

# Final Proposed Filing - Coversheet

## Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the "Rule on Rulemaking" adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of "Proposed Rule Postings" online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**Administrative Rules for Notary Public Continuing Education**

\_\_\_\_\_/S/Sarah Copeland Hanzas\_\_\_\_\_, on 7/19/2023  
(signature) (date)

Printed Name and Title:  
Sarah Copeland Hanzas, Secretary of State

RECEIVED BY: \_\_\_\_\_

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

**Administrative Rules for Notary Public Continuing Education**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

22P027

3. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

4. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Lauren Layman

Agency: Office of Professional Regulation

Mailing Address: 89 Main Street, 3<sup>rd</sup> Floor, Montpelier, VT  
05620

Telephone: 802-828-2883 Fax:

E-Mail: lauren.layman@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://sos.vermont.gov/notaries-public/statutes-rules-resources/>

5. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Kelsi Alger

Agency: Office of Professional Regulation

Mailing Address: 89 Main Street, 3<sup>rd</sup> Floor, Montpelier, VT  
05620

Telephone: 802-828-2191 Fax:

E-Mail: kelsi.alger@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?)* No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

3 V.S.A. §801(b)(11)

26 V.S.A. § 5343(c) charges the OPR with establishing, by rule, guidelines and criteria for continuing education credit for notaries public.

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

The proposed rule establishes the guidelines and criteria for notaries public to obtain continuing education credit. This is directly related to the authority granted to the Office of Professional Regulation by 26 V.S.A. § 5343(c).

9. THE FILING HAS NOT CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS NOT INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

The proposed rule requires that notaries public complete one hour (60 minutes) of continuing education related to the Vermont laws and requirements for performing notarial acts every two years. The completion of the course is required for a notary public to renew their commission. The notary public course may be offered in many different formats.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The rule is necessary to instruct notaries public on what continuing education is required to retain their commissions. Continuing education is necessary to facilitate the continued competence of notaries public.

Per 26 V.S.A. § 5343(b), notaries public must complete no more than two hours of continuing education every two years to renew a commission. OPR is required to adopt rules the guidelines and criteria for this continuing education credit. The rule requires that notaries public complete only one hour of continuing education every two years because there is a limited amount of information that needs to be conveyed for a notary public to maintain competency and because the information will not change significantly every year.

**16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:**

The proposed rule is not arbitrary, as that term is defined in 3 V.S.A. § 801(b)(13)(A), because (a) there is a factual basis for the proposed rule, (b) the proposed rule is connected to this factual basis, and (c) the proposed rule would make sense to a reasonable person. The proposed rule, requiring one hour of continuing education, reflects the fact that continued competency in the field can be derived from one hour of review of the relevant statutes and regulations governing notarial acts. Further, the proposed rule will make sense to a reasonable person as it is based on the facts and the requirements therein are rational and clearly articulated.

**17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:**

Notaries public, banks and bank professionals, real estate professionals, lawyers and legal professionals, the Vermont Judiciary, consumers, any party seeking or relying on competent performance of notarial acts

**18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):**

There will be minimal economic impact from the proposed rule. Only one hour of continuing education is required. Cost estimates for a course range from \$0 to \$35. The Vermont Bar Association has offered courses, as has the Office of Professional Regulation. It is likely national notary public associations will offer such courses, as well. Courses for other states through the national notary associations currently cost \$25.

**19. A HEARING WAS HELD.**

## 20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 11/28/2022  
Time: 10:00 AM  
Street Address: 89 Main Street; 3<sup>rd</sup> Floor  
Zip Code: 05620

URL for Virtual: [https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_MTJmNjMyNzktNGVjNy00ZDM2LTk3NWMtNDc5OGExZjU5NTgx%40thread.v2/0?context=%7b%22Tid%22%3a%2220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%225692bd31-7f6d-4343-af2e-c35ale66acd6%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MTJmNjMyNzktNGVjNy00ZDM2LTk3NWMtNDc5OGExZjU5NTgx%40thread.v2/0?context=%7b%22Tid%22%3a%2220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%225692bd31-7f6d-4343-af2e-c35ale66acd6%22%7d)

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Date: 12/2/2022  
Time: 05:00 PM  
Street Address: 89 Main Street; 3<sup>rd</sup> Floor  
Zip Code: 05620

