

NV4 - Notary Compliance

0:00

Hello and welcome to the Texas Secretary of State's Notary public Training video series.

0:06

In this lesson you will learn about the prohibited acts and notary public should avoid.

0:12

We will cover the acts notaries are prohibited from performing.

0:17

What is the role of the Secretary of State's office and what is the notary public complaint process?

0:25

Notaries public are provided educational materials that inform them of what they may or may not do when performing notary public services.

0:34

Engaging in one of the prohibited acts may subject the notary to disciplinary action by the Secretary of State's office.

0:42

If you perform any of the following acts, you may be subject to possible criminal prosecution, civil liability, including liability under the Deceptive Trade Practices Act, or the revocation or suspension of your notary public Commission.

1:00

A notary public who is not also an attorney may not perform acts which constitute the practice of law or prepare, draft, select, or give advice concerning legal documents.

1:13

A notary may not use the phrase notario or notario publico to advertise and may not overcharge for notary public services.

1:24

Notarize a document without the signer being in the notary's presence.

1:29

Notarize their own signature.

1:31

Issue identification cards.

1:33

Sign a notarial certificate using any name other than the one under which they are commissioned.

1:40

Certified copies of documents recordable in the public records record in the Notaries record book.

1:47

The identification number that was assigned by the governmental agency or by the United States to the signer, grantor, or maker on the identification card or passport, or using the translation into a foreign language of a title or other word, including notary and notary.

2:06

Public in reference to a person who is not an attorney in order to imply that the person is authorized to practice law in the United States.

2:15

Many of these prohibited acts are fairly easy to understand and have been covered in previous lessons.

2:21

However, we're going to talk in depth over a few of these prohibited acts.

2:27

Per Texas Government Code 406.014, a notary public who is not also a licensed attorney is prohibited from engaging in the unauthorized practice of law.

2:41

As stated in previous lessons, a notary public who is not an attorney should only complete a notarial certificate that is already on the document or attach a certificate of the signer's choosing, unless the notary public is making a certified copy of the document in which a notary public may select the appropriate certificate for that notarization.

3:03

If you were presented with a document in which you were notarizing someone's signature and that document did not contain a notarial certificate, you would be practicing law if you decided which certificate to attach.

3:17

Instead, have the signer choose a notarial certificate from sample certificates available on our website.

3:25

It is also important for you to not state or imply you are an attorney licensed to practice law in the state of Texas unless you are a licensed attorney.

3:34

Also, you may not solicit or accept compensation to prepare documents for or otherwise represent the interest of another individual in a judicial or administrative proceeding unless you are a licensed attorney.

3:49

This includes any proceeding relating to immigration or admission to the United States, US citizenship, or related matters.

3:57

Unless you are a licensed attorney, you are not allowed to represent or receive compensation from or for anyone for any reason in which you represent them to an officer, agency, or employee of the State of Texas or the United States.

4:13

You may not advertise that you are an immigration specialist or consultant or any other title or description reflecting an expertise in immigration matters.

4:23

And finally, you may not use false or misleading advertising, written or oral, representing that you have duties, rights, powers, or privileges that you do not possess by law.

4:35

If you engage in the unauthorized practice of law, you are providing the Secretary of State's office good cause to take action against your notary public Commission.

4:46

The use of the term notario or notario publico is strictly prohibited.

4:53

The term notario publico, while a Spanish translation for notary public, also refers to an individual in other countries who is a lawyer with specialized training.

5:04

An individual from a Spanish speaking country who encounters A notario publico in Texas may assume that particular notary public has training or authority beyond that of another notary public who does not possess that title.

5:19

As a result, you are prohibited from using a foreign language translation of notary or notary public in any written or electronic material, including an advertisement, a business card, letterhead, stationary, a website, or an online video.

5:37

Using such a translation in reference to a person who is not an attorney in order to imply the person is authorized to practice law in the United States as prohibited.

5:48

Notarizing a document in which you have a conflict of interest is strictly prohibited.

5:53

You should not perform any notarizations that you are party to or have financial or beneficial interest in the transaction.

