

TITLE 5: OFFICE OF THE ATTORNEY GENERAL

CHAPTER 5-30 NOTARIES PUBLIC RULES AND REGULATIONS

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Chapter Authority: 4 CMC § 3312.

Chapter History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Commission Comment: 1 CMC § 2153(c) empowers the Attorney General to appoint and certify the appointment of notaries public and issue notarial certificates. 4 CMC §§ 3311-3326 govern notaries public in the Commonwealth. 4 CMC § 3312 authorizes the Attorney General to prescribe rules and regulations concerning the appointment and duties of notaries public and the administration of 4 CMC §§ 3311-3326.

PL 14-52 (effective Jan. 17, 2005) repealed and reenacted 4 CMC §§ 3311-3326. The new statutory provisions governing notaries public supersede many requirements of the 1992 regulations codified in this chapter.

Part 001 - General Provisions

§ 5-30-001 Authority

The rules and regulations in this chapter are issued pursuant to the authority of the Attorney General granted under 4 CMC § 3312. This statute empowers the Office of the Attorney General to prescribe such rules and regulations as the Attorney General may deem advisable to regulate the appointment and duties of notaries public in the Commonwealth.

Modified, 1 CMC § 3806(d).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-005 Purposes

This chapter shall be construed and applied to advance the underlying purposes of the notary public statute, which are:

- (a) To promote, serve, and protect the public interest;
- (b) To simplify, clarify, and modernize procedures governing notaries;
- (c) To make as consistent as possible the practices and fees of notaries;
- (d) To provide for increased public confidence in notaries public;
- (e) To serve as guidelines for accountability for the community of notaries;
- (f) To educate notaries about the legal, ethical and technical facets of performing a notarial act;

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(g) To increase public awareness and understanding of the notary's role in commerce and law; and

(h) To instill in notaries a sense of self respect and professionalism in their duties.

Modified, 1 CMC 3806(d), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-010 Interpretation

In this chapter, unless the context otherwise requires, words in the singular include the plural, and words in the plural include the singular. The term "he" or "his" shall include feminine gender.

Modified, 1 CMC § 3806(d).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-015 Prospective Effect

The existing bond, seal, length of commission term, and liability of current notaries commissioned before the effective date of this chapter shall not be invalidated, modified, or terminated by this chapter, but those notaries shall comply with this chapter in performing notarizations and in applying for new commissions upon their becoming effective.

Modified, 1 CMC § 3806(d).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-020 Definitions

As used in this chapter:

(a) "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose identity is personally known to the notary or proven on the basis of satisfactory evidence, has admitted, in the notary's presence, having signed a document voluntarily for its stated purposes.

(b) "Commission" means to empower to perform notarial acts and the written authority to perform those acts.

(c) "Copy certification" means a notarial act in which a notary certifies having made a photocopy of a document that is neither a public record nor publicly recordable.

(d) "Jurat" means a notarial act in which a notary certifies that a signer, whose identity is personally known to the notary or proven on the basis of satisfactory evidence, has made, in the notary's presence, a voluntary signature and taken an oath or affirmation vouching for the truthfulness of the signed document.

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(e) “Notarial act” and “notarization” mean any act that a notary is empowered to perform under § 5-30-201.

(f) “Notarial certificate” and “certificate” mean the part of or attachment to a notarized document for completion by the notary and bearing the notary’s signature and seal.

(g) “Notary public” and “notary” mean any person commissioned to perform notarial acts under 4 CMC §§ 3311, et seq.

(h) “Oath” and “affirmation” mean a notarial act or part thereof in which a notary certifies that a person made a vow in the presence of the notary on penalty of perjury.

(i) “Official misconduct” means:

(1) A notary’s performance of or failure to perform any act prohibited or mandated respectively by this chapter or by any other law in connection with a notarization; or

(2) A notary’s connection with a notarization; or

(3) A notary’s performance of a notarial act in a manner found by the Attorney General after investigation to be negligent or against the public interest; or

(4) The performance of any act in connection with the notary’s official capacity which defies simple common sense or, a breach of a duty of good faith and fair dealing.

(j) “Personal knowledge of identity” means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.

