

State of South Dakota
**Notary Public
Handbook**



Secretary of State

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CONTACTING THE NOTARY DIVISION:

The origins of the notary public trace back to the days of the Roman Republic. Today, the position remains important in our republic. The oath of notary public carries a serious obligation. Once appointed and commissioned, a notary public becomes a public officer charged with “special trust and confidence in integrity and ability.” To faithfully serve the public, the notary public must be knowledgeable about his or her responsibilities.

The Notary Division plays an important role in our office as the primary resource for all commissions and information regarding notaries public. The Notary Division is also the state office responsible for all Apostille and Authentication services for those needing documents certified for use in foreign countries.

Website: <https://sosenterprise.sd.gov/BusinessServices/Notary/Default.aspx>

Email: notary@state.sd.us / Phone: 605-773-5004 / Fax: 605-773-4550

This handbook has been designed to provide information to current notaries public in the State of South Dakota in order to increase understanding of the powers and duties of that office.

Any statements by the office of the South Dakota Secretary of State regarding notaries or notarial acts are not intended as legal advice and should not be construed as such. If you have specific legal questions regarding notarial acts or your conduct as a notary public, we urge you to seek professional legal advice.

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GENERAL INFORMATION

What does it mean to be a notary public? A notary public is a public official commissioned by the Secretary of State to administer oaths and affirmations, take acknowledgments, witness signatures and perform other duties as permitted by South Dakota state statute. As a public official, a notary is not acting on behalf of himself/herself or his/her employer when performing a notarial act, but rather, on behalf of the state of South Dakota.

What does a notary do? In a nutshell, a notary public acts as an impartial witness to ensure that the act of attestation is executed legally, securely and ethically. A notary public DOES NOT “legalize” or “certify” documents or verify the accuracy or truthfulness of the content contained within a document.

RESOURCES

This handbook provides information put together by the Secretary of State to help South Dakota notaries public become familiar with the responsibilities of their position and is designed to be the notary’s foremost resource. It is the notary’s responsibility to understand the contents of this handbook and keep it readily available for when a question arises.

This information is also available on the Secretary of State’s Notary Division website at: <https://sosenterprise.sd.gov/BusinessServices/Notary/Default.aspx>. It is in the notary’s best interest to bookmark this page for reference.

A notary should NEVER attempt to complete a notarial act until they fully understand what is required of them.

It is the notary’s legal obligation to know South Dakota notary laws and to follow the standards required for performing every notarial act. The notary is responsible to know what they can/cannot do and how to do the job correctly.

Please contact the staff of the Notary Division with any questions or concerns.

THE NOTARY PUBLIC FUNCTION

As stated above, a notary public acts as an impartial witness on specific documents and transactions. All notarial acts affect the legal rights of others and any carelessness or negligence by the notary public may injure those rights. Failure to follow the requirements set forth for complete and proper notarization may result in revocation of the notary’s commission and potential civil and/or criminal penalties.

Simply affixing a notary seal and signing the document DOES NOT constitute a proper notarization in the State of South Dakota.

A notary public is responsible for knowing what is required for each and every specific notarial act before performing them. A notary may be held personally responsible for improper, negligent or fraudulent actions.

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NOTARY'S RESPONSIBILITY



FIRST RULE OF NOTARIZING

The person whose signature, oath, or acknowledgment is being notarized **MUST** personally appear before the notary at the time of the notarial act.
EVERY TIME!!!

The notary's greatest responsibility is to be able to truthfully testify that the notary did, in fact, witness the act he or she claims to have notarized.

The main rule in every notarial act is that the person whose signature, oath, or acknowledgment is being notarized **MUST** personally appear before the notary at the time the notarial act takes place. It is impossible to be a witness to an event if it does not take place in your immediate presence. "Notarizing" without the personal appearance of the signer at the time of the notarial act is a **DIRECT VIOLATION** of South Dakota law and can be just cause for both revocation of the notarial commission and civil and/or criminal charges.

The Oath of Office signed by the notary public at the time of application states that the notary will "faithfully and impartially" perform all duties as a notary public for South Dakota according to state statutes. This oath applies to every notarial act performed by the notary throughout the course of their commission. It is the notary's responsibility to ensure they are performing their duties with unquestionable truthfulness and integrity.

