

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 Notaries Public

_____/s/ Sarah Copeland Hanzas_____, on 11/22/2024
(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 Notaries Public

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

24P 041

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: Emily Tredeau, Esq.

Agency: Office of Professional Regulation

Mailing Address: 89 Main St., 3rd Fl., Montpelier, VT
05602

Telephone: 802-828-1505 Fax:

E-Mail: emily.tredeau@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: Gina Hruban

Agency: Office of Professional Regulation

Mailing Address: 89 Main St., 3rd Fl., Montpelier, VT
05602

Telephone: 802-828-1505 Fax:

E-Mail: gina.hruban@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. § 5323

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

Statute authorizes the Secretary of State's Office of Professional Regulation to adopt administrative rules regulating the performance of notarial acts and issuing commissions to notaries public.

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS 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):

These rules create standards for issuing commissions as well as special endorsements to notaries public to perform notarial acts on electronic records and for remotely located individuals. The standards specify acceptable methods for performing notarial acts, including identification of individuals, personal appearance, completion of the notarial certificate, remote notarization, and recording notarial acts.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The Vermont General Assembly adopted Act 171 in May 2022, which permits OPR to adopt rules allowing Vermont notaries public, who obtain a special endorsement from the Office, to perform notarial acts for remotely located individuals and on electronic records. These rules are necessary to provide a consistent process to

protect the public while accomplishing these activities.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The Rules are not arbitrary, as that term is defined in 8 V.S.A. § 801(b)(13)(A), because there is a factual basis for the decision to issue notary public commissions and special endorsements and to regulate the performance of notarial acts consistent with the Revised Uniform Law on Notarial Acts (RULONA) as codified in 26 V.S.A. ch. 103, and the decision herein would make sense to the reasonable person. Since the initial adoption of Emergency Rules permitting notarial acts for remotely located individuals, business and government practice have come to rely on the ability to do so. In addition, modern business practices demand the ability to perform notarial acts on electronic records. It would make sense to a reasonable person to adopt rules permitting and regulating this practice in Vermont.

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

State agencies, the judiciary, Town Clerks, social service agencies, hospitals, nursing homes and other health care facilities, law enforcement, notaries public, real estate professionals, banks, mortgage companies, attorneys (including those in elder care, estate planning, and real estate), and the public.

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

The Emergency Rules allowed notarial acts to continue during a public health crisis and facilitated the continuance of essential transactions and commerce. Adopting them permanently will facilitate and protect our economy and make Vermont businesses more resilient in the event of future emergencies restricting travel. In addition, adopting standards for electronic notarization will facilitate the modernization of business and governance in Vermont.

For notaries public who perform remote and electronic notarization under the special endorsement, technology costs are expected to be typically \$0 to \$40 a month,

plus per-transaction fees, as of the time of filing these rules. Users of notary public services, identified in #11 above, would remain free to choose in-person, tangible-record notarization if they deem these costs not worth the benefits of remote or electronic notarization.

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: 10/22/2024

Time: 02:00 PM

Street Address: 89 Main St., Ste. 3, Montpelier, VT

Zip Code: 05602

URL for Virtual: <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting> Meeting ID: 253 381 763 984

Passcode: vJankk

Date: 10/24/2024

Time: 06:00 PM

Street Address: 89 Main St., Ste. 3, Montpelier, VT

Zip Code: 05667

URL for Virtual: <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting> Meeting ID: 266 954 078 06

Passcode: NVQG3G

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

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

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

Notary public

Notary

Remote notarization

Personal appearance

Communication technology

Notarial act

Electronic notarization

Electronic notarial certificate

Electronic record

Special endorsement

Professional regulation

Commission

Notarial certificate



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

Rep. Trevor Squirrell, Chair
Legislative Committee on Administrative Rules
Vermont State House
Montpelier, Vermont
By email to Charlene Dindo, charlene@leg.state.vt.us

November 22, 2024

Re: Final Proposed Administrative Rules for Notaries Public

Dear Representative Squirrell and Committee Members:

Please find enclosed the final proposed Administrative Rules for Notaries Public (“Rules”) and related documents, which were filed with the Secretary of State today.

I would be happy to answer any questions the Committee may have about the proposed final rules before of your next meeting. Please feel free to contact me at emily.b.tredeau@vermont.gov.

Sincerely,

/s/ Emily Tredeau
Emily Tredeau
Staff Attorney

c: Louise F. Corliss, APA Rules, Vermont Secretary of State (original documents)

Enc: APA filing forms
Final Proposed Rules
A markup showing changes from the proposed Rules filing
Written comments received
A summary of those comments and agency responses
ICAR minutes approving the proposed Rules with recommendations

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.

1. TITLE OF RULE FILING:

Administrative Rules for Notaries Public

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*):

This is both a new rule and a repeal of an existing rule.

This rule is new and covers aspects of the regulation of notaries public not covered by any existing permanent administrative rule. However, SOS previously



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: August 12, 2024, virtually via Microsoft Teams

Members Present: Chair Sean Brown, Diane Sherman, Jared Adler, Jennifer Mojo, John Kessler, Michael Obuchowski, Natalie Weill, and Nicole Dubuque

Members Absent:

Minutes By: Melissa Mazza-Paquette

- 2:00 p.m. meeting called to order, welcome and introductions.
- Approval of minutes from the July 8, 2024 meeting.
- No additions/deletions to agenda. Agenda approved as drafted, noting that proposed rules #2-5 and proposed rules #8-11 will be taken up together when presented.
- No public comments made.
- Presentation of Proposed Rules on pages 2-13 to follow.
 1. General Assistance Emergency Housing Assistance Rules, Department for Children and Families, page 2
 2. Health Benefits Eligibility and Enrollment Rule, Eligibility Standards (Part 2), Agency of Human Services, page 3
 3. Health Benefits Eligibility and Enrollment Rule, Nonfinancial Eligibility Requirements (Part 3), Agency of Human Services, page 4
 4. Health Benefits Eligibility and Enrollment Rule, Eligibility-and-Enrollment Procedures (Part 7), Agency of Human Services, page 5
 5. Administrative Rules for Notaries Public, Secretary of State, Office of Professional Regulation, page 6
 6. Licensing and Operating Rules for Therapeutic Community Residences, Department of Disabilities, Aging and Independent Living, page 7
 7. Administrative Rules for Peer Support Provider Certification and Peer Recovery Support Specialist Certification, Secretary of State, Office of Professional Regulation, page 8
 8. Dental Services, Agency of Human Services, page 9
 9. Dental Services for Beneficiaries Under Age 21, and Pregnant and Postpartum Women, Agency of Human Services, page 10
 10. Orthodontic Treatment, Agency of Human Services, page 11
 11. Medical and Surgical Services of a Dentist, Agency of Human Services, page 12
 12. Chiropractic Services, Agency of Human Services, page 13
- Next scheduled meeting is September 9, 2024, at 2:00 p.m.
- 3:26 p.m. meeting adjourned.

Proposed Rule: Administrative Rules for Notaries Public, Secretary of State, Office of Professional Regulation

Presented By: Jennifer Colin

Motion made to accept the rule by Sean Brown, seconded by Natalie Weill, and passed unanimously with the following recommendations:

1. Proposed Filing – Coversheet, #12:
 - a. Identify categories and impacts, such as the potential cost of the software.
 - b. Clarify first sentence wording of “in during”.
2. Economic Impact Analysis:
 - a. #3: Include the estimated costs and benefits.
 - b. #4: Clarify.

DRAFT

promulgated Administrative Rules for Notary Public Continuing Education, codified as 22-P26. That rule's substantive requirements are incorporated as Part 9 of this proposed rule, and when this rule takes effect, 22-P26 should be considered repealed.

In addition, this rule replaces an emergency rule currently in effect. That rule and its previous iterations were adopted as follows:

20-E02, "Administrative Rules for Notaries Public and Remote Notarization", March 24, 2020

20-E18, "Emergency Administrative Rules for Notaries Public and Remote Notarization", September 21, 2021
(extension of 20-E02)

21-E02, "Emergency Administrative Rules for Notaries Public and Remote Notarization", March 19, 2021
(extension of 20-E02 and 20-E18)

21-E14, "Emergency Administrative Rules for Notaries Public and Remote Notarization", September 19, 2021
(extension of 20-E02, 20-E18, and 21-E02)

22-E02, "Emergency Administrative Rules for Notaries Public and Remote Notarization", March 14, 2022
(extension of 20-E02, 20-E18, 21-E02, and 21-E14)

22-E13, "Emergency Administrative Rules for Notaries Public and Remote Notarization", September 9, 2022
(extension of 20-E02, 20-E18, 21-E02, 21-E14, and 22-E02)

22-E02, "Emergency Administrative Rules for Notaries Public and Remote Notarization", March 9, 2023
(extension of 20-E02, 20-E18, 21-E02, 21-E14, and 22-E02, and 22-E13)

23-E09, "Emergency Administrative Rules for Notaries Public and Remote Notarization", September 5, 2023
(extension of 20-E02, 20-E18, 21-E02, 21-E14, and 22-E02, 22-E13, and 22-E02)

24-E03, "Emergency Administrative Rules for Notaries Public and Electronic and Remote Notarization", March 4, 2024 (extension of 20-E02, 20-E18, 21-E02, 21-E14, and 22-E02, 22-E13, 22-E02, and 23-E09).

24-E07, "Emergency Administrative Rules for Notaries Public and Electronic and Remote Notarization," Aug. 31, 2024 (extension of 20-E02, 20-E18, 21-E02, 21-E14, and 22-E02, 22-E13, 22-E02, 23-E09, and 24-E03).

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.

1. TITLE OF RULE FILING:

Administrative Rules for Notaries Public

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:

State agencies, the judiciary, Town Clerks, social service agencies, hospitals, nursing homes and other health care facilities, notaries public, real estate professionals, law enforcement, banks, mortgage companies, attorneys (including those in elder care, estate planning, and real estate), and the public.

Notaries public performing notarial acts for remotely located individuals and/or on electronic records will be required to select and use rule-compliant technology. The cost of such technology typically ranges from \$0 (for low-volume, limited-service platforms) to \$25 a month, often with the addition of per-transaction fees of \$10-\$30. Those costs to notaries public will ultimately be reflected in the cost of their services to clients.

Notary clients will have to weigh whether the benefits of remote or electronic notarization outweigh their added costs. For some notarizations, the benefits may be negligible and clients may prefer to seek in-person notarization of a tangible record. For complex multistate transactions, the savings in travel, printing, and time afforded by remote and/or electronic notarization could be substantial. Because nothing in this rule compels the use of electronic or remote notarization, such notarization would be used only if in the client's judgment its benefits outweighed its costs.

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:

This rule has no impact on public education, public schools, local school districts, or taxpayers, except to the extent that those entities incidentally use the services of notaries public. Schools, unlike banks, real estate brokers, and other entities listed in question 3 above, have not been identified as heavy users of the services of notaries public.

To the extent that schools and taxpayers are affected as incidental notary public clients, they are likely to benefit from expanded options for remote and electronic notarization. These expanded options would make it easier for schools and taxpayers to choose the most efficient type of notarization for a particular circumstance. These rules are not anticipated to

increase costs for schools, taxpayers, or other users of the services of notaries public.

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.*

The Rules do not impose costs on 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):

These Rules will allow small businesses to continue conducting essential transactions that have become common place since the covid-19 pandemic in an effective manner without interruption. In addition, adopting the rules authorizing electronic notarial acts will allow small businesses to rely more heavily on electronic records, potentially yielding savings in paper, printing, postage, and physical records storage.

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.*

Businesses can take advantage of existing technologies to perform remote or electronic notarial acts and continue to provide access for important legal transactions. Small businesses can also choose to engage in in-person or on-paper notarial acts if the costs or burdens of compliance with the rules are too significant.

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:

These rules represent the least burdensome approach for accommodating the economic and community need for the performance of notarial acts. Having rules in place so notaries public can accommodate remote individuals and provide a method to notarize electronic documents removes barriers to conducting business and potentially

avoids significant economic burdens that would be costly and disruptive.

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

The analysis regarding the impact of the Administrative Rules for Notaries Public was conducted based on consultation with stakeholders who perform notarial acts, including for remotely located individuals. The impact and efficacy of the Emergency Rules over the past few years and the General Assembly's adoption of Act 171 were also considered.

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 Notaries Public

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.):*

These rules would allow businesses and government to reduce the use of paper through the expanded use of electronic records. This has the potential to reduce emissions through reduced paper consumption. It also has the potential for businesses and government to reduce their office footprints by reducing the need for storage of paper records. Finally, by permanently authorizing remote notarization, these rules could reduce emission of greenhouse gases by reducing the need for travel to obtain the services of a notary public.

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 Rules have no impact on water.
5. **LAND:** *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
The Rules have no impact on land.
6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*
The Rules have no impact on recreation.
7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
The rules have the potential to mitigate climate change in the State by reducing greenhouse gas emissions in the ways described in response to question #3, above.
8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
These rules have no impact on other aspects of Vermont's environment.
9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
These Rules by their nature do not lend themselves for environmental impact analysis. Any environmental impact will be minimal.

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 Notaries Public

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:

OPR's strategy to maximize public involvement in the development of these Rules was share the draft rules with stakeholders (businesses, town clerks, attorneys, associations) for whom notarial services are an important part of their business. OPR has also stayed informed about efforts in other states, at the national level, and by national associations to implement notary rules that allow for the modernization of businesses.

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

Vermont State Archives and Records Administration

Vermont Bar Association, including Probate & Trust, Elder Law, and Real Estate Law sections

Vermont Association of Realtors

Vermont League of Cities and Towns

Vermont Municipal Clerks and Treasurers Association

Public Input

Vermont Mortgage Bankers Association

Vermont Department of Financial Regulation

Vermont National Association of Elder Law Attorneys

Vermont Bankers Association

Vermont Judiciary, including Civil Rules Committee

Connecticut Attorneys Title Insurance Company (CATIC),
Vermont Office

Incorporation by Reference

THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g., federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

1. TITLE OF RULE FILING:

Administrative Rules for Notaries Public

2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

Chapter 103 of Title 26 of the Vermont Statutes.

4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:

26 V.S.A. chapter 103

1 V.S.A. 315 et seq.

9A V.S.A. 3-305(b)

3 V.S.A. chapter 5, subchapter 2

5. OBTAINING COPIES: (*EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST*):

Available free at

<https://legislature.vermont.gov/statutes>

6. MODIFICATIONS (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

Tredeau, Emily B

From: Gerard Ashton <ashton@ieee.org>
Sent: Saturday, October 26, 2024 10:34 AM
To: SOS - OPR Comments
Subject: Comment on proposed notary rules
Attachments: rules letter 2024-10-26.docx

You don't often get email from ashton@ieee.org. [Learn why this is important](#)

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Please see my comment in the attached Microsoft Word document.

Gerard Ashton
Castleton, Vermont
802-779-6345

Gerard Ashton
email: ashton@ieee.org
Castleton, Vermont

October 26, 2024

Vermont Office of the Secretary of State, Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, Vermont 05602

Subject: Proposed rules for notaries public

During the public hearing on October 22, 2024, one of the subjects discussed was the meaning of "electronic signature" when applied to the electronic signature of a notary on a notarial certificate. Another topic of discussion was apostilles, and what signature requirements notaries would have to adhere to if the record is to receive an apostille. During the hearing these topics were not discussed together, but one topic might affect the other when the rules are being revised in response to the hearings.

I have used the internet to research the topic of electronic apostilles in the United States. All I could find about electronic apostille programs that are in force were in three states. Washington and Rhode Island have pilot programs that provide apostilles with select counterparties such as other state government offices or student records for a state university; they are not offered to the general public. Montana accepts electronic documents for apostilles, but prints them first before the apostille is applied.

