

THE CLERKS AUTHORITY

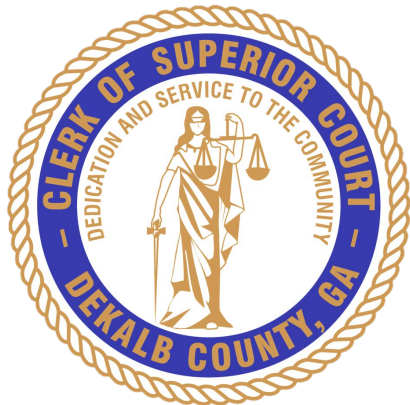


Georgia Superior Court Clerks' Cooperative Authority



Being A Notary Public in Georgia

Do This ... and Don't Do That



Debra DeBerry
Clerk of Superior Court
DeKalb County

Presented Virtually on Zoom March 17, 2023

Code of Ethics



We, as notaries, having accepted the responsibility of the office of notary public, in order to faithfully discharge our duties with both competence and integrity, resolve to adhere to the following standards of conduct:

Code of Ethics



- To uphold the trust placed in me by the public I serve;
- To maintain a professional manner suitable to the office I hold;
- To treat each individual fairly and equally, with kindness and respect;



Code of Ethics



- To always be satisfied that the individual appearing before me understands the contents of the document to be executed or oath to be administered, before proceeding;
- To always satisfy myself as to the identity of the individual appearing before me in my capacity as notary public;
- To not betray the confidence of any individual appearing before me;

Code of Ethics



- To never perform any notarial act in which I am a party in interest or from which I stand to benefit;
- To never divulge the contents of any document nor the facts of execution of that document without proper authority;
- To keep informed of the law regarding the duties and powers of the office of notary public in my jurisdiction and not compromise that law;

Code of Ethics



- To not use the office of notary public as a means of financial gain, for myself or others, in any other business or profession;
- To exercise extreme care to insure that the notarial seal, stamp, and records are kept in a safe place and are not used by any other person;
- To always conduct myself and perform my duties in a manner which will bring credit to myself and the office of notary public

Adopted by the American Society of Notaries Board of Directors, May 4, 1980.

Notarization deters _____?



Fraud Protection



- **To deter fraud.** An impartial witness (the Notary) ensures that the signer(s) of documents are who they say they are and not impostors
- The Notary makes sure that signers have entered into agreements knowingly and willingly

In a society in which business dealings between strangers are the norm rather than the exception, **Notaries create a trustworthy environment where strangers are able to share documents with full confidence in their authenticity.**

Acceptable Forms of ID For The Signer(s)



Unfortunately, Georgia law does not provide specific guidance to Notaries when it comes to acceptable forms of ID.

As best practice, Notaries should only accept government-issued IDs (with photo) from a signer. The most common form of ID is the signer's driver's license. Other forms include, but are not limited to, passports, military IDs, state and local government IDs, and university and school IDs

*Note: The Veterans Health ID card is the only type of satisfactory evidence of ID specified in Georgia law.

VA Health ID



Should I Maintain a Notary Journal?



The short answer is YES!

While Georgia law does not require a notary to keep a journal, which documents each notarial act in detail, it is **strongly** recommended that a journal be maintained.

- The journal serves as an archive of each notarial act
- Elements of the act, including name of signer, signer's address, signer's signature, signer's telephone number, date and time of notarization, type of ID presented by signer, elements of the ID, date of document, type of document presented for notarization, and a comment section are essential to maintaining a journal.

SIGNER'S PRINTED NAME: <i>Joel Dickas Shell</i>		SIGNER'S SIGNATURE: <i>Joel D. Shell</i>		9
SIGNER'S COMPLETE ADDRESS: <i>[Redacted] Lenox GA [Redacted]</i>		SIGNER'S BUSINESS PHONE: <i>(912) [Redacted]</i>	SIGNER'S HOME PHONE: <i>(912) [Redacted]</i>	
NOTARIAL SERVICE: <input type="checkbox"/> JURAT <input checked="" type="checkbox"/> ACKNOWLEDGMENT <input type="checkbox"/> OATH (IF OTHER DESCRIBE):		<input type="checkbox"/> OTHER: _____ <input type="checkbox"/> FEE: \$ _____	TYPE OF DOCUMENT: <i>Adoption Paper</i>	
DATE NOTARIZED: <i>10-26-99</i>	TIME OF NOTARIZATION: <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM <i>9:45</i>	DATE OF DOCUMENT: <i>10-26-99</i>		TOP OF THUMBPRINT (WHEN APPLICABLE)
PERSONALLY KNOWN: <input type="checkbox"/>	PRODUCED ID: <input checked="" type="checkbox"/> TYPE OF ID: <i>GA DL # 252947745</i>	EXPIRATION: <i>8-6-01</i>		
COMMENTS, SPECIAL OBSERVATIONS:				

