

August 1998

Greetings Florida Notaries!

This month we would like to clear up some confusion about identification. What types of identification are acceptable? Must ID cards have photos to be valid? Can you accept an expired identification card?

IDENTIFICATION

As notaries, one of your most important functions in performing notarial acts is to make certain that the person appearing before you for the notarial service is who he/she claims to be. Recently, we have received numerous questions about proper forms of identification and, in the process, realized that many notaries are relying upon unacceptable forms. Let's talk about what constitutes acceptable identification.

First, the basics. The law divides identification into two types: your personal knowledge of the individual or some form of satisfactory evidence presented to you by the individual. To "personally know" the signer means that you have a close, personal association with the individual that establishes his/her identity with at least a reasonable certainty. In other words, if you state in your notarial certificate that you personally know the signer, you should be willing to testify in court under oath about your personal association with that individual.

The other type of identification is "satisfactory evidence" which includes identification cards or credible witness statements. These forms of identification should convince you of the person's true identity. Any type of satisfactory evidence must be current (unexpired) or issued within the past 5 years. If the ID card is expired, check the issue date.

Most identification cards will contain a photograph, a signature, and/or some physical description. Florida law does not mention these elements, but you should look for these features to assist you in making a positive identification. The notary law actually delineates the forms of identification you may accept for a notarization. Please note that only those forms are acceptable. What types of ID can you rely on? The law requires any one of the following:

1. A Driver's license from Florida, another state, a U.S. territory, Canada, or Mexico. (The U.S. territories are Puerto Rico, Guam, Virgin Islands, American Samoa).
2. An identification card issued by the agency that issues driver's licenses in the same jurisdictions listed in (1).
3. A U.S. passport or a foreign passport if it has been stamped by the U.S. Immigration and Naturalization Service.
4. A military identification card issued by any branch of the U.S. armed forces (for active duty personnel, retired individuals, or eligible family members).
5. An inmate identification card issued by the Florida Department of Corrections (only acceptable if the inmate is in the custody of the department).
6. An identification card issued by the U.S. Immigration and Naturalization Service (resident alien, permanent resident card, employment authorization).

As of January 1, 1999, the following forms will also be acceptable:

1. An inmate identification card issued by the U.S. Department of Justice, Bureau of Federal Prisons (only acceptable if the inmate is in the custody of the department).
2. A sworn statement from a law enforcement officer about the identity of an inmate in a detention facility (could be used for inmates in city or county jails).

Other forms of identification may be legitimate but only the forms listed can be used for notarizations. This means that you cannot accept a birth certificate, a social security card, an

employment ID card, a student ID card, a driver's license from a country not listed (Haiti, Bahamas, England, Germany, etc.), a check-cashing card from Publix, a voter's registration card, or any other form not listed in the law.

A credible witness affidavit can be used when the signer has no form of identification. This form of identification is used only rarely and not as a matter of convenience, usually when the signer is an elderly person, a minor, or a person with a disability. Credible witnesses must personally know the signer they are identifying. If you personally know a third party who can identify the document signer, then one witness is enough. But, if you do not know the witness, then there must be two credible witnesses to identify the signer. A credible witness must swear to (or affirm) certain facts:

1. that the document signer is personally known to him/her.
2. that the signer has no acceptable form of identification.
3. that the signer cannot obtain any acceptable form of identification.
4. that he/she has no financial interest in the transaction and is not a party to the transaction.

When using one or two credible witnesses for identification, you will first notarize the witnesses' signatures on the affidavit, then rely upon that affidavit to identify the person. Be sure to record both notarizations in your journal or recordbook (if you keep one). We suggest that the affidavit be typed or printed on the document, if possible (perhaps even on the back); if the affidavit is on a separate paper, then you should attach a copy to the document and keep a copy for your records.

One final thought about identification. If you are in doubt about the identification of an individual, ask for a second form to confirm what's already been presented. If in doubt about the person's identity, you should refuse to notarize. Don't jeopardize yourself or your employer by failing to properly perform this important task.

NEW LAWS EFFECTIVE 1/1/99

Watch your mail in September for the next issue of The Notary View newsletter containing complete details about the new law changes to take effect on January 1, 1999. E-mail a request with your mailing address, and we will send you a new law booklet when they are available.

Until next month . . .

If you would like to receive this electronic newsletter please e-mail me, [Linda Adams](#)
Notary Education Coordinator
State of Florida