



# NATIONAL NOTARY ASSOCIATION

September 11, 2009

Andrew Whitfield, Deputy Director  
Licensing & Enforcement Division  
Colorado Secretary of State  
1700 Broadway Suite 300  
Denver, CO 80290

## RE: AUGUST 26, 2009 DRAFT PROPOSED NOTARY PROGRAM RULES

Dear Mr. Whitfield:

Pursuant to the Notice of Proposed Rulemaking of the Office of the Secretary of State, Rules Concerning Notaries Public Training CCR1505-15, the National Notary Association respectfully submits the following comments for your consideration.

### Section 2.0 Definitions

1. We recommend inclusion of a definition of "Approved Course" as follows: "Approved Course' means a live classroom, an online course or a Web cast course that satisfies the requirements of this [section]." Rationale: (a) The proposed rules do not clarify the nature or delivery method of the course of instruction. (b) The terms "course of instruction" and "course of study" are used interchangeably throughout the proposed rules. Typically, "course of instruction" refers to a live classroom course while a "course of study" refers to correspondence, online and live courses. This is confusing. (c) Online courses and Web casts will provide convenience for all applicants and ensure availability of courses in sparsely populated regions of the state where it may not be practical or feasible to conduct live classroom courses. (d) Some people learn better through live instruction and others through alternative modes of delivery.
2. In Section 2.4, under the definition of "Approved Vendor," we recommend striking the words "achieves accreditation status" and replacing with "is approved by the Secretary of State." Rationale: The term "approved" is the preferred and proper term. In the United States, educational accreditation is typically provided by non-governmental bodies, such as private associations and accrediting bodies. (See [www.wikipedia.org](http://www.wikipedia.org) "Educational accreditation.") The U.S. Department of Education lists dozens of separate educational accreditation bodies in the U.S. (See the listing of accrediting bodies at the DoE Web site: Nationally Recognized Accrediting Agencies at [http://www.ed.gov/admins/finaid/accred/accreditation\\_pg6.html](http://www.ed.gov/admins/finaid/accred/accreditation_pg6.html).) The public could be confused by claims of vendors to be accredited. Therefore, we urge the Secretary to remove the words "accreditation" and "accredited" throughout the proposed rules and replace them with "approval" and "approved."

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3. The proposed rules contain separate definitions of “Vendor,” “Approved Vendor,” and “Course Provider.” However, “vendor” and “course provider” appear to be used interchangeably in 3.3.A. and “course provider” is not used elsewhere in the proposed rules. In addition, the term “curriculum provider” is also employed (3.2.C.) but is not defined. Is “curriculum provider” synonymous with “course provider”? Thus, there appears not to be a meaningful distinction of terms, unless the Secretary of State conceives of a “vendor” as an organization who creates (provides) curriculum to be taught in an approved Notary course and the “course provider” as an organization that simply teaches courses with a curriculum provided by the Secretary (in which case “provider” is the wrong term). If this is the intent of the proposed rules, there should be additional rules for such course providers who teach a curriculum truly provided by the Secretary of State. Therefore, given this ambiguity, under the definition of “Course Provider” in Section 2.5, we recommend striking the definition entirely or striking the words “using a curriculum provided by the Secretary of State” and replacing with “using a curriculum approved by the Secretary of State.” Rationale: It is consistent with the general thrust of the proposed rules elsewhere. For example, Section 3.2.C. speaks of the “curriculum provider” and says “it shall be at the discretion of the curriculum provider to determine which best practices shall be included in its curriculum.” This statement would not make sense if the Secretary of State provided the curriculum to be taught in an approved course.

### **Section 3.0**

In Section 3.B., replace the first sentence in its entirety with the following: “A person who holds a current appointment as a notary public shall successfully complete a course of instruction prior to submitting his application for reappointment to a new term. Upon taking the course of instruction one time, a person renewing his appointment as a notary public is not required to successfully complete a new course of instruction provided the notary successfully passes an examination administered by the secretary of state and the notary’s commission has not expired by a period greater than thirty (30) days.” Rationale: (a) NNA believes that all Notaries — new and renewing — should take the educational course at least one time. (b) Colorado’s Notary laws change frequently enough to require all new and renewing applicants to take an educational course one time. (c) Notaries are generally unsupervised when they perform notarizations. Without the feedback that comes from close supervision and accountability, there is a need for Notaries to keep their skills up to date. Taking an educational course provides a practical means for ensuring that the skills of Notaries remain relevant.

### **Section 3.1**

1. We urge the Secretary of State to lengthen of the course of instruction from a minimum of 2 to 3 hours. Rationale: Our experience in teaching Notary Public training courses over several decades in many U.S. states and jurisdictions has proved that most attendees of these courses do not have a working knowledge of notarization. We spend at least an hour in our training courses laying the fundamentals of notarization – what is a Notary, what is the role the Notary, and how Notaries benefit society – before launching into the more substantive discussions of commissioning procedures, proper procedures for performing notarial acts,

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fees, misconduct and prohibited acts. Since most attendees of the Colorado Notary training courses will be first-time applicants, these attendees will not have this basic working knowledge.

