

Fiscal and Regulatory Impact Analysis for Adoption and Amendment of Select Notary
Public Division Rules (Part II)

North Carolina Department of the Secretary of State



October 10, 2023

Rules: 18 NCAC 07B, General Requirements, Sections .0100, .0400 (.0407-.0418 only), .0500, .0600, and .0700
18 NCAC 07C, Process to Become a Notary and Renew a Notary Commission
18 NCAC 07D, Continuing Obligations of Notaries
18 NCAC 07E, Notary Instructor Requirements

Rulemaking Authority: G.S. § 10B-4
G.S. § 10B-14(a), (f)
G.S. § 10B-106(d)
G.S. § 10B-125(b)
G.S. § 10B-126(a), (d), (e), (f), (g)
G.S. § 10B-134.15(b), (d)
G.S. § 10B-134.17(c)
G.S. § 10B-134.21
S.L. 2023-57

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Impact Summary: State funds impact: Yes
Local funds impact: No
Private sector impact: Yes
Substantial economic impact: No
Federal requirement: No

Statement of Necessity: This rule package is proposed for adoption as required and authorized by the Notary Public Act (G.S. 10B Article 1) and the Electronic Notary Act (G.S. 10B Article 2) to further the purposes of those acts as described by G.S. 10B-2. These purposes include the implementation of recent laws authorizing remote electronic notarization in North Carolina for the first time. Moreover, this rule package is proposed to satisfy the Department’s requirement to periodically review rules pursuant to G.S. 150B-21.3A.

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Introductory Note

The North Carolina Department of the Secretary of State (hereafter “Department”) is promulgating new rules, amending and repealing existing rules pertaining to notaries public, in 2023 and 2024. These rules are being updated and promulgated through three separate sets of rulemaking, after which all notary public rules will be brought up to date. The Department has expended in excess of 5,000 hours in connection with the rulemaking efforts undertaken to date. While recognizing the need for positions to conduct the rulemaking, the General Assembly has not appropriated funds to support the rulemaking effort mandated by statute in 2022, despite repeated Departmental requests. Departmental costs to implement the mandated rulemaking are not the subject of an evaluation of rulemaking impacts and therefore are not included in this fiscal note.

This fiscal note evaluates impacts from the second set of these rulemaking efforts. The fiscal note evaluating the first set of rules was published on July 24, 2023. To assist reviewers of this document and preserve agency resources, introductory sections from that document are copied herein with minor supplements or amendments where appropriate.

Introduction

The Department is charged under North Carolina’s Notary Public Act to educate, commission, and monitor notaries public. *See* G.S. 10B-1, *et seq.* Notaries public are public officers of the State of North Carolina charged with protecting its citizens from fraud and forgery by positively establishing the identity of persons appearing before them – “principals.” The General Assembly requires notaries public to be involved in certain defined activities requiring protection from identity fraud. The private sector separately may require the services of notaries to reduce transactional risks of contract repudiation on the basis of identity fraud, forgery, duress or coercion. Historically, the primary tools existing notaries use to meet their statutory obligations are requiring personal appearance of the principal, positively identifying the principals, and recording evidence of the notarial action in a journal of notary acts.

Notaries serve a vital role in protecting the citizens of North Carolina and facilitating commerce for those doing business in the State and beyond. They provide an important check to help ensure transactions are not repudiated due to mental incapacity of the principal; coercion or duress; and fraud. Notarial acts unobtrusively provide integrity to depositions, wills, advance directives (both health care and financial), automobile sales, real estate transactions, absentee voter ballots and more.

The North Carolina Notary Public Act establishes requirements to become a traditional notary public. Notaries public are public officials recognized by the North Carolina Constitution. A traditional notary performs notarial acts during an in-person meeting with the principal. A traditional notary must identify

the principal using one of three specific methods. The Act and duly promulgated administrative rules govern the conduct of notaries as well as how to become an official notary instructor.

Article 2 of the Notary Public Act, adopted in 2005, governs electronic notaries public (eNotary). Like a traditional notary, an eNotary performs notarial acts during a meeting conducted physically in-person but uses technology to electronically notarize the principal's electronic signature on an electronic document. An eNotary must comply with most traditional notary requirements. The Act also regulates the technology used by the eNotary to perform electronic notarial acts.

Since there is no legal requirement that requires the reporting of all the events a notary may be asked to notarize, it is not possible to determine the number of notarial acts performed in North Carolina or the United States.

Baseline Regulatory Conditions

More recently, on May 4, 2020, SL 2020-3 ("EVN") was enacted to authorize "emergency video notarization" in response to the COVID-19 pandemic. EVN supplemented existing laws governing traditional and electronic notarization to permit notarizations to occur between a notary and principal who were not in the physical presence of one another but located within the state and communicating directly through real-time audio-visual technology. Through subsequent bills, most recently S.L. 2023-57, the General Assembly has extended this emergency authorization to June 30, 2024 while charging the Department to establish permanent rules governing the practice of remote electronic notarization that EVN first permitted in this state.

S.L. 2022-54, known as the Remote Electronic Notarization Act or RENA, was enacted on July 8, 2022. Adoption of RENA was a direct outcome of the global pandemic, increasing economic activity being conducted remotely, and the need to conduct crucial business, legal, healthcare, and other transactions safely, securely and efficiently in the rapidly evolving remote environment. This law requires the Secretary of State to adopt permanent rules on many topics first addressed in temporary fashion by EVN. The rules must fulfill the long-standing purposes of the Notary Public Act, including:

- To simplify, clarify, and modernize the law governing notaries,
- To prevent fraud and forgery,
- To foster ethical conduct among notaries, and
- To enhance interstate recognition of notarial acts.

RENA expanded the purposes of the Notary Act to include a requirement to integrate procedures for traditional paper notarization, electronic notarization, and remote electronic notarization.

For the first time in North Carolina history, RENA allows an eNotary physically located in North Carolina to perform remote electronic notarizations for a remotely located principal. Under this new law, a remotely located principal can be physically located anywhere in the United States or its territories. Furthermore, in specific circumstances, the principal can be on a US military base or in a US embassy. RENA requires real-time, simultaneous communication between the eNotary and the remote principal using communications technology. Identification of the remotely located principal must be aided by identity and credential proofing technologies reviewed and licensed by the Department. RENA also establishes that this technology must meet security and performance criteria established by the

Department. The law also establishes new and maximum fees that a notary can charge for their services. In all cases where the General Statutes provide a maximum fee amount and rules are amended to match, such conditions are considered part of the baseline condition and are thus excepted from further fiscal impact analysis as part of the Department's rulemaking efforts.

A 2023 amendment to RENA, S.L. 2023-57, makes other key provisions part of the regulatory baseline for the purposes of this analysis. For the first time it makes explicit a requirement for all notaries to maintain a journal of all notarial acts. Previously, only notarial acts performed pursuant to EVN were explicitly required to be entered into a journal, though harmonization of several existing statutes led to the reasonable conclusion that journals were required for all notarial acts and were taught as best practice.

Emergency authorizations of remote electronic notarization by the General Assembly through EVN, in combination with the mandate to establish permanent rules governing the practice, firmly establish the legislature's intent to permanently authorize remote electronic notarizations. Therefore, this fiscal analysis treats the authorization of remote notarization as a baseline condition from which to evaluate the fiscal impacts of these rules.

G.S. 150B-21.3A separately requires all state agencies to review existing rules every 10 years in accordance with a prescribed process that includes rule readoption. Many rules associated with the notary program are nearing the end of their decadal cycle and thus are due for review and readoption. In combination with specific statutory mandates that require further rulemaking for the notary program, the Department's approach to rulemaking also streamlines its compliance with rule readoption requirements.¹

The Department has expended in excess of 5000 hours in connection with the rulemaking efforts undertaken to date. While recognizing the need for positions to conduct the rulemaking, the General Assembly has not appropriated funds to support the rulemaking effort mandated by statute in 2022, despite repeated Departmental requests. Departmental costs to implement the mandated rulemaking are not the subject of an evaluation of rulemaking impacts and therefore are not included in this fiscal note. Departmental allocation of resources to the mandatory rulemaking has come at the expense of performing other Departmental duties.

Summary of the Proposed Regulations

This second rulemaking package primarily revises and supplements existing notary public rules. With limited exceptions to be specifically addressed herein, proposed rule amendments clarify existing rules and codify existing practices into rule. Many existing practices related to the notary public program are driven by the Department's interpretation of applicable General Statutes. G.S. 10B-4, which became effective in June 2023 upon passage of S.L. 2023-57, provides authority for the Department to promulgate rules addressing all aspects of the notary public program. Except for the unquantified benefits resulting from more consistent and transparent rules, such clarifying amendments incur no impacts to the State or regulated stakeholders.

¹ Notary rules appear on the Rules Review Commission's Periodic Review Schedule for September 2024. See <https://www.oah.nc.gov/documents/rules/periodic-review-report-schedule-2024-2027/open>.

This fiscal analysis covers the following new and amended rules proposed by the Department:

- 18 NCAC 07B, General Requirements, Sections .0100, .0400 (.0407-.0418 only), .0500, .0600, and .0700
- 18 NCAC 07C, Process to Become a Notary and Renew a Notary Commission
- 18 NCAC 07D, Continuing Obligations of Notaries
- 18 NCAC 07E, Notary Instructor Requirements

Scope of Analysis

More than 160,000 notaries are presently commissioned by the Secretary of State. Of these, over 6,000 are further credentialed and commissioned as electronic notaries. Performing EVN does not require a unique notarial commission. Notaries are commissioned for a five-year term with potential for reappointment. As a result, the number of commissioned notaries in North Carolina is always in flux.

There is no central repository in which the performance of notarial acts is recorded, nor are there reliable studies estimating the number of notarial acts performed annually in North Carolina. The Department has identified no available data set that can be used to estimate the relative proportion of notarial acts performed traditionally, electronically, or remotely via communication technology. For these reasons, quantifying rule impacts upon notaries public would be exceptionally speculative in all but the rarest circumstances.

Stakeholders affected by notary rules can be similarly difficult to identify, but the influence of notaries can be traced throughout North Carolina's economy. Stakeholders most directly impacted by these rules include the Department, notaries public, principals to notary transactions, and electronic notary platform providers, licensees, and vendors. Additional impacts might be traced to Registers of Deeds, Clerks of Court and other county offices; financial institutions; mortgage providers; title companies; ecommerce providers; the N.C. Department of Motor Vehicles; car dealerships; educational institutions; construction companies; realtors; medical providers; attorneys and other members of the legal profession; nursing homes; absentee voters; the N.C. State Board of Elections; and any other industry that benefits from the identity verification services that notaries provide.

Like many private industries, state and local governments in North Carolina employ notaries. The number of notaries serving in government, their job descriptions, and the extent to which notarial acts are conducted or required is unknown. Therefore, state and local government impacts are defined here to exclude incidental impacts upon notaries serving in state or local government positions. Instead, such impacts are discussed as they relate to the individual notary rather than the agency by which a notary may be employed.

Summary of Impacts

Table 1 provides a summary of fiscal impacts for this rule package. Most impacts in this rule package are evaluated qualitatively due to a lack of available data. In the Department's professional judgment, the collective financial impact of these changes is less than \$1 million in any year. The Department further estimates that the operational efficiencies and benefits of these rules exceed any operational costs to the State, and that funds are available to implement this round of regulations. No impacts to local or federal expenditures were identified.

Table 1: Summary of Fiscal Impacts (as compared to the regulatory baseline).

	Private Benefits	Private Costs	State Benefits	State Costs
18 NCAC 07B .0100	N	N	N	N
18 NCAC 07B .0400, form rules	Y	Y	Y	Y
18 NCAC 07B .0500, criminal records	N	N	N	N
18 NCAC 07B .0600, revocation for failure to require an appearance	Y	Y	Y	N
18 NCAC 07B .0700, professional licenses and public office	Y	Y	Y	Y
18 NCAC 07C, .0200, criminal records check	Y	Y	N	N
18 NCAC 07C, .0200, out-of-state applicants	N	N	N	N
18 NCAC 07C, .0200, applications requiring further explanation	N	N	N	N
18 NCAC 07C .300, .0400, and .0500	N	N	N	N
18 NCAC 07C .0600, reappointment exam	N	N	Y	N
18 NCAC 07C .0700	N	N	Y	N
18 NCAC 07D, continuing obligations	N	N	N	N
18 NCAC 07E .0100, eligible institution requirement	Y	N	Y	N
18 NCAC 07E .0100, institution sponsorship	Y	N	Y	N
18 NCAC 07E .1000, instructor evaluations	Y	N	Y	N
18 NCAC 07E .1100, alternate notary recommissioning process for instructors	Y	N	Y	N
18 NCAC 07E .1100, conditional oral presentation requirement	Y	N	Y	N
18 NCAC 07E .1100, instructor applicant denial criteria	Y	N	Y	N

* Quantified impact estimates provided where available. For rules providing statutory clarifications in all subchapters, incremental State and private benefits are expected due to improved regulatory certainty.

Impact Analysis: 18 NCAC 07B Sections .0100, .0400 (.0407-.0418 only), .0500, .0600, and .0700

Subchapter Overview

Subchapter 07B provides general requirements that govern notaries and notary instructors. Subsequent rulemaking will also address requirements for technology providers in this subchapter.

Section .0100

Proposed rule 07B .0103 expands the Department’s office hours in comparison to the current rule. The proposed rule reflects the Department’s current operating hours of 8 am to 5 pm and no additional personnel or operational costs will be incurred to maintain this schedule.

Section .0400, Form Rules

Proposed rules 07B .0407 through .0418 specify the content contained in existing and newly proposed forms. Proposed rule 18 NCAC 07B .0301 (first rule set, public comment underway at time of

publication) requires that the Department's forms found in 18 NCAC 07B .0400 be used unless no form is provided for the purpose. The purpose of these forms is to ensure the filer or preparer of the forms provides information to the Department that is necessary to determine the qualifications of applicants and compliance with applicable notary laws and regulations.

Forms provide consistency and certainty to their users and to the Department while ensuring comprehensive and uniform data are collected. They also provide the foundation for more robust data collection, analysis, and management. Therefore, the adoption of the proposed forms is expected to provide corresponding benefits for the notary applicants, employers, the Department, and any other person using the forms.

Use of proposed new forms may increase the time burden for some filers and the Department when new information is collected in comparison to the baseline. Alternatively, their use may decrease the time spent for filers and the Department when this information was previously collected using informal, alternate, or less efficient means of communication. Form rules in this subchapter are narrowly tailored and intended to provide a net unquantified benefit in the form of regulatory certainty and potential time savings to all form users, the Department, and the public.

The fields and questions on the Department's forms are designed to elicit responses from form users that relate to the substantive constitutional, statutory, and regulatory requirements for the form's users. Where the Department has proposed changing regulatory requirements that also result in form changes, the impacts of those proposed changes are evaluated in relation to those substantive proposals and not in this section. For example, while the notary application form would be amended in response to the proposed change in criminal background check requirements, that substantive analysis is provided in relation to Section 18 NCAC 7C .0200 below.

Section .0500, Criminal Records

An applicant for a notary commission is required by G.S. 10B-7(a)(11) to disclose all criminal convictions, and that requirement has been reflected on the existing forms. G.S. 10B-5(d)(2) permits denial of an application based upon a felony conviction for any crime (felony or misdemeanor) involving moral turpitude or dishonesty. Existing Rule .07B .0701 offers a nonexclusive list of crimes that involve moral turpitude or dishonesty that, pursuant to G.S. 10B-5(d)(2), may be used as the basis for denial of an application or subsequent discipline.

Current rulemaking practice disfavors nonexclusive lists. Proposed Rules 07B .0501 and .0502, in combination with the statutory definition of moral turpitude, revise existing rule .0701 to respond to the new rulemaking practice. Proposed Rule 07B .0502 modifies existing form requirements by clarifying the information an applicant must provide regarding reported criminal convictions. The revisions also simplify compliance with requirements for providing a criminal record copy related to North Carolina convictions. Proposed Rule 07B .0501 amends and slightly narrows the current list of crimes that are categorically considered to be a crime involving moral turpitude or dishonesty. Some crimes are removed from the list because they overlap (e.g., statutory rape/rape, worthless checks/fraud, domestic violence/spousal abuse). For other crimes reported by the applicant, whether or not they were of the type removed from the list in .0701, the Department will have discretion to determine whether their conviction involved moral turpitude or dishonesty (and thus whether or not their application is rejected).

Fiscal impacts are not projected from this change. The proposed rules are neither more permissive nor more stringent than the current approach. Except for projected savings derived from the SBI criminal record check (discussed infra re Subchapter 07C .0200), no net fiscal impact is expected.

Section .0600, Revocation for Failure to Require an Appearance

For the first time, proposed rule 07B .0608 requires the Department to revoke any authorization if a notary performs a notarial act without requiring a principal to appear before them as required by law. Presently, rule .0604 allows discretion in the determination of applicable disciplinary action. Depending on case-specific circumstances, penalties now typically range between revocation or suspension with education. The Department imposes discipline on approximately 100 notaries per year due to their failure to require an appearance from the principal. These matters typically come to the attention of the Department through outside complaints. Because the Department does not have the investigative resources to independently identify such violations, a comprehensive estimate of the instances where a notary failed to require principal personal appearance cannot be provided.

The requirement of in-person appearance and identity verification is so fundamental to the notarial act and its underlying public purpose that a notary's failure to enforce this requirement creates insurmountable negative presumptions regarding their competence and/or integrity. Current laws governing personal appearance have been in place since 2005, and the basic requirement to ensure a principal's appearance is heavily emphasized in notary classes and associated training materials. This requirement is also a bulwark against activities that can have major individual and societal consequences, with mortgage fraud and identity theft offering two major examples. The proposed change will directly deter or decommission notaries inclined to ignore this requirement while also deterring illegal activities that the notary program is designed to address. Therefore, public benefits are expected. New costs are potentially incurred by a decommissioned notary whose livelihood is impacted by stricter discipline as compared to the current rule.

The Department also projects that as notaries are educated regarding this strict requirement and as noncomplying notaries are decommissioned, the frequency of disciplinary enforcement for this infraction will be reduced. Therefore, agency resources to investigate and discipline notaries under these circumstances may be preserved or reassigned to other matters.

Section .0700, Professional Licenses and Public Offices

Proposed rules in section 7B .0700 require notary applicants to provide information regarding professional licenses, notary commissions (particularly any commissions issued by other states), and public offices applicants hold at the time of application or held previously. The Department is seeking to improve the collection of this information to better monitor compliance with State constitutional and statutory requirements to serve as a notary.

The current notary application collects some but not all information required by the proposed rules. For example, question 13 of the Application for Initial Appointment asks whether the applicant is a member of the N.C. State Bar, and question 17 requires disclosure of any professional licenses or notary commissions when disciplinary action has occurred.² Proposed rule 07B .0702 will require applicants to

² See Application for Initial Appointment as a North Carolina Notary Public, accessible at https://www.sosnc.gov/documents/forms/notary/initial_Application_for_nc_notary_public.pdf.

list all professional licenses currently and previously held, as is required by G.S. 10B-7(a)(10). The Department's proposed definition of "professional license" is limited to those licenses that involve training and formal qualification and affect the public interest or public trust or require the licensee to act in a fiduciary capacity. This information allows the Department to independently inquire about professional licensure while also providing information to supplement later investigations.

The current notary application does not directly collect information related to service in public office (except for a notary commission). Proposed rule 07B .0704 will require the applicant, in conformity with G.S. 10B-7(a)(10), to list all public offices they hold or have held, their term of office, and whether an open investigation exists related to their use or misuse of public office.

The newly requested information in these rules will increase the time necessary for applicants to complete the application and for the Department to review the additional material. These unquantified costs are more than offset by the public policy benefits of ensuring compliance with the State Constitution and notary statutes, and by improved public confidence in the integrity of the notary public program.

Impact Analysis: 18 NCAC 07C

Subchapter Overview

New and amended rules in this subchapter detail the procedures that notary commission applicants must follow to receive a notary commission. It also provides procedural requirements for the Department and others including notary instructors and county Registers of Deeds.

Section .0100

Rule amendments in this section clarify prior rule language, define terms and reflect the movement of content in this proposed rule package. No fiscal impacts result from these changes.