SIGNER'S PRINTED NAME: <i>Mamas M. Javadi</i>		SIGNER'S SIGNATURE: <i>Mamas M. Javadi</i>		10
SIGNER'S COMPLETE ADDRESS: <i>[Redacted] Marietta GA</i>		SIGNER'S BUSINESS PHONE: <i>[Redacted]</i>	SIGNER'S HOME PHONE: <i>[Redacted]</i>	
NOTARIAL SERVICE: <input type="checkbox"/> JURAT <input checked="" type="checkbox"/> ACKNOWLEDGMENT <input type="checkbox"/> OATH (IF OTHER DESCRIBE):		<input type="checkbox"/> OTHER: _____ <input type="checkbox"/> FEE: \$ <i>N/A</i>	TYPE OF DOCUMENT: <i>Copy Acknowledgment</i>	
DATE NOTARIZED: <i>10-26-99</i>	TIME OF NOTARIZATION: <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM <i>11:40</i>	DATE OF DOCUMENT: <i>10-26-99</i>		TOP OF THUMBPRINT (WHEN APPLICABLE)
PERSONALLY KNOWN: <input type="checkbox"/>	PRODUCED ID: <input checked="" type="checkbox"/> TYPE OF ID: <i>GA DL # 057290730</i>	EXPIRATION: <i>3-19-01</i>		
COMMENTS, SPECIAL OBSERVATIONS:				

Let's see how
much you
know!

1. _____ A Georgia notary public may perform official acts anywhere in the the United States and its territories and possessions.

1. _____ A Georgia notary public may perform official acts anywhere in the the United States and its territories and possessions.

FALSE – Georgia notaries may only perform acts within the physical boundaries of the state of Georgia.

§ 45-17-9. Where notarial acts may be exercised

Notarial acts may be exercised in any county in the state.

While We Are On the Subject

The origin of the signer(s) and/or the document is not a concern of the notary



2. _____ A responsibility of the notary is to verify the validity of the document.

2. _____ A responsibility of the notary is to verify the validity of the document.

FALSE – A notary’s primary function is to **prevent and deter fraud** by always requiring the personal appearance of the signer and identifying the signer through personal knowledge or proper ID, such as a driver’s license or passport. Unless the notary is an attorney licensed to practice law in Georgia, the notary may not explain the contents or the effects of a document or give any legal advice.

3. _____ When the document signer is not physically present, the notary is permitted to perform a notarial act if the notary verifies the signer's identity via electronic/video technology.

3. _____ When the document signer is not physically present, the notary is permitted to perform a notarial act if the notary verifies the signer's identity via electronic/video technology.

FALSE - A notary is prohibited from notarizing when the signer is not physically present before the notary, (face-to-face in the same room) at the same time, even if the notary personally knows the signer and recognizes his/her signature.

4. _____ When performing a notarial act, the notary should indicate in the notarial certificate the state and county of the notary's residence (State of Georgia, County of _____).

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FALSE - The notation in the notarial certificate that indicates "State of Georgia, County of _____" is called the venue, which is the location where the notarization actually takes place, not the county in which the notary is commissioned.

5. _____ A person may act as the notary for his/her sister involving a power of attorney giving him/her (the notary) the authority to care for the sister's minor child.

5. _____ A person may act as the notary for his/her sister involving a power of attorney giving him/her (the notary) the authority to care for the sister's minor child.

FALSE – But not because of the relationship! In this case, the notary is a party to the power of attorney, therefore, the notary is prohibited by Georgia law from performing the notarial act. [O.C.G.A. 45-17-8(c)(2)]

6._____ Georgia law allows notaries to charge a maximum of \$25 for a notarial act. This includes \$15 for the notarial act + a \$10 administrative fee.

6. _____ Georgia law allows notaries to charge a maximum of \$25 for a notarial act.

FALSE - The law allows a maximum fee of \$2 per notarial act. (O.C.G.A. 45-17-11)

7. _____ A notary may perform a notarial act for someone who is signing by mark when that person cannot make a “normal” signature, commonly known as cursive.

7. _____ A notary may perform a notarial act for someone who is signing by mark when that person cannot make a signature, commonly known as cursive.

TRUE - A mark is considered a legal signature if the person making that mark designates the mark as his/her signature. Another good reason to keep a notary journal! The signer would enter the mark in the journal.

