

TITLE 4  
ADMINISTRATION

\* \* \*

PART VIII. Bureau of Commissions, Elections and Legislation  
Subpart C. Commissions and Notaries Public

Chapter 161. Fees

§ 161.1. Schedule of fees.

(a) The fees of the Bureau of Commissions, Elections and Legislation relating to commissions and notaries public, including fees for the public acts and transactions of the Secretary of the Commonwealth and the Department of State administered through the bureau, shall be as follows~~[The Bureau of Commissions fee schedule shall conform with the following table]~~:

*Description*

COMMISSIONS

<del>[Commissioner of Deeds</del>	<del>\$25</del>
<del>Notary Public Commission</del>	<del>\$25</del>
<del>Railroad Police or Institutional Police Commission</del>	<del>\$5</del>
<del>Notice of Election of Sheriff (called Sheriff's Writ)</del>	<del>\$5</del>
<del>Treasures Commission</del>	<del>\$5</del>
<del>District Justices</del>	<del>\$3</del>
<del>Register of Wills Bond</del>	<del>\$2</del>
<del>Recorder of Deeds Bond</del>	<del>\$2</del>
<u>Duplicate copy of commission</u>	<u>\$15</u>
<u>Duplicate copy of blank bond</u>	<u>\$3</u>

CERTIFICATES

<del>[Great Seal Certificate</del>	<del>\$10</del>
<del>Certificate requiring Secretary's Seal</del>	<del>\$7]</del>
<u>For certifying copies of any public papers or documents on file with the Bureau, the copy fee (if the Bureau furnished the copy), plus</u>	<u>\$15</u>
<u>For certifying matters of public record with the Bureau (including no record), the copy fee (if the Bureau furnished the copy), plus</u>	<u>\$15</u>

MISCELLANEOUS

<del>[Writs including Great Seal</del>	<del>\$5</del>
<del>Filing Bond for any Public Office</del>	<del>\$2</del>
<del>Filing Recognizance for any Public Office</del>	<del>\$2]</del>
<u>Photocopies (per page)</u>	<u>\$1</u>

<u>Master list of notaries public</u>	<u>\$50</u>
<u>Master list of notaries approved to electronically notarize</u>	<u>\$50</u>
<u>Other notary-related lists and data requests</u>	<u>\$25</u>
<u>Preapproval of notary education course</u>	<u>\$700</u>
<u>Preapproval of revised lesson plan or reapproval of notary education course</u>	<u>\$200</u>

(b) The Bureau Department of State may charge equivalent fees for any service not specified.

[NOTARY PUBLIC FEE SCHEDULE

<del>Executing affidavits (no matter how many signatures)</del>	<del>\$5</del>
<del>Executing acknowledgments</del>	<del>\$5</del>
<del>In executing acknowledgments each additional name</del>	<del>\$2</del>
<del>Executing certificates (per certified copy)</del>	<del>\$5</del>
<del>Administering oaths (per individual taking an oath)</del>	<del>\$5</del>
<del>Taking depositions, per page</del>	<del>\$3</del>
<del>Executing verifications</del>	<del>\$5</del>
<del>Executing protests, per page</del>	<del>\$3</del>

§ 161.2. Notary public fee schedule

(a) The fees of notaries public as fixed by the Department of State pursuant to section 329.1 of the Revised Uniform Law on Notarial Acts (Act 73 of 2013) (57 Pa.C.S. §329.1) are:

<u>Taking acknowledgment</u>	<u>\$ 5</u>
<u>Taking acknowledgments (each additional name)</u>	<u>\$ 2</u>
<u>Administering oath or affirmation</u> <u>(per individual taking oath or affirmation)</u>	<u>\$ 5</u>
<u>Taking verification on oath or affirmation</u> <u>(no matter how many signatures)</u>	<u>\$ 5</u>
<u>Witnessing or attesting a signature (per signature)</u>	<u>\$ 5</u>
<u>Certifying or attesting a copy or deposition</u> <u>(per certified copy)</u>	<u>\$ 5</u>
<u>Noting a protest of a negotiable instrument (per page)</u>	<u>\$ 3</u>

(b) A notary public may charge a clerical or administrative fee for services related to a notarial act, such as copying, postage, travel and telephone calls. If charging clerical or administrative fees, the notary must inform the customer of the amount of each fee prior to performing the service. Clerical or administrative fees must be reasonable.

(c) A notary public shall provide an itemized receipt for all fees charged by the notary public.

(d) A notary public may not charge any fee under subsection (a) for notarizing the supporting affidavit required in an Emergency Absentee Ballot or the affidavit of a person needing assistance to vote an absentee ballot.

(e) A notary public may not charge a fee under subsection (a) where other applicable law dictates that no fee may be charged. Cross reference 51 Pa.C.S. § 9101 (Acknowledgments and administering oaths without charge).

(f) A notary public shall display or provide fees in accordance with section 329.1(c)(3). For purposes of display of fees, a place of business is the notary's business office, residence or any other location where the notary public performs a notarial act.

### Chapter 163. Special Rules of Administrative Practice and Procedure

#### § 163.1. Applicability of general rules.

Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure), are applicable to the activities of and proceedings before the [Commission Bureau] Department of State relating to commissions and notaries public.

### Chapter 165. [Notaries Public] [Reserved].

[§ 165.1. Lesser offenses incompatible with the duties of a notary public— statement of policy.

(a) The Secretary of the Commonwealth reviews applications for appointment to the office of notary public under section 5 of The Notary Public Law (act) (57 P. S. § 151). Section 5(b)(1) of the act requires that the applicant may not have been convicted of or pled guilty or nolo contendere to a felony or a lesser offense incompatible with the duties of a notary public during the 5-year period preceding the date of the application.

(b) Misdemeanor crimes involving a lack of honesty or elements of falsehood and fraud (crimen falsi) are considered incompatible with the duties of a notary public, regardless of the jurisdiction in which crimes were committed.

(c) Under Pennsylvania law, misdemeanors include, but are not limited to, the following:

(1) Forgery and fraudulent practices which includes bad checks, insurance fraud and identity theft. See 18 Pa.C.S. Chapter 41 (relating to forgery and fraudulent practices).

(2) Theft which includes receiving stolen property and retail theft. See 18 Pa.C.S. Chapter 39 (relating to theft and related offenses).

(3) Criminal conspiracy if the underlying crime is incompatible. See 18 Pa.C.S. § 903 (relating to criminal conspiracy).

(4) Bribery. See 18 Pa.C.S. § 4701 (relating to bribery in official and political matters).

(5) Perjury or falsification in official matter which includes false swearing, unsworn falsification to authorities and tampering with evidence. See 18 Pa.C.S. Chapter 49, Subchapter A (relating to perjury and falsification in official matters).

(6) Obstructing governmental operations. See 18 Pa.C.S. Chapter 51, Subchapter A (relating to definition of offenses generally).

(d) The Secretary will consider all similar crimes committed in the courts of the United States or any other state, territory, possession or country to be incompatible with the duties of a notary public.]

## **Chapter 167. Notaries Public**

### Subchapters

A. General Provisions

B. Qualifications for appointment and commission

C. Official Stamp, Stamping Device and Embosser

D. Notary Journal

E. Standards of Practice

F. Notarial Acts

G. Notarial Certificates

H. Use of Electronic Notarization

I. Notary Public Education

J. Examination

K. Prohibited Acts and Sanctions

## **Subchapter A. General Provisions**

### § 167.1. Scope

The rules in this chapter implement Chapter 3 of Title 57 of the Pennsylvania Consolidated Statutes (the Revised Uniform Law on Notarial Acts). The rules govern the qualification, commissioning, notarial acts, conduct and discipline of notaries public in the Commonwealth of Pennsylvania.

### § 167. 2. Definitions

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act – the Revised Uniform Law on Notarial Acts (57 Pa. C.S. §§ 301—331).