(k) “Satisfactory evidence of identity” means identification of an individual based on:

(1) At least 2 current documents, including those issued by a government with the individual’s photograph, signature and physical description, and the other by an institution, business entity, or federal or state government with at least the individual’s signature; or

(2) The oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-025 Severability Clause

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Modified, 1 CMC § 3806(d).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

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Part 100 - Commissioning

§ 5-30-101 Commissioning

- (a) Except as provided in subsection (c), the Attorney General shall commission as a notary any qualified person who submits an application in accordance with this chapter.
- (b) A person qualified for a notarial commission must:
- (1) Be at least 25 years of age and be a United States citizen or a permanent resident of the Commonwealth;
 - (2) Lawfully reside or work in this Commonwealth or be temporarily residing elsewhere, although a resident of the Commonwealth. At least three years residence in the Commonwealth is required;
 - (3) Read and write English;
 - (4) Submit an application containing no significant misstatement or omission of fact;
 - (5) Submit two letters of recommendation;
 - (6) Submit a police clearance;
 - (7) Be otherwise qualified for commissioning as a notary pursuant to law, including qualification by reason of employment by the United States government or by a contractor engaged in work for the United States government in the Commonwealth.
- (c) The Attorney General may deny an application based on:
- (1) The applicant's conviction for a crime involving dishonesty or moral turpitude;
 - (2) Revocation, suspension, or restriction of a notarial commission or professional license, such as a license to practice law, or sell securities or real estate, issued to the applicant by the Commonwealth or any state or territory of the United States of America;
 - (3) The applicant's prior official misconduct as defined in § 5-30-020, whether or not disciplinary action resulted; and/or
 - (4) Failure to meet any of the commissioning requirements of this chapter.

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-105 Jurisdiction and Term

A person commissioned as a notary by the Attorney General may perform notarial acts in any part of this Commonwealth for a term of two years, unless the commission is revoked under § 5-30-510 or resigned under § 5-30-615.

Modified, 1 CMC § 3806(c), (e), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-110 Bond

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No notarial commission becomes effective until, within 30 days after its issuance, an oath of office and a one thousand dollar bond has been filed with the Clerk of Commonwealth Trial Court. The bond must be executed by a licensed surety, bonding for a term of two years commencing on the commission's effective date and terminating on its expiration date, with payment of bond funds to any person conditioned upon the notary's misconduct as defined in § 5-30-020.

Modified, 1 CMC § 3806(c), (e), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Commission Comment: Pursuant to the Commonwealth Judicial Reorganization Act of 1989, PL 6-25 (effective May 2, 1989), codified at 1 CMC §§ 3001, et seq., the Commonwealth Trial Court is now the Commonwealth Superior Court. See also the commission comment to 1 CMC § 3001.

§ 5-30-115 Recommissioning

An applicant for recommissioning as a notary shall timely submit a new application and comply anew with the provisions of part 100 of this chapter.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-120 Ineligibility for Later Appointment

A person who has been appointed and commissioned as a notary public and who performs any act as such after expiration of his term of office shall be ineligible for a subsequent appointment, unless the Attorney General is satisfied that such act was inadvertent or otherwise explainable. In general, no application for later appointment will be approved if there is credible evidence that a notary continued to perform notarial acts for a period of more than thirty days beyond the expiration of the notary's prior commission.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-125 Application

Every application for a notarial commission must be made on forms provided by the Attorney General and include, at least:

- (a) A statement of the applicant's personal qualifications;
- (b) A notarized declaration by the applicant; and
- (c) Two letters of recommendation by persons other than immediate family members or the employer of the applicant.

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Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-130 Statement of Personal Qualifications

The application must state, at least:

- (a) The applicant's age;
- (b) The applicant's residence address and period of residence in the Commonwealth;
- (c) That the applicant can read and write English;
- (d) All criminal convictions of the applicant, including any pleas of admission and nolo contendere; and
- (e) All issuances, denials, revocations, suspensions, restrictions, and resignations of a notarial commission or other professional license involving the applicant in or any other state or territory of the United States.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-135 Notarized Declaration

Every applicant for a notarial commission shall sign the following declaration in the presence of a notary of this Commonwealth:

Declaration of Applicant

I _____, being first duly sworn, on oath depose and say: That I am the applicant named in the foregoing application for a Notary Public Commission; That I signed the said application; That I have read the said application and know the contents thereof and that all matters and things therein stated and all the answer given to the questions therein set forth are true of my own knowledge.