URL for Virtual: [https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_MTJmNjMyNzktNGVjNy00ZDM2LTk3NWMtNDc5OGExZjU5NTgx%40thread.v2/0?context=%7b%22Tid%22%3a%2220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%225692bd31-7f6d-4343-af2e-c35ale66acd6%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MTJmNjMyNzktNGVjNy00ZDM2LTk3NWMtNDc5OGExZjU5NTgx%40thread.v2/0?context=%7b%22Tid%22%3a%2220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%225692bd31-7f6d-4343-af2e-c35ale66acd6%22%7d)

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Date:  
Time: AM  
Street Address:  
Zip Code:  
URL for Virtual:

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Date:  
Time: AM  
Street Address:

Zip Code:

URL for Virtual:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

7/10/2023

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE  
SEARCHABILITY OF THE RULE NOTICE ONLINE).

Notaries Public

Notary

Notarial Act

Continuing Education



State of Vermont  
Office of the Secretary of State  
Office of Professional Regulation  
89 Main Street, 3rd Floor  
Montpelier, VT 05620-3402  
sos.vermont.gov

Sarah Copeland Hanzas, Secretary of State  
S. Lauren Hibbert, Deputy Secretary  
Kevin A. Rushing, Director

July 18, 2023

Sen. Trevor Squirrell, Chair  
Legislative Committee on Administrative Rules  
c/o Charlene Dindo, Committee Assistant  
Vermont State House  
Montpelier, VT 05602

Re: Final Proposed Administrative Rules for Notaries Public Continuing Education

Dear Chair Squirrell and Committee Members:

Please find enclosed the final proposed rule titled *Administrative Rules for Notaries Public Continuing Education*. These materials are also being filed with the Secretary of State today.

Accompanying this letter are the following documents:

- A. APA Filing Forms
- B. Final Proposed Rule
- C. Comments received
- D. Summary of agency responses to comments; and
- E. The ICAR minutes from September 2022.

I would be happy to answer any questions the Committee may have about the final proposed rules in advance of your next meeting. Please feel free to contact me at (802) 828-2883 or via email at [lauren.layman@vermont.gov](mailto:lauren.layman@vermont.gov).

Sincerely,

DocuSigned by:  
A handwritten signature in black ink, appearing to read "Lauren".

3773854A8D9542F...  
Lauren K. Layman, General Counsel  
Vermont Office of Professional Regulation

## Adopting Page

### **Instructions:**

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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1. TITLE OF RULE FILING:

**Administrative Rules for Notary Public Continuing Education**

2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A NEW RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

No previous rule.





## INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

**Meeting Date/Location:** September 12, 2022, virtually via Microsoft Teams

**Members Present:** Chair Douglas Farnham, Brendan Atwood, Diane Bothfeld, Jared Adler, Jennifer Mojo, John Kessler, Diane Sherman, Michael Obuchowski and Donna Russo-Savage

**Minutes By:** Melissa Mazza-Paquette

- 2:00 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the August 8, 2022 meeting
- Agenda approved as drafted with the following changes:
  - Added: Note: An emergency rule titled 'Emergency Administrative Rules for Notaries Public and Remote Notarization' from the Secretary of State, Office of Professional Regulation, was supported by ICAR Chair Farnham on September 9, 2022.
    - These Emergency Rules define the "personal appearance" requirement for remote notarial acts conducted through a secure audio-visual communication link.
  - Removed: HazMat Transportation & Motor Carrier Safety Standards, Agency of Transportation, Department of Motor Vehicles
    - Rules 55-001 & 50-036 provide authority to enforce Federal Regulations through state law for commercial vehicles & transportation of hazardous materials.
- No public comments.
- Presentation of Proposed Rules on pages 2-4 to follow.
  1. Rule on Alternative Preparatory Paths for Funeral Directors and Embalmers, Secretary of State, Office of Professional Regulation, page 2
  2. Administrative Rules for Notary Public Continuing Education, Secretary of State, Office of Professional Regulation, page 3
  3. Vermont Wetland Rules, Agency of Natural Resources, page 4
- Note: Diane Sherman left at 3:30 PM.
- Process Improvement discussion delayed due to in-house considerations, including the potential for a future change in the role of ICAR Chair.
- Next scheduled meeting is Monday, October 10, 2022 at 2:00 p.m.
- 3:59 p.m. meeting adjourned.