Address – Includes office address and home address. A post office box number is not a sufficient address for Department of State records.

Applicant – an individual who seeks appointment or reappointment to the office of notary public

Appoint or Appointment – the naming of an individual to the office of notary public after determination that the individual has complied with 57 Pa.C.S. § 321(a) and (b) of the Revised Uniform Law on Notarial Acts and Subchapter B (relating to Qualifications for appointment and commission) of this Chapter. Also includes the terms “reappoint” and “reappointment.”

Appointee – an individual who has been appointed or reappointed to the office of notary public but has not yet taken the oath of office to be commissioned.

Bureau – Bureau of Commissions, Elections and Legislation of the Pennsylvania Department of State.

Days – Means calendar days.

Department – The Department of State of the Commonwealth of Pennsylvania.

Examination – The examination described in § 167.111.

Journal – The term includes a notary register.

Notary – As used in this chapter, means notary public.

Official stamp or Official Notary Stamp – The term includes a notary seal image. An official stamp does not include a stamping device as defined in 57 Pa.C.S. §302 or an embosser.

Spouse – An individual holding a marriage license issued or recognized under Chapter 13 of the Domestic Relations Code who is married to a notary public.

Tangible – When used in conjunction with “record,” “medium” or “symbol,” means perceptible by touch

### **Subchapter B. Qualifications for Appointment and Commission**

§ 167.11. Eligibility for appointment and commission – applicants not residing in Pennsylvania

(a) If an applicant is not a resident of Pennsylvania, the applicant must have a place of employment or practice in this Commonwealth.

(b) Employment or practice in this Commonwealth shall be on an ongoing basis.

(c) The Bureau may request that employment or practice in this Commonwealth be evidenced by written confirmation from the employer that a notary commission is required for such employment or practice.

§ 167.12. Eligibility for appointment and commission – applicants holding state and federal office

The disqualifications of 65 P.S. § 1 (relating to State and federal offices) apply to individuals who are elected or appointed to any office under the legislative, executive or judiciary departments of the United States government. Individuals who are employed by the legislative, executive or judiciary departments of the United States government, but who are neither elected nor appointed to office, are eligible for appointment and commission as a notary public.

§ 167.13. Eligibility for appointment and commission – deemed resignation

If a notary public neither resides nor works in the Commonwealth, that notary public shall be deemed to have resigned from the office of notary public as of the date the residency ceases or employment within the Commonwealth terminates. A notary public who resigns that notary’s commission in accordance with this section shall notify the Department of State in writing or electronically within 30 days of the effective date of the resignation.

§ 167.14. Application for appointment

(a) First-time applicants. At the same time the application for appointment is submitted, the applicant shall submit evidence of passing the examination and successful completion of a basic education course.

(b) Reappointments. At the same time the application for appointment is submitted, the applicant shall submit evidence of successful completion of a basic education or continuing education course.

(c) Applications for appointment shall be typed or legibly written.

(d) The applicant's signature on the application must match the applicant's name as provided on the application. The applicant shall use a legible, recognizable handwritten signature, which can be attributed to the applicant by anyone examining or authenticating the signature. If an applicant's preferred signature is not legible and recognizable, the applicant must also legibly print his or her name immediately adjacent to his or her preferred signature. For the purposes of this subsection, a signature is legible and recognizable if it is distinct, easily readable and understandable, and the notary's full name may be clearly discerned by looking at the signature.

#### § 167.15. Appointment and issuance of commission

(a) Upon determination that an applicant has complied with all requirements of the Act and this Chapter, the Department shall appoint or reappoint the applicant to the office of notary public and issue a commission certificate.

(b) The Department shall send the commission certificate to the Recorder of Deeds of the county where the notary maintains an office.

(c) The Department shall send the appointee notice that:

(1) The commission certificate has been issued and sent to the proper Recorder of Deeds;

(2) The appointee shall obtain a bond without delay;

(3) The appointee shall appear within 45 days of the date of appointment to take the oath of office before the Recorder of Deeds in the proper county and record the bond, oath and commission in the office of the Recorder of Deeds; and

(4) The appointee shall register his or her official signature in the proper county and office within 45 days of the date of appointment pursuant to section 321(d.1) of the Act.

(d) Before taking the oath of office or registering an official signature, an appointee shall present satisfactory evidence of the appointee's identity as set out in section 307(b) of the Act and these regulations.

(e) After administering the oath of office, the Recorder of Deeds shall deliver the commission certificate to the notary public.

#### § 167.16. Reappointment if Bond, Oath and Commission not Recorded Within 45 Days

(a) The commission of a notary public who fails to record the bond, oath and commission or register his or her official signature within 45 days of appointment shall be null and void.

(b) An appointee who fails to record the bond, oath and commission within 45 days of appointment may reapply for reappointment.

(c) The appointee shall:

(1) Reapply for reappointment;

(2) Submit another application fee;

(3) Submit evidence of passing the examination, if a first-time applicant; and

(4) Submit evidence of completion of basic or continuing education.

(d) All certificates for examination and education shall be valid at the time of application for reappointment.

§ 167.17. Reappointment

Applications for reappointment to the office of notary public shall be filed at least 60 days prior to the expiration of the commission under which the notary is acting.

§ 167.18. Notification of Change in Information

(a) A notary public must notify the Department of State within 30 days of any change in the information on file with the Department, including the notary's:

(1) Legal Name

(2) Office address (includes place of employment or practice in Pennsylvania, if not a resident of the Commonwealth)

(3) Home address

(4) Name of electronic notarization vendor

(5) Voluntary resignation

(b) Such notice may be made in writing or electronically and shall state the effective date of such change.

(c) Notice of a change in legal name on file with the Department shall be on a form prescribed by the Department and accompanied by evidence of the name change (such as marriage certificate, court order, divorce decree).

(d) Notice of a change in legal name on file with the Department shall also be made to the recorder of deeds of the county in which the notary public maintains an office.

§ 167.19. Change of name

(a) When the legal name of a notary is changed, the notary may continue to perform official acts, in the name in which he or she was commissioned, until the expiration of his or her term.

(b) The Department shall mark the public records relating to the notary name change. Application for reappointment of such notary shall be made in the new name.

**Subchapter C. Official Stamp, Stamping Device and Embosser**

§ 167.21. Official stamp

(a) The official stamp of a notary public must show clearly in the following order:

(1) The words "Commonwealth of Pennsylvania – Notary Seal."

(2) The name as it appears on the commission of the notary and the words "Notary Public."

(3) The name of the county in which the notary public maintains an office.

(4) The date the notary's current commission expires.

(5) The seven-digit commission identification number assigned by the Department.

(b) No words or terms on the official stamp may be abbreviated.

(c) The official stamp or notary seal shall be stamped or affixed to the notarial certificate near the notary’s signature or attached to or logically associated with an electronic record containing the notary’s signature.

(d) A notary public shall not place an imprint of the notary’s official stamp over any signature in a record to be notarized or over any writing in a notarial certificate.

(e) A notary public shall not alter or deface the official stamp.

(f) A notary public shall not use the notary public’s official stamp for any purpose other than to perform a notarial act.

(g) A notary public shall not permit any other person to use the notary public's official stamp for any purpose.

(h) A notary public shall not use any other notary public’s official stamp or any other object in lieu of the notary’s own official stamp to perform a notarial act.

(i) Transitional provision. A notary public who holds a commission on the effective date of this section may continue to use his seal until the expiration of that commission, which may occur after the effective date of this section.

Example of stamp:

Commonwealth of Pennsylvania – Notary Seal John Q. Doe, Notary Public Dauphin County My commission expires May 19, 2019 Commission number 1234567
---

§ 167.22. Stamping device

(a) A stamping device, as used in section 302 and section 318 of Title 57 of the Pennsylvania Consolidated Statutes, does not include a non-inking embosser or crimper.

