



Notice of Proposed Rulemaking

Colorado Department of State Notary Program Rules 8 CCR 1505-11

Date of Notice: July 1, 2022

Date and Time of Public Hearing: August 16, 2022, at 11 a.m.

I. Hearing Notice

As required by the State Administrative Procedure Act,¹ the Department of State gives notice of proposed rulemaking. The hearing is scheduled for **August 16, 2022, at 11a.m.** in the Red Rocks Conference Room on the 5th floor of the Department of State's office at 1700 Broadway, Denver, CO 80290. **This meeting will be conducted in person and via webinar.** Details regarding how to join the webinar and testify during the hearing are outlined in section VI of this notice.

II. Subject

The Department is considering amendments to the Colorado Department of State Notary Program Rules² to ensure the uniform and proper administration, implementation, and enforcement of the Revised Uniform Law on Notarial Acts (RULONA)³. The Department may consider additional rule amendments including revisions necessary to eliminate obsolete provisions; simplify the language of existing rules; remove language that is duplicative of statute or constitutional provisions; and ensure consistency with Department rulemaking standards.

A detailed Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Statutory Authority

The Department proposes the rule revisions and amendments in accordance with the following statutory provisions:

¹ Section 24-4-103(3)(a), C.R.S. (2021).

² 8 CCR 1505-11.

³ Article 21 of Title 24, Part 5, C.R.S. (2021).

- Section 24-21-527(1), C.R.S., (2021), which authorizes the Secretary of State to “adopt rules to implement this part 5 [the Revised Uniform Law on Notarial Acts] in accordance with article 4 of this title 24 [the State Administrative Procedure Act].”
- Section 24-21-527(1)(a), C.R.S., (2021), which authorizes the Secretary of State to “[p]rescribe the manner of performing notarial acts regarding tangible and electronic records[.]”
- Section 24-21-527(1)(e), C.R.S., (2021), which authorizes the Secretary of State to “[i]nclude provisions to prevent fraud or mistake in the performance of notarial acts[.]”
- Section 24-21-527(1)(g), C.R.S., (2021), which authorizes the Secretary of State to “[p]rescribe the manner of performing notarial acts using audio-video communication technology, including provisions to ensure the security, integrity, and accessibility of records relating to those acts[.]”
- Section 24-21-509(2), C.R.S., (2021), which permits a notary public to “use signals or electronic or mechanical means to take an acknowledgment from, administer an oath or affirmation to, or otherwise communicate with any individual in the presence of the notary public when it appears that the individual is unable to communicate verbally or in writing.”

IV. Copies of Draft Rules

A preliminary draft of the proposed rules is posted on the Colorado Department of State’s rules and notices of rulemaking website at:

https://coloradosos.gov/pubs/rule_making/hearings/2022/NotaryRulesHearing20220816.html.

You may also contact our office to request an editable electronic copy of the draft rules.

As required by the State Administrative Procedures Act,⁴ if changes are made before the hearing, revised proposed draft rules will be available to the public and posted on the website by **August 11, 2022**.

V. Opportunity to Testify and Submit Written Comments

The Department values your feedback in our rulemaking process, and we would very much like to hear your thoughts on the proposed amendments. Please review and consider the attached proposed draft rules.

Everyone will have the opportunity to testify and provide written comments concerning the rule amendments. You may submit written comments to SoS.Rulemaking@coloradosos.gov any time before and during the hearing. If you attend the hearing in person, you may submit written comments to the hearing panel as well. An additional opportunity to comment in writing will be

⁴ Section 24-4-103(3)(a), C.R.S. (2021). “Any proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing.”

announced at the conclusion of the hearing. Information regarding how to testify via webinar during the webinar hearing is provided in section VI of this notice.

As soon as possible after receipt, written comments will be posted online at the Department of State website:

https://coloradosos.gov/pubs/rule_making/hearings/2022/NotaryRulesHearing20220816.html.

