

Notary Key Points Study Guide

Commissions:

- A Notary's commission is valid for 4 years and can be used anywhere within the borders of California.
- A Notary is required to have Live Scan fingerprints taken every time he/she renews his/her commission.
- Certain convictions will bar a Notary from commissioning
- A Notary Commission begins on the commencement date indicated on the Notary's commission but the Notary may not complete Notarial acts until they have filed an oath and bond with the county clerk
- Notary Surety bonds are required
- Notary Surety bonds are a limited fund of \$15,000
- Notary Surety bonds are in place to protect the public
- Notaries must notify the SOS of an Address Change within 30 days
- Failure to Notify the SOS of an address change within 30 days is an infraction with a \$500 fine
- Notaries must notify the SOS of a Name Change within 30 days
- Failure to Notify the SOS of a name change within 30 days is an infraction with a \$500 fine
- There are 4 types of Notaries
 - Notary Public
 - Private Employer Notary
 - Bond and supplies paid for by the employer
 - Limited Service Agreement
 - An agreement may contain a fee remission agreement during business hours (not required but permitted)
 - End of employment does not end commission
 - Public Employee Notary
 - Must be an employee of the state, county, city, public school or entity
 - Notarizes for the public agency only
 - Remits charged fees back to the agency
 - Commission ends when employment ends
 - Military/Federal civil service Notary
 - Restricted to Notarizing on base or naval reservation where they are assigned
 - Does not collect fees
 - Commission ends when employment ends
 - Must be a U.S. citizen

Notary Conduct:

- A Notary cannot give advice unless trained in the specific field.
- A Notary must refuse to perform any notarial act that is not described in California law.
- A Notary is required by law to perform notarizations when a proper request is made.
- A Notary is required to obtain a fingerprint before notarizing:
 - All documents involving real property
 - Original Power of Attorney document
- Notarial wording is the only section of the document that the Notary completes.
- A Notary must keep only one active sequential journal at a time containing all notarial acts.
- A Notary who is not a licensed California attorney and advertises notarial services in a language other than English must post with the advertisement both in English and the other language:
 - That the Notary is not an attorney and cannot give legal advice about immigration or any other legal matters.
 - The Notary also must list the statutory fees that a Notary may charge for notarial services.
- When requested, it is a duty of a Notary to take Depositions.
- A Notary must not issue a confidential marriage license unless they are approved by the County Clerk having jurisdiction.
- \$750 fine for loss of the right to authorize confidential marriages
- A Notary is allowed to perform the Notarization even if they are acting in one of these capacities for the transaction: Agent (real estate agent, escrow officer, ect.), Employee, Insurer, Attorney (assuming the Notary is admitted to practice law in California), Escrow, Lender
- \$750 fine for negligently failing to discharge fully and faithfully any of the duties or responsibilities required of a Notary.
- \$750 fine for failure to notify the Secretary of State of any address changes (separate from \$500 infraction)
- \$750 fine for failure to respond to a written request from the Secretary of State
- Misdemeanor False Certificate or Writing by Officer, Every officer, including a Notary, authorized by law to make or give any certificate or other writing is guilty of a misdemeanor if the officer makes and delivers as true any certificate or writing containing statements, which the officer knows to be false.

Notary Journal:

- No person except the Notary can have access to the Notary's journal outside of the Notary's presence including an employer who paid for the Notary's journal.
- The journal must be stored in a locked and secured area that is under the direct and exclusive control of the Notary
- Failure to secure the journal may result in suspension or revocation of the Notary's commission as well as civil and criminal penalties.
- All official acts performed as a Notary must be recorded in the Notary's active journal at the time it is performed.
- \$750 fine for failure to maintain the notary journal with complete records of official acts
- The journal entries must be made sequentially by recording each notarial act in order of occurrence, one after the other.
- \$750 fine for failure to complete journal line items at the time of the notarial act
- A Notary is guilty of a misdemeanor if the Notary willfully fails to properly maintain his or her notarial journal.
- Any member of the public may request a photostatic copy of the journal entry representing a transaction.
- When a member of the public requests a copy of a line item it must be in writing and must include: Name of the parties, Type of document, Month and year in which the notarial act occurred
- A Notary may charge no more than thirty cents (\$0.30) per page for copy requests.
- The Notary's journal is the exclusive property of the Notary and cannot be surrendered to anyone. (except as required with respect to a Peace Officer and County Clerk)
- A Peace Officer may request that a Notary surrenders their journal.
- \$2500 fine for failure to provide access to the notary public journal upon request by a peace officer
- If the notarial journal is surrendered to an officer, the Notary must obtain a receipt for their journal and notify the SOS within 10 days of the date of surrender.
- If a Notary's official journal is stolen, lost, misplaced, destroyed, damaged, or otherwise rendered unusable, the Notary must immediately notify the SOS by certified or registered mail or any other means of physical delivery that provides a receipt.
- If the notary has surrendered their official journal, they must obtain a new journal. If the old journal is returned or found, entries must not be made in the old journal. Instead, the notary must continue to use their new journal.
- If a Notary resigns, is disqualified or is removed from office, the notarial journal and other notarial records must be delivered to the county clerk where the notary filed. This must be done within 30 days.
- Willful failure to deliver the notarial journal and other notarial records to the county clerk within the appropriate time is a misdemeanor, and the Notary is personally liable for damages to any person injured by the non-delivery.
- If a Notary's commission expires and they do not obtain reappointment within 30 days, their journal and other notarial records must be delivered to the county clerk within 30 days of their commission expiration date. This is true even if a Notary commissions but does not file within 30 days of their original commission's expiration date.
- A Notary is guilty of a misdemeanor if they willfully fail to properly maintain their notarial journal.

- A Notary must record in the journal:
 - Time and date of the act, Indicate the type of notarial act performed
 - Type of document
 - The signature of each person whose signature is being notarized
 - Indicate that Satisfactory Evidence of the signer's identity was obtained
 - Details of how the identity of the signer was established
 - The fee charged (or not charged) for the notarial service
 - A thumbprint from the signer if the document is affecting any real property or an original Power of Attorney document. A thumbprint is not necessary for a trustee's deed or a deed of reconveyance
- \$750 fine for failure to obtain a thumbprint in the notary journal (note: subject to a separate civil penalty of \$2,500)
- \$2500 fine for failure to obtain the thumbprint in the Notary journal when required
- Misdemeanor Willful Failure to Perform Duty Relating to Official Journal or Control Notarial Seal

Notary Seal:

- The Notary seal must be photographically reproducible, have a serrated or milled edge border, and clearly and legibly contain the following: State Seal, The words “Notary Public” , Notary’s name , Commission expiration date , County wherein the oath and bond are filed , Commission number assigned to the Notary , Sequential identification number assigned to the manufacturer or vendor
- The SOS issues Certificates of Authorization to Manufacture Notary Seals.
- Only an original Certificates of Authorization to Manufacture Notary Seals can be used to purchase a seal from approved vendor
- Original Certificates of Authorization to Manufacture Notary Seals are issued with a Notary’s commission or by request.
- The Notary’s seal must be kept in a locked and secured area, under the direct and exclusive control of the Notary.
- Failure to secure the seal may result in suspension or revocation of the commission as well as civil and criminal penalties.
- The Notary seal is the exclusive property of the Notary, and must not be surrendered to an employer upon termination of employment, whether or not the employer paid for the seal.
- \$750 fine for unauthorized use of seal
- There is only one situation when the seal is not required and that is on an Acknowledgment used on California subdivision maps.
- The county recorder might not accept a document if the Notary seal is illegible.
- All elements of the seal must be visible. The seal should not be placed over signatures or any printed matter on the document. If the seal impression is not clear, the Notary should affix a new impression and never attempt to fix the old one, even if this requires attaching a separate notarial certificate.
- Any Notary whose official seal is lost, misplaced, destroyed, broken, damaged or is rendered otherwise unworkable must immediately mail or deliver written notice to the SOS.
- \$1500 fine for Failure to notify the California Secretary of State that a notary public seal is lost, stolen, destroyed or damaged
- The Notary, or representative, must destroy or deface the seal upon termination, resignation, or revocation of the notary’s commission or the death of the Notary.
- A Notary can only use their seal for purposes described in the California Government Code and only use the title “Notary” to render notarial services.
- \$1500 fine for Unauthorized manufacture, duplication, or sale of the notary public seal and related offenses
- Misdemeanor Willful Failure to Perform Duty Relating to Official Journal or Control Notarial Seal

General Notarization:

- The four types of notarizations are:
 - Acknowledgments
 - Jurats
 - Proof of Execution by Subscribing Witness
 - Certified Copies (Power of Attorney)
- A document must have the following before it can be notarized:
 - Text – complete and not fraudulent or suspected to be fraudulent
 - Wet/Original Signature of the principal
 - Notarial wording (on the document or requested by signer)
- \$750 fine for notarization of incomplete documents
- \$1500 fine for Execution of any certificate as a Notary containing a statement known to the Notary to be false
- Misdemeanor - Selecting the notarial wording for a client, Unlawful Practice of Law.
- Misdemeanor - Helping to complete an incomplete document, Unlawful Practice of Law.
- Notarial wording can either appear on the document or on a Loose Certificate.
- When performing notarizations, it is important to complete each step in its entirety. The 3-step process is:
 - Qualify your signer- includes establishing identity and establishing that the documents are proper and in order.
 - Complete the Journal entry- get the Principal's signature and, when necessary, his/her thumbprint.
 - Fill out notarial wording- follow proper protocol.
- A Notary can notarize a document in a language he/she cannot read as long as the notarial wording is in English
- A Notary cannot notarize for someone he/she does not speak a common language with.
- A Notary cannot use an interpreter
- Signature by Mark is legal in California, but two witnesses must be present to witness the x-maker make his/her mark.
 - A Notary does not need to obtain identification from signature-by-mark witnesses, though the witnesses need to sign the document next to the x-maker's mark on the document. Only one witness needs to sign in the journal.
 - One of the signature-by-mark witnesses must sign the x-maker's name next to the x-maker's mark.
 - Whenever a Notary writes their commission name on a notarial certificate it is in this format:
 - " Commission Name, Notary Public"

Satisfactory Evidence:

- Satisfactory evidence means that the identification method provided would not lead the Notary to doubt the signer's identity
- When establishing a document signer's identity, the Notary must use satisfactory evidence.
- \$750 fine for failure to verify identification (note: subject to a separate civil penalty of \$10,000.)
- Since January 1, 2008, a Notary's personal knowledge of a signer is not sufficient to establish the identity of the signer.
- Though the Notary can have personal knowledge of the document signer, this cannot be the only method used to establish the signer's identity.
- The 10 identifying documents must be either current (not expired), or they must have been issued within the last 5 years
- Any Identifying document that is not a CA DMV Drivers license or ID Card, US Passport, or jail/prison inmate must also have all the P.I.P.S Criteria
- PIPS criteria:
 - Photo
 - Identifying number
 - Physical description
 - Signature
- If a principal does not have one of the 10 identifying documents, he/she can use a credible witness or credible witnesses.
- The difference between using one credible witness and using two credible witnesses is whether or not the witness has personal knowledge of the Notary.
- One witness when he/she knows the Notary
- Two witnesses when there is no knowledge of the Notary
- Each credible witness must take the oath
- \$10,000 fine if a notary fails to obtain the Satisfactory Evidence required to establish the identity of a credible witness
- \$750 fine for failing to administer the oath or affirmation

Acknowledgments:

- Acknowledgments are the most common form of notarization. The fee for one acknowledgement is \$15.
- By completing a Certificate of Acknowledgment, the Notary is not certifying the legality of the underlying document.
- By completing a Certificate of Acknowledgment, the Notary certifies the information in the certificate only
- \$750 fine for failure to require personal appearance
- Acknowledgments are intended to positively identify the signer and authenticate his/her signature.
- The acknowledgment notarial wording must follow California Requirements verbatim.
- Out of state acknowledgments are acceptable only if the certification does not require the Notary to supersede California notarial law and will be filed in another state
- Forgery and false certification of an acknowledgment is punishable by jail time and civil penalties of up to \$10,000
- With respect to taking an Acknowledgment and completing the Certificate of Acknowledgment, the signer does not need to sign the document in front of the Notary.
- A Certificate of Acknowledgment must be completed at the time the Notary's signature and seal are affixed to the document.
- \$750 fine for failing to complete the Acknowledgment at the time the Notary's signature and seal are affixed to the document
- The Certificate of Acknowledgment cannot be added to or altered after the Notary's seal and signature are affixed to the document.
- Under no circumstances can the signature and seal be affixed in advance of the notarization of a signature.
- The Certificate of Acknowledgment must be executed under penalty of perjury.
- \$10,000 fine if the Notary willfully states as true a material fact that the Notary knows is false in a Certificate of Acknowledgment

Jurats:

- When administering a Jurat notarization, the Notary is required by law to give an oath compelling the document signer to the truthfulness of the document. A separate oath must be given for each Jurat
- \$750 fine for failing to administer the oath or affirmation
- The Jurat document must be signed in the presence of the Notary
- \$750 fine for failure to require personal appearance
- Jurat certificates must be in the statutory form
- Signature date must match date of Notarization
- The Notary gives the Jurat oath or affirmation under penalty of perjury to the witness who states that the contents of the document are true.
- There is no prescribed wording for the Jurat oath or affirmation.

