

14 Steps to Proper Notarization

What constitutes reasonable care?

If a Notary can convincingly show that he or she used every reasonable precaution expected of a person of ordinary prudence and intelligence, then the Notary has exercised reasonable care — a shield against liability.

The following 14-step checklist will help Notaries apply reasonable care and avert the most common pitfalls.

1. Require every signer to personally appear

The signer must appear in person before the Notary on the date and in the county stated in the notarial certificate. “Personal appearance” means the signer is in the Notary’s physical presence — face-to-face in the same room. A telephone call is not acceptable as personal appearance.

2. Make a careful identification

The Notary must identify every document signer through either personal knowledge, the sworn written statement of one or two credible identifying witnesses under oath, or through reliable identification documents (ID cards).

When using ID cards, the Notary must examine them closely to detect alteration, counterfeiting or evidence that they are issued to an impostor. Don’t rely on a type of card with which you are unfamiliar, unless you check it against a reference such as the *U.S. Identification Manual* or *ID Checking Guide*.

3. Feel certain the signer is aware

A conscientious and careful Notary will be certain not only of the signer’s identity and willingness to sign, but also will make a layperson’s judgment about the signer’s ability to understand the document. This ability to understand is called *awareness*.

Florida Notaries are expressly required by law to determine awareness.

A document signer who cannot respond intelligibly in a simple conversation with the Notary should not be considered cognizant to sign at that moment. If in doubt, the Notary can ask the signer if he or she understands the document and can explain its purpose. Or, if in a medical environment, the signer’s doctor can be consulted for a professional opinion.

4. Check the signature

The Notary must make sure that the document signer signs the same name appearing on the identification presented.

To check for possible forgery, the Notary should compare the signature that the person leaves in the journal of notarial acts against the signatures on the document and on the IDs. Also, it should be noted whether the signer appears to be laboring over the journal signature, indicating a possible forgery in progress.

In certain circumstances, it may be acceptable for a signer to sign with an abbreviated form of his or her name (John D. Smith instead of John David Smith, for example), as long as the individual is signing with *less* than and not *more* than what is on the identification document.

5. Look for blank spaces

Florida Notaries are expressly prohibited by law from notarizing incomplete documents.

Documents with blank spaces have a great potential for fraudulent misuse. A borrower, for example, might sign an incomplete promissory note, trusting the lender to fill it out, and then later find that the lender has written in an amount in excess of what was actually borrowed.

If the blanks are inapplicable and intended to be left unfilled, the signer should be asked to line through each space (using ink), or to write in “not applicable” or “NA.”

6. Scan the document

Notaries are not required to read the documents they notarize, unless the document signer is visually impaired or blind. However, they should note certain important particulars about a document, such as its title, for recording in the journal of notarial acts. Notaries must be sure to count and record the number of pages; this can show whether pages are later fraudulently added or removed.

7. Check the document's date

For acknowledgments, the date of signing on the document should either precede or be the same as the date of the notarization, but not follow it. For a jurat, the document signing date and the notarization date must be the same.

A document dated to follow the date on its notarial certificate risks rejection by a recorder, who may question how the document could have been notarized before it was signed.

8. Keep a journal of notarial acts

A journal is recommended for all Notaries in Florida. If a notarized document is lost or altered, or if certain facts about the transaction are later challenged, the Notary's journal becomes valuable evidence. It can protect the rights of all parties to a transaction and help Notaries defend themselves against false accusations.

The Notary should include *all* the pertinent details of the notarization in the journal, such as the date and type of notarization, the date and type of document, the signature, printed name and address of the signer, how this person was identified, and notarial fees charged, if any. Any other pertinent data, such as the capacity the signer is claiming, may also be entered.

9. Complete the journal entry first

The Notary should complete the journal entry entirely *before* filling out the notarial

certificate. This prevents a signer from leaving before the important public record of the notarization is made in the journal.

10. Make sure the document has notarial wording

If a Notary certificate does not come with the document, the Notary must ask the document signer what type of notarization — acknowledgment or jurat — is required. The Notary may then type the appropriate notarial wording on the document or attach a preprinted, loose certificate.

If the signer does not know what type of notarization is required, he or she should contact the document's issuing or receiving agency to determine this. This decision is *never* the Notary's to make unless the Notary is also an attorney.

11. Be attentive to details

When filling out the certificate, the Notary needs to make sure the venue correctly identifies the place of notarization; if the venue is preprinted and incorrect, the Notary must line through the incorrect state and/or county, write in the proper site of the notarization and initial and date the change.

Also, the Notary must pay attention to spaces on the Notary certificate that indicate the number and gender of the document signers, as well as how they were identified — for example, leave the plural “(s)” untouched or cross it out, as appropriate.

12. Affix your signature and seal properly

Notaries must sign *exactly* the same name appearing on their commissioning papers. And they must never forget to affix their official seals — a common reason for rejection of a document by a recorder.

The seal should be placed as close to the Notary's signature as possible without overprinting it. To prevent illegibility, a Notary seal should not be affixed over wording, particularly over a signature.

13. Protect loose certificates

If the Notary has to attach a notarial certificate, it must be securely stapled to the left margin of the document. Notaries can protect against the removal of such loose certificates by embossing them together with the documents and writing the particulars of the document to which the certificate is attached in one of the certificate's margins. For example, the notation, “This certificate is attached to a 15-page partnership agreement between John Smith and Mary Doe, signed February 21, 2000,” would deter fraudulent removal and reattachment of a loose certificate.

14. Don't give advice

Every state prohibits non-attorneys from practicing law. Notaries *never* prepare or complete documents for others, nor give advice on any matter relating to a document unless they are attorneys or professionals certified or licensed in a relevant area of expertise. The non-attorney Notary *never* chooses the type of certificate or notarization a document needs, since this decision can have important legal ramifications. The Notary could be held liable for any damages resulting from an incorrectly chosen certificate or notarization.