

July 1998

Greetings Florida Notaries!

This month we have two new publications to offer, and we'll discuss a topic that generates lots of questions from notaries -- powers of attorney.

NEW MARRIAGE BOOKLET AVAILABLE NOW

Due to the increased demand for information about solemnizing marriage, we have published a handy booklet with answers to the most frequently asked questions and many that you may not have thought of yet. It's a great resource and you can get a copy from our office if you are interested in performing marriage ceremonies. Please send me your request and mailing address and we'll get one in the mail to you.

NEW NOTARY LAWS AVAILABLE SOON

The Notary Section has received numerous requests for information about the new notary laws to take effect on January 1, 1999. The law revisions will be the focus of the next issue of The Notary View newsletter due out in late August. We will also have printed copies of the laws in September. If you would like an updated notary law booklet as soon as they are available, please let me know.

NOTARY BOND INCREASED

One of the revisions in the notary laws passed during the 1998 Legislative Session increases the notary bond from \$5,000 to \$7,500. This increase applies to those notaries who are appointed or reappointed on or after January 1, 1999. Don't worry about having to increase your notary bond in January. Your current bond is still good until the expiration of your commission -- you will automatically be bonded in the higher amount when you renew your commission.

NOTARIZING FOR A PERSON SIGNING WITH A POWER OF ATTORNEY

John Doe walks into your office and wants to sign a document for Jane Smith who is not present. He says he has power of attorney. What should you do?

Notarizing for someone who is authorized by power of attorney to sign a document on behalf of another person is not complicated if you remember several things:

1. Understand the correct terminology. Power of Attorney (POA) -- A document authorizing a person to act as another's agent or attorney for a specified purpose. There are different types of powers of attorney depending on the authority being conveyed. Principal -- The person making the power of attorney. Attorney-in-fact -- The person authorized to act for another by power of attorney.
2. You are not responsible for the contents of the document to be notarized, nor are you responsible for verifying that the signer has power of attorney for the other person. Just accept the person's word that he/she has power of attorney. EXCEPTION: As an employee, your company may be interested in knowing that the signer has power of attorney and may want a copy of that POA on file if the notarization is related to a company transaction. You may request a copy of the POA in this instance, but you are doing so in your capacity as an employee, not a notary public.
3. Remember that you are notarizing the signature of the attorney-in-fact, the person who is present. For example, you would notarize the signature of John Doe -- not Jane Smith (the principal). You will request identification from John Doe and direct the notarial act (either an oath or an acknowledgment) to John Doe.
4. Ask the signer to sign the document with his/her own name and then indicate the capacity in which he/she is signing. EXAMPLE: John Doe as attorney-in fact for Jane Smith.
5. Complete the notarial certificate in the format required by the notary law. Subsection

117.05(16)(c), Florida Statutes (1997), provides a notarial certificate for an acknowledgment in a representative capacity. The certificate has an additional notation about the capacity in which the signer is signing. For example, the main body of the certificate would read, "The foregoing instrument was acknowledged before me this 1st day of July, 1998, by John Doe as attorney-in-fact for Jane Smith."

If the notarial certificate on the document does not have a statement about the signer's authority, you should make that notation. Be sure, though, that you do not certify more than is required of you. Remember, you are not certifying that John Doe has power of attorney for Jane Smith -- you are simply restating the capacity John Doe has already indicated.

One final note: unless you are a licensed attorney, you do not have the authority to prepare a power of attorney for a customer, nor give legal advice about the preparation of such a document or its effect. There are standard power of attorney forms available in office supply stores which your customer may select, but your customer must fill in the contents of the document. You may type the document if the customer gives you the written information. Of course, it is always advisable for a person to consult an attorney when preparing any document that conveys his/her rights to another person.

Now you know how to handle powers of attorney. Don't forget to watch for the next issue of *The Notary View* for information about the new 1999 notary laws.

Until next month . . .

If you would like to receive this electronic newsletter please e-mail me, [Linda Adams](#)
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