8. _____ It is considered a best practice for notaries to keep copies of the documents they notarize in order to protect themselves in the event a complaint of misconduct is filed against them.

8. _____ It is considered a best practice for notaries to keep copies of the documents they notarize in order to protect themselves in the event a complaint of misconduct is filed against them.

FALSE – Not a good practice! If a notary wants personal protection, he/she should carefully document each notarial act in a permanently bound record book especially designed for this purpose. Don't take on liability!

§45-17-2 Qualifications of notaries



(a) Any individual applying for appointment to be a notary public shall:

(1) Be at least 18 years old;

(2) Be a United States citizen or be a legal resident of the United States;

(3) Be a legal resident of the county from which such individual is appointed;

**(4) Have, and provide at the time of the application, the applicant's operating telephone number;
and**

(5) Be able to read and write the English language.

(b) The qualification of paragraph (3) of subsection (a) of this Code section shall not apply to any nonresident individual applying for appointment as a notary public under the provisions of Code Section 45-17-7.

§ 45-17-2.3. Grant or denial of commission or recommission; grounds;
unauthorized practice of law



(a) After an applicant submits to the clerk of superior court of the county the application, endorsements, and declaration of applicant as required in Code Section 45-17-2.1, the clerk of superior court shall either grant or deny a commission or recommission as a notary public within ten days following the applicant's submission of the necessary documents.

§ 45-17-2.3. Grant or denial of commission or recommission; grounds; unauthorized practice of law



b) The clerk of superior court may **in his or her discretion** deny a commission or recommission to an applicant based on any of the following grounds:

- (1) The applicant's criminal history;**
- (2) Revocation, suspension, or restriction of any notary commission or professional license issued to the applicant by this or any other state;**
- (3) The commission in this or any state of any act enumerated in subsection (a) of Code Section 45-17-15, whether or not criminal penalties or commission suspension or revocation resulted; or**

§ 45-17-2.3. Grant or denial of commission or recommission; grounds;
unauthorized practice of law



(4) The applicant is found by the State Bar of Georgia, a court of this state, or a court of any other state to have engaged in the unauthorized practice of law.

(c) Any applicant who is denied a notarial commission or recommission by the clerk of superior court shall upon demand be allowed a hearing and adjudication before the superior court clerk with a right of de novo appeal to the superior court, such appeal to be determined by the court without the intervention of a jury.

Seal of Office



*“A notary public shall provide a seal of office which shall have for its impression the **notary's name, the words ‘Notary Public,’ the name of the state, and the county of his appointment.** The embossment of notarial certificates by the notary's seal shall be authorized but not necessary, and the use of a rubber or other type stamp shall be sufficient for imprinting the notary's seal. ”*



O.C.G.A. 45-17-6

NOTE: As a best practice, a rubber stamping device should only use black or blue ink.

Seal of Office



“ It shall be unlawful for any person, firm, or corporation to supply a notary public seal to any person unless the person has presented the duplicate original of the certificate commissioning the person as a notary public. It shall be unlawful for any person to order or obtain a notary public seal unless such person is commissioned as a notary public.”

The Proper Way To Affix Seal



This certificate pertains to a 2 page document dealing with/entitled _____ and signed on 2/27/23

Copy Certification by Document Custodian

I, Michael V. Smith, hereby declare that the attached
Printed name of affiant/document custodian
reproduction of Driver's License
(description of document)

is a true, correct and complete copy of the original document.

Michael V. Smith Date: 2/27/2023
Signature of Affiant

State of Georgia
County of DeKalb
Signed and sworn to (or affirmed) before me on 2/27/2023
Date
by Michael V. Smith
Printed name of individual making statement

who is
 personally known
or
 proved to me on the basis of satisfactory evidence to be the person
who appeared before me.

Rachel G. Rice
(signature of notary public)
Notary Public, State of Georgia
My commission expires: 5/25/2025

Stamp/Seal



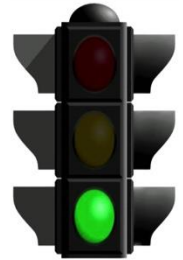
Copy Certification by Document Custodian Via E-File

§ 45-17-8 Powers and duties generally



(a) Notaries public shall have authority to:

- (1) Witness or attest signature or execution of deeds and other written instruments;**
- (2) Take acknowledgments;**
- (3) Administer oaths and affirmations in all matters incidental to their duties as commercial officers and all other oaths and affirmations which are not by law required to be administered by a particular officer;**
- (4) Witness affidavits upon oath or affirmation;**
- (5) Take verifications upon oath or affirmation;**



