



Help Shape Colorado's Notary Program Rules

July 24, 2014

What is this about?

The Secretary of State is considering recodification of Colorado's Notary Program Rules (8 CCR 1505-11) in order to improve the administration and enforcement of and to answer questions arising under Colorado Notaries Public Act.¹ Colorado law permits agencies to informally solicit views from interested stakeholders concerning proposed draft rules before commencing the formal rulemaking process. We invite you to share your thoughts and recommendations as we develop a preliminary draft of proposed rules to regulate the Notary Program in Colorado.

Please see the attached working draft rules. The following highlights the primary aims of the proposed draft rules:

- Recodify the rules to improve organization and readability.
- Revise rules to be consistent with section 12-55-104(2), C.R.S., by:
 - Removing erroneous statutory citations and references to journals; and
 - Clarifying that the Secretary of State provides document authentication numbers to notaries for electronic notarizations.
- Amend rules to require vendors to report their students' names on a monthly basis.
- Harmonize enforcement provisions concerning vendors and course providers.
- Edit to repeal obsolete rules and to remove language duplicative of statute.
- Non-substantive revisions to simplify or clarify words and phrases and other technical revisions as is necessary for consistency with Department rulemaking format and style.

Why does the Secretary need my help?

This recodification is a big undertaking for the Department and we want to make sure we aren't missing anything. To this end, we are seeking input from notaries public, training vendors, course providers, and the general public. The Secretary values your feedback and we would very much like to hear your thoughts. We need your help to identify necessary revisions or additional guidance in order to propose a constructive and comprehensive draft rule for consideration during the formal rulemaking proceedings. Overall, your opinions and recommendations will help shape Colorado's Notary Program Rules.

¹ Article 16 of Title 6, C.R.S.

How do I submit my comments and what is the deadline?

You may email your written comments to SoS.Rulemaking@sos.state.co.us. To ensure consideration of your comments before the proposed draft is issued, we must receive your comments by 5:00 p.m. on July 31, 2014.

Will my comments become part of the official record for the anticipated rulemaking?

Yes, we will incorporate your comments into the official record when we commence with formal rulemaking. Our office will identify your comments as information received in anticipation of rulemaking to support the development of the proposed draft rule. Please note that you will have an additional opportunity to provide testimony and/or written comments regarding the proposed rule during the rulemaking proceeding.

To promote transparency and to help generate discussion, our office will post a copy of your comments on the Secretary of State's website. We appreciate privacy concerns and will redact personal contact information that may appear in your comments prior to posting (including your home address, personal email address, and telephone number). To view the comments that we receive, please visit: http://www.sos.state.co.us/pubs/rule_making/notaryRuleComments.html.

Working Draft of Proposed Rules

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

July 24, 2014

Disclaimer:

This is a proposed recodification of the Colorado Notary Program Rules. Current 8 CCR 1505-11, is stricken in its entirety and re-codified as follows. Some current rule language is retained either in full or as amended.

This is a working draft of the recodification. Please note that there may be technical errors, such as incorrect or missing citations. But we are involving you at this early stage because the Secretary values your feedback.

Please send your feedback by July 31, 2014. Please reference the specific page and line number in your comments. We will consider all comments submitted by this date for inclusion in the official rulemaking draft.

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 stricken in its entirety and re-codified as follows:]*

2 **Rule 1. Definitions**

3 *[Current Rules 7.1 A, B, and D are amended and recodified as New Rules 1.1, 1.2, and 1.3.*
4 *Under Current Rule 1, sub rules 1, 2, and 3 are amended and recodified as New Rules 1.4, 1.5,*
5 *and 1.6; however, current Rule 4 is repealed. Current Rule 7.1.E is amended and recodified as*
6 *New Rule 1.7]*

7 ~~7.1.A.1.1~~ **~~“Approved Course of Instruction”~~**“APPROVED COURSE OF INSTRUCTION” means
8 a live classroom or webcast course ~~that is approved by the secretary of state~~
9 SECRETARY OF STATE.

10 ~~7.1.B.1.2~~ **~~“Approved Vendor”~~**“APPROVED VENDOR” means a vendor approved by
11 the ~~secretary of state~~SECRETARY OF STATE who provides an approved course of
12 instruction to notaries and prospective notaries for a fee.

~~7.1.D-1.3~~ **“Course Provider”** “COURSE PROVIDER” means a ~~corporation, company, commercial enterprise, association, or educational institution~~ AN ENTITY OTHER THAN AN INDIVIDUAL 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~~ USES THE SECRETARY OF STATE’S CURRICULUM, IN ADDITION TO ANY ENTITY-SPECIFIC PRACTICES, TO PROVIDE NOTARY TRAINING TO ITS EMPLOYEES OR MEMBERS FREE OF CHARGE.

~~1.1.4~~ **“Document authentication number”** “DAN” means a ~~THE UNIQUE DOCUMENT AUTHENTICATION number issued by the Secretary of State that includes the Secretary of State’s accounting system validation number issued to each notary upon commissioning and a randomly generated number that when used together may constitute the notary’s electronic signature and identify both the individual notary and the document to which the document authentication number has been affixed~~ AND REQUIRED BY SECTIONS 12-55-106.5, 12-55-111(4), AND 12-55-112(4.5), C.R.S., FOR ELECTRONIC NOTARIZATIONS.

