

The background of the slide is an abstract composition of numerous 3D-rendered triangles in various colors including blue, orange, yellow, green, pink, and red. These triangles are arranged in a non-uniform, overlapping pattern that creates a sense of depth and movement. A solid black rectangular box is positioned on the right side of the slide, containing the title text in a white serif font.

Uncommon Notarial Requests

Notary Basics: Understanding Apostilles And Authentication Certificates

By Kelle Clarke on July 30, 2015

[Click here for article.](#)



Updated 9-24-19. Notarizing documents that will be sent to other countries requires an *apostille* or authentication; but it's up to your signer to request one, not you.

◆ An *apostille* is a certificate – often attached to the document by an appropriate government official after it is notarized. While you are not responsible for obtaining an apostille, signers often ask about them, so it's helpful to understand what they are and how they work.

Apostille Or Authentication Certificates?

- ❖ *Apostilles* and authentication certificates validate the seal and signature of a Notary on a document so that it can be accepted in a foreign country. Both verify that you held a Notary commission at the time you notarized the document.
- ❖ *Apostilles* are used when public documents are being transferred between countries that are a party to the [Hague Apostille Convention](#) of 1961. This international treaty streamlined the cumbersome, traditional procedure for authenticating documents.
- ❖ An *apostille* is issued by your Secretary of State's office or Notary commissioning agency. The single *apostille* is the only certification needed. Once prepared and verified, the *apostille* is attached to and sent along with the notarized documents. Notaries cannot issue *apostilles* themselves. This all happens *after* the notarization and requires no action on your part.

Authentication certificates are used for destination nations that are not part of the Hague Convention. Instead of a single *apostille*, the document needs several authentication certificates, including those from your commissioning agency, the U.S. Department of State, the consul of the destination country and potentially another government official in the destination country.

- ❖ The requirements and processing time for authentication certificates will vary from country to country.

Getting A Notarization Authenticated

- ◆ According to the [U.S. Department of State](#), documents that may require authentication for use abroad include: affidavits, agreements, articles of incorporation, company bylaws, deeds of assignment, diplomas, home study, income verification, powers of attorney, transcripts, trademarks, warrants, extraditions, certificates of good standing and other general business documents. Also, parents wanting to adopt a child living in another country must have their [adoption dossiers properly authenticated](#).
- ◆ But your signer is responsible for requesting the authentication – not you.
- ◆ Requests for an *apostille* or authentication certificate are generally submitted in writing to your state's [Notary commissioning authority](#) (usually the Secretary of State's office) and should contain:
 - ◆ An explanation of why the *apostille* or authentication is needed.
 - ◆ The original document, including the Notary's completed notarial certificate.
 - ◆ The final destination of the document.
 - ◆ A postage-paid return envelope addressed to either the document custodian or the document's final destination.
 - ◆ The required fee (varies by state).
 - ◆ The commissioning office determines whether the document requires an *apostille* or authentication certificate, based on the document's final destination.

What's The Notary's Role?

- ◆ Your *only* responsibility is to notarize the document itself. Because the document is destined for another country, the notarization must be performed perfectly to ensure that there aren't any problems on the receiving end. For example, some judges presiding over adoption cases in other countries may reject documents not properly notarized.
- ◆ Keep in mind that with any notarized documents passing through a Notary regulator's office, the paperwork will be closely scrutinized. Any notarial errors may result in an enforcement action against you.

Can Notaries Provide *Apostille* Services?

- ◆ Some enterprising Notaries who live near their Secretary of State's office offer "apostille services" as a way to generate additional income. They essentially provide a courier service to deliver and return the paperwork to customers. These are not considered "notarial" acts, so the Notary may establish any relevant service fees with the client.
- ◆ If you have questions, the NNA Hotline can answer them.
- ◆ *Kelle Clarke is a Contributing Editor with the National Notary Association.*



[Link to SOS website.](#)

