

CHAPTER 43
NOTARIAL ACTS

721—43.1(9E) Certificate of notarial acts. A notarial act shall be evidenced by a certificate signed and dated by a notarial officer. The certificate shall include identification of the jurisdiction in which the notarial act is performed and the title of the office of the notarial officer (for example, notary public, judge, clerk of court) and may include the official stamp or seal of office. A certificate of a notarial act is sufficient if it substantially meets the requirements of this rule, or other applicable law. The form of the certificate may consist of:

- 1. The short form set forth in rule 721—43.2(9E);
2. A form otherwise prescribed by the law of this state;
3. A form prescribed by laws or regulations applicable in the place in which the notarial act was performed; or
4. Any description of the actions of the notarial officer sufficient to meet the requirements of the designated notarial act.

By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determination required by Iowa Code section 9E.9.

721—43.2(9E) Short forms. The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by rule 721—43.1(9E).

1. Acknowledgment in an individual capacity:

State of _____

County of _____

This instrument was acknowledged before me on _____ (date)

by _____.

(name(s) of person(s))

(Seal, if any) _____

(Signature)

NOTARY PUBLIC

(or title of other officer authorized to perform notarial acts)

2. Acknowledgment in a representative capacity:

State of _____

County of _____

This instrument was acknowledged before me on (date) by (name(s) of person(s)) as (type of authority, e.g., officer, trustee, etc.) or (name of party on behalf of whom instrument was executed).

(Seal, if any) _____

(Signature)

NOTARY PUBLIC

(or title of other officer authorized to perform notarial acts)

3. Verification upon oath or affirmation:

State of _____

County of _____

Signed and sworn to (or affirmed) before me on (date) by (name(s) of person(s) making statement).

(Seal, if any) _____

(Signature)

NOTARY PUBLIC

(or title of other officer authorized to perform notarial acts)

4. Witnessing or attesting a signature:

State of _____

County of _____

Signed or attested before me on (date) by _____

(names of persons)

(Seal, if any) _____

(Signature)

NOTARY PUBLIC

(or title of other officer authorized to perform notarial acts)

5. Attestation of a copy of a document:

State of _____

County of _____

I certify that this is a true and correct copy of a document in the possession of _____

Dated _____

(Seal, if any) _____

(Signature)

NOTARY PUBLIC

(or title of other officer authorized to perform notarial acts)

721—43.3(9E) Notarial acts in other jurisdictions of the United States. A notarial act has the same effect in this state as if performed by a notarial officer of this state, if performed in another state, commonwealth, territory, district, or possession of the United States by any of the following persons:

1. A notary public of that jurisdiction;
2. A judge, clerk or deputy clerk of court of that jurisdiction; or
3. Any other person authorized by law of that jurisdiction to perform notarial acts.

Notarial acts performed in other jurisdictions of the United States under federal authority as provided in rule 721—43.4(9E) have the same effect as if performed by a notarial officer of this state.

The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

The signature and indicated title of an officer relisted in rule 721—43.3(9E), item 1 or 2, conclusively establish the authority of a holder of that title to perform a notarial act.

721—43.4(9E) Notarial acts under federal authority. A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if performed anywhere by any of the following persons under authority granted by the law of the United States:

1. A judge, clerk, or deputy clerk of a court;
2. A commissioned officer on active duty in the military service of the United States;
3. An officer of the foreign service or consular officer of the United States; or
4. Any other person authorized by federal law to perform notarial acts.

The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

The signature and indicated title of an officer listed in 721—43.4(9E), item 1, 2, or 3, conclusively establish the authority of a holder of that title to perform a notarial act.

721—43.5(9E) Foreign notarial acts. A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by any of the following persons:

1. A notary public or notary;
2. A judge, clerk, or deputy clerk of a court of record; or
3. Any other person authorized by the law of that jurisdiction to perform notarial acts.

An “Apostille” in the form prescribed by the Hague Convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of that nation stationed in the United States, conclusively establishes any matter relating to the authenticity or validity of the notarial act set forth in the certificate.

An official stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds the indicated title.

An official stamp or seal of an officer listed in rule 721—43.5(9E), item 1 or 2, is prima facie evidence that a person with the indicated title has authority to perform notarial acts.

If the title of office and indication of authority to perform notarial acts appear either in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

721—43.6(9E) Revocation of notary appointment. The secretary of state may revoke a notary appointment for cause. In the event that a formal complaint is received by the secretary of state, an investigation shall be conducted to determine if there is sufficient cause for revocation. The secretary of state’s office shall provide forms to complainants and notaries as required under this rule. Every direction of every instruction shall be complied with and each question or portion of every form answered in the same manner as if the forms and instruction were embodied in this rule.

