Q. What *must* be on a notarized document: expiration, oath/acknowledgement/affidavit, jurat, fingerprint. I was told by my county clerk’s office that a seal must be used, not just a commission stamp (which I understand is not compulsory—that a notary can write it in.) Is this true? I am ordering notary supplies and I would like to know what is necessary.

A. New Jersey statutes do not contain a provision that requires NJ notaries public to utilize an embossing seal nor a stamp containing specific commission information. However, statutes require notaries public to affix their name by printing, typing or affixing by mechanical means (stamp). The NJ State Treasurer recommends notaries affix their commission expiration date in addition to their name. For efficient notarizations, many notaries public choose to utilize a stamp. Additionally, the New Jersey Notary Association recommends that notaries utilize the universally recognized symbol of the officer’s authority, a raised embossed seal, in every notarization.

What are the required notary tools?

Q. What of the oath/acknowledgement/affidavit/jurat? I’m looking for the simplest answer. If they are different, what is the difference? Must they both be on the document or can it be one or the other?

A. Notaries Public who once asked this same question can fully appreciate the education they received after attending a notary training course. As educated notaries already know, an affidavit contains a jurat and an oath must be administered for this act.

(cont’ on page 4)
Ethics — Can I notarize for my husband?

Q. “My husband needs something notarized in which I have absolutely no personal interest in. He is signing something with his contractor license for another individual stating the work that the individual has done. Since I have no personal interest in it, is it ok to do?”

A. All notaries, regardless of their commissioning state are bound by the universal rule that a notary is an impartial witness to the signing of documents. While it is true that NJ Statutes are silent on this specific scenario, an ethical notary will avoid any execution that may easily be construed as a conflict of interest of any form. An easy rule of thumb to follow in assessing your relationship to a signer, and if your relationship would preclude you from remaining an impartial 3rd party to the transaction is to ask, “Have I seen this person naked?” If so, your relationship would more than likely be too close to the signer for you to serve as an impartial witness.

Basics — “HELP! I have a signer at my desk right now!”

Q. “Help! I have a signer at my desk right now! They brought in a piece of notebook paper with a note on it and asked me to “notarize” it! What do I do?”

A. One of the most challenging situations is this one a caller described. Notaries public are prohibited from providing legal advice of any kind. Indicating to a signer which notarial act needs to be executed in this situation would be tantamount to providing this prohibited advice. Consult the “document requestor.” It is not prohibited to educate a document requestor on your notary acts. Explain each act: Do they (document requestor) merely require the signer to acknowledge they signed the document? (Perform an acknowledgement in that case.) Or does the signer need to attest to the facts contained in the document? (Administer an oath and execute a jurat.) In these cases, take special care in attaching the loose certificate in such a manner that it cannot be removed and attached to another document.

eNotarizations — Are they safe?

Q. I read an article that quoted the Ohio Secretary of State who said that electronic notarizations are not safe because the signer does not appear in person but they appear electronically. How is that possible?

A. eNotarization, when executed according to the recommendations by the National Notary Association do not exclude the requirement of personal appearance of any signer. States that have adopted any version of “URPERA” (the major electronic notarization act) have never precluded personal appearance in their laws. Presently, only a handful of states have passed such legislation; New Jersey is not one of them. It is not unusual for any state official to remain ignorant on appropriate notarial process. Notaries Public are bound by their oath of office to continue to educate themselves and execute each and every act accurately, to the letter of the law, and to higher standards where
Q. “My employer wanted me to get my notary commission, which they paid for. But now that I got it, I don’t know what I am supposed to do and they won’t pay for me to go to class. How do I get them to pay for this?”

A. Regardless of who pays for your commission fees, tools or education, ultimately the responsibility of holding a public office remains on the officer. Notaries Public are Commissioned Public Officers of the state which commissioned them; and are subject to civil and criminal penalties for failing to execute their oath of office to the letter of the law.

In states that do not require specific tools or education requirements, notaries would do well to educate themselves in the responsibilities and requirements of their oath of office. Educational opportunities for fee, or through diligent research on your own will give you more education than a wholly uneducated notary peer.

Take the responsibility of your commission seriously; spend the time and potential monetary expense of obtaining a sound education.

Without education, notaries public stand to lose much more than the cost of a class.

In recent court cases, notaries have lost from $30,000 to more than $100,000 for mistakes that could have been avoided by understanding notarial acts, their implications and how to properly execute every act that notaries are presented.

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Q. “I have asked you for help 100 times! How do you know so much? Where can I go to learn everything I always have to ask about?”

A. All Notaries Public must be diligent with their own education. They must own their commission and the penalties they face if they fail to execute their offices according to their state laws and widely utilized best practices.

One of the best resources available at no cost to everyone — not just notaries: “The Notary Public’s Code of Professional Responsibility” and can be found at:


Or go to: www.nationalnotary.org Click: Best Practices Then Click: Code of Responsibility.

(Requires Adobe Reader)

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Q. I am an attorney in this state. I have a document allegedly executed for my client. The certificate that the notary filled out does not have the name of my client, the date, or any reference to the original document to which it was allegedly attached. Is this a legal execution?

A. After reviewing the document in question, it was determined that the notary in this case failed to execute the basic responsibilities of their oath of office. Several errors has the potential to cost them time in court, revocation of their commission, court costs and monetary damages the client suffered when the allegedly fraudulent document was used to consummate an alleged fraudulent transaction.

**ALWAYS:**

⇒Complete every certificate, no matter how long it takes.

⇒Properly attach loose certificates to the original document by: (1) split-seal, (2) providing a written description of the attached document and (3) staple the loose certificate to the original document in the upper left-hand margin.
Avoiding Pitfalls — Best Practices

The Certificate
NEVER take shortcuts when completing certificates. Spending an additional 5 minutes today will avoid hours upon days defending your shortcuts in court.

Acknowledgements
The SIGNER acknowledges they signed the document and understand the implications of the accompanying transaction and the notary certifies the facts of such.

Jurat
Most commonly attached to or a part of affidavits; REQUIRE notaries to administer an oath that the signer attests or swears to the facts contained in the document.

Legal Advice
NEVER provide legal advice to any document signer. When necessary, refer to the document drafter or document requestor for additional clarification.

JUST SAY NO!
Balancing your ministerial role with your personal liability puts any notary public in a precarious position. Do not be afraid to turn away any signer if you have any doubts as to the validity of the document, the facts of the execution, or the identification of the signer.

Complete Documents
Review each and every document in its entirety to locate blank spaces and have your signer complete them. This is not a comprehensive legal review, nor are you required to read every word; but a quick scan to locate any blank spaces or apparent missing text within the document is your responsibility prior to executions. Decline incomplete documents.

Notary Tools
Document every act in your journal.

Affix your name and commission expiration date to every certificate.

Complete attached document descriptions on every loose certificate (where the notary’s signature on their certificate is not on the same page that bears your signers’ signature and is not obviously part of the original document.)

What’s the difference?
(continued from page 1)

Acknowledgements are notarial acts where the signer acknowledges to the officer that they signed the document and understand the implications of the transaction. The acknowledgement certificate bears those facts as indicated by the notarial officer’s certification.

A jurat is the notarial certificate that certifies the notary administered an oath to the document signer, the document was signed in the notary’s presence, and the signer attests to the accuracy of the statements contained in the document. Most often found on affidavits, jurats can also be requested for documents as informal as handwritten notes.

Use of common notary tools will assist Notaries Public to avoid unnecessary pitfalls.