

October 1998

Greetings Florida Notaries!

This month we'll take a look at three issues that regularly pose problems for notaries:

1. notarizing for family members
2. notarizing for a minor
3. keeping records of notarizations

NOTARIZING FOR FAMILY MEMBERS

The notary law prohibits you from notarizing for certain family members-spouse, son, daughter, mother, father. However, the Governor's Notary Section has always recommended that the best practice for notaries is to not notarize for any member of their family, including brothers, sisters, grandparents, in-laws, and step relations.

Notaries must remain completely independent (neutral, impartial, disinterested, unbiased) of the transactions they notarize. Think about it this way: if you had to testify in court about notarizing for your father-in-law, would the Court consider you an unbiased witness? Probably not.

Also, remember that, if you have a financial interest in or are a party to the transaction, you cannot be the notary for that transaction. We frequently hear that "notaries are allowed to notarize for family members if it's for a family business or corporation." That's simply not true! You could not notarize in that situation for two obvious reasons: a family member is involved and you have a financial interest.

Do yourself a favor-do not notarize for any member of your family or your spouse's family. You may save yourself a big headache!

NOTARIZING FOR A MINOR

There is no age limit for a notarization. The legal requirements for notarizations are the same, no matter what the age of the signer. When notarizing a minor's signature, you will want to take extra precaution. Make sure that the child is present, presents acceptable identification, understands the required notarial act, and signs the document without any coercion. If there is any doubt about the child's ability to understand the document or the notarial act, do not proceed with the notarization. Instead, the parent or guardian may be able to sign the document on behalf of the child, or you could suggest that the child first receive appropriate advice about the document either from an attorney or from a parent.

KEEPING RECORDS OF YOUR NOTARIAL ACTS

Did you know that some notaries actually keep copies of the documents they notarize in order to defend their notarizations, if necessary? Did you know that some notaries also keep copies of their customers' identification cards (driver's licenses, passports)? Did you know that these practices are not authorized by law? Suppose you went to a notary at a local secretarial services company to have your Last Will and Testament notarized. You probably would object to an unknown person keeping a copy of your will in her files. You would probably also object if that notary wanted to keep a copy of your driver's license. Some legal experts say such practices are an invasion of privacy, a violation of customers' personal rights.

There is a better way to keep records of your notarizations-one that is accurate, reliable, and defensible. You can keep a journal of your notarial acts. The journal is a securely bound book with sequential page numbers where you record all the pertinent facts about each and every notarization you perform. Most important in this log book is an original signature of each document signer. You would also record the address and telephone number of the signer, the date and time of the notarization, a description of the document, the notarial act you performed,

the specific type of identification, including the serial number and expiration date, and the fee you charged for your notarial services. The journal is also a great place to make notes about any unusual situation you encounter, such as notarizing for a person who is blind or when the signer directs you to add a notarial certificate to the document. Even if you must refuse to perform a notarization, you should record the situation and the reason for the refusal, i.e., the signer did not have acceptable identification.

You can rely upon your journal if you are called to testify in court about your notarization. You may not remember a notarization from two years ago, but you can refresh your memory or simply rely upon the information recorded in your journal to give sworn testimony. The journal may also prove your compliance with the law and protect you and your employer from unwanted liability. To be reliable, though, you must record every notarial act in your journal.

One last recommendation: Always complete the journal entry and have the customer sign the journal before you sign and seal the document. This will ensure that you have a complete and reliable record of all your acts as a notary public. Florida law does not require the use of a journal, but we highly recommend that every notary use this valuable tool.

NEW NEWSLETTER AND LAW BOOKLETS AVAILABLE

The new edition of The Notary View newsletter is in the mail. We also have the new 1999 notary laws printed in booklet form. If you would like a copy of either publication, please e-mail me with your mailing address.

Until next month . . .

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