

NotaryX.com - Notes, Application, and Questions.

Note: This is not required for Educational Hours

This reading is recommended for new notaries who want to know what it is like to be a practicing notary. There are also exam notes on items that occur frequently in the California Notary exam.

The Basics

Exam notes: Remember that the notary doesn't need to be a United States citizen, just a California resident.

Application: Be sure to list all convictions and current arrests on the notary public application. A minor conviction may not stop you from being a notary public but omitting the conviction, no matter how minor, will stop the application.

Application: The age requirement is a technical issue that can sometimes be a problem. With several notaries in the family, my son applied for the notary exam when he was under 18 years of age and his application was rejected. We tried appealing to the Secretary of State's office because the notary commission would not take effect until he was 18. The rules require the applicant to be 18. With the normal test delays, an applicant could not be a notary until about age 18, 2 months, at a minimum. Interestingly, I took the real estate sales person license test at age 17 but the state wouldn't issue it until I was 18. This may be important if your notary business becomes a family business, as frequently happens.

Exam notes: The notary licensing exam has no trick questions. However, some of the questions are tricky. Make sure to read the questions carefully so that you fully comprehend what is being asked. Make sure that you are completing the bubbles for the correct question. Don't rush to leave the test site. Double check all your answers. Sometimes the last page has only one question on it and it is easy to forget to answer the last question. I can tell you from personal experience that I forgot the last question and was marking bubbles for the wrong question number. If I had not double checked all of the questions, I would have marked the last five answers incorrectly.

Jurisdiction and County Filing

Application: The commission bond must be filed within 30 days after receiving the commission. This involves several steps and takes several days to complete from the time the bond is requested. Start the bond process quickly. The notary seals can wait.

Exam notes: Your notary commission is good anywhere in the state. You may frequently be called to do a notary out of the county.

Application: When you receive your notary commission, or even a day before you receive your commission, you will receive bond applications from several vendors. All of the bonds are essentially the same, choose any of them. You do not have to order the notary seals from the same company. It will take a few days to get the bond, and several more days to get it recorded by the county recorder. While you are waiting for the bond, choose the notary seal(s) that you would like to order. With several notaries in our family, we choose several types of seals. I choose two seals, a rectangular seal and a round seal that are applicable for using at a desk since I don't travel. I choose the two different shapes because some shapes are easier to use on specific forms. If you are travelling to notarize documents, a small pocket or folding seal is convenient. You only need one seal. However, if you notarize a lot of documents, it is good to have more than one seal in case one is lost or damaged. I have lost a seal. I was driving to a notary appointment and was in a vehicle accident in which my vehicle overturned and all of my notary stuff was thrown onto the freeway. The seal was never found. Fortunately, I had two seals and the second seal kept me in business while I waited for a replacement.

Address Changes

Exam notes: An address change must be filed whether a business or residence changes. The seal does not need to be changed to the new county name if the address is in a different county.

Application: The employment contract for an employee who provides notary services can be a difficult issue. The Department of Notary specifically states that an employment contract may limit the notary's transactions to business transactions during business hours. However, the notary still has a right to notarize non-business transactions outside of the time of employment. This can be a problem for the employee and employer. For example, if the employee performs an improper notary after business hours, there may be a question of liability: is there liability on the part of the employer or does liability rest solely on the notary? The employment contract needs to specify liability to the extent possible.

Application: Get the bond ordered and filed as soon as possible. The time limit is 30 calendar days. However, by the time that you get your commission from the Secretary of State, you have only 28 days left. It takes about 3 days to get the bond. It will probably take a few days to arrange a stop at the county recorder. You can easily take ten or more days to get the bond filed. Procrastinate for a week or two and you can start running short on time. You can order the notary seal from a different vendor when you have more time to look at offerings. However, the bond should be ordered immediately.

Exam notes: Notary bond. The notary bond protects the public, not the notary. As a notary, if a mistake is made and the notary is financially liable, the bond holder will pay the first \$15,000 of the liability. Not only does the notary pay anything above \$15,000, the notary also must pay the bond company its \$15,000. Errors and omissions insurance protects the notary. Therefore, although it is an additional cost, E&O is good for the notary.