(signature of applicant)

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-140 Fee for Application

Every applicant for a notarial commission shall pay to the Commonwealth a non-refundable application fee of twenty-five dollars and submit evidence of payment with the application.

Modified, 1 CMC § 3806(e).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-145 Confidentiality

Disciplinary information in an applicant's or notary's statement of personal qualifications under paragraphs (d) and (e) of § 5-30-130 must be used by the Attorney General and designated Commonwealth employees for the sole purpose of performing official duties under 4 CMC chapter 3 and may not be disclosed to any person other than:

- (a) The applicant;
- (b) The applicant's authorized representative or surety;
- (c) A representative of the federal or Commonwealth government acting in an official capacity; or
- (d) A person specified by court order or by duly authorized notice by the applicant.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-150 Governmental Employees

- (a) The Attorney General may commission any number of governmental employees to act as notaries, but notaries so empowered may perform notarial acts only in service of their respective governmental agencies.
- (b) Notaries empowered under this section may perform notarial acts in any part of this Commonwealth for a term of 2 years, and shall seek recommissioning by the Attorney General for each subsequent term.
- (c) An applicant for a notarial commission under this section must meet the requirements in §§ 5-30-125 through 5-30-145, except the application shall include a written declaration signed by the applicant's governmental employer stating that the commissioning is in the public interest; and the fee in § 5-30-140 is waived for employees of this Commonwealth.
- (d) No bond shall be required of government employee notaries. Costs of all notarial supplies for a notary empowered under this section must be paid from funds of the notary's governmental agency.
- (e) No fees may be charged for governmental notarial services performed by a notary empowered under this section.
- (f) Upon leaving the employment of their governmental agencies, notaries empowered under this section shall resign their commissions immediately under § 5-30-615 and dispose of their journals and seals under § 5-30-620.

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(g) A notary empowered under this section shall comply with all provisions of this chapter, unless otherwise specified in this section.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Part 200 - Powers and Limitations

§ 5-30-201 Powers and Duties of Notaries

A notary is empowered to perform the following notarial acts:

- (a) Acknowledgments (such as powers of attorney, mortgages, grants, deeds and leases);
- (b) Oaths and affirmations to be used before any court, judge, officer or administrative agency in this Commonwealth;
- (c) Jurats;
- (d) Copy certifications and affidavits;
- (e) To take depositions and affidavits;
- (f) To keep a record of all official acts done by them;
- (g) To keep a record of the parties the date and character of every instrument acknowledged or proved before them;
- (h) When requested and upon payment of their fees therefor, to make and give a certified copy of any record in their office;
- (i) To provide and keep official seals or stamps, which shall be engraved as required by this chapter; and
- (j) To authenticate with their official seals all official acts.

Modified, 1 CMC § 3806 (d), (f), (g).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992)

Commission Comment: In subsection (a), the Commission corrected the spelling of “acknowledgment” and inserted a closing parenthesis to correct manifest errors. At the end of subsection (j), the Commission changed the semicolon to a period to correct a manifest error.

§ 5-30-205 Disqualifications

(a) A notary is disqualified from performing a notarial act if the notary:

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- (1) Is a signer of or named in the document that is to be notarized;
 - (2) Will receive directly or indirectly from a transaction connected with the notarial act any commission, fee, advantage, right, title, interest, cash, property, or other consideration exceeding in value the fees specified in § 5-30-250; or
 - (3) Is related to the person whose signature is to be notarized as a spouse, brother or sister, or parent or child.
- (b) Nothing in subsection (a)(2) shall prevent any attorney who is a notary, from performing any notarial act done in the course and scope of the attorney's practice of law or the employee's employment, and nothing in this subsection shall prevent an attorney from collecting attorneys fees in any transaction in which the attorney or employee also provides notarial services, provided that no notarial act shall be valid if the notary has a direct or indirect personal monetary interest, other than for attorneys fees and costs, in the subject matter or proceeds of the transaction.

