

NOTARY



**A-1 Mobile
NOTARY**

BEGINNERS

Course

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Notary Essentials 101

Brain Dump

DISTORTED COGNITIONS A.K.A. STINKIN' THINKIN'

HOME

WORK

PERSONAL

PROJECTS

OTHERS

NOTES



Goal Setting

Write the vision , make it plan

Habakkuk 2:2

MIND GOAL

Three horizontal dotted lines for writing, each preceded by a small heart icon.

BODY GOAL

Three horizontal dotted lines for writing, each preceded by a small heart icon.

WORK GOAL

Three horizontal dotted lines for writing, each preceded by a small heart icon.

Daily check in

Date _____

TODAY IM GREATFUL FOR _____

-
-
-

WHAT WAS THE BEST THING ABOUT TODAY? _____

TODAY AFFIRMATION _____

THINGS I DID TODAY _____

-
-
-

TODAY I FELT _____

PEOPLE I MET TODAY _____

WHAT I WANT TO REMEMBER ABOUT TODAY _____

MY RANKING OF TODAY _____

★ ★ ★ ★ ★

WHAT IS AN *Acknowledgment?*

The purpose of an acknowledgment is for a signer, to simply acknowledge or declare that he/she willingly signed a document.

An acknowledgment requires the following steps:

1

The signer must appear in person before you.

2

You must positively identify the signer according to your state's rules.

3

The signer may either sign the document before appearing before you, or in your presence.

4

The signer must declare (acknowledge) signing the document for its intended purpose

WHAT IS A *Jurat?*

The purpose of a jurat — also known in some states as a “**verification upon oath or affirmation**” — is for a signer to swear to or affirm the truthfulness of the contents of a document to a Notary or notarial officer.

A jurat requires the following steps:

1

The signer must appear in person before you and sign the document in your presence. In some states, you are required to positively identify the signer.

2

You must administer a spoken oath or an affirmation, and the signer must respond out loud. Silent answers such as a nod of the head are not acceptable.

Powers

A Tennessee notary public is authorized to act in any county in Tennessee and has the power to acknowledge signatures upon personal knowledge or satisfactory proof, to administer oaths, to take depositions, qualify parties to bills in chancery, and to take affidavits.

T.C.A. § 8-16-112.

A notary is authorized to take acknowledgments, and to certify the probate or acknowledgment of a deed or other instrument to the county clerk.

T.C.A. §§ 66-22-102,
66-22-105.

A notary is also authorized to do formal protests of negotiable instruments, but this publication does not deal with the protest of a negotiable instrument because it is rarely used; an attorney should be consulted if this is required.

T.C.A. § 24-5-103.

Powers

A notary public can take an acknowledgment or affidavit of a nonresident of the State of Tennessee if that person is physically present within this state.

A notary should not acknowledge his or her own signature nor notarize any signature if he or she is a party to the transaction or an agent of a party taking an acknowledgment.

A notary should not notarize his or her spouse's signature because of the requirement that notaries discharge their duties "without favor or partiality." Op. Tenn. Atty. Gen. 10-97 (9/13/10). Attestations, protestations, and other evidence of publication or acknowledgment made by a notary public under seal will be received into evidence.

T.C.A. § 8-16-116.



Duties

A notary must sign all documents in ink by his or her own hand, and affix the notary's official seal.

T.C.A. § 8-16-112.

The true date of expiration of the notary's commission is required to be included on every certificate of acknowledgment executed by a notary, but a failure to do so will not invalidate the instrument.

T.C.A. § 8-16-115.

The official signature of the notary should reflect the notary's title as a notary public for the State of Tennessee.

T.C.A. § 8-16-113.

However, where the true date of expiration shows the commission has expired, the certificate of acknowledgment will be invalid.

Haynes v. State, 374 S.W.2d 394 (Tenn. 1964).

Fees

Notaries and their employers may demand and receive reasonable fees and compensation for the notary's services. T.C.A. § 8-21-1201.
Specific fees are not set out in the statute.



Formulating the Price

- ✓ Never let anyone pressure you into spitting out a price.
- ✓ Take your time, ask questions and then give a price.

Vital Questions to ask..

- ✓ What type of document do you have?
- ✓ Where are you located?
- ✓ How soon do you need it taken care of ?

Records

If a notary charges a fee, the notary must keep a record either in an appropriate electronic form or a well-bound book of each of his or her attestations, protestations, and other instruments of publication. T.C.A. § 8-21-1201.

A record of fees received should also be kept for income tax records.