6:02

If a document is presented to you to notarize and you are mentioned within that document to receive something, whether it be funds, property, being named as a beneficiary, etcetera, you should not notarize that document as you have financial or beneficial interest in the document.

6:20

There is no specific prohibition about notarizing for a spouse, relative, or family friend as long as you are not a party to the document.

6:29

There is also no specific prohibition about notarizing for an employer subject to the same considerations that you cannot be a party to the instrument or have a financial or beneficial interest in the document.

6:43

If you for any reason have questions regarding whether you believe you should notarize a document due to a potential of a conflict of interest, you should contact your attorney before notarizing the document.

6:56

Now let's discuss the role of the Texas Secretary of State in relation to your notary Commission.

7:02

The Secretary of State cannot provide legal advice.

7:06

The role of the Secretary of State is limited to the commissioning of notaries and investigating alleged violations of the laws and regulations governing Texas notaries public.

7:18

This means that the Secretary of State cannot determine the validity of a notarized document and cannot provide legal advice relating to the type of notarization necessary for a particular document.

7:31

Customers who have questions about the legal effect or validity of a particular notarial act should contact their private attorney.

7:40

Likewise, notaries who have questions about the legal effect of a notarial act they have performed or whether a particular transaction constitutes a conflict of interest or providing legal advice should contact their private attorney.

7:55

A notary who performs a prohibited act or does not comply with the duties and responsibilities of a

notary public may be subject to disciplinary action by the Secretary of State and may also be subject to possible criminal or civil action.

8:12

Members of the public may file a complaint with our office in the event they believe that a notary public has violated the laws governing A notary public.

8:22

The Secretary of State's office may determine whether sufficient cause exists to investigate any complaint submitted to our office.

8:31

The Notary's response must specify any disputed facts and provide additional information.

8:37

The notary public desires be signed and sworn to by the notary public before a person authorized to administer oaths.

8:47

Include copies of the pages of the Notary record book referring to the notarization that is the subject of the complaint, as well as the last 15 entries of the Notaries Record book, and must be received by the Secretary of State's Office within 21 days of the date the Secretary of State's notice of the complaint is received by the notary public.

9:10

The Secretary of State's office will review the response and attach documents and, through its investigation, will determine whether further administrative action is appropriate.

9:21

If the Secretary of State's office determines that no further action is appropriate, the office shall notify the notary public and the complainant of the determination in writing.

9:32

If the Secretary of State's office determines that further action is appropriate, the office may pursue the following disciplinary actions against a notary public's Commission.

9:44

Issue a written reprimand to the notary public informing the notary to not engage in any further misconduct.

9:51

Require the notary public to complete an educational course.

9:56

Require the notary public to enter into an agreement to suspend their notary Commission for a set period of time or take action to revoke the notary public's Commission.

10:08

If you engage in criminal behavior such as theft, fraud, tampering with a governmental record, or other crimes, you may be subject to criminal prosecution.

10:19

Criminal prosecution is also possible if you engage in the unauthorized practice of law or unauthorized use of the term notario publico.

10:29

Notaries who violate their duties as a notary public or engage in prohibited acts may also be subject to civil liability, including liability under the Deceptive Trade Practices Act.

10:42

If you notarize a document for a signer who was not present at the time of notarization, you may be subject to criminal prosecution, which may result in a Class A misdemeanor or felony conviction.

10:55

A conviction of this type of charge could result in the revocation of your notary Commission and potential additional civil penalties.

11:04

Prior to being commissioned, each notary is required to obtain a \$10,000 surety bond.

11:11

Persons who are financially harmed as a result of improper conduct by a notary public can file a claim against the bond by contacting the surety company.

11:21

Notaries may be liable for any amounts paid by the surety company if the notary does not carry insurance.

11:29

Civil and criminal penalties must be pursued privately.

11:33

The Secretary of State cannot pursue criminal or civil penalties against a notary public.

11:39

Thank you for watching the Texas Secretary of State's notary public training video, Notary Compliance.

11:46

Now that you have learned about what a notary public is, how to perform notarizations, different types of notarial acts, and notary compliance, you are ready to take the Secretary of State's notary assessment and complete the educational requirement to become a Texas notary public.