**Proposed Rule:** Administrative Rules for Notary Public Continuing Education, Secretary of State, Office of Professional Regulation

**Presented By:** Lauren Layman

Motion made to accept the rule by John Kessler, seconded by Mike Obuchowski, and passed unanimously with the following recommendations:

1. Proposed Filing Coversheet, #6: Include the Secretary of State if applicable.
2. Proposed Filing Coversheet, #6 and #8: Consider adding this proposed rule is for notaries public.
3. Proposed Filing Coversheet, #7: Remove one 'notaries public' in the first sentence.
4. Proposed Filing Coversheet, #9: Include information for the reason for the change.
5. Economic Impact Analysis: Change no impact to negligible.
6. Economic Impact Analysis, #3: Include estimated costs and benefits anticipated.
7. Environmental Impact Analysis, #9: Change to "No impacts are anticipated from requiring one hour every two years."
8. Public Input Maximization Plan, #4: Clarify how individuals and entities have been, or will be, directly contacted.
9. Proposed Rule, 3-3: Clarify language.

DRAFT



## Economic Impact Analysis

### **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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1. TITLE OF RULE FILING:

**Administrative Rules for Notary Public Continuing Education**

2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

Notaries public: cost - \$0-\$40 (if paying for course by self); benefits - maintenance of commission, continued competence

Banks and bank professionals: cost - \$0-\$40 per notary public, if paying for course for employed notaries

public; benefit - competent performance of notarial acts ensuring legitimacy and compliance of records

Real estate professionals: cost - \$0-\$40 per notary public, if paying for course for employed notaries

public; benefit - competent performance of notarial acts ensuring legitimacy and compliance of records

Legal professionals (non-attorneys):\$0-\$40 per notary public, if paying for course for employed notaries

public; benefit - competent performance of notarial acts ensuring legitimacy and compliance of records

Town clerks, assistants, and justices of the peace: \$0-\$40 per notary public, if paying for course for employed notaries public; benefit - competent performance of notarial acts ensuring legitimacy and compliance of records

Consumers and any party seeking or relying on competent performance of notarial acts: benefits - competent performance of notarial acts ensuring legitimacy and compliance of records

#### 4. IMPACT ON SCHOOLS:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

The proposed rule will not have any impact on public schools.

#### 5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

Since the proposed rule would impose no cost on public schools, alternative proposals will not result in any savings to schools.

#### 6. IMPACT ON SMALL BUSINESSES:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

There will be a negligible economic impact of the proposed rule on small businesses. If a small business has an employee that is a notary public and the small

business wishes to pay for that notary public's continuing education course, the cost will range from \$0 to \$35 for a one hour course. If a small business offers a qualifying continuing education course for notaries public, it could financially benefit from the proposed rule.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

In the past, the Office of Professional Regulation has offered free courses for notaries public. These courses, if offered in the future, may be used for the one hour of continuing education credit. Small businesses may also seek to purchase the services of a notary public from an alternative source rather than employing a notary public.

8. **COMPARISON:**

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

The proposed rule offers the least costly approach for continuing education while still complying with the statutory requirements of 26 V.S.A. § 5343(b) and (c).

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

This analysis is offered based upon the best information available from current and past notary public course offerings from public and private sources, assessing their costs, and noting them in this filing.

## Environmental Impact Analysis

### **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

**Administrative Rules for Notary Public Continuing Education**

2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*  
The proposed rule will have no environmental impact.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*  
The proposed rule will have no environmental impact.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*  
The proposed rule will have no environmental impact.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*  
The proposed rule will have no environmental impact.
7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*  
The proposed rule will have no environmental impact.
8. OTHER: *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*  
The proposed rule will have no environmental impact.
9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*  
No impacts on the environment are anticipated from requiring one hour of continuing education for notaries public to be completed every two years.

## Public Input Maximization Plan

### **Instructions:**

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

**Administrative Rules for Notary Public Continuing Education**

2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The Office of Professional Regulation has received significant feedback from notaries public and associations seeking continuing education to fulfill the requirements of 26 V.S.A. § 5343(b) and (c). Over the past three years, the Office has also offered webinars and presentations regarding notary public regulations and requirements, and received input from notaries public who participated in those presentations. Finally, the Office has reviewed current courses offered by public and private entities. In the future, OPR plans to hold public hearings and to solicit comments from all interested stakeholders.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Notaries public, banks and bank professionals, real estate professionals, attorneys, legal professionals, the Vermont Judiciary, consumers, town clerks, town



## Public Input

clerk assistants, justices of the peace, and any party seeking or relying on competent performance of notarial acts. OPR will send a communication to all notaries public who hold Vermont commissions to notify them about the proposed rule and opportunities to participate in public comment and public hearings. OPR will also contact professional associations and state agencies who frequently work with notaries public to notify them of the proposed rule and opportunities to participate in public comment and public hearings.