In view of this very limited progress, I suggest Vermont not worry about making notarizations suitable for electronic apostilles during this rulemaking proceeding and wait for other states to establish conventions about how to do this.

Respectfully,

Gerard Ashton

Response to email from E. Tredeau dated 5 Nov 2024

Gerard Ashton
7 November 2024

I have talked to a few town clerks, and it's my impression that most town clerks don't think there is even a requirement for original signatures on documents to be recorded. One clerk has a practice of writing "Not an original document" above the recording whenever a photocopy is being recorded.

I've also communicated with a number of notaries in person and on line. I believe few notaries have the skills to check digital signatures in what I consider to be a prudent manner. I believe that, except for the simplest cases such as text files (.txt), we should be developing a cadre of officers with special training, such as professionals with related qualifications (accountants, architects, engineers, lawyers & land surveyors).

Nevertheless, I developed a personal draft of what rules I would follow myself if I were doing this. But in the end, I wasn't satisfied so I won't be putting my personal draft forward.

I did find one passage that gives a little hope, and I suggest the rules drafters expand the scope of this passage.

Vermont's RULONA states (*emphasis added*)

§ 5371. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC RECORD; SELECTION OF TECHNOLOGY

(b) A recorder, as defined in 27 V.S.A. § 622, may accept for recording a *tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notary public executing the notarial certificate certifies that the tangible copy* is an accurate copy of the electronic record.

§ 5371, which authorizes recorders to record the tangible copies, requires some careful parsing. What does "recording a tangible copy of an electronic record containing a notarial certificate" mean? Since "electronic record" is closer to "notarial certificate" than "tangible copy" is, I deem it to mean the electronic record already contains a notarial certificate before the tangible copy is made, so this section wouldn't even apply to unnotarized documents.

This leads to "if the notary public executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record" meaning that the notary who certifies the

tangible copy must have signed at least one of the electronic notarial certificates in the electronic record.

Also worth noting is the notary need not be a Vermont notary.

At present § 5371 only places a requirement on recorders, not notaries. My suggested change would apply the requirement to notaries. Also, the requirement would apply to all electronic records, even if the record is intended to be recorded in another state, or even if the record isn't going to be recorded at all.

By requiring the notary making the tangible copy to have signed at least one of the notarial certificates, it at least assures the notary has some connection to the electronic record.

SUGGESTED RULE CHANGE

Part 5: Commissioned Notary Public – Notarial Acts

Add subpart c) and reletter succeeding subparts accordingly.

c) Notaries public shall not certify that a tangible copy of an electronic record is an accurate copy, as provided in 26 V.S.A. § 5363 (e), if the electronic record contains one or more notarial certificates, unless both (i) and (ii) are satisfied.

i) All notarial certificates in the electronic record satisfy the definition of electronic notarial certificate in 1-6, or comparable requirements from another jurisdiction, and

ii) at least one of the electronic notarial certificates is signed by the notary public who is performing the certification that a tangible copy of an electronic record is an accurate copy.

Gerard Ashton
Castleton, Vermont

Tredeau, Emily B

From: Thorin B <thorin@pringleslaw.com>
Sent: Monday, October 14, 2024 1:53 PM
To: SOS - OPR Comments
Subject: Notarial Rules Public Comment

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Hello,

I am an attorney and notary in the State of Vermont. Prior to moving to Vermont, I was admitted to practice in Wisconsin.

In Wisconsin, lawyers barred in the state can be notaries with “permanent” commission. [§140.02\(2\)](#). The chapter maintains a distinction between notaries who are attorneys and notaries who are not. Because lawyers are already members of a regulated profession subject to fees to maintain their license, providing attorneys with a Notary Commission that does not expire seems like a reasonable de-regulation.

I understand this may not be completely relevant to the proposed rule change, and may require a statutory change. However, I wanted this proposal to be considered.

Please let me know if you have any questions.

Best,

Thorin

Thorin Blitz, Esq.
Law Office of Claudia I. Pringles, PLLC
25 Court Street
Montpelier, Vermont 05602
802-223-0600 (phone)
888-222-1092 (fax)

www.PringlesLaw.com

To Schedule an Appointment: <https://calendly.com/thorinblitz>

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Tredeau, Emily B

From: Sheila Getzinger <getzinger@gmavt.net>
Sent: Monday, October 28, 2024 11:08 AM
To: SOS - OPR Comments
Subject: Proposed Notary Public Rules

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Folks:

I am concerned about the requirement of the proposed notary rules - Section 5-2 (f) (iv) (C) which requires a notary certificate to be "...on the same page as the identity and signature of the individual."

First - I am concerned that before this requirement becomes widely known there will be many ineffective documents for failure to follow this requirement.

Second - I am concerned that subsection iii requiring certificates to be "part of, attached to, or affixed to the tangible record" is in conflict with subsection iv because as I read this the notary certificate could be a separate piece of paper stapled to a document.

Third - I am concerned about the requirement to staple a separate piece of paper to a document. Town Clerks aren't going to be happy about receiving documents for recording which are stapled together - trying to get them separated for photocopying into the land records often results in damage to or partial destruction of the document.

Sheila

--

Sheila K. Getzinger, Esq.
Attorney at Law
P. O. Box 515
Waitsfield, Vermont 05673
Telephone: 802-496-7871
Email: getzinger@gmavt.net

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Tredeau, Emily B

From: Robert Oeser <robt.oeser@gmail.com>
Sent: Thursday, October 24, 2024 6:11 PM
To: SOS - OPR Comments
Subject: Fwd: Administrative Rules for Notaries Public

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Please see below.

Robert Oeser
robt.oeser@gmail.com
518-505-9031

----- Forwarded message -----

From: Robert Oeser <robt.oeser@gmail.com>
Date: Tue, Oct 22, 2024, 3:31 PM
Subject: Administrative Rules for Notaries Public
To: <jennifer.colin@vermont.gov>, <gina.hruban@vermont.gov>

In the proposed rules, sec. 5-1 a) v), the wording "Certifying that a tangible copy of an electronic record is full, true, and accurate." appears to be more restrictive than the language in the statute, 26 V.S.A. § 5363, Requirements for certain notarial acts, "Copies. A notary public who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true, and accurate transcription or reproduction of the record or item."

In addition, 26 V.S.A. § 5368 (5) provides for the use of a short form certificate, without qualification as to whether the record certified is a copy of a tangible record or of a digital one:

(5) For certifying a copy of a record:

State of _____

County of _____

I certify that this is a true and correct copy of a record in the possession of

Dated _____

Signature of notarial officer _____

Stamp_____

Title of office _____ [My commission expires: _____]

Prior to the 2017 law change, I was provided with the following advice by the Secretary of State's office:

Copies of passports, other identification documents such as driver's license, etc, must be placed under affidavit. An affidavit is a sworn statement signed before the notary public attesting to the underlying document's authenticity and would read something like:

I, (name of person presenting document for notarization), hereby attest that the attached is a true and accurate copy of my (type of document).

(signature)

STATE OF VERMONT

COUNTY OF _____} ss.

Subscribed and sworn (or affirmed) to before me this (date).

(notary signature)

Commission expires 2/10/15

This is just an example. The language above can be put directly on the copy if there is adequate space for it.

Vermont notaries do have authority to certify copies of original diplomas, the notary should make the copy. Transcripts, however, must be notarized at the school where they are issued.

Any advice and / or clarification would be greatly appreciated.

Thanking you in advance,

Robert A. Oeser
PO Box 6001
Brattleboro VT 05302
email: Robt.Oeser@gmail.com
cell: 518-505-9031

The Friends of Brooks Memorial Library

Tredeau, Emily B

From: Patricia Tretiak <courtreporter@snet.net>
Sent: Tuesday, October 22, 2024 8:07 PM
To: SOS - OPR Comments
Subject: Why are notaries...

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Why are notaries having to watch a video with no new information in order to renew a license?

Typically continuing education covers new developments in a field. Having to pay money and watch a video for a notary renewal, which has no new information, seems to demonstrate a disservice to other license holders who truly are learning new developments in their field.

Clearly a money grab for everyone but the notary, who makes very little money, if any, trying to fulfill a civic duty and help the public.

Thank you,
Patricia

Tredeau, Emily B

From: Laura Bradrick Treu <ltreu@firstam.com>
Sent: Friday, September 13, 2024 12:18 PM
To: Tredeau, Emily B
Subject: Comments to Draft Emergency Rule Regarding Remote Online Notarization
Attachments: Remote Online Notarization Standards - FINAL Candidate Recommendation (CR) Commercial Use Version.pdf

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Hi Ms. Tredeau,

Sorry I didn't get you an answer last week. I appreciate that this proposed rule does seem to incorporate and address our original comments below.

I think the only comment I additionally have is to add that any that RON System, process, procedure must be capable of generating a printable version of all documents. This is also something that is part of the Mortgage Industry Standards Maintenance Organization (MISMO) RON Standards previously provided (and copying again here for convenience).

My reasoning for this change is that while some town clerks will implement/adopt a digital recording process, many others will not and so paper copies of documents will still need to be sent in for recording purposes, even if signed electronically.

Thank you!

Best,

Laura

Laura Bradrick Treu
Vermont State Counsel & Manager



First American

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From: Tredeau, Emily B <Emily.B.Tredeau@vermont.gov>
Sent: Thursday, August 29, 2024 12:48 PM
To: Laura Bradrick Treu <ltreu@firstam.com>
Subject: [External] RE: Comments to Draft Emergency Rule Regarding Remote Online Notarization

Dear Laura,

Thank you so much for your interest in the notary rules. I'm so sorry you did not receive a response to this. Lauren Layman has moved on to the Department of Health, and I think this was lost in the shuffle. I sent the draft, permanent notary rule out to identified stakeholders in July. Unfortunately, I did not include you because I had not seen this message.

We are now on the verge of formally filing the rules, which will make them subject to one last round of revisions after public comment, but I would still welcome your input. And if it's clear a change is needed, we can still make it. I received zero feedback from the title insurance / real estate community and would really like to see that perspective represented.

The most recent draft is attached; the file name reflects that it was recently set to the judiciary for review.

Thank you in advance for any comments. If you could share any thoughts by next Friday, September 6, it would allow time for me to review them before formally filing the rule. I'm sorry again for missing you earlier and necessitating this tight turnaround.

Sincerely,

Emily Tredeau (she / her)
Staff Attorney, General Counsel Division
Office of Professional Regulation
Secretary of State
89 Main St., Third Fl.
Montpelier, VT 05602
emily.b.tredeau@vermont.gov

From: Laura Bradrick Treu <ltreu@firstam.com>
Sent: Monday, April 1, 2024 3:26 PM
To: Layman, Lauren <Lauren.Layman@vermont.gov>; SOS - OPR Comments <sos.opr.comments@vermont.gov>
Cc: Derek Massey <dmassey@firstam.com>; Katherine Prifti <KPrifti@firstam.com>
Subject: Comments to Draft Emergency Rule Regarding Remote Online Notarization

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Thank you. I did see that the Emergency Rules were published. I would really appreciate an opportunity to review and comment on an early draft of the final, permanent notarial rule when it's available. Thank you!

Best,

Laura

Laura Bradrick Treu
Vermont State Counsel & Manager



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Mobile: (802) 771-4227
Email: ltreu@firstam.com



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From: Layman, Lauren <Lauren.Layman@vermont.gov>
Sent: Monday, April 1, 2024 2:51 PM
To: Laura Bradrick Treu <ltreu@firstam.com>; SOS - OPR Comments <sos.opr.comments@vermont.gov>
Cc: Derek Massey <dmassey@firstam.com>; Katherine Prifti <KPrifti@firstam.com>
Subject: [External] RE: Comments to Draft Emergency Rule Regarding Remote Online Notarization

Hi, Laura,

The temporary emergency rules have been published (<https://sos.vermont.gov/media/rc3idrqn/final-emergency-rules-for-remote-and-electronic-notarial-acts.pdf>) are available on OPR's website (<https://sos.vermont.gov/notaries-public/statutes-rules-resources/>).

Because these are temporary rules, OPR did not want to disrupt the remote process we have had in place since 2020. This is why there are not yet provisions for identity proofing and communication technology standards. These standards, many of which you very helpfully provided in your comments on the temporary emergency rule, will be included in the final permanent rule. The emergency rules also establish the specialty commission endorsement for the performance of electronic notarial acts, and include technology standards for tamper-evident technology. This specialty commission endorsement is available now. Notaries public that hold the specialty commission endorsement may perform notarial acts on electronic records using technology that conforms to the emergency rule requirements.

We hope to have a draft of the final permanent notarial rule, including requirements for communication technology and identity proofing available by mid-April. May we share an early draft with you for feedback?

Thank you so much for your patience and feedback!

Best,
Lauren

Lauren K. Layman, General Counsel
Pronouns: she/her
Office of Professional Regulation
Vermont Secretary of State
89 Main Street, 3rd Floor
Montpelier, VT 05602

802/828-2883

<https://sos.vermont.gov/opr/>

From: Laura Bradrick Treu <ltreu@firstam.com>

Sent: Monday, April 1, 2024 1:51 PM

To: Layman, Lauren <Lauren.Layman@vermont.gov>; SOS - OPR Comments <sos.opr.comments@vermont.gov>

Cc: Derek Massey <dmassey@firstam.com>; Katherine Prifti <KPrifti@firstam.com>

Subject: Comments to Draft Emergency Rule Regarding Remote Online Notarization

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Dear Ms. Layman,

Have rules been published? I do not see anything published on or after March 22 as relates to remote online notarization, etc. Only the March 4 Emergency Rules (24-E03). I want to make sure I'm not missing anything if/when proposed rules are published.

Best,

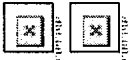
Laura

Laura Bradrick Treu
Vermont State Counsel & Manager



First American

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Email: ltreu@firstam.com



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From: Layman, Lauren <Lauren.Layman@vermont.gov>

Sent: Monday, March 4, 2024 2:50 PM

To: Laura Bradrick Treu <ltreu@firstam.com>; SOS - OPR Comments <sos.opr.comments@vermont.gov>

Cc: Derek Massey <dmassey@firstam.com>; Katherine Prifti <KPrifti@firstam.com>

Subject: [External] RE: Comments to Draft Emergency Rule Regarding Remote Online Notarization

Thank you, Laura. We will certainly include these provisions in the permanent rules enacting remote and electronic notarial acts. Those will be distributed on March 22.

Thank you!

Lauren

Lauren K. Layman, General Counsel

Pronouns: she/her
Office of Professional Regulation
Vermont Secretary of State
89 Main Street, 3rd Floor
Montpelier, VT 05602
802/828-2883
<https://sos.vermont.gov/opr/>

From: Laura Bradrick Treu <ltreu@firstam.com>
Sent: Thursday, February 29, 2024 4:09 PM
To: SOS - OPR Comments <sos.opr.comments@vermont.gov>; Layman, Lauren <Lauren.Layman@vermont.gov>
Cc: Derek Massey <dmassey@firstam.com>; Katherine Prifti <KPrifti@firstam.com>
Subject: Comments to Draft Emergency Rule Regarding Remote Online Notarization
Importance: High

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Dear Ms. Layman,

First American Title Insurance Company ("First American"), a premier provider of title, settlement, and risk solutions for real estate transactions, is grateful for the opportunity to comment on the Emergency Rules for Remote and Electronic Notarial Acts dated February 28, 2024 ("Emergency Rules"). As requested in your email, below are First American's comments to the proposed Emergency Rules:

1. **Identity Proofing.** The draft Emergency Rules make reference to the statutory term "identity proofing" without any further guidance as to what constitutes satisfactory identity proofing. It is First American's position that the Emergency Rules should provide notaries with guidance as to what constitutes satisfactory "identity proofing" when performing notarizations for remotely located individuals. First American suggests that the Emergency Rules expand on "identity proofing" so notaries understand and can articulate what specifically is required for identity proofing. Most states, through regulations, have authorized credential analysis and knowledge-based authentication (KBA).