FEE'S

South Dakota notaries may charge a fee of up to \$10 for performing certain transactions. This fee is applicable for each instrument notarized. Fees **CANNOT** be collected for the notarization of a request for an absentee ballot.

JURISDICTION

A South Dakota notary public may perform a notarial act on a tangible document when the notary is **PHYSICALLY** located within the borders of the state of South Dakota. A notary may perform notarial duties within any county in the state, not just the county in which they were commissioned.

For remote notarizations, the notary **MUST** still be **PHYSICALLY** located in South Dakota at the time of the notarization. Jurisdiction for remote notarizations is determined by the physical location of the notary, not the signer. The signer may be located anywhere in the world, but the notary **MUST** be in South Dakota.

Basic Rule – if the signer personally appears before the notary and the notary is physically located within the borders of the state of South Dakota, the notarization may be performed.

Remember, the notary must be careful to correctly identify the venue on the document (see ["Venue" - Page: 7](#)) and make any adjustments if necessary.

NOTE: Only AFTER you have received a Notary Public Commission certificate issued by the Secretary of State, are you authorized to notarize documents.

Please contact the staff of the Notary Division if you have any questions or concerns.

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NOTARY SEAL/STAMP

A notary seal may be purchased at an office supply company, stationery store, or a print shop. There are two types of seals that are generally available for purchase – the raised, embossing seal or the rubber stamp. Either type is acceptable as a notary seal. There are no size or color requirements for a South Dakota notary public seal. The State of South Dakota DOES NOT provide the official notary seal/stamp.



The notary's official seal must contain:

- Applicant's name EXACTLY as it is listed on the application, oath, bond and signature.
- The words "Notary Public" and "South Dakota".
- A border fully surrounding the imprint.
- If a rubber stamp is used, the word "Seal" must be included on the stamp.
- The words "My Commission Expires" and/or the commission expiration date are **NOT** to be inside the border of the seal. However, they may be placed outside the border.

The official notary seal imprint on your Application, Oath and Bond is the ONLY seal imprint to be used when notarizing documents. **If you would like to use an additional type of seal or need to update your seal, you must FIRST submit a [Notary Change Request Form](#) with an imprint of the new seal to our office before using a different seal.**

The notary seal must be able to make a completely legible imprint EVERY TIME a notarial act is performed. If the seal is no longer legible, you are required to obtain a new seal and submit a [Notary Change Request Form](#) with an imprint of the new seal to the Secretary of State's Office. Our office will approve the new seal before you are able to begin using it.

LOST OR STOLEN SEAL

If a notary's seal is lost or stolen, report the loss or theft immediately to the Office of the Secretary of State so that a notation can be made on the notary's record. There are a couple of steps available to a notary whose seal has been lost or stolen:

- The notary may continue to use their notary commission and have a new seal made. The seal can be identical to the original or it may be a different type or altered slightly. The new seal impression would have to be recorded with the Office of the Secretary of State before the notary can begin using it. To record your new seal, please complete a [Notary Change Request Form](#).
- The notary may request that the Secretary of State cancel their present notary commission and ask that a new commission with a different expiration date be issued. The notary would have to follow the notary public application procedure.
- The notary may also wish to change the name on their notary commission and seal. (Example: Elizabeth B. Jackson could be changed to Elizabeth Jackson or E.B. Jackson or Liz B. Jackson). The new impression of the notary's seal would have to correspond exactly to the way the name is signed and recorded with

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the Office of the Secretary of State. To record the updated name and new seal, please complete a [Notary Change Request Form](#).

The notary would be able to do any combination of the above options to update their notary commission to ensure there is no fraudulent use of their seal and/or commission.

SURETY BOND

South Dakota statute holds a notary public personally responsible for any damages resulting from misconduct of the notary in an official capacity. An applicant for notary public is required to submit evidence of a bond to the state, to be approved by the Attorney General, in the penal sum of \$5,000, conditioned for the faithful discharge of the duties of the office. The bond is in place as a liability coverage in the event there are civil or criminal proceedings resulting from incorrect, negligent or fraudulent use of a notarial commission. This bond does not protect the notary themselves but is meant to cover any damages incurred by a victim of the notary's negligence or wrongdoing.