Modified, 1 CMC § 3806(c), (f), (g).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Commission Comment: At the end of subsection (b), the Commission changed the semicolon to a period to correct a manifest error.

§ 5-30-210 Impartiality

- (a) A notary may not influence a person to enter into or not to enter into a lawful transaction involving a notarial act by the notary.
- (b) A notary shall perform notarial acts in lawful transactions for any requesting person who tenders the appropriate fee specified in § 5-30-250.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-215 False Blank Certificates

A notary may not execute any certificate containing a statement known by the notary to be false or perform any official action with intent to deceive or defraud. Moreover, a notary may not execute any certificate or form or other document which is not completely filled out, including the proper date and signatures.

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-220 Testimonials

A notary may not endorse or promote any product, service, contest, or other offering if the notary's title or seal is used in the endorsement or promotional statement.

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History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-225 Unauthorized Practice of Law

- (a) A non-attorney notary may complete but may not select notarial certificates, and may not assist another person in drafting, completing, selecting, or understanding a document or transaction requiring a notarial act.
- (b) This section does not preclude a notary who is duly qualified in a particular profession from giving advice relating to matters in that professional field and charging separate professional fees for advice unrelated to his notarial services.
- (c) A notary may not make representations to have powers, qualifications, rights, or privileges that the office of notary does not have, including the power to counsel on immigration or other legal matters.
- (d) A non-attorney notary who advertises notarial services in a language other than English shall include in the advertisement, notice, or sign in addition to an English language translation the following in the same language:
- (1) The statement, prominently displayed: “I am not an attorney and have no authority to give advice on immigration or other legal matters”; and
 - (2) The fees for notarial acts specified in § 5-30-250(a).
- (e) A notary may not advertise or use the term “notary public” or any equivalent non-English term in any business card, advertisement, notice, or sign in any manner that is misleading, deceptive, fraudulent or untrue.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-230 Certification Without Oath

No notary public shall certify to the affidavit of a person without personally administering the oath or affirmation to such person. Such act shall constitute grounds for removal from office by the Attorney General. A notary public so removed from office shall be ineligible for a subsequent appointment.

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-235 Removal from Office

The following shall constitute official misconduct and grounds for removal from office by the Attorney General:

- (a) Charging and receiving for an act or service done or rendered by him a fee greater than the amount prescribed by law;

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- (b) Dishonestly, unfaithfully, or improperly discharging any of his duties as notary public;
- (c) Certifying to the affidavit of a person without administering the oath or affirmation personally to such person;
- (d) Conviction under Commonwealth or U.S. federal statutes of embezzlement, fraud, bribery, theft, forgery, falsification or destruction of records, receiving stolen property, violation of the Consumer Protection Act (4 CMC §§ 5101, et seq.), violation of any unfair business practices as described by 4 CMC § 5202 or any other offense which indicates a lack of integrity or honesty; or
- (e) Those reasons enumerated in § 5-30-530.

Modified, 1 CMC § 3806(c), (f), (g).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Commission Comment: In subsection (d), the Commission moved the period after “et seq.” inside of the closing parenthesis to correct a manifest error.

The original subsection (e) referred to § 6-205, codified at § 5-30-530. This reference appears to be in error. A reference to § 6-204, codified at § 5-30-525, was probably intended.

§ 5-30-240 Removal from Office; Due Process

A notary may be removed from commission or “decommissioned”:

- (a) After a due process hearing before the Attorney General or his designee including the right to be represented by counsel.
- (b) The quantum of proof shall be by the “clear and convincing evidence” standard.
- (c) The burden of proof shall be upon the Attorney General.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-245 Liability of Notary

For the official misconduct or negligence of a notary public, the notary and the sureties of his official bond are liable to the parties injured thereby for damages sustained. Sureties shall be liable to the extent of the bond.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

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§ 5-30-250 Fees

Every notary public is entitled to demand and receive the following maximum fees:

- (a) Noting the protest of mercantile paper, \$1;
- (b) Each notice and certified copy of protest of mercantile paper, \$1;
- (c) Noting protest other than of mercantile paper, \$1;
- (d) Each notice and certified copy of protest other than of mercantile paper, \$2;
- (e) Each deposition, or official certificate, \$2;
- (f) Administration of oath, including the certificate of such oath, 25 cents;
- (g) Affixing the certificate of such oath to each duplicate original instrument beyond four, 15 cents;
- (h) Taking any acknowledgment, 50 cents for each party signing; and
- (i) Affixing to each duplicate original, beyond one of any instrument acknowledged before him, his certificate of acknowledgment, 25 cents for each person making such acknowledgment.
- (j) A notary may charge a reasonable travel fee when traveling within the Commonwealth to perform a notarial act if:
 - (1) The notary explains to the person requesting the notarial act that the travel fee is separate from the notarial fee and is neither specified nor mandated by law; and
 - (2) The notary and the person requesting the notarial act agree upon the travel fee in advance.
- (k) A notary may not request, seek or receive any contingent fee or, as a notary fee, any amount based on a percentage of the value of any transaction which he is authenticating.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-255 Notice of Fees

Notaries shall maintain and have available for inspection an English language schedule of fees for notarial acts, as specified in § 5-30-250(a). No part of any displayed notarial fee schedule may be printed in smaller than 10-point type.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

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§ 5-30-260 Notarizations Outside the Commonwealth

A notary has no authority and may not perform any notarial act outside the geographical territory of the Commonwealth. Any notarial act so performed shall be null, void and of no effect. Notaries performing notarial acts outside the jurisdiction or allowing their notarial stamps seals to be used by another outside the jurisdiction shall be subject decommissioning proceedings.

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Part 300 - Journal and Seal

§ 5-30-301 Journal

A notary shall keep, maintain, protect as a public record, and provide for lawful inspection a chronological, permanently bound official journal of notarial acts, containing numbered pages.

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-305 Entries in Journal

(a) For every notarial act, the notary shall record in the journal at the time of notarization at least the following:

- (1) The date and time of day of the notarial act;
- (2) The type of notarial act;
- (3) A description of the document or proceeding;
- (4) The signature and printed name and address of each person for whom a notarial act is performed;
- (5) The evidence of identity of each person for whom a notarial act is performed, in the form of either:
 - (i) A statement that the person is “personally known” to the notary,
 - (ii) A description of the identification document, its issuing agency, its serial or identification number, and its date of issuance or expiration, or
 - (iii) The signature and printed name and address of a credible witness swearing or affirming to the person’s identity;
- (6) The fee, if any, charged for the notarial act; and
- (7) The address where the notarization was performed if not the notary’s business address.

(b) A notary shall record in the journal the circumstances in refusing to perform or complete a notarial act.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-310 Signatures in Journal

At the time of notarization, the notary’s journal must be signed, as applicable, by:

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- (a) The person for whom a notarial act is performed;
- (b) The credible witness swearing or affirming to the identity of the person for whom the notarial act is performed; and
- (c) [Reserved.]
- (d) The 2 witnesses to a signature by mark of the document that is notarized.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-315 Inspection, Copying, and Disposal of Journal

- (a) A journal of notarial acts is an official public record that may be inspected in the notary's presence by any individual whose identity is personally known to the notary or proven, on the basis of satisfactory evidence, who specifies the notarial act sought, and who signs the notary's journal.
- (b) Upon request in compliance with subsection (a), the notary shall provide a photocopy of an entry in the journal at a cost of not more than fifty cents per photocopy. If a certified copy is requested, the additional cost is as specified in § 5-30-250.
- (c) A notary shall safeguard the journal and all other notarial records as valuable public documents and never destroy them, except at the direction of the Office of the Attorney General.
- (d) The journal must be kept in the exclusive custody of the notary, and may not be used by any other notary or surrendered to an employer upon termination of employment.
- (e) Upon resignation, revocation, or expiration of a notarial commission, or death of the notary, the notarial journal and records must be delivered by hand delivery, certified mail or other means providing a receipt to the Office of the Attorney General in accordance with this chapter. Failure to do so may result in a civil penalty assessment of a maximum of two hundred dollars to the former notary or his estate.
- (f) A notary shall make and deposit a true and correct copy of his or her notarial journal with the Clerk of the Commonwealth Supreme Court each year on June 30 and also upon resignation, death, expiration of term of office, removal from or abandonment of office, or change of residence from the Commonwealth.