(b) A stamping device must be capable of affixing or logically associating the official stamp, such that the record to which the official stamp is so affixed or associated may be copied, filmed, scanned, or otherwise legibly reproduced.

(c) The stamping device is the exclusive property of the notary public. When not in use, the stamping device shall be kept in a secure location and accessible only to the notary. A secure location includes in the notary’s sole possession or in a locked location to which only the notary has access.

(d) Notification of loss or theft of stamping device under section 318(b) shall be made in writing or electronically to the Department within ten days after the date the notary public or personal representative or guardian discovers that the stamping device was lost, misplaced, stolen or is otherwise unavailable. The notification shall include:

(1) A statement of whether the stamping device is lost, misplaced, stolen or is otherwise unavailable;

(2) The date the notary public discovered that the official stamping device was lost, misplaced, stolen or is otherwise unavailable;

(3) A statement that the notary public does not possess the stamping device and does not know who possesses it or where it is located;

(4) A statement that if the notary public subsequently reacquires possession of the lost, misplaced, stolen or otherwise unavailable stamping device, then the notary public

shall file a statement with the Department within ten days after the date the notary public reacquires possession of the lost, misplaced, stolen or otherwise unavailable stamping device;

(e) If a notary public subsequently reacquires possession of a lost, misplaced, or stolen stamping device, then the notary public shall file with the Department a written statement of explanation within ten days after the date the notary public reacquires possession of the lost, misplaced or stolen stamping device.

(f) An individual whose notary public commission has been suspended or revoked shall deliver the stamping device to the Department of State within ten days after notice of the suspension or revocation from the Department.

#### § 167. 23. Embosser

(a) A notary public may use an embossed or crimped image in the performance of a notarial act, but only in conjunction with the use of an official stamp.

(b) A notary public shall not place the embossing or crimping over any signature or printed material in a record to be notarized, or over any signature or printed material in a notarial certificate.

(c) A notary public shall not use any other notary public's embosser or any other object in lieu of the notary public's official stamp to perform a notarial act.

### **Subchapter D. Notary Journal**

#### § 167.31. Identification of Notary in Journal

(a) Each journal of a notary public, whether maintained on a tangible medium or in an electronic format, shall contain the following information in any order:

(1) The name of the notary public as it appears on the commission;

(2) The notary public's commission number;

(3) The notary public's commission expiration date;

(4) The notary public's office address of record with the Department;

(5) A statement that, in the event of the decease of the notary public, the journal shall be delivered or mailed to the office of the recorder of deeds in the country where the notary last maintained an office;

(6) The meaning of any not commonly abbreviated word or symbol used in recording a notarial act in the notarial journal;

(7) The signature of the notary public;

(b) If a notary public's name, commission expiration date, or address changes before the notary public ceases to use the notarial journal, the notary public shall add the new information after the old information and the date which the information changed.

#### § 167.32. Journal Entries.

(a) Each notarial act shall be indicated as a separate entry in the journal.

(b) Optional entries. In addition to the entries required by section 319(c) of the Act, a notary journal may contain the signature of the individual for whom the notarial act is performed and any additional information about a specific transaction which might assist the notary to recall the transaction.

(c) Prohibited entries. A notary journal may not contain any personal financial or identification information about the notary’s clients, such as complete Social Security numbers, complete drivers’ license numbers or complete account numbers. Terminal numbers for these types of numbers, including the last four digits of a Social Security number, may be used to clarify which individual or account was involved.

(d) Fees. Each notarial fee charged should correspond to the notarial act performed. If a fee is waived or not charged, the notary public shall indicate this fact in the journal entry, using “n/c” or “0” (zero) or a similar notation. Clerical and administrative fees, if charged, must be separately itemized in the journal.

(e) Address. For purpose of journal entries, address means the city and state only.

(f) For the purpose of subsection (c), “personal financial or identification information” means:

(1) An individual’s first name or first initial and last name in combination with and linked to any one or more of the following data elements when the data elements are not encrypted or redacted:

(i) Social Security number.

(ii) Driver's license number or a State identification card number issued in lieu of a driver's license.

(iii) Financial account number, credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual’s financial account.

(2) The term does not include publicly available information that is lawfully made available to the general public from Federal, State or local government records.

(g) Transitional provision. A notary public who holds a commission on the effective date of this section may continue to use his journal until the expiration of that commission, which may occur after the effective date of this section.

#### § 167.33. Form and Content of Notary Journal Maintained on a Tangible Medium

(a) A journal of a notary public maintained on paper or on any other tangible medium may be in any form that meets the physical requirements set out in this rule and the entry requirements set out in section 319(c) of the Act.

(b) The cover and pages inside the cover shall be bound together by any binding method that is designed to prevent the insertion, removal or substitution of the cover or a page. This includes glue, staples, grommets or another binding, but does not include the use of tape, paperclips or binder clips.

(c) Each page shall be consecutively numbered from the beginning to the end of the journal. If a journal provides two pages on which to record the required information about the same notarial act, then both pages may be numbered with the same number or each page may be numbered with a different number. A page number shall be preprinted.

(d) Each line (or entry if the journal is designed with numbered entry blocks) shall be consecutively numbered from the beginning to the end of the page. If a line extends across two pages, the line shall be numbered with the same number on both pages. A line or entry number shall be preprinted.

#### § 167.34. Form and Content of an Electronic Notarial Journal

(a) A journal of a notary public maintained in electronic format may be in any form that meets the requirements set out in this rule and the entry requirements set out in section 319(c) of the Act.

(b) A journal of a notary public maintained in electronic format shall be designed to prevent the insertion, removal or substitution of an entry.

(c) A journal of a notary public maintained in electronic format shall be securely stored and recoverable in the event of a hardware or software malfunction.

(d) Entries from the notarial journal must be available upon demand by the Department in a PDF format.

(e) If a signature of a signer is contained in an electronic notarial journal, the signature must be:

(1) Attached to or logically associated with the electronic journal.

(2) Linked to the data in such a manner that any subsequent alterations to the electronic notarial journal entry are detectable and may invalidate the electronic notarial journal entry.

(f) A journal of a notary public maintained in electronic format which is delivered to the office of the recorder of deeds in compliance with section 319(e) of the Act shall be delivered in a format prescribed by the receiving recorder of deeds.

#### § 167.35. Notification of Lost or Stolen Journal

(a) A notary shall maintain custody and control of the notary journal at all times during the duration of the notary’s commission.

(b) Notification of loss or theft of journal under section 319(d) of the Act shall be made in writing or electronically within ten days after the date the notary public or personal representative or guardian discovers that the journal was lost, misplaced, destroyed or otherwise unavailable. The notification shall include:

(1) A statement of whether the notary journal is lost, misplaced, stolen or is otherwise unavailable;

(2) An explanation of how the notary journal became unavailable;

(3) The date the notary public discovered that the notary journal was lost, misplaced, stolen or is otherwise unavailable;

(3) A statement that the notary public does not possess the journal and does not know who possesses it or where it is located;

(4) A statement that if the notary public subsequently reacquires possession of the lost, misplaced, stolen or otherwise unavailable journal, then the notary public shall file a statement with the Department within ten days after the date the notary public reacquires possession of the lost, misplaced, or stolen journal;

(c) If a notary public subsequently reacquires possession of a lost, misplaced, or stolen journal, then the notary public shall file with the Department a written statement of explanation within ten days after the date the notary public reacquires possession of the lost, misplaced, stolen or otherwise unavailable journal.

#### § 167.36. Certified copies of notary journal

(a) General. Requests for certified copies of a notary journal made in accordance with section 319(g.1) of the Act shall be reasonable in scope and specify the particular entry or time period sought. Such requests may, but are not required to be, in writing. The notary public shall

provide the certified copy within 10 days of receipt of the request. The notary may charge reasonable fees for copying and postage, but the requestor should be advised in advance of these fees. If the scope of the request is not clear, the notary may offer to have the requester inspect the journal at the notary’s office to identify the specific pages or dates that the requester is seeking.

