

## **Title 1: Secretary of State**

### **Part 5: Business Services – Notaries Public**

#### **Part 5 Chapter 1: Notary**

*Rule 1.1* The Secretary of State is required to issue rules to implement the Mississippi Notary Law, in accordance with Senate Bill 2647 of the 2007 Session of the Mississippi Legislature, Section 25-33-1 et seq. Mississippi Code of 1972 as amended, effective July 1, 2007. The purpose of this chapter is to implement the Mississippi Notary Law, clarify and establish qualifications for the office of Notary Public, to provide written guidelines on notary practice, to provide for the revocation or suspension of a notary commission for official misconduct, misfeasance or malfeasance in office and to prescribe required forms and establish certain fees.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.2 Definitions.* The following terms shall have the respective meanings provided in these rules.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.3 Acknowledgment.* “Acknowledgment” means a notarial act in which an individual at a single time and place:

- A. appears in person before the notary and presents a document;
- B. is personally known to the notary or identified by the notary through satisfactory evidence; and
- C. indicates to the notary that the signature on the document was voluntarily affixed by the individual for the purposes stated within the document and, if applicable, that the individual had due authority to sign in a particular representative capacity.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.4 Affirmation.* “Affirmation” means a notarial act, or part thereof, which is legally equivalent to an oath and in which an individual at a single time and place:

- (1). appears in person before the notary;
- (2). is personally known to the notary or identified by the notary through satisfactory evidence; and
- (3). makes a vow of truthfulness or fidelity on penalty of perjury, based on personal honor and without invoking God or using any form of the word “swear.”

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.5 Appears in person before the notary.* “Appears in person before the notary” means that the principal and the notary are physically close enough to see, hear, communicate with, and give identification documents to each other.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.6 Commission.* “Commission” means both to empower to perform notarial acts and the written evidence of authority to perform those acts.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.7 “Credible witness”* means an honest, reliable, and impartial person who personally knows an individual appearing before a notary and takes an oath or affirmation from the notary to vouch for that individual’s identity.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.8 “Felony” or “disqualifying felony”* means the conviction of any of the crimes below under the laws of this state or any other state or country:

- A. Murder, rape, bribery, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement or bigamy,
- B. “Theft” in subsection (1) includes the following offenses: larceny, taking unlawful possession of a motor vehicle, armed robbery, robbery, receiving stolen property, extortion, felony shoplifting and timber larceny.
- C. You may, however, apply for the office of Notary Public if you have been convicted of a disqualifying felony if:
  - 1. You have received a full and complete pardon from the Governor for your crime(s) or if the Mississippi Legislature has restored your right to suffrage (right to vote), and
  - 2. Disclose your conviction(s) in your application and provide copies of the conviction order(s) and supply a copy of the Pardon from the Governor or Act of the Legislature restoring your rights.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.9 “Journal of notarial acts” and “journal”* mean a device for creating and preserving a chronological record of notarizations performed by a notary.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.10 “Jurat”* means a notarial act in which an individual at a single time and place:

- (1). appears in person before the notary and presents a document;
- (2). is personally known to the notary or identified by the notary through satisfactory evidence;
- (3). signs the document in the presence of the notary; and
- (4). takes an oath or affirmation from the notary vouching for the truthfulness or accuracy of the signed document.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.11 Legal resident or other legal resident of the United States.* “Legal resident” or “other legal resident of the United States” means that you must have been granted permanent resident status in the United States by the United States Immigration and Naturalization Service. You must possess a Resident Alien Identification Card (Green Card) issued directly to you by the Immigration and Naturalization Service.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.12 Notarial act and notarization.* “Notarial act” and “notarization” mean any act that a notary is empowered to perform under law or regulation.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.13 Notarial certificate and certificate.* “Notarial certificate” and “certificate” mean the part of, or attachment to, a notarized document that is completed by the notary, bears the notary’s signature and seal, and states the facts attested by the notary in a particular notarization.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.14 Notary public and notary.* “Notary public” and “notary” mean any person commissioned to perform official acts under the laws of this state.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.15 Oath.* “Oath” means a notarial act, or part thereof, which is legally equivalent to an affirmation and in which an individual at a single time and place:

- A. appears in person before the notary;
- B. is personally known to the notary or identified by the notary through satisfactory evidence; and
- C. makes a vow of truthfulness or fidelity on penalty of perjury while invoking God or using any form of the word “swear.”