Section .0200, Criminal Records Check

The North Carolina Constitution and the Notary Public Act disqualify persons from being commissioned as a notary public under certain circumstances, including being found guilty of certain crimes. See N.C. Const. Art. VI, § 8 and G.S. 10B-5. Therefore, the Department currently requires applicants to answer questions about their criminal convictions. The Department estimates that it receives between 100 and 125 notary commission applications per month that require additional explanatory information related to criminal convictions. Since 2020, between 40 and 64 applicants have been rejected annually based on the applicants' criminal records.

When an applicant has been convicted of a crime, they are currently instructed to supplement their application with a background check from the Clerk of Superior Court for their home county and each county of conviction. Court records are provided on a county-by-county basis. The background check is certified, but it may yield information for other individuals bearing the exact same name. To receive this background check, an applicant must submit form AOC-CR-314 to the local Clerk's office with a fee of \$25 for each applicable jurisdiction.

Proposed rule 7C .0204, incorporating by reference 7B .0503, instead requires similarly situated applicants to submit the results of a statewide criminal history check from the N.C. State Bureau of Investigation (SBI) or criminal record registry or repository of every state, federally recognized tribe, or

nation where a conviction was entered. For this process, the SBI conducts a biometric search of its computerized criminal history file. Applicants are therefore required to provide a complete set of legible fingerprints from a local law enforcement agency to initiate the personal history check. SBI charges \$14 for a statewide background check. According to information maintained by NCTracks, local fingerprinting costs vary from \$0-\$20 based on jurisdiction.

Table 2. Current and Proposed Background Check Requirements.

	Current Requirement	Proposed Requirement
Multiple checks required?	Commonly	No
Fingerprints required?	No	Yes
Background check costs	\$25 for each county request. Unknown for out-of-state requests.	\$14 for a N.C. request. Unknown for out-of-state requests.
Fingerprinting costs	\$0	\$0-\$20 for a N.C. request. Unknown for an out-of-state request.

Due to a lack of information regarding applicant trends, it is not possible to determine whether the collective costs to applicants will increase or decrease. Applicants who can obtain free fingerprinting services will benefit from lower costs, as will applicants with convictions in multiple counties. Applicants with a single conviction who choose to be fingerprinted in a county with a fingerprinting fee exceeding \$11 may incur slightly higher total costs under the proposed requirements versus the current requirements.

By leveraging information in an existing State database, public policy benefits are also expected from this change. The proposed background check covers all North Carolina counties while preventing potential confusion resulting from common names. A similar benefit is expected from results of checks of criminal record registry or repository of any other state, federally recognized tribe, or nation where a conviction was entered. The check may also uncover criminal records that would not have been submitted by applicants (whether intentional or not). In sum, it provides a higher degree of confidence in the result of the background check and promotes integrity of the notary public program.

Proposed rule 07C .0207 also codifies existing policy that requires applicants to provide information regarding pending criminal charges, which is currently collected pursuant to G.S. 10B-6(4). This information is currently being collected from the applicant using the existing application form. The Department populates an internal database with relevant information and tracks each case to disposition. The Department does not take adverse action against an applicant based upon their disclosure of pending charges, although in rare circumstances a final decision may be held in abeyance until disposition of those charges. However, a notary commission may be revoked upon criminal conviction. Codifying this requirement into rule will not result in any fiscal impacts as compared to existing practice.

Section .0200, Out-of-State Applicants

For the first time, proposed Rule 07C .0203 codifies requirements for out-of-state notary applicants and their employers. G.S. 10B-5(c) allows out-of-state residents to become North Carolina notaries in their North Carolina county of employment, and in this situation the Department currently requests proof of North Carolina employment on company letterhead. This rule clarifies the elements required in an

employer’s affidavit that are necessary to provide adequate proof of employment located within North Carolina. Approximately 1.5% of commissioned notaries reside out of state. Based on previous years’ notary appointment volume (Table 3), this is equivalent to approximately 400-600 applicants annually.

Table 3. Notary appointment volume.

Year	Notary Appointments	Notary Reappointments	eNotary Registrations
2018	13,453	18,424	644
2019	14,899	17,953	380
2020	10,778	18,525	2,291
2021	18,816	17,663	1,146
2022	20,362	17,798	1,425

Section .0200, Applications Requiring Further Explanation

Proposed rules 07C .0204 through .0206 and 07C .0209 through .0213 require further explanation and documentation from some applicants whose qualifications to serve are uncertain. While the instructions in the current application seek similar explanations, the proposed rules provide more specificity and clarity and therefore reduce the time necessary to seek and provide individual clarifications from the State and the applicant, respectively. Benefits to the State and applicants are expected due to the existence of a defined regulatory checklist. The time and resources preserved are State and private opportunity benefits, which can be reallocated to other matters.

Sections .0300, .0400, and .0500

Proposed rules in Section .0300 codify existing practice regarding the standards that apply to notary courses and incur no fiscal impacts. Proposed rules in Sections 07C .0400 and .0500 codify current processes related to appointment and commissioning of notaries. Proposed rule 07C .0509 may potentially be read to impose a new obligation on the State to verify individual notary commissions, and the Department fields 5-10 such requests per day. However, the Department is currently required to furnish this information under the N.C. Public Records Act (G.S. 132). As such, there is no additional impact on the Department as compared to the baseline.

Section .0600, Reappointment Exam

Proposed rule 07C .0603 removes the option of paper testing for reappointment applicants. Less than 1 test per year has been proctored by the Department over the past decade. Removal of this general testing option benefits the State and public by preserving agency resources necessary to coordinate, administer, and evaluate these tests. No costs are projected for applicants, who retain the options of taking the online reappointment test or retaking the initial notary course and associated paper examination.

The Department will continue to comply with federal law by offering paper testing for applicants needing accommodation pursuant to the Americans with Disabilities Act.

Other proposed rules and amendments in Section 07C .0600 codify existing practice and reorganize some rules to enhance clarity.

Section .0700

Proposed rules and amendments in Section 07C .0700 reorganize and clarify applicable regulatory provisions governing attorney notaries. No fiscal impacts are projected.

Impact Analysis: 18 NCAC 07D

Subchapter Overview

Subchapter 07D governs the continuing obligations of notaries during their commission period. Proposed amendments to this subchapter are intended to clarify a notary's obligation to respond to Departmental inquiries and to update the Department regarding any change in the notary's status that might affect the validity of their commission.

The authority for the Department to investigate notaries is well established by law (see G.S. 10B-60). Further, notaries are already obligated to comply with existing laws and rules governing their eligibility for commission. Therefore, these proposed rules incur no costs to the regulated community as compared to the existing rules. However, by clarifying these requirements and providing reporting forms online, the Department anticipates unquantified benefits from improved operational efficiencies and in public policy benefits associated with higher levels of notary compliance with existing rules and laws.

Impact Analysis: 18 NCAC 07E

Subchapter Overview

Subchapter 7E governs the requirements for a person to serve as a notary instructor in North Carolina. That subchapter generally requires a person to be nominated by an eligible educational institution, demonstrate active experience as a notary, take an instructor course, pass a written examination, and provide a demonstration of teaching ability. Other conditions, requirements, and exceptions apply as described in the subchapter. Further rules establish the criteria by which the Department will evaluate the instructor applicant, ongoing obligations of a notary instructor, and instructor recertification requirements.

Section .0100, Eligible Institution Requirement

For the first time, the Department has proposed rules clarifying which educational institutions may offer a notary course. The criteria are listed via proposed rule 07E .0101(4). Currently, most notary courses are offered by community colleges. The proposed rule clarifies that courses may also be offered by University of North Carolina System schools, accredited nonprofit colleges, and secondary schools offering adult education courses. Schools meeting these criteria can be relied upon to implement effective institutional controls and oversight of the notary instructors they employ. Further, collectively these schools have been adequate to meet the demand for notary course instruction statewide.

Other entities, including those offering continuing education unaffiliated with secondary schools and for-profit colleges, would not be eligible to offer a notary course. None of these educational institutions have inquired about or offered notary courses in the past, demonstrating a lack of historical demand. Therefore, no fiscal impacts are projected. The requirement is intended to proactively maintain high quality instruction at reasonable costs, as is currently provided to notary students statewide.

Section .0100, Institution Sponsorship

Rule 07E .0102 codifies current practice that an instructor applicant must be nominated by an eligible institution before registering for an instructor course. Obtaining a notary position is usually a two-step process where the institution first posts a position for a notary instructor. Once the institution has identified or hired the candidate, they submit a nomination to the Department. Upon successful completion of the certified notary instructor course, the new instructor begins teaching for the institution. Alternatively, sometimes notary instructor candidates are already employed by the institution teaching other courses, in which case the first step of posting a position is not necessary. More than 90% of those who enroll in the certified notary instructor course pass.

When the Notary Act first became effective in 2007, any notary could take an instructor course. By 2010, approximately 35% of those passing the certified instructor course failed to qualify for recertification because they did not meet the minimum requirement of teaching two notary classes per certification year. The first-time notary instructor course offered by the Department requires two full business days of staff instruction plus approximately 50 staff hours of preparation. It is offered 1-2 times per year based on need. The instructor recertification course lasts one day, requires 20 hours of staff preparation, and is offered approximately twice per year. The Department thus determined that the time and financial resources of the Department, eligible institutions, and notary instructors are most efficiently utilized by ensuring notary instructors conditionally obtain a notary teaching position at an eligible institution before becoming a notary instructor. These ongoing fiscal benefits are unquantified.

Section .1000, Instructor Evaluations

Proposed rules 07E .1001, .1002, and .1105 specify how student evaluations will be used by the Department to monitor and recertify notary instructors. These student evaluation forms are currently used by notary instructors across the State. Furthermore, these proposed rules eliminate the use by the Department of any other employer or institutional evaluations of a notary instructor.

Employment and institutional teacher evaluation policies can vary, may be confidential in some circumstances, and may also be subjective in nature. Therefore, they can be difficult for the Department to use consistently for the purpose of evaluating and recertifying instructors. In contrast, notary students across the state evaluate their instructors using the same form and scale. Collectively, these changes should benefit notary students, notary instructors, and the Department by ensuring that a consistent system for evaluating notary instructors is used across the State.

Section .1100, Alternate Notary Recommissioning Process for Instructors

Proposed rule 07E .1104 codifies an equivalent pathway for notary instructors to be recommissioned as a traditional notary and reregistered as an electronic notary. In short, notary instructors are conditionally exempt from taking notary courses and passing notary exams that they are already credentialed to teach and grade, respectively. This proposed rule is a codification of practice currently undertaken as a matter of Departmental discretion.

In comparison to traditional and electronic notary courses, notary instructor courses cover the same material in greater depth, have a higher minimum passing exam score, and must be retaken more often (two vs. five years). Notary instructors also have more stringent prerequisites and requirements than those applicable to traditional and electronic notaries. Requiring instructors to retake an electronic notary class and both traditional and electronic notary exams in addition to their notary instructor

classes and exams would require duplicative efforts from both the instructor-teacher and the instructor-student.

The rule saves class registration fee costs for notary instructors. There are currently 66 certified instructors statewide. Registration fees for the eNotary course are set by the institution and range from \$80-\$125. Assuming all instructors realize the benefits of this change one time every five years, the five-year benefit due to registration fee savings is between \$5,280 and \$8,250 and the annual benefit is between \$1,056 and \$1,650. Also, instructor time saved from the course equivalency is no less than three hours per instructor recertification application (See G.S. 10B-107).

Table 4. Notary Recommissioning and eNotary Reregistration Requirements Without Equivalencies for Notary Instructors.

	Required?	Cost to applicant	Cost to Dept.
Traditional notary course	N	n/a	n/a
Traditional notary test	Y	none (online)	none (online)
Electronic notary course	Y, if electronic notary	\$80-\$125	none
Electronic notary test	Y, if electronic notary	none	none

Section .1100, Conditional Oral Presentation Requirement

Proposed rule 07E .1105 provides a new opportunity for experienced instructors to be relieved from the oral presentation evaluation for recertification. Rules 07E .0303 and .1102 presently require all instructors to have an oral presentation evaluated by the Department for certification and recertification.

The proposed rule requires an oral presentation for recertification only when an indicator of the instructor’s experience or quality indicates they (and by extension their students) would benefit from Departmental review. Conversely stated, an instructor with four or more years of experience who teaches above the minimum course volume, whose students average greater than 85% on their notary examination, and who receives good or better ratings on their student evaluations need not make the oral presentation that is otherwise required. This rule is projected to benefit the Department and instructor students by eliminating the time and resources necessary to coordinate and evaluate oral presentations for high performing instructors.

Instructor students typically present for 10 minutes. With two departmental evaluators, total department time spent per presentation evaluation is approximately 40 minutes. Since 2020 all notary instructor courses have been offered remotely, which eliminates travel costs as a factor for the Department and instructor candidates. The Department estimates that there are approximately 40 instructors who are eligible for the equivalency, which will apply during recertification every two years. The Department estimates that approximately 10 additional instructors will become eligible for the equivalency in 2027 and an equal number in 2028.

Section .1100, Instructor Applicant Denial Criteria

Rules 07E .1108 through .1111 require the Department to deny a person’s application to become an instructor for reasons including a failure to abide by ongoing notary requirements, termination for cause from their teaching position, failure to submit examination grades, and disciplinary action regarding their notary commission. These proposed rules codify what is currently a more discretionary process.

As this is existing practice, ongoing benefits are expected to accrue to notary course students, the Department, and to the public by ensuring instructors meet and sustain the standards required of them by the Department and by their sponsoring educational institution. This in turn should result in better-educated notaries and higher levels of compliance with laws and regulations pertaining to the notary program.

APPENDIX I: PROPOSED 18 NCAC 07B RULES

18 NCAC 07B .0101 is proposed for amendment as follows:

18 NCAC 07B .0101 SCOPE

The rules in this Subchapter implement Chapter 10B of the General Statutes, ~~the Notary Public and Electronic Notary Acts. Statutes.~~ The rules ~~govern~~ govern:

- (1) the qualification, commissioning, notarial acts, ~~conduct~~ conduct, and discipline of notaries as Constitutional officers of the ~~State.~~ State;
- (2) the qualification, certification, and discipline of certified notary instructors; and
- (3) the qualification, approval or licensing, conduct, and discipline of technology providers.

History Note: Authority ~~G.S. 10B-2; 10B-4; 10B-14(f); 10B-102; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23;~~
~~Eff. April 1, 2007;~~
~~Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016. 2016;~~
Amended Eff. July 1, 2024.

18 NCAC 07B .0102 is proposed for amendment as follows:

18 NCAC 07B .0102 DEFINITIONS

~~(a) The~~ In addition to the definitions in G.S. ~~10B-3~~ 10B-3, 10B-101, and 10B-134.1, and ~~apply to this Subchapter.~~

~~(b) For~~ for purposes of Chapter 10B of the General Statutes and ~~Subchapters 07B and 07C~~ of this Chapter:

- (1) ~~"Applicant" means an individual who seeks appointment or reappointment to the office of notary public;~~
- (2) ~~"Appoint" or "Appointment" means the naming of an individual to the office of notary public after determination that the individual has complied with Chapter 10B of the General Statutes and Subchapter 07B 07C of this Chapter. For the purposes of these Rules, the Rules in this Chapter, the terms "appoint", "reappoint", "appointment", "reappointment", "commission", "recommission", "commissioning", "appoint," "reappoint," "appointment," "reappointment," "commission," "recommission," "commissioning," and "recommissioning" all refer to the term "commission" as defined in G.S. 10B-3(4) or to the process of acquiring or maintaining such the commission; commission.~~
- ~~(3)~~(2) "Appointee" means an individual who has been appointed or reappointed to the office of notary public but has not yet taken the oath of office to be ~~commissioned;~~ commissioned.

- (3) “Authorization” means a notary commission, an electronic notary registration, an instructor certification, an approval, or a license issued by the Department pursuant to Chapter 10B of the General Statutes.
- (4) “Authorize” means the Department’s action to issue an authorization.
- (4)(5) ~~“Commissioning~~ “Commission date” means the beginning date of commissioning or recommissioning as entered on a commission certificate; certificate.
- (6) “Court” means a tribunal of a locality, state, the Armed Forces of the United States, a federally recognized tribe, or any nation.
- (5)(7) ~~“Crime” means a crime or:~~ means:
- (a) an offense designated by law as a felony or misdemeanor;
- (A)(b) ~~Attempt~~ an attempt to commit a crime; an offense;
- (B)(c) ~~Accessory~~ an accessory to commission of a crime; an offense;
- (C)(d) ~~Aiding~~ aiding and abetting of a crime; an offense;
- (D)(e) ~~Conspiracy~~ conspiracy to commit a crime; an offense; or
- (E)(f) ~~Solicitation~~ solicitation to commit a crime, an offense; or
- (g) threat to commit an offense.
- An infraction as defined in G.S. 14-3.1 is not a crime.
- (6) ~~“Division” means the Notary Public Section of the North Carolina Department of the Secretary of State.~~
- (8) “Crime involving dishonesty” means a criminal offense that implicates untruthfulness or involves deceit, fraud, false dealing, cheating or stealing.
- (9) “Criminal convictions” means the following dispositions of criminal charges:
- (a) adjudications of guilt by a court;
- (b) pleas of nolo contendere;
- (c) pleas of admission;
- (d) Alford pleas;
- (e) conditional discharges;
- (f) prayers for judgment continued; and
- (g) dispositions denominated differently but equivalent to SubItems (a)-(f) in this Item entered by a court.
- (10) “Denial” with regard to public office means an individualized action:
- (a) to disqualify an individual from:
- (i) being a candidate for an elected public office; or
- (ii) holding or filling a public office; and
- (b) that is taken by:
- (i) a governmental agency, a legislative body, or a member of the executive branch of any locality, state, federally recognized tribe, or nation; or
- (ii) a court.

(11) “Disciplinary action” means an official action by a legislative body, governmental agency of any locality, state, federally recognized tribe, or nation, or court resulting in:

- (a) a disciplinary order;
- (b) a censure;
- (c) a reprimand;
- (d) an admonition;
- (e) a resignation in lieu of termination or revocation;
- (f) a denial;
- (g) a written warning; or
- (h) actions denominated differently but equivalent to SubItems (a)–(g) in this Item.

(12) “Disciplinary order” means a directive or its equivalent that:

- (a) is directed to a professional licensee or a commissioned notary public;
- (b) prohibits or conditions an individual professional licensee or commissioned notary public from engaging in the practice of the licensee’s profession or as a notary public for any amount of time;
- (c) is issued by a court or government agency of any locality, state, federally recognized tribe, or nation with authority to discipline or sanction the professional licensee or commissioned notary public; and
- (d) is not stayed, rescinded, or expunged.

NOTE: Suspensions, restrictions, and revocations of commissions or licenses are examples of disciplinary orders.

(13) “Family member” means an individual related by blood, marriage, or adoption.

(14) “Finding” means a decision, conclusion, or opinion by a court, legislative body, or governmental agency of any locality, state, federally recognized tribe, or nation that is based upon review of evidence in an investigation, quasi-judicial, or judicial proceeding resulting in a determination that:

- (a) a fact has been proved according to the applicable legal standard; or
- (b) a law applies to the specific facts in a matter.