~~2.1.5~~ **“Electronic notarization”** means the ~~performance of a notarial act that involves~~ NOTARIZING electronic records ~~and includes the notary’s electronic signature.~~

~~3.1.6~~ **“Electronic notarization software”** means any software, coding, disk, card, certificate, or program that ~~may be employed to create and affix~~ CREATES AND AFFIXES the notary’s electronic signature.

~~4.~~ **“Notary’s electronic signature”** means the document authentication number(s) issued by the Secretary of State ~~when accompanied by the information required in 12-55-106.5(1) or an electronic signature approved pursuant to Rule 2.~~

~~7.1.E-1.7~~ **“New Applicant”** “NEW APPLICANT” means a person ~~who has never before been a commissioned~~ SEEKING A COMMISSION AS A COLORADO notary ~~in Colorado~~ FOR THE FIRST TIME or a formerly commissioned notary in Colorado whose commission has BEEN expired ~~by 31 days or more~~ FOR MORE THAN 30 DAYS.

[Current Rule 2 is amended and recodified as New Rule 2.2]

New Rule 2:

Rule 2. Notary Commissions

2.1 FILING AND TRAINING REQUIREMENTS

2.1.1 ALL NOTARY FILINGS MUST BE SUBMITTED VIA THE SECRETARY OF STATE’S ELECTRONIC FILING SYSTEM.

[Current Rules 7.2.1.A and 7.2.1.C are amended and recodified as New Rule 2.1.2.]

~~7.2.1 A.~~ **New Applicants.** Every new applicant for a notary commission shall complete an approved course of instruction within six (6) months preceding his

1 application, and pass an examination administered by the secretary of state prior
2 to submitting an application for appointment.

3 ~~7.2.1 C. — **Notary Misconduct.** If the secretary of state determines upon a full~~
4 ~~investigation that a notary public has committed misconduct, the secretary of state~~
5 ~~may require the notary public to successfully complete an approved course of~~
6 ~~instruction and pass an examination administered by the secretary of state as~~
7 ~~remediation for the disposition of the case. Misconduct within the meaning of~~
8 ~~these rules shall be considered actions by the notary that require a letter of~~
9 ~~admonition or commission suspension while holding the office of notary public.~~
10 ~~A notary who is admonished and is required to complete an approved course of~~
11 ~~instruction and pass an examination administered by the secretary of state may~~
12 ~~appeal this determination as provided in article 4 of title 24, C.R.S.~~

13 *[The last sentence of current Rule 7.2.1.C is amended and recodified as part of*
14 *New Rule 2.1.2. The rest of Current Rule 7.2.1.C is repealed.]*

15 2.1.2 DURING THE SIX MONTHS BEFORE APPLYING FOR A COMMISSION, A NEW APPLICANT
16 MUST SUCCESSFULLY COMPLETE TRAINING AND PASS THE EXAM ADMINISTERED BY
17 THE SECRETARY OF STATE. THE SECRETARY OF STATE WILL GRANT CREDIT ONLY
18 FOR COMPLETION OF COURSES OFFERED BY AN APPROVED VENDOR OR COURSE
19 PROVIDER. THE SECRETARY OF STATE MAY REQUIRE A NOTARY WHO HAS
20 COMMITTED MISCONDUCT MERITING A DISCIPLINARY PROCEEDING TO
21 SUCCESSFULLY COMPLETE THE TRAINING AND EXAM.

22 *[Current Rule 7.4.A and part of Current Rule 7.4.B are amended and recodified as New Rule*
23 *1.2.3.]*

24 ~~7.4.2.1.3 **Examination** EXAMINATION. 7.4.A. **Form.** The SECRETARY OF STATE'S~~
25 ~~OPEN BOOK examination will test the applicant's competency UNDERSTANDING of~~
26 ~~the Notaries Public Act. The examination shall be comprised of no less than 25~~
27 ~~questions and shall be administered by the secretary of state. NOTARY DUTIES~~
28 ~~CONTAINED IN THE FOLLOWING:~~

- 29 (A) TITLE 12, ARTICLE 55 (THE NOTARIES PUBLIC ACT) OF THE COLORADO
30 REVISED STATUTES;
- 31 (B) TITLE 38, ARTICLE 30 (TITLES AND INTERESTS) OF THE COLORADO
32 REVISED STATUTES;
- 33 (C) TITLE 1, ARTICLE 40 (INITIATIVE AND REFERENDUM) OF THE COLORADO
34 REVISED STATUTES; AND
- 35 (D) THE OFFICIAL NOTARY HANDBOOK PUBLISHED BY THE SECRETARY OF
36 STATE.