(b) Subpoenas and investigative requests. A request for certified copies of a notary journal made through an investigative request by law enforcement or by the Department or in a subpoena in the course of criminal or civil litigation shall be complied with in the manner specified in the request or subpoena.

### **Subchapter E. Standards of Practice**

#### § 167.41. Name of notary public

(a) Whenever chapter 3 of Title 57 of the Pennsylvania Consolidated Statutes and Chapter 167 of this Title refer to the name of a notary public, the name shall be the legal name of the notary public as it appears on the notary public’s current commission and oath of office.

(b) For the purposes of this chapter, the legal name on the notary public commission and oath of office must be proven by satisfactory evidence per §307(b) of Title 57 of the Pennsylvania Consolidated Statutes. Unless proven otherwise, the name of a notary public shall consist of:

- (i) a first personal name (first name), additional name(s) or initial(s) (middle name or initial), and surname (family or last name);
- (ii) a first name and last name, omitting the middle name or middle initial;
- (iii) a first initial, middle name and last name.

Neither initials alone nor nicknames will be accepted on the application or as part of the signature required on a notarial act.

(c) The name of a notary public may include suffixes such as Junior, Senior, II, III, IV or any abbreviations thereof. The name of a notary public may not include prefixes, suffixes or titles such as “Doctor,” “Reverend” or “Esquire” or any abbreviations thereof.

#### § 167.42. Authority of notary public to perform notarial act

(a) A notary may perform the notarial acts authorized by chapter 3 of Title 57 in any county of this Commonwealth.

(b) Notaries may not perform the notarial acts authorized by chapter 3 of Title 57 outside the geographical borders of this Commonwealth or in other states or jurisdictions, unless authorized by the other state or jurisdiction to perform such acts.

#### § 167.43. Conflict of interest

(a) A direct or pecuniary interest includes an interest in the transaction or record which results in actual or potential gain or advantage, financial or otherwise, other than receiving a regular salary, hourly wage or notarial fees. Regular salary or wage includes bonuses, as long as such bonus is not related to or contingent upon the completion of a notarial act.

(b) In the case of a nomination petition or nomination paper, both the candidate and the spouse of the candidate have a direct or pecuniary interest in the nomination petition or nomination paper. No other person, including other family members, staff or other employees of

the candidate or the candidate’s spouse, or of the candidate’s campaign or official office, shall be deemed to have a direct or pecuniary interest in the nomination petition or nomination paper.

(c) A notary shall not notarize his or her own signature, nor the signature of his or her spouse.

§ 167.44. Duty of candor

A notary public or an applicant for appointment and commission as a notary has a duty of candor to the Department in all matters relating to the appointment and commission of the notary and the performance of notarial acts, including an application for appointment or reappointment, and any request for information made by the Department.

§ 167.45. Personal appearance

(a) To appear personally before a notarial officer is to be physically present before the notarial officer when the notarial act is executed.

(b) The notarial officer must be able to observe and interact with the individual making the statement or executing the signature.

(c) The notarial officer and the individual for whom a notarial act is being performed must be able to see, hear, communicate with, and give identification documents to each other without the use of electronic devices such as telephones, computers, video cameras, or facsimile machines.

(d) Personal appearance does not include:

(1) Appearance by video technology, even if the video is live or synchronous;

(2) Appearance by audio technology.

§ 167.46. Identification of individual appearing before notarial officer – Personal knowledge  
When a notarial officer has personal knowledge of the identity of an individual, satisfactory evidence is not required.

§ 167.47. Identification of individual appearing before notarial officer – Satisfactory evidence

(a) General

(1) For the purposes of section 307(b)(1)(i), a notarial officer may rely upon:

(i) A passport or passport card issued by the United States Department of State which is current and unexpired;

(ii) A passport issued by a foreign government, which is current and unexpired, provided it uses letters, characters and a language that are read, written and understood by the notarial officer;

(iii) A driver’s license or nondriver identification card issued by a state of the United States, which is current and unexpired; or

(iv) A driver’s license or nondriver identification card issued by a state or territory of Canada or Mexico, which is current and unexpired, provided it uses letters, characters and a language that are read, written and understood by the notarial officer.

(2) For the purposes of 307(b)(1)(ii), other forms of government identification must be current, contain the signature or photograph of the individual to be identified and must be satisfactory to the notarial officer. Current means having an issue date which is prior to the notarial act.

(3) For the purposes of section 307(b)(1)(ii), other forms of government identification may include:

- (i) Identification card issued by any branch of the U.S. armed forces
- (ii) An inmate identification card issued by the Pennsylvania Department of Corrections for an inmate who is currently in the custody of the Department
- (iii) An identification card issued by the U.S. Department of Homeland Security
- (iv) Social Security card
- (v) Medicare card
- (vi) Pennsylvania state and state-related university identification card

(b) Credible Witness.

(1) The identity of the individual appearing before the notarial officer can be established by the oath of a single credible witness personally known to the notary and who personally knows the document signer.

(2) A credible witness may not have a direct or pecuniary interest with respect to the record being notarized.

(3) The credible witness must make a verification on oath or affirmation that each of the following is true:

- (i) The individual appearing before the notary public as the signer of the document is the person named in the document;
- (ii) The credible witness personally knows the signer;
- (iii) The credible witness reasonably believes that the circumstances of the signer are such that it would be very difficult or impossible for the signer to obtain another form of identification;
- (iv) The signer does not possess any of the identification documents authorized by law to establish the signer's identity; and
- (v) The credible witness does not have a direct or pecuniary interest in the record being notarized.

#### § 167.48. Language and use of interpreter

(a) A notarial officer must be able to communicate directly with the individual for whom a notarial act is being performed in a language they both understand or indirectly through an interpreter who is physically present with the signer and notary at the time of the notarization and communicates directly with the individual and the notary in a language the interpreter understands.

(b) The certificate of notarial act must be worded and completed using only letters, characters and a language that are read, written and understood by the notarial officer.

(c) A notarial officer may perform a notarial act on a document that is a translation of a document that is in a language that the notarial officer does not understand only if the person performing the translation signs a verification on oath or affirmation stating that the translation is accurate and complete. The notarized translation and verification shall be attached to the document and shall comply with the Act and these regulations relating to certificate of notarial act.

#### § 167.49. Refusal to perform notarial acts

A notary public may not refuse to provide notarial services on the basis of a customer’s race, color, national origin, religion, sexual orientation, gender identity (including pregnancy), disability or marital status.

§ 167.50. Notarizing documents which contain blank spaces

(a) A notary public may not perform a notarial act with respect to a record which is designed to provide information within blank spaces, where:

(1) The missing information has not been entered into a blank space; or

(2) The signature of an individual signing the record is not present, unless the individual is signing in the presence of the notary.

(b) For the purpose of subsection (a)(1), the missing information does not include:

(1) Any empty space with N/A or a line drawn through it; or

(2) Any additional signature lines designated for additional signers, if it is clear that the notarial act does not apply to the blank signature lines.

(c) A notarial officer performing a notarial act on nomination petitions or nomination papers with remaining empty lines for signatures should mark a line through those blank spaces for signatures, or an “X” across the blank signatures, to prevent the later addition of signatures after the notarization.

§ 167.51. Employer-employee relationship

Notwithstanding that an individual who holds a notary commission is responsible for exercising the duties and responsibilities of the notary commission, an employer, pursuant to an agreement with an employee who is or seeks to become a notary public, may pay for the education, testing, application or bond and the cost of any stamps, seals, or other supplies required in connection with the appointment, commission, or performance of the duties of such notary public. Such agreement may also provide for the remission of fees collected by such notary public to the employer, for the increased compensation of the notary public for the amount of notary fees collected and for reimbursement of the costs of obtaining a commission should the employee or employer terminate the employment.