COMMISSION AND EXPIRATION DATES

The notary commission date takes effect on the day the Secretary of State makes the appointment and issues the commission. The expiration date is exactly six (6) years from the commission date. The commission expires at midnight on the day of expiration.

A notary public may choose to purchase a separate "My Commission Expires" date stamp once their commission has been issued, which can be purchased at an office supply store in your area. This separate seal is not considered an "official notary seal" and does not need to be registered with the Secretary of State's office.

A notary may choose to include the "My Commission Expires" statement/date on their official seal OUTSIDE the border of the seal. At the time of renewal, an imprint of the NEW seal with the new expiration date must be presented on the application or it will be rejected. Any changes to the official seal to include the commission expiration date must be recorded with the Secretary of State's office.

RENEWING A NOTARY COMMISSION

The process for renewing a notary public commission is the same as when you first applied. It is to your advantage to review the notary application process found on the Office of the Secretary of State's website.

The application to renew your commission may be submitted no more than sixty (60) days prior to your expiration date. If you wish to renew your Notary Public commission and desire to keep the same commission date and expiration date (month and day), you may do so by completing and mailing to the Secretary of State the Application, Oath and Bond form BEFORE the expiration date of your current commission. If you desire a different expiration date than your previous commission, please indicate what date you wish to have your next six-year term begin. Once again, we must receive the application BEFORE the date you have selected or already have for your new commission term to begin. Our office cannot back date an application, and the commission date and the expiration date must be accurate.

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UPDATING YOUR INFORMATION

A notary public is required to keep information for their notary commission current with the Secretary of State's office. **Any changes to the notary's name, address or seal must be filed and approved with our office BEFORE the notary can begin notarizing with the new information.**

The [Notary Change Request Form](#) is a fillable form on the website that can be completed, printed, signed and mailed to the Secretary of State office for filing. Once the information has been updated in the notary records, our office will send a confirmation (and an amended certificate for name changes). If the name and/or seal of the notary changes, a confirmation/approval from the Secretary of State's office **MUST** be received before the notary can begin using the new name or seal.

Name changes will also require a rider from the bonding company showing that your name has been updated/changed on your bond.

NOTARIZING DOCUMENTS

COMPONENTS REQUIRED FOR COMPLETED NOTARIZATION:

1. **Original Signature of Individual Executing the Document.** The notary public **MUST** witness this signature.
2. **Date of the Original Signature.** The document must have the full date (day, month, and year) the original signature was executed.
3. **Notarization/Signature of the Notary.** The notary public must place his or her original signature on the document.
4. **Notary Public Seal Imprint Affixed.** The imprint of the seal must be approved by the Office of the Secretary of State before use. The seal imprint must be completely legible.
5. **Notary Public's Commission Expiration Date.** The full commission expiration date (day, month, and year) must be written, printed or stamped on the document. The commission expiration date must be the date on the Notary Public Commission certificate issued by the Office of the Secretary of State. A notary public who is renewing his or her notary commission must use the current commission expiration date until that date of expiration before beginning the new commission. After the expiration date, the notary may start using the new notary expiration date as reflected on the new Notary Public Commission certificate.

DO'S AND DON'TS OF THE NOTARIAL PROCESS:

<u>Do:</u>	<u>Don't:</u>
<ul style="list-style-type: none">• Learn the duties you are authorized to perform.• Learn the circumstances that may disqualify you from acting.• Learn what records, if any, you may wish to keep.• Learn what fees you may charge.• Keep your official seal or stamp in a safe and secure location.	<ul style="list-style-type: none">• Attempt to draft legal documents for your clients.• Notarize a blank or incomplete instrument.• Notarize a document that has already been signed.• Permit others to use your official seal or stamp.• Place the words "My Commission Expires" and/or the commission expiration date inside the border of your seal.

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NOTARIAL PROCESS REQUIREMENTS

While each notarial act is slightly different, these are the basic steps that should always be followed when taking an acknowledgement, witnessing a signature, or performing a jurat.

1. Require personal appearance

When performing a notarial act, the signer **MUST ALWAYS** personally appear in front of the notary public at the time the notarization takes place.

2. Review the document

Notaries are not responsible for verifying or validating the contents of the document being notarized, but a notary should be aware of what is being signed. A notary should always glance at a document to verify what kind of document it is, determine what type of notarial act is to be performed, and to establish who is supposed to sign the document.