(15) “Harm” means:

- (a) loss or damage to a person affecting:
 - (i) liberty;
 - (ii) child custody, parental rights, child support, or visitation;
 - (iii) reputation;
 - (iv) money;
 - (v) property;
 - (vi) time; or
 - (vii) a contract or transaction; or

- (b) an act that undermines public confidence in the reliability of notarial acts or notarial instructor certification.
- (16) “Issuance” with regard to public office means an action:
- (a) to certify the results of an election signifying that an individual has been elected to the public office; or
 - (b) to appoint an individual to fill a public office; and
 - (c) that is taken by:
 - (i) a governmental agency, a legislative body, or a member of the executive branch of any locality, state, federally recognized tribe, or nation; or
 - (ii) a court.
- (17) “Licensed member of the North Carolina State Bar” means an active member as defined in 27 NCAC 01A .0201(b).
- (18) “Name for use on a notary public commission” means:
- (a) the full legal name of the commission applicant; or
 - (b) a combination of the applicant’s surname and:
 - (i) full first or middle name; or
 - (ii) full first or middle name and one or more initials.
- NOTE: Full legal names, full first names, and full middle names shall not include nicknames.
- (19) “Notarial act” means, in addition to those acts listed in G.S. 10B-3(11), an act authorized by:
- (a) G.S. 163-231(a); and
 - (b) G.S. 53C-6-13(a).
- (20) “Notary course” means a course taught by a certified notary instructor for purposes of:
- (a) commissioning or recommissioning a notary public; or
 - (b) registering or reregistering an electronic notary public.
- (21) “Probation” with regard to criminal convictions means active supervision by a governmental agency in lieu of jail or prison.
- (22) “Professional license” means an issuance that involves a grant of authority by a governmental agency of any locality, state, federally recognized tribe, or nation, to an individual to act in a fiduciary capacity, or in a capacity that affects the public interest or public trust, and that regards an occupation requiring training and formal qualification. Professional licenses are:
- (a) attorney;
 - (b) appraiser;
 - (c) architect;
 - (d) boiler inspector;
 - (e) building, electrical, fire, mechanical, or plumbing inspector;
 - (f) certified nursing assistant;
 - (g) certified public accountant;

- (h) code enforcement official;
 - (i) electrical contractor;
 - (j) engineer;
 - (k) general contractor;
 - (l) geologist;
 - (m) insurance agent;
 - (n) insurance company adjuster;
 - (o) interpreter or transliterator;
 - (p) investment advisor;
 - (q) locksmith;
 - (r) motor vehicle damage appraiser;
 - (s) on-site wastewater contractor inspector;
 - (t) pharmacist;
 - (u) physician;
 - (v) physician assistant;
 - (w) plumbing, heating, and fire sprinkler contractor;
 - (x) private investigator;
 - (y) professional bondsman;
 - (z) real estate broker;
 - (aa) registered nurse, licensed practical nurse, nurse practitioner;
 - (bb) securities broker, dealer, salesman;
 - (cc) self-employed insurance adjuster;
 - (dd) surety bondsman;
 - (ee) sworn law enforcement officer; and
 - (ff) teacher.
- (23) “Public office” means a position created by law to which an individual has been elected or appointed, and that involves a delegation to the individual of some of the functions of government to be exercised by the individual for the benefit of the public and that are not solely advisory.
- (24) “Restriction” with regard to public office means an individualized action:
- (a) to restrain an individual from serving in public office; and
 - (b) that is taken by:
 - (i) a governmental agency, legislative body, or a member of the executive branch of any locality, state, federally recognized tribe, or nation; or
 - (ii) a court.
- (25) “Release from prison, probation or parole” means:
- (a) completion of all terms of a sentence or judgement entered as part of a disposition of a criminal charge;

- (b) a certificate or order related to a criminal charge evidencing the individual’s unconditional discharge and specifying the restoration of the individual’s rights of citizenship pursuant to G.S. 13-2;
 - (c) a certificate of relief pursuant to G.S. 15A-173.4;
 - (d) an endorsement from the Governor after satisfaction of conditions of a conditional pardon pursuant to G.S. 13-4;
 - (e) an unconditional pardon pursuant to G.S. 13-3;
 - (f) an order that a conviction is vacated; or
 - (g) an action that is equivalent to SubItems (a)-(f) of this Item entered by a court, or an official or body of a state, federally recognized tribe, or nation with the authority to grant pardons.
- (26) “Residence address” or “residential address” means a physical location with a street name, and a number designating the building in which an individual resides, including an apartment or unit number if applicable, the city, state, zip code, and nation if not the United States.
- (27) “Revocation” with regard to an individual’s capacity to serve in a public office means an individualized action:
- (a) to void or cancel a certification of election to office; or
 - (b) to remove an individual from a public office; and
 - (c) that is taken by:
 - (i) a governmental agency, legislative body, or a member of the executive branch of any locality, state, federally recognized tribe, or nation; or
 - (ii) a court.
- (28) “Suspension” with regard to a public office means an individualized action:
- (a) to prohibit, for a finite period of time, an individual’s authority to serve in a public office; and
 - (b) that is taken by:
 - (i) a governmental agency, legislative body, or a member of the executive branch of any locality, state, federally recognized tribe, or nation; or
 - (ii) a court.

*History Note: Authority G.S. 10B-4; 10B-14(f); 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23;
 Eff. April 1, 2007;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, ~~2016~~ 2016;
 Amended Eff. July 1, 2024.*

18 NCAC 07B .0103 is proposed for amendment as follows:

18 NCAC 07B .0103 OPERATING HOURS AND GENERAL CONTACT INFORMATION

(a) ~~Mailing Address. The mailing address for the Division of Certification and Filing, Notary Public Section is P.O. Box 29626, Raleigh, NC 27626-0626.~~

(b) ~~Hours. Office Departmental hours for the public are 8:00 a.m. to 4:00 5:00 p.m. p.m., Monday through Friday Friday, with the exception of state State holidays.~~

(c) ~~(b) Contacting the Division. In addition to contacting the Division by mail as provided in Paragraph (a) of this Rule, contact with the Division may be by:~~

(1) ~~On line information service: The Department provides on line information services at its website. The Department's website is: www.sosnc.gov.~~

(2) ~~Electronic Mail:~~

(c) ~~Email address: For basic information the The Department Notary Public Section may be contacted by email for notary-related issues at notary@sosnc.gov. Electronic mail Unless specifically permitted by a rule in this Chapter, email shall not be used for filing submitting applications.~~

(3) ~~(d) Telephone Number: number: The telephone number for Notary Customer Service departmental customer service is (919) 814-5400.~~

(4) ~~Fax Number: To send information to the Notary Public Section via fax, the number is 919 814-5597.~~

(e) ~~Physical address. The Department is located at 2 South Salisbury Street, Raleigh, NC 27601.~~

(f) ~~Mailing address. The Department's mailing address is P.O. Box 29626, Raleigh, NC 27626-0626.~~

History Note: Authority G.S. ~~10B-14(f); 147-34; 10B-4;~~

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. July 1, 2024; February 1, 2021; October 1, 2019.

18 NCAC 07B .0104 is proposed for adoption as follows:

18 NCAC 07B .0104 ADA ACCOMMODATION

An applicant to become a notary public, electronic notary, or certified notary instructor who needs accommodation pursuant to the Americans with Disabilities Act shall:

(1) with regard to a notary course and exam accommodation request, direct the request to the institution offering the course and exam, in which instance the institution may consult with the Department about the accommodation requested; or

(2) with regard to the online recommissioning exam, certified notary instructor initial or recertification oral presentation or written exam, contact the Department and request an accommodation.

*History Note: Authority G.S. 10B-4; 10B-14(f); 10B-107; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07B .0105 is proposed for adoption as follows:

18 NCAC 07B .0105 OBTAINING REQUESTED INFORMATION

A filer shall:

- (1) use reasonable efforts to obtain information requested by the Department;
- (2) deliver to the Department all requested information that is available to the filer; and
- (3) if unable to obtain requested information, describe to the Department the reasonable efforts taken to obtain the information.

*History Note: Authority G.S. 10B-4; 10B-14(f); 10B-107; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07B .0106 is proposed for amendment as follows:

18 NCAC 07B .0106 WAIVER

The ~~Director~~ Department may waive any rule in this ~~Subchapter~~ Chapter that is not statutorily required on request of a filer or on its own initiative based on the factors set forth in Rule ~~0901~~ .0108 of this ~~Chapter~~ Section.

*History Note: Authority G.S. 10B-4; ~~10B-14(f); 147-36;~~
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, ~~2016~~ 2016;
Amended Eff. July 1, 2024.*

18 NCAC 07B .0107 is proposed for adoption as follows:

18 NCAC 07B .0107 CONTENTS OF WAIVER REQUEST

A request for waiver of a rule in this Chapter shall be in writing and shall include:

- (1) the requestor's:
 - (a) name;
 - (b) mailing address;
 - (c) email address; and
 - (d) preferred telephone number for contact;

- (2) for a request filed on behalf of an entity:
 - (a) the name of the entity;
 - (b) the requestor's position with the entity and authority to file the request on behalf of the entity;
 - (c) the mailing and business addresses of the entity;
 - (d) the telephone number for the entity; and
 - (e) the email address for the entity;
- (3) the specific rule and paragraph number for which waiver is requested;
- (4) an explanation of the reason for the request, including facts supporting the request;
- (5) any additional information related to the factors in Rule .0108 of this Section that the requestor wishes the Department to consider;
- (6) supporting documentation, if any;
- (7) whether the requestor has filed any other waiver requests with the Department and a description of those waiver requests; and
- (8) the signature of the requestor and the date signed.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0108 is proposed for adoption as follows:

18 NCAC 07B .0108 FACTORS USED IN CONSIDERING WAIVER REQUESTS

Factors to be considered when the Department considers a waiver request are:

- (1) information about the requestor and the request, including the requestor's:
 - (a) explanation of the reasons for the request;
 - (b) control over the circumstances leading to the request;
 - (c) experience with the Notary Act and the Rules in this Chapter;
 - (d) record of timeliness, completeness, and accuracy of filings with the Department;
 - (e) history of waiver requests, if any; and
 - (f) impact of granting or denying the request on the requestor; and
- (2) impact on the public by granting or denying the request, including:
 - (a) harm or benefit to the public;
 - (b) consistency of implementation and enforcement of Chapter 10B of the General Statutes and the Rules in this Chapter; and
 - (c) the harm to the Department if a waiver is granted.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07B .0109 is proposed for adoption as follows:

18 NCAC 07B .0109 COMPUTATION OF TIME PERIODS

The Department shall calculate time periods based on G.S. 1A-1, Rule 6, unless otherwise noted in the Rules in this Chapter.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07B .0110 is proposed for amendment as follows:

18 NCAC 07B .0110 REQUEST TO DEPARTMENT FOR CONFIDENTIAL PUBLIC INFORMATION

(a) ~~The information that the Department shall make available on individual notaries public include:~~

- ~~(1) Full legal name;~~
- ~~(2) County of Commission;~~
- ~~(3) Employer's Name;~~
- ~~(4) Employer's street and mailing addresses;~~
- ~~(5) Employer's phone number;~~
- ~~(6) Status of Commission;~~
- ~~(7) Disciplinary action, if any.~~

(b) A request to the Department for confidential notary information that is confidential pursuant to G.S. 10B-7, G.S. 10B-60, G.S. 10B-106, or that is personally identifiable information shall shall:

- (1) be in writing writing;
- (2) and shall include documentation of the name of the requestor and contact information for the requestor; and
- (3) document the right of the requestor to receive the confidential notary information, including:
 - ~~(1) Authorization of the notary that the person is an agent of the notary authorized to request and receive the information;~~
 - ~~(2) Subpoena or court order;~~
 - ~~(3) Statement of authority from a law enforcement or government agency; or~~
 - ~~(4) N.C. State Bar applicant "Release of Information" form.~~

History Note: Authority G.S. ~~10B-2; 10B-4; 10B-7(b); 10B-14(f); 10B-106;~~

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .1001 Eff. June 1, 2023- 2023;
Amended Eff. July 1, 2024.

18 NCAC 07B .0407 is proposed for adoption as follows:

18 NCAC 07B .0407 INITIAL APPLICATION FOR NOTARY COMMISSION FORM

The initial application for notary commission form requires:

- (1) the information required by G.S. 10B-5, 10B-6, and 10B-7;
- (2) from the commission applicant:
 - (a) whether the applicant is a licensed member of the North Carolina State Bar;
 - (b) a personal cell phone number, if the applicant uses that number as the applicant's residential telephone number;
 - (c) the most recent North Carolina notary commission number, if one was issued;
 - (d) occupation;
 - (e) applicant's employer or status as:
 - (i) self-employed;
 - (ii) unemployed;
 - (iii) retired; or
 - (iv) a student;
 - (f) North Carolina county where employed;
 - (g) with regard to the notary course attended:
 - (i) the name of the eligible institution that offered the course;
 - (ii) the number of course hours;
 - (iii) the printed or typed name of the course instructor; and
 - (iv) the date the course was successfully completed;
 - (h) a description of included attachments, if any; and
 - (i) the declaration required by G.S. 10B-12; and
- (3) from the notary course instructor:
 - (a) certification that:
 - (i) the date, eligible institution, and printed name of the instructor are correct; and
 - (ii) the applicant successfully completed the course and therefore qualifies for consideration for a notary commission; and
 - (b) the course instructor's signature as required by G.S. 10B-6 and the date of the signature.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07B .0408 is proposed for adoption as follows:

18 NCAC 07B .0408 AFFIDAVIT OF MORAL CHARACTER

The affidavit of moral character form requires:

- (1) the applicant's name for use on a notary public commission, if available, or the full legal name of the individual about whom the affidavit is prepared;
- (2) information about the character witness:
 - (a) the affiant's name, contact information, and occupation;
 - (b) how the affiant knows the individual;
 - (c) how long the affiant has known the individual;
 - (d) how the affiant has had the opportunity to form an opinion of the individual's character;
and
 - (e) whether the affiant is aware of criminal charges against, or criminal convictions of, the individual;
- (3) the affiant's opinion whether the charges against, or convictions of, the individual will affect the ability of the individual to comply with Chapter 10B of the General Statutes;
- (4) a declaration whether the affiant personally recommends the individual for an authorization requiring honesty, integrity, trustworthiness, and high standards of moral character;
- (5) the signature of the affiant and the date signed; and
- (6) a declaration under penalty of perjury that the information provided is true and complete to the best of the affiant's knowledge and belief.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07B .0409 is proposed for adoption as follows:

18 NCAC 07B .0409 APPLICATION FOR RECOMMISSIONING AS NOTARY PUBLIC

The application for recommissioning as a notary public form requires:

- (1) information regarding the applicant's current or, if expired, the immediately preceding commission, including the commission number;
- (2) an imprint or stamp from the applicant's current seal or most recently expired seal if the applicant currently possesses a seal;
- (3) information required pursuant to G.S. 10B-11;

- (4) the instructor's signature, if the applicant takes the notary course as part of the recommissioning process;
- (5) information required pursuant to Rule .0407 of this Section that is not otherwise included in Items (1)-(3) above; and
- (6) the declaration under penalty of perjury that is required by G.S. 10B-12.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0410 is proposed for adoption as follows:

18 NCAC 07B .0410 NOTICE OF CHANGE IN GENERAL NOTARY INFORMATION

The form for notice of change in general notary information requires:

- (1) the notary's commission name and county of commission;
- (2) the notary's commission number;
- (3) contact information for the notary;
- (4) last four digits of the notary's SSN;
- (5) for changes required to be reported pursuant to G.S. 10B-50, 10B-51, 10B-52, or 18 NCAC 07D .0301:
 - (a) which item of information regarding the notary has changed;
 - (b) the information as it existed before the change;
 - (c) the information after the change; and
- (6) the printed name and signature of the notary and the date signed.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0411 is proposed for adoption as follows:

18 NCAC 07B .0411 NOTICE OF CHANGES REGARDING CRIMINAL RECORD

The form for notice of changes in criminal record requires:

- (1) the name of the individual;
- (2) if a commissioned notary, the notary's commission number;
- (3) the last four digits of the individual's SSN;
- (4) contact information for the individual;
- (5) for a previously unreported criminal charge:
 - (a) the date of the charge;

- (b) the court in which the charge is filed;
- (c) whether the charge is for a felony or misdemeanor;
- (d) what the charge is;
- (e) whether the charge has been set for a hearing or trial and, if yes, the scheduled date; and
- (f) the case number;
- (6) for notice of a disposition of a criminal charge:
 - (a) the date of the disposition;
 - (b) the name of the court and the case number;
 - (c) if the disposition resulted in a conviction:
 - (i) whether the conviction was for a felony or misdemeanor; and
 - (ii) the sentence imposed;
 - (d) a copy of the disposition document;
 - (e) a copy of any document restoring citizenship rights; and
- (7) the signature of the individual and the date signed.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0412 is proposed for adoption as follows:

18 NCAC 07B .0412 NOTICE OF CHANGES REGARDING PROFESSIONAL LICENSES, NOTARY COMMISSIONS, OR PUBLIC OFFICES

The form for notice of changes regarding professional licenses, notary commissions, or public offices requires:

- (1) the name of the individual;
- (2) if a commissioned notary, the notary's commission number;
- (3) the last four digits of the individual's SSN;
- (4) contact information for the individual;
- (5) for a change in any information required by G.S. 10B-7(10), the information required by Section .0700 of this Subchapter; and
- (6) the printed name and signature of the individual and the date signed.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0413 is proposed for adoption as follows:

18 NCAC 07B .0413 NOTICE OF CHANGES REGARDING FINDINGS OR ADMISSIONS OF DECEIT, OFFICIAL MISCONDUCT, FALSE OR MISLEADING ADVERTISING, OR UNAUTHORIZED PRACTICE OF LAW

The form for notice of changes regarding findings or admissions of deceit, official misconduct, false or misleading advertising, or unauthorized practice of law requires:

- (1) the notary's commission name and county of commission;
- (2) the notary's commission number;
- (3) last four digits of the notary's SSN;
- (4) contact information for the notary;
- (5) the information required pursuant to:
 - (a) 18 NCAC 07C .0207 for a finding or admission of liability against the notary pursuant to G.S. 10B-5(d)(3);
 - (b) 18 NCAC 07C .0208 for a finding of official misconduct by the notary public;
 - (c) 18 NCAC 07C .0209 for a finding of unauthorized practice of law by the notary; and
 - (d) 18 NCAC 07C .0210 for a finding or charge of false or misleading advertising by the notary; and
- (6) the printed name and signature of the commission applicant or notary and the date signed.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0414 is proposed for adoption as follows:

18 NCAC 07B .0414 APPLICATION FOR CERTIFICATION AS NOTARY INSTRUCTOR

The application for certification as a notary instructor form requires:

- (1) the information required by Rule .0407(1)–(2)(i) of this Section;
- (2) whether the applicant is currently employed as:
 - (a) a register of deeds or clerk of court; or
 - (b) an employee of the Department and who is authorized by the Secretary to serve as an instructor;
- (3) the eligible institution for which the applicant will teach if certified as an instructor;
- (4) the name, telephone number, and email address of a contact person at the eligible institution who is knowledgeable about the conditional hiring of the applicant to teach notary courses;
- (5) whether the applicant has a personal copy of the most recent notary public manual approved by the Department and, if yes, the year and edition number;
- (6) whether the applicant has active experience as a notary;

- (7) whether the applicant has notified the Department of changes as required by Chapter 10B of the General Statutes and the Rules in this Chapter or is submitting a change form with the application;
- (8) the printed name and signature of the applicant and the date signed; and
- (9) a declaration under penalty of perjury that:
 - (a) the information provided is true and complete to the best of the applicant's knowledge and belief;
 - (b) the applicant remains qualified to be commissioned as a notary public; and
 - (c) the applicant will perform the duties and responsibilities of a certified notary instructor.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07B .0415 is proposed for adoption as follows:

18 NCAC 07B .0415 RECOMMENDATION OF NOTARY INSTRUCTOR APPLICANT

The recommendation of notary instructor applicant form requires:

- (1) the instructor applicant's commission name;
- (2) the name and contact information for the individual completing the form;
- (3) the individual's basis for recommending the applicant, including:
 - (a) a declaration that the individual is not a family member of the applicant;
 - (b) how the individual knows the applicant; and
 - (c) whether and how the individual has knowledge of the applicant's teaching skills;
- (4) whether, in the opinion of the individual, the applicant has the skills to be an effective teacher of notary applicants;
- (5) a declaration that the individual personally recommends the applicant to be a notary instructor;
- (6) the printed name and signature of the applicant and the date signed; and
- (7) a declaration under penalty of perjury that the information provided is true and complete to the best of the affiant's knowledge and belief.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07B .0416 is proposed for adoption as follows:

18 NCAC 07B .0416 EMPLOYER AFFIDAVIT REGARDING INSTRUCTOR APPLICANT ACTIVE EXPERIENCE FORM

The form for the employer affidavit regarding active experience requires:

- (1) the name of the person employing the applicant;
- (2) information about the affiant, consisting of the following:
 - (a) the full printed name of the affiant;
 - (b) the affiant's title and position with the employer; and
 - (c) the address, telephone number, and email address of the affiant;
- (3) an explanation of the reasons the instructor applicant has performed notarial acts while employed by the employer;
- (4) a statement specifying which of the preceding twelve months the instructor applicant performed notarial acts for the employer;
- (5) a declaration that:
 - (a) the affiant has the authority to sign; and
 - (b) the affiant has knowledge of the matters described in the affidavit;
- (6) the signature of the affiant and date on which the affiant signed; and
- (7) a jurat certificate.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07B .0417 is proposed for adoption as follows:

18 NCAC 07B .0417 STUDENT EVALUATION OF NOTARY INSTRUCTOR FORM

The student evaluation of notary instructor form requests the following information from a student:

- (1) the name of the instructor;
- (2) the date of the course;
- (3) the name of the institution;
- (4) rating of the instructor's:
 - (a) professionalism;
 - (b) subject matter knowledge;
 - (c) use of audio-visuals, handouts, and other materials; and
 - (d) responsiveness to questions from students;
- (5) rating of the course materials;
- (6) other information or comments that the student wishes to add; and
- (7) the student's name and contact information if the student is willing to be contacted by the Department with follow-up questions.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07B .0418 is proposed for adoption as follows:

18 NCAC 07B .0418 APPLICATION FOR RECERTIFICATION AS NOTARY INSTRUCTOR

The notary instructor application for recertification form requires:

- (1) the information specified in Rule .0414 of this Section;
- (2) verification that the applicant has taught the notary instructor course at least twice a year during the current two-year certification period;
- (3) the date of initial certification as an instructor;
- (4) whether certification has been continuous;
- (5) a declaration under penalty of perjury that:
 - (a) the information provided is true, complete, and correct;
 - (b) the applicant remains qualified to be commissioned as a notary public; and
 - (c) the applicant:
 - (i) understands the official duties and responsibilities of a notary public and notary public instructor in North Carolina; and
 - (ii) will perform to the best of the applicant’s ability all responsibilities of teaching the notary courses in accordance with the law.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07B .0501 is proposed for adoption as follows:

SECTION .0500 – ~~Commissions~~ CRIMINAL RECORDS

18 NCAC 07B .0501 CRIMES

For purposes of applications and discipline under Chapter 10B of the General Statutes and the Rules in this Chapter, each of the following offenses are examples of, and shall be classified as, either a crime involving “moral turpitude” as defined in G.S. 10B-3(9) or a “crime involving dishonesty” as defined in Rule .0102(8) of this Subchapter:

- (1) arson;
- (2) assault;
- (3) battery;
- (4) burglary;
- (5) carrying a concealed weapon without a permit;
- (6) child molestation;
- (7) child pornography;

- (8) discharge of a firearm in a public place or into a dwelling;
- (9) domestic violence;
- (10) driving under the influence;
- (11) embezzlement;
- (12) failure to comply with a court order;
- (13) failure to pay child support;
- (14) failure to return to confinement;
- (15) false financial statement;
- (16) forgery;
- (17) fraud;
- (18) hit and run;
- (19) identity theft;
- (20) impersonation of a law enforcement officer;
- (21) kidnapping;
- (22) practicing law without a license;
- (23) prostitution;
- (24) rape;
- (25) receipt of stolen goods or property;
- (26) resisting arrest;
- (27) robbery;
- (28) tax evasion;
- (29) terrorist threat or act;
- (30) unlawful possession or sale of drug; and
- (31) worthless check.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0502 is proposed for adoption as follows:

**18 NCAC 07B .0502 ADDITIONAL REQUIREMENTS FOR AN INDIVIDUAL LISTING
CONVICTIONS**

An individual required to provide a criminal record pursuant to Chapter 10B of the General Statutes and the Rules in this Chapter shall include:

- (1) a complete listing of felony convictions of the individual and the name under which each conviction was entered;

- (2) a complete listing of misdemeanor convictions of the individual and the name under which each conviction was entered;
- (3) if the individual's criminal record includes a conviction in North Carolina, a copy of the individual's criminal record prepared by the North Carolina State Bureau of Investigation;
- (4) if the individual has a criminal conviction in a jurisdiction other than North Carolina, a copy of the individual's criminal record from a criminal record registry or repository of record reflecting the conviction; and
- (5) the signed explanation required by Rule .0503 of this Section.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0503 is proposed for adoption as follows:

18 NCAC 07B .0503 EXPLANATION OF CONVICTIONS

An individual who submits a criminal record shall include an explanation for each criminal conviction with:

- (1) the individual's signature and the date on which the individual signed the explanation;
- (2) for each felony conviction:
 - (a) the date of the conviction and the court where the conviction was entered;
 - (b) the name of the court and the case number;
 - (c) the charge upon which the conviction was entered;
 - (d) a description of the circumstances surrounding the commission of the crime;
 - (e) the sentence imposed;
 - (f) a copy of the document showing the date of release from probation, parole, incarceration, or completion of the terms of the applicant's sentence for each conviction; and
 - (g) a copy of any document restoring the individual's citizenship rights; and
- (3) for each misdemeanor conviction the information required in Items (2)(a)-(f) of this Rule.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0504 is proposed for adoption as follows:

18 NCAC 07B .0504 ADDITIONAL DOCUMENTATION FOR CONVICTIONS

For an individual listing a criminal conviction, an affidavit of moral character shall be:

- (1) completed by three individuals, none of whom is a family member, using the form specified in Rule .0408 of this Subchapter; and

- (2) submitted to the Department by the individual listing a criminal conviction or the individuals completing the affidavits.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0505 is proposed for adoption as follows:

18 NCAC 07B .0505 REQUIREMENTS FOR INDIVIDUAL WITH PENDING CRIMINAL CHARGES

An individual required to provide a criminal record who has a pending criminal charge in a court shall, for each pending criminal charge:

- (1) notify the Department within 45 days of the charge; and
(2) provide the information specified in the form in Rule .0411 of this Subchapter.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0506 is proposed for adoption as follows:

18 NCAC 07B .0506 NOTICE TO DEPARTMENT OF DISPOSITION OF PENDING CHARGE

An individual who has provided the Department with information regarding a pending charge pursuant to Rule .0505 of this Section shall:

- (1) notify the Department within 45 calendar days of the final disposition of the charge;
(2) provide the information specified in the form in Rule .0411 of this Subchapter;
(3) provide a copy of the document reflecting the final disposition of the charge; and
(4) if convicted, comply with Rules .0503 and .0504 of this Section.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0601 is proposed for amendment as follows:

SECTION .0600 – ~~REJECTIONS,~~ DENIALS, DISCIPLINE, AND ENFORCEMENT

18 NCAC 07B .0601 ~~FACTORS CONSIDERED IN~~ FOR DISCIPLINARY ACTIONS

When determining whether and what to deny an application or take disciplinary action against a notary, disciplinary action to take, the ~~Director~~ Department ~~may shall consider~~ consider: a variety of factors including:

- (1) the qualifications of the person;
- ~~(1)(2)~~ Nature, the nature, number number, timing, and severity of any acts, offenses, official ~~misconduct~~ misconduct, or crimes under consideration;
- ~~(2)(3)~~ Evidenee evidence pertaining to the honesty, credibility, truthfulness, and integrity of the person; ~~applicant or notary public;~~
- ~~(3)(4)~~ Actual actual or potential ~~monetary or other harm to the general public, group, individual, or client;~~ harm;
- ~~(4)(5)~~ History the history of complaints against the person received by the Department;
- ~~(5)(6)~~ Prior disciplinary the record or warning from the Department; of prior disciplinary actions against the person;
- ~~(6)(7)~~ Evidenee evidence in mitigation;
- ~~(7)(8)~~ Evidenee evidence in aggravation;
- ~~(8)(9)~~ Occupational, occupational, vocational, or professional license disciplinary record;
- ~~(9)(10)~~ Evidenee evidence of ~~rehabilitation.~~ rehabilitation; NOTE: Examples include reference letters and proof of class attendance;
- ~~(10)(11)~~ Criminal criminal record;
- ~~(11)(12)~~ Reports information and reports received from other law enforcement agencies;
- ~~(12)(13)~~ Willfulness; willfulness;
- ~~(13)(14)~~ Negligence. negligence;
- ~~(15)~~ the response of the person to any alleged violations; and
- ~~(16)~~ whether the person self-reported a matter affecting qualification or the performance of an activity pursuant to authorization.

*History Note: Authority G.S. 10B-4; 10B-14(f); 10B-60;
 Eff. April 1, 2007;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
 Transferred from 18 NCAC 07B .0901 Eff. June 1, ~~2023;~~ 2023;
 Amended Eff. July 1, 2024.*

18 NCAC 07B .0602 is proposed for amendment as follows:

18 NCAC 07B .0602 ~~GENERAL APPLICATION DENIAL~~ DENIALS

- ~~(a) Unqualified applicant. The Director shall deny the application of an applicant for a notary public commission who does not qualify for office based on the factors set forth in Chapter 10B of the General Statutes and this Subchapter.~~
- ~~(b) Current disciplinary action. The Director shall deny an application if the application is submitted before the expiration of a period of suspension or revocation of a commission previously held by the applicant.~~

~~(c) Information regarding convictions and judgments.~~

~~(1)(a) The Director Department shall deny an application in which an applicant willfully and knowingly contains provided false information about about: the applicant's~~

~~(1) a criminal record history; or~~

~~(2) a record of civil lawsuit official findings or admissions of liability based on related to the applicant's deceit; or deceit, dishonesty, or intentional disclosure of confidential information to a person not legally entitled to the information.~~

~~(2)(b) The Director Department may deny an application which that contains misleading information, information.~~

~~(A) The applicant's criminal record, including whether all charges were dismissed or consolidated or whether all terms and conditions of a judgment have been completed~~

~~(B) Misstatement or omission of a nonmaterial fact;~~

~~(C) Whether a civil lawsuit included findings based on the applicant's deceit; or~~

~~(D) Whether, in a civil lawsuit or settlement of a civil lawsuit, an applicant made admissions of liability related to the applicant's deceit.~~

~~(4)(c) Applicant notarization. The Director Department shall deny an application if if:~~

~~(1) the Department determines that the applicant is not qualified for the authorization issued pursuant to the Constitution of the State of North Carolina, Chapter 10B of the General Statutes, and the Rules in this Chapter; or~~

~~(2) the an applicant notarizes his or her the applicant's own signature.~~

~~(e) The Director shall deny an application if the applicant:~~

~~(1) Leaves three or more sections of the application incomplete;~~

~~(2) Fails to submit an application for initial appointment within 90 days of class; or~~

~~(3) Fails to submit complete and correct information on an application for initial appointment or reappointment after three submissions by the applicant.~~

History Note: Authority G.S. ~~10B-4; 10B-5; 10B-14(f); 10B-126; 10B-134.19; 10B-134.21;~~

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0902 Eff. June 1, ~~2023;~~ 2023;

Amended Eff. July 1, 2024.

18 NCAC 07B .0603 is proposed for amendment as follows:

18 NCAC 07B .0603 ~~EXECUTED DOCUMENT VIOLATIONS~~ LEVELS OF ENFORCEMENT

~~The Director shall revoke the commission of a notary who performs a notarial act knowing that the document or information contained in it is false or fraudulent, or that the intent of the executed document is dishonest. Acts of fraud or dishonesty include:~~

- ~~(1) Notarizing a blank DMV vehicle title document;~~
- ~~(2) Embezzlement;~~
- ~~(3) Forgery;~~
- ~~(4) Fraud;~~
- ~~(5) Identity theft;~~
- ~~(6) Impersonation of a law enforcement officer;~~
- ~~(7) Receiving stolen goods or property; and~~
- ~~(8) Theft.~~

Upon consideration of the evidence before it, the purposes and requirements of Chapter 10B of the General Statutes, and the Rules in this Chapter, the Department may:

- (1) upon a finding of a violation of Chapter 10B of the General Statutes or the Rules in this Chapter:
 - (a) issue a letter of caution to a person along with:
 - (i) a request for compliance; and
 - (ii) a statement that future noncompliance may lead to disciplinary action by the Department;
 - (b) issue a letter of warning to a person, with or without a corrective action plan. NOTE: A requirement for additional education is an example of a corrective action plan;
 - (c) suspend a person's authorization and bar the grant of an authorization for a specific period of time not to exceed 24 months, with or without a corrective action plan;
 - (d) issue a revocation of a person's authorization;
 - (e) issue a permanent revocation of a person's authorization;
 - (f) issue an order restricting an unauthorized person from submitting an application or from becoming authorized for a specific period of time; or
 - (g) issue an order permanently restricting an unauthorized person from submitting an application or from becoming authorized; and
- (2) use the factors in Rule .0601 of this Section to take action to withdraw, stay, rescind, or expunge a disciplinary action.

*History Note: Authority G.S. ~~10B-2; 10B-5(d); 10B-4; 10B-14(f); 10B-60; 10B-126; 10B-134.19; 10B-134.21;~~
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0903 Eff. June 1, ~~2023; 2023;~~
Amended Eff. July 1, 2024.*

18 NCAC 07B .0604 is proposed for amendment as follows:

18 NCAC 07B .0604 ~~COMPLETE AND LAWFUL NOTARIAL ACT VIOLATIONS~~ LETTER OF CAUTION

~~(a) The Director Department may issue a letter of caution to a person for a violation of the requirements of Chapter 10B of the General Statutes or the Rules in this Chapter in circumstances that do not merit take disciplinary action against a notary for an offense relating to failure to meet the statutory requirements for a notarial act.~~

~~(b) Offenses relating to failure to meet the statutory requirements for a complete and lawful notarial act include:~~

- ~~(1) Incomplete attestation;~~
- ~~(2) Improper acknowledgment language;~~
- ~~(3) Incorrect signature;~~
- ~~(4) Incorrect expiration date;~~
- ~~(5) Failure to administer an oath or affirmation;~~
- ~~(6) Failure to verify identification;~~
- ~~(7) Failure to require personal appearance;~~
- ~~(8) Notarization of a document in which the notary is a named, interested, or signed party;~~
- ~~(9) Notarization of a "non signature" or a copy of a signature;~~
- ~~(10) Charging a fee in excess of that which is set by law, including fees for mileage or travel;~~
- ~~(11) Acting as a notary when not commissioned;~~
- ~~(12) Unauthorized use of a seal.~~

History Note: ~~Authority G.S. 10B-2; 10B-4; 10B-14(f); 10B-60; 10B-126; 10B-134.19; 10B-134.21;~~

~~Eff. April 1, 2007;~~

~~Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;~~

~~Transferred from 18 NCAC 07B .0904 Eff. June 1, 2023. 2023;~~

~~Amended Eff. July 1, 2024.~~

18 NCAC 07B .0605 is proposed for amendment as follows:

18 NCAC 07B .0605 ~~OTHER VIOLATIONS~~ WARNINGS

~~The Director Department may take disciplinary action against a notary issue a warning to a person for any violation violations of Chapter 10B of the General Statutes or the Rules in this Chapter. Subchapter, including failure to provide information required by Rule .0107 of this Subchapter.~~

History Note: ~~Authority G.S. 10B-2; 10B-4; 10B-5(d); 10B-14(f); 10B-60; 10B-126; 10B-134.19; 10B-134.21;~~

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0905 Eff. June 1, ~~2023~~, 2023;

Amended Eff. July 1, 2024.

18 NCAC 07B .0606 is proposed for amendment as follows:

18 NCAC 07B .0606 ~~MINIMUM SANCTION~~ SUSPENSION

~~(a) If a notary commits a combination of acts of official misconduct, the notary shall receive, at a minimum, the maximum penalty of the lesser of the acts committed.~~

~~(b) Nothing in this Section shall restrict the Secretary from using any other statutory penalty available.~~

After consideration of the factors in Rule .0601 of this Section, the Department may issue a suspension to a person who:

- (1) _____ violates the requirements of Chapter 10B of the General Statutes or the Rules in this Chapter; or
- (2) _____ has a criminal conviction.

History Note: Authority G.S. ~~40B-2; 10B-4; 10B-14(f); 40B-60; 10B-126; 10B-134.19; 10B-134.21;~~

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0906 Eff. June 1, ~~2023~~, 2023;

Amended Eff. July 1, 2024.

18 NCAC 07B .0607 is proposed for amendment as follows:

18 NCAC 07B .0607 ~~APPEAL PROCEDURES~~ RESTRICTION

~~(a) Applicants for commissioning or recommissioning whose applications have been denied and notaries who have received disciplinary action by the Director have the right to file a petition for a contested case hearing pursuant to Article 3 of Chapter 150B of the General Statutes.~~

~~(b) Petition forms may be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6700; 1711 New Hope Church Road, Raleigh, NC 27609; 984-236-1850; <https://www.oah.nc.gov>.~~

~~(c) A copy of a Petition filed with the Office of Administrative Hearings must also be served on the process agent for the Department of the Secretary of State.~~

Upon a finding that the person has acted without being authorized by the Department, the Department may restrict that person from applying for authorization or from becoming authorized to:

- (1) _____ perform a notarial act;

- (2) teach a notarial course;
- (3) offer an electronic notarization system to an electronic notary public; or
- (4) act as a depository.

History Note: Authority G.S. ~~10B-2~~; 10B-4; 10B-14(f); 10B-126; 10B-134.19; 10B-134.21;
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Amended Eff. October 1, 2019; Eff. February 1, 2021;
Transferred from 18 NCAC 07B .0907 Eff. June 1, ~~2023~~; 2023;
Amended Eff. July 1, 2024.

18 NCAC 07B .0608 is proposed for adoption as follows:

18 NCAC 07B .0608 MANDATORY REVOCATION

The Department shall revoke an authorization of:

- (1) a person who is convicted of a crime related to performance of an act pursuant to, or in relation to, an authorization issued by the Department;
- (2) a notary who notarizes the notary’s own signature;
- (3) a notary who performs a notarial act and either:
 - (a) fails to require the personal appearance of the principal; or
 - (b) performs a remote electronic notarial act without requiring the appearance of a principal by an authorized communication technology; or
- (4) a person who performs an act permitted by an authorization issued by the Department knowing that:
 - (a) the act, a document associated with the act, or information contained in a document associated with the act is false or fraudulent; or
 - (b) the intent of the act or document is to perpetrate a crime of dishonesty.

History Note: Authority G.S. 10B-4; 10B-14(f); 10B-126; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07B .0701 is proposed for amendment as follows:

SECTION .0700 – REPORTING PROFESSIONAL LICENSES, CIVIL AND CRIMINAL HISTORY PUBLIC OFFICES, AND NOTARY COMMISSIONS

18 NCAC 07B .0701 GENERAL

~~(a) Other Professional Licenses.~~ An applicant for a notary commission shall include with the list on his or her application all suspensions, revocations and other disciplinary actions taken against the applicant regarding the applicant's current or former professional licenses, a list of all professional licenses, public offices, and notary commissions as required by G.S. 10B-7(10), together with the information required by the Rules in this Section.

~~(b) Criminal Record.~~ An applicant shall list on his or her application all misdemeanor and felony convictions related to crimes of dishonesty and moral turpitude. For purposes of this Chapter, those crimes include:

- ~~(1) Arson;~~
- ~~(2) Assault;~~
- ~~(3) Battery;~~
- ~~(4) Burglary;~~
- ~~(5) Carrying a concealed weapon without a permit;~~
- ~~(6) Child molestation;~~
- ~~(7) Child pornography;~~
- ~~(8) Discharge of a firearm in a public place or into a dwelling;~~
- ~~(9) Domestic violence;~~
- ~~(10) Driving under the influence;~~
- ~~(11) Unlawful possession or sale of drugs;~~
- ~~(12) Embezzlement;~~
- ~~(13) Failure to comply with a court order;~~
- ~~(14) Failure to pay child support;~~
- ~~(15) Failure to return to confinement;~~
- ~~(16) False financial statements;~~
- ~~(17) Forgery;~~
- ~~(18) Fraud;~~
- ~~(19) Identity theft;~~
- ~~(20) Impersonation of a law enforcement officer;~~
- ~~(21) Hit and run;~~
- ~~(22) Kidnapping;~~
- ~~(23) Prostitutions;~~
- ~~(24) Multiple worthless checks showing a pattern of behavior indicating moral turpitude and dishonesty;~~
- ~~(25) A worthless check in excess of five hundred dollars (\$500.00);~~
- ~~(26) Possession of an unregistered firearm;~~
- ~~(27) Practicing law without a license;~~
- ~~(28) Rape;~~
- ~~(29) Receipt of stolen goods or property;~~
- ~~(30) Resisting arrest;~~
- ~~(31) Robbery;~~

- ~~(32) Statutory rape;~~
- ~~(33) Tax evasion;~~
- ~~(34) Terrorist threats or acts;~~
- ~~(35) Theft;~~
- ~~(36) Threats to commit a crime or cause bodily injury;~~
- ~~(37) Spousal abuse.~~

~~(e) In considering whether to appoint or reappoint an applicant to the office of notary public, the Director may consider the factors set forth in Rule .0901 of this Subchapter.~~

History Note: Authority G.S. 10B-4; 10B-5(d); 10B-7; 10B-11; 10B-14(f); 10B-106; 10B-134.19; 10B-134.21;
 Eff. April 1, 2007;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
 Transferred from 18 NCAC 07B .0201 Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.

