

## **REVISED UNIFORM LAW ON NOTARIAL ACTS TO TAKE EFFECT ON OCTOBER 26, 2017**

In accordance with the [Notice](#) published by the Pennsylvania Department of State (Department) in the Pennsylvania Bulletin on April 29, 2017, Act 73 of 2013, also known as the Revised Uniform Law on Notarial Acts (RULONA), will take effect on October 26, 2017.

Please find a summary of the major changes instituted by RULONA below. You may also find a copy of the new law [here](#).

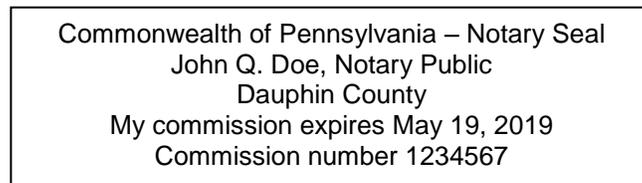
On October 26, 2017, all provisions of RULONA will be effective, including the following:

- **Education** – All notaries must take a notary education course to be appointed or reappointed. RULONA requires all applicants for both initial appointment and reappointment as a notary public to complete at least three hours of approved notary education within the six months immediately preceding the application for appointment or reappointment. A copy of the course completion certificate must be submitted with the application for appointment/reappointment. Lack of proof of education will result in application rejection. Under RULONA, the exemption previously available for notaries whose commission was in effect on July 1, 2003, is abolished. All notaries public are required to complete an approved notary education course in order to be appointed or reappointed, including those notaries previously “grandfathered” by the Tritt v. Cortés court ruling.
- **Examination** – An applicant who does not hold a current and unexpired notary commission in Pennsylvania must pass an examination administered by the Department’s examination vendor, [Pearson VUE](#). This includes applicants who have never held notary commissions and all applicants who previously held notary commissions but whose commissions have lapsed or expired at the time their application for reappointment is received by the Department, even just for one day. The examination is based on the basic education course of study, which must cover the statutes, regulations, procedures and ethics relevant to notarial acts, with a core curriculum including the duties and responsibilities of the office of notary public and electronic notarization.

After the Department’s review and approval of their notary application, applicants who are required to take the examination will be provided with information via email on Pearson VUE’s testing procedures and sites. The examination will be a computer-based test offered at Pearson VUE test centers in nearly all Pennsylvania counties. The cost of the examination is \$65 per test. Notary applicants have six months from the time they are authorized to sit for the examination to successfully pass the test. They may take it as many times as needed within the six-month period. Examination results will be electronically reported to the Department by Pearson VUE. Applicants successfully completing the examination will be appointed as notaries public by the Department. Applicants who are unable to pass the examination within six months will be required to retake the basic education course and reapply for appointment and commission to the Department.

- **Notarial Acts** – The six enumerated notarial powers authorized by RULONA are:
  - Taking an acknowledgment
  - Administering an oath or affirmation
  - Taking a verification on oath or affirmation (includes an affidavit)
  - Witnessing or attesting a signature – *note that this is a new notarial act*
  - Certifying or attesting a copy or deposition – *note that “taking a deposition” is no longer an enumerated notarial act*
  - Noting a protest of a negotiable instrument
- **Notary Stamp** – The official stamp of the notary (formerly called the notary seal) must contain, in the following order:
  - The words “Commonwealth of Pennsylvania”
  - The words “Notary Seal”
  - The name as it appears on the commission of the notary public and the words “Notary Public”
  - The name of the county in which the notary public maintains an office
  - The date the notary public's commission expires
  - The notary commission number

The stamp will no longer contain the municipality in which the notary maintains an office. “Commonwealth of Pennsylvania” is added to the stamp. The proposed regulations of the Department require the inclusion of the notary commission number on the stamp. This is an example of a RULONA-compliant stamp:



The size of the stamp remains the same (a maximum height of 1 inch and a width of 3 ½ inches with a plain border). Use of an embosser remains optional.

*Transitional provision:* A notary public who holds a commission on the effective date of RULONA may continue to use his or her seal until the expiration of that commission, which may occur after the effective date of both RULONA and the Department’s regulations.

- **Notary Journal** – The notary journal (formerly called a register) must contain all the following information for each notarial act:
  - The date and time of the notarial act
  - A description of the record, if any, and type of notarial act
  - The full name and address [city and state only] of each individual for whom the notarial act is performed

- If identity of the individual is based on personal knowledge, a statement to that effect
- If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and any identification credential presented, including the date of issuance and expiration of an identification credential
- The fee charged by the notary public

Note the new requirements that the journal record the time of day of the notarial act, the customer's address, whether identification was based on personal knowledge or satisfactory evidence and the type of identification credential presented.

A journal may be created on a tangible medium (paper) or in an electronic format. A notary public may maintain a separate journal for tangible records and for electronic records. If the journal is maintained on a tangible medium, it must be a bound register with numbered pages. If the journal is maintained in an electronic format, it must be in a tamper-evident electronic format complying with the regulations of the department.

*Transitional provision:* A notary public who holds a commission on the effective date of RULONA may continue to use his or her journal until the expiration of that commission, which may occur after the effective date of both RULONA and the Department's regulations.

- **Personal appearance** – The rule on personal appearance remains the same under RULONA: If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer. This means the customer must be physically present before the notary when the notarial act is executed. The notary and the customer must be able to see, hear, communicate with, and give identification documents to each other without the use of electronic devices. There are no exceptions, even for electronic notarization.
- **Identification of individual/customer** – The identity of the customer is still ascertained by personal knowledge or satisfactory evidence of identity, as it was under the former law. Satisfactory evidence includes a verification on oath or affirmation of a credible witness personally appearing before the notarial officer and personally known to the notarial officer. However, RULONA specifies the two tiers of government-issued identification documents to be used to establish identity:
  - A passport, driver's license or government-issued nondriver identification card, which is current and unexpired.
  - Another form of government identification issued to an individual, which:
    - (a) is current;
    - (b) contains the signature or a photograph of the individual; and
    - (c) is satisfactory to the notarial officer.

