Notary Best Practices and New Law Updates for Michigan Notaries

Today’s Topics:
- The Role of a Notary / Three Notary Statuses
- Steps to a Proper Notarization
- Authorized Notarial Acts/Prohibited Actions
- More on Remote Online Notarization

The Role of a Notary
- Person of integrity
- Public servant
  1. Impartial witness
  1. Providing a variety of certifications on the signing of important documents
Three Michigan Notary Statuses

Traditional Notarization: Signer physically appears before the notary for a pen and paper notarization.

In-Person Electronic Notarization (IPEN): Signer physically appears before the notary for a notarization on an electronic document using electronic signatures and an electronic seal.


Steps to a Proper Notarization

1. Require Personal Appearance
   - Face to Face
   - In person for traditional and IPEN
   - Via audio/video communication technology for RON
   - No phone calls or recognizing familiar signatures

2. Check the Document

3. Verify the Facts

4. Record the Notarial Act

5. Complete the Certificate
Step 2: Check the Document

Not required to read the document.

Checking for:
- Completeness
- Original Signatures
- Certificate Wording

The Notary must never give advice about the document content, blank spaces, or notary certificate wording.

Step 3: Verify the Facts

Identify the Signer:
- Personal Knowledge
- Valid government issued ID card with a photograph
- A credible witness known to the notary and signer
- Additional ID verification for RON

Screen the Signer for Willingness and Awareness:
- Direct communication with the signer
- Layperson’s judgment

Acknowledgments:
- Signer is identified
- Signer acknowledges signing the document

Jurats:
- Signer is identified
- Signer swears to the content of the document (oath or affirmation)
- Signer signs the document in the presence of the notary

Signature Witnessing:
- Signer is identified
- Signer signs document in the presence of the notary
Step 4: Record the Notarization

Provides Protection:
- Signer and document: Fraud and imposters
- Notary: Proof of prudence and high standards of care

Retain records for 5 years
Records are required for RON

Recommended entries:
- Date, time, and nature of the notarial act
- Description of the document
- Name and address of the signer
- Identification method
- Fee charged
- Signature of the signer
- Additional information

Step 5: Complete the Certificate

Provides evidence of the notarial act performed

Certificates vary for each act
A notary seal is not required, but:
- It provides required notary information
- Is necessary for documents going to other states/countries
Step 5: Complete the Certificate

All certificates must contain:

- Notary Public - State of Michigan
- Notary Name – exactly as commissioned
- Date of Notarization
- County of Commission
- Commission Expiration Date
- Acting in the County of

- Notary Signature – exactly as commissioned.
- Electronic or Remote Notarization statement if appropriate.

Handout:
Complete Activity #1

Question: Why is it important to complete steps 1-4 before step 5?
Answer: To make certain you don't skip an important step, such as recording the notarization.

Step 5: Complete the Certificate

Acknowledgment Certificate:

Acknowledged by __________________________ before me on the ______th _______ day of _______.

Signature ________________________________________
Printed name ________________________________
Notary public, State of Michigan, County of _________
My commission expires _________________________
Acting in the County of ________________________
(When the notarization is being performed using an approved electronic or remote vendor system, an indication of the electronic or remote notarization must be included as well.)
Step 5: Complete the Certificate

Jurat Certificate:
Subscribed and sworn to by _________________ before me on the _________________ day of _________________, 2020

Signature______________________________________
Printed name___________________________________
Notary public, State of Michigan, County of _________________
My commission expires___________________________
Acting in the County of _________________ (Included when performing a notarial act outside of the Notary’s county of commission)
(When the notarization is being performed using an approved electronic or remote vendor system, an indication of the electronic or remote notarization must be included as well.)

Sara Signer
11th June 2020
Nick Notary
Wayne
August 25, 2022
Mackinac

Step 5: Complete the Certificate

Signature Witnessing Certificate:
Signed or attested before me by _________________ on the _________________ day of _________________, 2020

Signature___________________________________
Printed name________________________________
Notary public, State of Michigan, County of _________________
My commission expires___________________________
Acting in the County of _________________ (Included when performing a notarial act outside of the Notary’s county of commission)
(When the notarization is being performed using an approved electronic or remote vendor system, an indication of the electronic or remote notarization must be included as well.)

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Fees:
$10 per notarial act
Prohibited Actions

- Unauthorized practice of law
- Refusing a lawful and reasonable request
- Perform copy certifications
- Notarize for relatives
- Perform marriages!

Knowledge Check: Yes or No?

“Can I notarize my son-in-law’s affidavit?”
No.
Notarizing for most family members, including current in-law’s, is not allowed in Michigan.