18 NCAC 07B .0702 is proposed for adoption as follows:

18 NCAC 07B .0702 REQUIREMENTS REGARDING PROFESSIONAL LICENSES AND NOTARIAL COMMISSIONS

An individual required to provide information to the Department about professional licenses and notarial commissions that the individual presently holds, has held, or has applied for shall include the following, to the extent the information is available to the individual after reasonable efforts, for each license and notarial commission listed:

- (1) the name under which each license or notarial commission was issued;
- (2) the state, federally recognized tribe, or nation that issues or grants each listed license or commission;
- (3) the name of the governmental agency that issued each license or granted each commission;
- (4) the name of the professional license or notary commission;
- (5) the license or commission number, if one is assigned by the issuing agency;
- (6) the expiration dates for all licenses or commissions listed; and
- (7) whether, to the knowledge of the individual, there is an open investigation by the issuing agency into use or misuse by the individual of a license or commission listed.

History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.

18 NCAC 07B .0703 is proposed for adoption as follows:

18 NCAC 07B .0703 DISCIPLINARY ACTION INVOLVING A PROFESSIONAL LICENSE OR NOTARY COMMISSION

For each professional license or notary commission listed by the applicant pursuant to Rule .0701 of this Section, and for which the individual has been the subject of a disciplinary action, the individual shall include:

- (1) the date of each disciplinary action;
- (2) the disciplinary action taken;
- (3) a copy of each disciplinary action;
- (4) if not included in the copy of the disciplinary action provided:
 - (a) the reason given for the disciplinary action by the issuing agency;
 - (b) an explanation of the circumstances that led to the disciplinary action; and
 - (c) the name of the court, legislative body, or governmental agency that issued or took the action;
- (5) whether the disciplinary action included any corrective action or conditions on the license or commission;
- (6) whether the individual has complied with the corrective actions or conditions;
- (7) the date on which compliance with the corrective actions or conditions was satisfied;
- (8) whether the individual would be eligible for relicensure or recommissioning by the issuing agency; and
- (9) other information that the individual wishes to include in order to aid the Department in assessing the individual's professional license and notary commission history.

History Note: Authority G.S. 10B-4; 10B-134.21; 10B-134.23;
Eff. July 1, 2024.

18 NCAC 07B .0704 is proposed for adoption as follows:

18 NCAC 07B .0704 PUBLIC OFFICES

An individual shall include on the application for authorization:

- (1) a list of each public office that the individual presently holds or has held;
- (2) the name under which each public office is or was held;
- (3) the locality, state, federally recognized tribe, or nation in which the public office is or was held;
- (4) the title of the public office;
- (5) the beginning and ending dates of the term of each public office; and
- (6) whether, to the knowledge of the individual, there is an open investigation by a government or law enforcement agency into the use or misuse by the individual of the public office.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07B .0705 is proposed for adoption as follows:

18 NCAC 07B .0705 DENIALS OF PUBLIC OFFICES

If an individual was denied a public office, the individual shall include with the application:

- (1) the name of the public office that was denied;
- (2) the locality, state, federally recognized tribe, or nation where the public office is or was located;
- (3) the date of the denial;
- (4) the name used when the denial occurred;
- (5) the reason for the denial; and
- (6) other information that the individual wishes to include in order to aid the Department in assessing the individual's qualification for authorization.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07B .0706 is proposed for adoption as follows:

18 NCAC 07B .0706 RESIGNATIONS FROM PUBLIC OFFICES

If an individual resigned from a public office in lieu of disciplinary action, the individual shall include:

- (1) the name of the public office from which the individual resigned;
- (2) the locality, state, federally recognized tribe, or nation where the public office is or was located;
- (3) the date of the resignation;
- (4) the name used when the resignation occurred;
- (5) the reason for the resignation; and
- (6) other information that the individual wishes to include in order to aid the Department in assessing the individual's qualification for authorization.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07B .0707 is proposed for adoption as follows:

18 NCAC 07B .0707 DISCIPLINARY ACTION INVOLVING A PUBLIC OFFICE

For each public office listed pursuant to Rule .0701 of this Section and for which the individual has been the subject of a disciplinary action, the individual shall include:

- (1) the date of each disciplinary action;
- (2) the disciplinary action taken;
- (3) a copy of each disciplinary action;
- (4) if not otherwise set out in the copy of the disciplinary action provided:
 - (a) the reason given for the disciplinary action; and
 - (b) an explanation of the circumstances that led to the disciplinary action;
- (5) whether the disciplinary action included any corrective actions or conditions;
- (6) whether the individual complied with the corrective actions or conditions;
- (7) the date on which compliance with the corrective actions or conditions was satisfied;
- (8) whether the individual would be eligible to hold public office again; and
- (9) other information that the individual wishes to include in order to aid the Department in assessing the individual's qualification for authorization.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

APPENDIX II: PROPOSED 18 NCAC 07C RULES

18 NCAC 07C .0101 is proposed for adoption as follows:

SUBCHAPTER 07C – ~~ELECTRONIC NOTARY STANDARDS~~ PROCESS TO BECOME A NOTARY AND RENEW A NOTARY COMMISSION

SECTION .0100 – GENERAL PROVISIONS

18 NCAC 07C .0101 SCOPE

This Subchapter sets requirements for the application, commissioning, and recommissioning process for traditional notaries.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0102 is proposed for adoption as follows:

18 NCAC 07C .0102 DEFINITIONS RELATED TO APPLICATION AND RECOMMISSIONING PROCESS

For purposes of this Subchapter:

- (1) “Commission applicant” is an applicant for an initial commission or for recommissioning as a traditional notary public.
- (2) “Exam” means a test prepared by the Department and administered by:
 - (a) a certified notary instructor; or
 - (b) the Department or its designee.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0201 is proposed for amendment as follows:

18 NCAC 07C .0201 INITIAL APPLICATION

~~(a) Application Form.~~

~~(1) Applicants An applicant for initial appointment as a traditional notary public shall use the application form designated by the Division for that purpose and may download the application form from the Department's website. shall:~~

- ~~(1) possess a current personal copy of the North Carolina notary public manual applicable to traditional notaries;~~
- ~~(2) Applicants for initial appointment who are members of the North Carolina State Bar may download the application form from the Department's website and may file the completed application without first obtaining a signature from a notary instructor. successfully complete the notary course and exam; and~~
- ~~(3) All other applicants for initial appointment who download the application form from the Department's website shall obtain a signature on the application from a notary instructor certifying that the applicant successfully completed the required course of instruction before the applicant may file the form with the Department. submit the application form specified in 18 NCAC 07B .0407.~~

~~(b) Submission of Application. An applicant for an initial appointment shall submit his or her application by:~~

- ~~(1) U.S. mail;~~
- ~~(2) In person delivery; or~~
- ~~(3) Courier service.~~

*History Note: Authority G.S. 10B-4; 10B-14(f);
Eff. April 1, 2007;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0301 Eff. June 1, ~~2023;~~ 2023;

Amended Eff. July 1, 2024.

18 NCAC 07C .0202 is proposed for amendment as follows:

18 NCAC 07C .0202 TIMING

~~Submission deadline.~~ An applicant for initial appointment ~~who is not a licensed member of the North Carolina State Bar shall~~ as a traditional notary public shall:

- (1) submit an application within three months after passing the notary course and examination required by G.S. 10B-8. exam; or
- (2) if a licensed member of the North Carolina State Bar, comply with the rules in Section .0700 of this Subchapter.

*History Note: Authority G.S. ~~10B-4; 10B-8; 10B-14(f);~~
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0302(a) Eff. June 1, ~~2023; 2023;~~
Amended Eff. July 1, 2024.*

18 NCAC 07C .0203 is proposed for amendment as follows:

18 NCAC 07C .0203 ~~APPLICATION RECEIPT DATE~~ REQUIREMENTS FOR APPLICANTS RESIDING OUTSIDE NORTH CAROLINA

~~Applications shall not be deemed received until complete.~~ A commission applicant who resides outside the State of North Carolina and has a regular place of work or business in North Carolina shall submit an affidavit from the applicant's employer that shall:

- (1) be on the employer's business letterhead that includes:
 - (a) the name of the employer's business;
 - (b) the address of the employer's business; and
 - (c) a telephone number and email address for the business; and
- (2) include:
 - (a) the name of the applicant;
 - (b) affirmation that:
 - (i) the applicant works for the employer;
 - (ii) the applicant regularly spends all or part of the applicant's work time working for the employer in a physical location within the State of North Carolina; and
 - (iii) the street address of the physical location within North Carolina at which the applicant works; and

- (c) the printed name and the signature of the individual signing the statement;
- (d) the title of the individual signing the statement;
- (e) a statement that the signer has the authority to sign on behalf of the employer;
- (f) a telephone number and email address at which the signer can be contacted; and
- (g) a jurat certificate.

History Note: Authority G.S. 10B-4; ~~10B-14(f)~~;
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0502(b) Eff. June 1, 2023- 2023;
Amended Eff. July 1, 2024.

18 NCAC 07C .0204 is proposed for adoption as follows:

18 NCAC 07C .0204 ADDITIONAL REQUIREMENTS FOR APPLICANTS LISTING CONVICTIONS
A commission applicant who submits a criminal record shall include with the application the information required by 18 NCAC 07B .0500.

History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.

18 NCAC 07C .0205 is proposed for adoption as follows:

18 NCAC 07C .0205 REQUIREMENTS FOR APPLICANT WITH PENDING CRIMINAL CHARGES
A commission applicant who has pending criminal charges in a court shall comply with 18 NCAC 07B .0505.

History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.

18 NCAC 07C .0206 is proposed for adoption as follows:

18 NCAC 07C .0206 REQUIREMENTS FOR APPLICANTS REGARDING PROFESSIONAL LICENSES, NOTARIAL COMMISSIONS, AND PUBLIC OFFICES
A commission applicant who has applied for, holds, or has held a professional license, a notarial commission, or a public office, shall comply with Subchapter 07B, Section .0700, of this Chapter.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0207 is proposed for adoption as follows:

**18 NCAC 07C .0207 FINDINGS OR ADMISSIONS OF LIABILITY AGAINST THE APPLICANT
BASED ON THE APPLICANT'S DECEIT**

A commission applicant against whom there has been a finding or admission of fault or liability in a civil lawsuit regarding the applicant's activity as a notary public based on the applicant's deceit shall include with the application:

- (1) a list of each finding or admission;
- (2) a copy of the document containing the finding or admission;
- (3) a brief description of the circumstances surrounding the finding or admission;
- (4) if not included in the document in Item (2) of this Rule:
 - (a) the date on which the finding or admission was made;
 - (b) the governmental agency or court in which the civil lawsuit was filed; and
 - (c) the case name and docket number; and
- (5) any additional information that the applicant wishes the Department to consider.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0208 is proposed for adoption as follows:

18 NCAC 07C .0208 FINDINGS THAT THE APPLICANT ENGAGED IN OFFICIAL MISCONDUCT

A commission applicant who is, has previously been, or has acted in the capacity as a notary public of any locality, state, federally recognized tribe, or nation, and who has listed findings of official misconduct as a notary on the application, shall include with the application:

- (1) the name of the court or governmental agency that made the finding;
- (2) a copy of the document in which the official misconduct finding was made;
- (3) if not included in the document in Item (2) of this Rule:
 - (a) the date on which the finding was made;
 - (b) the governmental agency or court that made the finding; and
 - (c) the case name and docket number, or similar unique designation;
- (4) a description of the circumstances surrounding the finding; and
- (5) any additional information that the applicant wishes the Department to consider.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07C .0209 is proposed for adoption as follows:

18 NCAC 07C .0209 FINDING OF UNAUTHORIZED PRACTICE OF LAW

A commission applicant against whom a finding has been made that the applicant engaged in the unauthorized practice of law shall include with the application:

- (1) the name of the governmental agency or court that made the finding;
- (2) a copy of the finding;
- (3) the date of the finding, if not included in the copy provided pursuant to Item (2) of this Rule;
- (4) a description of the circumstances surrounding the finding; and
- (5) any additional information that the applicant wishes the Department to consider.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07C .0210 is proposed for adoption as follows:

18 NCAC 07C .0210 FINDING OF FALSE OR MISLEADING ADVERTISING

A commission applicant against whom a charge or finding has been made that as a notary public, the notary knowingly used false or misleading advertising that represents that the notary has powers, duties, rights, or privileges not conveyed by law, shall include with the application:

- (1) the name of the governmental agency or court in which the charge or finding is made;
- (2) a copy of the charge or finding;
- (3) the date of the charge or finding, if not included in the copy provided pursuant to Item (2) of this Rule;
- (4) a description of the circumstances surrounding the charge or finding; and
- (5) any additional information that the applicant wishes the Department to consider.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07C .0301 is proposed for adoption as follows:

18 NCAC 07C .0301 COURSES TAUGHT BY CERTIFIED NOTARY INSTRUCTORS

An applicant for an initial commission shall successfully complete a notary course taught by a certified notary instructor before submitting an initial commission application to the Department.

History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.

18 NCAC 07C .0302 is proposed for adoption as follows:

18 NCAC 07C .0302 NOTARY COURSES TAKEN BY FORMERLY COMMISSIONED NOTARIES

A formerly commissioned notary who fails to be recommissioned within 12 months of the expiration of the notary's former commission and who seeks recommissioning shall successfully complete a notary course taught by a certified notary instructor.

History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.

18 NCAC 07C .0303 is proposed for adoption as follows:

18 NCAC 07C .0303 PRESENTATION OF SATISFACTORY EVIDENCE OF IDENTITY IN CONNECTION WITH NOTARY COURSE

A commission applicant who is not personally known to the certified notary instructor shall present satisfactory evidence of identity to the notary instructor:

- (1) before the course begins;
- (2) before the instructor signs the application; and
- (3) upon request of the instructor at any other time during the course.

History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.

18 NCAC 07C .0304 is proposed for adoption as follows:

18 NCAC 07C .0304 SATISFACTORY EVIDENCE PRESENTED TO INSTRUCTOR

The satisfactory evidence of identity presented to a certified notary instructor pursuant to Rule .0303 of this Section shall match the applicant's name for use on a notary public commission.

History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.

18 NCAC 07C .0305 is proposed for adoption as follows:

18 NCAC 07C .0305 RETESTING

A notary applicant who fails the notary course exam and who wishes to be commissioned as a notary public may retake the exam if:

- (1) the institution at which the course is taught permits retesting; and
- (2) the retest is taken within 30 days of the date of the exam failure.

*History Note: Authority 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0401 is proposed for amendment as follows:

18 NCAC 07C .0401 APPOINTMENT

~~(a) Upon determination that an applicant has complied with all requirements of the Act and this Subchapter, the Director~~ The Department shall appoint or reappoint ~~the an~~ applicant to the office of notary public after reviewing the application submitted by the applicant and determining that: ~~and issue a commissioning certificate.~~

- (1) the application is accepted; and
- (2) the applicant is qualified to be appointed pursuant to N.C. Const. Art. VI, Sec. 8, Chapter 10B of the General Statutes, and the Rules in this Chapter.

~~(b) The Division shall send the commissioning certificate to the Register of Deeds in the county of commissioning.~~

~~(c) The Division shall send the appointee notice that:~~

- ~~(1) The commissioning certificate has been issued; and~~
- ~~(2) The appointee shall appear within 45 days of the commissioning date to take the oath of office before the Register of Deeds in the county of commissioning.~~

*History Note: Authority G.S. 10B-2; 10B-4; 10B-5; 10B-10; 10B-11; 10B-14(f);
Eff. April 1, 2007;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from ~~18 NCA 07B .0501~~ 18 NCAC 07B .0501 Eff. June 1, ~~2023~~; 2023;

Amended Eff. July 1, 2024.

18 NCAC 07C .0402 is proposed for adoption as follows:

18 NCAC 07C .0402 ISSUANCE OF CERTIFICATES

The Department shall provide:

- (1) to the Register of Deeds in the county of the notary's commissioning;

- (a) a certificate of appointment that includes the appointee’s full legal name and the commission name of the appointee; and
- (b) a commission certificate in the commission name of the appointee to be used by the Register of Deeds to document that the notary oath has been administered to the appointee; and
- (2) a duplicate commission certificate to a notary public, upon request to the Department.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0403 is proposed for adoption as follows:

18 NCAC 07C .0403 NOTICE TO APPOINTEE

The Department shall send the appointee notice that:

- (1) the certificate of appointment has been issued; and
- (2) the appointee shall appear before the Register of Deeds in the county of commissioning and take the oath of office within 45 days of the certificate of appointment issuance date.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0404 is proposed for amendment as follows:

18 NCAC 07C .0404 ~~NO BACK-DATING~~ COMMISSION CERTIFICATE

~~A commissioning certificate shall not be back-dated.~~

A commission certificate:

- (1) shall not be valid until the oath of office has been taken; and
- (2) shall include:
 - (a) the appointee’s name for use on a notary public commission;
 - (b) the county of commissioning;
 - (c) the beginning date of the commission; and
 - (d) the expiration date of the commission.

*History Note: Authority G.S. 10B-4; ~~10B-14(f)~~;
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;*

*Transferred from 18 NCAC 07B .0502(a) Eff. June 1, 2023- 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07C .0405 is proposed for amendment as follows:

18 NCAC 07C .0405 SATISFACTORY EVIDENCE OF IDENTITY

~~(a)~~ Before taking the oath of office, an appointee ~~shall~~ shall:

- (1) present satisfactory evidence matching the appointee's name on the certificate of appointment to the Register of Deeds, assistant Register of Deeds, or deputy Register of Deeds who will administer the oath of office; or satisfactory evidence of the appointee's identity as set out in G.S. 10B-3(22).
- (2) be personally known to the Register of Deeds, assistant Register of Deeds, or deputy Register of Deeds who will administer the oath of office.

~~(b) The Register of Deeds shall document the type of evidence provided by the appointee on the form provided by the Department.~~

~~(c) After administering the oath of office the Register of Deeds shall deliver the commissioning certificate to the notary public.~~

*History Note: Authority G.S. 10B-2; 10B-3(22); 10B-4; 10B-9; 10B-10; 10B-11; 10B-14(f);
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0503 Eff. June 1, 2023- 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07C .0406 is proposed for adoption as follows:

18 NCAC 07C .0406 REGISTER OF DEEDS

After administering the oath of office, the Register of Deeds, assistant Register of Deeds, or deputy Register of Deeds shall:

- (1) require that the notary public sign the certificate of appointment;
- (2) sign and date the certificate of appointment;
- (3) record the certificate of appointment as required by G.S. 10B-10(c);
- (4) deliver the commission certificate to the notary public; and
- (5) deliver notice to the Department as required by G.S. 10B-10(d).

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07C .0407 is proposed for adoption as follows:

18 NCAC 07C .0407 PERFORMING TRADITIONAL NOTARIAL ACTS

No individual may perform a notarial act unless the individual is in possession of a valid commission certificate.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07C .0409 is proposed for amendment as follows:

18 NCAC 07C .0409 TERM OF ~~OFFICE~~ COMMISSION

~~(a) A notary's commission or recommission shall not be effective until the oath of office has been administered.~~

~~(b) A notary's five year term of office begins on~~ shall be calculated from ~~the date on the commissioning certificate.~~
an application is accepted or the day immediately following the expiration date of a commission, whichever is later.

History Note: Authority G.S. 10B-4; 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0505 Eff. June 1, 2023- 2023;

Amended Eff. July 1, 2024.