- **Notarial Certificates** – RULONA provides the short form certificate for each type of notarial act. RULONA replaces the acknowledgement certificates in the Uniform Acknowledgement Act, which is repealed.
- **Eligibility for appointment and commission as a notary public** – An applicant must meet all the following:
  - Be at least 18 years of age.
  - Be a citizen or permanent legal resident of the United States.
  - Be a resident of or have a place of employment or practice in this Commonwealth.
  - Be able to read and write English.
  - Not be disqualified to receive a commission under section 323 (relating to sanctions).
  - Have completed three hours of approved notary education.
  - Have passed an examination, if the applicant does not hold a commission at the time the application is received by the Department, and
  - Comply with other requirements established by the Department by regulation as necessary to insure the competence, integrity and qualifications of a notary public and to insure the proper performance of notarial acts.
- **Disqualification to receive a commission** – The rule remains the same under RULONA. Applicants may not be:
  - A member of the General Assembly.
  - Any person holding any judicial office in this Commonwealth, except the office of magisterial district justice.
  - A member of Congress or any elected or appointed federal official.
- **Other disqualifications** – The reasons that the Department may discipline or deny appointment and commission as notary public have been broadened to include an act or omission which demonstrates that the individual lacks the honesty, integrity, competence or reliability to act as a notary public. Such acts or omissions include:
  - Failure to comply with RULONA
  - A fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public submitted to the department
  - Conviction of or acceptance of Accelerated Rehabilitative Disposition by the applicant or notary public for a felony or an offense involving fraud, dishonesty or deceit
  - A finding against or admission of liability by the applicant or notary public in a legal proceeding or disciplinary action based on the fraud, dishonesty or deceit of the applicant or notary public
  - Failure by a notary public to discharge a duty required of a notary public, whether by this chapter, by regulation of the department or by Federal or State law
  - Use of false or misleading advertising or representation by a notary public representing that the notary public has a duty, right or privilege that the notary public does not have

Violation by a notary public of a regulation of the department regarding a notary public

Denial, refusal to renew, revocation, suspension or conditioning of a notary public commission in another state

Failure of a notary public to maintain a bond

- **Penalties** – The Department may impose an administrative penalty of up to \$1,000 on a notary public for each act or omission which constitutes a violation of RULONA or the Department’s regulations. This is an increase from the \$500 per violation in the former law. RULONA also contains new criminal penalties: any person violating RULONA or a regulation of the Department commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000.
- **Notary Bond** – All appointed notaries must still obtain a \$10,000 bond. The bond must be executed by an insurance company authorized to do business in this Commonwealth, cover acts performed during the term of the notary public commission and be in the form prescribed by the Department. This requirement is unchanged except that individual sureties are no longer permitted under RULONA.
- **Obtaining the Notary Commission after Appointment** – The process remains the same under RULONA. Prior to entering into the duties of a notary public, an appointed notary public must take the oath of office and record the completed bond, oath and commission in the office of the Recorder of Deeds in the county where the notary’s employer/business address is located. The notary must also register his/her signature with the Prothonotary’s office in the county where the notary’s employer/business address is located. If the appointee fails to complete these steps within forty-five (45) calendar days of appointment, the notary commission will be automatically null and void, and the individual will be required to reapply to become a notary public.
- **Application fee** – The fee paid to the Department of State with each notary application will increase from \$40 to \$42. However, the \$2 fee charged to notaries by counties and forwarded to the Department for the filing of the notary public bond is eliminated.
- **Notary fees** – The maximum fees which notaries public may charge remain unchanged, but a new fee of \$5 (per signature) has been added for the new notarial act of witnessing or attesting a signature. RULONA makes it clear that the fees of the notary are the property of the notary, and, unless mutually agreed by the notary public and the employer, shall not belong to or be received by the employer. RULONA also requires that unless a notary public waives the right to charge a fee, the notary must display fees in a conspicuous location in the place of business of the notary public; or provide fees, upon request, to a person utilizing the services of the notary public.
- **Conflict of interest** – Under RULONA, a notary public may not perform a notarial act with respect to a record in which the notary public *or the notary’s spouse* has a direct or pecuniary (i.e. monetary) interest. The prior law did not include the spousal conflict.

- **Advertising** – RULONA contains explicit prohibitions on engaging in false or deceptive advertising. A notary public may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice or otherwise practice law.

If a notary public who is not a licensed Pennsylvania attorney advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media and the Internet, the notary shall include the following statement in the advertisement or representation, prominently and in each language used in the advertisement or representation:

I am not an attorney licensed to practice law in this Commonwealth.

I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities.

If the form of advertisement or representation is not broadcast media, print media or the Internet and does not permit inclusion of the above statement because of size, the statement shall be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

- **Practice of law/use of the terms “notario” or notario publico** – Under RULONA, a notary public may not use the term “notario” or “notario publico” unless he or she is an attorney at law.
- **Electronic notarization** – RULONA continues the existing authority and procedures for performing notarial acts with respect to electronic records. A notary public must apply for e-notary status and select one or more Department-approved tamper-evident technologies to perform notarial acts with respect to electronic records.

April 29, 2017

Revised May 24, 2017

Revised October 10, 2017