**Responsiveness Summary**  
**Final Proposed Administrative Rules for Notary Public Continuing Education**

The following substantial arguments were heard for and against the proposed rule and addressed by the Office in the manner explained.

Original comment text follows this summary. Video of spoken comments is available upon request.

Rule Section	Comment	Agency Response	Commenter
Sec. 3-1	Commenter noted that the rules specify only that one hour of continuing education is required but do not specify the equivalence of one hour in other units that may be specified on course documentation (e.g., "PDHs per semester credit" in the engineering field). Commenter asked about how notaries could count, for continuing education credit, courses that are not specifically designed for notaries public but contain the requisite content.	No changes have been made. The intent of the rule is to count the amount of time spent in a course discussing matter "directly related to the maintenance and enhancement of the skill, knowledge, and competency to perform notarial acts in accordance with Vermont's laws and requirements." This is true regardless of whether the full course offers credits of a different sort for other licenses or educational purposes (e.g., PDHs, semester credits). If a course had content related to notaries public regulation but was not dedicated to this subject, a notary public could still use the time spent discussing notaries public regulation toward the continuing education requirement.	Gerard Ashton, Vermont
Sec. 4-2(c)	Commenters expressed concern that the course must include both audio and visual content, as there are many online courses that allow notaries to read the material and do not include an audio	No change has been made. The existing laws provide written guidance to notaries public, as does OPR's website and extensive FAQ section. Yet, despite this written guidance, OPR continued to receive many questions about how to perform notarial acts and heard concerns from the public about improperly performed	

	<p>component. Commenters suggested section 4.2(c) be struck from the rules and 4-2(b) be revised to state that a course <i>may</i> include audio and visual content but "does not have to be."</p>	<p>notarial acts. In an effort to address these concerns, OPR has conducted several seminars on how to properly comply with the notary public laws, in addition to speaking with many notaries public directly. The result of providing both written and verbal guidance has been an improved understanding of the laws and requirements with fewer questions and concerns about compliance. These experiences have made it clear that the complex notary public laws and requirements are best explained in both an audio and visual format.</p> <p>The final proposed rules do allow for a lot of flexibility in the design of a course. The course can be live or recorded, in-person or remote, interactive or not. Additionally, the final proposed rules require the course only be one hour long. The only requirements for the course are that it have both visual and audio content and be related to "the maintenance and enhancement of the skill, knowledge, and competency to perform notarial acts in accordance with Vermont's laws and requirements." Given the demonstrated need for an audio and visual course and the broad flexibility provided otherwise, OPR has retained the requirement that notary public continuing education courses include both audio and visual content.</p>	
<p>Sec. 4-3(a)</p>	<p>Commenter asked whether the University of Vermont or Vermont State University are considered part of the Vermont government for the purposes of the Rules.</p>	<p>No changes have been made. The University of Vermont and Vermont State University are not Vermont State government agencies. In turn, the schools would be required to obtain prior approval from OPR to advertise a notary public course as being</p>	<p>Gerard Ashton, Vermont</p>

		approved for continuing education credit for maintaining a Vermont notary public commission.	
General	One commenter opposed the adoption of the rules because (a) the requirement is redundant as notaries already know or should know the information in the course; (b) the cost of continuing education is burdensome and uncapped by the statute or rule; and (c) there is no evidence that this rule will positively impact the notary process.	No change has been made. 26 V.S.A. Sec. 5343 requires notaries public to complete continuing education every two years and states that OPR shall establish guidelines and criteria for that continuing education by rule. These rules fulfill that obligation.	Thomas Atkins and Jordan Roeske Atkins Law Offices, Idaho

New Rule

# Administrative Rules for Notary Public Continuing Education

## Part 1: Definitions

- 1-1 "Commission" means a notary public commission issued by the Vermont Office of Professional Regulation.
- 1-2 "Director" means the Director of the Office of Professional Regulation.
- 1-3 "Office" means the Office of Professional Regulation.