While no record is required if no fee is charged, it is recommended that every notary keep a record of his or her acts in a well-bound book or electronic file, which should include the following.

Record Keeping

- The date of the acknowledgment, affidavit or other transaction.
- The name of the person whose signature is being notarized
- To whom the instrument is being executed.
- A description, including the date, of the instrument.
- Whether the person whose signature was notarized was a personal acquaintance or what proof was shown prior to notarizing the signature (see definition of “satisfactory evidence,” discussed later).
- What fee, if any, was received.

Liability

Tennessee statutes provide that if a notary who takes acknowledgment of a deed or other instrument fails or refuses to comply with and discharge the duties required of a notary, he or she shall forfeit and pay the sum of \$100 for the use of the county of the notary's residence and shall, moreover, be liable to the party injured for all damages, including costs, the party may sustain by the notary's failure or refusal to discharge the statutory duties.

T.C.A. § 66-22-113.

Such action can be based on the negligence or misconduct of the notary. Other penalties for misconduct are discussed elsewhere in this publication. Liability is not limited to the amount of the statutorily mandated bond. Professional liability insurance may be available for a notary public.

Advertising

A notary who is not an attorney licensed to practice law in Tennessee who advertises his or her services as a notary public is required by law to include the following notice in the advertisement

"I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF TENNESSEE, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."

The foregoing disclaimer must be included in any advertisement, whether by radio, television, signs, pamphlets, newspapers, telephone directory, or other written or oral communication, or in any other matter. It must be in English and in the language used in the advertisement, if different. In a written advertisement the statement must be of conspicuous size. An advertisement on radio or television must include substantially the same message.

T.C.A. § 8-16-401

Advertising

A notary public who is not an attorney licensed to practice law is prohibited from advertising or representing that the notary is an immigration consultant, immigration paralegal, or expert on immigration matters unless the notary is an accredited representative of an organization recognized by the board of immigration appeals.

T.C.A. § 8-16-402.

These advertising requirements do not apply to notary services offered by banks, savings and loans, savings banks, or trust companies, nor to offers of notary services or fee listings for notary services in connection with loan closings, extensions of credit, security instruments, or title transfers.

T.C.A. § 8-16-404.

Violation of the laws governing advertising by notaries is an unfair or deceptive act constituting a Class B misdemeanor punishable by up to six months in jail and/or a fine in an amount up to \$500.

T.C.A. §§ 8-16-403; 40-35-111;
47-18-104.

Affidavits, Acknowledgments, and Depositions

The most frequent official act a notary public is requested to perform is the taking of affidavits and acknowledgments. Therefore, these areas are specifically addressed below.

Affidavits - An affidavit is a sworn statement made by a person called an affiant. The affiant makes oath before a notary public that the facts contained in the affidavit are true.

The affidavit consists of the venue, body, affiant's signature, and jurat. Venue indicates the place where the affidavit is made or taken and must be a place where the notary is empowered to act.

The body of the affidavit is preceded by an introductory sentence, contains a short description of the affiant and the capacity in which he or she is taking the oath, and then it contains the facts the affiant swears are true.



The affiant's signature is subscribed at the end of the affidavit and should appear exactly as it appears in the introduction.

The jurat, also known as the notary's certificate, is the concluding statement that the affidavit was sworn to before the notary on a certain date. Immediately beneath the jurat appears the signature of the notary before whom the oath is taken, and the notary's commission. The following is a suggested form of affidavit:

Notarial Certificate Example

STATE OF TENNESSEE COUNTY OF _____ being duly sworn, makes oath as follows:

1. [Recite facts to be sworn to by affiant]

2. ... _____ [affiant's signature]

Sworn to and subscribed before me this _____ day of _____, 20____.

_____ [notary's signature & seal]

My commission expires: _____

Jurats



If the affidavit is to be used in a legal proceeding, the caption of the proceeding should be set out at the top of the affidavit. The notary public need not be concerned with the truthfulness of the facts stated by the affiant (other than in regard to the identity of the affiant).



If the facts are willfully misstated, the affiant is guilty of perjury. The notary, of course, cannot know the truth of the statements and is under no duty to investigate the facts. A notary may not take the affidavit of a person who does not personally appear before the notary.



Acknowledgment



An acknowledgment, as its name implies, is a declaration by a person who has executed or signed a deed or other document, that he or she has in fact executed such document. All acknowledgments must be taken under the seal of the officer taking the acknowledgment.

T.C.A. § 66-22-110.