37 ~~7.4.B. **Content.** The examination shall be an open book examination of the laws and~~
38 ~~duties of a notary contained in title 12, article 55 and title 38, article 30 of the~~

1 Colorado Revised Statutes and the official notary handbook published by the
2 secretary of state.

3 *[New Rule 2.2]*

4 **Rule 2. Electronic Signature Registration**

5 2.2 ELECTRONIC NOTARIZATION

6 *[Under Current Rule 2, sub rules 1, 2, and 3 are amended and recodified as New Rule 2.2.1*
7 *below.]*

8 1. ~~Before performing any electronic notarization, an applicant or a notary shall file with the~~
9 ~~Secretary of State a notification of intent to notarize documents electronically. This~~
10 ~~notification may be submitted at the time of application for a notary commission or at any~~
11 ~~subsequent time during the notary's term of commission.~~

12 2. ~~A submitted notification shall not be deemed filed until it has been approved and an~~
13 ~~approval certificate has been issued by the Secretary of State. A notification submitted at~~
14 ~~the time of application for a commission shall not be deemed filed unless and until the~~
15 ~~application is accepted and the notary is commissioned by the Secretary of State and the~~
16 ~~approval certificate has been issued.~~

17 3. ~~Notification of intent to notarize electronically shall be on forms prescribed by the~~
18 ~~Secretary of State, and shall include a statement whether the applicant or notary will use~~
19 ~~only document authentication numbers as his or her electronic signature. If the applicant~~
20 ~~or notary indicates an intention to use a different electronic signature than document~~
21 ~~authentication numbers, then the notification of intent shall also be accompanied by an~~
22 ~~example of the electronic signature that will be used by the applicant or notary, and shall~~
23 ~~include the following information:~~

24 (a) ~~A description of the technology that will be used for the notary's electronic~~
25 ~~notarizations, specifically for the creation of the notary's electronic signature;~~

26 (b) ~~The name, address, telephone number, and web or e-mail address of the supplier~~
27 ~~or vendor of such technology; and~~

28 (c) ~~Such other information as the Secretary of State finds necessary to confirm that~~
29 ~~the technology complies with the requirements of the Colorado Notaries Public~~
30 ~~Act, article 55 of title 12 of the Colorado Revised Statutes.~~

31 2.2.1 A NOTARY MAY NOT ELECTRONICALLY NOTARIZE A DOCUMENT UNLESS HE OR SHE
32 SUBMITS NOTICE OF INTENT TO DO SO TO THE SECRETARY OF STATE ON THE
33 APPROVED FORM AND RECEIVES APPROVAL. A NEW APPLICANT MAY FILE THE
34 INTENT AT THE TIME OF APPLICATION BUT MAY NOT ELECTRONICALLY NOTARIZE A
35 DOCUMENT UNTIL HE OR SHE HAS BEEN COMMISSIONED AND APPROVED. IF THE
36 APPLICANT INTENDS TO USE A DIFFERENT ELECTRONIC SIGNATURE THAN DANs,
37 THE APPLICANT MUST ATTACH AN EXAMPLE OF THE ELECTRONIC SIGNATURE, A

DESCRIPTION OF THE ELECTRONIC SIGNATURE TECHNOLOGY, AND CONTACT INFORMATION FOR THE TECHNOLOGY'S SUPPLIER OR VENDOR. A NOTARY MUST NOTIFY THE SECRETARY OF STATE OF ALL ELECTRONIC SIGNATURE CHANGES.

[Current Rule 2, subrule 4(a)(1) is repealed.]

~~4. If the notary is certified to notarize electronically:~~

~~(a) The Secretary of State will:~~

~~(1) Provide an electronic log to the notary that contains a series of document authentication numbers. Such log shall constitute the journal referenced in section 12-55-104(2) CRS.~~

[Current Rule 2, subrule 4(a)(2) is amended and recodified as part of New Rule 1.4]

~~(2) Maintain a record of the series of numbers issued at the offices of the Secretary of State.~~

[Current Rule 2, subrule 4(b) is amended and recodified as New Rule 2.2.2.]

~~2.4(b) 2.2.2 The notary may use the document authentication numbers provided in the electronic log as the notary's electronic signature, provided that the notary's name, the words "NOTARY PUBLIC" and "STATE OF COLORADO", and the words "my commission expires," followed by the expiration of the notary's commission, accompany each authentication number so used. A NOTARY MUST INCLUDE HIS OR HER NOTARY IDENTIFICATION NUMBER IN AN ELECTRONIC NOTARIZATION.~~

[New Rule 2.2.3.]

2.2.3 FOR PURPOSES OF SECTION 12-55-106.5(1), C.R.S., A NOTARY'S NAME MEANS THE NOTARY'S PRINTED LEGAL NAME.

[Current Rule 2, subrules 4(c) and (d) are amended and recodified as New Rules 2.2.4 (a) and (b).]

2.2.4 A NOTARY MUST:

~~2.4(c) (A) A USE A different document authentication number shall be used DAN for each electronic notarization that the notary performs;~~

~~2.4(d) (B) A notary shall take TAKE reasonable measures to secure his or her journal of authentication numbers ASSIGNED DANs against OTHER PERSONS' access or use by other persons; and shall MUST not, under any circumstances, permit such access or use by another; AND~~

(C) REQUEST NEW DANs TO REPLACE LOST OR STOLEN DANs.

1 *[Current Rule is amended and recodified as New Rule 2.2.4(c) above.]*

2 *[Current Rule 2, subrule 5 is repealed.]*

3 2.5. — Any form of electronic signature must:

4 (a) — Be discrete to the individual submitting the electronic signature;

5 (b) — Be retrievable from the electronic document in perceivable form.