First American suggests the adding the sections set out below to the Emergency Rules. The recommended language is incorporated from Mortgage Industry Standards Maintenance Organization Remote Online Notarization Standards, Version 1. In particular, Section 1 on Credential Analysis and Authentication as to better define, expand and articulate "identity proofing". Note, other states have incorporated Sections 1a, 1b, and 1c into their respective regulations, and may be the easiest approach for revising the Emergency Rules. Further, the following definitions should be added to Part 2: "Credential Analysis", "Identity Credential", "Identity Proofing", and "Knowledge-Based Authentication".

2. **RON vs. RIN Identification Requirements.** A notary has the same requirements when identifying a remotely located individual regardless of whether the notarization involves electronic documents (e.g., RON) or paper documents (e.g., RIN). Absent personal knowledge or oath/affirmation of a credible witness, the notary must use "at least two different types of identity proofing" methods to identify a remote signer. See 26 VSA § 5379(b)(2)(C). However, the Emergency Rules allows for an individual seeking a RIN to present two different forms of identification. See Emergency Rule 4-2(a)c. Review of a government issued identification credential is one form of identity proofing. Requiring two forms of identification be reviewed amounts to requiring one form of identity proofing twice, but the statute requires "*two different types of identity proofing.*" The Emergency Rules conflict with the statute and should be revised accordingly. As indicated in the first comment above, First American

suggests incorporating the Identity Proofing section below into Parts 4 and 6 of the Emergency Rules to provide specificity as to the and guidance to notaries.

Add the following terms and definitions to Part 2:

Part 2: Definitions

“Credential analysis” means the analysis of an identity credential using public or private data sources to confirm the validity of the identity credential presented by a remotely located individual in accordance with these Rules.

“Identity credential” means a record used by a notary public to identify an individual as provided in 26 V.S.A. § 5365.

“Identity proofing” means a process or service operating in accordance with section 5380 of this chapter and any standards adopted by the Office pursuant to section 5323 of this chapter by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

“Knowledge-based authentication” means an identity assessment used by a notary public to identify an individual that is based on a set of questions formulated from public or private data sources that does not contain a question for which the individual provided a prior answer to the person doing the assessment.

Add the following provisions for notaries identifying remotely located individuals:

IDENTITY PROOFING.

If a notary public does not have satisfactory evidence of the identity of a remotely located individual under 26 V.S.A. § 5365(b), the notary public must reasonably verify the individual's identity through two (2) different types of identity proofing consisting of a multi-factor authentication procedure as provided in this section. The procedure must analyze the individual's identity credential against trusted third-person data sources, bind the individual's identity to the individual following successful knowledge-based authentication, and permit the notary public visually to compare the identity credential and the individual. The analysis of the identity credential and the knowledge-based authentication shall conform to the following requirements:

- (a) **Credential Analysis.** The analysis of an identity credential must use public or private data sources to confirm the validity of the identity credential presented by a remotely located individual and shall, at a minimum:
 - a. Use automated software processes to aid the notary public in verifying the identity of each remotely located individual;
 - b. Require that the identity credential passes an authenticity test, consistent with sound commercial practices that use appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features and to confirm that the identity credential is not fraudulent or inappropriately modified;
 - c. Use information held or published by the issuing source or an authoritative source, as available and consistent with sound commercial practices, to confirm the validity of personal details and identity credential details; and
 - d. Enable the notary public visually to compare for consistency the information and photograph on the identity credential and the remotely located individual as viewed by the notary public in real time through communication technology.
- (b) **Knowledge-Based Authentication.** A knowledge-based authentication is successful if it meets the following requirements:

- a. The remotely located individual must answer a quiz consisting of a minimum of five questions related to the individual's personal history or identity formulated from public or private data sources;
- b. Each question must have a minimum of five possible answer choices;
- c. At least 80% of the questions must be answered correctly;
- d. All questions must be answered within two minutes;
- e. If the remotely located individual fails the first attempt, the individual may retake the quiz one time within 24 hours;
- f. During a retake of the quiz, a minimum of 40% of the prior questions must be replaced;
- g. If the remotely located individual fails the second attempt, the individual is not allowed to retry with the same notary public within 24 hours of the second failed attempt; and
- h. The notary public must not be able to see or record the questions or answers.

Other Methods of Identity Verification. A notary public has satisfactory evidence of the identity of a remotely located individual if the notary public has personal knowledge of the identity of the individual or if the notary public has satisfactory evidence of the identity of the individual by oath or affirmation of a credible witness appearing before the notary.

- (a) Personal Knowledge. A notary public has personal knowledge of the identity of the individual appearing before the notary public if the individual is personally known to the notary public through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.
- (b) Credible Witness. To be a credible witness, an individual must have personal knowledge of the remotely located individual who has made a statement in or executed a signature on the record that is the subject of the notarial act. The notary public must have personal knowledge of the credible witness under 26 V.S.A. § 5365(a) or must have verified the identity of the credible witness under Identity Proofing section of these Regulations. A credible witness may be a remotely located individual if the notary public, credible witness, and individual whose statement or signature is the subject of the notarial act can communicate by using communication technology.

We thank you for the opportunity to comment the Emergency Rules. If you have any further questions or comments on the foregoing, please let me know.

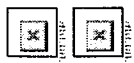
Best,

Laura

Laura Bradrick Treu
Vermont State Counsel & Manager



First American Title Insurance Company
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FAFLD

Tredeau, Emily B

From: J West <jessamyn@gmail.com>
Sent: Thursday, October 3, 2024 12:15 PM
To: SOS - OPR Comments
Subject: public comment of the Proposed Administrative Rules of Notaries Public

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Hello,

I am a notary public who lives in Randolph Vermont. I have been a notary since 2013 and hold that office as part of my role as an elected Justice of the Peace.

I am technologically savvy and under the Emergency Rules I frequently provided remote notary services. **I am strongly in favor of allowing remote notary services** to be part of the services which notaries are allowed to provide in the State of Vermont.

I do believe that storage of these digital files for seven years does create an administrative burden and potentially a cost to the notary and should be noted in the "category of affected parties."

I do believe that the continuing education requirements of this position are burdensome. Currently there is a single course offered by the Vermont Bar Association given at only two times. There is a lack of clarity as to what exactly "counts" as taking this course. Can it be simply viewed afterwards? Who verifies that? As a notary who does not charge for services but provides them as part of my elected office, I find this process confusing, time consuming and costly.

I find it weird that this document states that "One hour means 60 minutes." Is that something that comes up often?

Thanks for allowing me to make these public comments.

Jessamyn West
Box 345
Randolph VT 05060

Administrative Rules for Notaries Public

Part 1: Definitions and Clarification of Terms

The definitions in 26 V.S.A. Chapter 103, the Uniform Law on Notarial Acts, are incorporated into these Administrative Rules.

- I-1** “**Commission**” means a license, as that term is defined in 3 V.S.A. § 121, that is an official authorization issued by the Office permitting a holder to perform notarial acts.
- I-2** “**Commission Number**” means the credential number associated with the Commission when issued by the Office.
- I-3** “**Digital Certificate**” means the digital certificate obtained from a third-party that verifies the identity of the notary public and, after being applied to an electronic record, makes any changes to the electronic record tamper evident.
- I-4** “**Director**” means the Director of the Office of Professional Regulation.
- I-5** “**Electronic**” is defined at 26 V.S.A. § 5304.
- I-6** “**Electronic notarial certificate**” means the part of, or attachment to, an electronic record that is completed by a notary public evidencing the notarial act and that contains the information required under 26 V.S.A. §§ 5367 and 5379, including the notary public’s electronic signature.
- I-7** “**Electronic Official Stamp**” means an electronic image attached to or logically associated with an electronic record.
- I-8** “**Electronic record**” means information that is stored in an electronic form and is retrievable in perceivable form.
- I-9** “**Electronic signature**” means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.
- I-10** “**Judiciary-Related Employee**” is defined at 26 V.S.A. § 5305.
- I-11** “**Law-Enforcement-Related Employee**” is defined at 26 V.S.A. § 5305.

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Administrative Rules for Notaries Public

- 1-12** “**Notarization**” means the performance of a notarial act, as that term is defined in 26 V.S.A. § 5304.
- 1-13** “**Notary public**” means a notary public commissioned in Vermont under these Rules and 26 V.S.A. Chapter 103.
- 1-14** “**Office**” means the Office of Professional Regulation within the Office of the Secretary of State.
- 1-15** “**Official duties**” is defined at 26 V.S.A. § 5305.
- 1-16** “**Physical Official Stamp**” means a physical image affixed to or embossed on a tangible record.
- 1-17** “**Remote electronic notarial act**” means a notarial act performed on an electronic record for a Remotely Located Individual.
- 1-18** “**Remotely located individual**” is defined a 26 V.S.A. § 5304.
- 1-19** “**Special Endorsement**” means an official authorization issued by the Office permitting a notary public, who already holds a Commission to perform notarial acts in Vermont, to perform notarial acts on electronic records and for Remotely Located Individuals.
- 1-20** “**Tamper evident**” means that any change to an electronic record is detectable after the performance of the notarial act.
- 1-21** “**Tamper-evident technology**” means a set of applications, programs, hardware, software, or other technologies designed to enable a notary public to perform a notarial act on an electronic record and to display evidence of any changes made to an electronic record.

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Administrative Rules for Notaries Public

Part 2: Administration

- 2-1 Applicable Law.** The practice of notaries public is defined and regulated pursuant to 26 V.S.A. § 5301 *et seq.* Copies of these and other statutes are available online. The Director administers licensure in conformity with these and other Vermont laws, to include the Administrative Procedures Act, 3 V.S.A. § 800 *et seq.*; the Public Records Act, 1 V.S.A. § 315 *et seq.*; and the Laws of Professional Regulation, 3 V.S.A. § 121 *et seq.*
- 2-2 Resources for Applicants and Licensees.** The Office maintains a website with information and links relevant to all licensed professionals. Information specific to notaries public, including forms and online applications, is available on the Office website.

Part 3: Procedures

- 3-1 Applications.** Commission and Special Endorsement applications must be completed through the Office website.
- a) Incomplete applications will not be processed. Applications are complete only when all required questions have been answered fully, all attestations made, all required documentation and materials provided, and all fees paid.
 - b) When the Office intends to deny an application based on unprofessional conduct or an ongoing investigation for unprofessional conduct, notice stating the reasons for the action shall be sent to the applicant by certified mail, whereupon the applicant shall have 30 days to seek a hearing before an Administrative Law Officer in accordance with 3 V.S.A. § 129(e)(1).
 - c) When the Office denies an application for a commission based on a finding by the Director that the applicant has not fulfilled the qualifications or met the standards required for issuance of the Commission or Special Endorsement, notice stating the reasons for the denial shall be sent to the applicant by certified mail, whereupon the applicant will have a right to appeal the decision in accordance with 3 V.S.A. §§ 129(e)(2) and 130a.
 - d) The Office may refuse to accept any application found to be redundant with a denied or in-process application.
 - e) The Office may deem expired any application for a Commission or Special Endorsement that is left incomplete for six months.

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Administrative Rules for Notaries Public

- 3-2 Complaints.** Complaints against notaries public, applicants for a notary public Commission, or unauthorized persons practicing without a required Commission or Special Endorsement may be submitted through the Office website.
- 3-3 Contested Cases.** Procedures in contested cases relating to Commissions, Special Endorsements, or discipline are governed by the Office of Professional Regulation Administrative Rules of Practice, CVR 04-030-005, as those rules may from time to time be modified.
- 3-4 Declaratory Rulings.** Petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the Office may be made pursuant to 3 V.S.A. § 808 and Office procedure.
- 3-5 Reasonable Accommodation.** The Office complies with applicable provisions of the Americans with Disabilities Act.
- 3-6 Conflict of Standards.** Where a standard of unprofessional conduct set forth in statute conflicts with a standard set forth in rule, the standard that is most protective of the public shall govern. 3 V.S.A. § 129a(e).
- 3-7 Waiver or Variance.** The Director will not grant routine waivers or variances from any provisions of these rules without amending the rules. 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 Office 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 administrative hearing right or cause of action.

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Administrative Rules for Notaries Public

Part 4: Commissioned Notary Public - General

- 4-1 Commission Required.** Except as provided in Part 4-3, below, an individual must obtain a Commission to perform notarial acts in Vermont. Notaries public holding a Commission may perform notarial acts only on tangible records and only for people appearing physically before the notary public. For all other notarial acts, notaries public shall obtain a Special Endorsement in accordance with Part 6, below.
- 4-2 Eligibility – General.** Except as provided in Part, below, an applicant shall fulfill the following requirements to qualify for a Commission:
- a) Be at least 18 years old;
 - b) Be a citizen or permanent legal resident of the United States;
 - c) Be a resident or have a place of employment or practice in the State of Vermont;
 - d) Not be disqualified to obtain a Commission based on the grounds listed in 26 V.S.A. § 5342;
 - e) Pass an examination approved by the Office based on the statutes, rules, and ethics relevant to the provision of notarial acts;
 - f) Execute and submit to the Office a notarized oath of office; and
 - g) Pay the required non-refundable fee.
- 4-3 Exemptions.** Except as noted for Law-Enforcement-Related Employees, these exemptions apply only to Commissions, not Special Endorsements.
- a) Judiciary-Related Employees.
 - i. Judiciary-Related Employees must obtain a Commission to perform notarial acts in Vermont. Judiciary-Related Employees are exempt from the following requirements:
 - A. Passage of the examination required under Part 4-2(e), above;
 - B. Paying the required fee; and
 - C. Completing the continuing education as a condition of renewing a Commission under Part 9, below.

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Administrative Rules for Notaries Public

- ii. Judiciary-Related Employees who perform notarial acts outside the scope of their Official Duties must comply with all the requirements of these Rules and 26 V.S.A. Chapter 103.
- b) Attorneys. Attorneys who are licensed and in good standing in Vermont are subject to all the requirements of these Rules and 26 V.S.A. Chapter 103 except for the following requirements:
 - i. Passage of the examination required under Part 4-2(e), above; and
 - ii. Completing the continuing education as a condition of renewing a Commission under Part 9, below.
- c) Town Clerks, Assistants, and Justices of the Peace. Town clerks, town clerk assistants, and justices of the peace are subject to all the requirements of these Rules and 26 V.S.A. Chapter 103 except for paying the required fee.
- d) Law-Enforcement-Related Employees do not have to obtain a Commission to perform notarial acts within the scope of their Official Duties. They also do not have to obtain a Special Endorsement to perform, within the scope of their Official Duties, notarial acts on electronic records or for remotely located individuals.

4-4 Location of Notary Public. Notaries public shall be physically located within Vermont's borders when performing all notarial acts under the authority of a Vermont notary public commission.

4-5 Name and Name Change.

- a) Form. Notaries public shall sign notarial acts using the same name they signed on the notarized oath of office submitted in their Commission.
- b) Name Change. Within thirty days after a change of name, address, or e-mail address, notaries public shall report the change to the Office by updating the notary public's online file and, for name changes, shall submit court documentation of the name change, and an updated notarized oath of office signed with the notary public's new signature. Notaries public shall not perform notarial acts after a name change until the updated oath is submitted.

4-6 Renewal Requirements - Continuing Education. As a condition of renewal, and unless an exemption under Part 4-3 applies, notaries public shall complete continuing education in accordance with Part 9, below.