18 NCAC 07C .0410 is proposed for adoption as follows:

18 NCAC 07C .0410 TERM OF REAPPOINTMENT COMMISSION

A recommissioning notary's five year term shall begin on the day following the expiration of the existing commission if:

- (1) the application for reappointment has been accepted before the expiration of the existing commission; and
- (2) the notary takes the oath of office for recommissioning within 45 days of the issuance date on the certificate of appointment.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07C .0411 is proposed for adoption as follows:

18 NCAC 07C .0411 NOTARIAL ACTS PROHIBITED DURING GAPS BETWEEN COMMISSION TERMS

A notary shall not perform a notarial act after the expiration of the notary's commission until the notary has been reappointed and has taken the oath for a subsequent commission.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0502 is proposed for amendment as follows:

18 NCAC 07C .0502 LATE APPLICATION

~~An~~ A commission applicant for an initial appointment who applies submits an application more than three months after ~~compliance with G.S. 10B-8(a)~~ successfully completing the notary course shall

- (1) ~~Comply~~ comply again with G.S. 10B-8(a); the requirements for initial appointment in G.S. 10B-6 and the Rules in this Subchapter.
- (2) ~~Submit an application for initial appointment; and~~
- (3) ~~Pay the application fee.~~

*History Note: Authority G.S. 10B-4; 10B-8; 10B-14(f);
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0302(b) Eff. June 1, ~~2023~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07C .0504 is proposed for amendment as follows:

18 NCAC 07C .0504 APPLICATION AFTER ~~REAPPOINTMENT~~ RECOMMISSIONING DENIAL BASED ON FAILING TEST EXAM

An applicant for ~~reappointment~~ recommissioning whose application is denied due to failure to pass the ~~reappointment~~ recommissioning test exam within the time frame established in Rule .0605 of this Subchapter may reapply ~~by~~ by complying again with the requirements for ~~reappointment~~ recommissioning in G.S. 10B-11 and the Rules in this Subchapter.

- (1) ~~Complying with G.S. 10B-8(a);~~
- (2) ~~Submitting an application for reappointment; and~~

~~(3) Paying the application fee.~~

History Note: Authority G.S. ~~10B-2; 10B-4; 10B-5; 10B-6; 10B-8; 10B-13; 10B-14(f);~~

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0403 Eff. June 1, ~~2023; 2023;~~

Amended Eff. July 1, 2024.

18 NCAC 07C .0505 is proposed for amendment as follows:

18 NCAC 07C .0505 ~~FAILURE TO TAKE TIMELY OATH~~ APPLICATION FOR RECOMMISSIONING WITHIN TWELVE MONTHS OF COMMISSION EXPIRATION

~~(a) An appointee who fails to take the oath of office within 45 days of the commissioning certificate date may reapply for reappointment.~~

~~(b) Reapplication within one year of commission date. If an appointee seeks reappointment more than 45 days and less than one year after the commissioning certificate date, the appointee shall:~~

~~(1) Apply for reappointment;~~

~~(2) Submit another application fee; and~~

~~(3) Pass the reappointment test.~~

~~(c) Reapplication one year or more after commissioning certificate date. If an appointee seeks reappointment one year or more after the commissioning certificate date, the appointee shall:~~

~~(1) Comply with the requirements of G.S. 10B-8(a);~~

~~(2) Apply for reappointment; and~~

~~(3) Submit another application fee.~~

A notary may seek recommissioning by complying with G.S. 10B-11 and the Rules in this Subchapter if:

(1) the notary's commission has expired; and

(2) less than twelve months have elapsed since the expiration of the prior commission.

History Note: Authority G.S. 10B-4; 10B-11; 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0504 Eff. June 1, ~~2023; 2023;~~

Amended Eff. July 1, 2024.

18 NCAC 07C .0506 is proposed for adoption as follows:

18 NCAC 07C .0506 RECOMMISSIONING EDUCATIONAL REQUIREMENT

A notary seeking recommissioning pursuant to Rule .0505 of this Section need not attend a notary course.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0507 is proposed for adoption as follows:

**18 NCAC 07C .0507 APPLICATION FOR RECOMMISSIONING MORE THAN TWELVE MONTHS
AFTER COMMISSION EXPIRATION**

If an applicant seeks recommissioning one year or more after the expiration of a prior commission, the applicant shall:

- (1) comply with the requirements of G.S. 10B-8(a);
- (2) apply for appointment using the form described in 18 NCAC 07B .0407; and
- (3) submit another application fee.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0508 is proposed for adoption as follows:

18 NCAC 07C .0508 CANCELLATION OF COMMISSION

If the Department has not received notice from the Register of Deeds that an appointee took the oath within 45 days of the certificate of appointment issuance date, the Department shall:

- (1) cancel the commission; and
- (2) notify the appointee of the cancellation.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0509 is proposed for adoption as follows:

18 NCAC 07C .0509 RESCIND CANCELLATION OF CERTIFICATE OF APPOINTMENT

If a notary presents the Department with the notary's valid commission certificate, the Department shall rescind the cancellation of the notary's commission previously made pursuant to Rule .0508 of this Section.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0510 is proposed for adoption as follows:

18 NCAC 07C .0510 CONFIRMATION OF NOTARY STATUS

The Department shall confirm a notary public's commission status upon written request.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0601 is proposed for amendment as follows:

SECTION .0600 – STEPS FOR REAPPOINTMENT RECOMMISSIONING

18 NCAC 07C .0601 APPLICATION STEPS FOR ~~REAPPOINTMENT~~ RECOMMISSIONING

~~Application for Reappointment.~~

~~(1) An applicant for A notary seeking reappointment recommissioning within the time permitted by G.S. 10B-11 and the Rules in this Subchapter shall submit an the reappointment recommissioning application for reappointment. specified in 18 NCAC 07B .0409.~~

~~(2) — Applicants for reappointment may apply on line on the Department's website.~~

*History Note: Authority G.S. 10B-4; 10B-11; 10B-14(f);
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0401(a) Eff. June 1, 2023- 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07C .0602 is proposed for amendment as follows:

18 NCAC 07C .0602 ~~TIMING OF APPLICATION FOR~~ METHOD OF TAKING REAPPOINTMENT RECOMMISSIONING EXAM

~~Timing of Application for Reappointment. An applicant for The reappointment recommissioning exam shall apply for reappointment no earlier than 10 weeks before the expiration date of the applicant's commission. be taken on the Department's website.~~

*History Note: Authority G.S. ~~10B-4; 10B-11; 10B-14(f)~~;
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
Transferred from 18 NCAC 07B .0401(b) Eff. June 1, ~~2023~~; 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07C .0603 is proposed for amendment as follows:

**18 NCAC 07C .0603 COURSE AS ALTERNATIVE TO REAPPOINTMENT RECOMMISSIONING
TEST EXAM**

- ~~(a) Attorneys who are licensed members of the North Carolina State Bar do not have to take a reappointment test.~~
~~(b) The An applicant for reappointment recommissioning test may be taken either: comply with the Rules in Section .0300 of this Subchapter in lieu of taking or retaking the recommissioning exam.~~
- ~~(1) — By completing the on-line test on the Department's website;~~
 - ~~(2) — By completing a paper test at the Department's offices at a time based upon:
 - ~~(A) — The availability of the Division's staff; and~~
 - ~~(B) — The availability of the applicant; or~~~~
 - ~~(3) — By completing a paper test at a time and place mutually agreed upon by the applicant and a certified notary public instructor.~~
- ~~(c) An applicant for reappointment shall have 30 minutes to complete the test. An applicant needing accommodation pursuant to the Americans with Disabilities Act shall contact the Division and request the accommodation.~~
~~(d) If an applicant fails the reappointment test, the applicant may re take the test no more than two times within 30 days of the date on which the test is first taken.~~
~~(e) If the applicant fails to pass the reappointment test within 30 days, the applicant shall not be reappointed and the application shall be denied.~~

*History Note: Authority G.S. ~~10B-2; 10B-4; 10B-8; 10B-14(f); 168A-7; 42 USC 12132~~;
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
Transferred from 18 NCAC 07B .0402 Eff. June 1, ~~2023~~; 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07C .0604 is proposed for adoption as follows:

18 NCAC 07C .0604 EXAM LENGTH AND PASSING SCORE

A notary seeking recommissioning and taking the recommissioning exam shall:

- (1) have 30 minutes to complete the recommissioning exam; and
- (2) achieve a passing score of at least 80 percent on the exam.

History Note: Authority G.S.10B-4;
Eff. July 1, 2024.

18 NCAC 07C .0605 is proposed for adoption as follows:

18 NCAC 07C .0605 RETAKING RECOMMISSIONING EXAM AFTER FAILURE

If an applicant for recommissioning fails the recommissioning exam, the applicant may take the exam up to 2 additional times within 30 days of the date on which the exam is first taken.

History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.

18 NCAC 07C .0606 is proposed for adoption as follows:

18 NCAC 07C .0606 FAILURE TO PASS EXAM WITHIN 30 DAYS

If a notary seeking recommissioning fails to pass the recommissioning or notary course exam within 30 days of the date on which the exam was first taken, the application shall be denied.

History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.

18 NCAC 07C .0607 is proposed for adoption as follows:

18 NCAC 07C .0607 INDIVIDUAL WHO FAILS TO SEEK RECOMMISSIONING WITHIN ONE YEAR

An individual who fails to seek recommissioning within one year of commission expiration may be commissioned as a notary only upon completion of all requirements for an initial notary commission.

History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.

18 NCAC 07C .0701 is proposed for adoption as follows:

SECTION .0700 – ~~RECORDS OF ELECTRONIC NOTARIAL ACTS RESERVED~~ ATTORNEY NOTARIES

18 NCAC 07C .0701 ATTORNEY APPLICATION FOR INITIAL APPOINTMENT

Notary applicants for initial appointment who are licensed members of the North Carolina State Bar shall:

- (1) maintain a personal copy of the most recent notary public manual approved by the Department; and
- (2) either:
 - (a) submit a completed notarial commission application form described in 18 NCAC 07B .0407 without:
 - (i) attending the notary course;
 - (ii) passing the notary course exam; and
 - (iii) obtaining a signature from a notary instructor; or
 - (b) comply with the Rules in this Subchapter for an individual who is not a licensed member of the State Bar.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0702 is proposed for adoption as follows:

18 NCAC 07C .0702 RECOMMISSIONING OF ATTORNEY NOTARIES

Licensed members of the North Carolina State Bar who are commissioned notaries may apply for recommissioning by complying with the Rules in this Subchapter, provided that licensed members of the State Bar need not take any course or exam prior to recommissioning.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0703 is proposed for adoption as follows:

18 NCAC 07C .0703 ATTORNEYS WHO FAIL TO TAKE NOTARIAL OATH TIMELY

A licensed member of the North Carolina State Bar who fails to take the oath of office within 45 days of the issuance date on a certificate of appointment or reappointment shall submit a new application and fee in compliance with the Rules in this Subchapter.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07C .0704 is proposed for adoption as follows:

18 NCAC 07C .0704 ATTORNEYS SEEKING REGISTRATION OR REREGISTRATION AS ELECTRONIC NOTARIES

A licensed member of the North Carolina State Bar who applies to be registered or reregistered as an electronic notary shall:

- (1) comply with the Rules in Subchapter 07F of this Chapter;
- (2) successfully complete the electronic notary course and exam;
- (3) possess a current and personal copy of the North Carolina notary manual applicable to electronic notaries; and
- (4) submit an electronic notary application and fee.

History Note: Authority G.S. 10B-4; 10B-126; 10B-134.21;
Eff. July 1, 2024.

APPENDIX III: PROPOSED 18 NCAC 07D RULES

18 NCAC 07D .0101 is proposed for adoption as follows:

SECTION .0100 – GENERAL OBLIGATIONS

18 NCAC 07D .0101 SCOPE

The Rules in this Subchapter set forth the continuing obligations of notaries public.

History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.

18 NCAC 07D .0102 is proposed for adoption as follows:

18 NCAC 07D .0102 RESPONSE TO DEPARTMENT REQUESTS

A notary shall respond to a request by the Department for information, records, or an interview relating to qualifications to be a notary or performance of notarial acts:

- (1) in the manner and within the time period set by the Department; or
- (2) as provided in an extension granted pursuant to Rule .0104 of this Section.

History Note: Authority G.S. 10B-4; 10B-126(f); 10B-134.17(c);

Eff. July 1, 2024.

18 NCAC 07D .0103 is proposed for adoption as follows:

18 NCAC 07D .0103 EXTENSION REQUEST TO DEPARTMENT

(a) A notary may submit a request for an extension of time to respond to a Department request pursuant to Rule .0102 of this Section.

(b) A request pursuant to Paragraph (a) of this Rule shall:

- (1) be for an extension lasting no more than 30 days; and
- (2) include the reason an extension is necessary.

History Note: Authority G.S. 10B-4; 10B-126(f); 10B-134.17(c);

Eff. July 1, 2024.

18 NCAC 07D .0104 is proposed for adoption as follows:

18 NCAC 07D .0104 DEPARTMENT RESPONSE TO EXTENSION REQUEST

When deciding whether to grant an extension request, the Department shall consider the factors listed in 18 NCAC 07B .0108.

History Note: Authority G.S. 10B-4; 10B-126(f); 10B-134.17(c);

Eff. July 1, 2024.

18 NCAC 07D .0301 is proposed for amendment as follows:

18 NCAC 07D .0301 GENERAL NOTICE OF CHANGE OBLIGATIONS

~~(a) A notary shall notify the Director of changes in name, address or county as required by G.S. 10B-50, 10B-51, and 10B-53.~~

~~(b) A notary shall notify the Director that the notary has been convicted of a crime as set out in G.S. 10B-3(9) and Rule .0201 of this Subchapter, within 45 days of the date on which judgment is entered.~~

~~(c) A notary shall use the form specified in 18 NCAC 07B .0410 to notify the Director of changes in:~~ Department within 45 calendar days of changes in:

- ~~(1) Residency or place of work to a location outside the State of North Carolina;~~
- ~~(2) Residency status in the United States;~~
- ~~(3) Ability to speak, read and write the English language;~~
- ~~(4) A finding or admission of liability in a civil lawsuit based upon the notary's deceit;~~

- ~~(5) — Revocation, suspension, restriction, or denial of a professional license by the State of North Carolina or any other state or nation;~~
- ~~(6) — A finding that the notary has engaged in official misconduct, whether or not disciplinary action resulted;~~
- ~~(7) — A finding or a charge that a notary has knowingly used false or misleading advertising in which the notary was represented as having powers, duties, rights or privileges that a North Carolina notary, by law, does not possess; or~~
- ~~(8) — The North Carolina State Bar or the courts of North Carolina or the bar or courts of any other state or nation finding that the notary has engaged in the unauthorized practice of law.~~

- (1) name;
- (2) mailing or street address;
- (3) county of commission;
- (4) residential or mobile telephone number;
- (5) personal or business email address;
- (6) status as a resident of the United States;
- (7) ability to speak, read and write in the English language; or
- (8) employer regarding:
 - (a) change of employer;
 - (b) change in employer business name. NOTE: A business changing from ABC, Inc. to ABC, LLC is an example of a change in employer business name;
 - (c) change in employer street or mailing address; or
 - (d) change in employer telephone number.

~~(d) A notary shall respond within the time period set out in a request from the Director for information, including a request for information regarding wrongful notarial acts alleged to have been performed by the notary.~~

History Note: Authority G.S. ~~10B-4; 10B-14(f);~~

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0107 Eff. June 1, ~~2023; 2023;~~

Amended Eff. July 1, 2024.

18 NCAC 07D .0302 is proposed for adoption as follows:

18 NCAC 07D .0302 NOTICE TO DEPARTMENT OF PENDING CRIMINAL CHARGES

A notary shall notify the Department within 45 calendar days of a previously unreported pending criminal charge against the notary by complying with 18 NCAC 07B .0505.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07D .0303 is proposed for adoption as follows:

18 NCAC 07D .0303 NOTICE TO DEPARTMENT OF CRIMINAL CHARGE DISPOSITION

Within 45 calendar days of the date of the final disposition of a criminal charge against a notary, the notary shall notify the Department by complying with 18 NCAC 07B .0506.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07D .0304 is proposed for adoption as follows:

18 NCAC 07D .0304 NOTICE TO DEPARTMENT OF FINDINGS OR ADMISSIONS OF DECEIT

A notary public shall use the form specified in 18 NCAC 07B .0413 to notify the Department within 45 calendar days of a finding or admission of fault or liability in a civil lawsuit regarding the notary's activity as a notary public based on the applicant's or notary's deceit.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07D .0305 is proposed for adoption as follows:

18 NCAC 07D .0305 NOTICE TO DEPARTMENT OF CHANGES TO PROFESSIONAL LICENSES, NOTARY COMMISSIONS, OR PUBLIC OFFICES

A notary public shall use the form specified in 18 NCAC 07B .0412 to notify the Department within 45 calendar days of an issuance, a denial, a revocation, a suspension, a restriction, or a resignation of the notary's professional license, notary commission, or public office.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07D .0306 is proposed for adoption as follows:

18 NCAC 07D .0306 NOTICE TO DEPARTMENT OF OFFICIAL MISCONDUCT

A notary public shall use the form specified in 18 NCAC 07B .0413 to notify the Department within 45 calendar days of a finding that the notary has engaged in official misconduct and shall provide the Department with the documents and information required by 18 NCAC 07C .0208.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07D .0307 is proposed for adoption as follows:

18 NCAC 07D .0307 NOTICE TO DEPARTMENT OF FALSE OR MISLEADING ADVERTISING

A notary public shall use the form specified in 18 NCAC 07B .0413 to notify the Department within 45 calendar days of a finding or a charge that the notary has knowingly used false or misleading advertising that represents that the notary has powers, duties, rights, or privileges the notary does not possess by law.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07D .0308 is proposed for adoption as follows:

18 NCAC 07D .0308 NOTICE TO DEPARTMENT REGARDING UNAUTHORIZED PRACTICE OF LAW

A notary public shall use the form specified in 18 NCAC 07B .0413 to notify the Department within 45 calendar days of a finding by a court or the attorney-licensing agency of any state, federally recognized tribe, or nation, that the notary has engaged in the unauthorized practice of law.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07D .0402 is proposed for adoption as follows:

SECTION .0400 CONFIDENTIAL INFORMATION

18 NCAC 07D .0402 DISCLOSURE OF CONFIDENTIAL INFORMATION GENERALLY

A notary may disclose confidential information in response to:

- (1) a valid subpoena;
- (2) a court order;
- (3) a warrant;

- (4) a written request from the Department; or
- (5) a written request from all principals in a specific notarial transaction.

*History Note: Authority G.S. 10B-4; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.*

APPENDIX IV: PROPOSED 18 NCAC 07E RULES

18 NCAC 07E .0101 is proposed for amendment as follows:

18 NCAC 07E .0101 INSTRUCTOR CERTIFICATION – SCOPE AND DEFINITIONS

- (a) ~~Except as otherwise provided in G.S. 10B-14 and this Section, notaries public shall comply with all~~
This Subchapter sets the requirements for certification or and recertification as a notary public instructor as set forth in this Chapter, and for requesting that the Department offer certified notary instructor courses.
- (b) ~~A notary public who is a licensed member of the North Carolina State Bar shall comply with all requirements of this Chapter in order to obtain certification or recertification as a notary public instructor. For purposes of this Subchapter:~~
 - (1) “Active experience as a notary” means either:
 - (A) performance in North Carolina of at least 1 notarial act in each of the immediately preceding 12 months; or
 - (B) active experience as a certified notary instructor.
 - (2) “Active experience as a certified notary instructor” means teaching at least two notary courses for each of the two 12-month periods during which an instructor holds an instructor certification.
 - (3) “Affidavit of moral character form” means the form specified in 18 NCAC 07B .0408.
 - (4) “Eligible institution” or “institution” means:
 - (A) a community college established pursuant to G.S. 115D-4;
 - (B) a constituent institution of the University of North Carolina established pursuant to G.S. 116-4;
 - (C) an eligible private postsecondary institution as defined by G.S. 116-280(3); or
 - (D) a public school system authorized to conduct adult education programs pursuant to G.S. 115C-231.
 - (5) “Instructor applicant” means an applicant for initial certification or for recertification as a notary instructor.
 - (6) “Instructor application form” means the form specified in 18 NCAC 07B .0414.
 - (7) “Instructor course” means the initial notary public instructor certification course and the recertification course.
 - (8) “Instructor recertification application form” means the form specified in 18 NCAC 07B .0418.

- (9) “Recommendation form” means the form specified in 18 NCAC 07B .0415.
- (10) “Successfully complete” means, when used to describe an instructor applicant, that an instructor applicant has complied with Chapter 10B and the rules in this Subchapter and has:
- (A) presented satisfactory evidence of identity;
 - (B) attended a notary instructor certification or recertification course; and
 - (C) achieved passing grades on the written and oral instructor certification or recertification course exams.

History Note: Authority G.S. 10B-4; ~~10B-8~~; 10B-14; 10B-134.21;
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0701 Eff. June 1, ~~2023~~; 2023;
Amended Eff. July 1, 2024.