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.16 Official Misconduct, Misfeasance and Malfeasance.* “Official Misconduct,” “Misfeasance” and “Malfeasance” mean:

- A. a notary’s performance of any act prohibited, or failure to perform any act mandated, by the Mississippi Notary Law or any other law and/or regulation in connection with a notarial act by the notary; or
- B. a notary’s performance of an official act in a manner found by the Secretary of State to be negligent or against the public interest.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.17 Resident of the State of Mississippi.* “Resident of the State of Mississippi” means:

- A. you maintain a permanent residential street address in the State of Mississippi, and state, and
- B. you do not maintain a permanent residence in another state or country,
- C. you do not claim homestead exemption or similar benefit in another state or country,
- D. you are not registered to vote in another state or country,
- E. you do not have a driver's license issued by another state or country,
- F. you do not own automobiles registered in another state or country, or
- G. you do not claim or maintain any other status that indicates that you are a resident of another state or country.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.18 Personal knowledge of identity.* “Personal knowledge of identity” and “personally knows” mean familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.19 Principal. “Principal” means:*

- A. a person whose signature is notarized; or
- B. a person, other than a credible witness, taking an oath or affirmation from the notary.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.20 Regular place of work or business.* “Regular place of work or business” means a stationary office or workspace where one spends all or some of one's working or business hours.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.21 Satisfactory evidence of identity.* “Satisfactory evidence of identity” means identification of an individual based on:

- A. at least one (1) current document issued by a federal, state, or tribal government agency bearing the photographic image of the individual's face and signature and a physical description of the individual, though a properly stamped passport without a physical description is acceptable; or
- B. the oath or affirmation of one (1) credible witness unaffected by the document or transaction who is personally known to the notary and who personally knows the individual, or of two (2) credible witnesses unaffected by the document or transaction who each personally knows the individual and shows to the notary documentary identification as described in Subparagraph (1) of this section.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.22 Seal.* “Seal” means a device for affixing on a paper document an image containing a notary’s name, jurisdiction, commission expiration date, and other information related to the notary’s commission.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 1.23 Signature witnessing.* “Signature witnessing” means a notarial act in which an individual at a single time and place:

- A. appears in person before the notary and presents a document;
- B. is personally known to the notary or identified by the notary through satisfactory evidence; and
- C. signs the document in the presence of the notary.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

## **Part 5 Chapter 2: Notary Application**

*Rule 2.1 Qualifications for Notary Public.*

- A. Except as provided in Subsection (3), the Secretary of State shall issue on behalf of the Governor a notary commission to any qualified person who submits an application to the Secretary of State in accordance with this Chapter.
- B. A person qualified for a notary commission shall:
  - 1. be at least eighteen (18) years of age;
  - 2. a resident of the State of Mississippi and have resided in the county of residence for least thirty (30) days prior to the submission of the application;
  - 3. a citizen or legal resident of the United States;
  - 4. read and write English; and
  - 5. not be convicted of a felony.
- C. The Secretary of State may deny an application based on:
  - 1. failure of the applicant to meet any requirements of the Mississippi Notary Law or this Chapter;
  - 2. failure of the applicant to complete and submit the proper Application Form, Bond and Oath;
  - 3. submission of an official application containing material misstatement or omission of fact;
  - 4. the applicant is currently incarcerated, on probation or parole, or
  - 5. revocation, suspension, restriction, or denial of a notarial commission or an official finding that the applicant had engaged in official misconduct, misfeasance or malfeasance as defined in this Chapter, whether or not disciplinary action resulted in this state or any other state or nation.
- D. Denial of an application may be appealed by filing in proper form with the Secretary of State within forty-five (45) days after denial, except that an applicant may not appeal when the Secretary of State within five (5) years prior to the application has:
  - 1. denied or revoked for disciplinary reasons any previous application, commission, or license of the applicant; or

2. made a finding under this Chapter that grounds for revocation of the applicant's commission existed.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 2.2 Application for Notary Public Commission.*

Every application for a notary commission shall be made on SOS Form NP 001, Application for Notary Public Commission, and include:

- A. a statement of the applicant's personal qualifications, as described in this Chapter;
- B. the required surety bond in the amount of Five Thousand Dollars (\$5,000.00) from a surety licensed by the Mississippi Department of Insurance;
- C. the official oath of office;
- D. such other information as the Secretary of State may deem appropriate; and
- E. the application fee.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 2.3 Statement of Personal Qualifications.*

The application for a notary commission shall be notarized and state or include, at least:

- A. the applicant's date of birth;
- B. the applicant's physical residence address, a valid email address, and telephone number;
- C. the applicant's business address and telephone number, the business mailing address, if different, and the name of the applicant's employer, if any;
- D. a declaration that the applicant is a citizen of the United States or the applicant's status as a permanent legal resident of the United States (green card);
- E. a declaration that the applicant can read and write English;
- F. a declaration that the applicant has never had a denial, revocation, suspension, restriction, and or resignation of a notarial commission in this state or any other state or nation;
- G. a declaration that the applicant has not been convicted of a disqualifying felony in this state or other state nation and is not presently incarcerated or on parole.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 2.4 Application Fee.*

Every applicant for a notary commission shall pay to this State a nonrefundable application fee as set forth in Section Rule 9.1 of this Chapter.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*2.5 Bond.*

- A. A notary commission shall not become effective until an oath of office and a Five Thousand Dollar (\$5,000.00) bond have been filed with the Secretary of State. The bond shall be issued and executed by a surety licensed by the Mississippi Department of Insurance, for a term of four (4) years commencing on the commission's effective date

and terminating on its expiration date, with payment of bond funds to any person conditioned upon the notary's misconduct, misfeasance or malfeasance as defined in this Chapter.

1. The bond must be on SOS Form NP 002, Official Notary Public Bond, or a bond substantially in the form prescribed for public official bonds in Section 25-1-15 of the Mississippi Code of 1972.
2. The bond must be submitted to the Secretary of State within sixty (60) days of the application date. Failure to timely submit the bond will result in the rejection of the notary application.
3. If a notary bond has been exhausted by claims paid out by the surety, the Secretary of State may suspend the notary's commission until:
  - a. a new bond is obtained by the notary; and
  - b. the notary's fitness to serve the remainder of the commission term is determined by the Secretary of State.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 2.6 Oath of Office.* Every applicant for a notary commission shall take the Oath of Office prescribed by Section 268 of the Mississippi Constitution in the presence of a notary of the State of Mississippi. The oath shall be taken before a Mississippi Notary Public and submitted on SOS Form NP 003, Oath of Office.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

### **Part 5 Chapter 3: Commissioning Documents**

*Rule 3.1 Commissioning Documents.* Upon issuing a notary commission, the Secretary of State shall provide to the notary a written commission including the Notary Identification Number and starting and ending date.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 3.2* Where an application is submitted without a bond, the Secretary of State shall provide the applicant a pre-commission document indicating the starting and ending for use in purchasing a bond.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

### **Part 5 Chapter 4: Jurisdiction and Term**

*Rule 4.1 Jurisdiction and Term.* A person commissioned as a notary may perform notarial acts in any part of this State for a term of four (4) years from the date of the commission, unless the commission is earlier suspended, revoked or resigned pursuant to this Chapter. The date of the commission shall be the date the completed application was received by the Secretary of State; however, an applicant may not perform notarial acts prior to the actual issuance of the notary commission.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 4.2 Recommissioning.* A current or former notary applying for a new notary commission shall submit a new completed application and comply with all the provisions of the Mississippi Notary Law and this Chapter. A current notary may submit an application to be recommissioned ninety (90) days prior to the expiration of an existing commission. The date of the new commission shall be the date immediately after the expiration date of the current commission.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 4.3 Change of Address.* Within thirty (30) days after the change of a notary's residence, business, or mailing address, the notary shall send to the Secretary of State a signed notice of the change, giving both old and new addresses on SOS Form NP 004, Application for Change of Notary Address.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 4.4 Change of Name.*

A. Within thirty (30) days after the change of a notary's name by court order or marriage, the notary shall send to the Secretary of State a signed notice of the change, giving both former and new names, with a copy of any official authorization for such change on SOS Form NP 005, Application for Change of Notary Name.

B. A notary with a new name shall continue to use the former name in performing notarial acts until the following steps have been completed, at which point the notary shall use the new name:

1. the notice described in Subsection (1) has been delivered or transmitted;
2. a Confirmation of Notary's Name has been received from the Secretary of State; and a Replacement commission issued.
3. a new seal bearing the new name exactly as in the Replacement Commission has been obtained; and
4. the surety for the notary's bond has been informed in writing.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 4.5 Resignation.*

A. A notary who resigns his or her commission shall send to the Secretary of State by a signed notice indicating the effective date of resignation on SOS Form NP 007, Notice of Notary Resignation or Death.