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-320 Official Signature

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In completing a notarial act, a notary shall sign on the notarial certificate exactly and only the name indicated on the notary's commission and seal.

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-325 Official Seal

(a) A notary shall keep an official notarial seal or stamp that is the exclusive property of the notary and that may not be used by any other person nor may it be surrendered to an employer upon termination of employment.

(b) Upon resignation, revocation, or expiration of a notarial commission, or death of the notary, the seal or stamp must be returned to the Attorney General and a new seal or stamp must be obtained for any new (other than renewal) commission under § 5-30-335. Failure to so return the seal may within the discretion of the Attorney General, result in a assessment of a civil penalty of a maximum of \$200.00 to the former notary or his estate.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-330 Seal Impression

(a) Near the notary's official signature on a notarial certificate, the notary shall affix in black ink a sharp, legible, and photographically reproducible impression of the notarial seal or stamp that must include the following elements:

- (1) The notary's name exactly as indicated on the commission;
- (2) The words "Notary Public," "Commonwealth of the Northern Mariana Islands" and "My commission expires (commission expiration date)";
- (3) The address of the notary's business or residence; and
- (4) A border in a rectangular or circular shape no larger than two inches, surrounding the required words.

(b) Illegible information within a seal impression may be typed or printed legibly by the notary adjacent to but not within the impression.

(c) An embossed seal impression that is not photographically reproducible may be used in addition to but not in lieu of the seal or stamp described in subsection (a).

Modified, 1 CMC § 3806(f), (g).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Commission Comment: In subsection (a)(2), the Commission moved the comma after "Notary Public" inside the closing quotation mark to correct a manifest error.

§ 5-30-335 Obtaining a Seal

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(a) A vendor of notary seals may not provide a notarial seal or stamp, either inking or embossing, to a person claiming to be a notary, unless the person presents the following documents, which the vendor must retain for 5 years:

- (1) A photocopy of the person's notarial commission, attached to
- (2) A notarized declaration substantially as follows:

Application for Notary Seal

I, _____ (name of person requesting seal), declare that I am a notary public duly commissioned by the Commonwealth of the Northern Mariana Islands, with a commission starting date of _____ and a commission expiration date of _____. As evidence, I attach to this paper a photocopy of my commission.

_____ (signature of person requesting seal) (notarial certificate specified in § 5-30-401(b)) A notary applying for a seal as a result of a change in the notary's legal name shall present a copy of the confirmation of notary's name change from the Office of the Attorney General in place of the application for a notary seal.

(b) A vendor of notary seals who fails to maintain a file containing the documents specified in this section may be assessed a civil penalty in the maximum amount of \$100.00.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Part 400 - Certificates

§ 5-30-401 General Acknowledgment

A notary shall use a certificate in substantially the following form in notarizing the signature or mark of persons acknowledging for themselves or as partners, corporate officers, attorneys in fact, or in other representative capacities:

Commonwealth of the Northern Mariana Islands (Island)

On this _____ day of _____, 19 __, before me, the undersigned notary, personally appeared _____, (personally known to me) (proved to me through government-issued documentation who is personally known to me,) to be the person(s) whose name(s) (is)(are) signed on the preceding or attached document, and acknowledged to me that (he)(she)(they) signed it voluntarily for it stated purpose(.

(as partner for _____, a partnership.)

(as _____ for _____, the principal.)

(as _____ for _____, (a) (the) _____.)

(by mark before _____ and _____, subscribing witnesses.)

(official signature and seal of notary)

Modified, 1 CMC § 3806(g).

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History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Commission Comment: The Commission corrected the spelling of “documentation.”

§ 5-30-405

[Reserved.]

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-410

[Reserved.]

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-415 Certified Copy

A notary shall use a certificate in substantially the following form in notarizing a certified copy:

On this _____ day of _____ 19 __ , I certify that the preceding or attached are true, exact, complete, and unaltered photocopies made by me of _____ (description of document), (presented to me by the document’s custodian, _____) and that, to the best of my knowledge, the photocopied document is neither a public record nor a publicly recordable document, certified copies of which are available from an official source other than a notary.