§ 45-17-8. (con't.) Powers and duties generally

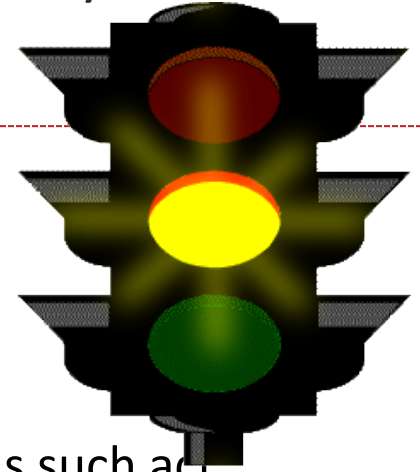


6) Make certified copies, provided that the document presented for copying is an original document and is neither a public record nor a publicly recorded document certified copies of which are available from an official source other than a notary and provided that the document was photocopied under supervision of the notary; and



(7) Perform such other acts as they are authorized to perform by other laws of this state.

§ 45-17-8. (con't.) Powers and duties generally



b) No notary shall be obligated to perform a notarial act if he feels such act is:

- (1) For a transaction which the notary knows or suspects is illegal, false, or deceptive;
- (2) For a person who is being coerced;
- (3) For a person whose demeanor causes compelling doubts about whether the person knows the consequences of the transaction requiring the notarial act; or
- (4) In situations which impugn and compromise the notary's impartiality, as specified in subsection (c) of this Code section.

§ 45-17-8. (con't.) Powers and duties generally



(c) A notary shall be disqualified from performing a notarial act in the following situations which impugn and compromise the notary's impartiality:

(1) When the notary is a signer of the document which is to be notarized;
or



§ 45-17-8. (con't.) Powers and duties generally



(2) When the notary is a party to the document or transaction for which the notarial act is required.

(d) A notary public shall not execute a notarial certificate containing a statement known by the notary to be false nor perform any action with an intent to deceive or defraud.

(e) In performing any notarial act, a notary public shall confirm the identity of the document signer, oath taker, or affirmant based on personal knowledge or on **satisfactory evidence**.



Penalties for Violations



- **(a)** Any person who violates subsection (d) of Code Section 45-17-8 shall be guilty of a misdemeanor.
- **(b)** Any person who performs any notarial service without complying with the provisions of this article shall, upon the first or second conviction, be guilty of a misdemeanor and upon a third or subsequent conviction be guilty of a felony, punishable by imprisonment of not less than one year nor more than five years, a fine of up to \$5,000.00, or both.

§ 45-17-8. (con't.) Powers and duties generally



(f) The signature of a notary public documenting a notarial act shall not be evidence to show that such notary public had knowledge of the contents of the document so signed, other than those specific contents which constitute the signature, execution, acknowledgment, oath, affirmation, affidavit, verification, or other act which the signature of that notary public documents, nor is a certification by a notary public that a document is a certified or true copy of an original document evidence to show that such notary public had knowledge of the contents of the document so certified.

§ 45-17-8.1. Signature and date of notarial act



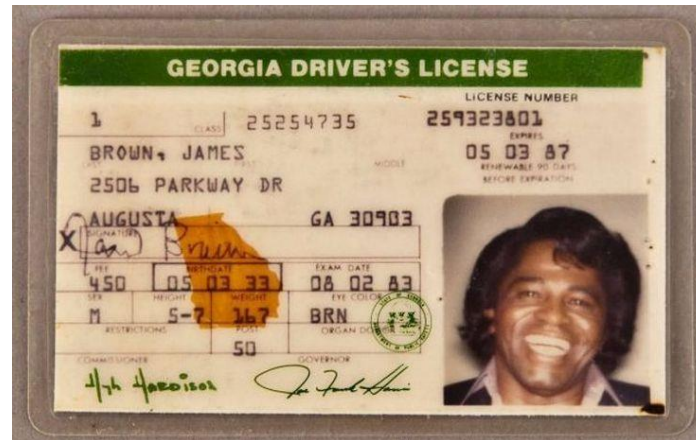
(a) Except as otherwise provided in this Code section, in documenting a notarial act, a notary public shall sign on the notarial certification, **by hand in ink**, only and exactly the name indicated on the notary's commission and shall record on the notarial certification the exact date of the notarial act.

Give Thought to Signature



Your signature is the **ONLY** element of the notarial act that differentiates you from 7.125 billion people!

Must ID presented by signer be unexpired?



Georgia law is silent on whether an ID presented by the signer must be unexpired. A Georgia notary may exercise discretion on whether to accept a form of ID that is expired.

How do I handle multiple signers?