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Administrative Rules for Notaries Public

- 4-7 **Biennial Commission and Special Endorsement Period.** Commissions and associated Special Endorsements are valid for fixed, two-year periods. Expiration dates are printed on the Commission. A Commission and any associated Special Endorsement expires if not renewed by midnight ~~on~~ at the conclusion of the date of expiration. Practice under an expired Commission or an expired Special Endorsement is a violation of 3 V.S.A. § 127. A search tool on the Office website may be considered a primary source verification as to Commission and Special Endorsement status and expiration.
- 4-8 **Commission and Special Endorsement Renewal.** Online Commission and Special Endorsement renewal applications must be completed through the Office website. The Office transmits email reminders to Notaries public at the end of each biennial commission period; however, non-receipt of such reminders shall not excuse a Notaries public from the obligation to continuously maintain a Commission and, where applicable, a Special Endorsement, or the consequences of failing to do so.
- 4-9 **Initial Commission and Special Endorsement Issuance.** An applicant issued an initial Commission or Special Endorsement within 90 days of the end of a biennial period will not be required to renew, pay any renewal fees, or complete any continuing education prior to the end of that biennial period. The Commission and any associated Special Endorsement will be issued through the next full biennial period. Notaries public must fulfill renewal requirements for subsequent renewals.
- 4-10 **Late Renewal Penalties.** Late renewal applications are subject to reinstatement penalty fees. Waivers of such fees may be requested through the online licensing system. 3 V.S.A. § 127(d).

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Administrative Rules for Notaries Public

Part 5: Commissioned Notary Public – Notarial Acts

5-1 Notarial Acts.

- a) Notaries public may perform only the following notarial acts and only in accordance with 26 V.S.A. § 5363 and these Rules:
 - i. Taking an acknowledgement of a record and determining that the individual appearing before the notary public has the identity claimed, is the person who signed the document, and is signing the record for the purposes stated in the record;
 - ii. Taking a verification of a statement on oath or affirmation and determining that the individual appearing before the notary public has the identity claimed, is the person who signed the document, and is stating the declarations made in the underlying record are true;
 - iii. Attesting to a signature and determining that the individual appearing before the notary public has the identity claimed and is the person who signed the document;
 - iv. Noting a protest of a negotiable instrument.
 - v. Certifying that a tangible copy of an electronic record is an accurate copy of the electronic record.
- b) With regard to certifying a copy, Vermont-Commissioned notaries public may certify only that a tangible copy of an electronic record is ~~an full, true, and accurate~~ copy of the electronic record. Vermont-Commissioned notaries public may not certify any other forms of records.
- c) ~~The following acts are not Notarial acts regulated under these Rules do not include and are governed by the statutes and rules regarding those acts:~~
 - i. ~~the administration of an oath swearing to or affirming the truth of oral testimony following the oath;~~
 - ii. ~~issuing a subpoena; and Such oaths are subject to the laws governing court procedure~~
 - e)iii. ~~administering an oath of office.~~

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Administrative Rules for Notaries Public

5-2 Performance of a Notarial Act on a Tangible Record when Individual is Physically Present Before Notary Public. When a notary public is performing a notarial act on a tangible record for an individual physically appearing before the notary public, the notary public shall adhere to the following procedures:

- a) Personal Appearance. The individual shall share the same physical space as the notary public.
- b) Identification of the individual. The notary public performing an acknowledgement, verifying an oath or affirmation, or attesting to a signature shall identify the individual through one of the following means:
 - i. Personal knowledge of the individual, meaning that the notary public personally knows the individual through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.
 - ii. Satisfactory evidence of an individual's identity, meaning the notary public identifies the individual through one of the forms of identification listed in 26 V.S.A. § 5365(b). A notary public may require additional means of identification if necessary to assure the notary public of the identity of the individual.
- c) A notary public noting a protest of a negotiable instrument shall determine the matters set forth in 9A V.S.A. § 3-305(b).
- d) ~~A notary public certifying a tangible copy of an electronic record shall determine that the tangible copy is a full, true, and accurate reproduction of the electronic record that a tangible copy of an electronic record is an accurate copy of the electronic record:~~
 - i. shall reasonably determine whether the electronic record is in a tamper-evident format;
 - ii. shall personally print or supervise the printing of the electronic record onto paper or other tangible medium; and
 - iii. may not make the certification if the notarial officer has detected a change or an error in an electronic signature or other information in the electronic record.

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Administrative Rules for Notaries Public

- e) Representative. If an individual who physically appears before a notary public is physically unable to sign a record, the individual may direct another individual to sign on the record the name of the individual who is physically unable to sign. In such circumstances, the notary public shall insert the following statement into the certificate:

“Signature affixed by [NAME OF THE INDIVIDUAL SIGNING RECORD] at the direction of [NAME OF INDIVIDUAL WHO IS PHYSICALLY UNABLE TO SIGN].”

A representative may not sign a record pursuant to this subsection if an individual is not able to physically sign a record because the individual is remotely located.

- f) Certificates. Notarial acts shall be evidenced by a certificate containing the information and meeting the requirements of 26 V.S.A. § 5367.

- i. The certificate shall be executed
 - A. by the individual, when required, and the notary public; and
 - B. contemporaneously with the performance of the notarial act; provided that the notary public’s signature shall not be affixed to the record until after the notarial act is performed.
- ii. By executing a certificate, a notary public certifies that
 - A. The notary public has complied with the applicable requirements of 26 V.S.A. Chapter 103;
 - B. The individual has personally appeared before the notary public; and
 - C. The notary public has personal knowledge or satisfactory evidence of the identity of the individual.

~~iii. A certificate shall be part of, printed on, stamped on, embossed on, or otherwise securely attached to, or affixed to the tangible record by being printed, embossed on, or stapled to the tangible record.~~

~~iv. For notarial acts that involve the signature of an individual, every effort should be made for the certificate to be on the same page as the name and signature of the individual; however, if they must be on different pages, the notarial certificate shall include the name of the individual.~~

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~~iv.v.~~ The form of such a certificate is sufficient if it

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Administrative Rules for Notaries Public

- A. Is in a short form set forth in 26 V.S.A. § 5368;
- B. Is in a form otherwise permitted by the laws of this State;
- C. Is in a form containing the information required in 26 V.S.A. § 5367; ~~provided that, if the notary public is performing an acknowledgement, verifying an oath or affirmation, or attesting to a signature, the certificate appears on the same page as the identity and signature of the individual; and~~
- D. Sets forth the actions of the notary public and the actions are sufficient to meet the requirements of the notarial act as required in 26 V.S.A. §§ 5362-5364 or another Vermont law.

5-3 Physical Official Stamp. Notaries public are not required to use a physical official stamp. To complete a certificate of a notarial act, a notary public may use a physical official stamp, may print or type the certificate information, or may use a combination of these methods.

- a) **No Physical Official Stamp.** If a notary public chooses not to use a physical official stamp, the notary public shall clearly print or type the notary public's name, commission number, and the expiration date of their commission on the certificate, along with the other information required to be included in a certificate by Vermont law and these Rules.
- b) **Requirements for Use of a Physical Official Stamp.** If the notary public chooses to use a physical official stamp to perform a notarial act on a tangible record, the notary public shall comply with the following requirements:
 - i. The physical official stamp must be an ink stamp or an embosser.
 - ii. The physical official stamp must be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.
 - iii. **Contents.**
 - A. The physical official stamp may not include the Vermont State Seal.
 - B. The physical official stamp shall include, at a minimum, the following information:
 - i. The notary public's name, which shall be the same name the notary public signed on the notarized oath of office submitted in their Commission application;

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Administrative Rules for Notaries Public

- ~~2.~~ The word “Vermont”;
- ~~2-3.~~ The title “Notary Public”; and~~and~~
- ~~3-4.~~ The notary public’s Commission number.

- C. The notary public shall print or type any other information required to be included in the certificate that is not on the physical official stamp.
- D. If the physical official stamp includes a notary public’s Commission expiration date, upon expiration of the Commission the notary public shall either:
 - 1. Replace the stamp with one that includes an updated Commission expiration date or that does not include any expiration date; or
 - 2. Discontinue the use of a physical official stamp.

c) Exclusive Use. A notary public shall not let another individual, including another notary public, use their physical official stamp to perform a notarial act.

d) Lost or Stolen. A notary public is responsible for the security of their physical official stamp. A notary public or their personal representative or guardian shall notify the Office promptly, and no later than within 48 hours after the discovery, that a physical official stamp is lost or stolen.

5-4 Refusal. Notaries public may refuse to perform a notarial act for any reason unless such a refusal is prohibited by law. 26 V.S.A. § 5372.

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Administrative Rules for Notaries Public

Part 6: Special Endorsement

6-1 Special Endorsement Required.

- a) Except as provided below, a notary public must obtain a Special Endorsement to perform notarial acts on electronic records and for Remotely Located Individuals. Notaries public who do not hold a Special Endorsement may perform notarial acts only on tangible records for people appearing physically before the notary public.
- b) Law-Enforcement-Related Employees do not have to obtain a Commission or a Special Endorsement to perform notarial acts within the scope of their Official Duties.

6-2 Eligibility. To be eligible for the Special Endorsement, a notary public shall:

- a) hold a current notary public commission in good standing;
- b) attest to selecting and using, for any notarial acts on electronic records, tamper-evident technology that complies with requirements herein;
- c) attest to selecting and using, for any notarial acts for remotely located individuals, communication technology that complies with requirements herein;
- d) attest to selecting and using, for any notarial acts for remotely located individuals, identity proofing technology that complies with the requirements herein; and
- e) pay all required application fees.

Part 7: Notarial Act on an Electronic Record

- 7-1 Special Endorsement Required.** A notary public shall obtain a Special Endorsement, in accordance with Part 6 of these Rules, to perform notarial acts on electronic records. Notarial acts on electronic records may be performed for individuals appearing physically before the notary public or for Remotely Located Individuals.

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Administrative Rules for Notaries Public

7-2 Performance of a Notarial Act on an Electronic Record

- a) Tamper-Evident Technology. A notary public shall select one or more tamper-evident technologies that conform with the requirements of Part 157-3, below, to perform electronic notarial acts.
 - i. A notary public may refuse to perform a notarial act on an electronic record using technology not selected by the notary public.
- b) Personal Appearance and Identification. Requirements for the personal appearance and identification of the individual seeking a notarial act on an electronic record are the same as for a notarial act on a tangible record.
- c) Electronic Notarial Certificate.
 - i. A notarial act performed on an electronic record shall be evidenced by an electronic notarial certificate which shall
 - A. Be affixed to or logically associated with the electronic record;
 - B. Indicate that the notarial act was performed electronically on an electronic record; and
 - C. Contain the information required under 26 V.S.A. §§ 5367 and 5380, as applicable, and Part 5-2(f), herein.
 - ii. By executing a certificate, a notary public certifies that
 - A. The notary public has complied with the requirements of 26 V.S.A. § 5363 and, where applicable, 26 V.S.A. § 5366;
 - B. The individual has personally appeared before the notary public in accordance with 26 V.S.A. § 5364 or 5380; and
 - C. The notary public has identified the individual in accordance with 26 V.S.A. § 5365 or 5379.
- d) Electronic Signature and Digital Certificate. A notary public performing a notarial act on an electronic record shall, by use of a digital certificate, affix to or logically associate with the electronic notarial certificate and the record the notary public's electronic signature and electronic official stamp, if using.

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Administrative Rules for Notaries Public

7-3 Standards for Tamper-Evident Technology.

- a) A notary public shall select one or more tamper-evident technologies to perform notarial acts on electronic records. A person seeking a notarial act may not require a notary public to use a technology that the notarial officer has not selected.
- b) The tamper-evident technology must be capable of
 - i. Affixing or attaching the notary public's electronic signature to the electronic record in a manner that is capable of independent verification and renders evident any subsequent change or modification to the electronic record; and
 - ii. Using a valid digital certificate issued by a third-party provider.
- c) A notary public shall not perform a notarial act with respect to an electronic record if the digital certificate:
 - i. Has expired;
 - ii. Has been revoked or terminated by the issuing or registering authority;
 - iii. Is invalid; or
 - iv. Is incapable of authentication.

Administrative Rules for Notaries Public

7-4 Reliability and Confidentiality.

- a) A notary public authorized to perform notarial acts on electronic notarial acts-records shall use the same electronic signature and electronic official stamp, if using, for all electronic notarial acts.
 - i. The notary public shall submit to the Office copies of the notary public's electronic signature and electronic official stamp, if using.
 - ii. The notary public's electronic signature and electronic official stamp shall be unique to the notary public.
 - iii. A notary public's electronic signature and electronic official stamp, if using, shall be retained under the notary public's sole control and access. A notary public shall not allow any other individual to use the notary public's electronic signature or electronic official stamp. A notary public's employer must not permit the use of a notary public's electronic signature or electronic official stamp by anyone except the notary public.
- b) A notary public shall not disclose any access information used to affix the notary public's electronic signature or the electronic image of the notary public's official stamp, except when requested by the Office or a designee, a judicial subpoena, and, with precautions, electronic document preparation and transmission vendors. The notary public shall retain sole control of security aspects, such as, but not limited to, passwords, token devices, biometrics, PINS, phrases, and software on protected hardware.
- c) Upon resignation, revocation, or expiration of a notary public's Commission or Special Endorsement, the notary public shall destroy and disable their electronic signature and electronic official stamp, if using, including any coding, disk, digital certificate, card, software or password that enables the notary public to attach or logically associate the electronic signature or electronic official stamp to electronic records, so as to prohibit their use by any other person.
- d) A notary public shall immediately notify the Office of the theft of the notary public's electronic signature, electronic official stamp or digital certificate.

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Administrative Rules for Notaries Public

Part 8: Notarial Act for a Remotely Located Individual

- 8-1 Special Endorsement Required.** A notary public shall obtain a Special Endorsement, in accordance with Part 6 of these Rules, to perform notarial acts for Remotely Located Individuals. A notarial act for a remotely located individual may be performed on a tangible record or on an electronic record.
- 8-2 Performance of a Notarial Act for a Remotely Located Individual**
- a) Personal Appearance. A notary public shall select one or more communication technologies that conform with the requirements of Part 8-5, below, to perform a notarial act for a Remotely Located Individual.
 - b) Identification. Prior to performing a notarial act for a Remotely Located Individual, a notary public shall verify the identity of the Remotely Located Individual through one of the three following methods:
 - i. Personal knowledge of the identity of the Remotely Located Individual in accordance with 26 V.S.A. § 5365(a);
 - ii. Satisfactory evidence of the identity of the Remotely Located Individual by oath or affirmation from a credible witness who personally appears before a notary public in accordance with 26 V.S.A. § 5365(b); or
 - iii. Satisfactory evidence of the identity of the Remotely Located Individual by means of both forms of the identity-proofing technology listed in Part 8-6, below.
 - c) Record Confirmation. Before performing a notarial act for a Remotely Located Individual, a notary public must be reasonably able to confirm that the record before the notary public is the same record in which the Remotely Located Individual made a statement or on which the individual executed a signature.
 - i. Though other methods may be used, the requirements of this Part 8-2(c) shall be satisfied when a notary public is performing a notarial act for a Remotely Located Individual on a tangible record not physically present before the notary public, if the notary public and the Remotely Located Individual comply with the provisions of 26 V.S.A. § 5379(d).
 - ii. To use Communication Technology to take an acknowledgement of a signature on a tangible record when the tangible record is physically before the notary public,

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- A. The notary public shall display the tangible record to the Remotely Located Individual;
 - B. The Remotely Located Individual shall identify the tangible record as the record the Remotely Located Individual signed;
 - C. The act of displaying the record and the Remotely Located Individual's identification of the tangible record shall be recorded in accordance with Part 8-2(f), below.
- d) Certificate. The Certificate for a notarial act performed for a Remotely Located Individual shall include the information required under these Rules and 26 V.S.A. §§ 5367 and 5379, and a statement that the notarial act was performed using communication technology.
- e) Electronic Record. If the notarial act for the Remotely Located Individual is being performed on an electronic record, the notary public shall also comply with Part 7, above.
- f) Recording. A notary public, or a person acting on behalf of a notary public, shall create an audio-visual recording of the performance of a notarial act for a Remotely Located Individual. The recording must be made simultaneously with the performance of the notarial act. Such a recording shall be maintained as follows:
- i. ~~For at least seven years from the date of the notarial act; and~~
 - ii. ~~By:~~
 - A. the notary public who performed the notarial act; a guardian, conservator, or agent of the notary public;
 - B. ~~or a personal representative of the a deceased notary public; or~~
 - iii. ~~a repository designated by or on behalf of the person required to retain the recording and~~
 - C. ~~In a repository designated as the repository for recorded notarial acts performed by the notary public for Remotely Located Individuals.~~

8-3 Administering an Oath or Affirmation for a Remotely Located Individual.