(official signature and seal of notary)

Modified, 1 CMC § 3806(g).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Commission Comment: The Commission inserted an opening parenthesis before “description of document” to correct a manifest error.

Part 500 - Liability and Remedies

§ 5-30-501 Liability of Notary, Surety, and Employer

(a) A notary is liable to any person for all damages proximately caused that person by the notary’s official misconduct in performing a notarization.

(b) A surety for a notary’s bond is liable to any person for damages proximately caused that person by the notary’s official misconduct in performing a notarization, but this liability may not exceed the penalty amount of the bond or of any remaining bond funds that have not been expended to other claimants. Regardless of the number of claimants, a surety’s total liability may not exceed the penalty amount of the bond.

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(c) An employer of a notary is liable to any person for all damages proximately caused that person by the notary's official misconduct in performing a notarization related to the employer's business, if the employer directed, encouraged, consented to, or approved the notary's misconduct, either in the particular transaction or, impliedly, by previous actions in at least one similar transaction subject to similar employer conduct.

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-505 Proximate Cause

Recovery of damages against a notary, surety, or employer does not require that the notary's official misconduct be the sole proximate cause of the damages.

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-510 Revocation

(a) The Attorney General may revoke a notarial commission or "decommission" a notary on any ground for which an application for a notarial commission may be denied under § 5-30-101, infractions of §§ 5-30-205, 5-30-210, 5-30-215, 5-30-220, 5-30-225 and subject to the due process protections of § 5-30-240.

(b) Resignation or expiration of a notarial commission does not terminate or preclude an investigation into a notary's conduct by the Attorney General, who may pursue the investigation to a conclusion, whereupon it must be made a matter of public record whether or not the finding would have been grounds for revocation.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-515 Other Remedies

(a) The Attorney General may deliver a written official warning to cease misconduct to any notary whose actions are judged to be official misconduct under § 5-30-020(i).

(b) The Attorney General may seek a court injunction to prevent a person from violating any provision of this chapter.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-520 Additional Remedies Not Prevented

The remedies of this chapter supplement, and do not preclude, other remedies provided by law.

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Modified, 1 CMC § 3806(d).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-525 Cause for Removal

Cause for removal or “decommissioning” shall be those enumerated in § 5-30-235 or:

(a) A conviction of or entering a guilty or “no contest” plea to any felony or misdemeanor involving moral turpitude or, in the case of attorney at law, any suspension or disbarment in any jurisdiction wherever admitted to practice.

(b) Adjudication of insanity or incompetence which would support a presumption of inability to understand the nature of an oath, the elements of a simple contract or the duties and obligations of notaries public.

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-530 Reinstatement

Reinstatement and recommissioning may be accomplished upon a showing by the decommissioned notary of reinstatement of civil rights and rehabilitation and, restitution, if any is due, is fully made. In the cases of attorneys at law, reinstatement to the sanctioning bar association or other professional licensing authority.

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-535 Impersonation

Any person not a notary who knowingly acts as or otherwise impersonates a notary is guilty of a crime as set out in 4 CMC § 3317.

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-540 Wrongful Possession

Any person who knowingly obtains, conceals, defaces, or destroys the seal, journal, or official records of a notary is guilty of a crime as set out in 4 CMC § 3317.

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Part 600 - Changes of Status

§ 5-30-601 Change of Address

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Within 30 days after the change of a notary's business or residence address, the notary shall deliver to the Attorney General by hand delivery certified mail or other means providing a receipt, a signed notice of the change, giving both old and new addresses.

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-605 Change of Notary's Name

(a) A notary securing a change of name shall deliver to the Attorney General a signed notice of the change, giving both old and new names and the effective date of the new name.

(b) Starting on the effective date, a notary with a new legal name shall sign that name on all notarial certificates, but only after the following steps have been completed:

(1) The notice described in subsection (a) has been delivered;

(2) A confirmation of notary's name change has been received from the Attorney General; and

(3) A new seal or stamp bearing the new name exactly as in the confirmation has been obtained.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Commission Comment: The Commission inserted a period at the end of subsection (b)(3) and removed the word "and" to correct manifest errors.

