

Administrative Rules for Notaries Public

Part I: 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.

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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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- 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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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.
 - 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.

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- 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.

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

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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.
- 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].”

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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;
 - 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

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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.
 - 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.

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- 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:

- 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.

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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
 - 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.

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- 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.

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

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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.

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);

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- 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,
 - 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.

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- 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.

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;
 - 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.

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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;
 - 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;

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- 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.

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.

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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 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.

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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).

Effectiveness

These Rules shall take effect February 26, 2025.