18 NCAC 07E .0102 is proposed for adoption as follows:

18 NCAC 07E .0102 CONDITIONS FOR BECOMING NOTARY INSTRUCTOR

A commissioned notary may become a notary instructor upon meeting the following conditions:

- (1) an eligible institution nominates the notary to the Department by written request pursuant to Rule .0103 of this Section; and
- (2) the Department determines that the nominee meets the criteria in G.S. 10B-14 and the Rules in this Subchapter.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0103 is proposed for adoption as follows:

18 NCAC 07E .0103 NOMINATION BY ELIGIBLE INSTITUTION

An eligible institution may nominate a notary to be certified as a notary instructor by:

- (1) submitting a written request to the Department addressed to the Director; and
- (2) including in its request:
 - (a) the full name of the institution;
 - (b) a request that the nominated notary be enrolled in an instructor course;
 - (c) the name of the proposed notary instructor as it appears on the notary’s commission;

- (d) a statement that the nominated instructor has consented to be nominated and has been directed to contact the Department to request an application form;
- (e) the name, title, signature, and contact information for the person submitting the request;
- (f) the name and contact information for the notary course administrator of the institution, if different from the person submitting the request;
- (g) the date of the request; and
- (h) a statement that upon certification as a notary instructor, the nominee will be employed by the institution as a certified notary instructor.

*History Note: Authority: G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07E .0104 is proposed for amendment as follows:

18 NCAC 07E .0104 FEES FEE - EXEMPTION AND FAILURE TO PAY

- (a) ~~The fee required by G.S. 10B-14 for certification and recertification as a notary public instructor shall be paid in accordance with Rule .0105 of this Chapter.~~
- (b) ~~A person asserting that he or she is not required to submit a~~ An instructor applicant who asserts exemption from the fee pursuant to G.S. 10B-14(c) shall include verification certify on the instructor certification or recertification application form that as of the date of application application, the applicant is currently employed as a register of deed, clerk of court or is the Director or an authorized employee of the Secretary as set forth in G.S. 10B-14(e). as:
 - (1) a register of deeds;
 - (2) a clerk of court; or
 - (3) an employee of the Department and is authorized by the Secretary as set forth in G.S. 10B-14(c).
- (c) ~~(b) The Secretary Department may shall~~ refuse to administer the notary public instructor certification examination exam to an applicant who has failed to pay the fee required for certification or recertification as a notary public instructor before the examination exam date.

*History Note: Authority G.S. 10B-4; ~~10B-8;~~ 10B-14; 10B-134.21;
Eff. January 1, ~~2008;~~ 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0705 Eff. June 1, ~~2023.~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07E .0105 is proposed for amendment as follows:

18 NCAC 07E .0105 ~~INSTRUCTOR CERTIFICATION - GENERAL~~ REQUIREMENTS

~~Applicants~~ An applicant for initial notary public instructor certification shall:

- (1) be nominated by an eligible institution;
- ~~(1)(2)~~ Complete complete and submit the Department's notary public instructor application form specified in 18 NCAC 07B .0414; and submit it to the Department;
- ~~(2)(3)~~ Comply with the requirements of Rule .0708 through Rule .0711 of this Chapter regarding verification of 12 months of experience; provide proof of active experience as a notary using any combination of the methods set out in Section .0200 of this Subchapter;
- ~~(3)(4)~~ Comply with the requirements of Rule .0712 of this Chapter regarding recommendations; submit three recommendations supporting the applicant from nonfamily members in compliance with Rule .0112 of this Section;
- ~~(4)~~ Comply with the requirements of Rule .0713 of this Chapter regarding an oral presentation of a notary public course curriculum lesson;
- (5) have read:
 - (a) Chapter 10B of the General Statutes;
 - (b) the Rules in this Chapter; and
 - (c) the current edition of the approved notary manual for traditional notaries; and
- ~~(5)(6)~~ Make a passing grade on the final examination in successfully complete the notary public instructor certification course as set forth in Rule .0714 of this Chapter; and course.
- ~~(6)~~ Except as otherwise provided in G.S. 10B-14(e) and Rule .0705 of this Chapter, pay the required fee.

*History Note: Authority G.S. ~~10B-4; 10B-8; 10B-14; 10B-134.21;~~
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0702 Eff. June 1, 2023- 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07E .0106 is proposed for amendment as follows:

**18 NCAC 07E .0106 ~~TIMING~~ MANDATORY DEPARTMENT DENIAL OF INSTRUCTOR
CERTIFICATION APPLICATION**

The Department shall deny a ~~An application for~~ notary public instructor certification or recertification application shall not be submitted to the Division during the period of any sanction issued by the Division. if any of the following apply:

- (1) the applicant has not held a notary commission for at least one calendar year;

- (2) the applicant does not have active experience as a notary;
- (3) an investigation is pending into the applicant's performance of the duties as a notary public, an electronic notary public, or a notary public instructor;
- (4) the applicant has not completed the conditions of any disciplinary action issued by the Department;
or
- (5) any reason for which a notary commission may be denied pursuant to Chapter 10B of the General Statutes or the Rules in this Chapter.

*History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0703 Eff. June 1, ~~2023~~; 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07E .0107 is proposed for repeal as follows:

18 NCAC 07E .0107 DEPARTMENT REJECTION OF APPLICATIONS

*History Note: Authority G.S. 10B-8; 10B-14;
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0704 Eff. June 1, ~~2023~~; 2023;
Repealed Eff. July 1, 2024.*

18 NCAC 07E .0108 is proposed for amendment as follows:

18 NCAC 07E .0108 VERIFICATION THAT INSTRUCTOR APPLICANT CONTINUES TO MEET REQUIREMENTS FOR A NOTARY COMMISSION

An instructor applicant ~~for notary public instructor certification or recertification~~ shall verify ~~that~~: under oath on the instructor application form specified in 18 NCAC 07B .0414 that:

- (1) the information on the application is true and complete; and
- ~~(1)(2)~~ the applicant continues to meet each of the qualifications for a notary commission in G.S. 10B-5 and 10B-7; and will perform the responsibilities of an instructor as set out in Chapter 10B of the General Statutes and the Rules in this Chapter to the best of the applicant's ability.

- ~~(2) With regard to changes requiring notification to the Division pursuant to Rule .0107 of this Chapter, verify:~~
- ~~(a) That there have been no changes requiring notification to the Department;~~
 - ~~(b) That there have been changes requiring notification to the Department and that the applicant has made all required notifications; or~~
 - ~~(c) That there have been changes requiring notification to the Department and the applicant has not previously made the required notification to the Department but is including the notification with the application.~~

*History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0706 Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07E .0109 is proposed for adoption as follows:

18 NCAC 07E .0109 CHANGE IN INSTRUCTOR’S ELIGIBLE INSTITUTION

Within 45 days of a change in the eligible institution listed on the notary instructor application, an instructor applicant or certified notary instructor shall notify the Department in writing of:

- (1) the change in eligible institution;
- (2) the date that the change is effective; and
- (3) the name and contact information for the notary course administrator at the eligible institution.

For purposes of this Rule, “change in the eligible institution” means:

- (1) that the applicant or certified notary instructor will not teach at the institution named in the application; or
- (2) that the applicant or certified notary instructor will teach at another institution.

*History Note Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07E .0111 is proposed for repeal as follows:

18 NCAC 07E .0111 OTHER VERIFICATIONS

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0707 Eff. June 1, ~~2023~~; 2023;

Repealed Eff. July 1, 2024.

18 NCAC 07E .0112 is proposed for amendment as follows:

18 NCAC 07E .0112 RECOMMENDATIONS

~~A An notary public instructor certification applicant shall submit include three recommendations on the Division's recommendation form from persons unrelated to the applicant by birth, marriage or adoption. individuals who are not family members of the applicant. The recommendations shall be submitted on the Department's recommendation form specified in 18 NCAC 07B .0415.~~

For purposes of this Rule, either the applicant or the individual making the recommendation may submit the recommendation form to the Department.

History Note: Authority G.S. 10B-4; ~~10B-8~~; 10B-14; 10B-134.21;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0712 Eff. June 1, ~~2023~~; 2023;

Amended Eff. July 1, 2024.

18 NCAC 07E .0113 is proposed for adoption as follows:

18 NCAC 07E .0113 INSTRUCTORS AS REGISTERED ELECTRONIC NOTARIES

An instructor applicant shall:

- (1) be a registered electronic notary public at the time of application; or
- (2) comply with all requirements for registration as an electronic notary within three months of successfully completing the instructor certification course.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07E .0201 is proposed for amendment as follows:

SECTION .0200 – ~~NOTARY~~ INSTRUCTOR APPLICANT VERIFICATION OF EXPERIENCE

18 NCAC 07E .0201 EVIDENCE OF ~~MINIMUM~~ ACTIVE EXPERIENCE AS A NOTARY

~~(a) For purposes of these Rules a notarial act is an act set out in G.S. 10B-20(a).~~

~~(b) For purposes of demonstrating the experience required by G.S. 10B-14(a)(2), an applicant shall show evidence of performing notarial acts during each month of the 12 months immediately preceding the application to become a certified notary instructor.~~

~~(c) Evidence of performance of notarial acts shall be presented by one of the methods set forth in Rule .0709 through Rule .0711 of this Chapter.~~

Active experience as a notary shall be established by the applicant pursuant to the Rules in this Section by presenting any combination of the following evidence:

- (1) journal entries;
- (2) employer affidavits; or
- (3) an alternative method as set out in the Rules in this Section.

*History Note: Authority G.S. 10B-4; ~~10B-8; 10B-14; 10B-134.21;~~
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0708 Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07E .0202 is proposed for adoption as follows:

18 NCAC 07E .0202 JOURNAL AS EVIDENCE OF ACTIVE EXPERIENCE

An instructor applicant may present evidence of active experience as a notary by submitting:

- (1) a complete copy of a journal for the year immediately preceding the date on which the application is submitted; and
- (2) an affidavit under oath that the entries in the journal submitted are accurate.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07E .0204 is proposed for amendment as follows:

18 NCAC 07E .0204 MINIMUM CONTENTS OF NOTARY JOURNAL SUBMITTED AS EVIDENCE OF EXPERIENCE

~~(a) An applicant for notary public instructor certification may submit a A journal of notarial acts submitted as evidence of active experience performing notarial acts; as a notary shall comply with 18 NCAC 07I.~~

~~(b) The submitted journal shall, at a minimum, include:~~

- ~~(1) The dates on which notarial acts were performed;~~
- ~~(2) The type of notarial act performed; and~~
- ~~(3) The name(s) of the party(ies) for whom each notarial act was performed.~~

~~(c) The applicant shall submit an affidavit verifying that the information in the journal submitted in compliance with this Rule is true and correct.~~

History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0709 Eff. June 1, ~~2023;~~ 2023;

Amended Eff. July 1, 2024.

18 NCAC 07E .0205 is proposed for adoption as follows:

18 NCAC 07E .0205 EMPLOYER AFFIDAVIT AS EVIDENCE OF EXPERIENCE

An employer affidavit submitted as evidence of active experience as a notary shall be submitted on the form specified in 18 NCAC 07B .0416.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07E .0206 is proposed for adoption as follows:

18 NCAC 07E .0206 EMPLOYER AFFIDAVIT REGARDING NOTARIAL ACTS FOR EMPLOYER

An employer affidavit submitted pursuant to Rule .0205 of this Section:

- (1) shall refer to notarial acts performed for the employer; and
- (2) may refer to other notarial acts of the instructor applicant of which the employer affiant is personally aware.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07E .0207 is proposed for adoption as follows:

18 NCAC 07E .0207 EMPLOYER AFFIDAVIT MAY INCLUDE RECOMMENDATION

An employer affidavit submitted pursuant to Rule .0205 of this Section may include a recommendation from the employer pursuant to Rule .0112 of this Subchapter.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
 Eff. July 1, 2024.*

18 NCAC 07E .0209 is proposed for amendment as follows:

18 NCAC 07E .0209 SUBMITTAL OF EMPLOYER AFFIDAVIT AS EVIDENCE OF EXPERIENCE

~~(a) An applicant for notary public instructor certification may submit an affidavit from his or her employer verifying that the applicant has had experience performing notarial acts.~~

~~(b) The submitted affidavit shall, at a minimum, include the following:~~

- ~~(1) — The name of the corporation, business, individual or entity employing the applicant;~~
- ~~(2) — The full name of the person verifying the applicant's experience;~~
- ~~(3) — The authority of the person to verify the applicant's experience, including his or her title;~~
- ~~(4) — The address, telephone number and, if applicable, email address of the person verifying the applicant's experience;~~
- ~~(5) — A narrative description of the reasons the applicant has performed notarial acts while employed by the person or entity submitting the affidavit; and~~
- ~~(6) — Verification that the applicant has performed at least one notarial act during each of the 12 immediately preceding months.~~

~~(c) The submitted affidavit may also contain a recommendation pursuant to Rule .0712 of this Chapter.~~

An instructor applicant who relies upon an employer affidavit pursuant to Rule .0205 of this Section shall either submit it to the Department or have the employer affiant directly submit it to the Department.

*History Note: Authority G.S. 10B-4; ~~10B-8~~; 10B-14; 10B-134.21;
 Eff. January 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
 6, 2016;
 Transferred from 18 NCAC 07B .0710 Eff. June 1, ~~2023~~. 2023;
 Amended Eff. July 1, 2024.*

18 NCAC 07E .0212 is proposed for amendment as follows:

18 NCAC 07E .0212 ALTERNATIVE AFFIDAVITS AS EVIDENCE OF EXPERIENCE

An instructor applicant for ~~notary public instructor certification~~ may submit evidence of active experience ~~performing notarial acts as a notary other than a journal or employer affidavit, provided the evidence includes: that is not a journal or employer affidavit if:~~

- ~~(2)(1) An affidavit from the evidence consists of at least one or more affidavits from nonfamily members person unrelated to the applicant by birth, marriage or adoption which that comply with Rule .0213 of this Section and that together establishes establish that the instructor applicant has performed at least one notarial act during each of the 12 months immediately preceding the application. active experience as a notary; and~~
- ~~(1)(2) An an affidavit from the instructor applicant verifying that the applicant has performed at least one notarial act in each of the 12 immediately preceding months; and that complies with Rule .0214 of this Section.~~

History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0711 Eff. June 1, ~~2023- 2023;~~
Amended Eff. July 1, 2024.

18 NCAC 07E .0213 is proposed for adoption as follows:

18 NCAC 07E .0213 AFFIDAVITS OF EXPERIENCE FROM NONFAMILY MEMBERS

An instructor applicant who submits alternative evidence of experience pursuant to Rule .0212 of this Section shall submit an affidavit from at least one individual who is not a family member that includes:

- (1) the name of the applicant as it appears on the applicant's notary commission;
- (2) the affiant's printed name;
- (3) the affiant's address, telephone number, and email address;
- (4) a brief explanation describing how the affiant knows the applicant;
- (5) each month and year in which the affiant knows that the applicant performed at least one notarial act;
- (6) an explanation of how the affiant knows that at least one notarial act was performed during each of the months listed in response to Item (5) of this Rule;
- (7) the signature of the affiant and the date on which the affiant signed; and
- (8) a jurat certificate.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0214 is proposed for adoption as follows:

18 NCAC 07E .0214 ALTERNATIVE EVIDENCE AFFIDAVIT FROM INSTRUCTOR APPLICANT

An instructor applicant who presents alternative evidence of active experience as a notary pursuant to Rule .0212 of this Section shall submit the applicant's own affidavit consisting of:

- (1) the name of the applicant as it appears on the applicant's notary commission;
- (2) a declaration of the applicant's active experience as a notary;
- (3) an explanation for how the applicant knows that at least 1 notarial act was performed in each of the 12 months preceding the application;
- (4) the signature of the applicant and the date on which the applicant signed; and
- (5) a jurat certificate.

NOTE: To satisfy Item (3) of this Rule, the applicant might refer to a calendar with notes of notarial acts.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0301 is proposed for adoption as follows:

18 NCAC 07E .0301 INSTRUCTOR APPLICANT TO ATTEND DEPARTMENT INSTRUCTOR COURSE

An instructor applicant shall attend the entirety of, and successfully complete, a North Carolina notary instructor course approved by the Department.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0302 is proposed for amendment as follows:

18 NCAC 07E .0302 NOTARY ~~PUBLIC~~ INSTRUCTOR CERTIFICATION AND RECERTIFICATION EXAMINATIONS EXAM PASSING SCORE

- (a) ~~A passing grade score on the notary public instructor certification or recertification final examination shall be 90 percent.~~ percent or higher on each of the notary instructor certification and recertification written exams.
- (b) ~~A notary public instructor certification or recertification applicant who fails to achieve a passing grade on the final examination may apply to take the test one additional time within three months.~~

History Note: Authority G.S. 10B-4; ~~10B-8~~; 10B-14; 10B-134.21;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0714 Eff. June 1, 2023- 2023;

Amended Eff. July 1, 2024.

18 NCAC 07E .0303 is proposed for amendment as follows:

18 NCAC 07E .0303 ORAL PRESENTATION REQUIREMENT FOR INSTRUCTOR APPLICANT

~~(a) A~~ As part of the notary public instructor certification student course exam, a notary instructor applicant shall provide make an oral presentation of a section of the notary public curriculum which shall be evaluated according to the standards set forth in Paragraph (e) of this Rule. that complies with the Rules in this Section by presenting on a notary public curriculum topic selected by the applicant from a list provided by the Department.

~~(b) A passing grade on the notary public instructor certification oral presentation shall be 80 percent.~~

~~(c) The oral presentation of a notary public instructor certification student shall be graded for instructional ability using standards including the notary public instructor student's:~~

~~(1) — Voice quality (projection, articulation, speech rate);~~

~~(2) — Verbal skill (fluency and clarity);~~

~~(3) — Physical appearance and mannerisms (attire, posture, body language, eye contact, movement) to project a professional demeanor;~~

~~(4) — Professional qualities of the instructor (knowledge, self confidence, tact, enthusiasm, sensitivity);~~

~~(5) — Selection and use of training aids (use of writing surface and other aids, effective use of multimedia, transparencies, and slides, relates aids to objectives, and use of aids when scheduled);~~

~~(6) — Presentation of information in logical sequence;~~

~~(7) — Timing of presentation to allow for sufficient time for questions and discussion;~~

~~(8) — Transition of subjects with continuous progression and development of lesson;~~

~~(9) — Emphasis of key points and frequent summarization of topics to entire lesson or course and use of examples to clarify the subjects;~~

~~(10) — Frequent establishment of relevance of the topics to entire lesson or course and use of examples to clarify the subjects; and~~

~~(11) — Following the Division's notary public curriculum.~~

~~(d) A notary public instructor student who fails the oral presentation portion of the notary public instructor certification course may schedule one additional oral presentation within three months of the failure to complete the oral presentation requirement as required by Paragraph (b) of this Rule.~~

History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0713 Eff. June 1, 2023- 2023;
Amended Eff. July 1, 2024.

18 NCAC 07E .0304 is proposed for adoption as follows:

18 NCAC 07E .0304 NOTARY INSTRUCTOR ORAL PRESENTATION PASSING SCORE

The Department or its designee shall evaluate the oral presentation portion of the instructor exam on a pass-fail basis using the factors in Rules .0306 through .0312 of this Section.