§ 167.52. Limitation on provision of notarial services

Notwithstanding any other provision of law, an employer of a notary public may limit, during the employee’s ordinary course of employment, the providing of notarial services by the employee solely to transactions directly associated with the business purposes of the employer.

**Subchapter F. Notarial Acts**

§ 167.61. Acknowledgments

(a) The individual making the acknowledgment shall appear personally before the notarial officer.

(b) The notarial officer shall have personal knowledge or satisfactory evidence of the identity of the individual making the acknowledgment.

(c) A record may be signed in the notarial officer’s presence or a record may be signed prior to the acknowledgment. A record may not be signed subsequent to an acknowledgment.

(d) If the record is signed prior to appearance before the notarial officer, the individual making the acknowledgment shall acknowledge that the signature on the record is his or her own voluntary act.

(e) The notarial officer shall compare the signature on the record to the signature of the individual on the identification presented.

#### § 167.62. Oaths and affirmations

(a) The individual taking the oath or affirmation shall appear personally before the notarial officer.

(b) The notarial officer shall have personal knowledge or satisfactory evidence of the identity of the individual taking the oath or affirmation.

(c) An oath or affirmation may be verbal or in writing. If in writing, the oath or affirmation shall be signed in the presence of the notarial officer.

(d) In administering an oath or affirmation, the notarial officer shall require the individual taking the oath to voluntarily swear or affirm that the statements contained in the oath are true or that the individual will perform an act or duty faithfully and truthfully.

#### § 167.63. Verifications on oath or affirmation

(a) The individual making the verification on oath or affirmation shall appear personally before the notarial officer.

(b) The notarial officer shall have personal knowledge or satisfactory evidence of the identity of the individual making the verification on oath or affirmation.

(c) A record containing a statement which is being verified on oath or affirmation must be signed in the notarial officer's presence. A record containing a statement which is being verified may not be signed subsequent to the verification on oath or affirmation.

(d) The notarial officer shall compare the signature on the statement verified to the signature of the individual on the identification presented.

(e) In taking a verification on oath or affirmation, the notarial officer shall administer an oath to the individual making the statement and require that the individual voluntarily swear or affirm that the statements contained in the record are true.

#### § 167.64. Witnessing or attestation of signatures

(a) The individual signing the record shall appear personally before the notarial officer.

(b) The notarial officer shall have personal knowledge or satisfactory evidence of the identity of the individual signing the record.

(c) A record containing a signature which is being witnessed or attested must be signed in the notarial officer's presence. A record containing a signature which is being witnessed or attested may not be signed subsequent to the witnessing or attestation of the signature.

(d) The notarial officer shall compare the signature on the record signed to the signature of the individual on the identification presented.

(e) The notarial act of witnessing or attesting a signature differs from an acknowledgment in that the party relying on the record may know for certain that the record was signed on the same date that the notarial officer affixed the official seal and signature to the document.

(f) The act of witnessing a signature differs from a verification on oath or affirmation in that the signer is merely signing the record, not swearing or affirming that the contents of the record are true.

§ 167.65. Certified or attested copies and depositions

(a) The notarial officer must be presented with the record, which may be in the possession of the requestor, or in the case where there is an official repository of records, in the care and possession of the notarial officer who may be the custodian of the official archive or collection.

(b) For paper records, the notarial officer shall compare the original document to a photocopy made by the requestor or by the notarial officer to determine that the photocopy or duplicate is a complete and accurate transcription or reproduction of the original record.

(c) For electronic records, the notarial officer shall compare the original record to a copy made by the requestor or by the notarial officer to determine that the copy is a complete and accurate transcription or reproduction of the original record.

(d) The notarial officer shall examine the record for alteration or tampering and to ensure that the original record itself is not a photocopy or copy.

(e) In issuing a certified or attested copy, the notary public does not guarantee the authenticity of the original document, its contents or its effects.

(f) Records for which a notary may not issue a certified copy include:

(1) Vital Records (birth and death certificates)

(2) U.S. Naturalization Certificates

(3) Any government-issued record which on its face states “do not copy,” “illegal to copy” or words of similar meaning

(4) Any record which is prohibited by law to copy or certify

(g) Subject to subsections (f)(4) and (h), records for which a notary may issue a certified copy include:

(1) Public records

(2) Passports

(3) Drivers’ licenses

(4) Transcripts

(5) Diplomas

(6) Contracts

(7) Leases

(8) Bills of sale

(9) Medical records, consents or waivers

(10) Powers of attorney

(h) For purpose of this section, a public record is defined as any record that is filed in or issued by a domestic or international federal, state or local government agency. If the record is intended to be sent overseas and will require an apostille or certification from the U.S. Department of State or Pennsylvania Department of State, the record must be certified by the office where the original or official copy of the record is maintained or by the public official who issued the record. Examples include deeds, marriage records, court orders and corporate documents filed with a state office or state repository as the official record.

§ 167.66. Protests of negotiable instrument

(a) A protest is a certificate of dishonor made by a United States consul or vice consul, or a notary public or other person authorized to administer oaths by the law of the place where dishonor occurs. It may be made upon information satisfactory to that person. The protest must:

- (1) Identify the negotiable instrument;
- (2) Certify either that presentment has been made or, if not made, the reason why it was not made, and
- (3) State that the instrument has been dishonored by nonacceptance or nonpayment.
- (b) The protest may also certify that notice of dishonor has been given to some or all parties.
- (c) The individual requesting the protest shall appear personally before the notarial officer and be identified in the protest as the holder of the dishonored negotiable instrument.
- (d) The notarial officer shall have personal knowledge or satisfactory evidence of the identity of the individual requesting the protest.

### **Subchapter G. Notarial Certificates**

#### **§ 167.71. Certificate of notarial act**

- (a) “Commonwealth of Pennsylvania” may be used in lieu of “State of Pennsylvania” on certificates of notarial acts.
- (b) Sufficiency of certificate – A certificate must contain the information required by section 315(c) of the Act. A certificate may contain such other information as may be required to satisfy any legal requirements, or to satisfy ethical or legal concerns, or the business needs of the parties to the transaction.
- (c) Securely attached – For purposes of attaching a notarial certificate to a tangible record, securely attached means stapled, grommetted or otherwise bound to the tangible record. Securely attached does not include the use of tape, paperclips or binder clips.
- (d) When signing a paper certificate, the notary public shall use a legible, recognizable handwritten signature, which can be attributed to the notary performing the notarial act by anyone examining or authenticating the signature. If a notary’s preferred signature is not legible and recognizable, the notary must also legibly print his or her name immediately adjacent to his or her preferred signature. For the purposes of this subsection, a signature is legible and recognizable if it is distinct, easily readable and understandable, and the notary’s full name may be clearly discerned by looking at the signature.

### **Subchapter H. Use of Electronic Notarization**

#### **§ 167.81. Notification regarding use of electronic notarization**

- (a) A notary public who wishes to perform notarial acts with respect to electronic records must hold a current and unrestricted commission.
- (b) A notary public who wishes to perform notarial acts with respect to electronic records shall be authorized by the Department to act as an “electronic notary” or “e-notary” prior to performing notarial acts with respect to electronic records.
- (c) To obtain authorization, a notary public shall submit the following information to the Department in a manner prescribed by the Department:
  - (1) Name of notary public

- (2) Commission number
- (3) Office address
- (4) Email address
- (5) Name of electronic notarization solution provider
- (6) Contact information for solution provider
- (7) Website for solution provider

§ 167.82. Electronic notarization requirements

(a) A notary public performing notarial acts with respect to electronic records must use an electronic notarization solution approved by the Department. Before performing any electronic notarization, the notary shall take reasonable steps to ensure that the solution used is valid and has not expired, been revoked, or been terminated by the solution provider.

(b) All requirements of a notarial act performed with respect to a tangible record apply to an electronic record, including but not limited to, the personal appearance and identification of the individual appearing before the notary public, completion of a notarial certificate, use of an official stamp and recording of the notarial act in the notary journal.