## Part 2: Administration

- 2-1 **Applicable Laws.** 26 V.S.A. § 5343(b) requires notaries public applying for renewal of a Vermont Commission to complete continuing education approved by the Office during the two-year period preceding application for renewal of the Commission. Per 26 V.S.A. § 5343(c), the Office shall establish by rule the guidelines and criteria for obtaining continuing education credit.
- 2-2 **Waiver or Variance.** The Director will not grant routine waivers or variances from any provisions of these rules without amending the rules. See 3 V.S.A. § 845. Where, in extraordinary circumstances, application of a rule would result in manifest unfairness, an absurd result, unjustifiable inefficiency, or an outcome otherwise inimical to the public health, safety, and welfare, the Director may, upon written request of an interested party, so find, grant a waiver with or without particular conditions and limitations, and record the action and justification in a written memorandum. This rule shall not be construed as creating any hearing right or cause of action.

## Part 3: Commission Renewal Requirement

- 3-1 **Hours of Continuing Education.**
  - a. As a condition of Commission renewal, notaries public shall complete no fewer than one hour of continuing education over the two-year period preceding the application for renewal.
  - b. One hour is defined as 60 minutes.
- 3-2 **Documentation.**
  - a. Documentation of successful completion of continuing education must be included in a notary public's application for renewal of a Commission.
  - b. Documentation of continuing education must include sufficient information to indicate the notary public's successful completion of a course that complies with

these Rules, such as the name and date of the course, proof of attendance, and the number of continuing education credit hours awarded.

### 3-3 **New Commission Holders.**

- a. Commissions are valid for fixed, two-year biennial periods and shall expire if not renewed before the end of each biennial period. Expiration dates are printed on Commission. A lookup tool on the Office website may be considered a primary source verification as to the license status and expiration date of all Office licensees.
- b. Commission holders are required to complete one hour of continuing education prior to the first renewal of a Commission after a full, two-year biennial period.
  - i. The continuing education requirement is not mandatory for an initial renewal of the Commission if the notary public has held the Commission for less than two years. In turn, Commission holders who first obtain a Commission during a two-year biennium period do not need to complete one hour of continuing education before the first renewal of the Commission.
- c. If an initial Commission is issued fewer than 90 days prior to the beginning of a two-year biennial Commission period
  - i. The Commission holder does not need to renew the Commission at the beginning of that biennial period.
  - ii. The Commission shall be valid through the end of that next two-year biennial period.
  - iii. The Commission holder is required to complete one hour of continuing education during that two-year biennial period and show compliance with the continuing education requirements when renewing the Commission at the end of that two-year biennial period.

## **Part 4: Continuing Education Course**

4-1 **Content.** The content of a continuing education course being used by a notary public as a basis for renewal of a Commission shall be directly related to the maintenance and enhancement of the skill, knowledge, and competency to perform notarial acts in accordance with Vermont's laws and requirements.

### 4-2 **Form.**

- a. A continuing education course shall be at least one hour in length.

- b. The continuing education course may be synchronous or asynchronous, recorded or live, or in-person or remote. The course may be interactive but does not have to be.
- c. A continuing education course must include both audio and visual content.

**4-3 Approval of Courses.**

- a. Continuing education courses that fulfill the requirements for Rules 4-1 and 4-2 and that are provided or approved by the following organizations are approved without prior review by or approval from the Office: American Bar Association, Vermont Bar Association, and any Vermont State government agency.
- b. Except for those courses offered by an organization listed in Rule 4-3(a), continuing education course providers shall not advertise or hold out a course as approved for continuing education credit in Vermont unless the Director has approved the course as satisfying the requirements of these Rules. Course providers must apply to the Director for approval of the continuing education course through the Office's online portal.

**4-4 Acceptable Hours.** Continuing education credit will be granted only for the actual time a notary public spends as a learner during the course. Breaks, business meetings, and lunches are not to be counted toward continuing education credits.

**4-5 Continuing Education Audits.**

- a. The Office shall conduct continuing education audits of randomly selected Commission holders, including Commission holders whose Commissions are conditioned. The Office may also audit reinstating Commission holders, and Commission holders who, in any of the preceding two renewal cycles, were initially found to have not met continuing education renewal requirements.
- b. When a Commission holder appears on the audit list, the Office shall review the documentation provided by the Commission holder as part of the renewal application to determine whether the continuing education requirements have been satisfied. The Office may also request additional documentation and information from the Commission holder showing a detailed account of the credits claimed.
- c. Under 3 V.S.A. § 129(k), the Office may give Commission holders ninety (90) days to develop and complete a corrective action plan to cure any deficiencies in continuing education requirements. Courses taken pursuant to a corrective action plan may be counted for only the Commission period being audited. Failure to comply with a corrective action plan may result in disciplinary action per 3 V.S.A. § 129a(a)(4).