2. In section 3.1.C., line 19, the word "on" should be struck.

### **Section 3.2**

In Section 3.2.C., a curriculum must incorporate best practices along with the discussion of the Colorado Notary Public Act. We commend the Secretary for requiring best practices to be taught in the educational course. We suggest, however, that the term best practices be defined and included in the definitions section.

### **Section 3.4**

1. In Section 3.4.E., we recommend that that the curriculum review processing time be reduced from 60 business days to 45 business days. Rationale: It has been our experience with mandatory education programs in certain states that the review process can become lengthy and drawn out to the point where the delays unnecessarily limit the availability of course offerings to applicants.
2. In Section 3.4(E)(1)(d), the words "or other courses" should be added after the words "services" in line 28. Rationale: The addition, though minor, will make it clear that only the course approved by the Secretary will carry the Secretary's approval. Note: See comment under Section 2.0 regarding use of the word "accreditation."
3. In Section 3.4.F., end the sentence in line 3 after the word "content" and strike the exception clause; and in Section 3.4.G., add the words "and submit the revised curriculum to the secretary of state" at the end of the sentence in line 10. Rationale: The Secretary of State should review and approve all new law changes to a curriculum given that these are within the purview of the "substantial changes" to the content of the course.

Respectfully submitted,



William A. Anderson  
Vice President of Best Practices and eNotarization

WAA:jbs

## Andrew Whitfield

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**From:** Rodger@~~christianward~~.com  
**Sent:** Monday, October 19, 2009 2:43 PM  
**To:** Andrew Whitfield  
**Subject:** Notary Rules comments

Dear Mr. Whitfield:

I wish to express several comments and requests regarding the new rules that are being developed for training of notaries public.

1. Please take an inclusive position with existing providers who are offering notary training. If your office is proposing to approve or license vendors, please ensure that this process is straight-forward and inexpensive so that a small business can participate.

If a licensing fee is required, please limit the fee to approximately \$20 so that new regulations do not limit a small business' ability to participate.

2. To facilitate compliant, comprehensive, accurate training materials that a vendor might provide to become licensed or approved, please provide a model that is simple to follow.

For example: "Include training materials, electronic or paper-based classroom instruction, that follow Colorado statutes and the Model Notary Act. Ensure that the training explains each of the topics that are included in the online training from the Secretary of State."

3. If a representative of your office or a contractor is designated to review notary training for purposes of approval or licensing, please provide reasonable feedback from reviews that result in denial. For example, if a training course is reviewed that is adequate in most respect, but overlooks a few pertinent points, provide feedback that would allow the vendor to make reasonable corrections that would satisfy the requirements.
4. Please validate the normal vendors' ownership and copy rights to all training materials, examples, exercises, and training approaches that are submitted for review. I understand that these rights would not extend in any way to the information contained in the Colorado statutes.

Thank you for the opportunity to express these thoughts and concerns.

Warm regards,

Rodger Ward  
The *i*MPACT Institute



# AMERICAN SOCIETY OF NOTARIES

September 30, 2009

Mr. Andrew Whitfield  
Deputy Director, Licensing & Enforcement  
Colorado Department of State  
1700 Broadway, Suite 300  
Denver, CO 80290

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RE: RULES CONCERNING NOTARIES PUBLIC TRAINING, 8 CCR 1505-15

Dear Mr. Whitfield:

Thank you for providing interested parties the opportunity to comment on your proposed Rules Concerning Notaries Public Training.

We find the rules as proposed to be extremely clear, setting forth well-defined and thoughtful guidelines for both notaries and potential notary education providers.

It is not, however, entirely clear to us whether you intend to allow approved courses of notary education to be delivered by vendors online. American Society of Notaries respectfully asks that you do allow for online notary education. Many vendors including ourselves rely on this manner of delivery to reach notaries throughout the United States, especially those whose circumstances make it difficult to attend a live class.

May we offer these ideas for clarifying whether vendors may offer approved notary courses online:

## **Section 2.0, Definitions**

2.3 "Vendor" means a partnership, corporation, company, commercial enterprise, association or person that provides a course of live or online instruction for Colorado notaries.

## **Section 3.4, Vendors and Accreditation**

B.2 Procedures to establish the identity of a person attending a live or online course and ensure that the person is present or personally participating for the required time.

H.1 **Vendor Assures Actual Completion of Course.** An approved vendor shall ensure that only a person who has completed an approved course of study receives a certificate of successful completion. If a notary public applicant or notary public fails to be present or to personally participate during any substantive portion of an approved course of study, the

approved vendor shall not issue a certificate of successful completion to the notary public applicant or notary public, and the notary public applicant or notary public shall not receive credit for the time in which he or she was present or personally participating.

In addition, while **Section I. List of Attendees** does contemplate the possibility of online education providers, I am presently unsure how the requirement of item 6 of this section (photograph identification of the student) can be satisfied in an online environment. Having said that, if online education providers are indeed allowed we will work hard to satisfy this and any other requirement you set forth in the rule for verifying the identification and participation of students. That's a commendable objective of your rules and we want to be supportive of it.

Thank you very much for your consideration of our request and suggestions. Please do not hesitate to contact me if I may be of any assistance.

Sincerely,



Kathleen Butler  
Executive Director  
Kathleen@asnnotary.org

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