintance with a person that establishes the person's identity with at least reasonable certainty. An acquaintance substantial enough to establish personal knowledge includes multiple, recent meetings with a person, including meetings during which the person is identified by other people. A chain of circumstances that would lead a reasonable person to believe an acquaintance is who they say they are forms the basis for personal knowledge. For example, co-workers have personal knowledge of each other if they meet frequently at their workplace and colleagues and customers have identified them in the presence of others. A person will not likely personally know a social acquaintance that the person sees infrequently. (See cases collected in West's California Annotated Civil Code (2007 edition) following section 1185.)

Even though the notary public will personally know the credible witness, the notary public must still confirm the credible witness' identity by examining a paper identification document that meets the requirements of **California Civil Code sections 1185(b)(3) and (b)(4)**.

After the notary public has established the identity of the credible witness, the notary public must administer an oath or affirmation to the credible witness to establish the identity of the signer. Under oath or affirmation, the credible witness must swear or affirm that each of the following statements is true **(California Civil Code section 1185(b)(1)(A)(i)-(v).)**:

- The individual appearing before the notary public as the signer of the document is the person named in the document;
- The credible witness personally knows the signer;
- The credible witness reasonably believes that the circumstances of the signer are such that it would be very difficult or impossible for the signer to obtain another form of identification;
- The signer does not possess any of the identification documents authorized by law to establish the signer's identity; and
- The credible witness does not have a financial interest in the document and is not named in the document.

Example

– Nat Notary is called to notarize Sally's signature on a company document. Nat Notary and Sally have never met before. Sally is away from home and left her identification, her Illinois driver's license, in Chicago. Sally asks Rene to vouch for Sally because Sally and Rene have known each other for years. Nat Notary has also worked with Rene before. Rene can appear as a credible witness for Sally so that Nat Notary can complete the notarization.

iv. Oath or Affirmation of Two Credible Witnesses

If there is no information leading a notary public to believe a signer is not who the signer claims to be, and it would be very difficult or impossible for the signer to present a paper identification document discussed earlier, the identity of the signer can be established by the oaths or affirmations of two credible witnesses who personally know the signer. **(California Civil Code section 1185(b)(2).)** In such a case, the notary public does not need to personally know either of the credible witnesses. The notary public establishes the identities of the two credible witnesses only by the presentation of the paper identification documents meeting the requirements of **California Civil Code sections 1185(b)(3) and (b)(4)**.

After the notary public has established the identity of the credible witnesses, the notary public must administer oaths or affirmations to the credible witnesses to establish the identity of the signer. Under oath or affirmation and under penalty of perjury, both credible witnesses must swear or affirm that each of the following statements is true **(California Civil Code section 1185(b)(2).)**:

- The individual appearing before the notary public as the signer of the document is the person named in the document;
- The credible witness personally knows the signer;

- The credible witness reasonably believes that the circumstances of the signer are such that it would be very difficult or impossible for the signer to obtain another form of identification;
- The signer does not possess any of the identification documents authorized by law to establish the signer's identity; and
- The credible witness does not have a financial interest in the document and is not named in the document.

- ***Example***
  - Sam, Fred, and Joyce meet in a hotel lobby for the first time and after discussing the need to have their signatures on important documents notarized, approach Nat Notary. Sam is the signer of the documents and does not have his wallet with him because it was stolen. Fred and Joyce offer to vouch for Sam. Nat Notary refuses to use Fred and Joyce as credible witnesses since Sam, Fred and Joyce have just met and do not personally know each other. Fred and Joyce cannot be credible witnesses to Sam's identity.

c. Recording Journal Entry

All official acts performed as a notary public must be recorded sequentially in the notary public's single active journal at the time the notarial act is performed. **(California Government Code section 8206(a)(1).)** A notary public is guilty of a misdemeanor if the notary public willfully fails to properly maintain his or her notarial journal. **(California Government Code sections 8206(a) and 8228.1.)**

The following discussion describes and explains the information that must be recorded in the journal:

- The date and time the notary public performed the notarial service. The time may be written in standard or military format, but the law requires the time of the act to be recorded – the date alone is not sufficient. **(California Government Code section 8206(a)(2)(A).)**
- The type of notarial act performed. For example, a proof of execution by a subscribing witness, an acknowledgment, and a jurat are all types of notarial acts. Any member of the public may request a photostatic copy of the journal entry representing a specific transaction, and copies of specific journal entries may be requested by the California Secretary of State, through civil and criminal subpoenas, or by a peace officer investigating a crime. Consequently, each journal entry should be full and complete. **(California Government Code section 8206(a)(2)(A).)**

  Best practice tip: A notary public should write the complete name of the type of act. Do not write an abbreviation or acronym to describe the type of act. This may avoid confusion or misunderstandings as to the contents of the journal entry and type of notarial act.
- The character of every instrument sworn, affirmed, acknowledged, or proved before the notary public. The "character of every instrument" means the kind or type of document

on which the signature is being notarized. Most notarial acts relate to another person signing or certifying a document. A description of the document containing the notarial act must be recorded in the journal in addition to the type of act performed. For example, most signatures on grant deeds are acknowledged. The journal entry for a grant deed will describe the character of the instrument as a "grant deed" and type of notarial act performed as an "acknowledgment." If more than one document contains notarized signatures, the notary public must record the title or character of each document. **(California Government Code section 8206(a)(2)(B).)**

- The signature of each person whose signature is being notarized. **(California Government Code section 8206(a)(2)(C).)**
- A statement as to whether the identity of the person making the acknowledgment or taking the oath or affirmation was based on satisfactory evidence. A notary public must always obtain satisfactory evidence to prove the identity of a person making an acknowledgment or taking an oath or affirmation. The journal entry for all acknowledgments, jurats and proofs of execution must include a statement indicating satisfactory evidence was obtained. **(California Government Code section 8206(a)(2)(D).)**
- If the notary public accepted an identification document as listed in **California Civil Code sections 1185(b)(3) and (b)(4)** to meet the requirements of "satisfactory evidence," then the notary public must record the type of identification document, the governmental agency that issued the identification, the serial or identifying number on the identification document, and the date the identification document was issued or expires.
- If the "satisfactory evidence" is based on the oath or affirmation of a single credible witness, then the journal must contain the signature of the credible witness or the type of identification document presented by the credible witness, the governmental agency that issued the identification, the serial or identifying number on the identification document, and the date the identification document was issued or expires. **(California Government Code section 8206(a)(2)(D).)**

  Best practice tip: Obtain both the signature of the single credible witness and record the identification document in the journal.
- If the "satisfactory evidence" is based on the oath or affirmation of two credible witnesses, then the journal must contain the signatures of each of the credible witnesses and the type of identification document presented by each of the credible witnesses, the governmental agency that issued each identification document, the serial number or other number on each identification document, and the date of issue or expiration of each identification document. **(California Government Code section 8206(a)(2)(E).)**
- The fee charged for the notarial act. If no fee is charged, "0" should be indicated. Only fees for the notarial act should be listed in the "fee" column of the journal. If there are additional charges for travel or other services, those additional charges may be itemized in the "additional information" or "comments" column to distinguish those types of fees from notarial act fees. **(California Government Code section 8206(a)(2)(F).)**
- If the document with the notarized signature is a deed, quitclaim deed, deed of trust, or other document affecting real property, or a power of attorney, the notary public must require the party signing the document to place his or her right thumbprint in the journal

as part of the line item entry for the transaction. If the right thumbprint is not available, then the notary public must have the party use his or her left thumbprint, or any available finger and must record the left thumbprint or which other fingerprint is captured in the journal. If the party signing the document is physically unable to provide a thumbprint or fingerprint, the notary public must record that fact in the journal and must provide an explanation of the physical condition of the person. The thumbprint is not required for trustee's deeds for a decree of foreclosure or a nonjudicial foreclosure, or a deed of reconveyance. **(California Government Code section 8206(a)(2)(G).)**

Section 2. Acknowledgments

The most frequently performed notarial act is an acknowledgment. An acknowledgment is the notarial certificate attached to a document when the notary public confirms the identity of the signer and the signer acknowledges being the signer of the document. The certificate of acknowledgment is identified by the wording "whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same…." A certificate of acknowledgment often will be found at the end of a document.

By completing a certificate of acknowledgment, the notary public is certifying under penalty of perjury:

- That the signer personally appeared before the notary public on the date indicated and in the county indicated in the venue heading;
- To the identity of the signer (based on satisfactory evidence); and
- That the signer acknowledged signing the document. **(California Civil Code section 1189.)**

To perform an acknowledgment, a notary public must:

- Examine the document for completeness;
- Confirm the identity of the signer (based on satisfactory evidence) and the signer's acknowledgment of their signature;
- Complete a journal entry for the transaction; and
- Attach a completed certificate of acknowledgment to the document or complete the certificate of acknowledgment at the end of the document. **(California Civil Code section 1188.)**

By completing a certificate of acknowledgment, the notary public is not certifying the legality of the underlying document.

a. Examine for Completeness

A notary public cannot take an acknowledgment of an instrument (document) that is incomplete. The notary public should visually scan the document and if the document appears to be incomplete, the notary public must refuse to take the acknowledgment until the document is completed. However, in determining whether the document is complete, the notary public should ignore information that is intended to be added later such as information to be placed on the

document by a county clerk or recorder or for additional signers whose signatures are not being notarized by the notary public. **(California Government Code section 8205(a)(2).)**

b. Confirm Identity of Signer and Acknowledgment of Signature

A notary public must confirm that the person signing the document and acknowledging the signature is the person described in the document as the signer. A notary public must confirm the identity of the signer by obtaining satisfactory evidence. The signer's identity may be established by the oaths or affirmations of one or two credible witnesses, or the signer may present the required identification document.