History note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0306 is proposed for adoption as follows:

18 NCAC 07E .0306 FACTORS RELATING TO VOICE

An instructor applicant's oral presentation shall be evaluated on voice quality, consisting of projection, diction, pitch, and rate of speech.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0307 is proposed for adoption as follows:

18 NCAC 07E .0307 FACTORS RELATING TO VERBAL SKILL

An instructor applicant's oral presentation shall be evaluated on verbal skill, consisting of fluency, clarity, and vocabulary appropriate for the audience.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0308 is proposed for adoption as follows:

18 NCAC 07E .0308 FACTORS RELATING TO PHYSICAL APPEARANCE AND MANNERISMS

An instructor applicant's oral presentation shall be evaluated on professional appearance and mannerisms. For purposes of this Rule, "professional appearance and mannerisms" means:

- (1) attire appropriate to the adult education setting. NOTE: Professional and office casual attire are examples of appropriate attire; and
- (2) posture, body language, eye contact, and movement that projects a professional demeanor that will engage the students.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0309 is proposed for adoption as follows:

18 NCAC 07E .0309 FACTORS RELATING TO PROFESSIONAL QUALITIES OF THE INSTRUCTOR

An instructor applicant's oral presentation shall be evaluated on the applicant's professional qualities. For purposes of this Rule, "professional qualities" means the applicant's demonstration of:

- (1) knowledge of the notary course curriculum, the notary manual, Chapter 10B of the General Statutes, and the Rules in this Chapter;
- (2) projection of confidence in presenting the materials, admitting areas of uncertainty and willingness to get and provide answers;
- (3) tact and sensitivity that respects individuals while also respecting the time of the other students when responding to questions or issues that arise in the class; and
- (4) enthusiasm for the subject matter and for teaching, so that students are engaged.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0310 is proposed for adoption as follows:

18 NCAC 07E .0310 FACTORS RELATING TO SELECTION AND USE OF TRAINING AIDS

An instructor applicant's oral presentation shall be evaluated on the applicant's selection and use of training aids such as the applicable notary manuals, approved handouts, instructional videos, and classroom technology.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0311 is proposed for adoption as follows:

18 NCAC 07E .0311 FACTORS RELATING TO SEQUENCE

An instructor applicant's oral presentation shall be evaluated on the applicant's presentation of information in a logical sequence. For purposes of this Rule, "presentation of information in logical sequence" means the applicant:

- (1) follows in order the curriculum and lesson plan provided by the Department;
- (2) transitions without effort between topics; and
- (3) returns to the initial sequence after appropriately addressing the student's issue if a student raises an issue out of order.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0312 is proposed for adoption as follows:

18 NCAC 07E .0312 FACTORS RELATING TO EMPHASIS, SUMMARIZATION, AND EXAMPLE

An instructor applicant's oral presentation shall be evaluated on the applicant's:

- (1) emphasis on key points;
- (2) use of examples relevant to the topic of the presentation; and
- (3) summarization of topics.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0401 is proposed for adoption as follows:

SECTION .0400 – CONSEQUENCES OF FAILING INSTRUCTOR'S EXAM

18 NCAC 07E .0401 RETAKING WRITTEN CERTIFICATION OR RECERTIFICATION EXAM

An instructor applicant who fails the written certification or recertification exam may schedule one additional written exam within one month of the date of the failed exam by:

- (1) making a written request to the Department addressed to the Director; and
- (2) submitting the request within one week of the date of the failed written exam.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0402 is proposed for adoption as follows:

18 NCAC 07E .0402 CONSEQUENCE OF FAILING TO PASS WRITTEN INSTRUCTOR EXAM

An instructor applicant who fails to pass the written instructor exam within one month of the date on which the written exam is first taken and wishes to become a certified instructor shall comply again with Rule .0105 of this Subchapter.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07E .0403 is proposed for adoption as follows:

18 NCAC 07E .0403 SCHEDULING ADDITIONAL ORAL PRESENTATION UPON FAILURE

An instructor applicant who fails to pass the oral presentation may schedule one additional oral presentation by:

- (1) making a written scheduling request to the Department addressed to the Director;
- (2) submitting the request within one week of the date of the failed oral presentation; and
- (3) making the second oral presentation within one month of the date on which the first oral presentation was made.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07E .0404 is proposed for adoption as follows:

18 NCAC 07E .0404 REPEAT ORAL PRESENTATION

An instructor applicant who schedules an additional oral presentation pursuant to Rule .0403 of this Section shall make a presentation on a topic selected by the Department from the notary instructor curriculum.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07E .0405 is proposed for adoption as follows:

18 NCAC 07E .0405 EVALUATION OF REPEAT ORAL PRESENTATION

An instructor applicant who makes an additional oral presentation pursuant to Rule .0404 of this Section shall be evaluated pursuant to the factors set out in Section .0300 of this Subchapter.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07E .0406 is proposed for adoption as follows:

18 NCAC 07E .0406 CONSEQUENCE OF FAILING TO PASS SECOND ORAL PRESENTATION

An instructor applicant who fails to pass the second oral presentation within the time set in Rule .0403 of this Section and who wishes to become a certified instructor shall comply again with Rule .0105 of this Subchapter.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
 Eff. July 1, 2024.*

18 NCAC 07E .0407 is proposed for adoption as follows:

18 NCAC 07E .0407 CONSEQUENCES OF FAILING TO RECERTIFY

An instructor applicant who does not comply with the requirements for instructor recertification before expiration of the existing certification shall:

- (1) notify the institutions at which the instructor taught prior to the expiration; and
- (2) not teach a notary course before becoming certified as a notary instructor again.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
 Eff. July 1, 2024.*

18 NCAC 07E .0601 is proposed for amendment as follows:

18 NCAC 07E .0601 MINIMUM INSTRUCTIONAL DUTIES OF CERTIFIED NOTARY PUBLIC INSTRUCTORS

(a) A certified notary ~~public~~ instructor shall verify the identity of each student in a notary course during the first instructional period by:

- (1) requiring satisfactory evidence of identity as defined in ~~G.S. 10B-3(22)(a)~~ G.S. 10B-3(22)a; or
- (2) having personal knowledge of the student as defined in G.S. 10B-3(17).

~~(b) A certified notary public instructor shall verify the identity of each student in a traditional notary course and again prior to administration of the notary public examination by requiring satisfactory evidence of identity as defined in G.S. 10B-3(22)(a), signing the application of a traditional notary applicant.~~

~~(b) A certified notary public instructor shall follow the Division-supplied curriculum for notary public instruction unless the instructor has been granted approval by the Division for a variance.~~

~~(c) While performing their duties as certified notary public instructors, A certified instructors~~ instructor shall comply with ~~applicable State and federal laws relating to adult education.~~ the eligible institution's requirements regarding audits of courses, provided that the instructor shall not permit a student who is auditing to:

- (1) see or take the notary course exam; or
- (2) remain in the classroom during the notary course exam.

~~(d) When administering the notary public examination, a certified notary public instructor shall take steps to prevent cheating by students taking the notary public examination.~~

~~(e) When administering the notary public examination, a certified notary public instructor shall report to the Division within two business days if the instructor has reason to believe that there has been cheating on a notary public examination by any student, and shall provide:~~

~~(1) The name, address and contact information for any student suspected of cheating; and~~

~~(2) A narrative description of the instructor's reasons for believing cheating may have occurred.~~

~~(f) Notary public instructors shall submit student notary public examination grades to the Division within two business days after the examination has been administered.~~

~~(g) A notary public instructor shall demonstrate a professional demeanor at all times during instruction and administration of the duties of a certified notary public instructor.~~

~~(h) A notary public instructor shall not use profanity or obscene language when instructing the notary public course or administering the notary public examination.~~

History Note: Authority G.S. 10B-4; ~~10B-8~~; 10B-14; 10B-134.21;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0716 Eff. June 1, 2023- 2023;

Amended Eff. July 1, 2024.

18 NCAC 07E .0602 is proposed for adoption as follows:

18 NCAC 07E .0602 ADHERENCE TO CURRICULUM

A certified notary instructor shall follow the Department curriculum for notary courses unless the Department grants a written variance to the instructor pursuant to the Rules in Section .0800 of this Subchapter.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07E .0603 is proposed for adoption as follows:

18 NCAC 07E .0603 PROCTORING EXAM

When administering the notary course exam, a notary instructor shall:

(1) comply with the requirements of the institution regarding proctoring exams;

(2) if the institution does not have requirements regarding exam proctoring, take steps to prevent cheating on the exam; and

- (3) take other measures to prevent cheating that the instructor deems appropriate.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07E .0604 is proposed for adoption as follows:

18 NCAC 07E .0604 SUBMISSION OF GRADES TO DEPARTMENT

Notary instructors shall:

- (1) grade notary course exams administered on paper;
- (2) review grades for notary course exams administered electronically on the Department's website;
and
- (3) electronically submit accurate student exam grades to the Department within two business days after the exams have been administered.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07E .0605 is proposed for adoption as follows:

18 NCAC 07E .0605 REPORTING SUSPECTED CHEATING

A notary instructor shall:

- (1) comply with the institution's reporting requirements regarding suspected cheating; and
- (2) report to the Department within two business days if the instructor has reason to believe that there has been cheating by any student on a notary course exam, and include:
 - (a) the name and, if available, address and contact information, for any student suspected of cheating;
 - (b) a narrative description of the instructor's reasons for believing cheating may have occurred;
 - (c) additional supporting evidence;
 - (d) whether, when, and to whom the instructor reported the possible cheating at the institution;
and
 - (e) any other information that the instructor believes may aid the Department in investigating the report.

NOTE: For purposes of this Rule, "additional supporting evidence" includes evidence such as videos, student admissions, and witness reports.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07E .0701 is proposed for amendment as follows:

18 NCAC 07E .0701 ~~ADDITIONAL REQUIREMENTS~~ RESPONSE TO COMPLAINTS

If the ~~Division~~ Department receives information or a complaint regarding a certified notary instructor's qualifications as an instructor or notary, or performance as an instructor, that gives reason to question the notary public instructor's eligibility or ability to perform the duties of a notary public instructor, the Division may require the notary public instructor to ~~shall~~, as directed by the Department:

- (1) ~~Submit~~ submit to an interview;
- (2) ~~Submit~~ submit additional requested information; or
- (3) ~~Submit~~ submit audio and visual documentation such as a video of actual instruction to the extent available.

History Note: Authority G.S. 10B-4; ~~10B-8~~; 10B-14; 10B-134.21;
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0716 Eff. June 1, ~~2023~~; 2023;
Amended Eff. July 1, 2024.

18 NCAC 07E .0702 is proposed for adoption as follows:

18 NCAC 07E .0702 INSTRUCTOR CONDUCT

During instruction and administration of the duties of a certified notary instructor, an instructor shall demonstrate a professional demeanor.

For purposes of this Rule, “professional demeanor” means exhibiting behaviors consistent with the factors on which an instructor applicant’s oral presentation is evaluated pursuant to Rules .0306 through .0312 of this Subchapter.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0801 is proposed for adoption as follows:

SECTION .0800 – NOTARY INSTRUCTOR REQUESTS FOR APPROVAL OF INSTRUCTIONAL AIDS

18 NCAC 07E .0801 REQUEST FOR VARIANCE FROM APPROVED INSTRUCTIONAL AIDS

Instructors may submit a written request addressed to the Director requesting that the Department approve a variance allowing use of instructional aids in addition to or differing from those established by the Department.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0802 is proposed for adoption as follows:

18 NCAC 07E .0802 VARIANCE REQUEST - EXEMPLAR REQUIRED

An instructor who submits a request for variance pursuant to this Section shall include a complete copy of the proposed instructional aid in its original size and colors.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0803 is proposed for adoption as follows:

18 NCAC 07E .0803 VARIANCE REQUEST - EXPLANATION OF VALUE

An instructor who submits a variance request shall explain how the revised or new aid:

- (1) will be used by the instructor; and
- (2) will assist notary course students in understanding the role and responsibilities of a notary public.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0804 is proposed for adoption as follows:

18 NCAC 07E .0804 VARIANCE REQUEST – APPROVAL CRITERIA

The Department shall approve or deny a variance request using the following criteria:

- (1) conformity with Chapter 10B of the General Statutes and the Rules in this Chapter;
- (2) value added to the curriculum;
- (3) the impact of the change on the length of the course;
- (4) quality of visual or audio elements; and
- (5) avoidance of confusion.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .0901 is proposed for adoption as follows:

SECTION .0900 – NOTARY INSTRUCTOR OBLIGATIONS TO STUDENTS

18 NCAC 07E .0901 PREREQUISITES FOR INSTRUCTOR APPLICATION SIGNATURE

An instructor shall sign a student’s notary application only after the student has successfully completed the course.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07E .0902 is proposed for adoption as follows:

18 NCAC 07E .0902 INSTRUCTOR VERIFICATION OF STUDENT NAME

An instructor shall not sign a student’s notary application if the name on the satisfactory evidence presented does not match the student’s name for use on a notary commission.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07E .0903 is proposed for adoption as follows:

18 NCAC 07E .0903 RETESTING STUDENTS WHO FAIL NOTARY COURSE EXAM

The institution where a notary course is taught shall determine whether a certified notary instructor may administer a retest to a student who fails a notary course exam.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07E .0904 is proposed for adoption as follows:

18 NCAC 07E .0904 NOTICE TO DEPARTMENT OF RETESTING

If a certified notary instructor retests a student who fails a notary course exam, the instructor shall:

- (1) retest the student within 30 days after the date of the course and exam; and
- (2) submit the results of the retest to the Department within two business days of the date on which the student retook the exam.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07E .1001 is proposed for amendment as follows:

18 NCAC 07E .1001 STUDENT EVALUATIONS OF INSTRUCTION INSTRUCTORS

~~(a) If the employer of a certified notary public instructor conducts a written performance evaluation of the instructor at least once per calendar year, the instructor shall submit a copy of the performance evaluation to the Department within 30 days after receipt of the written performance evaluation from the employer.~~

~~(b) If the employer of a certified notary public instructor does not conduct a written performance evaluation of the instructor at least once per calendar year, the A certified notary instructor shall:~~

- ~~(1) Require in each year of certification require that his or her notary public course students in at least one of the instructor's notary courses class each calendar year complete the Division's Department's student evaluation of notary public course instructor form; form specified in 18 NCAC 07B .0417, unless the instructor's employer institution obtains student evaluations during the same period; and~~
- ~~(2) Shall submit to the Department copies of all completed student evaluation forms completed pursuant to Item (1) of this Rule to the Division within 30 45 days of receipt of the completed forms. NOTE: Where the employer institution obtains student evaluations more frequently than once per certification year, evaluations for a single class in the certification year satisfy the requirements of this Item.~~

~~(c) The Department may conduct evaluations of instructional performance of certified notary public instructors by methods including:~~

- ~~(1) — Surveys of notary public students;~~
- ~~(2) — Requests for audio-visual recordings of courses; and~~
- ~~(3) — Observation of classroom instruction.~~

*History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0717 Eff. June 1, ~~2023~~, 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07E .1002 is proposed for adoption as follows:

18 NCAC 07E .1002 DEPARTMENTAL USE OF STUDENT EVALUATIONS

In order to determine whether an instructor shall receive coaching, counseling, or be subject to action pursuant to G.S. 10B-60, the Department shall review student evaluations of the instructor for consistency with the factors on which an instructor applicant's oral presentation is evaluated pursuant to Rules .0306 through .0312 of this Subchapter.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07E .1101 is proposed for amendment as follows:

SECTION .1100 – NOTARY INSTRUCTOR ~~RE-CERTIFICATION~~ RE-CERTIFICATION

**18 NCAC 07E .1101 ~~ELIGIBILITY~~ INELIGIBILITY FOR ~~RE-CERTIFICATION~~
RE-CERTIFICATION AS NOTARY INSTRUCTOR**

A certified notary public instructor shall not be eligible for recertification as a notary ~~public~~ instructor if the ~~notary public~~ instructor:

- (1) ~~Has failed to submit notary public student examination grades or notary public instructor evaluations to the Division as required by Rules .0716 and .0717 of this Chapter;~~
 - (2) ~~Has been subject to disciplinary action by the Division in relation to:~~
 - (a) ~~The performance of notary public duties pursuant to Chapter 10B of the General Statutes or this Chapter; or~~
 - (b) ~~The performance of notary public instructor duties; or~~
 - (3) ~~Has failed to comply with other requirements imposed upon a notary or notary public instructor pursuant to law or rule.~~
- (1) no longer qualifies for initial commissioning as a notary public;
 - (2) has not taught at least two notary courses in each of the two immediately preceding instructor certification years; or
 - (3) has failed to comply with other requirements imposed upon a notary or notary public instructor pursuant to G.S. 10B-14 or the Rules in this Chapter.

*History Note: Authority G.S. 10B-4; ~~10B-8~~; 10B-14; 10B-134.21;
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0718 Eff. June 1, 2023- 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07E .1102 is proposed for amendment as follows:

**18 NCAC 07E .1102 NOTARY PUBLIC INSTRUCTOR ~~RE-CERTIFICATION~~ RE-CERTIFICATION
REQUIREMENTS**

An applicant for recertification as a notary ~~public~~ instructor shall:

- (1) ~~Complete~~ complete the Department's notary ~~public~~ instructor ~~application~~ recertification form specified in 18 NCAC 07B .0418 and submit it to the ~~Department;~~ Department prior to lapse of certification;
- (2) ~~Comply with the requirements of Rule .0708 through Rule .0711 of this Chapter regarding verification of 12 months of experience performing notarial acts;~~ successfully complete the notary instructor recertification course; and
- (3) ~~Comply with the requirements of Rule .0713 of this Chapter regarding an oral presentation of a notary public course lesson;~~
- (5) ~~Make a passing grade on the final examination in the notary public instructor certification recertification course as set forth in Rule .0714 of this Chapter;~~
- (6)(3) ~~Except~~ except as otherwise provided in Rule .0705 of this Chapter, by G.S. 10B-14, pay the required fee; and fee.
- (7) ~~Submit an affidavit verifying that the applicant has taught the notary public instructor course at least twice a year during the two year certification period.~~

*History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0719 Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07E .1103 is proposed for amendment as follows:

**18 NCAC 07E .1103 ~~DENIAL OF NOTARY PUBLIC INSTRUCTOR CERTIFICATION OR RE-~~
CERTIFICATION EQUIVALENCE**

An application for notary public instructor certification or recertification may be denied:

- (1) ~~For any reason for which an application for commissioning or recommissioning of a notary public may be denied; or~~
 - (2) ~~If an applicant no longer meets the requirements or fails to comply with the requirements to be a certified notary public instructor.~~
- (a) Successful completion of the notary instructor course shall satisfy the requirements for successful completion of the notary recommissioning exam and electronic notary course and exam.

(b) Paragraph (a) of this Rule shall apply only to a notary who:

- (1) is a certified notary instructor when applying for recommissioning as a notary or reregistration as an electronic notary; and
- (2) is a certified notary instructor at the time of taking the recommissioning oath.

*History Note: Authority G.S. 10B-4; ~~10B-8~~; 10B-14; 10B-134.21;
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0719 Eff. June 1, ~~2023~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07E .1104 is proposed for adoption as follows:

18 NCAC 07E .1104 NOTARY INSTRUCTOR RECERTIFICATION COURSE ORAL PRESENTATION

The notary instructor recertification course shall include an oral presentation in addition to the written exam for:

- (1) an instructor's first recertification;
- (2) an instructor who has taught no more than two notary courses in each of the two immediately preceding certification years;
- (3) an instructor whose student grades have on average been less than 85 percent;
- (4) an instructor whose student evaluations for a single course have had a majority of ratings of less than "Good" on:
 - (a) any one category of the evaluation form; or
 - (b) any combination of the evaluation form categories; or
- (5) an instructor subject to Rule .1105 of this Section.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07E .1105 is proposed for adoption as follows:

18 NCAC 07E .1105 NOTARY INSTRUCTOR WITH LAPSE IN CERTIFICATION

- (a) A notary instructor who has a lapse between certification terms shall comply with the requirements for initial certification as a notary instructor.
- (b) Notwithstanding Paragraph (a) of this Rule, if the lapse is for less than six months and the instructor otherwise qualifies, the instructor:

- (1) may take the recertification course instead of the initial certification course; and
- (2) shall make an oral presentation during the course.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .1202 is proposed for adoption as follows:

SECTION .1200 – INSTRUCTOR APPLICATION DENIALS

18 NCAC 07E .1202 APPLICATION DENIAL – FAILURE TO NOTIFY DEPARTMENT OF CHANGES

The Department shall deny an application for notary instructor certification or recertification if the notary or instructor has failed to notify the Department of changes as required by Chapter 10B of the General Statutes or the Rules in this Chapter.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .1203 is proposed for adoption as follows:

18 NCAC 07E .1203 APPLICATION DENIAL – TERMINATION FOR CAUSE

The Department shall deny an application for notary instructor recertification if the instructor has been terminated by an eligible institution for cause.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .1204 is proposed for adoption as follows:

18 NCAC 07E .1204 APPLICATION DENIAL – FAILURE TO SUBMIT EXAM GRADES

The Department shall deny the application for recertification of an instructor if the instructor applicant has failed to submit student exam grades more than once in a certification year.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07E .1205 is proposed for adoption as follows:

18 NCAC 07E .1205 APPLICATION DENIAL – DISCIPLINARY ACTION

The Department shall deny an application for instructor certification or recertification if the notary has been the subject of a disciplinary action, other than a warning or denial, that is related to performance as a notary public, an electronic notary public, or a notary instructor.

History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;
Eff. July 1, 2024.