3. Identify the signer

A notary may utilize personal knowledge, documentary proof or a credible witness to conclusively identify the person who requests notarization.

Personal Knowledge – a person whom the notary has known for a considerable period of time and would recognize anywhere can be identified on the basis of “personal knowledge.” The best way to determine if personal knowledge is sufficient is if the notary can positively identify the person in court many years after the notarization took place; “personal knowledge” can be utilized as a means of identification.

A notary utilizing remote notarization to perform a notarial act for an individual outside the state of South Dakota via communication technology, **MUST**, by state statute have personal knowledge of the individual signing the document.

Documentary Proof – the most frequently used type of evidence to positively identify a signer is by examining acceptable identification documents. Acceptable identification documents are government-issued identification cards with a picture of the individual, and can include a passport, driver’s license or state ID card, tribal ID, military or student ID, or another governmental issued picture ID that is current and unexpired.

Notaries are not expected to be experts on all types of identification, but are urged to use common sense and reasonable care when presented with identification that appears to have been tampered with or does not match the information presented by the individual.

Credible Witness – this option for identification is the least understood and is typically unavailable unless prior arrangements have been made. In short form, the credible witness is someone that is personally known to the notary who has personal knowledge of the individual signer. The witness must be: personally known to the signer, personally known to the notary, personally appearing at the time of the notarial act, unbiased and derives no benefit from the transaction.

4. Determine the signer’s competency and willingness

A notary must not only determine the identity of the signer at the time of the notarial act but must also determine that the signer is indeed capable and willing to sign the document as required.

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Notaries must apply reasonable care to conclude that the signer is lucid and understands what is happening and is not being coerced or forced to sign. If there is a question about the signer's competency and/or willingness, the notary should refuse to perform the notarization or suggest that it be done later if possible.

5. Complete the notarial certificate

The final step in the notarization process is to complete the notarial certificate. This involves determining what type of certificate is required and correctly completing each of the required portions of the certificate. More information on notary certificates can be found in the next section.

NOTARY CERTIFICATES

It is the notary's responsibility to ensure the words contained in the notarization/document/testimony exactly describe what act the notary is performing. For instance, if the notary certificate contains the words "signed before", the notary is testifying that it was done, or if the certificate contains the words "subscribed and sworn before me", that, too, means the notary was signed AND the notary administered an oath to the signer that they swore under penalty of perjury that the information contained in the document were true and correct. The words contained in the notarial certificate are not mere formalities, they are the notary testifying what happened, where, when and who was involved.

THE 5 MAIN PARTS OF A NOTARY CERTIFICATE / NOTARY BLOCK:

1. Venue

The venue refers to the location where the notarization actually takes place. *This is not always the county in which the notary resides or works and may not be the information on their commission.* The venue establishes the qualifications and authority of the notary performing the notarial act. Usually, the notary is asked to write the name of the county and state in the appropriate blanks. However, some venue forms require the notary to write in different location information, for example the city and state.

You may encounter documents that have the venue pre-filled. Make sure it correctly reflects the true location of where the notarial act is being performed. If it does not, you'll need to correct the certificate. You may cross out the incorrect information and write in the correct information.

2. Body

The body includes the main information about the notarial act, including the name of the signer, the date of notarization, and important details about the notarial act itself.

These details describe the facts the notary is certifying in the notarization. An example of acknowledgment wording in the body might read "...On (today's date), (signer name) personally appeared before and acknowledged executing the document."

The notary may refer to [Types of Notarial Acts section on page 9](#) of this handbook for examples of wording and format.

3. Notary's signature

The notary's wet signature must be affixed to every notarial certificate. Every certificate must contain a space for you to sign. You should sign your name EXACTLY as it appears on your notary commission and your seal/stamp.

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4. Notary's seal/stamp

Placing your seal on a notarial certificate establishes the genuineness of the notarial act. Typically, you will affix your seal next to your signature. Make sure it is clear and legible. Specifics on the notary seal/stamp are explained in the [Notary Seal/Stamp section on page 3](#).

5. Notary's date of commission expiration

The full commission expiration date (day, month, and year) must be written, printed or stamped on the document. The commission expiration date must be the date on the Notary Public Commission certificate issued by the Office of the Secretary of State.