With respect to taking an acknowledgment and completing the certificate of acknowledgment, the signer does not need to sign the document in front of the notary public, but the signer must personally appear before the notary public and acknowledge to the notary public that he or she signed the document. **(California Civil Code section 1189.)**

c. Journal Entry

A notary public must record the following details in their sequential journal about every acknowledgment performed (**California Government Code section 8206)**:

- Time and date of the act.
- Indicate that the type of notarial act performed was an acknowledgment.

  Best practice tip: The notary public should write out the word "acknowledgment," rather than use any type of abbreviation.
- Type of document. The type of document usually will be stated in the title of the document. If the document does not have a title, ask the signer to describe the purpose of the document and record the signer's description in the journal.
- Signature of the person signing the document.
- Indicate that satisfactory evidence of the signer's identity was obtained. The notary public's sequential journal must contain a statement that the identity of a person making an acknowledgment was based on satisfactory evidence. **(California Civil Code section 1185.)**
- Details of how the identity of the signer was established.
  - If the identity was established by examination of an identification document described in **California Civil Code sections 1185(b)(3) and (b)(4)**, the notary public must record the type of identification document, the governmental agency that issued the identification document, the serial or identifying number on the identification document, and the date the identification document was issued or expires.
  - If the identity was established by the oath or affirmation of one credible witness, then the notary public must record the name of the credible witness and the credible witness must sign the notary public's journal or, the notary public must record the type of identification document presented by the credible witness, the governmental agency that issued the identification document, the serial or identifying number on the identification document, and the date the identification

document was issued or expires. **(California Government Code section 8206(a)(2)(D).)** As noted previously, best practice would be to obtain the signature of the single credible witness and record the information for the identification document of the single credible witness to ensure complete information is available for a public request, a California Secretary of State inquiry, a civil or criminal subpoena, or a peace officer investigating a crime.

- If the identity was established by the oaths or affirmations of two credible witnesses, then both credible witnesses must sign the notary public's journal. The notary public must record the name of each credible witness, the type of identification document presented by each witness, the governmental agency that issued each identification document, the serial or identifying number on each identification document, and the date each identification document was issued or expires as part of the single line-item entry. **(California Government Code sections 8206(a)(2)(D) and (E).)**

- Fee charged for the notarial act. Include "0", if no fee is charged.
- Right thumbprint of the signer, if the type of document is a deed, quitclaim deed, deed of trust, or other document affecting real property (other than trustee's deeds resulting from a decree of foreclosure or a nonjudicial foreclosure or a deed of reconveyance), or a power of attorney.

i. Sample Journal Entries

The California Secretary of State does not endorse or recommend any particular commercially printed notarial journal. Any journal that includes space for recording all the required details is acceptable. Many commercially printed notarial journals have space for recording other information not required by California law, such as the date of the document, the address of the signer and transaction notes.

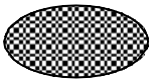
Most notarial journals provide for recording the details of a transaction across two pages; the record begins on the left and is completed on the facing page. Each page has corresponding numbered lines and the transaction details to be recorded on line 1 of the left page for instance, correspond with transaction details to be recorded on line 1 of the facing page. The following example demonstrates recording the details of a transaction across two pages.

Page 1

	Date & Time	Type of Notarization	Character or Type of Instrument	Name of Signer	Identity Established by:	Fee
1	10/7/2027 10:00 am	Acknowledgment	Grant Deed	Grant Grantor (It is recommended that the name of the signer be printed in this space because the signature is not always legible.)	Satisfactory Evidence	$20.00
2						

Note: Effective January 1, 2027, fees which may be charged for certain notarial acts have increased. **(California Code section 8211.)**

Page 2

Additional Information	Identification Details	Signature	Thumbprint	
Doc dated 10/6 but acknowledged signing on 10/7	California Dept of Motor Vehicles California Driver's License N######, exp. 1-12-2028	X *Grant Grantor*		**1**
				2

d. Certificate of Acknowledgment

A certificate of acknowledgment must be completed at the time the notary public's signature and seal are affixed to the document. The certificate of acknowledgment cannot be added to or altered after the notary public's seal and signature are affixed to the document. **(California Civil Code sections 1188 and 1193.)** Under no circumstances can the signature and seal be affixed in advance of the notarization of a signature. **(California Government Code section 8214.1(j).)** Since January 1, 2006, the California certificate of acknowledgment has been required to be exactly in the form in California Civil Code section 1189, rather than "substantially" in the form in the statute. **(California Civil Code section 1189.)** Also, the certificate of acknowledgment must be executed under penalty of perjury. **(California Civil Code section 1189.)**

The following specific disclaimer must appear at the top of the certificate of acknowledgment: "A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document." It must be in an enclosed box, appear at the top of the

certificate and be legible, i.e. in a font or typeface that is readable and does not impair its readability. **(California Civil Code section 1189.)**

Since variations in the California form are not permitted, a notary public must ensure that if a document contains a suggested "certificate of acknowledgment," the certificate must have the exact statutory wording required by **California Civil Code section 1189**. If not, then a separate certificate of acknowledgment with the correct exact statutory wording must be used and attached to the document. **(California Civil Code sections 1188 and 1189.)**

A notary public may complete an out-of-state acknowledgment form that will be used in another state or territory of the United States as long as the notary public does not determine or certify that the signer holds a particular representative capacity or make other determinations and certifications not allowed by California law. **(California Civil Code section 1189(c).)** For example, a notary public could not complete an out-of-state acknowledgment form on a document to be recorded out-of-state if it requires the California notary public to certify the signer is president of a particular corporation. In such a case, the California all-purpose acknowledgment form must be used instead of the out-of-state acknowledgment form. In addition, the California all-purpose acknowledgment form must be used for any document that will be used in another country.

Any certificate of acknowledgment taken within California must be in the following form **(California Civil Code section 1189.)**:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of _____ }

On _____, before me, _____(here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public Signature Notary Public Seal

A notary public seal and signature cannot be affixed to a certificate of acknowledgment without the correct notarial wording. The wording of the certificate of acknowledgment must be exactly as in California statute.

The first part of the certificate of acknowledgment indicating in what county the notary public and person making the acknowledgment are located is the "venue" statement. The venue statement establishes where the notary public performed the acknowledgment and where the signer personally appeared before the notary public. The "State" is always California, since the notary public has jurisdiction only within California. The "County" should be completed with the name of the county where the signer personally appeared before the notary public and acknowledged the signing of the document. Since a notary public can provide services anywhere within California, the "County" in the venue statement may not necessarily be the county where the notary public maintains his or her principal place of business, or the county where his or her oath and bond are filed but must be completed with the name of the county where the notarial act took place.

The day, month and year must be completed with the date the signer personally appeared before the notary public and acknowledged signing the document. The notary public must insert his or her name and title "notary public" where indicated, and the name of the person who acknowledges their signature on the document after "personally appeared." Then the notary

public must sign and stamp the certificate with the notarial seal. **(California Civil Code section 1193.)**

e. Penalties

A notary public who completes a certificate of acknowledgment that contains statements the notary public knows to be false may be liable for civil penalties and administrative action. **(California Government Code section 8214.15.)** Additionally, the notary public will be guilty of forgery if he or she issues an acknowledgment knowing it to be false. **(California Penal Code section 470(d).)** A person who falsifies the acknowledgment of a notary public may also be guilty of forgery. **(California Penal Code section 470(d).)** Forgery is punishable by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year. **(California Penal Code section 473.)** False certification by a notary public also may be a misdemeanor. **(California Government Code section 6203.)**

Additional penalties for failing to enter required information in the journal or falsely modifying journal entries are discussed later in this course.

Example

On January 5, 2027, Abe Signer signs a document for his corporation at Abe's corporate office in San Joaquin County. On that same day, Abe then takes the document to Nancy Notary to have Abe's signature notarized. Nancy first must establish Abe's identity. Nancy establishes Abe's identity by checking Abe's driver's license issued by the California Department of Motor Vehicles. Nancy confirms the document is complete. In front of Nancy, Abe acknowledges that it is Abe's signature on the document. Nancy then needs to fill out the journal. Nancy's journal must include the date, time, type of notarial act, and type of document. Nancy needs to have Abe sign the journal. Nancy also needs to make an affirmative statement in the journal that Abe's identity was based on satisfactory evidence. Nancy must include in the journal entry that the evidence Abe presented Nancy with was Abe's driver's license, issued by the California Department of Motor Vehicles, Abe's driver's license number and the date of issue or expiration of the driver's license. Nancy enters the fee charged for the notarial act. Last, Nancy fills out the certificate of acknowledgment (as shown below). Nancy enters the name of the county where Nancy and Abe are physically located, the date of the notarial act (January 5, 2027), Nancy's name and title (Notary Public), and Abe's name as it appears on Abe's identification. Nancy then signs the certificate, stamps it with Nancy's seal and attaches the certificate of acknowledgment to the document.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of San Joaquin }

On 1-5-2027, before me, Nancy Notary, notary public, personally appeared Abe Signer, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Section 3. Jurats

The second most frequently performed notarial act is administering an oath or affirmation and completing a jurat. A jurat is the notarial certificate attached to a document when a person signs a document and swears under oath or affirms that the contents of the document are true and correct. The notarial certificate for a jurat is identified by the wording "Subscribed and sworn to (or affirmed)." The jurat also typically will be found at the end of the document.