6 *[Current Rule 4 is amended and recodified as New Rule 2.2.5.]*

7 **Rule 4 — Electronic Notarization of Signature**

8 A notary shall electronically notarize a document only if the notary can

9 2.2.5 A NOTARY MUST verify that the document signer is issuing a signature that the
10 signer has adopted AN ELECTRONIC SIGNATURE to function as his or her signature
11 BEFORE ELECTRONICALLY NOTARIZING A DOCUMENT.

12 *[Current Rule 3 is amended and recodified as New Rule 2.2.6:]*

13 **Rule 3 — Expiration of Notice to Notarize Electronically**

14 2.2.6 EXPIRATION OF THE SECRETARY OF STATE'S APPROVAL TO NOTARIZE
15 ELECTRONICALLY

16 1. (A) The approval to electronically notarize shall expire when APPROVAL
17 AUTOMATICALLY EXPIRES:

18 (a)(1) The commission for which it was filed expires UPON REVOCATION,
19 EXPIRATION, OR RESIGNATION OF THE NOTARY'S COMMISSION;

20 (b) — The commission for which it was filed is revoked;

21 (c)(2) Thirty 30 days have elapsed after the notary's name changes;
22 unless the notary sooner submits PREVIOUSLY SUBMITTED a change
23 of name CHANGE pursuant to section 12-55-114 CRS, including
24 with the submission, if the notary uses a different signature than
25 the document authentication numbers issued by the Secretary of
26 State, a description and example of the notary's new electronic
27 signature, in accord with section 3 of Rule 2 of these Rules
28 Concerning Electronic Notarization.

29 (d)(3) The notary, during his or her commission term, resigns the
30 commission, is convicted UPON CONVICTION of a felony, ceases to
31 reside in Colorado, or dies;

32 (4) THE NOTARY MOVES OUT OF COLORADO; OR

(e)(5) ~~The~~ UPON THE EXPIRATION OR REVOCATION OF THE technology described in the notification ~~changes~~;

(f) ~~The technology described in the notification expires or is revoked, if applicable; or~~

(g) ~~The supplier or vendor goes out of business or for any other reason no longer supplies the technology described in the notification.~~

[Current Rule 3, subrules 2 and 3, are amended and recodified as New Rule 2.2.6(b):]

2. ~~Except as provided in section (3) of this Rule 3, when a notary's approval to notarize electronically expires, the notary or the notary's duly authorized representative shall, within 30 days after such expiration, permanently erase, delete, or destroy the notary's electronic notarization software, if applicable, and, if the notary has elected to use document authentication numbers provided by the Secretary of State as his or her electronic signature, any and all unused authentication numbers.~~

3. ~~If a notary's signature notification expires solely on account of the expiration of the notary's commission, the notary need not permanently erase, delete, or destroy the electronic notarization software if the notary is recommissioned and reregisters his or her electronic signature within 30 days after the commission expiration.~~

(B) IF APPROVAL EXPIRES, THE NOTARY OR THE NOTARY'S AUTHORIZED REPRESENTATIVE MUST DESTROY ALL ELECTRONIC NOTARIZATION SOFTWARE AND UNUSED DANs UNLESS:

(1) THE NOTARY'S COMMISSION EXPIRED; AND

(2) WITHIN 30 DAYS OF THE COMMISSION'S EXPIRATION, THE SECRETARY OF STATE RECOMMISSIONS THE NOTARY AND THE NOTARY REREGISTERS HIS OR HER ELECTRONIC SIGNATURE.

[Current Rule 4 is amended and recodified as New Rule 2.2.5.]

[Part of Current Rule 5 is amended and recodified as New Rule 2.2.4(c)]

Rule 5 ~~Lost or Compromised Document Authentication Numbers~~

~~If a notary loses his or her document authentication numbers, or becomes aware that any person other than the Secretary of State has access to, or control of, such authentication numbers, s/he shall notify the Secretary of State in the same manner as for a lost journal or seal pursuant to section 12-55-113 CRS. The Secretary of State shall, upon request of the notary, issue a new electronic journal of electronic signatures to the notary.~~

[Current Rule 6 is repealed.]

1 **Rule 6 Effective Date**

2 These Rules Concerning Electronic Notarizations shall take effect November 30, 2004.

3 *[Current Rule 7 is amended and recodified as New Rule 3.]*

4 **~~RULE 7~~ RULE 3. Notary Training**

5 **~~7.1~~ Definitions**

6 *[Current Rule 7.1.A is amended and recodified as New Rule 1.1.]*

7 *[Current Rule 7.1.B is amended and recodified as New Rule 1.2.]*

8 *[Current Rule 7.1.C is repealed.]*

9 ~~7.1.C. “Best Practices” means notary practices that are not necessarily codified in~~
10 ~~statute or rule that encourage compliance with the notary law and promote proper~~
11 ~~notarization.~~

12 *[Current Rule 7.1.D is amended and recodified as New Rule 1.3.]*

13 *[Current Rule 7.1.E, concerning the definition of "New Applicant", is amended and recodified as*
14 *New Rule 1.4]*

15 *[Current Rule 7.1.F is repealed.]*

16 ~~7.1.F. “Renewing Applicant” means a notary who has submitted an application for a~~
17 ~~notary commission before a previous commission has expired or a notary whose~~
18 ~~commission has expired for no more than 30 days.~~