Can Certifications and Authentication

- ❖ There are several types of certifications processed in the Office of the Secretary of State. We certify the incumbency of persons the Governor appoints to various Commissions and Cabinet positions; elected officials; and portions of the Annotated Code of Maryland.
- ❖ Some documents (birth/death, marriage/divorce, police records, corporate good-standing certificates) submitted to this office are being used internationally for adoptions, dual citizenship, doing business, transferring school records, etc.
- ❖ Whether or not a country will accept the apostille form of certification, depends on whether that country signed the Hague Treaty. The Hague Treaty is an international treaty agreeing to accept the signature of the Secretary of State of each state, without having it certified by the U.S. Secretary of State. [Countries which signed the Hague Treaty](#) accept the Apostille form of certification and for those which did not, the standard form is used. For a more complete explanation of the Hague Convention, visit the site of the [U.S. State Department](#).
- ❖ Statutory Authority: State Government Article, §7-106 and by virtue of the Secretary's being a member of the Board of State Canvassers.
- ❖ [Cover letter](#) to use when sending documents to the Office of the Secretary of State



[Link to SOS website](#)

What Are Steps in The Certification Process?

- ◆ Standard Certification
- ◆ When Having a Notarized Document Certified

Notarized document must be taken to the [Clerk of the Circuit Court](#) for certification, in the county where the notary was commissioned. (The county will be imprinted on the notary's seal.) If your document is certified by a clerk of the Circuit Court other than the current clerk of the Circuit Court, please call our office at 410-974-5521 to confirm that we can authenticate the document. The document is then taken to the Office of the Secretary of State, in Annapolis for certification.

Document is taken to the [State Department](#) in Washington, DC for certification. Document is ready for use.
- ◆ When having a State or County Issued Document Certified
- ◆ The State/County document, (birth or death certificate, motor vehicle ownership certification, certification of status of criminal records, marriage certificates, divorce decree, etc.) with the seal and authorized signature of the department issuing the document, is taken to the Office of the Secretary of State, in Annapolis for certification. If you do not have a current copy, please call our office at 410-974-5521 to confirm that we can authenticate your document.
- Document is taken to the [State Department](#) in Washington DC for certification. Document is ready for use.



[Link to SOS website](#)

What Are Steps in The Certification Process?

- ◆ Apostille
- ◆ When Having a Notarized Document Certified

Notarized document must be taken to the [Clerk of the Circuit Court](#) for certification, in the county where the notary was commissioned. (The county will be imprinted on the notary's seal.) If your document is certified by a clerk of the Circuit Court other than the current clerk of the Circuit Court, please call our office at 410-974-5521 to confirm that we can authenticate the document. The document is taken to the Office of the Secretary of State, in Annapolis for certification.

Document is ready for use. The document **does not** need to be taken to the U.S. State Department for certification.
- ◆ When having a State or County issued Document Certified

The State/County document, (birth or death certificate, motor vehicle ownership certification, certification of status of criminal records, marriage certificates, divorce decree, etc.) with the seal and authorized signature of the department issuing the document, is taken to the Office of the Secretary of State, in Annapolis for certification. If you do not have a current copy, please call our office at 410-974-5521 to confirm that we can authenticate your document.

The document is ready for use. The document **does not** need to be taken to the U.S. State Department for certification.



Other Notarial Requests

Medallion Signature Guarantees: Preventing the Unauthorized Transfer of Securities

- ◆ What is a Medallion Signature Guarantee and Where Can I Obtain One?
- ◆ A Medallion Signature Guarantee is a guarantee by the transferring financial institution that the signature is genuine and the financial institution accepts liability for any forgery.
- ◆ A Medallion Signature Guarantee stamp may be obtained from a domestic bank or trust company, broker-dealer, clearing agency, savings association, or other financial institution which participates in a Medallion program of the Securities Transfer Association Medallion Program (STAMP) or the NYSE Medallion Signature Program, as long as the amount of the transaction does not exceed the relevant surety coverage of the medallion. Signature guarantees from financial institutions which do not participate in a Medallion program will not be accepted. **A notary public cannot provide a Medallion Signature Guarantee stamp.** Military personnel may acknowledge their signatures before officers authorized to take acknowledgments (e.g., legal officers and adjutants).