A document containing statements sworn or affirmed by the signer to be true and correct typically is referred to as an "affidavit" or a "declaration," and the signer will be said to be "subscribing and swearing (or affirming) to" the contents of the affidavit. A jurat must be attached to, or located at the end of, all affidavits subscribed and sworn (or affirmed) before the notary public. **(California Government Code section 8202.)** A notary public cannot attach or complete a jurat if the signer of a document does not swear or affirm to the truth of the contents of the document.

By completing a jurat, the notary public certifies:

- That the signer personally appeared before the notary public on the date indicated and in the county indicated;
- To the identity of the signer by satisfactory evidence;
- That the notary public administered the oath or affirmation; and
- That the signer signed the document in the presence of the notary public. **(California Government Code section 8202.)**

To perform an oath or affirmation and jurat, a notary public must:

- Confirm the identity (by satisfactory evidence) of the person signing and swearing (or affirming) to the affidavit;
- Administer an oath or affirmation;
- Watch the signer sign the affidavit;
- Complete a journal entry for the transaction; and
- Complete and attach a jurat to the affidavit or complete the jurat at the end of the affidavit. **(California Government Code sections 8202 and 8206(a).)**

a. Examine for Completeness

A document executed with a jurat should not be signed before the document is presented to the notary public because the signer must sign the document in the presence of the notary public. **(California Government Code section 8202(a).)** Also, the date of signature for the signer of the document should not conflict with the actual date the signer appears before the notary public to obtain the jurat.

Best practice tip: Visually scan the document for completeness. Make sure there are no blank lines or spaces for data to be entered at some later time.

b. Confirm Identity

A notary public must confirm that the person signing and swearing to an affidavit is the person described as the signer in the document. A notary public must confirm the identity of the signer of the affidavit by obtaining satisfactory evidence. In fact, a notary public must confirm the identity of the signer of the affidavit in the same way they confirm the identity of a person obtaining an acknowledgment. The signer's identity may be established by the oaths or affirmations of one or two credible witnesses, or the signer may present one of the identification documents as stated in **California Civil Code sections 1185(b)(3) and (b)(4)**.

c. Administer Oath or Affirmation and Witness Signature

A notary public must always administer an oath or affirmation before completing a jurat. **(California Government Code section 8202(a).)** Generally, the notary public obtains the oath or an affirmation under penalty of perjury from the witness that the matters stated in the document are true. **(California Code of Civil Procedure sections 2093 and 2094; California Evidence Code section 165.)**

Although there is no prescribed wording for the oath or affirmation to be administered by a notary public outside of a civil or criminal proceeding, an acceptable oath or affirmation would be:

> "Do you solemnly swear or affirm that the contents of this document are the truth, the whole truth, and nothing but the truth, so help you God;" or
>
> "Do you solemnly swear or affirm, under penalty of perjury, that the contents of this document are the truth, the whole truth, and nothing but the truth?" **(California Code of Civil Procedure section 2094(a); California Evidence Code section 165.)**

After the signer swears or affirms to the truth of the contents of the document, the notary public must watch the signer sign the document. **(California Government Code section 8202(a).)** A notary public cannot complete or affix a jurat to a document mailed or otherwise delivered to a notary public for which the signer did not personally appear, take the oath or affirmation, and sign in the presence of the notary public in any circumstances, even if the notary public knows the signer.

d. Journal Entry

A notary public must record the following details in their sequential journal about every oath or affirmation administered and jurat given **(California Government Code section 8206(a).)**:

- Time and date of the act.
- An indication that the type of notarial act performed was a jurat. The notary public simply can write the word "jurat."
- Type of document subscribed and sworn or affirmed. The type of document usually will be stated in the title of the document. If the document does not have a title, the notary public may indicate the type of document is a "declaration" or "affidavit."
- Signature of the signer.
- An indication the notary public obtained satisfactory evidence of the signer's identity. The notary public's sequential journal must contain a statement that the identity of a person taking an oath or affirmation for a jurat was based on satisfactory evidence. **(California Government Code sections 8202(a) and 8206(a); California Civil Code section 1185.)**
- Details of how the identity of the signer was established.
    - If the identity was established by examination of an identification document described in **California Civil Code sections 1185(b)(3) and (b)(4)**, the notary public must record the type of identification document, the governmental agency that issued the identification document, the serial or identifying number on the identification document, and the date the identification document was issued or expires.
    - If the identity was established by the oath or affirmation of one credible witness, then the notary public must record the name of the credible witness and the credible witness must sign the notary public's journal, or the notary public must record the type of identification document presented by the credible witness, the governmental agency that issued the identification document, the serial or identifying number on the identification document, and the date the identification document was issued or expires.

      Best practice tip: The notary public should obtain the signature of the single credible witness and record the information for the identification document of the single credible witness to ensure complete information is available for a public request, a California Secretary of State inquiry, a civil or criminal subpoena, or a peace officer investigating a crime.

- If the identity of the signer was established by the oaths of two credible witnesses, then both credible witnesses must sign the notary public's journal. The notary public must record the name of each credible witness, the type of identification document presented by each witness, the governmental agency that issued each identification document, the serial or identifying number on each identification document, and the date each identification document was issued or expires.

- Fee charged for the notarial act. Include "0", if no fee is charged.
- Right thumbprint of the signer, if the type of document is a deed, quitclaim deed, deed of trust, or other document affecting real property (other than trustee's deeds resulting from a decree of foreclosure or a nonjudicial foreclosure or a deed of reconveyance), or a power of attorney.

The following is an example of a completed journal entry for a jurat.

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	Date & Time	Type of Notarization	Character or Type of Instrument	Name of Signer	Identity Established by:	Fee
1	2/12/2027 10:30 am	Jurat	Permission to Travel	Jerry Swear (It is recommended that the name of the signer be printed in this space because the signature is not always legible.)	Satisfactory Evidence	$20.00
2						

Note: Effective January 1, 2027, fees which may be charged for certain notarial acts have increased. **(California Code section 8211.)**

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Additional Information	Identification Details	Signature	Thumbprint	
	California Dept of Motor Vehicles California Driver's License C######, exp. 7-2-2027	X *Jerry Swear*		**1**
				2

e. Notarial Certificate for a Jurat

A completed jurat must be attached to the affidavit or the notary public must complete the jurat included with the affidavit. The jurat must be filled out completely at the time the notary public

signs the jurat and affixes the seal. **(California Government Code section 8202(b).)** Jurats must be in the following statutory form. If the language differs on a document with a preprinted notarial certificate for a jurat, it cannot be used and a separate jurat complying with the statutory language must be attached to the document. **(California Government Code section 8202(b).)** A notary public seal and signature cannot be affixed to a jurat without the correct notarial wording.

The following specific disclaimer must appear at the top of the jurat: "A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document." It must be in an enclosed box, appear at the top of the certificate and be legible, i.e. in a font or typeface that is readable and does not impair its readability. **(California Government Code section 8202.)**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20__, by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Notary Public Signature Notary Public Seal

The first part of the jurat certificate indicating in what county the notary public and person taking the oath (or affirming) are located is the “venue” statement. The venue statement establishes where the notary public administered the oath or affirmation and where the signer personally appeared before the notary public. The “State” is always California, since the notary public has jurisdiction only within California. The “County” should be completed with the county where the oath or affirmation was administered and jurat completed, that is, where the signer personally appeared before the notary public, took an oath or affirmation, and signed the document. Since a notary public can provide services anywhere within California, the “County” in the venue statement may not necessarily be the county where the notary public maintains his or her principal place of business, or the county where his or her oath and bond are filed, but must be completed with the name of the county in which the notarial act took place.

The notary public must complete the jurat with the day, month and year that the signer personally appeared before the notary public, took the oath or affirmation and signed the document, and the notary public must enter the name of the person signing and swearing to the truth of the document where indicated after the word “by,” then the notary public must sign and stamp the jurat with their notarial seal.

f. Jurats for Documents with Birthdates and Age

A notary public cannot certify copies of vital records, such as birth, marriage or death certificates. However, a notary public can administer an oath or affirmation and give a jurat for an affidavit that states the birthdate or age of the affiant, and/or includes a photograph of the affiant and/or fingerprints or thumbprints of the affiant. In effect, a signer can certify their own vital information by swearing to the contents of a document containing that information.