19 **7.2 Notary Public Training and Examination**

20 **~~7.2.1~~ Applicant Status**

21 *[Current Rule 7.2.1.A, concerning new applicants, is recodified as New Rule 2.1.2.]*

22 *[Current Rule 7.2.1.B is repealed.]*

23 ~~B. —Renewing Applicants. A renewing applicant is not required to successfully~~
24 ~~complete an approved course of instruction or pass an examination administered~~
25 ~~by the secretary of state.~~

26 *[The last sentence of current Rule 7.2.1.C, concerning notary misconduct, is amended and*
27 *recodified as part of New Rule 2.1.2. The rest of Current Rule 7.2.1.C is repealed.]*

28 *[Current Rule 7.2.2 is amended and renumbered as New Rule 3.1. Information from Current*
29 *Rule 7.3.A is integrated into New Rule 3.1:]*

1 **~~7.2.2.3.1 Course of Instruction — Required Elements from the Notaries Public Act.~~**

2 ~~Content for any approved course of instruction—APPROVAL OF VENDOR CURRICULUM. THE~~
3 ~~SECRETARY OF STATE MUST APPROVE A VENDOR’S PROPOSED CURRICULUM BEFORE A~~
4 ~~VENDOR MAY OFFER A NOTARY TRAINING COURSE. CURRICULUM must be based upon ON~~
5 ~~the Colorado Notaries Public Act and draw upon widely accepted best practices. All~~
6 ~~training curricula shall include but are not limited to: THE physical presence requirement,~~
7 ~~duty not to notarize a BLANK document that is blank, duty to use a notarial certificate,~~
8 ~~disqualifying interest, application procedures, resignation requirements, duty to maintain~~
9 ~~a journal of notarial acts, revocation proceedings, liability, identification of signers, role~~
10 ~~of the notary, official misconduct, and notarizations for the elderly. It shall be at the~~
11 ~~discretion of the course provider or approved vendor to determine which best practices~~
12 ~~shall be included in its curricula.~~

13 **~~7.2.3 Vendors~~**

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

19 *[The first sentence of Current Rule 7.2.3.A is amended and recodified as part of*
20 *New Rule 3.1. The second sentence of Current Rule 7.2.3.A is repealed.]*

21 *[Current Rule 7.2.3.B.1, concerning complaints against approved vendors, is amended and*
22 *recodified as 3.9.3.]*

23 *[Current Rule 7.2.3.B.2 is repealed.]*

24 ~~7.2.3.B.2 — Whenever the secretary of state or the secretary of state’s designee~~
25 ~~believes that a violation of these rules has been committed by an approved~~
26 ~~vendor, the secretary of state or the secretary of state’s designee may~~
27 ~~investigate any such violation with or without the filing of a complaint.~~

28 *[The information provided in Current Rule 7.2.3.B.3 is amended and recodified as part of New*
29 *Rule 3.9.4 (e).]*

30 ~~7.2.3.B.3. — Failure of an approved vendor to cooperate with a secretary of~~
31 ~~state investigation shall result in a termination of the approved vendor’s~~
32 ~~accreditation status, subject to the provisions of article 4 of title 24, C.R.S.~~

33 *[Current Rule 7.2.3.C is amended and recodified as New Rule 3.9.1.]*

34 *[Current Rule 7.2.3.D is amended and recodified as New Rule 3.7.1.]*

35 *[Current Rule 7.2.4.A is repealed.]*

36 **~~7.2.4 Vendors and Accreditation~~**

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

5 *[Current Rule 7.2.4.B is amended and recodified as New Rule 3.2 and 3.2.1. Information from*
6 *Current Rule 7.3.B is integrated into New Rule 3.1.]*

7 ~~7.2.4.B.3.2~~ **Application.** APPLICATION

8 3.2.1 ~~A vendor shall.~~ VENDOR AND COURSE PROVIDER APPLICANTS MUST submit to the
9 secretary of state for approval a completed Notary Public Education Vendor
10 Application. The curricula submitted for approval by the secretary of state shall
11 include AN APPLICATION THAT INCLUDES:

12 *[Current Rule 7.2.4.B.1 is amended and recodified as New Rule 3.2.1(e)]*

13 ~~7.2.4.B.2.(A)~~ Procedures to establish the identity of a person attending a live
14 course and ensure that the person is present for the required time;:

15 ~~7.2.4.B.3.(B)~~ Procedures to ensure that the person to whom a RECEIVING THE
16 SECRETARY OF STATE'S certificate of completion is issued for completing
17 the approved course of instruction is the same person who took
18 COMPLETED the course;:

19 ~~7.2.4.B.4.(C)~~ Copies of any COURSE handout materials, workbooks, or AND tests
20 used during the approved course of instruction;: AND

21 *[Current Rule 7.2.4.H.2 is amended and recodified as New Rule 3.2.1(d):]*

22 ~~7.2.4.H.2.(D)~~ A DRAFT COPY OF THE certificate of successful completion shall be
23 attached to the paper component of an application when submitted to the
24 secretary of state AS REQUIRED BY RULE 3.5.4.

25 *[Current Rules 7.2.4.B.1 and 7.2.4.C are amended and recodified as New Rule*
26 *3.2.1(e)]*

27 ~~7.2.4.B.1.(E)~~ A description of the curriculum in sufficient detail to enable the
28 secretary of state to evaluate whether the curriculum satisfies the
29 requirements in Section 7.2.2 of these rules. A DETAILED CURRICULUM
30 AND, IF A VENDOR, THE REQUIRED FEE.

