



NOTICE OF ADOPTION

Office of the Secretary of State
Notary Program Rules
8 CCR 1505-11

March 10, 2010

Pursuant to C.R.S. 12-55-103.5(2) and the rule-making provision of the State Administrative Procedure Act, C.R.S. 24-4-103, I, Bernie Buescher, Colorado Secretary of State, and notary commissioning authority, do hereby adopt and give **NOTICE** of the permanent rule adoption this 10th day of March, 2010 of the Secretary of State's Notary Program Rules (8 CCR 1505-11) as follows (additions to the current rules are reflected in SMALL CAPS and deletions from current rules are shown in ~~stricken type~~).

New Rule 7 is adopted as follows:

RULE 7 Notary Training

7.1 Definitions

- A. **“Approved Course of Instruction”** means a live classroom or webcast course that is approved by the secretary of state.
- B. **“Approved Vendor”** means a vendor approved by the secretary of state who provides an approved course of instruction to notaries and prospective notaries for a fee.
- C. **“Best Practices”** means notary practices that are not necessarily codified in statute or rule that encourage compliance with the notary law and promote proper notarization.
- D. **“Course Provider”** means a corporation, company, commercial enterprise, association, or educational institution that provides a course of instruction for its employees or members, usually free of charge, by using a curriculum provided by the secretary of state.
- E. **“New Applicant”** means a person who has never before been a commissioned notary in Colorado or a formerly commissioned notary in Colorado whose commission has expired by 31 days or more.

- F. **“Renewing Applicant”** means a notary who has submitted an application for a notary commission before a previous commission has expired or a notary whose commission has expired for no more than 30 days.

7.2 Notary Public Training and Examination

7.2.1 Applicant Status

- A. **New Applicants.** Every new applicant for a notary commission shall complete an approved course of instruction within six (6) months preceding his application, and pass an examination administered by the secretary of state prior to submitting an application for appointment.
- B. **Renewing Applicants.** A renewing applicant is not required to successfully complete an approved course of instruction or pass an examination administered by the secretary of state.
- C. **Notary Misconduct.** If the secretary of state determines upon a full investigation that a notary public has committed misconduct, the secretary of state may require the notary public to successfully complete an approved course of instruction and pass an examination administered by the secretary of state as remediation for the disposition of the case. Misconduct within the meaning of these rules shall be considered actions by the notary that require a letter of admonition or commission suspension while holding the office of notary public. A notary who is admonished and is required to complete an approved course of instruction and pass an examination administered by the secretary of state may appeal this determination as provided in article 4 of title 24, C.R.S.

7.2.2 Course of Instruction - Required Elements from the Notaries Public Act. Content for any approved course of instruction must be based upon the Colorado Notaries Public Act and draw upon widely accepted best practices. All training curricula shall include but are not limited to: physical presence requirement, duty not to notarize a document that is blank, duty to use a notarial certificate, disqualifying interest, application procedures, resignation requirements, duty to maintain a journal of notarial acts, revocation proceedings, liability, identification of signers, role of the notary, official misconduct, and notarizations for the elderly. It shall be at the discretion of the course provider or approved vendor to determine which best practices shall be included in its curricula.

7.2.3 Vendors

- A. **Vendors.** A vendor shall be approved by the secretary of state before offering a course of instruction for which the secretary of state will give credit for successful completion. The office of the secretary of state shall permit approved vendors to conduct notary training courses so long as they comply with the provisions set forth in these rules.

B. Complaints against an Approved Vendor

1. A person may file a complaint against an approved vendor with the secretary of state alleging a violation of these rules. A complaint shall be submitted on a standard form provided by the secretary of state, signed and dated by the person filing the complaint.
2. Whenever the secretary of state or the secretary of state's designee believes that a violation of these rules has been committed by an approved vendor, the secretary of state or the secretary of state's designee may investigate any such violation with or without the filing of a complaint.
3. Failure of an approved vendor to cooperate with a secretary of state investigation shall result in a termination of the approved vendor's accreditation status, subject to the provisions of article 4 of title 24, C.R.S.

C. Duty of Approved Vendor to Respond to a Written Request from Secretary of State.

It shall be the duty of a vendor to respond in writing within 20 days of receiving a written request from the secretary of state for any information relating to a complaint or approved course of instruction offered by the vendor. The secretary of state shall send a written request to the address or email address listed on the most current Notary Public Education Vendor Application.

D. Duty of Approved Vendor to Keep Address Current. Every approved vendor shall send or have delivered notice to the secretary of state within 30 days after such approved vendor changes the physical address or email address on the Notary Public Education Vendor Application.

7.2.4 Vendors and Accreditation

A. Requirements for Curriculum Accreditation. All curricula intended to provide an approved course of instruction to new or renewing applicants must conform to the requirements of these rules and shall be approved by the secretary of state prior to use.