B. Notaries who cease to reside in or to maintain a regular place of work or business in this State, or who become permanently unable to perform their notarial duties, shall resign their commissions.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 4.6 Disposition of Seal and Journal.*



- A. Except as provided in Subsection (2), when a notary commission expires or is resigned or revoked, the notary shall:
  - 1. as soon as reasonably practicable, destroy or deface all notary seals so that they may not be misused; and
  - 2. within thirty (30) days after the effective date of resignation, revocation, or expiration, send to the Circuit Clerk of the County where the Notary the notarial journal and records.
- B. A former notary who intends to apply for a new commission and whose previous commission or application was not revoked or denied by this State, need not deliver the journal and records within thirty (30) days after commission expiration, but must do so within 6 months after expiration unless recommissioned within that period.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 4.7 Death of Notary.* If a notary dies during the term of commission or before fulfilling the obligations stipulated in this Chapter, the notary's personal representative shall:

- A. notify the Secretary of State of the death in writing;
- B. as soon as reasonably practicable, destroy or deface all notary seals so that they may not be misused; and
- C. within six (6) months after death, send to the Circuit Clerk of the County of residence of the notary listed in the records of the Secretary of State's Office the notary's journal of notarial acts and any other notarial records.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

## **Part 5 Chapter 5: Notary Actions**

*Rule 5.1 Powers and Limitations of Notary Public.*

- A. A notary is empowered to perform the following notarial acts:
  - 1. acknowledgments;
  - 2. oaths and affirmations;
  - 3. jurats;
  - 4. signature witnessings; and
  - 5. any other acts so authorized by the law of this State.
- B. A notary shall not perform a notarial act if the principal:
  - 1. is not in the notary's presence at the time of notarization;
  - 2. is not personally known to the notary or identified by the notary through satisfactory evidence;
  - 3. shows a demeanor which causes the notary to have a compelling doubt about whether the principal knows the consequences of the transaction requiring a notarial act; or
  - 4. in the notary's judgment, is not acting of his or her own free will.
- C. A notary may certify the affixation of a signature by mark on a document presented for notarization if:
  - 1. the mark is affixed in the presence of the notary and of two (2) witnesses unaffected by the document;

2. both witnesses sign their own names beside the mark;
3. the notary writes below the mark: “Mark affixed by (name of signer by mark) in presence of (names and addresses of witnesses) and undersigned notary under Section 504; and
4. the notary notarizes the signature by mark through an acknowledgment, jurat, or signature witnessing.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.2 Disqualifications.* A notary is disqualified from performing a notarial act if the notary:

- A. is a party to or named in the document that is to be notarized;
- B. is a spouse, ancestor, descendant, or sibling of the principal, including in-law, step, or half relatives and other persons residing in the same household;
- C. will receive as a direct or indirect result any commission, fee, advantage, right, title, Interest, cash, property, or other consideration exceeding in value the fees specified in this Chapter;
- D. is an employee notary. An employee notary is not disqualified from performing a notarial act solely by virtue the employee/employer relationship, participation in an employee stock ownership plan (ESOP), or a qualified retirement plan;
- E. is an attorney notary. An attorney notary is not disqualified from performing a notarial act solely by virtue of the attorney client relationship;
- F. is a shareholder notary. A shareholder notary is not disqualified solely by virtue of a corporation/shareholder relationship.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.3 Refusal to Notarize.*

- A. A notary shall not refuse to perform a notarial act based on the principal’s race, advanced age, gender, religion, national origin, health or disability.
- B. A notary shall perform any notarial act described in this Chapter for any person requesting such an act who tenders the appropriate fee, unless:
  1. the notary knows or has good reason to believe that the notarial act or the associated transaction is unlawful;
  2. the act is prohibited under this Chapter;
  3. the number of notarial acts requested practicably precludes completion of all acts at once, in which case the notary shall arrange for later completion of the remaining acts; or
  4. a notary may but is not required to perform a notarial act outside the notary’s regular workplace or business hours.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.4 Avoidance of Influence.*

- A. A notary shall not influence a person either to enter into or avoid a transaction involving a notarial act by the notary, except that the notary may advise against a transaction if Section Rule 5.1 (3) or (4) of this Chapter applies.