# The Vermont Statutes Online

## **Title 3 : Executive**

### **Chapter 025 : Administrative Procedure**

#### **Subchapter 001 : General Provisions**

(Cite as: **3 V.S.A. § 801**)

#### **§ 801. Short title and definitions**

(a) This chapter may be cited as the “Vermont Administrative Procedure Act.”

(b) As used in this chapter:

(1) “Agency” means a State board, commission, department, agency, or other entity or officer of State government, other than the Legislature, the courts, the Commander in Chief, and the Military Department, authorized by law to make rules or to determine contested cases.

(2) “Contested case” means a proceeding, including but not restricted to rate-making and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.

(3) “License” includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law.

(4) “Licensing” includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(5) “Party” means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(6) “Person” means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

(7) “Practice” means a substantive or procedural requirement of an agency, affecting one or more persons who are not employees of the agency, that is used by the agency in the discharge of its powers and duties. The term includes all such requirements, regardless of whether they are stated in writing.

(8) “Procedure” means a practice that has been adopted in writing, either at the election of the agency or as the result of a request under subsection 831(b) of this title. The term includes any practice of any agency that has been adopted in writing, whether or not labeled as a procedure, except for each of the following:



(A) a rule adopted under sections 836-844 of this title;

(B) a written document issued in a contested case that imposes substantive or procedural requirements on the parties to the case;

(C) a statement that concerns only:

(i) the internal management of an agency and does not affect private rights or procedures available to the public;

(ii) the internal management of facilities that are secured for the safety of the public and the individuals residing within them; or

(iii) guidance regarding the safety or security of the staff of an agency or its designated service providers or of individuals being provided services by the agency or such a provider;

(D) an intergovernmental or interagency memorandum, directive, or communication that does not affect private rights or procedures available to the public;

(E) an opinion of the Attorney General; or

(F) a statement that establishes criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections, in settling commercial disputes or negotiating commercial arrangements, or in the defense, prosecution, or settlement of cases, if disclosure of the criteria or guidelines would compromise an investigation or the health and safety of an employee or member of the public, enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons that are in an adverse position to the State.

(9) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy and that has been adopted in the manner provided by sections 836-844 of this title.

(10) "Incorporation by reference" means the use of language in the text of a regulation that expressly refers to a document other than the regulation itself.

(11) "Adopting authority" means, for agencies that are attached to the Agencies of Administration, of Commerce and Community Development, of Natural Resources, of Human Services, and of Transportation, or any of their components, the secretaries of those agencies; for agencies attached to other departments or any of their components, the commissioners of those departments; and for other agencies, the chief officer of the agency. However, for the procedural rules of boards with quasi-judicial powers, for the Transportation Board, for the Vermont Veterans' Memorial Cemetery Advisory Board, and for the Fish and Wildlife Board, the chair or executive secretary of the board shall be the adopting authority. The Secretary of State shall be the adopting authority for the Office of Professional Regulation.

(12) "Small business" means a business employing no more than 20 full-time

employees.

(13)(A) “Arbitrary,” when applied to an agency rule or action, means that one or more of the following apply:

(i) There is no factual basis for the decision made by the agency.

(ii) The decision made by the agency is not rationally connected to the factual basis asserted for the decision.

(iii) The decision made by the agency would not make sense to a reasonable person.

(B) The General Assembly intends that this definition be applied in accordance with the Vermont Supreme Court’s application of “arbitrary” in , 2006 VT 65, and , 154 Vt. 596 (1990).

(14) “Guidance document” means a written record that has not been adopted in accordance with sections 836-844 of this title and that is issued by an agency to assist the public by providing an agency’s current approach to or interpretation of law or describing how and when an agency will exercise discretionary functions. The term does not include the documents described in subdivisions (8)(A) through (F) of this section.

(15) “Index” means a searchable list of entries that contains subjects and titles with page numbers, hyperlinks, or other connections that link each entry to the text or document to which it refers. (Added 1967, No. 360 (Adj. Sess.), § 1, eff. July 1, 1969; amended 1981, No. 82, § 1; 1983, No. 158 (Adj. Sess.), eff. April 13, 1984; 1985, No. 56, § 1; 1985, No. 269 (Adj. Sess.), § 4; 1987, No. 76, § 18; 1989, No. 69, § 2, eff. May 27, 1989; 1989, No. 250 (Adj. Sess.), § 88; 2001, No. 149 (Adj. Sess.), § 46, eff. June 27, 2002; 2017, No. 113 (Adj. Sess.), § 3; 2017, No. 156 (Adj. Sess.), § 2.)