- As the notary, you are ONLY concerned with the signer(s) before you
- If document has places for multiple signers and all are not present, that's OK!
- The journal entry will be the proof of who or whom signed before you
- If multiple signers are present, notary must sign and imprint seal for each notarial act
- You can only prevent fraud that's in front of you. Altered documents after the fact are not your responsibility. Keep journal!

§ 45-17-13. Change of **residence, address,** or name



(a) Every notary public shall notify in writing the appointing clerk of superior court and provide a copy of such notice to the Georgia Superior Court Clerks' Cooperative Authority of any change in the notary's residence or business address, whichever was used for the purpose of appointment, and of any change in the notary's telephone number. The notice shall contain both the old and new addresses and must be received by the clerk of superior court within 30 days of the change.

§ 45-17-13. Change of residence, address, or **name**



(b)(1) Every notary public shall notify in writing the appointing clerk of superior court, with a copy to the Georgia Superior Court Clerks' Cooperative Authority, of any change in the notary's name. The notice shall contain both the old and new names, the new signature, and any new address and must be received by the clerk of superior court within 30 days of the change.

§ 45-17-13. Change of residence, address, or **name**



(b)(2) A notary with a new name may begin to officially sign the new name on notarial certificates when the following steps have been completed:

(A) The notice described in paragraph (1) of this subsection has been received by the appointing clerk of superior court;

(B) A confirmation of the notary's name change has been received from the appointing clerk of superior court; and

(C) A new seal bearing the new name exactly as indicated in the confirmation has been obtained.

§ 45-17-14. Notice of loss or theft of notarial seal



Within ten days of the loss or theft of an official notarial seal, the notary public shall send to the appointing clerk of superior court, with a copy to the Georgia Superior Court Clerks' Cooperative Authority, a written notice of the loss or theft.

§45-17-17. Resignation of commission; return of papers;
destruction of seal



A person who wishes to resign a notarial commission shall send a signed letter of resignation to the appointing clerk of superior court, with a copy to the Georgia Superior Court Clerks' Cooperative Authority, and all papers of appointment. The resigning notary public shall destroy the official notarial seal.

§45-17-18. Destruction of seal upon expiration or denial of renewal of commission



A notary public whose commission expires and who does not apply for renewal of such commission or whose application for renewal of a commission is denied shall destroy the official notary seal.

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DASHBOARD LEARNING PAGE REPORTS



exam \$2

Dashboard > Learning Page

Credit Hours: 00:00
Status: Not Started
End Date: NA



Notary Public
Course ID: NP1
Description:

The Georgia Superior Court Clerks' Cooperative Authority, in conjunction with the Superior Court Clerks of Georgia, offer this course as a public service and present it in an effort to educate Georgia's notaries public.

Credit Hours: 00:00
Status: In Progress
End Date: NA



Notary Public Final Exam
Course ID: NPE1
Description:

Welcome to the GSCCCA Notary Public Final Exam. This exam will evaluate your mastery of the material covered in the Notary Public online training course. Please do not proceed with this exam unless having sufficiently studied the notary Public online training course and have sufficient time to complete the exam.

Some Clerks of Superior Court require the successful completion of the notary exam by the applicant in order to be commissioned as a notary public. Please contact the Clerk of Superior Court of the county in which you reside (<https://www.gsccca.org/clerks>) to find out if successful completion of the notary exam is a requirement.





Georgia Superior Court Clerks' Cooperative Authority

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Today's High Points



- The signer **MUST ALWAYS** be present
- Government issued ID with photo **ONLY**
- Georgia notaries may notarize in any of the 159 counties of Georgia (the physical boundaries)
- Notaries are commissioned by the Clerk of Superior Court of the county in which they reside
- Notary commissions are effective for four years
- Changes of name and changes of address must be communicated in writing to the commissioning Clerk of Superior Court, with a copy to the Clerks' Authority, within 30 days
- Loss or theft of seal must be communicated in writing to the commissioning Clerk of Superior Court, with a copy to the Clerks' Authority, within 10 days of discovery
- Recommended to keep a journal
- Four elements of the seal: name as commissioned, "State of Georgia, "Notary Public," county name where commissioned
- Blue or black ink **ONLY** for notary's signature and seal

Georgia Superior Court Clerks' Cooperative Authority



Thank you

Debra DeBerry

DeKalb County Clerk of Superior Court

Notary Office (404) 371-2250

www.dksuperiorclerk.com

Contact GSCCCA Support

mike.smith@gsccca.org (404) 327-9753

rachel.rice@gsccca.org (404) 327-7322

GSCCCA Help Desk (800) 304-5174

<https://www.gsccca.org>