An acknowledgment may be made before a notary, who then certifies to the fact either at the end of that document or on a separate paper that is attached. An acknowledgment is distinguishable from verification in that an acknowledgment establishes proper execution of a document while verification establishes the truth of a document's contents. Op. Tenn. Atty.

Gen. 91-92 (11/19/91)



Acknowledgment

Definitions of some of the important terms used in the acknowledgment forms are found in T.C.A. § 66-22-106. “Know” or “personally acquainted with” has the following definition:



Having an acquaintance, derived from association with the individual in relation to other people and based upon a chain of circumstances surrounding the individual, which establishes the individual’s identity with at least reasonable certainty. “Satisfactory evidence” is defined as the absence of any information, evidence, or other circumstances that would lead a reasonable person to believe that the person making the acknowledgment is not the individual he or she claims to be, together with any one of the following:

Acknowledgment

1

The oath or affirmation of a credible witness personally known to the officer that the person making the acknowledgment is personally known to the witness.

2

Reasonable reliance on the presentation to the officer of any one of the following, if the document is current or has been issued within five years:

+

An identification card or driver license issued by the Tennessee Department of Safety

+

A passport issued by the United States Department of State.



Acknowledgment

Reasonable reliance on the presentation of any one of the following, if the document is current or has been issued within five years, contains a photograph and description of the person named on it, is signed by the person, bears a serial or other identifying number, and, in the event that the document is a passport, has been stamped by the United States immigration and naturalization service:

+

A passport issued by a foreign government

+

A driver's license issued by a state other than Tennessee

+

An identification card issued by a state other than Tennessee

+

An identification card issued by any branch of the armed forces of the United States.

Acknowledgment

Any certificate clearly evidencing an intent to authenticate, acknowledge, or verify a document will constitute a valid certificate of acknowledgment for the purposes for which the certificate may be used under the law. The statute states that it is the legislative intent that no specific form or wording be required in such certificate and that the ownership of property, or the determination of any other right or obligation, shall not be affected by the inclusion or omission of any specific words.

T.C.A. § 66-22-114(b).



The older form of the certificate can be used (T.C.A. §§ 66-22-107, 66-22-108), or the newer form, or a different form might be drafted but it needs to cover all of the elements of the certificate of acknowledgment as outlined in

T.C.A. § 66-22-114.

Acknowledgment



Although the certificate of acknowledgment need not include the “magic words” contained in the statutory form, it must nevertheless contain language to satisfy the substance of the certificate of acknowledgment. There has never been any intent to abrogate the requirement that the notary have personal knowledge or be personally acquainted with the person signing the document. Op. Tenn. Atty. Gen. 91-92 (11/19/91)



Acknowledgment

The form of acknowledgment that is set out in T.C.A. § 66-22-114 is as follows:

State of _____

County of _____

Personally appeared before me, (name of officer), (official capacity of officer), (name of the natural person executing the instrument), with whom I am personally acquainted, and who acknowledged that he or she executed the within instrument for the purposes therein contained [THE FOLLOWING TO BE INCLUDED ONLY WHERE A NATURAL PERSON IS EXECUTING AS AGENT] and who further acknowledged that he or she is the (identification of the agency position of the natural person executing the instrument, such as “attorney-in-fact” or “president” or “general partner”) of the maker or a constituent of the maker and is authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute this instrument on behalf of the maker.

30 DAY Self-Care Challenge

DAY 1

Start a gratitude journal

DAY 2

Learn to meditate

DAY 3

Spend the day social media free

DAY 4

Call someone you love

DAY 5

Take a 15 minute walk outdoors

DAY 6

Listen to a podcast

DAY 7

Learn to cook a new recipe

DAY 8

Stretch for 10-15 minute

DAY 9

Listen to your favorite song

DAY 10

Practice deep breathing

DAY 11

Try a free online workout

DAY 12

Read book for 15 minutes

DAY 13

Write a list short term goals

DAY 14

De-clutter a room or desk

DAY 15

Go to bed 30 minutes earlier

DAY 16

Have a game night

DAY 17

Wake up 15 minutes earlier

DAY 18

Make your favorite meal

DAY 19

Buy yourself something nice

DAY 20

Create a bucket list

DAY 21

Watch a movie or series

DAY 22

Write down your thoughts

DAY 23

Take a long shower or bath

DAY 24

Have a home spa day

DAY 25

Read inspirational quotes

DAY 26

Create a vision board

DAY 27

Spend some time outside

DAY 28

Do a hair mask

DAY 29

Write it all down in a journal

DAY 30

Take a power nap



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