Application: When a change of address is filed to a new county, it is probably not worthwhile to change the seal to reflect the new county. Doing so runs the risk of making a mistake on the filing.

The Journal

Application: If you are a travelling notary, having only one journal may be a problem. Carrying sensitive information between notary destinations increases the chance of loss or theft. Consider using journals with less journal entries. The journal can be purchased but it can also be made. In our notary practice, we have made our own journals and they typically have only 200 entries per journal. The potential loss of information is much smaller than a typical journal with room for 400 or more entries.

Application: Securing the journal can be an issue. A separate locking cash drawer can be added under a table and makes an excellent place to secure notary stamps with the other items that are needed for a notary.

Application: Requests for notary information will come occasionally. We typically get about one request for every 800 notary acts. Usually the request will come from an escrow company, title company or attorney trying to verify that a deed was notarized. This is one area where it is very important to make sure that the notary journal was completed correctly, including thumbprints. Cooperate with these people as much as possible because they know notary law and will appreciate your attention. Although you can charge 30 cents per page, we usually offer to send the page for free. Some attorneys will send a few dollars to offset any expenses as a courtesy.

Application: If a member of the public who is not familiar with notary acts asks for a record, you will usually find that they expect you to have a copy of the actual document, in which case you will need to explain that notaries don't keep copies of documents. They may also ask you for records and not know the month or year of the notary. This can be very difficult if you perform hundreds of notary acts each year. In this case, explain to the requestor that the notary law requires the names of the parties, the type of document, and the month and year. It also requires the request to be in writing and that you have 15 days to respond. Generally, these requirements will stop all but the most serious requestors for asking for data.

From our experience, a more stressful situation arises when the notary is actually served with notice to appear in court. Having good records not only helps you to appear professional, but can also help you to remember the circumstances of the notary. Be sure to write any notes on your journal of unusual circumstances. For example, if the signer is elderly, you may want to make a note that you had a conversation and the signer knew what the document was for. You also may want to make a note about the signing if the language spoken was other than English.

Application: Having a stolen or lost journal is a significant problem, especially with personal information about each signer. Again, consider using a journal with fewer entry areas so that a loss affects less people.

Application: Notary seal. Buying a seal from an authorized vendor will give you the correct size seal. Be careful which vendor you purchase from. From our experience, most vendors are quick. However, there are vendors that take up to a month to manufacture your seal. If you wait a month for a seal, you are unable to perform notarial acts during that month. Order on-line, but also call the vendor and find out how long the manufacturing process is currently taking.

Application: The embosser, though not required, can be useful. On documents in which the notarial wording is on a separate page, it is handy to be able to emboss the signature page when it is not notarized and put in the description of the notarized page that the signature page has an embossed seal. The embosser is also useful when a document is being sent to a foreign country. The document will appear to be more "official" if it is embossed.

Application: Official use of seal. If you test your notarial seal after receiving it, shred the paper afterwards. Having your notary stamp on blank pages is a recipe for fraud. Make sure to lock it up when not in use. When you stamp a document, stamp clearly and stamp in an empty space, when possible. You will sometimes be frustrated when the obvious notary space on the document has a typewritten phrase in the middle that says something like "Place notary seal here." In this case, you will probably have to stamp over the words. Although it's obvious where the document is supposed to be stamped, some form developers decide that notaries have trouble deciding where to stamp...

Notary stamps do get lost as I discussed above and can also break if it is a push type stamp, as is commonly used. It is a good idea to get two stamps. You can also leave them in two different locations and bring the journal from location to location.

Incomplete and Foreign Documents

Exam Notes: Incomplete documents. Be aware of people bringing in incomplete documents. A frequent excuse is that the signer will complete the document later.