We will redact apparent personal contact information, including home address, email address, and telephone number(s), from submissions before posting the information online, unless otherwise directed by the contributor. All written comments will be added to the official rulemaking record.

VI. Webinar and Audio Recording of Hearing

Register for the webinar hearing

To join and listen to the hearing, you must register for the webinar online: <https://register.gotowebinar.com/register/6104818834951685135>.

When you register, you must provide your full name and email address. Please provide additional contact information including your address and telephone number. You may also provide your job title and organization. Lastly, indicate whether you plan to testify during the hearing. When you submit your registration, you should receive a confirmation email including details about how to join the webinar.

Hybrid hearing procedures

At the beginning of the hearing, we will mute all public participants attending online. After the introduction and a brief summary of the rulemaking, we will open the hearing to testimony as follows:

- For the sake of efficiency, those who are attending this hearing in person will be called upon first to provide their public comment. We will reference the sign-up sheet provided and individually call upon participants who wish to provide their testimony. Once we have exhausted the sign-up sheet, we will move forward with the testimony of online participants.
- Referencing webinar registration records, we will identify and individually unmute online participants who indicated that they plan to testify during the hearing.
- When we exhaust the list, we will ask whether any additional attendees wish to testify. In-person attendees may raise their hands to indicate their intention to testify, and online attendees may raise/lower their hand by clicking the icon in their control panel.
- To ensure that the hearing is prompt and efficient, oral testimony may be time limited.

Before the hearing concludes, we will announce an additional opportunity to submit written comments and the associated deadline.

Webinar audio requirements

Please be advised: we strongly encourage attendees to join the webinar through their computer or GoToWebinar app, even if they use their telephone to dial in for audio. To testify during the hearing, it is best to use your computer microphone and speakers or a headset or headphones. As outlined above, we will first receive online testimony from attendees whose registration indicates that they plan to provide testimony and then we will offer attendees the option to raise their hand. If you access the webinar only by telephone, you may not appear in our webinar attendee list, meaning we may not be able to unmute you. Moreover, the raise your hand feature is only available to attendees who access the webinar by computer or by app.

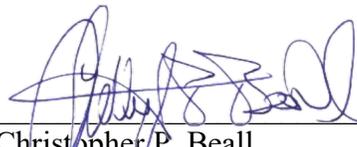
Audio recording

After the hearing concludes, a recording will be available on our audio broadcasts page here: https://www.coloradosos.gov/pubs/info_center/audioBroadcasts.html.

VII. Office Contact

If you have any questions or would like to submit written comments, please contact the Department Rulemaking Program Assistant at SoS.Rulemaking@coloradosos.gov.

Dated this 1st of July 2022,



Christopher P. Beall
Deputy Secretary of State

For

Jena Griswold
Colorado Secretary of State



Draft Statement of Basis, Purpose, and Specific Statutory Authority

Department of State Notary Program Rules 8 CCR 1505-11

July 1, 2022

I. Basis and Purpose

This statement explains amendments to the Colorado Department of State Notary Program Rules. The purpose of the changes is to ensure the uniform and proper administration, implementation, and enforcement of the Colorado Revised Uniform Law on Notarial Acts (RULONA)¹. Specifically, the changes include:

- Amendments to Rule 2.3 to clarify the exception that authorizes the use of an interpreter for deaf, hard of hearing, and deafblind individuals during notarial acts.

II. Rulemaking Authority

The statutory authority is as follows:

- Section 24-21-527(1), C.R.S., (2021), which authorizes the Secretary of State to “adopt rules to implement this part 5 [the Revised Uniform Law on Notarial Acts] in accordance with article 4 of this title 24 [the State Administrative Procedure Act].”
- Section 24-21-527(1)(a), C.R.S., (2021), which authorizes the Secretary of State to “[p]rescribe the manner of performing notarial acts regarding tangible and electronic records[.]”
- Section 24-21-527(1)(e), C.R.S., (2021), which authorizes the Secretary of State to “[i]nclude provisions [in rules] to prevent fraud or mistake in the performance of notarial acts[.]”
- Section 24-21-527(1)(g), C.R.S., (2021), which authorizes the Secretary of State to “[p]rescribe the manner of performing notarial acts using audio-video communication technology, including provisions to ensure the security, integrity, and accessibility of records relating to those acts[.]”