If the notary public gives a jurat for a document that includes the signer's birthdate or age and a photograph or their finger or thumb print, the notary public must require the signer to verify their birthdate or age by showing a certified copy of the signer's birth certificate or an identification card or driver's license issued by the California Department of Motor Vehicles. **(California Government Code section 8230.)**

Example

Paul Jones and his children formed a small family company to distribute the products they made at home. On July 1, 2027, Paul wanted to get a bank loan, so he went to Nancy Notary who was located in Monterey County. Paul brought a copy of a family document that showed Paul's age and a thumbprint. This document would be part of Paul's loan application. Nancy administered the oath or affirmation to Paul and examined a photocopy of Paul's birth certificate. Nancy could not complete the jurat, though, until Paul returned on August 3, 2027 with a certified copy of the birth certificate. Nancy re-administered the oath or affirmation and completed the jurat. Nancy also entered Paul's information in her sequential journal, including the fact that Paul presented Nancy with a certified copy of Paul's birth certificate for review.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Monterey

Subscribed and sworn to (or affirmed) before me on this 3rd day of August, 2027 by Paul Jones, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Notary Public Signature Notary Public Seal

Section 4. Proof of Execution by a Subscribing Witness

If a person, (the "principal"), has signed a document but cannot personally appear before a notary public, another person, (the "subscribing witness"), can appear on the principal's behalf to prove the principal signed (or "executed") the document. **(California Code of Civil Procedure**

section 1935.) This method of proving the person who signed a document is the person described as the signer in the document is called a "proof of execution by a subscribing witness," or simply "proof of execution." A proof of execution proves the identity of the principal, i.e., the person who has signed the document. A principal cannot swear to the truth of the contents of a document by means of a proof of execution. A proof of execution by a subscribing witness cannot be used in conjunction with any power of attorney, quitclaim deed, grant deed (other than a trustee's deed or deed of reconveyance), mortgage, deed of trust, security agreement, or any instrument affecting real property. Also, a proof of execution by a subscribing witness cannot be used on any document requiring a notary public to obtain a thumbprint from the party signing the document in the notary public's journal. **(California Government Code section 27287; California Civil Code section 1195(b)(1) and (2).)**

By completing a proof of execution, the notary public certifies:

- The subscribing witness personally appeared before the notary public on the date indicated and in the county indicated;
- The identity of the subscribing witness was established by the oath or affirmation of a credible witness whom the notary public personally knows and who personally knows the subscribing witness;
- The credible witness presented an identification document satisfying the requirements described in **California Civil Code sections 1185(b)(3) and (b)(4)**; and
- The subscribing witness proved the identity of the principal by stating, under oath or affirmation, (1) the person who signed the document as a party, the principal, is the person described in the document, (2) the subscribing witness personally knows the principal, (3) the subscribing witness saw the principal sign the document or in the presence of the principal heard the principal acknowledge that the principal signed the document and, (4) the subscribing witness was requested by the principal to sign the document as a witness and that the subscribing witness did so. **(California Civil Code section 1195(c).)**

To perform a proof of execution, a notary public must:

- Examine the document for completeness;
- Confirm the identity of the credible witness, who the notary public personally knows, by examining an identification document described in **California Civil Code sections 1185(b)(3) and (b)(4)**;
- Administer an oath or affirmation to the credible witness swearing to the identity of the subscribing witness;
- Administer an oath or affirmation to the subscribing witness swearing to the identity of the principal;
- Complete a journal entry for the transaction; and
- Attach a completed proof of execution certificate to the document. **(California Civil Code section 1195; California Government Code section 8206(a).)**

a. Examine for Completeness

A notary public cannot take a proof of execution of a document that is incomplete. **(California Government Code section 8205(a)(2).)** The notary public should visually scan the document and if it appears to be incomplete, the notary public must refuse to perform the notarial service until the document is completed. However, in determining whether the document is complete, the notary public should ignore information that is intended to be added later such as information to be placed on the document by a county clerk or recorder or for additional signers whose signatures are not being notarized by the notary public.

b. Confirm the Identity of the Credible Witness

A notary public must personally know the credible witness who is proving the identity of a subscribing witness. Also, the credible witness must personally know the subscribing witness who is proving the identity of a principal signer to a document. **(California Civil Code section 1185.)**

Even though the notary public will personally know the credible witness, the notary public must still confirm the identity of the credible witness by examining an identification document described in **California Civil Code sections 1185(b)(3) and (b)(4)**.

c. Administer the Oaths or Affirmations

After the notary public has established the identity of the credible witness, the notary public must administer an oath or affirmation to the credible witness for the credible witness to establish the identity of the subscribing witness. Under oath or affirmation the credible witness must swear or affirm that each of the following statements is true **(California Civil Code section 1185(b)(1)(A)(i)-(v).)**:

- The individual appearing before the notary public claiming to have subscribed their name to a document as a subscribing witness is the person named as subscribing witness in the document;
- The credible witness personally knows the subscribing witness; and
- The credible witness does not have a financial interest in the document and is not named in the document.

After the credible witness has sworn or affirmed to the identity of the subscribing witness, the subscribing witness must prove the identity of the document signer. To prove the identity of the document signer or principal, the notary public must administer an oath or affirmation to the subscribing witness. The subscribing witness must swear or affirm that each of the following statements is true:

- The person who signed the document as a party, the principal, is the person described in the document;
- The subscribing witness personally knows the principal **(California Civil Code section 1197.)**;
- The subscribing witness saw the principal sign the document or in the presence of the principal heard the principal acknowledge that the principal signed the document **(California Code of Civil Procedure 1935; California Civil Code section 1197.)**; and

- The subscribing witness was requested by the principal to sign the document as a witness and that the subscribing witness did so. **(California Code of Civil Procedure 1935; California Civil Code section 1197.)**

d. Journal Entry

A notary public must record in their sequential journal the following details about every proof of execution by subscribing witness **(California Government Code section 8206(a).)**:

- Time and date of the act.
- Type of notarial act performed. The type of act would be a "proof of execution by a subscribing witness." Do not abbreviate.
- Type of document. The type of document usually will be stated in the title of the document. If the document does not have a title, ask the subscribing witness to describe the purpose of the document and record the subscribing witness' description in the journal.

  Best practice tip: The name of the principal should be included.
- Signature of the subscribing witness.

  Best practice tip: The name of the subscribing witness should be included, but only the signature is required.
- Name, signature and identification of credible witness. The notary public must obtain the signature of the credible witness or must record the type of identification document presented by the credible witness, the governmental agency that issued the identification document, the serial or identifying number on the identification document, and the date the identification document was issued or expires.

  Best practice tip: The name, signature and identification of the credible witness should be included.
- Fee charged for the notarial act. Include "0", if no fee is charged.

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	Date & Time	Type of Notarization	Character or Type of Instrument	Name of Signer	Identity Established by:	Fee
1	1/11/2027 11:00 am	Proof of Execution by Subscribing Witness	Articles of Incorporation	Sam Sub (Subscribing Witness) (It is recommended that the name of the signer be printed in this space because the signature is not always legible.)	Chris Credo (Credible witness)	$20.00

Note: Effective January 1, 2027, fees which may be charged for certain notarial acts have increased. **(California Code section 8211.)**

Additional Information	Identification Details	Signature	Thumbprint	
Belinda Busy (Principal) (It is recommended that the name of the principal be included) X *Chris Credo* (Credible Witness signature)	California Dept of Motor Vehicles Driver's License for Chris Credo C######, Expires 8/8/2029	X *Sam Sub* Sam Sub (Subscribing Witness)		**1**

e. Proof of Execution Certificate

Any certificate for a proof of execution by a subscribing witness taken in California must be in the following form. Other formats with similar wording no longer are acceptable. **(California Civil Code section 1195.)**

The following specific disclaimer must appear at the top of the proof of execution: "A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document." It must be in an enclosed box, appear at the top of the certificate and be legible, i.e. in a font or typeface that is readable and does not impair its readability. **(California Civil Code section 1195.)**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California } ss.
County of _____ }

On _____ (date), before me, _____ (name and title of officer), personally appeared _____ (name of subscribing witness), proved to me to be the person whose name is subscribed to the within instrument, as a witness thereto, on the oath of _____ (name of credible witness), a credible witness who is known to me and provided a satisfactory identifying document. _____ (name of subscribing witness), being by me duly sworn, said that he/she was present and saw/heard _____ (name[s] of principal[s]), the same person(s) described in and whose name(s) is/are subscribed to the within or attached instrument in his/her/their authorized capacity(ies) as (a) party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed his/her name to the within or attached instrument as a witness at the request of _____ (name[s] of principal[s]).

WITNESS my hand and official seal.

Signature _____ (Seal)

The first part of the certificate, indicating in what county the notary public, subscribing witness and the credible witness appeared before the notary public is the "venue" statement. The venue statement establishes where the notary public performed the proof of execution, which is where the subscribing and credible witnesses appeared before the notary public. The "State" is always California for notaries, since California notaries have jurisdiction only within California. The "County" is the county where the proof of execution was performed, that is where the subscribing and credible witnesses personally appeared before the notary public, swore an oath or affirmed, and provided proof of execution. Since a notary public may provide services anywhere within California, the "County" in the venue statement may not necessarily be the county where the notary public maintains his or her principal place of business, or the county where his or her oath and bond are filed, but must be completed with the name of the county in which the notarial act took place.