Elaine's Experience With Medallion Signature Guarantees

- ◆ On 8/14/07, a co-worker asked me to notarize a Transfer Authorization Stock Assignment. I was not familiar with the process or the terms "medallion guarantee" or "raised 'corporate' seal." Sometimes, this procedure is referred to as Medallion Signature Guarantee. After further research on the web, I found the following information:
- ◆ MEDALLION GUARANTEE A Medallion Guarantee is a unique signature guarantee for securities that may be obtained through a financial firm like a broker, bank, or credit union that participates in one of the following Medallion Guarantee programs. □ STAMP Securities Transfer Agents Medallion Program □ SEMP Stock Exchange Medallion Program □ MSP New York Stock Exchange, Inc. Medallion Signature Program Signature guarantees by a notary public or non-Medallion signature guarantees are NOT acceptable. (Source: Unknown) The signer went to Bank of America. Bank of America is a participant in the program, but could not do a signature guarantee because the signer was a non-customer. She went to her credit union and obtained the Medallion Guarantee.

If The Notary Is Asked To Sign A Medallion Signature Guarantee on a Document

- ◆ If you are asked to sign or place a Medallion Signature guarantee on a document, your response would be, "I am so sorry, but Notaries Public do not have the authority to provide a Medallion Guarantee. All you have to do is contact your financial institution and ask if a Medallion "signature" Guarantee is a service that they provide."

Protests

- ◆ A protest is a written statement by a Notary or other authorized officer indicating that payment for a negotiable instrument – a check or promissory note, for example – has not been received. Failure to pay on a negotiable instrument is called dishonor. In the 19th century, protests were common notarial acts, but they are rarely performed today due to the advent of modern electronic communication and resulting changes in the banking and financial system. Yet, antiquated statutes still give Notaries the power to execute protests in most states. Notarial acts of protests are complicated and varied. They require special knowledge of financial and legal terms. Only a Notary who has this special knowledge or who is under the supervision of an experienced bank officer or attorney should execute a protest.

Protests

- ◆ Notarial acts of protests are complicated and varied. They require special knowledge of financial and legal terms. Only a Notary who has this special knowledge or who is under the supervision of an experienced bank officer or attorney should execute a protest.

Power of Attorney



Power of Attorney

- ◆ When you sign a document giving another person the power to act as your legal representative, you've created a power of attorney. The document will identify you as the principal and your representative as the agent, also sometimes referred to as your attorney-in-fact. Depending on the language of the document, the power of attorney may confer on the agent broad authority to act on your behalf -- called a general power of attorney -- or limit the agent's authority to a specific transaction -- called a special power of attorney. In general, a power of attorney remains effective until it is revoked by the principal, the principal becomes mentally incapacitated or dies. However, the principal can make the power of attorney irrevocable and durable so that it remains effective even in the event of the principal's incapacity.

Notarizing A Power of Attorney

- ◆ Even when acting on behalf of someone else, the attorney in fact is still the person who appears before the Notary and is identified.
- ◆ When a Notary completes a notarial certificate for an attorney in fact, only the attorney in fact's name should be written in the certificate wording, and it is the attorney in fact who must provide satisfactory evidence of identity prior to the notarization.
- ◆ So even if John Smith is representing Mary Doe, it's John Smith's name that's written in the certificate wording, and it's John Smith who must present satisfactory proof of his own identity.
- ◆ When the Notary records the notarial act in the journal, it is the attorney in fact who signs in the journal entry.
- ◆ However, the Notary should make a note that the signer was acting as an attorney in fact and should record the name of the principal being represented in 'Other Information' as part of the journal entry..
- ◆ Sample Signature - Principal's name by Agent's name, Power of Attorney

Notarizing for The Sick

- ◆ Some of the best practices shared included:
- ◆ Speak directly to the signer to determine willingness and competency.
- ◆ *(This may require asking others to leave the room or provide privacy for Notary and Signer.)*
- ◆ Ask questions to determine willingness and competency.
- ◆ *(This could include asking the Name, Address, Date, Current Event, Understanding what is about to be signed.)*
- ◆ Based on signer's responses, make determination whether or not to proceed with the notarization.
- ◆ Inform others of decision and reason.
- ◆ Always be mindful of the situation and conduct yourself professionally.