¹ Article 21, Title 24 of the Colorado Revised Statutes.

- Section 24-21-509(2), C.R.S., (2021), which permits a notary public to “use signals or electronic or mechanical means to take an acknowledgment from, administer an oath or affirmation to, or otherwise communicate with any individual in the presence of the notary public when it appears that the individual is unable to communicate verbally or in writing.”

Preliminary Draft of Proposed Rules

Colorado Department of State Notary Program Rules 8 CCR 1505-11

July 1, 2022

Disclaimer:

In accordance with the State Administrative Procedure Act, this draft is filed with the Colorado Department of State and submitted to the Department of Regulatory Agencies.¹

This is a preliminary draft of the proposed rules that may be revised before the **August 16, 2022**, rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State's website no later than **August 11, 2022**.²

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
Strikethrough	Deletions
<i>[Italic blue font text]</i>	Annotations

1 *Current 8 CCR 1505-11 is amended as follows:*

2 *Amendments to Rule 2.3 regarding interpreters for deaf, hard of hearing, or deafblind individuals:*

3 2.3 Communication

4 2.3.1 A notary public must be able to communicate directly with, be understood by, and
5 understand the individual for whom the notary public is performing a notarial act.

6 2.3.2 WITH THE EXCEPTION OF USE OF AN INTERPRETER FOR DEAF, HARD OF HEARING, OR DEAFBLIND
7 INDIVIDUALS, A A notary public may not use AN INTERPRETER, a translator, or ~~translator~~
8 RELATED services to communicate with the individual for whom the notary public is
9 performing a notarial act. This prohibition applies to all methods of notarization, including
10 electronic and remote notarization, authorized by The Revised Uniform Law on Notarial
11 Acts (Title 24, Article 24, Part 5, C.R.S.).

12 2.3.3 IN ACCORDANCE WITH SECTION 6-1-707(1)(E)(I), C.R.S., AN INTERPRETER FOR DEAF, HARD OF
13 HEARING, OR DEAFBLIND INDIVIDUALS MUST HOLD EITHER:

14 (A) A VALID CERTIFICATION ISSUED BY THE REGISTRY OF INTERPRETERS FOR THE DEAF, INC.
15 OR A SUCCESSOR ENTITY; OR

¹ Sections 24-4-103(2.5) and (3)(a), C.R.S. (2021). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

² Section 24-4-103(4)(a), C.R.S. (2021). “[A]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing.”

1 (B) A VALID CERTIFICATION FOR SIGN LANGUAGE INTERPRETATION APPROVED BY THE
2 COLORADO COMMISSION FOR THE DEAF, HARD OF HEARING, AND DEAFBLIND.

3 2.3.4 THE INTERPRETER MUST NOT HAVE A DISQUALIFYING INTEREST. FOR THE PURPOSES OF THIS
4 RULE 2.3.4, AN INTERPRETER HAS A DISQUALIFYING INTEREST IN A RECORD IF:

5 (A) THE INTERPRETER OR THE INTERPRETER'S SPOUSE, PARTNER IN A CIVIL UNION,
6 ANCESTOR, DESCENDENT, OR SIBLING IS A PARTY TO OR IS NAMED IN THE RECORD THAT
7 IS TO BE NOTARIZED; OR

8 (B) THE INTERPRETER OR THE INTERPRETER'S SPOUSE OR PARTNER IN A CIVIL UNION MAY
9 RECEIVE DIRECTLY, AND AS A PROXIMATE RESULT OF THE NOTARIZATION, ANY
10 ADVANTAGE, RIGHT, TITLE, INTEREST, CASH, OR PROPERTY EXCEEDING IN VALUE THE
11 SUM OF ANY FEE FOR INTERPRETER SERVICES.