31 ~~7.2.4.C~~ **Application Fee.** The secretary of state shall charge a fee to
32 review the application not to exceed \$250.

33 *[Current Rule 7.2.4.D is amended and recodified as New Rule 3.2.2:]*

~~7.2.4.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.~~

3.2.2 DEFICIENT APPLICATION. THE SECRETARY OF STATE WILL NOTIFY AN APPLICANT OF ANY APPLICATION OR CURRICULUM DEFICIENCIES. IF THE APPLICANT FAILS TO CURE THE DEFICIENCY WITHIN 30 DAYS AFTER THE NOTICE'S MAILING DATE, THE SECRETARY WILL CONSIDER THE APPLICATION REJECTED. A REJECTED APPLICANT MAY REQUEST A HEARING IN ACCORDANCE WITH THE STATE ADMINISTRATIVE PROCEDURE ACT (ARTICLE 4 OF TITLE 24, C.R.S.).

[Current Rule 7.2.4.E is amended and recodified as New Rule 3.3 and 3.3.1:]

~~7.2.4.E.3.3 Seal of Accreditation.~~ SEAL OF ACCREDITATION FOR VENDORS.

3.3.1 ~~The secretary of state shall~~ SECRETARY OF STATE WILL provide a seal of accreditation ~~for vendors that meet the curriculum criteria~~ TO A VENDOR APPLICANT within 60 days ~~of receipt of an~~ AFTER RECEIPT OF A SUBSEQUENTLY APPROVED application ~~and curriculum that is subsequently approved by the secretary of state.~~

~~7.2.4.E.1.3.3.2 The~~ A VENDOR MUST PROMINENTLY DISPLAY THE seal of accreditation ~~shall be displayed prominently and conspicuously on any ALL~~ VENDOR materials provided by the approved vendor ~~to the new or renewing applicant~~ TO A COURSE ATTENDEE. ~~The seal shall contain:~~

~~7.2.4.E.1.a. — Each seal of accreditation shall contain a designation number unique to the vendor as assigned by the secretary of state.~~

~~7.2.4.E.1.b.3.3.3 Seals~~ A SEAL of accreditation ~~shall expire~~ EXPIRES four years after a Seal of Accreditation is granted ISSUANCE. ~~The expiration date shall appear of the seal of accreditation.~~ TO RENEW ACCREDITATION, A VENDOR MUST SUBMIT THE REQUIRED FORM AND FEE.

~~7.2.4.E.2. 3.3.4~~ A seal of accreditation shall ~~VENDOR MAY not be assigned or transferred~~ ASSIGN OR TRANSFER A SEAL OF ACCREDITATION to another vendor or curriculum without the SECRETARY OF STATE'S approval ~~of the secretary of state.~~

~~7.2.4.E.3. 3.3.5~~ The seal of accreditation shall ~~DOES not imply endorsement of any~~
A VENDOR'S products or services or other courses ~~offered by the provider.~~

[Current Rules 7.2.4.F and 7.2.4.G are amended and recodified as New Rules 3.7 and 3.8.]

[Current Rule 7.3.C is amended and recodified as New Rule 3.4:]

~~7.3.C. 3.4~~ **~~Train the Trainer Instruction Course.~~** The secretary of state shall provide a training seminar for course providers. A course provider ~~TRAINING OF COURSE PROVIDERS. AN APPLICANT must attend the SECRETARY OF STATE'S training seminar before becoming an approved course provider.~~

[Current Rules 7.2.4.H and 7.2.4.H.1 are amended and recodified as New Rules 3.5, 3.5.1, and 3.5.2. Information from Current Rule 7.3.E is integrated into New Rule 3.5.]

~~7.2.4.H. 3.5~~ **~~Certificate of Successful Completion of an Approved Course of Instruction.~~**
CERTIFICATE OF COMPLETION

3.5.1 ~~Approved vendors shall furnish graduates of their program with a certificate of successful completion.~~ WHEN A STUDENT SUCCESSFULLY COMPLETES A COURSE, THE APPROVED VENDOR OR COURSE PROVIDER MUST ISSUE THE GRADUATE A CERTIFICATE OF SUCCESSFUL COMPLETION.

~~7.2.4.H.1. 3.5.2~~ An approved vendor shall ~~APPROVED VENDORS AND COURSE PROVIDERS MUST 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. VENDORS AND COURSE PROVIDERS MAY NOT ISSUE A CERTIFICATE OF COMPLETION TO AN ATTENDEE WHO IS ABSENT DURING ANY SUBSTANTIVE PART OF THE COURSE.~~

[Current Rule 7.2.4.H.2 is amended and recodified as New Rule 3.2.1(d).]

[Current Rule 7.2.4.H.3 is amended and recodified as New Rule 3.5.3:]

~~7.2.4.H.3. 3.5.3~~ A certificate of successful completion of an approved course of instruction shall be valid for a period of ~~EXPIRES 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~~

1 of successful completion of an approved course of instruction to the secretary of
2 state.