Except as otherwise provided by other Vermont laws, a notary public shall comply with 26 V.S.A. § 5379(g) when administering an oath or affirmation for a Remotely Located Individual.

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Administrative Rules for Notaries Public

8-4 Location of Remotely Located Individual. A notary public who is commissioned under these Rules and who holds a Special Endorsement may perform a notarial act for a Remotely Located Individual when the notary public is in Vermont and when the Remotely Located Individual is located

- a) Within the United States; or
- b) Outside the United States if
 - i. The notarial act is not prohibited in the jurisdiction where the Remotely Located Individual is physically located at the time the notarial act is performed; and
 - ii. The record
 - A. is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of a State within the United States or the United States; or
 - B. involves property located in the territorial jurisdiction of the United States; or
 - C. involves a transaction substantially connected with the United States.

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8-5 Standards for Communication Technology

- a) A notary public performing a notarial act for a Remotely Located Individual shall use communication technology that complies with these Rules and 26 V.S.A. § 5380.
- b) The communication technology used to perform notarial acts for Remotely Located Individuals shall
 - i. provide sufficient audio clarity and visual resolution to enable the notary public and the Remotely Located Individual to see and speak to each other, simultaneously and without interruption, through live, real-time transmission throughout the duration of the notarial act, including through identity proofing, the signing by any parties present during the transaction, and the application of the notary's signature and seal;
 - ii. facilitate communication with a Remotely Located Individual who has a vision, hearing, or speech impairment;
 - iii. permit sufficient visual clarity to enable the notary to view, read, and record the front and back of any identification card presented as verification of identity;

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- iv. provide for confirmation of the record under Part 8-2(c), above;
- v. include a means of authentication that reasonably ensures only the authorized parties have access to the communication technology;
- vi. provide reasonable security measures to prevent unauthorized access to the following:
 - A. Live communication between the notary public and Remotely Located Individual;
 - B. The recording of the notarial act;
 - C. Verification methods and credentials used to verify the identity of the Remotely Located Individual; and
 - D. Any electronic records presented for the performance of a notarial act;
- vii. be capable of producing recordings of notarial acts for remotely located individuals ~~remote electronic notarial acts~~ in response to a request from the notary public, the Office, a court, or law enforcement in the course of an investigation; and
- viii. be capable of securely creating, storing, accessing, and reproducing a copy of a recording of a notarial act as required by Part 8-2(f), above.

8-6 Standards for Identity Proofing

- a) If a notary public does not have satisfactory evidence of the identity of a Remotely Located Individual in accordance with 26 V.S.A. §§ 5365(a) or (b), the notary public shall verify the Remotely Located Individual's identity through both a credential analysis procedure and a dynamic knowledge-based authentication assessment as provided in this Part, below.
- b) Credential analysis shall use public or private data sources to confirm the validity of the identification credential presented by a Remotely Located Individual and shall, at a minimum:
 - i. Use automated software processes to aid the notary public in verifying the identity of each Remotely Located Individual;
 - ii. Require the identification credential to pass an authenticity test, consistent with sound commercial practices, that uses appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features and to confirm that the identification credential is not fraudulent or inappropriately modified;

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- iii. Use information held or published by the issuing source or an authoritative source, as available and consistent with sound commercial practices, to confirm the validity of personal details and identification credential details; and
 - iv. Enable the notary public visually to compare for consistency the information and photograph on the identification credential and the Remotely Located Individual as viewed by the notary public in real time through communication technology.
- c) A dynamic knowledge-based authentication assessment is successful if it meets the following requirements:
- i. The Remotely Located Individual must answer a quiz consisting of a minimum of five questions related to the individual's personal history or identity formulated from public or private data sources;
 - ii. Each question must have a minimum of five possible answer choices;
 - iii. At least eighty percent of the questions must be answered correctly;
 - iv. All questions must be answered within two minutes;
 - v. If the Remotely Located Individual fails the first attempt, the individual may retake the quiz once within twenty-four hours;
 - vi. During a retake of the quiz, a minimum of forty percent of the prior questions must be replaced;
 - vii. If the Remotely Located Individual fails the second attempt, the individual must not be allowed to retry with the same online notary public within twenty-four hours of the second failed attempt; and
 - viii. The notary public must not be able to see or record the questions or answers.

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Part 9: Continuing Education

9-1 Continuing Education Requirements for Renewal.

- a) Commission renewal. Except as exempted under Parts 4-3 and 4-6, above, and 26 V.S.A. chapter 103, as a condition of Commission renewal, notaries public shall complete no fewer than one hour of continuing education over the full two-year biennial period preceding the application for renewal.
- b) Special Endorsement renewal. Special Endorsement renewal requires one additional hour of continuing education. The additional hour must pertain to the performance of notarial acts on electronic records or for remotely located individuals or both.

9-2 Documentation.

- a) Documentation of completion of the continuing education must be included in a notary public's application for renewal of a Commission or Special Endorsement, as applicable.
- 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, including the name and date of the course, proof of attendance, and the number of continuing education credit hours awarded.

9-3 Course Content and Form.

- a) 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.
- b) Form.
 - i. A continuing education course shall be at least one hour in length. One hour means 60 minutes.
 - ii. 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.
 - iii. The course must include both audio and visual content.
 - iv. Continuing education credit will be granted only for actual time a notary public spends as a learner during the course. Breaks, business

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meetings, and lunches do not count toward continuing education credits.

9-4 Approval of Courses.

- a) Continuing education courses that fulfill the requirements for Parts 9-1 through 9-3 and that are provided or approved by the following organizations are approved without prior 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 above, 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 course approval through the Office's online portal. Courses that are not pre-approved may be reviewed as part of a notary public's renewal application.

9-5 Continuing Education Audits.

- a) The Office shall conduct continuing education audits of randomly selected notaries public, including all notaries public whose Commissions are conditioned. The Office may also audit notaries public who are reinstating or who, in any of the preceding two renewal cycles, were initially found to have not met continuing education requirements.
- b) When a notary public appears on the audit list, the Office shall review the documentation provided with renewal application to determine whether the continuing education requirements have been satisfied. The Office may also request additional documentation and information from the notary public showing a detailed account of the credits claimed.
- c) Under 3 V.S.A. § 129(k), the Office may give notaries public 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 count only for the Commission period being audited. Failure to comply with a corrective action plan may result in disciplinary action. 3 V.S.A. § 129a(a)(4).

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Administrative Rules for Notaries Public

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Part 1: Definitions and Clarification of Terms

The definitions in 26 V.S.A. Chapter 103, the Uniform Law on Notarial Acts, are incorporated into these Administrative Rules.

- I-1** “**Commission**” means a license, as that term is defined in 3 V.S.A. § 121, that is an official authorization issued by the Office permitting a holder to perform notarial acts.
- I-2** “**Commission Number**” means the credential number associated with the Commission when issued by the Office.
- I-3** “**Digital Certificate**” means the digital certificate obtained from a third-party that verifies the identity of the notary public and, after being applied to an electronic record, makes any changes to the electronic record tamper evident.
- I-4** “**Director**” means the Director of the Office of Professional Regulation.
- I-5** “**Electronic**” is defined at 26 V.S.A. § 5304.
- I-6** “**Electronic notarial certificate**” means the part of, or attachment to, an electronic record that is completed by a notary public evidencing the notarial act and that contains the information required under 26 V.S.A. §§ 5367 and 5379, including the notary public’s electronic signature.
- I-7** “**Electronic Official Stamp**” means an electronic image attached to or logically associated with an electronic record.
- I-8** “**Electronic record**” means information that is stored in an electronic form and is retrievable in perceivable form.
- I-9** “**Electronic signature**” means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.
- I-10** “**Judiciary-Related Employee**” is defined at 26 V.S.A. § 5305.
- I-11** “**Law-Enforcement-Related Employee**” is defined at 26 V.S.A. § 5305.

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- I-12** “**Notarization**” means the performance of a notarial act, as that term is defined in 26 V.S.A. § 5304.
- I-13** “**Notary public**” means a notary public commissioned in Vermont under these Rules and 26 V.S.A. Chapter 103.
- I-14** “**Office**” means the Office of Professional Regulation within the Office of the Secretary of State.
- I-15** “**Official duties**” is defined at 26 V.S.A. § 5305.
- I-16** “**Physical Official Stamp**” means a physical image affixed to or embossed on a tangible record.
- I-17** “**Remote electronic notarial act**” means a notarial act performed on an electronic record for a Remotely Located Individual.
- I-18** “**Remotely located individual**” is defined a 26 V.S.A. § 5304.
- I-19** “**Special Endorsement**” means an official authorization issued by the Office permitting a notary public, who already holds a Commission to perform notarial acts in Vermont, to perform notarial acts on electronic records and for Remotely Located Individuals.
- I-20** “**Tamper evident**” means that any change to an electronic record is detectable after the performance of the notarial act.
- I-21** “**Tamper-evident technology**” means a set of applications, programs, hardware, software, or other technologies designed to enable a notary public to perform a notarial act on an electronic record and to display evidence of any changes made to an electronic record.

Administrative Rules for Notaries Public

Part 2: Administration

- 2-1 Applicable Law.** The practice of notaries public is defined and regulated pursuant to 26 V.S.A. § 5301 *et seq.* Copies of these and other statutes are available online. The Director administers licensure in conformity with these and other Vermont laws, to include the Administrative Procedures Act, 3 V.S.A. § 800 *et seq.*; the Public Records Act, 1 V.S.A. § 315 *et seq.*; and the Laws of Professional Regulation, 3 V.S.A. § 121 *et seq.*
- 2-2 Resources for Applicants and Licensees.** The Office maintains a website with information and links relevant to all licensed professionals. Information specific to notaries public, including forms and online applications, is available on the Office website.

Part 3: Procedures

- 3-1 Applications.** Commission and Special Endorsement applications must be completed through the Office website.
- a) Incomplete applications will not be processed. Applications are complete only when all required questions have been answered fully, all attestations made, all required documentation and materials provided, and all fees paid.
 - b) When the Office intends to deny an application based on unprofessional conduct or an ongoing investigation for unprofessional conduct, notice stating the reasons for the action shall be sent to the applicant by certified mail, whereupon the applicant shall have 30 days to seek a hearing before an Administrative Law Officer in accordance with 3 V.S.A. § 129(e)(1).
 - c) When the Office denies an application for a commission based on a finding by the Director that the applicant has not fulfilled the qualifications or met the standards required for issuance of the Commission or Special Endorsement, notice stating the reasons for the denial shall be sent to the applicant by certified mail, whereupon the applicant will have a right to appeal the decision in accordance with 3 V.S.A. §§ 129(e)(2) and 130a.
 - d) The Office may refuse to accept any application found to be redundant with a denied or in-process application.
 - e) The Office may deem expired any application for a Commission or Special Endorsement that is left incomplete for six months.

Administrative Rules for Notaries Public

- 3-2 Complaints.** Complaints against notaries public, applicants for a notary public Commission, or unauthorized persons practicing without a required Commission or Special Endorsement may be submitted through the Office website.
- 3-3 Contested Cases.** Procedures in contested cases relating to Commissions, Special Endorsements, or discipline are governed by the Office of Professional Regulation Administrative Rules of Practice, CVR 04-030-005, as those rules may from time to time be modified.
- 3-4 Declaratory Rulings.** Petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the Office may be made pursuant to 3 V.S.A. § 808 and Office procedure.
- 3-5 Reasonable Accommodation.** The Office complies with applicable provisions of the Americans with Disabilities Act.
- 3-6 Conflict of Standards.** Where a standard of unprofessional conduct set forth in statute conflicts with a standard set forth in rule, the standard that is most protective of the public shall govern. 3 V.S.A. § 129a(e).
- 3-7 Waiver or Variance.** The Director will not grant routine waivers or variances from any provisions of these rules without amending the rules. 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 Office 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 administrative hearing right or cause of action.

Administrative Rules for Notaries Public

Part 4: Commissioned Notary Public - General

- 4-1 Commission Required.** Except as provided in Part 4-3, below, an individual must obtain a Commission to perform notarial acts in Vermont. Notaries public holding a Commission may perform notarial acts only on tangible records and only for people appearing physically before the notary public. For all other notarial acts, notaries public shall obtain a Special Endorsement in accordance with Part 6, below.
- 4-2 Eligibility – General.** Except as provided in Part, below, an applicant shall fulfill the following requirements to qualify for a Commission:
- a) Be at least 18 years old;
 - b) Be a citizen or permanent legal resident of the United States;
 - c) Be a resident or have a place of employment or practice in the State of Vermont;
 - d) Not be disqualified to obtain a Commission based on the grounds listed in 26 V.S.A. § 5342;
 - e) Pass an examination approved by the Office based on the statutes, rules, and ethics relevant to the provision of notarial acts;
 - f) Execute and submit to the Office a notarized oath of office; and
 - g) Pay the required non-refundable fee.
- 4-3 Exemptions.** Except as noted for Law-Enforcement-Related Employees, these exemptions apply only to Commissions, not Special Endorsements.
- a) Judiciary-Related Employees.
 - i. Judiciary-Related Employees must obtain a Commission to perform notarial acts in Vermont. Judiciary-Related Employees are exempt from the following requirements:
 - A. Passage of the examination required under Part 4-2(e), above;
 - B. Paying the required fee; and
 - C. Completing the continuing education as a condition of renewing a Commission under Part 9, below.

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- ii. Judiciary-Related Employees who perform notarial acts outside the scope of their Official Duties must comply with all the requirements of these Rules and 26 V.S.A. Chapter 103.
- b) Attorneys. Attorneys who are licensed and in good standing in Vermont are subject to all the requirements of these Rules and 26 V.S.A. Chapter 103 except for the following requirements:
 - i. Passage of the examination required under Part 4-2(e), above; and
 - ii. Completing the continuing education as a condition of renewing a Commission under Part 9, below.
- c) Town Clerks, Assistants, and Justices of the Peace. Town clerks, town clerk assistants, and justices of the peace are subject to all the requirements of these Rules and 26 V.S.A. Chapter 103 except for paying the required fee.
- d) Law-Enforcement-Related Employees do not have to obtain a Commission to perform notarial acts within the scope of their Official Duties. They also do not have to obtain a Special Endorsement to perform, within the scope of their Official Duties, notarial acts on electronic records or for remotely located individuals.

4-4 Location of Notary Public. Notaries public shall be physically located within Vermont's borders when performing all notarial acts under the authority of a Vermont notary public commission.

4-5 Name and Name Change.