Knowledge Check: Yes or No?

“My signer brought me an affidavit to notarize, and it has acknowledgement wording attached. Can I tell the signer it should really take a jurat?”
No.
Non-attorney notaries may not advise their signers.
Knowledge Check: Yes or No?

“My signer brought me a document that lacks any notary wording. Can I show the signer 3 certificates and let the signer choose?”

Yes.
The choice of notarial act should always be the signer’s.

Knowledge Check: Yes or No?

“My neighbor is a new widow. She needs a certified copy of her husband’s death certificate to claim his life insurance benefits. Can I help her?”

No.
Direct your neighbor to the bureau of vital statistics for vital records.

Knowledge Check: Yes or No?

“My signer’s driver’s license has expired, but we have a friend in common. Can I notarize the signer’s document?”

Yes.
The friend can serve as a Credible Identifying Witness for the signer, by taking an oath to their identity.
New Law Updates for Michigan Notaries

• IPEN
• RON
• Emergency Rules

In-Person Electronic Notarizations (IPEN)

• Signer appears in person
• Signer provides an electronic document
• Notary identifies signer
  • Personal knowledge
  • ID Card
  • Credible witness
• Document is electronically signed
• Notary completes certificate, provides electronic signature and digital seal

Remote Online Notarizations (RON)

• Signer appears via live audio-video technology
• Document is uploaded by platform provider
• Platform provider verifies signer’s identity through credential analysis/identity proofing
• Notary identifies signer through traditional means
• The document is electronically signed
• Journal entry must be made
• The notary completes certificate, provides electronic signature and digital seal
• Transaction is recorded with audio and/or video
RON: Extra Security Layers

- Platform Provider is contacted and directs signer to upload the document.
- Platform Provider identifies signer and provides extra layer of security.
- Credential Analysis (Third Party Verification)
- Identity Proofing (Knowledge Based Authentication is most common)
- Notary must still identify signer.

RON: Extra Record Keeping

- Transaction must be recorded as audio or video and stored for 10 years.
- Signer must be on record, verbally agreeing to a remote notarization.
- For RON, a single tangible, permanent bound or a tamper-evident, permanent electronic journal must be kept and retained for 10 years.

RON: Extra Record Keeping

- The journal entry must include:
  - Date, time, and nature of the notarial act
  - Description of the document
  - Name and address of the signer
  - Identification method
  - A statement of personal knowledge or
  - The name of the credible witness or
  - The type of ID card and issuance or expiration date
  - Fee charged
  - A reference to the audio or video recording
Knowledge Check:
For which status must the notary identify the signer?

a. Traditional Pen & Paper
b. IPEN (In Person Electronic Notarization)
c. RON (Remote Online Notarization)

Knowledge Check:
For which status must the notary identify the signer?

a. Traditional Pen & Paper
b. IPEN (In Person Electronic Notarization)
c. RON (Remote Online Notarization)

Knowledge Check:
For which status must the notary sign electronically?

a. Traditional Pen & Paper
b. IPEN (In Person Electronic Notarization)
c. RON (Remote Online Notarization)
Knowledge Check:
For which status must the notary sign electronically?

a. Traditional Pen & Paper
b. IPEN (In Person Electronic Notarization)
c. RON (Remote Online Notarization)

Knowledge Check:
For which status must the signer physically appear before the notary?

a. Traditional Pen & Paper
b. IPEN (In Person Electronic Notarization)
c. RON (Remote Online Notarization)
Knowledge Check:
For which status must the notary make a journal entry?

a. Traditional Pen & Paper
b. IPEN (In Person Electronic Notarization)
c. RON (Remote Online Notarization)

Emergency Rules

- Authorizes any commissioned notary to perform certain notarizations remotely.
- The document can be transmitted by fax, email, or mail.
- The notary must witness the signatures via audio/video communication and then must notarize within 72 hours.
- The notary certificate must reflect the date the signature was witnessed.
- Notary must be in Michigan at the time of notarization. If signer is outside of Michigan, the signer must affirm that the document to be notarized pertains to business or property in connection with Michigan.
- An audio or video record must be made.
- The signature must be tamper-evident.
- These rules expire June 30, 2020.
How to Register for RON and IPEN Status

To perform IPEN and RON

- Register with a state approved Remote Online Platform Provider. (Approved vendors are available on the Michigan Department of State’s website.)
- Current notaries must submit a Request for Duplicate/Notice of Change form to update status
- New notaries must submit the Notary Application and provide vendor information
- The Secretary of State must be notified before performing IPEN / RON

Q&A

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