**Subchapter I. Notary Public Education**

§ 167.91. Definitions

Certificate of Approval. A certificate issued by the Department under section 167.92 (relating to Provider certificate of approval) signifying that the provider named therein offers an education program curriculum preapproved by the Department of State and has complied with the requirements of these rules. The Certificate of Approval does not imply endorsement of any other products or services offered by the provider.

Certificate of Education. A certificate issued by a provider under section 167.97 (relating to Certificate of Education) signifying that the person named therein has successfully completed the approved education program provided by the provider.

Course of study. For the purposes of this subchapter, “course of study” applies to basic or continuing education, offered via live classroom instruction, correspondence course or interactive distance education means, such as online via the internet or other network technologies.

Notary public applicant. For the purposes of this subchapter, a “notary public applicant” is a person who must attend a course of instruction in order to qualify for commission as a notary public.

Pennsylvania business registration number. For the purposes of these rules, a Pennsylvania business registration number is the number assigned by the Department of State’s Bureau of Corporations and Charitable Organizations to a business entity or fictitious name registrant that is authorized to conduct business in the Commonwealth.

Provider. For purposes of this subchapter, a “provider” is an individual or business entity that offers, supplies or provides an approved notary public education course of study.

§ 167.92. Provider Certificate of Approval

(a) Before offering any course of study pursuant to section 322(b) or (c), a provider must obtain a Certificate of Approval from the Department of State for each course of study offered.

(b) To apply for a Certificate of Approval, a provider must submit to the Department of State a completed Notary Public Education Provider Application or Amendment form on a form prescribed by the Department, an active Pennsylvania business registration number, the fee required by the Department and a lesson plan satisfying the requirements of section 167.93 (relating to Lesson Plan).

(c) The Department will issue either a Certificate of Approval, in accordance with subsection (d), or a deficiency notice, in accordance with section 167.94 (relating to Deficient application or lesson plan), within 90 days of receipt of an application and lesson plan.

(d) Upon approval of an application and lesson plan, the Department will send a Certificate of Approval to the provider by first class mail to the address listed on the Notary Public Education Provider Application or Amendment form.

(e) The Certificate of Approval will include the following:

(1) The name of the provider.

(2) The name of the approved course of study and whether it is basic education or continuing education.

(3) The date the course of study was approved by the Department.

(f) A provider must not alter or substitute the lesson plan reviewed and approved by the Department, unless the revisions are approved by the Department, in accordance with section 167.96 (relating to Lesson plan revisions).

(g) For the purposes of this chapter, a provider is responsible for all employees, agents, instructors, contractors, and subcontractors providing or involved in providing an approved course of study on behalf of the provider and the acts of the employees, agents, instructors, contractors, and subcontractors will be deemed the acts of the provider.

(h) The Certificate of Approval will expire three years from the date of issuance. A provider may reapply for reapproval of a notary public course of study up to 90 days before the expiration of the Certificate.

(i) A Certificate of Approval is non-transferable and may not be conveyed to another provider or applied to another course of study.

### § 167.93. Lesson Plan

(a) A lesson plan must meet the following requirements:

(1) The lesson plan must be based on the laws, regulations, procedures and ethics of Pennsylvania concerning the functions and duties of a notary public.

(2) The lesson plan must contain a table of contents, and the pages of the lesson plan must be consecutively numbered.

(3) The lesson plan must provide sufficient detail to enable the Department to evaluate the specific information to be presented and to determine the accuracy of the information to be presented.

(4) The lesson plan shall contain the procedures to establish the identity of a person physically attending a classroom course of study or virtually attending a course of study via interactive means to whom proof of completion may be issued in accordance with Section 167.97.

(5) The lesson plan shall contain the procedures to ensure that the information contained in the Certificate of Education pursuant to Section 167.97 cannot be viewed by any person other than the approved vendor issuing the certificate, an employee, agent,

instructor, contractor, or subcontractor of the approved vendor issuing the certificate, or the notary public applicant or notary public named in the certificate.

(6) The lesson plan must contain the procedures to ensure that a person physically attending a classroom course of study or virtually attending a course of study via interactive means is present for the required time.

(7) The lesson plan must include a schedule of the time allotted for the following:

(a) Break periods, if any;

(b) Each major subject area;

(c) Each audio visual aid to be used, if any;

(d) Each student participation activity, if any.

(e) Completion, correction, and discussion of any practice tests used and the method of correction to be used, if any.

(8) If any movie or video is used for instruction, the lesson plan must include a brief synopsis of the information presented therein. The synopsis must detail the specific information presented by the movie or video. In addition, the provider must include the movie or video in the materials presented to the Department for review.

(b) Copies of any handout materials, workbooks, visuals aids, description of student participation exercises, and practice tests used during the course of study must be submitted for approval with the lesson plan.

(c) If the course provides for an evaluation by the students, time to complete the evaluation must not be included as part of the course of instruction.

(d) All materials submitted to the Department under this section become the property of the Department and may be returned to the provider at the sole discretion of the Department.

#### § 167.94. Deficient Application or Lesson Plan

(a) If the Department of State determines that a Notary Public Education Provider Application or Amendment form is incomplete, or that a lesson plan does not satisfy the requirements of section 322 or this chapter, the Department will issue a deficiency notice containing an itemized description of the deficiencies identified. The deficiency notice will be sent by first class mail to the provider's address listed on the Notary Public Education Provider Application or Amendment form or communicated in a manner agreed to by the Department and the provider.

(b) A provider has 60 days from the date on which the deficiency notice was sent or communicated by the Department to submit documentation to the Department curing the deficiencies identified in the deficiency notice.

(c) The Department may issue more than one deficiency notice to a provider regarding the same Notary Public Education Provider Application or Amendment form and lesson plan at any time during the review process.

(d) The Department may disapprove a Notary Public Education Provider Application or Amendment form if the deficiencies are not cured in accordance with subsection (b).

(e) The disapproval of a provider's application or amendment is subject to the right of notice, hearing and adjudication and the right of appeal therefrom in accordance with 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action), known as the Administrative Agency Law.

§167.95. Notification of Changes of Provider Information

Within 30 days of any changes in the information contained in the most recent application approved by the Department, a provider must submit to the Department a Notary Public Education Provider Application or Amendment form identifying the changes. A provider may confirm receipt by the Department by phone or e-mail.

§ 167.96. Lesson Plan Revisions

(a) A provider shall revise an approved lesson plan as necessary to ensure that the information provided in an approved course of study reflects a new law, regulation, court decision or administrative action.

(b) Any proposed revisions to the contents or methods of instruction detailed in an approved lesson plan must be approved by the Department prior to implementing the proposed revisions in an approved course of study.

(c) To apply for a Certificate of Approval for a revised lesson plan, a provider must submit a completed Notary Public Education Provider Application or Amendment form, the fee required by the Department, and a revised lesson plan in accordance with Section 167.92 (relating to Provider certificate of approval).

(d) The provisions in Section 167.92 (Provider Certificate of Approval), Section 167.93 (Lesson Plan), and Section 167.94 (Deficient Application or Lesson Plan) apply to a revised lesson plan.

(e) Upon approval of a revised lesson plan, the Department of State will issue a Certificate of Approval pursuant to Section 167.92. (relating to Provider Certificate of Approval).

(f) A provider may only follow the lesson plan corresponding to the most current Certificate of Approval.

§ 167.97. Certificate of Education

(a) A provider must issue a Certificate of Education to a notary public applicant upon completion of an approved course of study.

(b) The Certificate of Education shall be issued by the provider to a notary public applicant only after the person has successfully completed the approved course of study.

(c) The Certificate of Education must consist of a certificate signed by a provider or an employee, agent, instructor, contractor, or subcontractor of a provider, which contains the following information:

(1) The name of the education provider as it appears on the Certificate of Approval issued by the Department of State for the approved course of study.