The day, month and year must be completed with the date the subscribing and credible witnesses personally appeared before the notary public. Next to or in place of "name and title of officer" write the name of the notary public and "Notary Public." The name of the subscribing witness must be completed where indicated after the words "personally appeared" and also where indicated in the first blank line of the second paragraph. The name of the credible witness must be inserted where indicated after the words "on the oath of." The name of the principal, the person signing the document who has not appeared before the notary public but told the

subscribing witness that he or she signed the document, must be inserted where indicated after the words "saw/heard" and also where indicated after the words "at the request of." Then the notary public must sign and stamp the certificate with their notarial seal.

Example

The principal, Paula, wants to have her signature on a document notarized. Paula is in the hospital and cannot appear before a notary public. So Paula asks a longtime friend, Sue, to visit the hospital and act as a subscribing witness. When Sue comes to the hospital, Sue must watch Paula sign the document. If Paula has signed the document prior to Sue's arrival, Paula must say (acknowledge) to Sue that Paula signed the document. Then Paula should ask Sue to sign the document as a subscribing witness, and Sue must do so.

Next, Sue must take the document to a notary public. Sue chooses Nancy Notary as the notary public. Sue must bring a credible witness with her to see Nancy Notary, the notary public. Sue chooses Carl, a long time friend, as a credible witness because Carl has worked with Nancy Notary for several years. Therefore, Carl can act as Sue's credible witness.

Sue and Carl appear together before Nancy. Nancy determines Nancy personally knows Carl and also examines Carl's California Driver's License to establish Carl's identity. Then Nancy puts Carl under oath. Under oath or affirmation, Carl swears or affirms that Carl personally knows Sue, that Sue is the person who signed the document as a subscribing witness, and Carl does not have a financial interest in the document signed by Paula and subscribed by Sue, and is not named in the document signed by Paula and subscribed by Sue. Then Nancy puts Sue under oath. Under oath, Sue swears or affirms Sue personally knows Paula, that Paula is the person described as a party in the document, that Sue watched Paula sign the document or heard Paula acknowledge that Paula signed the document, that Paula requested Sue sign the document as subscribing witness and that Sue did so.

Sue signs Nancy's notary public journal as a subscribing witness. Carl must sign Nancy's notary public journal as a credible witness, or Nancy must record in the journal that Carl presented a California Department of Motor Vehicles driver's license, the license number, and the date the license expires.

Nancy completes Nancy's notary public journal entry. Nancy then completes a proof of execution certificate and attaches the proof of execution certificate to the document. Sue takes the notarized document back to Paula.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California } ss.
County of Sacramento }

On 4/9/2027 (date), before me, Nancy Notary, notary public (name and title of officer), personally appeared Sue Smith (name of subscribing witness), proved to me to be the person whose name is subscribed to the within instrument, as a witness thereto, on the oath of Carl Creed (name of credible witness), a credible witness who is known to me and provided a satisfactory identifying document. Sue Smith (name of subscribing witness), being by me duly sworn, said that he/she was present and saw/heard Paula Prince (name[s] of principal[s]), the same person(s) described in and whose name(s) is/are subscribed to the within or attached instrument in his/her/their authorized capacity(ies) as (a) party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed his/her name to the within or attached instrument as a witness at the request of Paula Prince (name[s] of principal[s]).

WITNESS my hand and official seal.

Signature *Nancy Notary* (Notary public seal)

Page 1

	Date & Time	Type of Notarization	Character or Type of Instrument	Name of Signer	Identity Established by:	Fee
1	4/9/2027 11:00 am	Proof of Execution by Subscribing Witness	Interspousal Agreement	Sue Smith (Subscribing Witness) (It is recommended that the name of the signer be printed in this space because the signature is not always legible.)	Carl Creed (Credible witness)	$20.00

Note: Effective January 1, 2027, fees which may be charged for certain notarial acts have increased. **(California Code section 8211.)**

Additional Information	Identification Details	Signature	Thumbprint	
Paula Prince (Principal) (It is recommended that the name of the principal be included) X *Carl Creed* (Credible Witness Signature)	California Department of Motor Vehicles Drivers License for Carl Creed C######; Expires 3/8/2028	X *Sue Smith* (Subscribing Witness)		**1**

Section 5. Signature by Mark

A person who cannot write his or her name still can acknowledge his or her signature on a document, or subscribe and swear to an affidavit, by making a mark. **(California Civil Code section 14.)** To perform a notarization with a signature by mark, the notary public still performs the steps required for the appropriate notarial act, such as an acknowledgment or jurat. The notary public must use the appropriate form as well. The notary public must confirm the identity of the person making the mark, by satisfactory evidence. **(California Civil Code section 1185.)** The notary public also must perform the following additional steps:

- If the signer must acknowledge his or her signature on a document, the signer can make a mark where his or her signature should be in the presence of the notary public or can acknowledge that the mark in the place for a signature is his or her mark. Note that the "mark" does not need to be an "X."
- If the signer is subscribing and swearing to an affidavit, the signer must make a mark where his or her signature should be in the presence of the notary public. Note that the "mark" does not need to be an "X."
- Two witnesses must observe the signer making their mark and must sign their names next to the signer's mark on the document. One of the witnesses must write the name of the signer making the mark next to the signer's mark.
- The signer also must make his or her mark as the required signature in the notary public's journal. The making of the mark in the notary public's journal must be witnessed by a person. The witness must sign his or her name next to the mark and write the name of the signer next to the mark. The notary public can serve as the witness for the signer's journal signature.

The witnesses only are verifying that they witnessed the individual make his or her mark. A notary public is not required to identify the two persons who witnessed the signing by mark or to have the two witnesses sign the notary public's journal.

Exception: If the witnesses were acting in the capacity of credible witnesses in establishing the identity of the person signing by mark, then the witnesses' signatures must be entered in the notary public public's journal.

Following are examples of a jurat and journal entry for a signature by mark:

I, Bob Smith, have been a resident of California since November 14, 1977.

Date: November 11, 2027 Name: *X Bob Smith*

By: *Mary Jones*
Witness
Wendy DeWit
Witness #2

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this 11th day of November, 2027, by Bob Smith, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Notary Public Signature Notary Public Seal

Page 1

	Date & Time	Type of Notarization	Character or Type of Instrument	Name of Signer	Identity Established by:	Fee
1	11/11/2027 11:30 am	Jurat	Affidavit	Bob Smith (It is recommended that the name of the signer be printed in this space.)	Satisfactory Evidence	$20.00
2						
3						

Note: Effective January 1, 2027, fees which may be charged for certain notarial acts have increased. **(California Government Code section 8211.)**

Additional Information	Identification Details	Signature	Thumbprint	
Signature by mark	California Dept. of Motor Vehicles Drivers License C######; Expires 10/31/2028	X *X Bob Smith* *Wendy DeWit*, Witness		**1**
				2
				3

Section 6. Certifying Copies

A notary public can certify the copies of only a few types of documents. The notary public only can certify copies of:

- Powers of attorney **(California Probate Code section 4307; California Government Code section 8205(a)(4).)**; and
- Copies of his or her sequential journal, or portions of the journal, in response to a written request of the California Secretary of State or a subpoena or court order. **(California Government Code sections 8205(b)(1) and 8206(e).)**

Certified copies of birth, fetal, death, and marriage records can be made only by the State Registrar, by a duly appointed and acting local registrar during their term of office, and a county recorder.

To certify a copy of a power of attorney, a notary public must:

- Compare the original power of attorney document and the copy to make sure the copy is exactly true and correct, or make a copy of the original of the original power of attorney document;
- Attach a notarial certificate to the copy, stating that the copy is a true and correct copy; and
- Complete a journal entry.

a. Certificate

A suggested form of notarial certificate for certifying a copy of a power of attorney is shown below.

State of California }
County of _____ }

I (name of notary public) , Notary Public, certify that on (date), I examined the original power of attorney and the copy of the power of attorney. I further certify that the copy is a true and correct copy of the original power of attorney.

Notary Public Signature Notary Public Seal

The first part of the certificate indicating in what county the notary public and person requesting the certified copy are located is the "venue" statement. The venue statement establishes where the notary public performed the certification and where the person requesting the copy appeared before the notary public. The "State" is always California, since the notary public has jurisdiction only within California. The "County" is the county where the certification was performed, that is where the person requesting the certified copy personally appeared before the notary public and presented the original power of attorney for a certified copy. Since a notary public may provide services anywhere within California, the "County" in the venue statement may not necessarily be the county where the notary public maintains his or her principal place of business, or the county where his or her oath and bond are filed, but must be completed with the actual county in which the notarial act took place.

The notary public must insert his or her name and the day, month and year the person requesting the certified copy personally appeared before the notary public and the notary public compared and certified the copy of the power of attorney. Then the notary public must sign and stamp the certificate with their notarial seal.

b. Journal Entry

A notary public must record the following details in their sequential journal each time the notary public certifies a copy of a power of attorney. **(California Government Code section 8206(a).)**

Best practice tip: To ensure completeness for a later request for information related to this type of transaction, the notary public should also record the name of the person who is requesting the certified copy, the name of the agent appointed by the power of attorney and the person who signed the power of attorney (the principal).

- Time and date of the act;
- The type of notarial act performed was certifying a copy of a power of attorney; and
- The fee charged for the notarial act. Include "0", if no fee is charged.

