



Notice of Permanent Adoption

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

June 30, 2023

I. Adopted Rule Amendments

As authorized by Colorado Revised Uniform Law on Notarial Acts (RULONA)¹ and the State Administrative Procedure Act², the Colorado Department of State gives notice that the following amendments to the Notary Program Rules³ are adopted on a permanent basis.

The following rules were considered at the June 20, 2023, rulemaking hearing in accordance with the State Administrative Procedure Act⁴.

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 and publication notes

Current 8 CCR 1505-11 is amended as follows:

Amendments to Rule 2.3, removing language that prohibits the use of a verbal-language interpreter during a notarial act and language that is duplicative to statute:

2.3 Communication

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

2.3.2 ~~With the exception of use of an interpreter for deaf, hard of hearing, or deafblind individuals, a notary public may not use an interpreter, a translator, or related services to communicate with the individual for whom the notary public is performing a notarial act. This prohibition applies to all methods of notarization, including electronic and remote~~

¹ Article 21 of Title 24, Part 5, C.R.S. (2022).

² Section 24-4-103(3)(a), C.R.S. (2022).

³ 8 CCR 1505-11.

⁴ Section 24-4-103(3)(a), C.R.S. (2022).

~~notarization, authorized by the Revised Uniform Law on Notarial Acts (Title 24, Article 24, Part 5, C.R.S.).~~

~~2.3.3.2~~ In accordance with section 6-1-707(1)(e)(I), C.R.S., an interpreter for deaf, hard of hearing, or deafblind individuals must hold either:

- (a) A valid certification issued by the Registry of Interpreters for the Deaf, Inc. or a successor entity; or
- (b) A valid certification for sign language interpretation approved by the Colorado Commission for the Deaf, Hard of Hearing, and DeafBlind.

~~2.3.4~~ ~~The interpreter must not have a disqualifying interest. For the purposes of this Rule 2.3.4, an interpreter has a disqualifying interest in a record if:~~

- ~~(a) The interpreter or the interpreter's spouse, partner in a civil union, ancestor, descendant, or sibling is a party to or is named in the record that is to be notarized; or~~
- ~~(b) The interpreter or the interpreter's spouse or partner in a civil union may receive directly, and as a proximate result of the notarization, any advantage, right, title, interest, cash, or property exceeding in value the sum of any fee for interpreter services.~~

Amendments to Rule 5.2.7, regarding the fee a remote notary may charge for their electronic signature:

5.2.7 In accordance with section 24-21-529(2), C.R.S., a remote notary may charge a fee, not to exceed ~~ten~~TWENTY-FIVE dollars, for the notary's electronic signature.

Amendments to Rule 5.3.1(a)(2), updating the URL to the Secretary of State's office Notary Public webpage:

5.3.1 Provider Protocols

- (a) The Colorado Secretary of State's Provider Protocols (December 1, 2020) are hereby incorporated by reference.
 - (1) Material incorporated by reference in the Notary Rules does not include later amendments or editions of the incorporated material.
 - (2) Copies of the material incorporated by reference may be obtained by contacting the Colorado Department of State, 1700 Broadway, Suite 550, Denver, CO 80290, (303) 894-2200. Copies are also available online at <https://www.sos.state.co.us/pubs/notary/home.html>
<HTTPS://WWW.COLORADOSOS.GOV/PUBS/NOTARY/HOME.HTML>.

Amendments to Rule 5.3.3, including New Rule 5.3.3(a)(6), establishing that a remote notarization system provider must annually renew with the Secretary of State's office to maintain continuing eligibility:

5.3.3 Criteria and standards for approval of remote notarization system providers.

- (a) In order to be approved and maintain continuing eligibility, a remote notarization system provider must:

- (1) Provide a remote notarization system that complies with the technical specifications of these rules and the standards, including data security and integrity requirements, set forth in the Secretary of State's Provider Protocols under Rule 5.3.1;
- (2) Verify the authorization of a Colorado notary public to perform remote notarial acts before each remote notarization;
- (3) Suspend the use of its remote notarization system for any remote notary public if the notary's underlying commission or the Secretary of State's approval of the notary public to perform remote notarizations has been denied, suspended, or revoked by the Secretary or when the notary has resigned;~~and~~
- (4) Ensure that access to a remote notary public's electronic signature and seal is limited solely to the remote notary public and protected by the use of a password authentication, token authentication, biometric authentication, or other form of authentication that is described in the remote notarization system provider's application;
- (5) Verify that a Colorado remote notary public has Active status with the Secretary of State's office at the time of each remote notarization.; AND
- (6) ANNUALLY RENEW ITS REGISTRATION WITH THE SECRETARY OF STATE'S OFFICE AND PAY THE REQUIRED FEE.

[No changes to subsections (b)-(e).]

Amendments to Rule 5.3.3(f), concerning a grammatical change:

- (f) Data Storage and security.

A remote notarization system provider must provide a storage system that complies with the technical specifications of these rules and the standards, including data security and integrity protocols, set forth in the ~~secretary of state's~~ SECRETARY OF STATE'S Provider Protocols under Rule 5.3.1.

II. Basis, Purpose, and Specific Statutory Authority


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

III. Effective Date of Adopted Rules

The rules will become permanently effective twenty days after publication in the Colorado Register.⁵

⁵ Section 24-4-103(5), C.R.S. (2022).

Dated this 30th day of June 2023,



Christopher P. Beall
Deputy Secretary of State

For

Jena Griswold
Colorado Secretary of State



Statement of Basis, Purpose, and Specific Statutory Authority

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

June 30, 2023

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 remove language that prohibits the use of verbal-language interpreters during a notarial act and language that is duplicative to statute, in accordance with SB23-153.
- Amendments to Rule 5.2.7 clarify that the fee a notary may charge for their electronic signature has increased from ten dollars to twenty-five dollars, in accordance with SB23-153.
- Amendments to Rule 5.3.1 update the Department of State's Notary Public webpage URL.
- Amendments to Rule 5.3.3, including New Rule 5.3.3(a)(6), clarify the requirement that remote notarization system providers must annually renew their registrations with the Secretary of State's Office to maintain continuing eligibility.

Other changes to rules not specifically listed are non-substantive and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

Written comments received during the formal rulemaking are available online at: https://www.coloradosos.gov/pubs/rule_making/hearings/2023/NotaryRulesHearing20230620.html. All comments are incorporated into the official rulemaking record.

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

II. Rulemaking Authority

The statutory authority is as follows:

- Section 24-21-509(2), C.R.S., (2022), 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.”
- Section 24-21-527(1), C.R.S., (2022), 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., (2022), 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., (2022), 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., (2022), 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 24-21-527(1)(h), C.R.S., (2022), which the authorizes the Secretary of State to “[p]rescribe requirements for the approval and use of remote notarization systems and storage systems.”