Application: In our notary practice, we have to explain that the document has to be complete several times each week and wait while the document is completed. If we are making a home visit, we explain this issue before we make the signing appointment. Another frequent problem is people bring only the signature page of the document. Since you cannot see the entire document, you can't tell if it's complete. You'll have to send the signer to get the full document and this will cause arguments. Some signers will then say that the signing page is the entire document. You'll have to explain that the document is not complete if it is obvious that there are missing pages. This is one area where you can get an upset customer.

Foreign documents: Most foreign documents will be in Spanish. The biggest objection with the signer will be that the notary wording is in English. You should be prepared to explain or even print the law to show to the customer. If the signer speaks a language that you do not understand, refer them to a notary speaking their language. However, if you don't know a referral notary that you can refer them to, tell them to call their country's embassy for a referral. I've ended up in court because the signer claimed that he didn't speak English, only Spanish, even though the transaction was in English. In court, the signer had to have a translator even though the signer had previously worked as a translator.

Apparently, he had forgotten that he could speak English. Fortunately, not only was it proved in court that the signer had worked as a translator, but I also speak transactional Spanish and showed my ability in court. The signer lost his case. Remember, the first line of defense for a signer who changes his mind will be that he didn't understand what he was signing. Be wary of the language issue. I've had to turn down signers who spoke other languages because there was no way of understanding each other.

Application: Signer identity. Rarely does a day go by when someone does not have proper identification. They left it at home, lost it last week, forgot to renew it, had it stolen, left it in someone's car, etc. There are a lot of sloppy, identification losing, people in California. Many of them will have an old ID which they will want you to use. They may also go and apply to the DMV for a license or identification card but the receipt cannot be used as an ID. You'll have to explain to them the rules regarding identification. You will have problems with this issue. If someone calls to make an appointment, it is a good idea to tell them to check to see that they have their identification with them. If they don't have an ID, it is easier to deal with it on the phone than with a begging, angry, upset person in your place of business. Many people are lazy about getting their identification until they get a \$5000 settlement offer in the mail that needs to be notarized and then they expect things to be done in one hour.

Identification documents. I keep a list of valid identification documents next to my journal. If someone starts offering MediCal cards, social security cards, or their birth certificate from the hospital (you know, the one with the footprint on it), you'll need to explain identity requirements to them. It is better to give them a written document and put the blame on the state of California when you tell them that their check cashing card won't work. Also, you will frequently be offered the Mexican matricula card as identification. This card has been the subject of extensive fraud and is not valid as identification. This is a good time to explain to the signer about the credible witness option. Make the signer find two relatives with identification and drag them in for the notary. Most likely, the credible witnesses will be annoyed and will strongly suggest to the signer that they need to apply for their own identification. Credible witnesses. The main issue with credible witnesses is to determine if the witnesses really know the signer. The credible witnesses must not benefit from the transaction and this is easily explained. However, someone who has known the signer for only a short time is not a credible witness. There are no rules for when a witness becomes credible. However, we usually try for a period of personal knowledge of at least five years but also recommend that family members be used because they will know the signer best. The circumstances of personal knowledge where only one credible witness is needed is very rare.

Exam notes: Journal entry. Sometimes, especially with out of state documents, the type of notarial act is difficult to describe. However, the word "acknowledge" usually indicates an acknowledgement. The phrase "subscribed and sworn" indicates a jurat. Some legal documents combine the phrases: "subscribed, acknowledged, and sworn to" or similar. In this case a more thorough reading is necessary or the substitution of California wording, if allowed. Also, be careful about the fee area. Travelling notaries usually have a travel fee which should not be listed as part of the fee.

Application: Thumbprints. Most notaries take thumbprints for all documents. This will provide extra proof of identification, if needed. Taking thumbprints for all documents means that the notary does not

have to specifically remember which documents require thumbprints. As a notary, you can ask for more identification than required but not take less identification. Notaries may even take photographs of the signer. However, the notary exam will ask questions regarding the taking of thumbprints so remember the following require thumbprints: deed, quitclaim deed, deed of trust, other document affecting real property, or a power of attorney. If the property owner is signing over a right to the property, it requires a thumbprint.