Certified Copies:

- A California Notary can certify copies of Power of Attorney
- A California Notary can certify copies of Copy of their own journal entry, or portions of the journal. But only in response to a written request from: the California Secretary of State, a subpoena or court order.
- A Notary May not supply certified copies of any document besides the Power of Attorney and copies of their journal
- To certify a copy of a Power of Attorney, a Notary must compare the original Power of Attorney document and the copy to make sure they are identical or make a copy of the original Power of Attorney.
- A Certified copy certificate does not have statutory wording.

Proof of Execution by a Subscribing Witness:

- Proof of Execution by a Subscribing Witness is used when the document signer cannot personally appear for notarization.
 - A Subscribing Witness cannot be used on any documents affecting real property.
 - A subscribing Witness cannot be used with respect to any document requiring a Notary Public to obtain a thumbprint from the party signing the document in the journal.
 - The Subscribing Witness does not need an ID card because he/she must bring a credible witness with ID.
 - There must be an “unbroken chain” of personal knowledge; the principal knows the Subscribing Witness, the Subscribing Witness knows the credible witness, and the credible witness knows the Notary.
 - The Subscribing Witness and the credible witness both must take an oath, though the oaths are different for each.
 - A Subscribing Witness cannot be used with respect to any document requiring a Notary Public to obtain a thumbprint from the party signing the document in the journal. However a Proof of Execution of a Trustee’s Deed and Deed of reconveyance is permitted.

Immigration Consultant:

- Immigration Consultant Definition: Anyone registered as an Immigration Consultant with the SOS carries a \$100k bond and may enter information provided by the client on government issued immigration forms, translate their client's answers on the forms, securing supporting documents and submitting the forms to USCIS
- Being a Notary does not make you an immigration consultant
- A Notary can notarize the signature on a document affecting the immigration or citizenship status of any person.
- The Notary cannot assist a person in completing any immigration document, except for the signature and date.
- Only an attorney can advise a person regarding which immigration document or form the person should complete, or advise how the person should answer questions posed by an immigration document or form
- If a Notary is also a California registered Immigration Consultant, that Notary may assist a client by inserting the answers given to them by a client.
- A Notary who is also a registered and bonded Immigration Consultant may charge \$15 per person for completing a set of immigration forms.
- A Notary also can charge an additional fee for each notarial act performed in relation to a set of immigration forms.
- A notary public is barred from advertising in any manner whatsoever that he or she is a notary public if the notary public also promotes himself or herself as an immigration specialist or consultant
- \$1500 fine for The use of false or misleading advertising wherein the Notary has represented that he or she has duties, rights, or privileges that he or she does not possess
- \$1500 fine for A Notary who is an immigration specialist or consultant and advertises that they are a Notary or overcharges to assist in the completion of immigration forms
- \$1500 fine for A notary public who is not qualified and bonded as an immigration consultant who enters data provided by a client on immigration forms or otherwise performs the services of an immigration consultant.
- \$1500 fine for Violating the restrictions on advertising notarial services in a language other than English or literally translating the words "Notary" into Spanish.

Fees:

- There are three basic rules about the fees a Notary can charge:
 - There are maximum fees allowed by law that a Notary can charge. A Notary cannot charge more.
 - Except for Notaries employed for and on behalf of a state or county public agency, a Notary is not required to charge a fee at all. Whether or not a Notary charges a fee,
 - The Notary must record the actual amount charged in the Notary's sequential journal, including writing zero to indicate no fee was charged. In other words, a number or zero must be reflected in the Notary's journal to complete the record for each notarial act
- The maximum fees a Notary may charge for an notarization (Ack, Jurat, Sub Wit, and CC of POA) is \$15
- When taking a deposition the maximum fee they can charge is \$30 for the taking of the deposition, \$7 for the oath given, and \$7 for the certificate
- When providing uncertified copies of their journal to the public a Notary can charge a maximum of \$0.30 per copy
- \$750 fine for charging more than the maximum fees for notarial services
- A Notary acting in his or her official capacity on behalf of the State, city, or county or any public body cannot charge for notarization of an Affidavit, application, or voucher in relation to securing a pension.
- A Notary cannot charge for notarization of a signature on an application by a United States military veteran for a claim for a pension, allotment, allowance, compensation, insurance or any other veterans benefit.
- A Notary cannot charge to notarize signatures on vote by mail ballot identification envelopes or other voting materials.
- A Notary cannot charge for notarizing any nomination document or circulator's Affidavit.
- No officer of a county or judicial district shall charge or receive any fee or compensation for administering or certifying the oath of office or for filing or swearing to any claim or demand against any county in the State.
- Because only notaries public employed by a financial institution can perform a Protest in the course and scope of their employment, no fee is prescribed for the notarial service since it is part of the Notary's service to the financial institution.

Misconduct:

- Misconduct by Notaries and others in connection with notarial acts may be addressed through criminal, civil or administrative laws and proceedings.
- Misdemeanor - A misdemeanor is a type of offense punishable under criminal law. A misdemeanor is typically a crime punishable by less than 12 months in jail.
- Felony - a felony is typically defined as a crime punishable by a term of imprisonment of not less than one year
- Infraction - An infraction is the least serious offense in our criminal justice system. For these types of offenses, you will be assessed with a fine but there will be no probation or jail time attached to your offense.
- Civil misconduct subjects a Notary to fines. Both criminal and civil misconduct may result in the revocation, suspension or denial of a Notary's commission or application by the Secretary of State.
- Administrative action can be taken against a Notary or Notary applicant to suspend or revoke a Notary commission or deny a Notary application for failing to discharge the duties and responsibilities required of a Notary.
- A Notary who has a direct financial or beneficial interest in a transaction cannot perform any notarial act in connection with that transaction.
- In the area of real property, a Notary has a conflict of interest if the Notary is the: Grantor, Grantee, Mortgagor, Mortgagee, Trustor, Trustee, Beneficiary, Vendor, Vendee, Lessor, Lessee
- A Notary is prohibited from practicing law, unless the Notary is also a licensed California attorney.
- A Notary would be considered to be practicing law if they select the notarial wording, which is not allowed by law.
- \$1,000 fine for practicing law when not an active member of the State Bar, or otherwise authorized pursuant to statute or court rule to practice law in this state at the time of doing so, is a misdemeanor or by a fine of \$1,000, or by both.
- Notary applicants must disclose on their application all arrests for which trials are pending and all convictions.
- All notary crimes which carry a civil penalty may also result in the rejection, revocation or suspension of a Notary commission.
- Any revocation, suspension, restriction, or denial of another professional license, if based on dishonesty and/or any cause substantially relating to the duties or responsibilities of a Notary may also result in the rejection, revocation or suspension of a Notary commission.
- Failure to submit any remittance payable upon demand by the SOS or failure to satisfy any court-ordered money judgment, including restitution may also result in the rejection, revocation or suspension of a Notary commission.
- In some cases a Notary may be charged multiple fines for the same offense, if it violates multiple statutes.
- \$1500 fine for Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the Notary or another, or substantially injure another
- \$75,000 fine for every person who files any false or forged document or instrument with the county recorder which affects title to, places an encumbrance on, or places an interest secured by a mortgage or deed of trust on, real property consisting of a single-family residence containing not more than four dwelling units, with knowledge that the document is false or forged.

- Misdemeanor - Improper Notarial Acts, Solicitation, Coercion or Influence of Performance
- Misdemeanor - Coercing or influencing a Notary to complete a false Certificate of Acknowledgment or Jurat
- Misdemeanor or Felony Forgery; Signatures or Seals; Corruption of Records, Anyone who, with the intent to defraud, counterfeit or forge the seal or the handwriting of another is guilty of forgery, including a Notary who falsifies the Acknowledgment, or issues an Acknowledgment knowing it to be false. Anything above \$950 in value is charged as a felony, and anything below this is a misdemeanor.
- Felony - Frauds Relating to Deed of Trust; Single-Family Residence
- Felony - Unlawful Acts by One Not a Notary; Deeds of Trust on Single-Family Residences