3 *[Current Rule 7.2.4.H.4 is amended and recodified as New Rule 3.5.4]*

4 ~~7.2.4.H.4.~~ 3.5.4 The certificate of proof of successful completion of an approved
5 course of instruction ~~shall~~ MUST contain:

6 a. (A) The name of the ~~approved~~ vendor OR COURSE PROVIDER who provided the
7 ~~approved course of instruction;~~

8 b. ~~— The approved vendor's seal of accreditation.~~

9 c. (B) The name of the person who completed the ~~instructional~~ course;

10 d. (C) The date of completion of the ~~approved course of instruction;~~

11 e. (D) The statement, "This certificate of proof of completion ~~shall be~~ is valid for
12 a period of six months from the date of issuance."; AND

13 (E) FOR VENDORS, THE SEAL OF ACCREDITATION.

14 *[Current Rule 7.2.4.I is amended and recodified as New Rule 3.6]*

15 ~~7.2.4.I.~~ 3.6 **List of Attendees.** ~~VENDOR'S LIST OF ATTENDEES. An approved vendor shall~~ MUST
16 ~~maintain and provide the secretary of state with a list of persons who attend each~~
17 ~~session of an approved course of instruction and provide such list to the secretary~~
18 ~~of state within ten days after~~ SUBMIT A LIST OF ATTENDEES TO THE SECRETARY OF
19 STATE ON THE APPROVED FORM NO LATER THAN THE TENTH DAY OF THE FIRST
20 MONTH FOLLOWING completion of the approved course of instruction ~~on a form~~
21 ~~provided by the secretary of state. the approved vendor shall not request, collect,~~
22 ~~or keep the social security number of any attendee. The form shall include the~~
23 ~~following:~~

24 1. ~~— The name of the approved vendor;~~

25 2. ~~— The approved vendor identification number issued by the secretary of state;~~

26 3. ~~— The name of the instructor or instructors who taught the approved course of~~
27 ~~instruction;~~

28 4. ~~— The date, time, and location of the approved course of instruction;~~

29 5. ~~— The names of all the attendees in alphabetical order by the last name of the~~
30 ~~attendee and whether or not proof of completion was issued to each attendee;~~

31 6. ~~— The type of photograph PHOTO identification, identification number, expiration~~
32 ~~date, and state or country of issuance of the documentation establishing the~~

COURSE ATTENDEES' 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.

[Current Rules 7.2.4.F and 7.2.3.D are amended and recodified as New Rules 3.7 and 3.7.1]

~~7.2.4.F. 3.7~~ **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. NOTIFICATION OF CHANGES. APPROVED VENDORS AND COURSE PROVIDERS MUST NOTIFY THE SECRETARY OF STATE USING LETTERHEAD WITHIN 30 DAYS OF:

~~7.2.3.D. 3.7.1~~ **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 A CHANGE IN physical address or email address on the Notary Public Education Vendor Application.

3.7.2 SUBSTANTIAL CHANGES TO AN APPROVED CURRICULUM AND PROVIDE COPIES OF THE CHANGES.

[Current Rule 7.2.4.G is amended and recodified as New Rule 3.8:]

~~7.2.4.G. 3.8~~ **Duty of Vendor to Revise Training.** DUTY TO REVISE TRAINING. An approved vendor APPROVED VENDORS AND COURSE PROVIDERS shall MUST revise its approved course COURSES of instruction as necessary to ensure that the information provided in an approved course of instruction THE COURSES ACCURATELY reflects REFLECT current Colorado law concerning the duties and functions of a notary public.

[New Rule 3.9]

3.9 ENFORCEMENT

[Current Rule 7.2.3.C. is amended and recodified as New Rule 3.9.1:]

~~7.2.3.C. 3.9.1~~ **Duty of Approved Vendor to Respond to a Written Request from Secretary of State.** It shall be the duty of a vendor to DUTY TO RESPOND TO THE SECRETARY OF STATE'S WRITTEN REQUEST. VENDORS AND COURSE PROVIDERS MUST respond in writing within 20 BUSINESS days of receiving a written request from the secretary of state SECRETARY OF STATE for any information relating to a complaint or approved course of instruction offered by the vendor. The secretary of state shall SECRETARY OF STATE WILL send a written request to the address or email address listed on the most current Notary Public Education Vendor Application APPLICATION.

[Current Rule 7.2.4.J is amended and recodified as New Rule 3.9.2:]

~~7.2.4.J. 3.9.2 Onsite Inspections.~~ ONSITE INSPECTIONS. ~~An approved vendor shall~~
APPROVED VENDORS AND COURSE PROVIDERS MUST permit the ~~secretary of state~~
SECRETARY OF STATE or ~~his~~ THE SECRETARY'S designee to attend any approved
course of instruction without prior notice at no charge ~~for the purpose of~~
~~observation, monitoring, auditing, or investigating~~ TO OBSERVE, MONITOR, AUDIT,
AND INVESTIGATE.

[Current Rule 7.2.3.B.1 is amended and recodified as New Rule 3.9.3:]

~~7.2.3.B. 3.9.3 Complaints against an Approved Vendor~~ COMPLAINTS.