Exam Notes: Acknowledgment. You will see acknowledgments more than any other notary act. The signer of the acknowledgment does not have to sign in front of the notary, only acknowledge that it is their signature. Compare the signature with the signature in your journal. Also, compare the signature with the identification document. You may need to specifically ask the document signer to sign your journal in the same manner as the document. Frequently, the signer will sign their legal document with a “formal” signature and then sign the journal in an “informal” way. While the deed of trust may be signed Jonathan Jones, your journal may be signed Jack Jones. Double check the signatures and get a new signature if needed. Also, make sure that the signature matches the identification document. If the signer has already signed the document, ask the signer to acknowledge that the signature is theirs.

Exam notes: Journal Entry. Keep in mind that there are only a few items required in the journal: time and date, type of notarial act, type of document, the signer’s signature, type of identification, issuer of identification, identifying number, identification expiration or issuance date, fee charged, and in some cases, the thumbprint. Most notaries also include the address of the signer, though not required. It is always acceptable to put additional identifying marks in the record to help identify the signer if required, at some future time. Most notaries take a thumbprint for every document. Taking the thumbprint provides evidence that the signer appeared in front of the notary and if the signer later claims not to have appeared in front of the notary, it is easily proven or disproven. Other things that you can do are to take pictures of signers, record height, or get a license plate from the car they are driving. Don’t record the social security number of the signer because you could be later accused of identification theft if something happens to the signer’s identification.

Application: Acknowledgement certificate. The California requirement for the certificate wording is set in stone. If an in-state document has other wording, attach a separate acknowledgement form. These can be purchased or you can type your own. Many signers will bring a pre-printed form to be notarized. There are many old forms still being sold that contain the pre-2008 notarial wording. Even real estate transfer documents still have the old wording. Look for the current wording and substitute a form, if necessary. Also, the acknowledgment usually has a lot of alternatives such as he/she/they and is/are. It is customary to cross out the unused wording. However, it is not necessary and a mistake could render the certificate invalid. If the document has only one signer, the signers name can be entered and a line drawn in the remaining part of the line so that additional names cannot be later entered.

Another issue which sometimes comes up when notarizing a document is the issue of two signers in separate locations. For example, a spouse may be signing home selling documents in California and then sending the document to a different state to have the other spouse sign. If there is only one notary certificate included, the first notary, as a courtesy, should use a separate notary certificate. This leaves the document’s certificate available for the next notary. This is a good practice

because the next notary may be missing loose certificates and if the certificate is available on the form, it will save the signer from making trips to different notaries.

Exam notes: Jurats. The jurat has two features which distinguish it from an acknowledgment. First, it must be signed in person in front of the notary. Second, the signer must swear to the validity of the statement. Each jurat will have the words “subscribed” and “sworn” on it. A document with a jurat is some type of affidavit. An affidavit is a sworn statement. The oath or affirmation that the signer gives is verbal. Although you can raise your right hand and have the signer raise his, you can also just have the signer swear that everything signed is true.

Application: Affidavits are used for court cases, income verification, and identity verification. An easy way to remember the difference between an acknowledgment and a jurat is in the types of documents where they are used. For example, a Deed of Trust has an acknowledgement. The signer is signing the Deed of Trust to pledge the payment of a real estate loan. The signer is not swearing to the validity of the contents, just that the signer agrees to pay. On the other hand, a jurat is used for an income affidavit. In the affidavit, the signer is swearing that he has a specified income level and is telling the truth about the income. If the signer is later found to be lying about the statement in the affidavit, he is guilty of perjury and can be fined or jailed. With the Deed of Trust acknowledgement, the recourse to the lender is to take the home if the signer does not pay but the signer will not go to jail.

Exam notes: Document and copy certification. Notaries will frequently get calls asking them to certify a copy of a birth certificate or license. The notary cannot certify the document. However, the workaround in this situation is to have the signer swear that the contents are true and the notary completes a jurat for the certification. Most places asking for a certified copy understand that California law does not allow a notary certification. Be prepared to explain the situation and the law to the signer.