- a) Form. Notaries public shall sign notarial acts using the same name they signed on the notarized oath of office submitted in their Commission.
- b) Name Change. Within thirty days after a change of name, address, or e-mail address, notaries public shall report the change to the Office by updating the notary public's online file and, for name changes, shall submit court documentation of the name change, and an updated notarized oath of office signed with the notary public's new signature. Notaries public shall not perform notarial acts after a name change until the updated oath is submitted.

4-6 Renewal Requirements - Continuing Education. As a condition of renewal, and unless an exemption under Part 4-3 applies, notaries public shall complete continuing education in accordance with Part 9, below.

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- 4-7 Biennial Commission and Special Endorsement Period.** Commissions and associated Special Endorsements are valid for fixed, two-year periods. Expiration dates are printed on the Commission. A Commission and any associated Special Endorsement expires if not renewed by midnight at the conclusion of the date of expiration. Practice under an expired Commission or an expired Special Endorsement is a violation of 3 V.S.A. § 127. A search tool on the Office website may be considered a primary source verification as to Commission and Special Endorsement status and expiration.
- 4-8 Commission and Special Endorsement Renewal.** Online Commission and Special Endorsement renewal applications must be completed through the Office website. The Office transmits email reminders to Notaries public at the end of each biennial commission period; however, non-receipt of such reminders shall not excuse a Notaries public from the obligation to continuously maintain a Commission and, where applicable, a Special Endorsement, or the consequences of failing to do so.
- 4-9 Initial Commission and Special Endorsement Issuance.** An applicant issued an initial Commission or Special Endorsement within 90 days of the end of a biennial period will not be required to renew, pay any renewal fees, or complete any continuing education prior to the end of that biennial period. The Commission and any associated Special Endorsement will be issued through the next full biennial period. Notaries public must fulfill renewal requirements for subsequent renewals.
- 4-10 Late Renewal Penalties.** Late renewal applications are subject to reinstatement penalty fees. Waivers of such fees may be requested through the online licensing system. 3 V.S.A. § 127(d).

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Part 5: Commissioned Notary Public – Notarial Acts

5-1 Notarial Acts.

- a) Notaries public may perform only the following notarial acts and only in accordance with 26 V.S.A. § 5363 and these Rules:
 - i. Taking an acknowledgement of a record and determining that the individual appearing before the notary public has the identity claimed, is the person who signed the document, and is signing the record for the purposes stated in the record;
 - ii. Taking a verification of a statement on oath or affirmation and determining that the individual appearing before the notary public has the identity claimed, is the person who signed the document, and is stating the declarations made in the underlying record are true;
 - iii. Attesting to a signature and determining that the individual appearing before the notary public has the identity claimed and is the person who signed the document;
 - iv. Noting a protest of a negotiable instrument.
 - v. Certifying that a tangible copy of an electronic record is an accurate copy of the electronic record.
- b) With regard to certifying a copy, Vermont-Commissioned notaries public may certify only that a tangible copy of an electronic record is an accurate copy of the electronic record. Vermont-Commissioned notaries public may not certify any other forms of records.
- c) The following acts are not notarial acts regulated under these Rules and are governed by the statutes and rules regarding those acts:
 - i. the administration of an oath swearing to or affirming the truth of oral testimony following the oath;
 - ii. issuing a subpoena; and
 - iii. administering an oath of office

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5-2 Performance of a Notarial Act on a Tangible Record when Individual is Physically Present Before Notary Public. When a notary public is performing a notarial act on a tangible record for an individual physically appearing before the notary public, the notary public shall adhere to the following procedures:

- a) Personal Appearance. The individual shall share the same physical space as the notary public.
- b) Identification of the individual. The notary public performing an acknowledgement, verifying an oath or affirmation, or attesting to a signature shall identify the individual through one of the following means:
 - i. Personal knowledge of the individual, meaning that the notary public personally knows the individual through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.
 - ii. Satisfactory evidence of an individual's identity, meaning the notary public identifies the individual through one of the forms of identification listed in 26 V.S.A. § 5365(b). A notary public may require additional means of identification if necessary to assure the notary public of the identity of the individual.
- c) A notary public noting a protest of a negotiable instrument shall determine the matters set forth in 9A V.S.A. § 3-305(b).
- d) A notary public certifying that a tangible copy of an electronic record is an accurate copy of the electronic record:
 - i. shall reasonably determine whether the electronic record is in a tamper-evident format;
 - ii. shall personally print or supervise the printing of the electronic record onto paper or other tangible medium; and
 - iii. may not make the certification if the notarial officer has detected a change or an error in an electronic signature or other information in the electronic record.

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- e) Representative. If an individual who physically appears before a notary public is physically unable to sign a record, the individual may direct another individual to sign on the record the name of the individual who is physically unable to sign. In such circumstances, the notary public shall insert the following statement into the certificate:

“Signature affixed by [NAME OF THE INDIVIDUAL SIGNING RECORD] at the direction of [NAME OF INDIVIDUAL WHO IS PHYSICALLY UNABLE TO SIGN].”

A representative may not sign a record pursuant to this subsection if an individual is not able to physically sign a record because the individual is remotely located.

- f) Certificates. Notarial acts shall be evidenced by a certificate containing the information and meeting the requirements of 26 V.S.A. § 5367.
- i. The certificate shall be executed
 - A. by the individual, when required, and the notary public; and
 - B. contemporaneously with the performance of the notarial act; provided that the notary public’s signature shall not be affixed to the record until after the notarial act is performed.
 - ii. By executing a certificate, a notary public certifies that
 - A. The notary public has complied with the applicable requirements of 26 V.S.A. Chapter 103;
 - B. The individual has personally appeared before the notary public; and
 - C. The notary public has personal knowledge or satisfactory evidence of the identity of the individual.
 - iii. A certificate shall be part of, printed on, stamped on, embossed on, or otherwise securely attached to the tangible record.
 - iv. For notarial acts that involve the signature of an individual, every effort should be made for the certificate to be on the same page as the name and signature of the individual; however, if they must be on different pages, the notarial certificate shall include the name of the individual.
 - v. The form of such a certificate is sufficient if it
 - A. Is in a short form set forth in 26 V.S.A. § 5368;
 - B. Is in a form otherwise permitted by the laws of this State;

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- C. Is in a form containing the information required in 26 V.S.A. § 5367; and
- D. Sets forth the actions of the notary public and the actions are sufficient to meet the requirements of the notarial act as required in 26 V.S.A. §§ 5362-5364 or another Vermont law.

5-3 Physical Official Stamp. Notaries public are not required to use a physical official stamp. To complete a certificate of a notarial act, a notary public may use a physical official stamp, may print or type the certificate information, or may use a combination of these methods.

- a) **No Physical Official Stamp.** If a notary public chooses not to use a physical official stamp, the notary public shall clearly print or type the notary public's name, commission number, and the expiration date of their commission on the certificate, along with the other information required to be included in a certificate by Vermont law and these Rules.
- b) **Requirements for Use of a Physical Official Stamp.** If the notary public chooses to use a physical official stamp to perform a notarial act on a tangible record, the notary public shall comply with the following requirements:
 - i. The physical official stamp must be an ink stamp or an embosser.
 - ii. The physical official stamp must be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.
 - iii. **Contents.**
 - A. The physical official stamp may not include the Vermont State Seal.
 - B. The physical official stamp shall include, at a minimum, the following information:
 - 1. The notary public's name, which shall be the same name the notary public signed on the notarized oath of office submitted in their Commission application;
 - 2. The word "Vermont";
 - 3. The title "Notary Public"; and
 - 4. The notary public's Commission number.

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- C. The notary public shall print or type any other information required to be included in the certificate that is not on the physical official stamp.
 - D. If the physical official stamp includes a notary public's Commission expiration date, upon expiration of the Commission the notary public shall either:
 - 1. Replace the stamp with one that includes an updated Commission expiration date or that does not include any expiration date; or
 - 2. Discontinue the use of a physical official stamp.
 - c) Exclusive Use. A notary public shall not let another individual, including another notary public, use their physical official stamp to perform a notarial act.
 - d) Lost or Stolen. A notary public is responsible for the security of their physical official stamp. A notary public or their personal representative or guardian shall notify the Office promptly, and no later than within 48 hours after the discovery, that a physical official stamp is lost or stolen.
- 5-4 Refusal.** Notaries public may refuse to perform a notarial act for any reason unless such a refusal is prohibited by law. 26 V.S.A. § 5372.

Part 6: Special Endorsement

6-1 Special Endorsement Required.

- a) Except as provided below, a notary public must obtain a Special Endorsement to perform notarial acts on electronic records and for Remotely Located Individuals. Notaries public who do not hold a Special Endorsement may perform notarial acts only on tangible records for people appearing physically before the notary public.
- b) Law-Enforcement-Related Employees do not have to obtain a Commission or a Special Endorsement to perform notarial acts within the scope of their Official Duties.

6-2 Eligibility. To be eligible for the Special Endorsement, a notary public shall:

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- a) hold a current notary public commission in good standing;
- b) attest to selecting and using, for any notarial acts on electronic records, tamper-evident technology that complies with requirements herein;
- c) attest to selecting and using, for any notarial acts for remotely located individuals, communication technology that complies with requirements herein;
- d) attest to selecting and using, for any notarial acts for remotely located individuals, identity proofing technology that complies with the requirements herein; and
- e) pay all required application fees.

Part 7: Notarial Act on an Electronic Record

7-1 Special Endorsement Required. A notary public shall obtain a Special Endorsement, in accordance with Part 6 of these Rules, to perform notarial acts on electronic records. Notarial acts on electronic records may be performed for individuals appearing physically before the notary public or for Remotely Located Individuals.

7-2 Performance of a Notarial Act on an Electronic Record

- a) **Tamper-Evident Technology.** A notary public shall select one or more tamper-evident technologies that conform with the requirements of Part 147-3, below, to perform electronic notarial acts.
 - i. A notary public may refuse to perform a notarial act on an electronic record using technology not selected by the notary public.
- b) **Personal Appearance and Identification.** Requirements for the personal appearance and identification of the individual seeking a notarial act on an electronic record are the same as for a notarial act on a tangible record.
- c) **Electronic Notarial Certificate.**
 - i. A notarial act performed on an electronic record shall be evidenced by an electronic notarial certificate which shall
 - A. Be affixed to or logically associated with the electronic record;
 - B. Indicate that the notarial act was performed electronically on an electronic record; and

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- C. Contain the information required under 26 V.S.A. §§ 5367 and 5380, as applicable, and Part 5-2(f), herein.
- ii. By executing a certificate, a notary public certifies that
 - A. The notary public has complied with the requirements of 26 V.S.A. § 5363 and, where applicable, 26 V.S.A. § 5366;
 - B. The individual has personally appeared before the notary public in accordance with 26 V.S.A. § 5364 or 5380; and
 - C. The notary public has identified the individual in accordance with 26 V.S.A. § 5365 or 5379.
- d) **Electronic Signature and Digital Certificate.** A notary public performing a notarial act on an electronic record shall, by use of a digital certificate, affix to or logically associate with the electronic notarial certificate and the record the notary public's electronic signature and electronic official stamp, if using.

7-3 Standards for Tamper-Evident Technology.

- a) A notary public shall select one or more tamper-evident technologies to perform notarial acts on electronic records. A person seeking a notarial act may not require a notary public to use a technology that the notarial officer has not selected.
- b) The tamper-evident technology must be capable of
 - i. Affixing or attaching the notary public's electronic signature to the electronic record in a manner that is capable of independent verification and renders evident any subsequent change or modification to the electronic record; and
 - ii. Using a valid digital certificate issued by a third-party provider.
- c) A notary public shall not perform a notarial act with respect to an electronic record if the digital certificate:
 - i. Has expired;
 - ii. Has been revoked or terminated by the issuing or registering authority;
 - iii. Is invalid; or
 - iv. Is incapable of authentication.

Administrative Rules for Notaries Public

7-4 Reliability and Confidentiality.

- a) A notary public authorized to perform notarial acts on electronic records shall use the same electronic signature and electronic official stamp, if using, for all electronic notarial acts.
 - i. The notary public shall submit to the Office copies of the notary public's electronic signature and electronic official stamp, if using.
 - ii. The notary public's electronic signature and electronic official stamp shall be unique to the notary public.
 - iii. A notary public's electronic signature and electronic official stamp, if using, shall be retained under the notary public's sole control and access. A notary public shall not allow any other individual to use the notary public's electronic signature or electronic official stamp. A notary public's employer must not permit the use of a notary public's electronic signature or electronic official stamp by anyone except the notary public.
- b) A notary public shall not disclose any access information used to affix the notary public's electronic signature or the electronic image of the notary public's official stamp, except when requested by the Office or a designee, a judicial subpoena, and, with precautions, electronic document preparation and transmission vendors. The notary public shall retain sole control of security aspects, such as, but not limited to, passwords, token devices, biometrics, PINS, phrases, and software on protected hardware.
- c) Upon resignation, revocation, or expiration of a notary public's Commission or Special Endorsement, the notary public shall destroy and disable their electronic signature and electronic official stamp, if using, including any coding, disk, digital certificate, card, software or password that enables the notary public to attach or logically associate the electronic signature or electronic official stamp to electronic records, so as to prohibit their use by any other person.
- d) A notary public shall immediately notify the Office of the theft of the notary public's electronic signature, electronic official stamp or digital certificate.

Administrative Rules for Notaries Public

Part 8: Notarial Act for a Remotely Located Individual

8-1 Special Endorsement Required. A notary public shall obtain a Special Endorsement, in accordance with Part 6 of these Rules, to perform notarial acts for Remotely Located Individuals. A notarial act for a remotely located individual may be performed on a tangible record or on an electronic record.

8-2 Performance of a Notarial Act for a Remotely Located Individual

- a) Personal Appearance. A notary public shall select one or more communication technologies that conform with the requirements of Part 8-5, below, to perform a notarial act for a Remotely Located Individual.
- b) Identification. Prior to performing a notarial act for a Remotely Located Individual, a notary public shall verify the identity of the Remotely Located Individual through one of the three following methods:
 - i. Personal knowledge of the identity of the Remotely Located Individual in accordance with 26 V.S.A. § 5365(a);
 - ii. Satisfactory evidence of the identity of the Remotely Located Individual by oath or affirmation from a credible witness who personally appears before a notary public in accordance with 26 V.S.A. § 5365(b); or
 - iii. Satisfactory evidence of the identity of the Remotely Located Individual by means of both forms of the identity-proofing technology listed in Part 8-6, below.
- c) Record Confirmation. Before performing a notarial act for a Remotely Located Individual, a notary public must be reasonably able to confirm that the record before the notary public is the same record in which the Remotely Located Individual made a statement or on which the individual executed a signature.
 - i. Though other methods may be used, the requirements of this Part 8-2(c) shall be satisfied when a notary public is performing a notarial act for a Remotely Located Individual on a tangible record not physically present before the notary public, if the notary public and the Remotely Located Individual comply with the provisions of 26 V.S.A. § 5379(d).
 - ii. To use Communication Technology to take an acknowledgement of a signature on a tangible record when the tangible record is physically before the notary public,

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- A. The notary public shall display the tangible record to the Remotely Located Individual;
 - B. The Remotely Located Individual shall identify the tangible record as the record the Remotely Located Individual signed;
 - C. The act of displaying the record and the Remotely Located Individual's identification of the tangible record shall be recorded in accordance with Part 8-2(f), below.
- d) Certificate. The Certificate for a notarial act performed for a Remotely Located Individual shall include the information required under these Rules and 26 V.S.A. §§ 5367 and 5379, and a statement that the notarial act was performed using communication technology.
- e) Electronic Record. If the notarial act for the Remotely Located Individual is being performed on an electronic record, the notary public shall also comply with Part 7, above.
- f) Recording. A notary public, or a person acting on behalf of a notary public, shall create an audio-visual recording of the performance of a notarial act for a Remotely Located Individual. The recording must be made simultaneously with the performance of the notarial act. Such a recording shall be maintained as follows:
- i. for at least seven years from the date of the notarial act; and
 - ii. by :
 - A. the notary public who performed the notarial act; a guardian, conservator, or agent of the notary public;
 - B. a personal representative of a deceased notary public; or
 - C. a repository designated by or on behalf of the person required to retain the recording.

