

**From:** Nancy Reeson Davis  
**To:** [SoS Rulemaking](#)  
**Subject:** Written comments - proposed notary rules - 4/17/18 hearing  
**Date:** Tuesday, April 17, 2018 11:34:35 AM  
**Attachments:** [COMMENT ON PROPOSED RULES FOR COLORADO NOTARY.docx](#)

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Please see the attached document for our written comments on the proposed notary rules.

Nancy and Ken Davis, Owners  
The UPS Store 5183

## COMMENT ON PROPOSED RULES FOR COLORADO NOTARY (8 CCR 1505-11)

Honorable Secretary Williams,

Thank you for the opportunity to submit the following comments regarding the proposed Rules for Colorado Notary (8 CCR 1505-11).

We are the owners of the UPS Store 5183 in Superior, Colorado. We provide notary services to our customers, Monday through Saturday, during our regular business hours. We currently have three staff members who, in addition to ourselves, serve as notaries. We pay our staff for the time it takes to complete the training and the exam, and for their journal, stamp, and E & O insurance. Increasingly, banks and other companies will not perform notary services and send their clients to our store. Given the \$5 notary fee that is currently imposed in statute, the costs of providing notary services exceeds any revenue collected from the \$5 fee.

**Proposed Rule 2.1.3.** We join in the comments submitted by other notaries, in opposition to the new requirement that commissioned notaries must take the training and the exam for renewal purposes. Although the training and exam are currently provided by the Secretary of State for free, there is still the cost for employers to pay the cost of the staff labor to take the training and exam. As an alternative, we suggest the Secretary of State rely on its current authority, pursuant to Rule 2.1.5 (renumbered) to “. . . require a notary who has committed misconduct meriting a disciplinary proceeding to retake and successfully complete the training and exam.”

**Proposed Rules 4.1. and 4.2.** We suggest the proposed Rule be amended as follows: “IF A CURRENT OR FORMER NOTARY LEAVES THE NOTARY JOURNAL WITH THE NOTARY’S FIRM OR EMPLOYER, AS AUTHORIZED BY SECTION 24-21-519(10)(A), C.R.S. THE NOTARY MUST NOTIFY THE SECRETARY OF STATE BY ELECTRONICALLY SUBMITTING THE REQUIRED FORM WITHIN \_\_\_\_ DAYS. THE NOTARY MUST PROVIDE THE NOTARY’S FIRM OR EMPLOYER WITH A COPY OF THE REQUIRED FORM AT THE TIME OF ELECTRONIC SUBMISSION TO THE SECRETARY OF STATE.”

Given the statutory provision that allows notaries to choose to leave their journal with their employer, it is critical for the employer to receive notice of retention of the journal, and that the notary has complied with their responsibility to notify the Secretary of State. We will choose, in every situation, to immediately transmit the journal(s) to the Secretary of State. Retaining the journal at our store exposes us to additional responsibilities and costs that cannot be reimbursed. We also respectfully question the authority of the Secretary of State to impose requirements on firms and employers when there is no statutory regulation of firms or employers providing notary services.

**Additional Proposed Rule:** Given that the current \$5 maximum fee for notary services is set by statute (C.R.S. 24-21-529) we understand that any change to the fees will require further statutory changes. The \$5 maximum fee is not sufficient to cover the costs of the services that we provide. Increasingly, other states are enacting provisions that either allow the notary to set the fee or have increased the maximum fee to \$10 or \$15. We respectfully urge the Secretary of State to support a statutory change to the current fee structure.

Until a statutory change can be enacted, we recommend the Secretary of State adopt a rule that clarifies how the fees are assessed. The statutory language of C.R.S. 24-21-529 that specifies ... “THE FEES OF A NOTARY PUBLIC MAY BE, BUT MUST NOT EXCEED, FIVE DOLLARS FOR EACH DOCUMENT ATTESTED BY A

PERSON BEFORE A NOTARY, ..." is open to various interpretations. In the situation where there is one document, with multiple signatures, there are some notaries who are charging \$5 per person and others who are charging \$5 per document. The interpretation of \$5 per person is relying on the statutory language of "EACH DOCUMENT ATTESTED BY A PERSON..."

Clarification regarding additional fees that may be charged by notaries would also be helpful. For example, there are various interpretations as to whether a notary may charge additional fees when a document requires witnesses. May a notary charge additional fees if they provide the witnesses? May a notary charge additional fees if the signer provides the witnesses? Also, given that mobile notaries charge appointment and travel fees, may we charge appointment and "facility" fees?

Respectfully Submitted,

Nancy and Ken Davis, Owners  
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