SAMPLE NOTARY CERTIFICATE

A sample diagram of a notary certificate, showing the 5 required components:

Date: _____	_____ <i>Signature</i>
State of South Dakota County of _____	
Signed and sworn to (or affirmed) before me this _____ day of _____, 20____.	
<i>Notary Seal</i>	_____ <i>Notary Signature</i>
	_____ <i>Notary's Printed Name</i>
My Commission Expires: _____	

The notary may encounter many different types of notarial certificates on different documents. No matter the wording or format of the certificate, all must contain the 5 basic sections from the previous page. If the notary is presented with documents that do not have a notarial certificate, or have a pre-printed certificate that is unusable, the notary must substitute a proper notarial certificate by writing, stamping, typing or attaching one to the document as close to the signer's signature as possible.

With certificates that are stapled to a document, it is best practice to indicate on the document "See notarial certificate attached" and note on the certificate the type of document that is being attached. This ensures that if they are detached, lost, or deliberately removed there is an indication that something is missing, and a notarial certificate cannot be removed from one document and stapled to another.

If an error is made while completing a notarial certificate, the notary may make the correction before handing the document over to the customer. These changes should always be initialed and dated by the notary. Handwritten corrections cannot be made to the impression of the notary seal/stamp. If the impression is not correct or illegible, a new impression must be made.

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4 THINGS A NOTARY SHOULD ALWAYS CHECK BEFORE FINISHING A NOTARIAL ACT

This checklist can help make sure you have everything needed to properly complete a notarization before the signer leaves:

- 1. Is the main body of the document complete with no blank spaces?** During the notarization, take a quick glance at the document to confirm there are no blank spaces. To respect the signer's privacy, you do not need to read through the document in detail, just ensure all necessary information is filled in before finishing.
- 2. Is the notary certificate complete with no blank spaces?** One of the most common causes of document rejection is an incomplete notary certificate. Before finishing the notarization, review the notary certificate to make sure you have written in all required information and there are no missing sections.
- 3. Have you proofread the notary certificate to make sure it is correct?** If the certificate includes misspelled or incorrect information, the notarization's validity could be questioned or rejected. Make sure to proofread the certificate to confirm:
 1. The signer's name is spelled correctly and entered in the correct section of the certificate.
 2. Your name is spelled correctly and entered in the correct section of the certificate.
 3. Your name is written the way it is spelled on your notary commission and seal/stamp. Do not use nicknames or abbreviations that don't match the commission name.
 4. The venue (location where notarization takes place) is correctly listed.
 5. The date of the notarization is correct.
- 4. Are your signature, seal and commission information correct and legible?** Make sure your signature and notary seal/stamp are affixed in the proper section of the notary certificate and your stamp/seal impression is not blurry, smeared or covering any document text. Verify your commission expiration and name are correct and your name matches your notary commission exactly.

TYPES OF NOTARIAL ACTS

South Dakota notaries public are authorized to perform these specific notarial acts:

- Taking acknowledgments
- Witnessing a signature
- Administering oaths

As ministerial officials, notaries do not have the authority to determine the appropriate type of notarization to perform. If the document does not contain information and the signer cannot indicate what type of notarial act is required, you must not proceed with notarization until that information can be provided.

Notaries should NOT perform a notarial act if the person 1) cannot be satisfactorily identified, 2) does not appear to be competent or have the capacity to execute the record, or 3) does not appear to be signing voluntarily.

TAKING ACKNOWLEDGMENTS

South Dakota statute allows for a notary to take an acknowledgment as long as the person personally appears before the notary public. The document that is being acknowledged must also be signed in the physical presence of the notary public in order to be valid.

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In taking an acknowledgment, the notary must:

- Require the personal appearance of the signer.
- Review the document to identify that an acknowledgment is applicable.
- Identify the signer as the person who is to be signing the document.
- Witness the signature being placed on the document.
- Have the signer verbally acknowledge that the signature is his/hers and that it was made voluntarily.
- Complete the notarial certificate.