8-3 Administering an Oath or Affirmation for a Remotely Located Individual.
Except as otherwise provided by other Vermont laws, a notary public shall comply with 26 V.S.A. § 5379(g) when administering an oath or affirmation for a Remotely Located Individual.

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8-4 Location of Remotely Located Individual. A notary public who is commissioned under these Rules and who holds a Special Endorsement may perform a notarial act for a Remotely Located Individual when the notary public is in Vermont and when the Remotely Located Individual is located

- a) Within the United States; or
- b) Outside the United States if
 - i. The notarial act is not prohibited in the jurisdiction where the Remotely Located Individual is physically located at the time the notarial act is performed; and
 - ii. The record
 - A. is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of a State within the United States or the United States; or
 - B. involves property located in the territorial jurisdiction of the United States; or
 - C. involves a transaction substantially connected with the United States.

8-5 Standards for Communication Technology

- a) A notary public performing a notarial act for a Remotely Located Individual shall use communication technology that complies with these Rules and 26 V.S.A. § 5380.
- b) The communication technology used to perform notarial acts for Remotely Located Individuals shall
 - i. provide sufficient audio clarity and visual resolution to enable the notary public and the Remotely Located Individual to see and speak to each other, simultaneously and without interruption, through live, real-time transmission throughout the duration of the notarial act, including through identity proofing, the signing by any parties present during the transaction, and the application of the notary's signature and seal;
 - ii. facilitate communication with a Remotely Located Individual who has a vision, hearing, or speech impairment;
 - iii. permit sufficient visual clarity to enable the notary to view, read, and record the front and back of any identification card presented as verification of identity;

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- iv. provide for confirmation of the record under Part 8-2(c), above;
- v. include a means of authentication that reasonably ensures only the authorized parties have access to the communication technology;
- vi. provide reasonable security measures to prevent unauthorized access to the following:
 - A. Live communication between the notary public and Remotely Located Individual;
 - B. The recording of the notarial act;
 - C. Verification methods and credentials used to verify the identity of the Remotely Located Individual; and
 - D. Any electronic records presented for the performance of a notarial act;
- vii. be capable of producing recordings of notarial acts for remotely located individuals in response to a request from the notary public, the Office, a court, or law enforcement in the course of an investigation; and
- viii. be capable of securely creating, storing, accessing, and reproducing a copy of a recording of a notarial act as required by Part 8-2(f), above.

8-6 Standards for Identity Proofing

- a) If a notary public does not have satisfactory evidence of the identity of a Remotely Located Individual in accordance with 26 V.S.A. §§ 5365(a) or (b), the notary public shall verify the Remotely Located Individual's identity through both a credential analysis procedure and a dynamic knowledge-based authentication assessment as provided in this Part, below.
- b) Credential analysis shall use public or private data sources to confirm the validity of the identification credential presented by a Remotely Located Individual and shall, at a minimum:
 - i. Use automated software processes to aid the notary public in verifying the identity of each Remotely Located Individual;
 - ii. Require the identification credential to pass an authenticity test, consistent with sound commercial practices, that uses appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features and to confirm that the identification credential is not fraudulent or inappropriately modified;

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- iii. Use information held or published by the issuing source or an authoritative source, as available and consistent with sound commercial practices, to confirm the validity of personal details and identification credential details; and
 - iv. Enable the notary public visually to compare for consistency the information and photograph on the identification credential and the Remotely Located Individual as viewed by the notary public in real time through communication technology.
- c) A dynamic knowledge-based authentication assessment is successful if it meets the following requirements:
- i. The Remotely Located Individual must answer a quiz consisting of a minimum of five questions related to the individual's personal history or identity formulated from public or private data sources;
 - ii. Each question must have a minimum of five possible answer choices;
 - iii. At least eighty percent of the questions must be answered correctly;
 - iv. All questions must be answered within two minutes;
 - v. If the Remotely Located Individual fails the first attempt, the individual may retake the quiz once within twenty-four hours;
 - vi. During a retake of the quiz, a minimum of forty percent of the prior questions must be replaced;
 - vii. If the Remotely Located Individual fails the second attempt, the individual must not be allowed to retry with the same online notary public within twenty-four hours of the second failed attempt; and
 - viii. The notary public must not be able to see or record the questions or answers.

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Part 9: Continuing Education

9-1 Continuing Education Requirements for Renewal.

- a) Commission renewal. Except as exempted under Parts 4-3 and 4-6, above, and 26 V.S.A. chapter 103, as a condition of Commission renewal, notaries public shall complete no fewer than one hour of continuing education over the full two-year biennial period preceding the application for renewal.
- b) Special Endorsement renewal. Special Endorsement renewal requires one additional hour of continuing education. The additional hour must pertain to the performance of notarial acts on electronic records or for remotely located individuals or both.

9-2 Documentation.

- a) Documentation of completion of the continuing education must be included in a notary public's application for renewal of a Commission or Special Endorsement, as applicable.
- 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, including the name and date of the course, proof of attendance, and the number of continuing education credit hours awarded.

9-3 Course Content and Form.

- a) 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.
- b) Form.
 - i. A continuing education course shall be at least one hour in length. One hour means 60 minutes.
 - ii. 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.
 - iii. The course must include both audio and visual content.
 - iv. Continuing education credit will be granted only for actual time a notary public spends as a learner during the course. Breaks, business

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meetings, and lunches do not count toward continuing education credits.

9-4 Approval of Courses.

- a) Continuing education courses that fulfill the requirements for Parts 9-1 through 9-3 and that are provided or approved by the following organizations are approved without prior 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 above, 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 course approval through the Office's online portal. Courses that are not pre-approved may be reviewed as part of a notary public's renewal application.

9-5 Continuing Education Audits.

- a) The Office shall conduct continuing education audits of randomly selected notaries public, including all notaries public whose Commissions are conditioned. The Office may also audit notaries public who are reinstating or who, in any of the preceding two renewal cycles, were initially found to have not met continuing education requirements.
- b) When a notary public appears on the audit list, the Office shall review the documentation provided with renewal application to determine whether the continuing education requirements have been satisfied. The Office may also request additional documentation and information from the notary public showing a detailed account of the credits claimed.
- c) Under 3 V.S.A. § 129(k), the Office may give notaries public 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 count only for the Commission period being audited. Failure to comply with a corrective action plan may result in disciplinary action. 3 V.S.A. § 129a(a)(4).

Final Proposed Administrative Rules for Notaries Public: Summary of Substantial Arguments, Agency Responses, and Amendments

Comment:

One commenter felt that Part 4-3(c) is ambiguous as to whether the fee exemptions described therein apply to the Special Commission Endorsement.

Response:

The first sentence of Rule 4-3 already states explicitly that the exemptions therein do not apply to the special endorsement. No change has been made.

Comment:

One commenter felt that attorneys should be exempt from the need to obtain a commission because they are already a regulated profession.

Response:

This would be contrary to statute. 26 V.S.A. § 5305(b). In addition, the Secretary of State could not authenticate the signatures of attorneys who did not hold commissions. No change has been made.

Comment:

One commenter felt that Part 4-7 is ambiguous because “midnight” on the date of a commission’s expiration could be midnight at the beginning of that date or midnight at the conclusion of that date.

Response:

We disagree that “midnight” is so ambiguous as to create problems for commission holders. Identical language has appeared for decades in other OPR rules without issue. However, to make the Rules extra clear, Part 4-7 has been revised.

Comment:

One commenter felt that the wording of Part 5-1(a)(v), regarding a notary public's certification of a tangible copy of an electronic record, did not track the language of 26 V.S.A. § 5363.

Response:

We agree that the Rule language could better track the statute, but not that it should match 26 V.S.A. § 5363. 26 V.S.A. § 5362 and 26 V.S.A. § 5363 use slightly different language in referring to certifications of tangible copies of electronic records. Section 5362 is the section defining notarial acts within the meaning of the statute. Part 5-1(a)(v) has been revised to exactly track the language of Section 5362.

Comment:

One commenter felt that Part 5-1(a)(v), regarding a notary public's certification of a tangible copy of an electronic record, is ambiguous with respect to metadata. However, the commenter asked, can a notary say that a copy is a "full, true, and accurate" reproduction of an electronic record if it does not include metadata?

Response:

The purpose of this type of notarial act is to allow the creation of tangible documents that can be physically filed when required, such as in the offices of town clerks that do not accept electronic records for recording. For that purpose, it is the visible content of the electronic record that matters. Analyzing and making representations about metadata would be beyond the intended scope of notaries public. Because "full" does not appear in the definition of this notarial act in 26 V.S.A. § 5362, it has been removed from the rule. In addition, language has been added regarding the requirements for certifying the accuracy of a tangible copy of an electronic record. This language is modeled on the rules promulgated by Maryland, another RULONA state.

Comment:

One commenter felt that 5-1(c), covering functions that notaries may perform but that are not notarial acts governed by Title 26, was too narrow because it excluded oaths of office and swearing witnesses before tribunals other than courts.

Response:

5-1(c) has been revised to include more exceptions.

Comment:

One commenter opined that Vermont notaries "have the authority to certify copies of original diplomas, the notary should make the copy. Transcripts, however, must be notarized at the

school where they are issued.” Another commenter said “I thought we could certify copies of passports, etc.”

Response:

There is no basis in law for the claim that Vermont notaries can certify diplomas. Notaries public are not the custodians of such documents and have no way to verify whether the diploma being copied is authentic. Allowing notaries to certify such documents would enable individuals to “launder” forged documents through a notary’s certification, giving forgeries the imprimatur of a state-sanctioned certification without any actual safeguards of their authenticity.

Individuals seeking certified copies of official documents should contact the custodians of those documents. For example, certified copies of court documents should be requested from the courts; of diplomas, from the institutions that awarded them; of passports, from the U.S. Department of State; and so on. No change has been made.

Comment:

One commenter mentioned that the identification and signature of the individual is not required if the notarial act is certification of a tangible copy of an electronic record.

Response:

The Rules reflect this. Part 5-2(f) already acknowledges this distinction by requiring that the notarial certificate be executed “by the individual, *when required*,” Part 5-2(f)(i)(A) (emphasis added), and by excluding certifications of tangible copies of electronic records from the list of notarial acts requiring the notarial certificate to appear with the identity and signature of the individual. Part 5-2(f)(iv)(C). No change has been made.

Comment:

Two commenters mentioned that the requirements in Parts 5-2(f)(iii) and 5-2(f)(iv)(C) for the notarial certificate to appear on the same page as the individual’s name and signature, and for notarial certificates to be affixed by staple, would not always be physically possible or appropriate for all documents.

Response:

We agree that those requirements were too prescriptive. Parts 5-2(f)(iii) and 5-2(f)(iv)(C) have been revised.

Comment:

One commenter mentioned that Part 5-2(f)(iv)(C) should say *taking a verification of a statement on oath or affirmation*, not *verifying an oath or affirmation*.

Response:

Part 5-2(f)(iv)(C) has been revised.

Comment:

One commenter opined that a notary public's stamp, if they choose to use one, should be required to include the title "notary public."

Response:

While the title of office is not required by statute to be included in the stamp, the Rules may require stamps to include "other information required by the Office." 26 V.S.A. § 5369(1). This is a sensible requirement and prevents any confusion about the nature of the stamp. The requirement has been added.

Comment:

One commenter stated "I am technologically savvy and under the Emergency Rules I frequently provided remote notary services. I am strongly in favor of allowing remote notary services to be part of the services which notaries are allowed to provide in the State of Vermont."

Response:

We agree that notaries should be allowed to perform notarial acts for remotely located individuals—if the notaries hold the Special Commission. OPR is required by statute to limit the performance of notarial acts for remotely located individuals to Special Commission holders. 26 V.S.A. § 5379. No change has been made.

Comment:

One commenter stated that the rules should require technology for remote online notarization to "be capable of generating a printable version of all documents." The commenter reasoned that "while some town clerks will implement/adopt a digital recording process, many others will not and so paper copies of documents will still need to be sent in for recording purposes, even if signed electronically," and said printability is part of the Mortgage Industry Standards Maintenance Organization (MISMO) RON Standards.

Response:

State policy is to regulate professions only to the extent necessary to protect the public. While printability may be necessary for a notary's services to meet some or even most consumers' needs, it is not necessary for the integrity and security of notarial acts on electronic records. It is not the role of a notary, or the purpose of these Rules, to ensure that the document being notarized is appropriate for the purposes of the individual seeking notarization. No change has been made.

Comment:

One commenter said that Part 7-2(c)(i)(C), dealing with electronic notarial certificates, should clarify how general requirements for notarial certificates apply.

Response:

Part 7-2(c)(i)(C) already states that electronic notarial certificates must contain all of the information required of notarial certificates on tangible records. No change has been made.

Comment:

One commenter said that Part 7-2(c)(ii)(C) should mention that identification and personal appearance of the individual are not needed when a notary certifies a tangible copy of an electronic record.

Response:

Part 7 deals with notarial acts on electronic records. Certifying a tangible copy of an electronic record is not a notarial act on an electronic record and thus not relevant to Part 7. No change has been made.

Comment:

One commenter said that the rules should clarify that not all notarial acts on electronic records are notarial acts for remotely located individuals, and vice versa.

Response:

We agree. Parts 7-1 and 8-1 already make this distinction. No change has been made.

Comment:

One commenter noted generally that the rules do not explain how electronic records interact with apostilles and noted that very few states had electronic apostille programs. The commenter concluded "In view of this very limited progress, I suggest Vermont not worry about making notarizations suitable for electronic apostilles during this rulemaking proceeding."

Response:

We agree that we should not worry about it. No change has been made.

Comment:

Part 7-4(a) requires notaries public performing notarial acts on electronic records use the same

electronic signature each time, in accordance with the requirement that notarial certificates “be signed in the same manner as on file with the Office.” 26 V.S.A. § 5367(a)(2). One commenter asked how an electronic signature can be consistent if it varies each time because of a security key.

Response:

The Secretary of State must be able to verify that the signature on a notarial certificate is the signature of the commission holder named in the notarial certificate. It is the responsibility of a notary public choosing to perform notarial acts on electronic records to select technology that allows them to comply with the statute governing notarial acts. No change has been made.

Comment:

Part 7-4(b) says to keep the electronic stamp secure, but one commenter suggested that clients could just extract the stamp from notarized documents.

Response:

A forgery of the stamp is not the stamp itself. This is no different from requiring notaries public to keep physical stamps secure. Yes, someone in possession of a document bearing that stamp could create an identical-looking stamp for the purpose of forging notarized documents. This does not relieve the notary of responsibility for keeping their true stamp secure. Moreover, the notary public is responsible for keeping private the "security aspects" of the electronic stamp (such as passwords, PINs, etc.) referenced in the Rule. No change has been made.

Comment:

Part 8-2(f) requires that recordings of notarial acts for remotely located individuals be retained for seven years after the notarial act. One commenter opined that storage of these digital files for seven years does create an administrative burden and potentially a cost to the notary and should be noted in the "category of affected parties."

Response:

26 V.S.A. § 5379(k) requires ten-year retention unless that period is shortened by rule. These Rules require seven years to accord with recordkeeping time frames in Title Eight. The costs of storage are already acknowledged in the cover sheets in the estimates of the costs of Rule-compliant technology. Most technology vendors for notaries include video storage in their products.