43.6(1) The notary complaint and the notary’s response to the complaint are subject to the following procedures:

a. A formal complaint must be submitted to the secretary of state on a complaint form supplied by the secretary of state’s business services office. Each submitted complaint form must comply with the form instructions and include the basis for the complaint. The complainant shall provide copies of any written documentation supporting the allegations set forth in the complaint as attachments to the complaint. Incomplete complaint forms shall be returned to the complainant with a brief explanation stating the basis for rejection.

b. The notary who is the subject of the complaint shall be notified by the secretary of state within 15 days from the receipt of the complaint. The secretary of state shall provide a copy of the complaint and a notary response form.

c. The notary may submit a completed response form for the purposes of the complaint investigation within 15 days of receipt of the copy of the complaint and response form. A completed notary response form must be submitted by personal service or by certified mail, return receipt requested, to the Assistant Director of Business Services, Secretary of State, Business Services Division, Lucas State Office Building, Des Moines, Iowa 50319. The notary response form shall be considered filed on the date of personal service or on the date of the United States Postal Service postmark. If the notary does not respond within 15 days, the assistant director of business services may still conduct the investigation and reach a decision based on the information available.

d. The complainant and notary shall be duly notified of the decision and the assistant director’s basis for the decision.

43.6(2) If the investigation reveals sufficient cause for revocation, the secretary of state shall send a notice of revocation to the notary by certified mail, return receipt requested. The notice shall state

the cause of the revocation and shall inform the person of the right to a hearing on the revocation in accordance with the requirements set forth in Iowa Code section 17A.12(2).

43.6(3) Delivery of the notice of revocation as referred to in subrule 43.6(2) shall constitute commencement of the contested case proceeding. Contested case hearings shall be afforded to all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense. Every contested case shall comply with the requirements for informal and formal disposition outlined in Iowa Code section 17A.12 and shall follow the contested case hearing procedures set forth in Iowa Code section 17A.12 and in rule 721—3.6(17A).

43.6(4) A written appeal form requesting a contested case hearing shall be obtained from the office of the secretary of state and submitted within 15 days from the date of receipt by the notary who is the subject of the complaint of the decision of the assistant director of business services. A written appeal form must be submitted in writing by personal service or by certified mail, return receipt requested, to the Assistant Director of Business Services, Secretary of State, Business Services Division, Lucas State Office Building, Des Moines, Iowa 50319. A request for hearing shall be considered filed on the date of personal service or on the date of the United States Postal Service postmark.

a. If no appeal form is submitted to the secretary of state's office, the notary appointment is effectively revoked in accordance with Iowa Code sections 9E.3 and 9E.7. The assistant director of business services may proceed in the manner outlined in paragraph 43.6(4) "c."

b. If an appeal form is received, notice of the contested case hearing shall be prepared by the assistant director of business services and mailed by certified mail, return receipt requested, to the notary who is the subject of the complaint. The notice shall be sent at least 30 days before the date of the hearing unless an earlier date is agreed to by the parties and shall follow the notice requirements set forth in rule 721—3.5(17A). If the notary fails to appear or participate in a contested case proceeding after proper service of notice, the assistant director of business services shall proceed in the manner outlined in paragraph 43.6(4) "c."

c. A default decision may be granted or the assistant director of business services may proceed with the hearing and make a decision in the absence of the notary who is the subject of the complaint. The notary shall be duly notified of the decision and of the assistant director's basis for the decision. A decision by the assistant director may be vacated in accordance with Iowa Code section 17A.12(3). The decision is considered final unless a further appeal is initiated by the notary within 20 days of the date of notification or mailing of the decision.

43.6(5) Any notary who is the subject of the complaint may file an application for rehearing, stating the specific grounds and the relief sought within 20 days after the issuance of any final decision by the assistant director of business services in a contested case. A copy of such application shall be timely mailed by the applicant to all parties of record not joining in the application.

a. The director of business services shall review the application for rehearing and notify all the parties of record if a rehearing has been granted. If a rehearing has been granted, the director of business services shall conduct the rehearing.

b. An application for rehearing shall be deemed to have been denied unless the secretary of state grants the application within 20 days after its filing. A request for a rehearing need not be made as a prerequisite for seeking judicial review of a final decision.

43.6(6) A notary who is the subject of the complaint and who is aggrieved or adversely affected by a final decision of the secretary of state may seek judicial review of that decision by filing a petition either in Polk County district court or in the district court for the county in which the petitioner resides or has its principal place of business. Proceedings for judicial review shall be followed as provided in Iowa Code section 17A.19(2).

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