An acknowledgment can either be done in an individual capacity (signing on one's own behalf) or in a representative capacity (signing on behalf of another person or entity). When completing a notarial certificate that is being signed in a representative capacity, the notary must indicate the name of the person who signed the document, the capacity in which it was signed, and the name of the party/entity on whose behalf it was signed. When someone is signing in a representative capacity, the notary is required to determine not only the identity of the person signing the document, but also the capacity of the person to sign on behalf of the person or entity. This can be done using either personal knowledge or satisfactory evidence (power of attorney, probate records, etc.)

Sample Acknowledgments:

Acknowledgement by Individual	
State of _____	
County of _____	ss
On this ____ day of _____, in the year 20____, before me personally appeared _____ know to me (or proved to me on the oath of _____) to be the person who is described in, and who executed the within instrument and acknowledged to me that he/she/they executed the same.	
Seal	_____ Notary Signature
	_____ Legibly typed, stamped or printed name
My Commission Expires: _____	_____ Title

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Acknowledgement by Partner

State of _____
County of _____ ss

On this ____ day of _____, in the year 20____, before me personally appeared _____, who acknowledged himself/herself to be one of the partners of _____, a partnership, and that he/she, as such partner, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the partnership by himself/herself as a partner.
In witness whereof I hereunto set my hand and official seal.

Signature

Title of Officer

Notary Signature

Seal _____
Legibly typed, stamped or printed name

My Commission Expires: _____
_____ Title

Acknowledgement by Corporation

State of _____
County of _____ ss

On this ____ day of _____, in the year 20____, before me personally appeared _____, know to me (or proved to me on the oath of _____) to be the _____ of the corporation that is described in and that executed the within instrument and acknowledged to me that such corporation executed the same.

Notary Signature

Seal _____
Legibly typed, stamped or printed name

My Commission Expires: _____
_____ Title

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Acknowledgement by Attorney-in-Fact	
State of _____	
County of _____	ss
 On this ____ day of _____, in the year 20____, before me personally appeared _____, known to me or satisfactorily proven to be the person whose name is subscribed as attorney in fact for _____, and acknowledged that he executed the same as the act of his principal for the purposes therein contained. In witness whereof I hereunto set my hand and official seal.	
	_____ Notary Signature
Seal	_____ Legibly typed, stamped or printed name
My Commission Expires: _____	_____ Title

WITNESSING A SIGNATURE

The most common notarial act is to witness someone sign a document. South Dakota state law requires the notary to physically witness the individual sign the document. Occasionally someone will bring a document that has already been signed. In this situation, the notary must have the individual physically sign the document a second time in the notary's presence.

When witnessing a signature, the notary must:

- Require the personal appearance of the signer.
- Review the document to identify the type of notarial act required.
- Identify the signer as the person who is to be signing the document.
- Determine that the signer is signing the document competently and voluntarily.
- Witness the signature being placed on the document.
- Complete the notarial certificate.

Sample certificate when witnessing a signature:

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State of _____	
County of _____	ss
This document was signed before me this ____ day of _____, 20____,	
by _____.	
	_____ Notary Signature
Seal	_____ Legibly typed, stamped or printed name
My Commission Expires: _____	_____ Title

A signature witnessing is similar to an acknowledgment, and the individual can sign in their individual capacity (signing on one’s own behalf) or in a representative capacity (signing on behalf of another person or entity). When completing a notarial certificate that is being signed in a representative capacity, the notary must indicate the name of the person who signed the document, the capacity in which it was signed, and the name of the party/entity on whose behalf it was signed. When someone is signing in a representative capacity, the notary is required to determine not only the identity of the person signing the document, but also the capacity of the person to sign on behalf of the person or entity. This can be done using either personal knowledge or satisfactory evidence (power of attorney, probate records, etc.)

ADMINISTERING OATHS

Jurat	
State of _____	
County of _____	ss
Subscribed and sworn to (or affirmed) before me this ____ day of _____, 20____.	
	_____ Notary Signature
Seal	_____ Legibly typed, stamped or printed name
My Commission Expires: _____	_____ Title

OTHER NOTARIAL ACTS

A South Dakota Notary Public cannot certify copies of documents. However, they may choose to have an individual certify the validity of a copy of a document and notarize that person’s signature.

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Certified Copy	
State of _____	
County of _____	ss
I hereby state that this is a true and correct copy of the original document of _____ filed in _____ on ____ day of _____, _____.	
	_____ Signature of Certifier
	_____ Notary Signature
Seal	_____ Legibly typed, stamped or printed name
My Commission Expires: _____	_____ Title

REMOTE NOTARIZATION

South Dakota enacted remote notarization in limited circumstances in 2019. However, full remote online notarization is not authorized under current state law, and electronic signatures/notarization are not acceptable at this time.

