

**From:** Sharon Spence  
**To:** [SoS Rulemaking](#)  
**Subject:** Comments - working draft notary rules  
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1. The Number One rule change would be to prohibit Colorado notaries from identifying representative capacity or any capacity other than individual in their notarial certificates. As it is now, and is proposed in the new Notary Handbook, CO law forces notaries to identify all capacities that a signer may hold, including trustee, marital status, POA, business titles, etc. by providing varying sample acknowledgments on how this is done. We notaries should have only one function in this regard and that is to identify the person whose signature we are notarizing. This is done by presentation of satisfactory evidence. We are in no position to identify anyone beyond individual capacity, no matter what the signer may attest. We cannot identify who is married to whom, if the person is an agent or officer of a particular corporation or in a partnership or is a trustee, a public officer or a personal representative. We have no way of knowing if someone is actually an attorney-in-fact on behalf of a principal. To force us to include such in our notarial certificates is way beyond any notarial responsibility and exposes us to legal danger. Example: We are called to court to testify in a matter in which our notarial certificate is being used. Our certificate says so-and-so are husband and wife. Or that so-and-so is authorized to sign for somebody else. The judge asks me how I know that, why it is included in my notarial certificate. I, of course, don't know anything about the person other than what is contained in their ID. But current CO law forces notaries to include capacities in our notarial certificates that we have absolutely no knowledge of nor have any reason to know. Please keep our function focused on identifying the person whose signature we are notarizing and not any representative capacity. Worse, the proposed Notary Handbook said the signer should "attest to his capacity/or legal authority," but sets forth no procedure or guidelines on how this is to be "attested." Then, the Handbook goes on to say it is not the notary's job "to research the (signer's) authority, make an ultimate determination or to draw any legal conclusions." Then why is it mandatory that our notarial certificates include such information? This makes no sense. Can't have it both ways. Please protect us. There should be only one acknowledgment form for every notarial certificate.

2. Raise the allowable notary fee from \$5 to \$10 per notarized signature.

3. Establish mandatory verbiage in all acknowledgments and jurats. The wide variety of wording notaries confront in prepared certificates is bewildering and leaves us notaries subject to the rules, whims and desires of other states or other entities. CO should set the standard for its notaries by requiring prescribed wording that all CO notaries must use in each certificate. Don't let others determine how CO notaries should complete their certificates. Don't let others set forth verbiage that a CO notary must use. It is the responsibility of the CO state legislature and the SOS to determine what notarial certificates its notaries should use. This goes way beyond merely making sure the venue, date, name of signer(s) and some form of the work "acknowledge" are completed.

4. Amend the current extremely lax rule covering jurats by requiring that the name of each signer be included in jurats. If we notaries are expected to deliver oaths or affirmations, the names of those to whom we have delivered these oaths and affirmations must appear in our jurats.

5. The new RULONA refers to notary "integrity." How does CO know that each of its tens of thousands notaries have "integrity"? Take their word for it? Require all notary applicants and renewing notaries to undergo background checks through the FBI and state/federal Departments of Justice, including fingerprinting, to ensure commissioned CO notaries do not have a current or criminal past and therefore are unlikely to take advantage of the people entrusting us with their private and sensitive personal information.

6. CO should require notarial law knowledge through professionally prepared tests. All new notaries should continue to be required to pass such tests. Renewing notaries should also. But don't waste our time and money on silly gotcha questions. And don't pad you department budget with required notary fees for a bunch of nonsensical and unnecessary testing .

7. The notary journal should always be in the personal possession the notary, No one else, including the notary's employer, should ever have random access to or possession of the journal. Dump the proposal that employers must maintain the journal. No person or entity should ever have possession of or access to a journal except a commissioned notary.

Sharon Spence  
20144004689

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