Page 1

	Date & Time	Type of Notarization	Character or Type of Instrument	Name of Signer	Identity Established by:	Fee
1	5/29/2027 12:00 pm	Certify Copy of Power of Attorney	Power of Attorney	Peter Price, Principal; Andrew Assister, Agent (It is recommended that this information be captured.)		$20.00

Note: Effective January 1, 2027, fees which may be charged for certain notarial acts have increased. **(California Code section 8211.)**

Page 2

Additional Information	Identification Details	Signature	Thumbprint	
Copy requested by Bob Loaner, Bank Manager, First City Bank (It is recommended that this information be captured.)				**1**

Section 7. Immigration Documents

A notary public can notarize the signature on a document affecting the immigration or citizenship status of any person. **(California Government Code sections 8205 and 8223.)** The notary public cannot assist a person in completing any immigration document, except for the signature and date. Only an attorney, a representative accredited by the U.S. Department of Justice, or a person who is registered by the California Secretary of State and bonded as an immigration consultant under the California Business and Professions Code may assist a client in completing immigration forms. **(California Business and Professions Code section 22440.)** Only an attorney can advise a person regarding which immigration document or form the person should complete, or advise how the person should answer questions posed by an immigration document or form.

If a notary public is also a California registered immigration consultant, that notary public may assist a client by inserting the answers given to the immigration consultant by a client. **(California Business and Professions Code section 22441(a)(1); California Government Code section 8223.)** A notary public who is also a registered and bonded immigration consultant

may charge $15 per person for completing a set of immigration forms. A notary public also can charge an additional fee for each notarial act performed in relation to a set of immigration forms. **(California Government Code section 8223.)**

Note that special rules apply to notaries who are also immigration consultants, or advertise their services in a language other than English. A notary public is barred from advertising in any manner whatsoever that he or she is a notary public if the notary public also promotes himself or herself as an immigration specialist or consultant. **(California Government Code section 8223.)**

A notary public who is not a licensed California attorney and advertises notarial services in a language other than English must post with the advertisement both in English and the other language, that the notary public is not an attorney and cannot give legal advice about immigration or any other legal matters. The notary public also must list the statutory fees that a notary public may charge for notarial services. **(California Government Code section 8219.5.)** In many countries outside the United States, an individual must be a duly licensed attorney before he or she may obtain a notary public commission. In Latin American countries, the phrase "*notario publico*" implies that the person is a practicing attorney in that country, which is not the law in the State of California. Under California law, a person may be appointed and commissioned as a notary public without being a licensed attorney. Therefore, a notary public cannot translate the term "notary public," as "notario publico" or "notario," into Spanish, even if the prescribed notice is posted. **(California Government Code section 8219.5.)** A first offense for a violation of this law is grounds for the suspension of the notary public's commission for not less than one year, or revocation of a notary public's commission. A second offense is grounds for the permanent revocation of a notary public's commission. **(California Government Code section 8219.5.)**

Example

Catherine Consultant is a notary public and has been registered and bonded as a California immigration consultant. Mikhail and Irina visit Catherine to obtain assistance in completing citizenship forms. Catherine's business cards say she is a notary public and an immigration specialist. Catherine enters information into the citizenship forms that Mikhail and Irina provide and enters information she knows from her own experience and education as an immigration consultant. For these combined services Catherine charges Mikhail and Irina $100.

Catherine has broken a number of laws. She cannot hold herself out as a notary public in her advertising because she is an immigration specialist. Catherine cannot enter information into immigration forms on her own and Catherine cannot charge more than $15 per person for completing the forms on behalf of her clients. Catherine can charge an additional notary fee for any notarial services, if she limits herself to completing the citizenship forms with only information provided by Mikhail and Irina, but can charge no more than the statutory $20 for each signature notarized. The permitted statutory fees are less than the total Catherine charged Mikhail and Irina.

Section 8. Protests

The duty of a notary public on demand to protest the nonacceptance and nonpayment of foreign or inland bills of exchange, or promissory notes is a nearly obsolete mechanism developed

before modern regulation of financial transactions. Only those notaries employed by a financial institution and in the course and scope of that employment are permitted to perform protests with regard to the specific financial documents described by California law. Because only notaries public employed by a financial institution can perform a protest in the course and scope of their employment, no fee is prescribed for the notarial service since it is part of the notary public's service to the financial institution. **(California Government Code sections 8205 and 8208; California Commercial Code section 3505.)**

Section 9. Depositions

When requested, it is a duty of a notary public to take depositions. However, a notary public cannot record and transcribe an oral deposition in shorthand unless the notary public is also a certified shorthand reporter and licensed by the Court Reporters Board of California. A notary public may take an oral deposition by writing it out in longhand or typing it out longhand on an electronic device. This may be awkward and cause confusion or misunderstanding. If a notary public is asked to take a deposition and the notary public is not a certified shorthand reporter, the notary public should inform the person asking the notary public to take the deposition that the notary public can take the deposition by hand in longhand or by typing the deposition in longhand, or the person may wish to contact a certified shorthand reporter to take the deposition.

Generally, a deposition is a method of providing oral or written testimony under oath outside of a court proceeding. **(California Civil Code section 14; California Code of Civil Procedure sections 17, 2025.010 et seq., and 2028.010 et seq.)** During an oral deposition, a witness, who has been put under oath, answers questions from a judge, attorney, or other officer of a court. In a civil proceeding, a deposition officer, who also is a certified shorthand reporter, can put a witness under oath, and record the oral deposition in shorthand for transcribing the shorthand record into a standard English language verbatim written transcript of the questions, answers and other statements made during the deposition. **(California Code of Civil Procedure section 2025.330.)** Consequently, although it is a duty of a notary public to take depositions, a notary public is not necessary when a deposition is conducted.

Section 10. Confidential Marriages

A notary public who is interested in obtaining authorization to issue confidential marriage licenses may apply to the county clerk for approval in the county in which the notary public resides. A notary public must not issue a confidential marriage license unless he or she is approved by the county clerk having jurisdiction. The county clerk offers a course of instruction, which a notary public must complete before authorization will be granted. Additionally, in order for a notary public to perform the marriage, the notary public must be one of the persons authorized under California law, e.g., priest, minister, or rabbi. **(California Family Code sections 400 – 402.)** The county clerk in the county where the notary public resides may or may not approve the authorization to issue confidential marriage licenses. The county clerk should be consulted if the notary public is interested in obtaining approval. **(California Family Code section 530 et seq.)**

Part C. Fees

There are four basic rules about the fees a notary public can charge.

First, there are maximum fees allowed by law that a notary public can charge. A notary public cannot charge more than those maximum fees. **(California Government Code section 8211.)**

Second, except for notaries public employed for and on behalf of a state or county public agency, a notary public is not required to charge a fee at all. A notary public could decide, for example, not to charge a fee for completing a certificate of acknowledgment or providing a photostatic copy of his or her journal pages. Also, a notary public's employer could make it a condition of employment that the notary public charges no fee for notarial services.

Third, whether or not a notary public charges a fee, the notary public must record the actual amount charged in the notary public's sequential journal, including writing 0 to indicate no fee was charged. In other words, a number or 0 must be reflected in the notary public's journal to complete the record for each notarial act. **(California Government Code section 8206(a).)**

Fourth, no fee is prescribed for notaries public employed by a financial institution who can perform a protest in the course and scope of their employment since it is part of the notary public's service to the financial institution. **(California Government Code sections 8205(a)(1), 8208 and 8211; California Commercial Code section 3505.)**

Section 1. Maximum Fees Allowed

The maximum fees a notary public may charge, effective January 1, 2027, are:

- For an acknowledgment or proof of a deed, or other instrument, including the seal and writing the certificate, $20 for each signature acknowledged.
- For administering an oath or affirmation to one person and executing the jurat, including the seal, $20.
- For all services in connection with the taking of any deposition, $35, and an additional $12 for administering the oath to the witness and $12 for the certificate to the deposition.
- For certifying a copy of a power of attorney under **California Probate Code section 4307**, $20.
- $.30 per page copied from the notary public's journal.

Section 2. Required Fees

If a notary public is appointed to act for and on behalf of a state or county public agency as an employee of the agency, fees must be charged for all services and those fees must be remitted or turned over to the employing agency. **(California Government Code sections 6100 and 8202.5.)** The actual fee charged must be entered in the notary public's sequential journal. **(California Government Code section 8206(a).)**

Section 3. When Fees Cannot Be Charged

There are very specific times when a notary public is prohibited from charging a fee:

- Notaries public appointed to military or naval reservations cannot charge a fee for any notarial service or act. **(California Government Code section 8203.6.)**
- A notary public acting in his or her official capacity on behalf of the State, city, or county or any public body cannot charge for notarization of an affidavit, application, or voucher in relation to securing a pension. **(California Government Code section 6106.)**
- A notary public cannot charge for notarization of a signature on an application by a United States military veteran for a claim for a pension, allotment, allowance, compensation, insurance or any other veteran's benefit. **(California Government Code sections 6107 and 8211(i).)**
- A notary public cannot charge to notarize signatures on vote by mail ballot identification envelopes or other voting materials. **(California Government Code section 8211(g).)**
- A notary public cannot charge for notarizing any nomination document or circulator's affidavit. **(California Elections Code section 8080.)**

Chapter III. Misconduct by Notaries Public or Others Relating to Notarial Acts

Misconduct by notaries public or others in connection with notarial acts may be addressed through criminal, civil or administrative laws and proceedings.