Comment:

One commenter observed that “the rule requires that ‘a personal representative of a deceased notary’ retain the audiovisual recording of a notarial act for a remotely located individual for

seven years. That seven-year period could outlast the administration of a deceased notary's estate. Who would be the personal representative after that?"

Response:

We agree that the rule as drafted was not clear on this point. The statute allows a personal representative or other person responsible for retaining an audiovisual recording to designate a repository to meet that retention responsibility. 8-2(f) has been revised to reflect that.

Comment:

One commenter opined that the rules were unclear on what counts as taking a CE course—"Can it simply be viewed afterwards?"—and on how CE verification is performed.

Response:

Part 9-3(b) spells out in detail what counts as taking a CE course. Part 9-5 explains that CE completion is verified through random audits of the CE documentation submitted with renewal. No change has been made.

Comment:

One commenter opined that a notary public certifying a tangible copy of an electronic record should be required to be the same notary whose signature appears on the electronic record.

Response:

We disagree, for two reasons. First, there is no requirement or assumption that every underlying electronic record whose tangible copy may be certified under this rule is a document containing a notarial certificate. Second, this would be a significant restraint on practice not warranted by the purposes of the statute. For example, in a town with a town clerk and an assistant town clerk, the assistant town clerk would not be able to certify tangible copies of an electronic record that their colleague had notarized. We did add language in 5-1(a) clarifying a notary's duties with respect to verifying the integrity of electronic record before certifying its tangible copy.

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

The Statutes below include the actions of the 2024 session of the General Assembly.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

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 *Beyers v. Water Resources Board*, 2006 VT 65, and *In re Town of Sherburne*, 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.)

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

The Statutes below include the actions of the 2024 session of the General Assembly.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

Title 26 : Professions and Occupations

Chapter 103 : Notaries Public

Subchapter 002 : ADMINISTRATION

(Cite as: 26 V.S.A. § 5323)

§ 5323. Rules

(a) The Office, with the advice of the advisor appointees, may adopt rules to implement this chapter. The rules may:

(1) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(3) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(4) prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking the commission or special commission endorsement of or otherwise disciplining a notary public and ensuring the trustworthiness of an individual holding a commission or special commission endorsement as notary public;

(5) include provisions to prevent fraud or mistake in the performance of notarial acts;

(6) prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

(7) establish standards for communication technology and identity proofing;

(8) establish standards and a period for the retention of an audiovisual recording created under section 5379 of this chapter; and

(9) prescribe methods for a notary public to confirm, under subsections 5379(c) and (d) of this chapter, the identity of a tangible record.

(b) Rules adopted regarding the performance of notarial acts with respect to electronic records and remote online notarization may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. In adopting, amending, or repealing rules regarding notarial acts with respect to electronic records and remote online notarization, the Office shall consider, as far as is consistent with this chapter:

(1) the most recent standards regarding electronic records promulgated by national bodies, such as the National Association of Secretaries of State;

(2) standards, practices, and customs of other jurisdictions that have laws substantially similar to this chapter; and

(3) the views of governmental officials and entities and other interested persons.

(c) [Repealed.] (Added 2017, No. 160 (Adj. Sess.), § 1, eff. July 1, 2019; amended 2021, No. 171 (Adj. Sess.), § 5, eff. July 1, 2022.)



Proposed Rules Postings

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Deadline For Public Comment

Deadline: Oct 31, 2024

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	24P041
Title:	Administrative Rules for Notaries Public.
Type:	Standard
Status:	Proposed
Agency:	Office of Professional Regulation, Office of the Secretary of State
Legal Authority:	3 V.S.A. § 801(b)(11) 26 V.S.A. § 5323
Summary:	These rules create standards for issuing commissions as well as special endorsements to notaries public to perform notarial acts on electronic records and for remotely located individuals. The standards specify acceptable methods for performing notarial acts,

Persons Affected: including identification of individuals, personal appearance, completion of the notarial certificate, remote notarization, and recording notarial acts. State agencies, the judiciary, Town Clerks, social service agencies, hospitals, nursing homes and other health care facilities, law enforcement, notaries public, real estate professionals, banks, mortgage companies, attorneys (including those in elder care, estate planning, and real estate), and the public.

Economic Impact: The Emergency Rules allowed notarial acts to continue during a public health crisis and facilitated the continuance of essential transactions and commerce. Adopting them permanently will facilitate and protect our economy and make Vermont businesses more resilient in the event of future emergencies restricting travel. In addition, adopting standards for electronic notarization will facilitate the modernization of business and governance in Vermont. For notaries public who perform remote and electronic notarization under the special endorsement, technology costs are expected to be typically \$0 to \$40 a month, plus per-transaction fees, as of the time of filing these rules. Users of notary public services, identified in #11 above, would remain free to choose in-person, tangible-record notarization if they deem these costs not worth the benefits of remote or electronic notarization.

Posting date: Sep 18,2024

Hearing Information

Information for Hearing # 1

Hearing date: 10-22-2024 2:00 PM [ADD TO YOUR CALENDAR](#)

Location: Office of Professional Regulation Board Room

Address: 89 Main Street, 3rd Floor

City: Montpelier

State: VT

Zip: 05667

Hearing Notes:

Information for Hearing # 2

Hearing date: 10-22-2024 2:00 PM [ADD TO YOUR CALENDAR](#)

Location: Virtually via MS Teams

Address: <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>
 City: Meeting ID: 253 381 763 984 Passcode: vJankk
 State: VT
 Zip: n/a
 Hearing Notes: Virtually via MS Teams at <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting> Meeting ID: 253 381 763 984 Passcode: vJankk

Information for Hearing # 3

Hearing date: 10-24-2024 6:00 PM [ADD TO YOUR CALENDAR](#)
 Location: Office of Professional Regulation Board Room
 Address: 89 Main Street, 3rd Floor
 City: Montpelier
 State: VT
 Zip: 05667
 Hearing Notes:

Information for Hearing # 4

Hearing date: 10-24-2024 6:00 PM [ADD TO YOUR CALENDAR](#)
 Location: Virtually via MS Teams
 Address: <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>
 City: Meeting ID: 266 954 078 06 Passcode: NVQG3G
 State: VT
 Zip: n/a
 Hearing Notes: Virtually via MS Teams at <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting> Meeting ID: 266 954 078 06 Passcode: NVQG3G

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: Gina Hruban
 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: 802-828-1505
Fax:
Email: jennifer.colin@vermont.gov

[SEND A COMMENT](#)

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

[VIEW WEBSITE](#)

Information for Secondary Contact

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

Level: Secondary
Name: Gina Hruban
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: 802-828-1505
Fax:
Email: gina.hruban@vermont.gov

[SEND A COMMENT](#)

Keyword Information

Keywords:

Notary Public
Notary
Remote Notarization
Personal Appearance
Communication Technology
Notarial Act
Electronic Notarization
Electronic Notarial Certificate
Electronic Record
Special Endorsement
Professional Regulation

Commission
Notarial Certificate

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(802) 828-2863

MEMORANDUM

OFFICE OF THE SECRETARY OF STATE

Primary Contact: Jennifer Colin, Esq. Office of Professional Regulation, 89 Main St., 3rd Fl., Montpelier, VT 05602 Tel: 802-828-1505 Email: jennifer.colin@vermont.gov.

Secondary Contact: Gina Hruban, Office of Professional Regulation, 89 Main St., 3rd Fl., Montpelier, VT 05602 Tel: 802-828-1505 Email: gina.hruban@vermont.gov.

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

From: APA Coordinator, VSARA

RE: Administrative Rules for Notaries Public.

Date 11/26/2024

We received Proposed Rule on 09/10/2024
Final Proposed Rule on 11/25/2024
Adopted Rule on

We have assigned the following rule number(s):

Proposed Rule Number: 24P041

Adopted Rule Number:

(Final Proposals are not assigned a new number; they retain the Proposed Rule Number.)

The following problems were taken care of by phone/should be taken care of immediately: Proposed Filing: Hearing information was not provided on the forms but rather in an email, the information was typed into the PDF on behalf of the agency.

We cannot accept this filing until the following problems are taken care of:

The notice for this proposed rule appeared/will appear online on: 9/18/2024 and in the newspapers of record on 9/26/2024.

This rule takes effect on
Adoption Deadline: 05/10/2025

Please note: A historical note was added by the APA Manager to provide context on related Emergency Rules.

If you have any questions, please call me at 828-2863. OR
E-Mail me at: sos.statutoryfilings@vermont.gov

cc: Charlene Dindo / Lindsey Schreier

OFFICE OF THE SECRETARY OF STATE
VERMONT STATE ARCHIVES & RECORDS ADMINISTRATION (VSARA)
(802) 828-2863

TO: Seven Days Legals (legals@sevendaysvt.com)	Tel: (802) 865-1020 x110.
The Caledonian Record Julie Poutré (adv@caledonian-record.com)	Tel: 748-8121 FAX: 748-1613
Times Argus & Rutland Herald Classified Ads (classified.ads@rutlandherald.com)	Tel: 802-747-6121 ext 2238 FAX: 802-776-5600
The Valley News (advertising@vnews.com)	Tel: 603-298-8711 FAX: 603-298-0212
The Addison Independent (legals@addisonindependent.com)	Tel: 388-4944 FAX: 388-3100 Attn: Display Advertising
The Bennington Banner / Brattleboro Reformer Lylah Wright (lwright@reformer.com ;	Tel: 254-2311 ext. 132 FAX: 447-2028 Attn: Lylah Wright
The Chronicle (ads@bartonchronicle.com)	Tel: 525-3531 FAX: 880-1040
Herald of Randolph (ads@ourherald.com)	Tel: 728-3232 FAX: 728-9275 Attn: Brandi Comette
Newport Daily Express (jlafoe@newportvermontdailyexpress.com)	Tel: 334-6568 FAX: 334-6891 Attn: Jon Lafoe
News & Citizen (mike@stowereporter.com) Irene Nuzzo (irene@newsandcitizen.com and ads@stowereporter.com .com removed from distribution list per Lisa Stearns.	Tel: 888-2212 FAX: 888-2173
St. Albans Messenger Legals (legals@samessenger.com ; cfoley@orourkemediagroup.com)	Tel: 524-9771 ext. 117 FAX: 527-1948 Attn: Legals
The Islander (islander@vermontislander.com)	Tel: 802-372-5600 FAX: 802-372-3025
Vermont Lawyer (hunter.press.vermont@gmail.com)	Attn: Will Hunter

FROM: APA Coordinator, VSARA

Date of Fax: September 22, 2024

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

September 26, 2024

PAGES INCLUDING THIS COVER MEMO:

3

***NOTE* 8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact VSARA at 802-828-3700, or E-Mail sos.statutoryfilings@vermont.gov, Thanks.

PROPOSED STATE RULES

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).

Note: The four rules below have been promulgated by the Agency of Human Services who has requested the notices be combined to facilitate a savings for the agency. When contacting the agency about these rules please note the title and rule number of the rule(s) you are interested in.

- Dental Services
Vermont Proposed Rule: **24P036**
- Dental Services for Beneficiaries Under Age 21, and Pregnant and Postpartum Women
Vermont Proposed Rule: **24P037**
- Medical and Surgical Services of a Dentist
Vermont Proposed Rule: **24P038**
- Orthodontic Treatment
Vermont Proposed Rule: **24P039**

AGENCY: Agency of Human Services

CONCISE SUMMARY: These proposed rules set forth the criteria for coverage and service delivery for Health Care Administrative Rules (HCAR) for Dental Services under Vermont's Medicaid program. These rules are being combined into one rule for dental services. The revisions are designed to improve public accessibility and comprehension of the rules concerning the operation of Vermont's Medicaid program.

FOR FURTHER INFORMATION, CONTACT: Ashley Berliner Agency of Human Services 280 State Drive Waterbury, VT 05671-1000 Tel: 802-578-9305 Fax: 802-241-0450 E-Mail: ashley.berliner@vermont.gov
URL: <https://humanservices.vermont.gov/rules-policies/health-care-rules>.

FOR COPIES, CONTACT: Susan Coburn, Agency of Human Services 280 State Drive, Waterbury, VT 05671-1000 Tel: 802-578-9412 Fax: 802-241-0450 Email: Susan.Coburn@vermont.gov.

Chiropractic Services.

Vermont Proposed Rule: 24P040

AGENCY: Agency of Human Services

CONCISE SUMMARY: This rule sets forth the criteria for coverage of chiropractic services under Vermont's

Medicaid program. It amends current Health Care Administrative Rule 3.101 titled "Chiropractic Services". Amendments include updating the prior authorization requirements, clarifying terms that were not previously defined, and specifying services that are not covered.

FOR FURTHER INFORMATION, CONTACT: Ashley Berliner, Agency of Human Services, 280 State Drive, Waterbury, VT 05671-1000 Tel: 802-578-9305 Fax: 802-241-0450 Email: Ashley.Berliner@vermont.gov URL: <https://humanservices.vermont.gov/rules-polies/health-care-rules/health-care-administrative-rules-hcar>.

FOR COPIES: Susan Coburn, Agency of Human Services 280 State Drive, Waterbury, VT 05671-1000 Tel: 802-578-9412 Fax: 802-241-0450 Email: Susan.Coburn@vermont.gov.

Administrative Rules for Notaries Public.

Vermont Proposed Rule: 24P041

AGENCY: Secretary of State, Office of Professional Regulation

CONCISE SUMMARY: These rules create standards for issuing commissions as well as special endorsements to notaries public to perform notarial acts on electronic records and for remotely located individuals. The standards specify acceptable methods for performing notarial acts, including identification of individuals, personal appearance, completion of the notarial certificate, remote notarization, and recording notarial acts.

FOR FURTHER INFORMATION, CONTACT: Jennifer Colin, Esq. Office of Professional Regulation, 89 Main St., 3rd Fl., Montpelier, VT 05602 Tel: 802-828-1505 Email: jennifer.colin@vermont.gov URL: <https://sos.vermont.gov/notaries-public/statutes-rules-resources/>.

FOR COPIES: Gina Hruban, Office of Professional Regulation, 89 Main St., 3rd Fl., Montpelier, VT 05602 Tel: 802-828-1505 Email: gina.hruban@vermont.gov.

General Assistance Emergency Housing Assistance Rules.

Vermont Proposed Rule: 24P042

AGENCY: Agency of Human Services, Department for Children and Families

CONCISE SUMMARY: The proposed rule contains five amendments to the General Assistance program rules: (1) language regarding notices to terminate tenancy was added to the definition of constructive eviction in rule 2622; (2) language was added to rule 2650 authorizing DCF to withhold payments to hotels/motels in violation of lodging licensing rules; (3) the catastrophic and vulnerable populations eligibility categories in rules 2652.2 and 2652.3 have been replaced with the new eligibility criteria set forth in sec. E.321 of Act 113 of 2024; (4) the rule updates the basic needs standard chart in rule 2652.4 to align with the current Reach Up basic needs dollar amounts; and (5) the methodology for calculating the 30% income contribution in rule 2652.4 was changed from using the least expensive daily motel rate to either the current daily rate at the motel in which the temporary housing applicant is staying or if the applicant is not currently housed in a motel, the average daily rate.

FOR FURTHER INFORMATION, CONTACT: Heidi Moreau, Agency of Human Services, Department for Children and Families, 280 State Drive, NOB 1 North, Waterbury VT 05671 Tel: 802-595-9639 Email: heidi.moreau@vermont.gov URL: <https://dcf.vermont.gov/esd/laws-rules/proposed>.

FOR COPIES: Amanda Beliveau, Agency of Human Services, Department for Children and Families, 280 State Drive, HC 1 South, Waterbury, VT 05671 Tel: 802-241-0641 Email: amanda.beliveau@vermont.gov.
