

721—43.11(9B) Registration of provider of communication technology and approval of communication technology.**43.11(1) Registration.**

a. A provider of communication technology that wishes to apply for approval by the secretary of state for use of its technology by Iowa notaries public to perform notarial acts under Iowa Code section 9B.14A shall submit a registration electronically to the secretary of state, which shall include:

- (1) Legal name of the provider of communication technology;
- (2) How the business is organized;
- (3) Mailing address of the provider of communication technology;
- (4) Physical address of the provider of communication technology;
- (5) Name and title of contact person at the provider of communication technology;
- (6) Phone number of contact person named in subparagraph 43.11(1)“a”(5);
- (7) Name of communication technology provided;
- (8) Description of the technology used to ensure compliance with the provisions of Iowa Code chapter 9B and this chapter;
- (9) Name of the provider or providers of the knowledge-based authentication, credential analysis, and digital certificate services;
- (10) Plan for the retention and storage of data including, but not limited to, records, journals, and recordings in the event the provider of communication technology no longer provides the technology for use by Iowa notaries public for any reason; and
- (11) Declaration that the communication technology complies with all Iowa laws.

b. Information provided to the secretary of state in compliance with subparagraph 43.11(1)“a”(8) that qualifies as trade secret under Iowa law shall be kept confidential in accordance with Iowa Code section 22.7(3). It is the responsibility of the provider to specify to the secretary of state the information it believes falls within the definition of “trade secret” under Iowa Code section 550.2(4).

43.11(2) Approval prior to use. If, after submission of the application required by subrule 43.11(1), the secretary of state determines that the provider of communication technology and the technology provided satisfy all of the requirements of the Iowa Code and the Iowa Administrative Code, the secretary of state shall approve the use of the technology.

43.11(3) Denial of approval. If the secretary of state determines that the provider of communication technology or the technology provided does not satisfy all of the requirements of the Iowa Code and the Iowa Administrative Code, the secretary of state shall deny the use of the technology and shall notify the provider of such denial, specifying the reasons for the denial.

43.11(4) Application for reconsideration. Following notification of denial of use of technology, a provider of communication technology may correct the specified deficiencies and apply for reconsideration. If the provider of communication technology and the technology provided then satisfy all of the requirements of the Iowa Code and the Iowa Administrative Code, the secretary of state shall approve the use of the technology.

43.11(5) Grounds for rescinding approval. Approval may be rescinded if it is found that:

- a. The technology no longer permits notaries public to meet the requirements of Iowa Code chapter 9B or this chapter;
- b. The technology no longer complies with the requirements of Iowa law;
- c. Material changes have been made to the technology and the provider has not provided notification as required by subrule 43.9(3);
- d. The provider ceases to provide the technology which has been approved for use;
- e. The provider has failed to protect from unauthorized access any information it is required to protect under the Iowa Code or this chapter; or
- f. Any other grounds that may materially affect the ability of notaries public to meet the requirements of Iowa law.

43.11(6) Procedure for rescinding approval. The secretary of state may rescind approval on any ground listed above.

a. Complaint. A person alleging violation on a ground listed in subrule 43.11(5) by a provider of communication technology or of the technology itself and who is a remote notary in or was a principal in a remote notarization interaction, regardless of whether such interaction resulted in completion of a remote notarial act, shall complete and file a Statement of Complaint with the secretary of state. The secretary of state may also initiate investigations without the filing of a complaint.

b. Investigation. The secretary of state shall investigate each complaint to determine if the alleged violation has occurred and if such violation warrants rescission of approval of the use of the communication technology. Upon determination that the alleged violation occurred, the secretary of state shall:

(1) Communicate grounds for possible rescission of approval to the provider, whereupon the provider shall have 30 days in which to correct the specified deficiencies and submit proof of such corrections to the secretary of state for review. If the secretary of state determines the deficiencies have been corrected, the secretary of state may dismiss the matter; if the secretary of state determines that deficiencies still exist, the secretary of state may either renew the communication and correction process as provided in this paragraph or finally rescind approval of use of the technology. If the secretary of state rescinds approval of the use of the technology, the secretary of state shall notify all Iowa notaries public using the technology that the technology is no longer approved for use and shall notify the provider of rescission of approval, specifying the reasons for rescission;

(2) Rescind approval, whereupon the secretary shall notify all Iowa notaries public using the technology that the technology is no longer approved for use and shall notify the provider of rescission of approval, specifying the reasons for rescission; or

(3) Dismiss the matter.

[ARC 5041C, IAB 5/20/20, effective 7/1/20; ARC 7059C, IAB 8/23/23, effective 9/27/23]