(2) The name of the approved course of study and whether it is basic education or continuing education.

(3) The name of the notary public applicant who completed the approved course of study.

(4) The date the notary public applicant completed the approved course of study.

(5) The statement that the Certificate of Education is valid for a period of six months from the date of issuance.

(d) A provider must submit all revisions to the contents or appearance of the Certificate of Education to the Department for approval at least 30 days prior to issuing the revised certificate to a notary public.

§ 167.98. List of Attendees

(a) A provider shall maintain a list of persons who attend each session of an approved course of study, whether they physically attend a classroom course of study or virtually attend a course of study offered via interactive means.

(b) The list of attendees must be maintained for a period of five years from the date of issuance of the Certificates of Education corresponding to that session.

(c) The list of attendees must include the following:

(1) The name of the provider as listed in the Certificate of Approval for the approved course of study.

(2) The name of the instructor or instructors who taught the approved course of study.

(3) The date, time, and location of the approved course of study.

(4) The names of all the attendees in alphabetical order by the last name of the attendee.

(c) A provider shall not collect the social security numbers of any attendees.

(d) Upon request, a provider shall submit a list of attendees in the data format specified by the Department of State.

§ 167.99. Department of State Attending Approved Course of Study

A provider must permit representatives of the Department of State to attend any approved course of study, without prior notice and at no charge, for the purpose of observation, monitoring, auditing, and investigating the instruction given.

§ 167.100. Duty to Respond to a Written Request from the Department of State

A provider must respond in writing within 30 days of receiving a written request for information from the Department of State. A written request may be sent to the mailing address, facsimile number, or e-mail address listed on the most current Notary Public Education Provider Application or Amendment form.

§ 167.101. Cancellation or Delay of Scheduled Approved Course of Study

(a) Before charging any fees to a notary public applicant for an approved course of study, a provider must disclose the refund policy of the provider.

(b) A provider must refund all fees within 30 days of a scheduled course date to any notary public applicant who registered to attend an approved course of study if one of the following occurs:

(1) An instructor fails to appear at the scheduled time, date, or place of the approved course of study;

(2) An approved course of study is delayed in starting more than 15 minutes after the scheduled time, and a notary public applicant immediately informs the provider of his or her request for a refund, and the notary public applicant leaves the approved course of study before its start; or

(3) The provider does not hold a current Certificate of Approval for the course of study.

§ 167.102. List of Approved Notary Education Courses

(a) The Department of State shall make a list of approved education courses available online at the Department’s website. The approved course list will include the following information:

(1) Name of the approved course and whether it is approved for basic or continuing education.

(2) Name and contact information for the provider, including mailing address; telephone number; fax number; e-mail address; and website address.

(b) The Department shall update the list of approved courses to add, delete, or amend provider information that is filed in accordance with section 167.95 (relating to Notification of Changes of Education Provider Information) and add or delete courses that are approved or terminated in accordance with these rules.

§ 167.103. Termination of a Certificate of Approval

(a) The Department of State may terminate a Certificate of Approval upon any of the following grounds:

(1) Violation of any of the provisions of this chapter or the Revised Uniform Law on Notarial Acts.

(2) Misrepresentation of the laws of Pennsylvania concerning the duties and functions of a notary public.

(3) Deviation from the lesson plan for a course of study approved by the Department.

(4) Failure to respond to a request for information from the Department.

(5) Representations by the provider that any other product, goods, or services provided by the provider are endorsed or recommended by the Department.

(6) Failure to prepare course attendees to pass the notary public examination such that an adequate pass rate is not maintained

(b) Termination of a Certificate of Approval is subject to the right of notice, hearing and adjudication and the right of appeal therefrom in accordance with 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action), known as the Administrative Agency Law.

§ 167.104. Cancellation of Certificate of Approval

(a) A provider may cancel its Certificate of Approval by submitting a written notice of cancellation to the Department of State. Unless otherwise stated in the notice of cancellation, the effective date of the cancellation of the Certificate of Approval is 30 days after receipt of the notice of cancellation. The provider may confirm receipt by the Department by phone or e-mail.

(b) Within 30 days of the effective date of a cancellation of a Certificate of Approval, a provider must refund all fees to all individuals who paid to take an approved course from a provider, if the course is scheduled after the effective date of the cancellation.

**Subchapter J. Examination**

§ 167.111. Notary Public Examination.

(a) Pursuant to section 322(a) of the Revised Uniform Law on Notarial Acts (57 Pa.C.S. §322(a)), an applicant for a commission as a notary public who does not hold a commission in this Commonwealth must pass an examination as a condition of appointment. An applicant who does not hold a current commission as a notary public includes an applicant who never held a commission as a notary public and an applicant who previously held a commission as a notary public but whose commission has since expired.

(b) The written examination prescribed by the Department of State to determine the fitness of an applicant to exercise the functions of the office of notary public shall be a proctored examination administered by the Department of State or an agent of the Department. The examination is administered by a professional testing organization under contract with the Department at times, places and costs established by the professional testing organization.

(c) Examination results shall be valid for a period of one (1) year from the date of the examination.

(d) An applicant must score 80% or better to pass the examination.

(e) An applicant may retake the examination within a six-month period as many times as necessary to pass. The maximum frequency with which the examination may be repeated is one time per 24-hour period.

(f) More information about the examination is available through the Department's website at [www.dos.pa.gov/OtherServices/Notaries](http://www.dos.pa.gov/OtherServices/Notaries).

### **Subchapter K. Prohibited Acts and Sanctions**

§ 167.121. Offenses involving fraud, dishonesty or deceit.

(a) Conviction of, or acceptance of Accelerated Rehabilitative Disposition in resolution of, offenses involving a lack of honesty or elements of falsehood and fraud (crimen falsi) will be considered to be evidence of a lack of honesty, integrity, competence or reliability to act as a notary public, regardless of the jurisdiction in which the crimes were committed.

(b) Under Pennsylvania law, offenses involving fraud, dishonesty or deceit include, but are not limited to, the following:

(1) Theft and related offenses, which includes all offenses defined in subchapter B of 18 Pa.C.S. Chapter 39 (relating to theft and related offenses).

(2) Forgery and fraudulent practices, which includes all offenses defined in 18 Pa.C.S. Chapter 41 (relating to forgery and fraudulent practices).

(3) Bribery and related offenses, which includes all offenses defined in 18 Pa.C.S. Chapter 47 (relating to bribery and corrupt influence).

(4) Perjury or falsification in official matters and related offenses, which includes all offenses defined in Subchapter A of 18 Pa.C.S. Chapter 49 (relating to perjury and falsification in official matters).

(5) Obstructing governmental operations and related offenses, which includes all offenses defined in Subchapter A of 18 Pa.C.S. Chapter 51 (relating to definition of offenses generally).

(6) Abuse of office and related offenses, which includes all offenses defined in Chapter 53 of 18 Pa.C.S. (relating to abuse of office).

(7) Criminal attempt if the underlying crime involves fraud, dishonesty or deceit. See 18 Pa.C.S. § 901 (relating to criminal attempt).

(8) Criminal solicitation if the underlying crime involves fraud, dishonesty or deceit. See 18 Pa.C.S. § 902 (relating to criminal solicitation).

(9) Criminal conspiracy if the underlying crime involves fraud, dishonesty or deceit. See 18 Pa.C.S. § 903 (relating to criminal conspiracy).

(c) The Department will consider all similar offenses committed in the courts of the United States, this Commonwealth or any other state, territory, possession or country involving fraud, dishonesty or deceit.

§ 167.122. Rebuttable presumption against appointment.

(a) Any person who has been convicted of or accepted Accelerated Rehabilitative Disposition for any felony offense or any misdemeanor offense involving fraud, dishonesty or deceit as set forth in § 167.121 within five (5) years preceding the date of application for appointment is presumed ineligible for appointment as a notary public.