Criminal misconduct may be a felony, misdemeanor or infraction. A felony is punishable by a term in state prison or county jail. A fine may also be imposed in addition to any imprisonment. A misdemeanor is punishable by a term in jail, probation, a fine or all three. An infraction is punishable by a fine. Criminal misconduct may result in the revocation, suspension or denial of a notary public's commission or application.

Civil misconduct subjects a notary public to fines and may also lead to suspension or revocation of the notary public's commission or denial of a notary public application by the California Secretary of State. **(California Government Code section 8214.1(e).)** Also, a notary public and the sureties on the notary public's official bond are liable in a civil action for all damages sustained from a notary public's misconduct. **(California Government Code section 8214.)**

Administrative action can be taken against a notary public or notary public applicant to suspend or revoke a notary public commission or deny a notary public application for failing to discharge the duties and responsibilities required of a notary public. **(California Government Code section 8214.1(d).)**

Part A. Conflict of Interest

A notary public who has a direct financial or beneficial interest in a transaction cannot perform any notarial act in connection with that transaction. **(California Government Code section 8224.)**

Best practice tip: Since California is a community property state, it is important for a notary public to exercise great care when performing notarial services for a spouse or domestic partner in order to avoid potential conflicts of interest.

Section 1. Financial Transactions

If a notary public is named individually as a principal in a financial transaction, the notary public has a direct financial or beneficial interest in the transaction and a conflict of interest and cannot perform any notarial acts in connection with that transaction. **(California Government Code section 8224.)** For example, if the notary public is named as a party in a contract or is assigned the proceeds of a sale, the notary public has a direct financial conflict of interest and must not perform any notarial acts in connection with the transaction.

Section 2. Real Property

In the area of real property, a notary public has a conflict of interest if the notary public is a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, or lessee in the transaction. **(California Government Code section 8224.)** For example, if a notary public is a grantee of a deed of sale for a house or is assigned rents or is paying off a home mortgage, the notary public is prohibited from performing any notarial act in connection with that transaction.

Section 3. No Conflict of Interest if Acting for Someone Else

If a notary public acts as an agent, employee, insurer, attorney (assuming the notary public is admitted to practice law in California), escrow or lender for another person who has a direct financial or beneficial interest in a transaction, then the notary public does not have a prohibited direct financial or beneficial interest. **(California Government Code section 8224(b).)** In other words, a notary public acting as an agent for another person can perform notarial services. Or if a notary public works for a company that will receive benefits or money from a transaction, the notary public can perform notarial services in connection with that transaction. The notary public is not benefiting directly, even if the notary public's employer receives a benefit.

Part B. Giving Legal Advice/Practicing Law

A notary public is prohibited from practicing law, unless the notary public is also a licensed California attorney. **(California Government Code section 8214.1(g); California Business and Professions Code section 6215.)** Since a notary public comes into contact with a large number of legal documents, from deeds to wills to contracts, among many others, there may be a temptation to offer advice or comment on legal aspects of the documents instead of carrying out the notarial activities alone. But it is very important to remember that a notary public cannot undertake any acts that constitute the practice of law. Among the acts that constitute the practice of law are the preparation, drafting, or selection of legal documents, or giving advice with relation to any legal document or legal matter. For example, if a customer brings a document to a notary public without a notarial certificate and asks the notary public to "notarize" it, the notary public cannot provide advice or decide for the customer whether a certificate of acknowledgment should be completed or whether a jurat would be in order. The customer must decide.

Best practice tip: If the customer is unsure, the notary public should recommend that the customer confer with the party receiving the document or that the customer consult with an attorney.

Part C. Reasons for Commission Revocation or Suspension, or Application Denial

Notary public applicants must disclose on their application all arrests for which trials are pending and all convictions. **(California Government Code section 8201.1 and 8201.5.)** The California Secretary of State can deny an application for failing to disclose any convictions, either felonies or misdemeanors, including convictions dismissed under **California Penal Code sections 1203.4 or 1203.4a**. **(California Government Code section 8214.1(a).)**

If the California Secretary of State either denies an application or proceeds to revoke or suspend the commission of a notary public, the person affected has a right to a hearing on the matter. **(California Government Code section 8214.3.)** However, there are two exceptions. The first exception occurs when the California Secretary of State already has denied an application or revoked or suspended a commission in a proceeding within the previous year. **(California Government Code section 8214.3(a).)** The second exception is if a notary public's commission has already expired, and after a proceeding in which the person had an opportunity for a hearing, the California Secretary of State makes an order that there were or were not grounds for revoking or suspending the notary public's commission for misconduct. **(California Government Code section 8214.3(b).)**

Even if a notary public's commission has expired or the notary public has resigned, if the notary public has committed acts that could be grounds for suspension or revocation of the commission, the California Secretary of State can still go ahead with an investigation or disciplinary action following the expiration or resignation of a commission. **(California Government Code section 8214.4.)**

The reasons the California Secretary of State may refuse to appoint someone to act as a notary public or revoke or suspend a notary public's commission are found in **California Government Code section 8214.1**. They are:

- Substantial and material misstatement or omission in the application submitted to the California Secretary of State to become a notary public.
- Conviction of a felony, a lesser offense involving moral turpitude, or a lesser offense of a nature incompatible with the duties of a notary public. A conviction after a plea of nolo contendere is deemed to be a conviction.
- Revocation, suspension, restriction, or denial of a professional license, if the revocation, suspension, restriction, or denial was for misconduct based on dishonesty, or for any cause substantially relating to the duties or responsibilities of a notary public.
- Failure to discharge fully and faithfully any of the duties or responsibilities required of a notary public.
- When adjudicated liable for damages in any suit grounded in fraud, misrepresentation or for a violation of the state regulatory laws, or in any suit based upon a failure to discharge fully and faithfully the duties as a notary public.
- The use of false or misleading advertising wherein the notary public has represented that the notary public has duties, rights, or privileges that he or she does not possess by law.

- The practice of law in violation of **California Business and Professions Code section 6125**.
- Charging more than the allowable maximum statutory fees.
- Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the notary public or another, or substantially injure another.
- Failure to complete the acknowledgment at the time the notary public's signature and seal are affixed to the document.
- Failure to administer the oath or affirmation as required by **California Government Code section 8205(a)(3)**.
- Execution of any certificate as a notary public containing a statement known to the notary public to be false.
- Violation of **California Government Code section 8223**. This section of the California Government Code primarily makes it illegal for someone holding himself or herself out as an immigration specialist or immigration consultant to advertise in any way that he or she is a notary public.
- Failure to submit any remittance payable upon demand by the California Secretary of State or failure to satisfy any court-ordered money judgment, including restitution.
- Failure to secure the sequential journal of official acts, pursuant to **California Government Code section 8206**, or the official seal, pursuant to **California Government Code section 8207**, or willful failure to report the theft or loss of the sequential journal, pursuant to **California Government Code section 8206(b)**.
- Translating "notary public" into Spanish or advertising in a language other than English in violation of **California Government Code section 8219.5**.
- Commission of an act in violation of **California Government Code sections 6203** (delivery of a certificate known to be false), **8214.2** (willful fraud in connection with a deed of trust), **8225** (soliciting as notary public to perform a known improper notarial act), or **8227.3** (non-notary placing encumbrance on real property single family residence); or of **California Penal Code sections 115** (knowingly filing false or forged document placing an encumbrance on single family residence), **470** (forgery), **487** (grand theft), **487a(a)** (grand theft of specified animals, or the carcass or portion of a carcass of any such animal), or **530.5** (willfully obtaining personal information of another for criminal purposes).
- Willful failure to provide access to the sequential journal of official notarial acts upon request by a peace officer.

Part D. Civil Penalties

Section 1. $1,500 Penalties Imposed by California Secretary of State on Notaries

In general, the civil penalty typically assessed by the California Secretary of State is up to $1,500 per violation for notarial misconduct. These penalties may be in addition to denial of an application or suspension or revocation of the notary public commission. **(California Government Code section 8214.15(a).)** The penalties of up to $1,500 may apply in the following circumstances:

- The use of false or misleading advertising wherein the notary public has represented that he or she has duties, rights, or privileges that he or she does not possess;
- Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the notary public or another, or substantially injure another;
- Execution of any certificate as a notary public containing a statement known to the notary public to be false;
- Violating the prohibition against a notary public who holds himself or herself out as an immigration specialist or consultant advertising that he or she is a notary public or violating the restrictions on charging to assist in the completion of immigration forms; and
- Violating the restrictions on advertising notarial services in a language other than English or literally translating the words "notary public" into Spanish.
- Willfully failing to discharge fully and faithfully any of the duties or responsibilities required of a notary public.