B. A notary has neither the duty nor the authority to investigate, ascertain, or attest the lawfulness, propriety, accuracy, or truthfulness of a document or transaction involving a notarial act.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.5 False Certificate.*

- A. A notary shall not execute a certificate containing information known or believed by the notary to be false.
- B. A notary shall not affix an official signature or seal on a notarial certificate that is incomplete.
- C. A notary shall not provide or send a signed or sealed notarial certificate to another person with the understanding that it will be completed or attached to a document outside of the notary's presence.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.6 Improper Documents.*

- A. A notary shall not notarize a signature:
  - 1. on a blank or incomplete document; or
  - 2. on a document without notarial certificate wording.
  - 3. When he/she has good reason to believe that the certification is desired for an unlawful or improper purpose. It is therefore, the duty of the notary to examine the document, as may be necessary to establish that the requested notarization is appropriate and not contrary to public interest.
- B. A notary shall neither certify nor authenticate a photograph.
- C. A notary who is not an employee of the issuing government agency shall neither certify nor authenticate a copy of any official government document including but not limited to the following:
  - 1. Birth Certificate
  - 2. Death Certificate
  - 3. Driver's License
  - 4. Passport
  - 5. Social Security Card
  - 6. Any official government-issued identity card
- D. Nothing in this section shall prohibit a Notary from notarizing a signature on a document which has a copy of an official government document embedded or attached as an exhibit.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.7 Intent to Deceive.* A notary shall not perform any official action with the intent to deceive or defraud.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*5.8 Testimonials.* A notary shall not use the official notary title or seal to endorse, promote, denounce, or oppose any product, service, contest, candidate, or other offering.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*5.9 Unauthorized Practice of Law.*

- A. If notarial certificate wording is not provided or indicated for a document, a non-attorney notary shall not determine the type of notarial act or certificate to be used.
- B. A non-attorney notary shall not assist another person in drafting, completing, selecting, or understanding a document or transaction requiring a notarial act.
- C. This section does not preclude a notary who is duly qualified, trained, or experienced in a particular industry or professional field from selecting, drafting, completing, or advising on a document or certificate related to a matter within that industry or field.
- D. A notary shall not claim to have powers, qualifications, rights, or privileges that the office of notary does not provide, including the power to counsel on immigration matters.
- E. A non-attorney notary who advertises notarial services in a language other than English shall include in the advertisement, notice, letterhead, or sign the following, prominently displayed in the same language:
  - 1. the statement: “I am not an attorney and have no authority to give advice on immigration or other legal matters”; and
  - 2. the fees for notarial acts specified in Section 302.
  - 3. A notary may not use the term “notario publico” or any equivalent non-English term in any business card, advertisement, notice, or sign.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.10 Imposition and Waiver of Fees.*

- A. For performing a notarial act, a notary may charge the maximum fee specified in Section 5.11, charge less than the maximum fee, or waive the fee.
- B. A notary shall not discriminatorily condition the fee for a notarial act on the attributes of the principal as delineated in Section 5.3, though a notary may waive or reduce fees for humanitarian or charitable reasons.
- C. A Notary shall waive the fee for notarizing applications for an absentee ballot or an absentee ballot envelope.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.11 Fees for Notarial Acts.*

- A. The maximum fees that may be charged by a notary for notarial acts are:
  - 1. for acknowledgments, five dollars (\$5.00) per signature;
  - 2. for oaths or affirmations without a signature, five dollars (\$5.00) per person;
  - 3. for jurats, five dollars (\$5.00) per signature;
  - 4. for signature witnessings, five dollars (\$5.00) per signature;
- B. A notary may charge a travel fee when traveling to perform a notarial act if:

1. the notary and the person requesting the notarial act agree upon the travel fee in advance of the travel; and
2. the notary explains to the person requesting the notarial act that the travel fee is both separate from the notarial fee in Subsection (a) and neither specified nor mandated by law.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.12 Payment Prior to Act.*

- A. A notary may require payment of any fees specified in Section 302 prior to performance of a notarial act.
- B. Any fees paid to a notary prior to performance of a notarial act are non-refundable if:
  1. the act was completed; or
  2. in the case of travel fees paid in compliance with Section 302, the act was not completed for reasons stated in Sections 201--206 after the notary had traveled to meet the principal.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.13 Fees of Employee Notary.* An employer may prohibit an employee who is a notary from charging for notarial acts performed on the employer's time.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.14 Notice of Fees.* Notaries who charge for their notarial services shall conspicuously display in their places of business, or present to each principal outside their places of business, an English-language schedule of fees for notarial acts, as specified in this Rule 5.11.

Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.15 Journal of Notarial Acts.*

- A. A notary shall keep, maintain, protect, and provide for lawful inspection a chronological official journal of notarial acts a permanently bound book with numbered pages.
- B. A notary shall keep no more than one active journal at the same time.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.16 Entries.*

- A. For every notarial act, the notary shall record in the journal at the time of notarization at least the following:
  1. the date and time of day of the notarial act;
  2. the type of notarial act;
  3. the type, title, or a description of the document or proceeding;
  4. the printed name and address of each principal;
  5. the fee, if any, charged for the notarial act;

6. the address where the notarization was performed if not the notary's business address; and
- B. If the principal is not personally known to the notary, the notary may require, the signature of the principal and the evidence of identity of each principal, in the form of either: a notation of the type of identification document, its issuing agency, its serial or identification number, and its date of issuance or expiration;
- C. A notary shall not record a Social Security card or credit card number in the journal.
- D. A notary shall record in the journal the circumstances for not completing a notarial act.
- E. As required in Section 401.03, a notary shall record in the journal the circumstances of any request to inspect or copy an entry in the journal, including the requester's name, address, signature, and evidence of identity. The reasons for refusal to allow inspection or copying of a journal entry shall also be recorded.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.17 Inspection, Copying, and Disposal of Journal.*

- A. In the notary's presence, any person may inspect an entry in the official journal of notarial acts during regular business hours, but only if:
  1. the person's identity is personally known to the notary or proven through satisfactory evidence;
  2. the person affixes a signature in the journal in a separate, dated entry;
  3. the person specifies the month, year, type of document, and name of the principal for the notarial act or acts sought; and
  4. the person is shown only the entry or entries specified.
- B. If the notary has a reasonable and explainable belief that a person bears a criminal or harmful intent in requesting information from the notary's journal, the notary may deny access to any entry or entries.
- C. The journal may be examined without restriction by a law enforcement officer in the course of an official investigation, subpoenaed by court order, or surrendered at the direction of the Secretary of State.
- D. Upon complying with a request under Subsection (a), the notary shall provide a copy of a specified entry or entries in the journal at a cost of not more than five dollars (\$5.00) per copy; other entries on the same page shall be masked.
- E. A notary shall safeguard the journal and all other notarial records and surrender or destroy them only by rule of law, by court order, or at the direction of the Secretary of State.
- F. When not in use, the journal shall be kept in a secure area under the exclusive control of the notary, and shall not be used by any other notary nor surrendered to an employer upon termination of employment.
- G. Within ten (10) days after the journal is stolen, lost, destroyed, damaged, or otherwise rendered unusable or unreadable as a record of notarial acts, the notary, after informing the appropriate law enforcement agency in the case of theft or vandalism, shall notify the Secretary of State by any means providing a tangible receipt or acknowledgment, including certified mail and electronic transmission, and also provide a copy or number of any pertinent police report.

H. Upon resignation, revocation, or expiration of a notary commission, or death of the notary, the journal and notarial records shall be delivered to the Clerk of the Circuit Court of the County of residence of the notary in accordance with Section 25-33-7 of the Mississippi Code of 1972.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.18 Official Signature.* In notarizing a paper document, a notary shall:

- A. sign by hand on the notarial certificate exactly and only the name indicated on the notary's commission;
- B. not sign using a facsimile stamp or an electronic or other printing method; and
- C. affix the official signature only at the time the notarial act is performed.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.19 Official Seal.*

- A. A notary shall keep an official seal that is the exclusive property of the notary. The seal shall not be possessed or used by any other person, nor surrendered to an employer upon termination of employment.
- B. An image of the official seal shall be affixed by the notary on every paper document notarized.
- C. An image of the seal shall be affixed only at the time the notarial act is performed.
- D. When not in use, the seal shall be kept secure and accessible only to the notary.
- E. Within ten (10) days after the seal of a notary is stolen, after informing the appropriate law enforcement agency, or lost, the notary shall notify the Secretary of State by submitting an Application for Replacement Commission, SOS Form NP 006. The Notary shall also provide a copy or number of any pertinent police report. Upon receipt of such notice the Secretary of State shall issue to the notary a replacement commission with a new Notary Identification Number.
- F. As soon as reasonably practicable after resignation, revocation, or expiration of a notary commission or death of the notary, the seal shall be destroyed or defaced so that it may not be misused.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 5.20 Seal Image.*

- A. Near the notary's official signature on the notarial certificate of a paper document, the notary shall affix a sharp, legible, permanent, and photographically reproducible image of the official seal that shall include the following elements:
  - 1. the notary's name exactly as indicated on the commission (abbreviations beyond those already appearing on the commission are not permissible);
  - 2. the identification number of the notary's commission;
  - 3. the words "Notary Public" and "State of Mississippi [insert county of residence] County";
  - 4. the words "Commission expires [insert expiration date]";