Exam notes: Proof of execution by a subscribing witness. Read this section carefully and understand how it works. There will probably be a question about it on the notary exam. In real life, this will probably never occur. In our practice, with tens of thousands of completed notaries, it has never happened. The salient points to consider are that you know the credible witness and the credible witness knows the subscribing witness and the subscribing witness knows the signer. If you run across this situation in real life, take your time and pull up the appropriate section of the notary handbook. Print it out, and use it as a guide to complete the notary.

Exam notes: Signature by mark. The signature by mark is one of those areas where the notary needs to use extreme caution. First, determine why the signer can only make a mark. In many cases, the signer is ill and cannot sign their full signature. In other cases, the signer cannot read or write, this is especially true for people born in other countries. The difficulty in either of these situations is determining whether there is capacity to sign. If a person is too weak or undereducated to sign their name, can they really understand what they are signing. If the signer can speak, they should describe the document. If unable to speak, the notary still needs to get affirmative answers from the signer. Yes and no questions

where the signer shakes their head is one way of determining capacity to sign when the body is too frail to physically sign. Another method is to lift a finger to indicate yes or no.

Once the signer marks the document and the journal, the two witnesses need to complete their work. They both need to sign the document and one needs to write the name of the signer. This situation is different from a credible witness because the signing witnesses do not necessarily have to know the signer, just watch the mark being made. Also, neither of the mark witnesses need to sign the notary journal, the notary is an acceptable witness here. For best practices, have one of the witnesses sign the journal and write the name of the signer.

Frequently, when you come across a signer by mark, you will also have the situation where you don't have a valid identification. In this case, you will need two credible witnesses who know the signer and then will sign the notary journal. If you are traveling to get the notarized signature, give yourself extra time because this type of signing never proceeds quickly.

Application: Certifying copies. You will frequently be asked to certify copies of birth certificates, identification documents, and other documents. You cannot do this. You will need to explain that the process for certifying documents in California is to go to the document issuer and have a copy certified by them. However, this may not be practical and the requesting agency may still ask for a notarization. This request is referred to as a "Copy Certification by the Document Custodian". You will need to explain to the signer that they will certify that the document is a copy and you will notarize their signature. In years of notary practice, no one has ever returned because the issuing agency wouldn't accept this method of notarization. However, when you explain to the signer the process for certifying, expect some objections.

You can make only two exceptions to the certifying rule. First, you can certify your own notary records. Second, you can certify Powers of Attorney. You will not be likely to get many of these requests. However, if you do, it is best to photocopy the original Power of Attorney than to try to compare a copy that the signer has brought. Another interesting fact is that there is a certification wording that is different than either an acknowledgment or a jurat. Certifying a document is the only time when a signature is not being notarized. Interestingly, the identification of the person asking for the certification is not required. However, it is recommended that the requestor, principal, and agent's names should all be recorded in the notary journal

Exam notes: Immigration specialists. The completion of immigration papers should not be done by the notary. Notaries are never allowed to complete forms and should always refer signers to an attorney. Immigration documents are another example of this. Generally, a notary should avoid completing any document for a signer because it increases the liability level of the notary. In other words, if you prepare the document, you are liable for mistakes. That being said, some notaries are licensed to do immigration documents. In that case, the notary can complete the forms. Similarly, licensed real estate brokers, escrow officers, and title insurance personnel may complete forms within their scope of knowledge even though they are notary publics.

Application: Notario Publico. In Mexico and other Spanish-speaking countries, a "notario publico" is different than a California notary. In those countries, the notario public prepares documents, writes

letters, and can do many of the same functions as lawyers. Therefore, advertising as a notario publico would imply that the notary can do more functions than legally allowed. The good news is that the phrase in English is close enough to the Spanish phrase that most people will know what it means. The bad news is that you will still be requested to complete paperwork although you are not allowed to do so.

Protests, depositions, and confidential marriages. These things are unusual unless you are in specific fields in which these documents are used. Generally, you do not need to do these and can tell the requestor to find another notary who specializes in these areas.