18-1-11.1. Notarial act--Video communication technology--Requirements.

A notarial officer in this state, while located in this state, may perform a notarial act executed on a tangible document by a person not in the physical presence of the notarial officer, but observed by the notarial officer through means of video communication technology, if the notarial officer:

- (1) Has personal knowledge of the identity of a person through dealings sufficient to provide reasonable certainty that the person has the identity being claimed;*
- (2) Affixes the notarial officer's signature to the original tangible document executed by the person;*
- (3) Indicates in the notarial certificate the remote location of the person executing the document;*
- (4) Indicates in the notarial certificate that the notarial act involved a statement made or a signature executed by a person not in the physical presence of the notarial officer, but appearing by means of video communication technology; and*
- (5) Is able reasonably to confirm that the document before the notarial officer is the same document in which the person made the statement or on which the person executed a signature.*

Basically, the only type of remote notarization that is allowable is for a South Dakota notary public to physically mail the document to an individual they know personally, witness them notarize via skype or other communication technology, and then the individual would mail the document back to the notary public to affix the notarization. Both signatures must be original on the document.

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Because electronic remote notarization is not authorized under South Dakota statute, there would not be an additional designation needed for any South Dakota notary public to utilize this means of notarization at this time.

A sample certificate of acknowledgement is included in statute for remote notarizations:

18-4-29. Form--Certificate of acknowledgement--Video communication technology.

The certificate of acknowledgment of a document executed under § 18-1-11.1 shall be substantially in the following form:

State of South Dakota

County of _____ ss

On this _____ day of _____, in the year _____, before me, _____ (Notary's Name), the undersigned officer appeared _____ (Signer's Name) with a remote location of _____ (City/State), whom I have personal knowledge of because of my relationship as _____ and whom I positively identified as the person whose name is subscribed to the within instrument, appeared before me not in my physical presence but by means of video communication technology, and I observed his/her execution of the same for the purposes contained therein and confirm that I affix my seal to the same instrument so executed.

APOSTILLES / AUTHENTICATIONS

An apostille or authentication is a certificate that authenticates the origin of a public document (e.g., a birth, marriage or death certificate, a judgment, an extract of a register or a notarial attestation). Apostilles are a special format of document for use in countries that participate in the Hague Convention of 1961. Countries that are not members of the Hague Convention receive a differently formatted document that authenticates the public document.

The Office of the Secretary of State provides authentication and apostille service to U.S. citizens and foreign nationals on documents that will be used overseas. Types of documents include corporate documents such as company bylaws and articles of incorporation, power of attorney, patent applications and trademarks, diplomas, transcripts, letters relating to degrees, marital status, references and job certifications, home studies, deeds of assignments, distributorship agreements, papers for adoption purposes, etc.

A document that is requesting an apostille or authentication certificate must either be an official original South Dakota document issued by a South Dakota state agency (i.e. Birth Certificates, Court Documents, etc.) or a document that is CORRECTLY notarized by a South Dakota notary public. All notarization requirements are necessary for authenticated documents.

For questions on apostilles, please contact the Apostille Department at apostille@state.sd.us or (605)773-3537.

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FREQUENTLY ASKED QUESTIONS

1. What is an Errors and Omissions Insurance-Protection for Notary?

It is not required; however, notaries may choose to buy Errors and Omissions (E&O) insurance for the exclusive protection it provides against claims of negligence and unintentional mistakes made while performing notarial acts.

2. Can a South Dakota notary notarize in another state?

No, South Dakota notaries can only notarize within the physical borders of the state of South Dakota.

3. What type of identification is sufficient when notarizing?

To identify the signatory of a document, a notary may use: Driver's license or non-driver identification card; Tribal ID; Student ID; U.S. Passport; An identification card issued by any branch of U.S. Armed Forces; OR Identification card issued by U.S. Immigration and Naturalization Service, such as a Resident Alien card (sometimes referred to as a "green card")

5. Will information about my being a Notary be public?

Yes. South Dakota Codified Law (SDCL) 18-1-4 expressly states that "The Secretary of State shall keep in his office a record of such appointments and the date of their expiration". South Dakota open record statutes under SDCL 1-27 presume a record is open, unless otherwise designated as closed. There is no exemption for notary public information, such as name and address. Please be aware that the address disclosed on your Notary Application Oath and Bond will be in the public domain and can be requested by the public by calling the Office of the Secretary of State.