- 5. a border in a circular shape with a diameter no less than one and one-half inches and no larger than two and one-half inches, surrounding the required words.
- B. Illegible information within a seal impression may be typed or printed legibly by the notary adjacent to but not within the impression.
- C. An embossed seal impression that is not photographically reproducible may be used in addition to but not in lieu of the seal described in Subsection (1).
- D. The model seals contained in Section 902.07 of the Appendix of Forms meet the seal image requirements of Section 403.02(1). The model seals are merely examples of valid seal formats. Other seal formats that meet the requirements of Rule 5.19 shall likewise be considered valid.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

### **Part 5 Chapter 6: Certificates for Notarial Acts.**

*Rule 6.1 Notarial Acts.* The party drafting a document for notarization is responsible for the form of the certificate, its wording and legal sufficiency. A notary public is not required to draft, edit or amend a certificate where the document presented does not contain an acceptable certificate; the notary shall instead, refused to notarize the document pursuant to Rule 5.6.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

#### *Rule 6.2 Signer by Mark and Person Unable to Sign.*

Certificates may be used for signers by mark or persons physically unable to sign or make a mark if:

- A. for a signer by mark, the notary and two (2) witnesses unaffected by the document observe the affixation of the mark, both witnesses sign their own names beside the mark, and the notary writes below the mark: “Mark affixed by (name of signer by mark) in presence of (names and addresses of two (2) witnesses) and undersigned notary ; or
- B. for a person physically unable to sign or make a mark, the person directs the notary to sign on his or her behalf in the presence of the person and two (2) witnesses unaffected by the document, both witnesses sign their own names beside the signature, and the notary writes below the signature: “Signature affixed by notary in presence of (names and addresses of person and two (2) witnesses).

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

### **Part 5 Chapter 7: Sanctions and Remedies for Improper Acts**

#### *Rule 7.1 Revocation.*

- A. The Secretary of State may revoke a notary commission for any ground on which an application for a commission may be denied under this Chapter.
- B. The Secretary of State shall revoke the commission of any notary who fails:
  - 1. to maintain a residence in this State; and



2. to maintain status as a legal resident of the United States.
- C. Prior to revocation of a notary commission, the Secretary of State shall inform the notary of the basis for the revocation and that the revocation takes effect on a particular date unless a proper appeal is filed with the Secretary of State before that date.
- D. Resignation or expiration of a notary commission does not terminate or preclude an inquiry into the notary's conduct by the Secretary of State whereupon it shall be made a matter of public record whether or not the finding would have been grounds for revocation.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 7.2 Suspension.*

- A. The Secretary of State may suspend a notary commission for actions contrary to the Mississippi Notary Law, other laws and the requirements of this Chapter.
- B. Prior to suspension of a notary commission, the Secretary of State shall inform the notary of the basis for the suspension and that the suspension takes effect on a particular date unless a proper appeal is filed with the Secretary of State before that date.
- C. Resignation or expiration of a notary commission does not terminate or preclude an inquiry into the notary's conduct by the Secretary of State whereupon it shall be made a matter of public record whether or not the finding would have been grounds for suspension.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 7.3 Other Remedial Actions for Misconduct.*

- A. The Secretary of State may deliver a written Official Warning to Cease Misconduct, Misfeasance or Malfeasance to any notary whose actions are deemed to be in violation of this Chapter, the Mississippi Notary Law or other laws of the State of Mississippi.
- B. The Secretary of State may also seek any other remedies available under law or equity.
- C. The remedies and sanctions of this chapter do not preclude other remedies and sanctions provided by law.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*7.4 Official Notice.* Official notice required by this Chapter shall be by Certified mail to the notary at the residence address shown on the records of the Secretary of State and/or such other address as the Secretary of State may deem necessary.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*7.5 Publication of Sanctions and Remedial Actions.* The Secretary of State shall regularly publish a list of persons whose notary commissions have been suspended or revoked by the Secretary of State or a court.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*7.6 Criminal Sanctions* In addition to civil sanctions provided by this Chapter and the Mississippi Notary Law, there are criminal sanctions which may be applicable to a notary who violates state or federal criminal statutes.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*7.7 Complaints*

- A. Complaints against a Mississippi notary public for violation of the requirements of this Chapter, the Mississippi Notary Law or any other law or regulation shall be made in writing and under oath to the Secretary of State.
- B. Complaints should state all pertinent facts and include a copy of the notarial certificate in question and the status of any pending litigation.
- C. Complaints alleging violations of criminal statutes shall be made to the District Attorney for the county in which the violation occurred.
- D. Where civil or criminal litigation is pending or anticipated, the Secretary of State's Office may, in its sole discretion, defer action on the Complaint pending the outcome of the litigation.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 7.8 Appeals.*