B. Application. A vendor shall submit to the secretary of state for approval a completed Notary Public Education Vendor Application. The curricula submitted for approval by the secretary of state shall include:

1. A description of the curriculum in sufficient detail to enable the secretary of state to evaluate whether the curriculum satisfies the requirements in Section 7.2.2 of these rules.
2. Procedures to establish the identity of a person attending a live course and ensure that the person is present for the required time.

3. Procedures to ensure that the person to whom a certificate of completion is issued for completing the approved course of instruction is the same person who took the course.
 4. Copies of any handout materials, workbooks, or tests used during the approved course of instruction.
- C. **Application Fee.** The secretary of state shall charge a fee to review the application not to exceed \$250.
- D. **Deficient Application or Curriculum.** If the secretary of state determines that a Notary Public Education Vendor Application is incomplete or a curriculum does not satisfy the requirements set forth in these rules, the secretary of state will issue a deficiency notice containing an itemized description of the deficiencies identified. The deficiency notice will be sent by the secretary of state to the vendor by the email address listed on the Notary Public Education Vendor Application.
1. A vendor shall have 30 days from the date on which the deficiency notice was mailed by the secretary of state to submit documentation to the secretary of state curing the deficiencies identified in the deficiency notice. If the deficiencies are not cured within 30 days, the curriculum shall be deemed rejected by the secretary of state.
 2. If a curriculum is rejected, the affected vendor shall have the right to a hearing as provided in article 4 of title 24, C.R.S.
- E. **Seal of Accreditation.** The secretary of state shall provide a seal of accreditation for vendors that meet the curriculum criteria within 60 days of receipt of an application and curriculum that is subsequently approved by the secretary of state.
1. The seal of accreditation shall be displayed prominently and conspicuously on any materials provided by the approved vendor to the new or renewing applicant. The seal shall contain:
 - a. Each seal of accreditation shall contain a designation number unique to the vendor as assigned by the secretary of state.
 - b. Seals of accreditation shall expire four years after a Seal of Accreditation is granted. The expiration date shall appear of the seal of accreditation.
 2. A seal of accreditation shall not be assigned or transferred to another vendor or curriculum without the approval of the secretary of state.
 3. The seal of accreditation shall not imply endorsement of any products or services or other courses offered by the provider.

- F. **Notification of Changes to Approved Course of Instruction.** Within 30 days of substantial changes of the information contained in the approved course of instruction, an approved vendor shall submit to the secretary of state on vendor letterhead a description of the changes made to the curriculum's content.
- G. **Duty of Vendor to Revise Training.** An approved vendor shall revise its approved course of instruction as necessary to ensure that the information provided in an approved course of instruction reflects current Colorado law concerning the duties and functions of a notary public.
- H. **Certificate of Successful Completion of an Approved Course of Instruction.** Approved vendors shall furnish graduates of their program with a certificate of successful completion.
1. An approved vendor shall ensure that only a person who has completed an approved course of instruction receives a certificate of successful completion. If an attendee fails to be present during any substantive portion of an approved course of instruction, the approved vendor shall not issue a certificate of successful completion to the attendee, and the attendee shall not receive credit for the time in which he or she was present.
 2. A certificate of successful completion shall be attached to the paper component of an application when submitted to the secretary of state.
 3. A certificate of successful completion of an approved course of instruction shall be valid for a period of six (6) months from the date of issuance. If proof of successful completion is submitted to the secretary of state more than six (6) months after the proof of successful completion was issued, the secretary of state shall notify the notary public applicant that the proof of successful completion is not valid and instruct the notary public applicant to complete an approved course of instruction and submit a valid, current certificate of successful completion of an approved course of instruction to the secretary of state.
 4. The certificate of proof of successful completion of an approved course of instruction shall contain:
 - a. The name of the approved vendor who provided the approved course of instruction.
 - b. The approved vendor's seal of accreditation.
 - c. The name of the person who completed the instructional course.
 - d. The date of completion of the approved course of instruction.
 - e. The statement, "This certificate of proof of completion shall be valid for a period of six months from the date of issuance."

I. **List of Attendees.** An approved vendor shall maintain and provide the secretary of state with a list of persons who attend each session of an approved course of instruction and provide such list to the secretary of state within ten days after completion of the approved course of instruction on a form provided by the secretary of state. the approved vendor shall not request, collect, or keep the social security number of any attendee. The form shall include the following:

1. The name of the approved vendor;
2. The approved vendor identification number issued by the secretary of state;
3. The name of the instructor or instructors who taught the approved course of instruction;
4. The date, time, and location of the approved course of instruction;
5. The names of all the attendees in alphabetical order by the last name of the attendee and whether or not proof of completion was issued to each attendee;
6. The type of photograph identification, identification number, expiration date, and state or country of issuance of the documentation establishing the identity of the notary public applicant or notary public who attended and completed the approved course of instruction; and
7. The date of birth of the applicant.