Fees

Exam notes: Fees. The fee schedule is fairly easy. For almost everything, \$10.00 can be charged per signature. If you work for the military or a public agency, your fee schedule may be different. Also, your employer can set lower fees or no fees but not higher fees. You can charge 30 cents for photocopying a line you're your journal. There are only a few cases where no fee can be charged. The most likely case will be voting records. Although California does not require a notary on absentee ballots, other states might. Some of the Indian nations also require notarized signatures on their voting documents. Our experience has been that these documents are few and far between and the signer generally knows that the notary is free and they will tell you.

Exam notes: For the notary exam, you should remember that state and county employees charge a fee but give the fee to their employer. Also, remember that for all services in connection with the taking of any deposition, \$20, and an additional \$5 for administering the oath to the witness and \$5 for the certificate to the deposition. You will unlikely ever notarize under these types of circumstances but you may get quizzed on them.

Misconduct

Exam notes: Misconduct. Misconduct on the part of the notary is treated very seriously. If you make a mistake, your bond issuer may pay for the damages that you caused but you will have to pay the bonding company back. If you make a mistake and have Errors and Omission insurance, your E&O coverage will cover up to your insurance limit. Otherwise, you could be sued. For example, if you notarize a real estate deed of trust and forget to stamp the document, the signer could lose the right to buy the property that they were trying to buy. They could come back to you, as the notary, and sue you for their loss. Depending on the situation, it could be hundreds of thousands of dollars, more than the bond or your E&O covers. All your assets could be liable. Although this is a far-fetched situation, it could happen and you need to be careful to make as few mistakes as possible. In the above example, the more likely scenario is that the title or escrow company would send the document back to you for notary stamping.

Application: Failing to discharge the duties of a notary public can also cause civil liability and the loss of your notary license. For example, if you set regular business hours and are unavailable during those

hours, you failed to discharge your duties. Also, if you refuse to notarize a legal document, you have failed to discharge your duties. You do not have to like the document but you still have to notarize it. For example, our notary service was asked to notarize a document for a mother who was giving permission to her underage daughter to leave the state to marry a man who was twenty years older than her. Although the idea was repugnant, the document was legal because the daughter was getting married in a state with a consent age of 16. Regardless of religious and moral beliefs, the document has to be notarized. On the other hand, there is no law against giving your opinion and letting signers know that they are making horrible and disgusting decisions.

Conflict of Interest

Exam notes: Conflict of Interest. If you have a conflict of interest in a notarized transaction, you should avoid notarizing the document because a court decision may declare the notary invalid. To determine if there is a conflict of interest, you need to determine if there is any benefit to you other than extremely minor benefits. For example, if your spouse is purchasing property, you should not notarize the documents because you will potentially benefit from the use or income from the property. Even if your spouse keeps their money separate, you could benefit if your spouse were to die. On the other hand, if your spouse is making a statement for their workplace regarding a client meeting, you are not likely to have a conflict of interest. Even though your spouse earns income from their job, if the statement does not affect their income, it is not likely a conflict of interest. If you are involved personally in a real estate transaction, you should not notarize any document in the transaction. However, you can notarize a document at work even if your company benefits because you do not benefit directly.

Legal Advice

Application: Giving legal advice. This issue is a frequent issue that you will come across. You will constantly be asked for legal advice. When you hear a phrase such as “what form is needed...” or “what do you recommend”, you should automatically assume that the signer is asking for legal advice. In this case, you should inform them that a notary is a witness to the signing of a document and cannot make legal decisions. Inform them that they should see a lawyer. If you help them with a document and a mistake is made, you may be liable for damages and liable for practicing law without a license. If the document brought to you has no acknowledgment or jurat, you may explain the difference between the two forms and have them choose. The easy way to explain the difference is that an acknowledgment says that the signer acknowledges signing the document while the jurat states that the signer swears that the statement being notarized is true. Generally, if the signer is agreeing to terms and conditions of a transaction, the document required is an acknowledgment. If the signer is stating facts or completing an application, then a jurat is needed. However, it is the decision of the signer.