1. ~~—~~A person may file a complaint against an approved vendor OR COURSE PROVIDER
with the ~~secretary of state~~ SECRETARY OF STATE alleging a violation of these rules.
~~A THE PERSON MUST SUBMIT A SIGNED AND DATED complaint shall be submitted~~
on a ~~THE SECRETARY OF STATE'S standard form provided by the secretary of state,~~
~~signed and dated by the person filing the complaint.~~

*[Current Rule 7.2.4.K is amended and recodified as New Rule 3.9.4. New Rule 3.9.4 (e) contains
amended and recodified information from Current Rule 7.2.3.B.3.]*

~~7.2.4.K. 3.9.4 Grounds for Termination of Accreditation.~~ GROUNDS FOR
TERMINATION OF ACCREDITATION OR APPROVAL. The ~~secretary of state~~
SECRETARY OF STATE may terminate a ~~AN~~ APPROVED vendor's accreditation OR
APPROVAL OF A COURSE PROVIDER for any of the following reasons:

~~1.(A)~~ Violation of any provision of these rules.

~~2.(B)~~ Misrepresentation of A NOTARY PUBLIC'S DUTIES AND AUTHORITY UNDER
~~the laws of Colorado LAW concerning the duties and functions of a notary~~
~~public.~~

~~3.(C)~~ Deviation from the lesson plan for an approved course of instruction.

~~4.(D)~~ ~~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.~~ MAKING REPRESENTATIONS THAT THE SECRETARY OF
STATE ENDORSES, RECOMMENDS, OR MANDATES USE OF ANY OF THE
VENDOR'S PRODUCTS, GOODS, OR SERVICES.

~~5.(E)~~ Failure to timely respond to a ~~request for communication from the~~
~~secretary of state~~ THE SECRETARY OF STATE'S REQUEST FOR
COMMUNICATION OR OTHERWISE COOPERATE WITH AN INVESTIGATION.

[Current Rule 7.2.4.L is amended and recodified as New Rule 3.9.5.]

~~7.2.4.L. 3.9.5 Right to Appeal Termination of Accreditation.~~ RIGHT TO APPEAL
TERMINATION OF ACCREDITATION OR APPROVAL. If the ~~secretary of state~~
SECRETARY OF STATE proposes to terminate AN APPROVED VENDOR'S ~~the~~

1 accreditation status OR ~~of~~ THE SECRETARY OF STATE'S APPROVAL OF A COURSE
2 PROVIDER ~~an approved vendor~~, THE VENDER OR COURSE PROVIDER HAS THE RIGHT
3 TO REQUEST ~~an opportunity for~~ A hearing shall be accorded as provided in THE
4 STATE ADMINISTRATIVE PROCEDURE ACT, (~~article~~ ARTICLE 4 of ~~title~~ TITLE 24,
5 C.R.S.)

6 1.(A) If the approved vendor OR THE COURSE PROVIDER does not request a
7 hearing, termination shall WILL be effective 30 days after the termination
8 ~~notice~~ NOTICE'S MAILING DATE.

9 2.(B) ~~The termination of the approved vendor's accreditation~~ TERMINATION
10 does not bar the ~~secretary of state~~ SECRETARY OF STATE from instituting
11 BEGINNING or continuing an investigation ~~against~~ CONCERNING the vendor
12 OR COURSE PROVIDER.

13 ~~7.3. COURSE PROVIDERS~~

14 *[The information provided in Current Rule 7.3.A is amended and recodified as part of New Rule*
15 *3.1.]*

16 ~~7.3.A. Course Provider. A course provider must be approved by the secretary of state before~~
17 ~~offering a course of instruction for which the secretary of state will give credit for~~
18 ~~successful completion.~~

19 *[The information provided in Current Rule 7.3.B is amended and recodified as part of New Rule*
20 *3.2.]*

21 ~~7.3.B. Trainer Application. A course provider shall submit to the secretary of state for~~
22 ~~approval, a completed Trainer Application. The application submitted to the secretary of~~
23 ~~state shall include:~~

24 1. ~~— The name and address of the course provider.~~

25 2. ~~— Procedures to establish the identity of a person attending a course and to ensure~~
26 ~~that the person is present for the required time.~~

27 3. ~~— Procedures to ensure that the person to whom a certificate of completion is issued~~
28 ~~for completing the course of instruction is the same person who took the course.~~

29 4. ~~— Copies of any handout materials, workbooks, or tests used during the course of~~
30 ~~instruction in addition to the curriculum provided by the secretary of state.~~

31 *[Current Rule 7.3.C is amended and recodified as part of New Rule 3.4.]*

32 *[Current Rule 7.3.D is amended and recodified as part of New Rule 1.3.]*

33 ~~7.3.D. Curriculum. an approved course provider shall use a curriculum provided by the~~
34 ~~secretary of state. An approved course provider may add additional information to the~~

1 curriculum as necessary to train its employees as to the guidelines and best practices
2 utilized by their corporation, company, commercial enterprise, association, or educational
3 institution.

4 *[Current Rule 7.3.E is amended in part and recodified as part of New Rule 3.5.]*

5 ~~7.3.E. **Certificate of Completion.** Course providers will comply with section 7.2.4.H.4 of these~~
6 ~~rules except that a course provider is not required to provide a seal of accreditation when~~
7 ~~providing a certificate of successful completion.~~

8 *[Current Rule 7.4 is amended and recodified as New Rule 2.1.3]*