§ 5-30-610 Lost Journal or Seal

Within 10 days after the loss, destruction or theft of an official journal or seal, the notary shall deliver to the Attorney General by hand delivery, certified mail or other means providing a receipt, a signed affidavit of loss, destruction or theft, and inform the appropriate law enforcement agency in the case of theft.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Commission Comment: The Commission inserted the word "General" after "Attorney" to correct a manifest error.

§ 5-30-615 Resignation

(a) A notary who resigns a notarial commission shall deliver to the Attorney General by hand delivery certified mail or other means providing a receipt, a notice indicating the effective date of resignation.

(b) Notaries who cease to reside or work in, or for, this Commonwealth or who become physically incapacitated such that they are unable to read or write shall resign their commissions.

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

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§ 5-30-620 Disposition of Seal and Journal

(a) Except as provided in subsection (b), when a notarial commission is resigned, revoked, or expires, the notary shall:

(1) As soon as reasonably practicable, surrender the official seal or stamp to the Office of the Attorney General.

(2) Within 30 days after the effective date of resignation, revocation, or expiration, deliver to the Office of the Attorney General by hand delivery, certified mail or other means providing a receipt, the notarial journal and records.

(b) A former notary who intends to apply for a new commission and whose previous commission or application was not revoked or denied need not deliver the journal and records within 30 days after commission expiration, but must do so within 3 months after expiration unless re-commissioned within that period.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-625 Death of Notary

(a) If a notary dies during the term of commission, the notary's heirs or personal representative, as soon as reasonably practicable after death, shall:

(1) Surrender the official seal or stamp to the Office of the Attorney General; and

(2) Deliver to the Office of the Attorney General by hand delivery, certified mail or other means providing a receipt

(i) A signed notice of the date of death to the Office of the Attorney General, and

(ii) The notarial journal and records.

(b) Failure to comply with these provisions of may result in a civil penalty, in the discretion of the Attorney General, of a maximum of one hundred dollars, levied against the deceased notary's estate.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Part 700 - Authentication

§ 5-30-701 Evidence of Authenticity of Notarial Act

(a) The authenticity of the official notarial seal and signature of a notary of this state may be evidenced by:

(1) A certificate of authority from a designated person in the Office of the Attorney General, authenticated as necessary; or

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(2) An apostille from the Attorney General in the form prescribed by the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents of October 5, 1961.

(b) An apostille as specified by the Hague Convention must be attached to any document requiring authentication that is sent to a nation that has signed and ratified this Convention.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-705 Certificate of Authority

A certificate of authority evidencing the authenticity of the official notarial seal and signature of a notary of this Commonwealth must be substantially in the following form:

Certificate of Authority for a Notarial Act

I, _____, (name, title, jurisdiction of authenticating official) certify that [name of notary,] the person named in the seal and signature on the attached document[,] is a notary public for the Commonwealth of the Northern Mariana Islands and was authorized to act as such at the time of the document’s notarization.

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-710 Apostille

An apostille prescribed by the Hague Convention, as cited in the annotations to rule 44 of the Federal Rules of Civil Procedure, must be in the form of a square with sides at least 9 centimeters long and contain exactly the following wording:

APOSTILLE

(Convention de La Haye du 5 octobre 1961)

- 1. Country: _____
 - 2. This public document
has been signed by _____
 - 3. acting in the capacity of _____
 - 4. bears the seal/stamp of _____
- CERTIFIED
- 5. at _____ 6. the _____
 - 7. by _____
 - 8. No. _____
 - 9. Seal/Stamp 10. Signature: _____

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

Part 800 - Miscellaneous Provisions

§ 5-30-801 Distribution

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A copy of this chapter shall be furnished to each notary public with his new or renewed commission and a copy shall be made available to each notary currently commissioned on the effective date of this chapter.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).

§ 5-30-805 Effective Date

The effective date of this chapter will be the date provided by law after which they are published in the Commonwealth Register and after the required proposal and comment period.

History: Adopted 14 Com. Reg. 9637 (Sept. 15, 1992); Proposed 14 Com. Reg. 9289 (June 15, 1992).