A separate provision of the law permits local and state prosecutors to recover up to $1,500 in a civil action from violators of the provisions relating to the unauthorized manufacture, duplication, or sale of the notary public seal and related offenses, including a failure to notify the California Secretary of State that a notary public seal is lost, stolen, destroyed or damaged. **(California Government Code sections 8207.4, 8207.1, 8207.2 and 8207.3.)**

Section 2. $750 Penalties Imposed by California Secretary of State on Notaries

The California Secretary of State may levy penalties of up to $750 for other notarial misconduct and these too could also result in either denial of an application or revocation or suspension of a commission **(California Government Code section 8214.15(b).)**:

- Charging more than the maximum fees for notarial services;
- Failing to complete the acknowledgment at the time the notary public's signature and seal are affixed to the document;
- Failing to administer the oath or affirmation; and

- Negligently failing to discharge fully and faithfully any of the duties or responsibilities required of a notary public. Negligent violations would include, but are not limited to, failing to maintain the notary public journal as required by law, taking improper identification, and failing to provide information to the California Secretary of State within 30 days of a written request.

Section 3. Other Substantial Civil Penalties

Several substantial civil penalties are possible if a notary public fails to either provide his or her notary public journal to a peace officer when requested to do so **(California Government Code section 8214.21.)** or obtain the thumbprint in the notary public journal as required by **California Government Code section 8206**. **(California Government Code section 8214.23.)** The failure to provide the journal to a peace officer is also grounds for denial of an application or revocation or suspension of a notary public commission. **(California Government Code 8214.1(r).)** The failure to obtain a required thumbprint is also a violation of a notary public's duties and is grounds for denial of an application or revocation or suspension of the notary public's commission. The civil penalty for either notarial failure is up to $2,500. The failure to provide the journal to a peace officer must be willful. In both cases, either the California Secretary of State or a public prosecutor may seek the civil monetary penalty.

A notary public may be subject to a civil penalty not to exceed $10,000 in two situations. First, if a notary public fails to obtain the satisfactory evidence required to establish the identity of a credible witness, the California Secretary of State or a public prosecutor may seek a penalty of up to $10,000. **(California Civil Code section 1185(b)(1)(B).)** Second, if the notary public willfully states as true a material fact that the notary public knows is false in a certificate of acknowledgment, the California Secretary of State or a public prosecutor may seek a civil penalty of up to $10,000. **(California Civil Code section 1189(a)(2).)**

Part E. Felonies or Possible Felonies

Section 1. Frauds Relating to Deed of Trust; Single-Family Residence

A notary public who knowingly and willfully with intent to defraud performs any notarial act in relation to a deed of trust on real property consisting of a single-family residence containing not more than four dwelling units, with knowledge that the deed of trust contains any false statements or is forged in whole or in part, is guilty of a felony. **(California Government Code section 8214.2.)**

Section 2. Unlawful Acts by One Not a Notary Public; Deeds of Trust on Single-Family Residences

Any person who is not a duly commissioned, qualified, and acting notary public who does any of the acts prohibited by **California Government Code section 8227.1** in relation to any document or instrument affecting title to, placing an encumbrance on, or placing an interest secured by a mortgage or deed of trust on, real property consisting of a single-family residence containing not more than four dwelling units, is guilty of a felony. **(California Government Code section 8227.3.)**

California Government Code section 8227.1 provides that it is a misdemeanor for any person who is not a duly commissioned, qualified, and acting notary public for the State of California to do any of the following:

- Represent or hold himself or herself out to the public or to any person as being entitled to act as a notary public;
- Assume, use or advertise the title of notary public in such a manner as to give the impression that the person is a notary public; or
- Act as a notary public.

Section 3. Filing False or Forged Documents Relating to Single-Family Residences; False Statements to Notary Public

Every person who files any false or forged document or instrument with the county recorder which affects title to, places an encumbrance on, or places an interest secured by a mortgage or deed of trust on, real property consisting of a single-family residence containing not more than four dwelling units, with knowledge that the document is false or forged, is punishable, in addition to any other punishment, by a fine not exceeding $75,000. **(California Penal Code section 115.5(a).)**

Every person who makes a false sworn statement to a notary public, with knowledge that the statement is false, to induce the notary public to perform an improper notarial act on an instrument or document affecting title to, or placing an encumbrance on, real property consisting of a single-family residence containing not more than four dwelling units is guilty of a felony. **(California Penal Code section 115.5(b).)**

Section 4. Forgery; Signatures or Seals; Corruption of Records

Every person who, with the intent to defraud, counterfeits or forges the seal or handwriting of another is guilty of forgery. **(California Penal Code section 470(b).)**

Every person who, with the intent to defraud, falsely makes, alters, forges, or counterfeits, utters, publishes, passes or attempts or offers to pass, as true and genuine, any of the following items, knowing the same to be false, altered, forged, or counterfeited, is guilty of forgery: …or falsifies the acknowledgment of any notary public, or any notary public who issues an acknowledgment knowing it to be false; or any matter described in the above paragraph. **(California Penal Code section 470(d).)**

Forgery is punishable by imprisonment in state prison, or by imprisonment in county jail for not more than one year. **(California Penal Code section 473.)**

Section 5. Perjury

Every person who, having taken an oath that he or she will testify, declare, depose, or certify truly before any competent tribunal, officer, or person, in any of the cases in which the oath may by law of the State of California be administered, willfully and contrary to the oath, states as true any material matter which he or she knows to be false, and every person who testifies, declares, deposes, or certifies under penalty of perjury in any of the cases in which the testimony, declarations, depositions, or certification is permitted by law of the State of California under penalty of perjury and willfully states as true any material matter which he or she knows to be false, is guilty of perjury. **(California Penal Code section 118.)**

Persons who appear before a notary public who do not tell the truth under oath or affirmation may be guilty of perjury.

Applications for appointment as a notary public are executed under penalty of perjury. Misrepresentations or omissions in the application may be perjury.

Perjury is punishable by imprisonment in state prison for two, three or four years. **(California Penal Code section 126.)**

Section 6. Conviction

If a notary public is convicted of a crime related to notarial misconduct (including the false completion of a notarial certificate) or of any felony, the court must revoke the notary public's commission and require the notary public to surrender his or her notary public seal to the court, to be forwarded to the California Secretary of State with a certified copy of the judgment of conviction. **(California Government Code section 8214.8.)**

Part F. Misdemeanors or Possible Misdemeanors

Section 1. Failure to Deliver Records to County Clerk

If the notary public willfully fails or refuses to deliver all notarial records and papers to the county clerk within 30 days of resignation or removal from office, or within 30 days of commission expiration if the notary public fails to be reappointed, the person is guilty of a misdemeanor and shall be personally liable for damages to any person injured by that action or inaction. **(California Government Code section 8209(a).)**

Section 2. Destruction, Defacement or Concealment of Records or Papers

Any person who knowingly destroys, defaces, or conceals any records or papers belonging to a notary public is guilty of a misdemeanor and is liable in a civil action for damages to any person injured as a result of the destruction, defacing, or concealment. **(California Government Code section 8221.)**

Section 3. Improper Notarial Acts, Solicitation, Coercion or Influence of Performance

Any person who solicits, coerces, or in any manner influences a notary public to perform an improper notarial act knowing that act to be an improper notarial act, including any act relating to maintaining the official journal, shall be guilty of a misdemeanor. **(California Government Code section 8225(a).)**

Violations of this section include, but are not limited to:

- Coercing or influencing a notary public to complete a false certificate of acknowledgment or jurat;
- Coercing or influencing a notary public to not enter required information in the official journal;
- Coercing or influencing a notary public to enter false information in the official journal; and
- Coercing or influencing a notary public to falsely modify a journal entry.

Section 4. Willful Failure to Perform Duty Relating to Official Journal or Control Notarial Seal

Any notary public who willfully fails to perform any duty required of a notary public relating to the official journal, or who willfully fails to keep the seal of the notary public under the direct and exclusive control of the notary public, or who surrenders the seal of the notary public to any person not otherwise authorized by law to possess the seal of the notary public, shall be guilty of a misdemeanor. **(California Government Code section 8228.1(a).)**

Violations of this section include, but are not limited to:

- Willful failure to maintain the official journal;
- Willful failure to notify the California Secretary of State within the time required by law if the official journal is lost, stolen, rendered unusable or surrendered to a peace officer;
- Willful failure to permit a lawful inspection or copying of the official journal;
- Willful failure to keep the seal under direct and exclusive control; and
- Surrendering the official journal to any person not authorized to possess it.

Section 5. False Certificate or Writing by Officer

Every officer, including notaries public, authorized by law to make or give any certificate or other writing is guilty of a misdemeanor if the officer makes and delivers as true any certificate or writing containing statements, which the officer knows to be false. **(California Government Code section 6203.)**

Section 6. Unlawful Practice of Law

Any person practicing law who is not an active member of the State Bar, or otherwise authorized pursuant to statute or court rule to practice law in this state at the time of doing so, is guilty of a misdemeanor punishable by up to one year in a county jail or by a fine of up to $1,000, or by both fine and imprisonment. **(California Business and Professions Code section 6126.)**

Part G. Infractions by Notaries Public

Both of these possible infractions require that the notary public willfully or deliberately fail to perform an action required by law. This is different from failing to perform an action through negligence.

Section 1. Change of Address

Willful failure to notify the California Secretary of State of a change of principal place of business address or residence address is punishable as an infraction by a fine of up to $500. **(California Government Code section 8213.5.)**

Section 2. Name Change

Willful failure to notify the California Secretary of State of a name change is punishable as an infraction by a fine of up to $500. **(California Government Code section 8213.6.)**