(b) The presumption of ineligibility for appointment may be rebutted in extraordinary circumstances by a showing of clear and convincing evidence of the applicant’s full rehabilitation. It is the intent of these regulations that overcoming this presumption will occur only infrequently and in truly exceptional circumstances.

(c) There is no presumption of ineligibility for conviction of or acceptance of ARD for a felony or an offense involving fraud, dishonesty or deceit more than five (5) years preceding the date of application for appointment, but the conviction and related facts may be considered in determining whether the applicant has the requisite honesty, integrity, competence or reliability to act as a notary public.

(d) The five-year period shall be measured from the date of the conviction or acceptance into ARD, rather than the date of the act(s) which constituted the offense(s).

(e) For the purposes of this subchapter, the terms “conviction” and “convicted of” shall include a conviction after a bench or jury trial, a guilty plea, a plea of *nolo contendere* or a finding of not guilty due to insanity or of guilty but mentally ill. Acceptance of Accelerated Rehabilitative Disposition (“ARD”) is regardless of whether the court considers it a conviction or a form of judgment without verdict.

§ 167.123. Reporting of crimes, disciplinary action and other matters.

(a) A notary public shall notify the Department of conviction of or acceptance of accelerated rehabilitative disposition in resolution of a felony or an offense involving fraud, dishonesty or deceit within 30 days of the disposition or on the next application for appointment and commission, whichever is sooner.

(b) A notary public shall notify the Department of disciplinary action in the nature of a final order taken against the notary’s commission by the commissioning authority of another state, territory or country within 30 days of receiving notice of the disciplinary action or on the next application for appointment and commission, whichever is sooner.

(c) A notary public shall notify the Department of a finding against, or admission of liability by, the notary public in any criminal, civil or administrative proceeding within 30 days of conclusion of the legal proceeding or on the next application for appointment and commission, whichever is sooner.

(d) A notary public shall notify the Department of a finding by the Pennsylvania Bar Association or the courts of Pennsylvania or the bar or courts of any other state or nation finding

that the notary has engaged in the unauthorized practice of law within 30 days of conclusion of the proceeding or on the next application for appointment and commission, whichever is sooner.

§ 167.124. Conduct providing the basis for disciplinary action.

(a) In addition to the acts and omissions specified by section 323(a) of the Act, the following acts or omissions demonstrate that an individual lacks the honesty, integrity, competence or reliability to act as a notary public:

- (1) Notarizing his or her own signature or statement or a spouse’s signature or statement.
- (2) Notarizing records in blank.
- (3) Post-dating or pre-dating notarial acts.
- (4) Altering a document after it has been notarized.
- (5) Issuing to the order of any State agency or the Commonwealth a personal check without sufficient funds on deposit.
- (6) Performing a notarial act within the Commonwealth when the person was not commissioned as a notary public or was otherwise not authorized to perform a notarial act.
- (7) Performing a notarial act in another state pursuant to the authority of the notary public’s Pennsylvania commission.
- (8) Making a representation that the notary public has powers, qualifications, rights or privileges that the notary public does not have.
- (9) Use of the term “notario,” “notario publico,” “notario publica” or any non-English equivalent term in a manner which misrepresents the authority of the notary public.
- (10) Engaging in the unauthorized practice of any regulated profession, including but not limited to law.
- (11) Endorsing or promoting a product, service, contest or other offering by using the notary public’s title or official stamp.
- (12) Failure to require the physical presence of an individual making a statement in or executing a signature on a record.
- (13) Failure to have personal knowledge or satisfactory evidence of the identity of an individual appearing before the notary.
- (14) Executing a notarial certificate that contains a statement known to the notary public to be false.
- (15) Using the notary public’s official stamp for a purpose other than to perform a notarial act.
- (16) Relating to commercial protests as defined in 13 Pa.C.S. §3505(b), failure to identify the negotiable instrument, certify either that presentment has been made or, if not made, the reason why it was not made, and certify that the instrument has been dishonored by nonacceptance or nonpayment, or any combination of the above.
- (17) Issuance of a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in 13 Pa.C.S. §3505(b)) that was owned or held for collection by a financial institution, trust company or investment company when the notary public was a party to the commercial paper in an individual capacity.
- (18) Issuance of a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in 13 Pa.C.S. §3505(b)) of a non-commercial

or other record that does not fit the definition of negotiable instrument as defined in 13 Pa.C.S. §3104.

(19) Issuance of a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in 13 Pa.C.S. §3505(b)) in a manner not in accordance with 13 Pa.C.S. §3505.

(20) Submission of the following types of records to the Department of State or Secretary of the Commonwealth in reply to correspondence from the Department or other government agency or initiating proceedings through the following record types:

(A) Conditional Acceptance, or a similar record purporting to “conditionally accept” presentment of an official record, and demanding proof of a list of claims in order to fully accept the official record.

(B) Affidavit in Support of Conditional Acceptance, or a similar record purporting to attest to the facts of a record and signed by the same notary public who is attesting.

(C) Notice of Dishonor, or a similar record purporting to give notice that a Conditional Acceptance has not been accepted by the government agency to which it was sent and thereby was dishonored.

(D) Accepted for Value, or similar stamp or certificate purporting to accept for a disclosed or undisclosed value an official record sent to the notary public by the Department of State, Secretary of the Commonwealth or other governmental agency. The certificate claims to establish an amount of money payable or accrued to the signor of the certificate.

(E) Notice of Protest, or a similar record purporting to be a Protest of Commercial Paper that has been dishonored, when said Commercial Paper is not, in fact, a negotiable instrument under Division 3 of Title 13 of the Pennsylvania Consolidated Statutes and subject to the laws stated therein regarding dishonor and protest.

(F) Other records attempting to apply Division 3 of Title 13 of the Pennsylvania Consolidated Statutes to non-negotiable instruments or other records not included in the scope of said chapter.

(G) Other record type purporting to follow the Uniform Commercial Code (UCC) and not related to a filing pursuant to Division 9 of Title 13 of the Pennsylvania Consolidated Statutes.

#### § 167.125. Factors considered in disciplinary action

When determining whether to deny an application or take disciplinary action against a notary public, the Department may consider a variety of factors including:

(1) Nature, number and severity of any acts, offenses, official misconduct or crimes under consideration;

(2) Evidence pertaining to the honesty, credibility, truthfulness, and integrity of the applicant or notary public;

(3) Actual or potential monetary or other harm to the general public, group, individual, or client;

(4) History of complaints received by the Department;

(5) Prior disciplinary record or warning from the Department;

(6) Evidence in mitigation;

- (7) Evidence in aggravation;
- (8) Occupational, vocational, or professional license disciplinary record;
- (9) Evidence of rehabilitation, such as reference letters and proof of class attendance;
- (10) Criminal record;
- (11) Reports from law enforcement agencies;
- (12) Willfulness;
- (13) Negligence.

§ 167.126. Unauthorized practice of law

(a) In determining whether a notary public has assisted a person in drafting legal records, gave legal advice or is otherwise practicing law (in violation of section 325 of the Act), the Department will take into consideration the factors in Pennsylvania Bar Association Unauthorized Practice of Law (UPL) Committee Formal Opinion 2006-01 or any successor document to that opinion.

(b) Among the acts which constitute the practice of law are the preparation, drafting, or selection or determination of the kind of any legal document, or giving advice in relation to any legal documents or matters.

(c) No person who represents himself in a legal matter shall be considered to have engaged in the unauthorized practice of law.

§ 167.127. Advertising

For the purpose of the statements required by section 325(d) of the Act (relating to representations), the term “prominently” in (d)(ii) means that the entire “I am not an attorney” statement must be in at least 10 point type and the term “prominently” in (d)(iii) means that the entire “I am not an attorney” statement must be displayed in an area open and accessible to the public at the place of performance of the notarial act.