



The American Society of Notaries recommends the following procedures to help notaries perform their duties in a professional manner that is consistent with the requirements of law and best practices.

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## No Notarial Language on the Document

**Situation:** A client brings a document to a notary and tells the notary that he is required by the document's recipient to "get the document notarized." There is no notarial language printed on the document.

**The Notary's Dilemma:** Without a notarial certificate printed on the document, the notary cannot see for himself which notarial act the document creator or recipient requires. The notary knows that he cannot choose the notarial act for the client because that would involve him in the unlicensed practice of law. The client must tell the notary which notarial act (taking an acknowledgment or giving an oath/affirmation) he wants performed for the document.

**The Solution:** The notary may explain <sup>\*(see below)</sup> the differences between taking the client's acknowledgement and giving the client an oath or affirmation, and ask the client to choose:

### Oath/Affirmation

*The person taking an oath swears to a Supreme Being ("God") that the information in the document is the truth. A person who is making an affirmation makes a personal vow that the information in the document is the truth; he/she simply prefers not to refer to a Supreme Being. The oath and affirmation have the same legal effect and are made under the penalties of perjury.*

### Acknowledgment

*The person who makes an acknowledgment is stating that the signature on the document is indeed his (or her) own, and that he signed the document willingly (under his own free will). By making the acknowledgment, the person is also saying that he understands the contents of the document and the consequences of signing it, and intends to abide by the provisions of the document.*

The notary may also show the client examples of an acknowledgment notarial certificate and a jurat. If the client still cannot choose, he may call a party relying on the document, or an attorney, to ask which notarial act is required.

If the client does not indicate the desired notarial act, the transaction between notary and client comes to an end without a notarial act being performed. The notary records the reason for declining to perform a notarial act in his recordbook.

If the client does choose a notarial act to be performed for the document, the notary may write, type or stamp the appropriate notarial wording on the document. <sup>\*(see below)</sup> Using the back of the document is permissible as long as the notarial wording does not bleed through the paper to be visible on the written side of the document.

The notary may prefer to attach a pre-printed, loose notarial certificate to the document. On the loose certificate, the notary must identify the document in such a way that the loose notarial certificate could not be removed and used on another document. A loose notarial certificate may have this identifying language preprinted on it:

This certificate is attached to a  (# of pages)  page document dealing with/entitled \_\_\_\_\_ and dated \_\_\_\_\_.

*\* PLEASE NOTE – Notaries in Maryland, Mississippi and New Mexico MAY NOT assist the customer in selection of the notarial certificate. The notary should decline to notarize, and refer the signer to an attorney or a party relying on the document for selection of the appropriate notarial wording. Maryland notaries ONLY may proceed as an "Official Notary Witness" on documents lacking notarial wording; contact ASN for more information. Florida notaries CANNOT change anything in a document that has already been signed, so ASN recommends that they decline to notarize previously-signed documents that lack notarial wording, and refer the signer back to a relying party or an attorney.*