Commission Revocation or Denial

Exam notes: Commission Revocation or Denial. The important issue here is to make sure that all convictions and arrests pending trial are disclosed. Afterwards, make sure that all notarial duties are performed correctly. Some of the important issues are:

- Failure to discharge notary duties fully and faithfully. For example, refusing to perform a notary during business hours.
- False or misleading advertising. Don't add abilities that you don't have. If you are only a notary, you can only notarize documents. If you have other licenses, you can perform other tasks as those licenses allow. If you advertise and have other licenses, state that you have those licenses.
- Practicing law. Don't recommend forms or complete documents for your customer. Notaries are limited to completing basic information, such as dates and venue.
- Fees. Don't try to get more fees than allowed by law. If someone comes to you to notarize a document that has no fee, charging a fee accidentally may be forgiven by the state and you'll have to return the fee. However, charging \$20 to notarize a single signature on an acknowledgment is sure to cause problems. If you are caught doing this, the state will know it is not an accident.
- Fraud and dishonesty. This is obvious. If you intentionally commit a fraud, you will lose your notary license and if convicted, will probably be penalized more than if you were not a notary.
- Failure to complete the acknowledgment. If you leave the acknowledgment uncompleted at the time that you notarize the document, more names can be added to the acknowledgment by the signer and fraud committed. It's a good practice to draw a line through any unneeded space in the acknowledgment.
- Failure to administer oath or affirmation. When a jurat is required, the signer is swearing that the contents of the document are true. Asking, "Do you swear that everything you signed here is true?" and waiting for an affirmative answer is easy and complies with the law. You don't want the signer to later say that he signed it but didn't agree that it was true.

Penalties

Exam notes: Penalties. Dishonesty does not pay. In addition to civil penalties, you will likely lose your notary license for anything except the smallest infraction. Look through the list of penalties. Note that a deliberate fraud has more severe penalties than an accidental mistake. However, some things are obvious and cannot be done whether intentionally or accidentally.

Felonies

Exam notes: Felonies. If you transfer, or help transfer, real estate fraudulently, you have committed a felony. Forgery is also a felony. Perjury, lying, is also a felony. Notaries are expected to be truthful and honest. If you are dishonest, and the result is someone else's loss, you are likely to go to jail. As a notary, you are more likely to be convicted and sentenced to a longer sentence than someone who is not a notary because of your knowledge.

Misdemeanors

Exam notes: Misdemeanors. Misdemeanors are punishable by up to a year in county jail. As you read this section, note that a lot of the infractions mentioned are things being done to the notary by the signer.

Application: As the notary, you need to control the situation. However, if you are the victim of a fraud, you will not be at fault as long as you exercised reasonable care. Remember, there are people out there who are capable of committing serious crimes and the fact that you are an innocent party will not prevent them from committing those crimes. Be on the alert for unusual requests from customers. Watch customers who are wandering around your office. Don't get distracted. Dissuade people from bringing children into your work area who might be distracting.

Practicing law. It is very easy to get pulled into a situation where you could be considered to be practicing law. If you complete a form or document, for all but the most minor entries, you could be considered to be practicing law. Where is the fine line between practicing law and performing notarial duties? There is no defining limit but generally, if you are giving advice, you may be considered to be practicing law. Here are some examples:

Performing notarial duties:

Entering a date in a form.

Answering questions about what a notary public is used for.

Practicing law:

Advising someone as to how to take title on a real estate deed.

Infractions

Exam notes: Infractions. Changing a name or address requires notification to the Secretary of State. If done accidentally, there is no penalty. If the notification is purposely ignored, then it is willful and you could be penalized. This is a hard subject to prove either way. Changing a name without notifying the Secretary of State is more likely to be willful when you notarize a document and see your previous name. Changing the county of residence or business is also more likely to be considered willful since you will see the county on your notary seal each time that you stamp a document. On the other hand, changing a local residential address may be a circumstance when it is easier to forget to send in a change of address notice. Be sure to send in the change notices as soon as the information changes or as soon as you realize it.