J. **Onsite Inspections.** An approved vendor shall permit the secretary of state or his designee to attend any approved course of instruction without prior notice at no charge for the purpose of observation, monitoring, auditing, or investigating.

K. **Grounds for Termination of Accreditation.** The secretary of state may terminate a vendor's accreditation for any of the following reasons:

1. Violation of any provision of these rules.
2. Misrepresentation of the laws of Colorado concerning the duties and functions of a notary public.
3. Deviation from the lesson plan for an approved course of instruction.
4. Representations made by the vendor that any product, goods, or services provided by the vendor are endorsed, recommended, or required by the secretary of state.
5. Failure to timely respond to a request for communication from the secretary of state.

- L. **Right to Appeal Termination of Accreditation.** If the secretary of state proposes to terminate the accreditation status of an approved vendor, an opportunity for hearing shall be accorded as provided in article 4 of title 24, C.R.S.
 - 1. If the approved vendor does not request a hearing, termination shall be effective 30 days after the termination notice.
 - 2. The termination of the approved vendor's accreditation does not bar the secretary of state from instituting or continuing an investigation against the vendor.

7.3. COURSE PROVIDERS

- A. **Course Provider.** A course provider must be approved by the secretary of state before offering a course of instruction for which the secretary of state will give credit for successful completion.
- B. **Trainer Application.** A course provider shall submit to the secretary of state for approval, a completed Trainer Application. The application submitted to the secretary of state shall include:
 - 1. The name and address of the course provider.
 - 2. Procedures to establish the identity of a person attending a course and to ensure that the person is present for the required time.
 - 3. Procedures to ensure that the person to whom a certificate of completion is issued for completing the course of instruction is the same person who took the course.
 - 4. Copies of any handout materials, workbooks, or tests used during the course of instruction in addition to the curriculum provided by the secretary of state.
- C. **Train the Trainer Instruction Course.** The secretary of state shall provide a training seminar for course providers. A course provider must attend the training seminar before becoming an approved course provider.
- D. **Curriculum.** an approved course provider shall use a curriculum provided by the secretary of state. An approved course provider may add additional information to the curriculum as necessary to train its employees as to the guidelines and best practices utilized by their corporation, company, commercial enterprise, association, or educational institution.
- E. **Certificate of Completion.** Course providers will comply with section 7.2.4.H.4 of these rules except that a course provider is not required to provide a seal of accreditation when providing a certificate of successful completion.

7.4 Examination

- A. **Form.** The examination will test the applicant's competency of the Notaries Public Act. The examination shall be comprised of no less than 25 questions and shall be administered by the secretary of state.

- B. **Content.** The examination shall be an open-book examination of the laws and duties of a notary contained in title 12, article 55 and title 38, article 30 of the Colorado Revised Statutes and the official notary handbook published by the secretary of state.

These new and amended rules shall take effect on May 1, 2010.

A written Statement of Basis, Purpose and Specific Statutory Authority is attached and hereby incorporated by reference herein.

Dated this 10th day of March, 2010

William A. Hobbs
Deputy Secretary of State

For

Bernie Buescher
Colorado Secretary of State



Statement of Basis, Purpose and Specific Statutory Authority

New and Amended Notary Program Rules

March 10, 2010

Basis and Purpose

These rules are based upon the provisions of SB 09-111, “Concerning Continuation of the Notaries Public Act”, and upon information and recommendations from

- Individual Colorado notaries;
- Notary professional associations

It is the general purpose of these rules to clarify and carry out the provisions of SB 09-111, as well as to comply with the specific rule-making requirements of the act. The specific purposes of the individual amendments and additions are as follows:

1. Add a new Rule 7 pursuant to 12-55-103.5(2), C.R.S., (2009) which authorized the Secretary of State to promulgate rules to require notaries public to complete a training program.
2. Add Rule 7.1 which defines the terms used in the new rules.
3. Add Rule 7.2 to set forth requirements for applicants, vendors and course of instruction.
4. Add Rule 7.3 which sets forth the requirements for course providers.
5. Add Rules 7.4 which sets forth examination requirements.

Statutory Authority

These rules are promulgated in accordance with the State Administrative Procedure Act, specifically CRS 24-4-103, “**Rule-making-procedure,**” and pursuant to the specific statutory authority granted to the Secretary of State by the Colorado Notaries Public Act, section 12-55-103.5(2), C.R.S., (2009), “The office of the secretary of state may promulgate rules to require notaries public to complete a training program.”