# The Vermont Statutes Online

## **Title 26 : Professions And Occupations**

### **Chapter 103 : Notaries Public**

#### **Subchapter 003 : Commissions**

(Cite as: 26 V.S.A. § 5343)

#### **§ 5343. Renewals; continuing education**

(a) Biennially, the Office shall provide a renewal notice to each commissioned notary public. Upon receipt of a notary public's completed renewal, payment of the fee as set forth in section 5324 of this chapter, and evidence of eligibility, the Office shall issue to him or her a new commission.

(b) Subsection (b) effective February 1, 2021.

A notary public applying for renewal shall complete continuing education approved by the Office, which shall not be required to exceed two hours, during the preceding two-year period.

(c) The Office, with the advice of the advisor appointees, shall establish by rule guidelines and criteria for continuing education credit. (Added 2017, No. 160 (Adj. Sess.), § 1, eff. July 1, 2019.)



# Proposed Rules Postings

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## Search Rules

### Deadline For Public Comment

Deadline: Dec 10, 2022

Please submit comments to the agency or primary contact person listed below, before the deadline.

### Rule Details

Rule Number:	22P027
Title:	Administrative Rules for Notary Public Continuing Education.
Type:	Standard
Status:	Proposed
Agency:	Office of Professional Regulation, Office of the Secretary of State
Legal Authority:	3 V.S.A. §801(b)(11) and 26 V.S.A. § 5343(c) The proposed rule requires that notaries public complete one hour (60 minutes) of continuing education related to the Vermont laws and requirements for performing notarial acts every two years. The completion of the course is required for a notary public to renew their commission. The notary public course may be offered in many different formats.
Summary:	



Persons Affected: Notaries public, banks and bank professionals, real estate professionals, lawyers and legal professionals, the Vermont Judiciary, consumers, any party seeking or relying on competent performance of notarial acts.

Economic Impact: There will be minimal economic impact from the proposed rule. Only one hour of continuing education is required. Cost estimates for a course range from \$0 to \$35. The Vermont Bar Association has offered courses, as has the Office of Professional Regulation. It is likely national notary public associations will offer such courses, as well. Courses for other states through the national notary associations currently cost \$25.

Posting date: Oct 26,2022

## Hearing Information

### Information for Hearing # 1

Hearing date: 11-28-2022 10:00 AM [ADD TO YOUR CALENDAR](#)

Location: City Center

Address: 89 Main Street, 3rd Floor

City: Montpelier

State: VT

Zip: 05620-3402

Hearing Notes:

### Information for Hearing # 2

Hearing date: 12-02-2022 5:00 PM [ADD TO YOUR CALENDAR](#)

Location: City Center

Address: 89 Main Street, 3rd Floor

City: Montpelier

State: VT

Zip: 05620-3402

Hearing Notes:

## Contact Information

### Information for Primary Contact

**PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.**

Level: Primary

Name: Lauren Layman

Agency: Office of Professional Regulation, Office of the Secretary of State

Address: 89 Main Street, 3rd Floor

City: Montpelier

State: VT



Zip: 05620-3602  
Telephone: 802-828-2883  
Fax:  
Email: [lauren.layman@vermont.gov](mailto:lauren.layman@vermont.gov)

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Website: <https://sos.vermont.gov/notaries-public/statutes-rules-resources/>  
Address: [VIEW WEBSITE](#)

### Information for Secondary Contact

**SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.**

Level: Secondary  
Name: Kelsi Alger  
Agency: Office of Professional Regulation, Office of the Secretary of State  
Address: 89 Main Street, 3rd Floor  
City: Montpelier  
State: VT  
Zip: 05620-3402  
Telephone: 802-828-2191  
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## Keyword Information

Keywords:

Notaries Public  
Notary  
Notarial Act  
Continuing Education

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The Islander ( <a href="mailto:islander@vermontislander.com">islander@vermontislander.com</a> )	Tel: 802-372-5600 FAX: 802-372-3025
Vermont Lawyer ( <a href="mailto:hunter.press.vermont@gmail.com">hunter.press.vermont@gmail.com</a> )	Attn: Will Hunter

**FROM:** APA Coordinator, VSARA

**Date of Fax:** October 25, 2022

**RE:** The "Proposed State Rules " ad copy to run on

**November 3, 2022**

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## PROPOSED STATE RULES

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By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/>. The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

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### Administrative Rules of the Board of Nursing.

