

MVD Procedural Quick Update

#111

RE: Notarization

Effective date: Immediate

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To: All MVD

From: Mac Lewis, MVD Policy and Procedures Manager

[This is the latest in a series of procedural updates. These updates deal with specific MVD procedures and practices. Managers and Supervisors should consistently distribute the updates to all personnel and integrate them into regular information and training sessions.]

When it is required that an affidavit, translation or other document be notarized, the notary public who performs the notarization must follow certain specific procedures as dictated by statute.

A Notary Public is a public servant appointed by state government to witness the signing of important documents and administer oaths. In New Mexico notary publics are commissioned by the governor, upon the recommendation of the Secretary of State, to perform official acts pursuant to the Notary Public Act (Sections 14-12A-1 to 14-12A-26 NMSA 1978). For our purposes the role of the notary public (also known simply as a notary) is to formally verify the signature of any individual who:

- translates a document and certifies that he or she performed the translation and that it is a full and complete translation;
- makes an affidavit and swears to its accuracy and truthfulness; or
- signs any document that is required to be notarized.

The Secretary of State's Notary Division regulates notaries and provides detailed guidance and information on the Internet at <http://www.sos.state.nm.us/sos-notary.html>. MVD agents are encouraged to make themselves familiar with the rules regarding notarization, and even to become notaries themselves. For those who just need to be familiar with the basics, here are some frequently asked questions and answers:

Q: Can a notary notarize a document that he or she has translated?

A: No. A notary should not notarize a document on which he is a signer or in which he is named; and a notary cannot notarize his own signature.

Q: Can a MVD agent who is a notary public notarize a document that is required for a transaction that the agent is handling for a customer?

A: Yes, so long as the agent does not have a personal interest in the transaction (as for example if the transaction was for the agent or a family member of the agent).

Q: As a convenience to the customer, can an MVD agent witness a signature instead of requiring that the signature be notarized?

A: No. A clerk witnessing a signature is NOT the same as (or as good as) a notarized signature. And a notary is ABSOLUTELY NOT just a witness.

Q: What are the basic elements that must be included for a notarization to be valid?

A: The notary must sign and affix his or her official notary seal (which may be a rubber stamp or an embossed seal) and must state the expiration date of the notary's license.

Field office managers and supervisors should refer any comments or questions regarding this Procedural Quick Update to their Bureau Chiefs, with cc to mac.lewis@state.nm.us. Others are encouraged to direct comments or questions directly to Mac Lewis.