- A. Appeals should be addressed to the Business Services Division of the Secretary of State's Office.
  - 1. The appeal shall be in writing and under oath.
  - 2. The written appeal shall include submission of copies of three pages from the Notary's Journal including the pages before and after the entry of information surrounding the certificate in question.
- B. Appeals will be on the record unless an oral hearing is requested.
- C. Oral hearings are in the sole discretion of the Secretary of State's Office.
- D. Where an oral hearing is granted, the hearing will be conducted informally with relaxed rules of evidence in accordance with Chapter 5 of these Regulations.
- E. The Notary Public shall bring the original journal to any oral hearing for review by the hearing officer.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

**Part 5 Chapter 8: Apostilles and Authentications**

*Rule 8.1 Authentications.* On a notarized document sent to another state or nation, evidence of the authenticity of the official seal and signature of a notary of this [State], if required, shall be in the form of:

- A. a certificate of authority from the Secretary of State and authenticated as necessary by additional certificates from United States and/or foreign government agencies; or
- B. in the case of a notarized document to be used in a nation that has signed and ratified the Hague Convention Abolishing the Requirement of Legalization for Foreign Public

Documents of October 5, 1961, an Apostille from the Secretary of State in the form prescribed by the Convention.

*Rule 8.1.1 Refusal.* The Secretary of State may refuse certification for a document when it has good reason to believe that the certification is desired for an unlawful or improper purpose. It is therefore, the duty of the Authentication Officer to examine the document, as may be necessary to establish that the requested authentication is appropriate and not in contrary to public interest.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 8.2 Certificate of Authority.*

A certificate of authority evidencing the authenticity of the official seal and signature of a notary of this [State] shall be substantially in the following form:

Certificate of Authority for a Notarial Act

I, \_\_\_\_\_ (name, title, jurisdiction of authenticating official), certify that \_\_\_\_\_ (name of notary), the person named in the seal and signature on the attached document, was a Notary Public for the [State] of \_\_\_\_\_ [name of jurisdiction] and authorized to act as such at the time of the document's notarization. To verify this Certificate of Authority for a Notarial Act, I have affixed below my signature and seal of office this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Signature and seal of commissioning official)

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 8.3 Apostille.* An Apostille prescribed by the Hague Convention, as cited in 28 U.S.C.A. in the annotations to Rule 44 of the Federal Rules of Civil Procedure, shall be in the form of a square with sides at least 9 centimeters long and contain exactly the following wording:

<b>APOSTILLE</b> (Convention de La Haye du 5 octobre 1961)	
1. Country: _____	
This public document	
2. has been signed by _____	
3. acting in the capacity of _____	
4. bears the seal/stamp of _____	
<b>CERTIFIED</b>	
5. at _____	
6. the _____	
7. by _____	
8. Number _____	
9. Seal/Stamp	

10. Signature:

\_\_\_\_\_

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

**Part 5 Chapter 9: Notary Public Fees and Forms.**

The Secretary of State charges the following fees:

*Rule 9.1 Fees and Forms.*

A.	Application Fee	\$25.00
B.	Notice of Address Change	\$20.00
C.	Notice of Name Change	\$20.00
D.	Application for Replacement Commission	\$20.00
E.	Notice of Notary Resignation or Death	(no fee)
F.	Other Forms	\$20.00
G.	Issuing a certificate of authority	\$5.00
H.	Issuing an Apostille	\$5.00
I.	Notary Bulk Data Download	\$150.00 per year
J.	Notary Download	\$50.00 per month
K.	Application for Notary Public Commission, SOS Form NP 001	
L.	Official Notary Public Bond and Notary Public Oath of Office, SOS Form NP 003	
M.	Application for Change of Notary Address, SOS Form NP 004	
N.	Application for Change of Notary Name, SOS Form NP 005	
O.	Application for Replacement Commission, SOS Form NP 006	
P.	Notice of Notary Resignation or Death, SOS Form NP 007	

Q. Bulk Data Notary Request form, SOS Form NP 008

R. Notary Download Request Form, SOS Form NP 009

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.

*Rule 9.2 Seal Requirements for Notaries Public Commissioned before July 1, 2007.*

A. Notaries public commissioned prior to July 1, 2007 may use an official seal that does not comply with Section Rule 5.20 provided that seal complies with Section 25-33-3 of the Mississippi Code Annotated, as amended.

B. Notaries public commissioned prior to July 1, 2007 must obtain a seal that complies with Section Rule 5.20 upon being recommissioned on or after July 1, 2007.

Source: Section 25-33-1 et seq. Mississippi Code of 1972 as amended.