Vermont Proposed Rule: 22P025

AGENCY: Board of Nursing

CONCISE SUMMARY: This strike-and-rewrite update to the Administrative Rules of the Board of Nursing reflects substantial changes in the legal and practice landscape since the last rule update in January 2015. The rule minimizes administrative burdens, conforms to license uniformity and streamlining legislation in Title 3, and provides for the administration of the Nurse Licensure Compact (NLC), to which Vermont became a party state in February 2022. The rule articulates clear nursing practice standards, completing a multi-year effort by the Board and its Practice Committee to refine a body of non-rule position statements, retire those that were dated or unnecessary, and incorporate into rule those that were seen to warrant retention. Finally, the rule adds more flexible avenues by which to demonstrate ongoing nursing competency, ending exclusive reliance on practice hours.

FOR FURTHER INFORMATION, CONTACT: Gabriel Gilman, Secretary of State, Office of Professional Regulation, 89 Main Street, 3rd Floor, Montpelier Vermont, 05620-3402 Tel: (802)828-2492 Email: [gabriel.gilman@vermont.gov](mailto:gabriel.gilman@vermont.gov) URL: <https://sos.vermont.gov/nursing/statutes-rules-resources/>.

FOR COPIES: Kelsi Alger, Secretary of State, Office of Professional Regulation, 89 Main Street, 3rd Floor, Montpelier Vermont, 05620-3402 Tel: 802-828-2191 Email: [kelsi.alger@vermont.gov](mailto:kelsi.alger@vermont.gov).

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### Rule on Alternative Preparatory Paths for Funeral Directors and Embalmers.

Vermont Proposed Rule: 22P026

AGENCY: Board of Funeral Services

CONCISE SUMMARY: This is an amendment to the current Rule on Alternative Preparatory Path for Funeral Directors that establishes a program of apprenticeship and study for aspirants to funeral director licensure who have not attended a school of funeral service. The amendment to this rule adds a program of apprenticeship and study for those who seek to become a licensed embalmer. Additionally, minor revisions

were made to the section of the rule pertaining to funeral directors. The number of credits for the required coursework topics in section (a) were removed in anticipation of the number of credits potentially changing in the future based on the specific college, university or career and technical school's requirements. In section (c) the specific Community College of Vermont course sequence with corresponding credits was removed to allow for future colleges, universities, and career and technical centers to create their own programs. Sections (a) and (c) of the embalmer section of the rule mirrors these revisions.

FOR FURTHER INFORMATION, CONTACT: Lauren Layman, Office of Professional Regulation, 89 Main St., Montpelier, VT 05620-3402 Tel: 802-828-2883 Email: [lauren.layman@vermont.gov](mailto:lauren.layman@vermont.gov) URL: <https://sos.vermont.gov/funeral-service/statutes-rules-resources/>.

FOR COPIES: Kelsi Alger, Secretary of State, Office of Professional Regulation, 89 Main Street, 3rd Floor, Montpelier Vermont, 05620-3402 Tel: 802-828-2191 Email: [kelsi.alger@vermont.gov](mailto:kelsi.alger@vermont.gov).

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Administrative Rules for Notary Public Continuing Education.

Vermont Proposed Rule: 22P027

AGENCY: Secretary of State, Office of Professional Regulation

CONCISE SUMMARY: The proposed rule requires that notaries public complete one hour (60 minutes) of continuing education related to the Vermont laws and requirements for performing notarial acts every two years. The completion of the course is required for a notary public to renew their commission. The notary public course may be offered in many different formats.

FOR FURTHER INFORMATION, CONTACT: Lauren Layman, Office of Professional Regulation, 89 Main St., Montpelier, VT 05620-3402 Tel: 802-828-2883 Email: [lauren.layman@vermont.gov](mailto:lauren.layman@vermont.gov) URL: <https://sos.vermont.gov/notaries-public/statutes-rules-resources/>.

FOR COPIES: Kelsi Alger, Secretary of State, Office of Professional Regulation, 89 Main Street, 3rd Floor, Montpelier Vermont, 05620-3402 Tel: 802-828-2191 Email: [kelsi.alger@vermont.gov](mailto:kelsi.alger@vermont.gov).

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