6. What do I do if my address or name changes during my commission?

You must complete the Notary Change Form and submit it to our office for filing. If your name and/or seal change, you CANNOT notarize with the new information until you receive confirmation from the Secretary of State.

7. I have lost my commission certificate; How do I get a new one?

Please contact our office at notary@state.sd.us or by phone at (605)773-5004 for a replacement. You must have your Notary Public Commission certificate visible at any time you are notarizing.

8. How do I contact a notary public?

You may search for the notary public information on our website on our Notary Public Search. This will give name, expiration, and county and city information for the Notary Public. Our office does not require phone number or email address information to be submitted by a notary.

9. How do I renew my commission?

You may find the information required for renewing a Notary Public Commission on our site under "Notary Commission Renewal".

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10. How early can I renew my notary commission?

You may submit your renewal no more than sixty (60) days prior to your expiration date. If you wish to renew your Notary Public commission and desire to keep the same commission date and expiration date (month and day), you may do so by completing and mailing to the Office of the Secretary of State the Application, Oath and Bond form in advance of the expiration of your commission. If you desire a different expiration date than your previous commission, please indicate what date you wish to have your next six-year term begin. Once again, we must receive the application prior to the date you have selected or already have.

11. Does South Dakota have E-Notaries?

No, currently, South Dakota law does not allow for e-notarization.

12. What do I do if I have changed my seal?

You must complete the Notary Change Form and submit it to our office for filing. If your name and/or seal change, you CANNOT notarize with the new information until you receive confirmation from the Secretary of State.

13. What if my seal was lost or stolen?

If a Notary Public's Seal is lost or stolen, report the loss or theft immediately to the Office of the Secretary of State so that a notation can be made on the Notary Public's records.

There are two options available to a Notary whose seal has been lost or stolen: The notary may continue to use their Notary Commission and have a new seal made. The seal can be identical to the original or it may be a different type. The new seal impression would have to be recorded with the Office of the Secretary of State. To record your new seal, please complete a Notary Change Form.

The Notary may request that the Secretary of State cancel their present Notary Commission and ask that a new commission with a different expiration date be issued. The Notary would have to follow the Notary Public application procedure. Instructions to apply again can be found on the Office of the Secretary of State'

In addition to whatever option is taken, the Notary may also wish to change the name on their Notary Commission and Seal. (Example: Elizabeth B. Jackson could be changed to Elizabeth Jackson or E.B. Jackson or Liz B. Jackson). The new impression of the Notary's Seal would have to correspond exactly to the way the name is signed and recorded with the Office of the Secretary of State. If you change your name, please complete a Notary Change Form and submit to the Secretary of State's office.

14. Can I use two stamps/seals?

Yes, you may have multiple stamps/seals on file with our office. Before using a seal, you MUST file an imprint with our office using the Notary Change Form and wait for approval.

15. How much does it cost to become a Notary Public?

The filing fee for processing a Notary Public Application Oath & Bond is \$30. If you choose to have an insurance company provide a notary surety bond, they will require an additional fee.

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16. Do you accept credit card payments for the notary fees?

Yes, simply supply a phone number that we may call for credit card information at the time of processing.

17. When does my commission expire?

The commission takes effect on the day the Secretary of State makes the appointment and issues the commission. The expiration date is exactly six (6) years from the commission date. The commission expires at midnight on the day of expiration.

SOUTH DAKOTA CODIFIED LAWS

You can find the statutes pertaining to notarization and acknowledgments on the South Dakota Legislative Research Council (LRC) website at:

Notary Laws (SDCL 18-1): https://sdlegislature.gov/statutes/Codified_laws/DisplayStatute.aspx?Statute=18-1&Type=StatuteChapter

Uniform Acknowledgment Law (SDCL 18-5):
https://sdlegislature.gov/statutes/Codified_laws/DisplayStatute.aspx?Statute=18-5&Type=StatuteChapter