

COLORADO SECRETARY OF STATE

[8 CCR 1505-11]

Notary Program Rules

Rules as Adopted – Clean

January 14, 2022

(Publication instructions/notes:)

Current 8 CCR 1505-11 is amended as follows:

Amendments to Rule 3 concerning vendors and course providers:

[Current Rule 3.6.5 and 3.6.5(a) are amended. New Rule 3.6.5(b). Current Rule 3.6.5(b) is renumbered as New Rule 3.6.5(c).]

- 3.6.5 Right to respond to and cure noncompliance and right to hearing before terminating, suspending, or imposing conditions on accreditation or approval.
- (a) Except in cases of deliberate and willful violation or of substantial danger to the public health and safety, the Secretary of State will provide a vendor or course provider with written notice, an opportunity to respond in writing, and a reasonable opportunity to comply with all lawful requirements that may warrant agency proceedings to terminate, suspend, or impose conditions on an existing accreditation of a vendor or approval of a course provider before instituting such proceedings in accordance with the State Administrative Procedure Act (Article 4 of Title 24, C.R.S.).
 - (b) Except in cases of deliberate and willful violation or that the public health, safety, or welfare imperatively require emergency action, the Secretary of State will not terminate, suspend, or impose conditions on an existing accreditation of a vendor or approval of a course provider until after holding a hearing in accordance with the State Administrative Procedure Act (Article 4 of Title 24, C.R.S.).
 - (c) Termination does not bar the Secretary of State from beginning or continuing an investigation concerning the vendor or course provider.

Amendments to Rule 5 concerning remote notarization system and storage providers:

[New Rule 5.3.5. Current Rules 5.3.5, 5.3.6, and 5.3.7 are renumbered as Rules 5.3.6, 5.3.7, and 5.3.8.]

- 5.3.5 Deficient provider application. If the Secretary of State denies approval of an applicant, the Secretary of State will notify the applicant of any application deficiencies. A rejected applicant may request a hearing in accordance with the State Administrative Procedure Act (Article 4 of Title 24, C.R.S.)
- 5.3.6 Notifications
- (a) If a remote notarization system provider or storage provider becomes aware of a possible security breach involving its data, the provider must give notice to both

the Secretary of State and each Colorado remote notary public using its services no later than 30 days after the date of determination that a security breach occurred. The provider must comply with any other notification requirements of Colorado's data privacy laws.

- (b) No later than 30 days before making any changes to the remote notarization system or storage system used by Colorado remote notaries that would impact any previously provided answer in its application about its system that would affect the provider's eligibility for approval, a provider must both request approval from the Secretary of State and notify each Colorado remote notary public using its services. Changes to the system or storage must conform to statutory and rule requirements.
- (c) For non-system or storage-related changes to the provider's information on file with the Secretary of State, the provider must notify and update information provided to the Secretary of State no later than 30 days after changes to the provider's previously supplied information. This requirement includes changes to the disclosures required by Rule 5.3.2(b)(2).

5.3.7 Complaints. A person may file a complaint with the Secretary of State against an approved provider. The complaint must allege a specific violation of Colorado's Revised Uniform Law on Notarial Acts or these rules. The person must submit the signed and dated complaint on the Secretary of State's standard form.

5.3.8 Grounds for termination of approval. The Secretary of State may terminate approval of a provider for any of the following reasons:

- (a) Violation of any provision of Colorado's Revised Uniform Law on Notarial Acts or these rules;
- (b) Making representations that the Secretary of State endorses, recommends, or mandates use of any of the provider's products, goods, or services;
- (c) If the provider sustains a data breach; and
- (d) Failure to timely respond to the Secretary of State's request for information or otherwise cooperate with an investigation, including providing requested information.

[Current Rule 5.3.8 is renumbered as Rule 5.3.9. Current Rule 5.3.9(a) is amended. New Rule 5.3.9(b). Current Rule 5.3.9(b) is renumbered as Rule 5.3.9(c).]

5.3.9 Right respond to and cure noncompliance and right to hearing before terminating, suspending, or imposing conditions on approval.

- (a) Except in cases of deliberate and willful violation or of substantial danger to the public health and safety, the Secretary of State will provide a remote notarization system or storage provider with written notice, an opportunity to respond in writing, and a reasonable opportunity to comply with all lawful requirements that may warrant agency proceedings to terminate, suspend, or impose conditions on an existing approval before instituting such proceedings in accordance with the State Administrative Procedure Act (Article 4 of Title 24, C.R.S.).
- (b) Except in cases of deliberate and willful violation or that the public health, safety, or welfare imperatively require emergency action, the Secretary of State will not

terminate, suspend, or impose conditions on an existing approval of a remote notarization system or storage provider until after holding a hearing in accordance with the State Administrative Procedure Act (Article 4 of Title 24, C.R.S.).

- (c) Termination does not bar the Secretary of State from beginning or continuing an investigation concerning the provider.