

SUBCHAPTER 07B – NOTARY PUBLIC SECTION

SECTION .0100 – GENERAL PROVISIONS

18 NCAC 07B .0101 SCOPE

The rules in this Subchapter implement Chapter 10B of the General Statutes, the Notary Public and Electronic Notary Acts. The rules govern the qualification, commissioning, notarial acts, conduct and discipline of notaries as Constitutional officers of the State.

History Note: Authority G.S. 10B-2; 10B-14(f); 10B-102; 10B-125(b);
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

18 NCAC 07B .0102 DEFINITIONS

(a) The definitions in G.S. 10B-3 apply to this Subchapter.

(b) 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 of this Chapter. For the purposes of these Rules, the terms "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 commission;
- (3) "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;
- (4) "Commissioning date" means the date of commissioning or recommissioning as entered on a commission certificate;
- (5) "Crime" means a crime or:
 - (A) Attempt to commit a crime;
 - (B) Accessory to commission of a crime;
 - (C) Aiding and abetting of a crime;
 - (D) Conspiracy to commit a crime; or
 - (E) Solicitation to commit a crime.
- (6) "Division" means the Notary Public Section of the North Carolina Department of the Secretary of State.

History Note: Authority G.S. 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.

18 NCAC 07B .0103 LOCATION, HOURS AND 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 hours for the public are 8:00 a.m. to 4:00 p.m. Monday through Friday with the exception of state holidays.

(c) 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: www.sosnc.com.
- (2) Electronic Mail: For basic information the Notary Public Section may be contacted by email at notary@sosnc.com. Electronic mail shall not be used for filing applications.
- (3) Telephone Number: The telephone number for Notary Customer Service is (919) 807-2219.
- (4) Fax Number: To send information to the Notary Public Section via fax, the number is (919) 807-2210.

*History Note: Authority G.S. 10B-14(f); 147-34;
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.*

18 NCAC 07B .0104 FORMS

All forms issued pursuant to Chapter 10B of the General Statutes may be found on the Department's website or may be obtained by contacting the Department using one of the means set out in Rule .0103 of this Subchapter.

*History Note: Authority G.S. 10B-2; 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.*

18 NCAC 07B .0105 FEES

(a) Fees shall be paid by a personal or business check, a money order, or a cashier's check in U.S. dollars and cents made payable to the N.C. Department of the Secretary of State.

(b) Fees for on-line applications may be paid by an automated clearinghouse debit account (ACH).

(c) If a fee is paid with a check or other instrument which is returned by the institution upon which it was issued for "insufficient funds" or for other similar reason:

- (1) The Division shall issue a notice of intent to deny the application or revoke the commission; and
- (2) The Division shall issue a denial or revocation if the fee is not paid in full within 10 business days after the date on the notice of intent to deny or revoke.
- (3) The Division shall charge a twenty-five dollar (\$25.00) fee for which payment has been refused by the payor's bank for insufficient funds or for no account.

*History Note: Authority G.S. 10B-14(f); 25-3-506; 147-37;
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.*

18 NCAC 07B .0106 WAIVER

The Director may waive any rule in this Subchapter that is not statutorily required based on the factors set forth in Rule .0901 of this Chapter.

*History Note: Authority G.S. 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.*

18 NCAC 07B .0107 CONTINUING OBLIGATIONS OF NOTARIES

(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 notify the Director 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.
- (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-14(f);
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.*

SECTION .0200 - APPLICATIONS

18 NCAC 07B .0201 GENERAL

(a) Other Professional Licenses. An applicant shall 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.

(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.

(c) 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-5(d); 10B-7; 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.*

SECTION .0300 –INITIAL APPOINTMENT

18 NCAC 07B .0301 INITIAL COMMISSION

(a) Application Form.

- (1) Applicants for initial appointment shall use the application form designated by the Division for that purpose and may download the application form from the Department's website.
- (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.
- (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.

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

18 NCAC 07B .0302 TIMING OF FILING OF INITIAL APPLICATION

(a) Submission deadline. An applicant for initial appointment who is not a licensed member of the North Carolina State Bar shall submit an application within three months after passing the examination required by G.S. 10B-8.

(b) An applicant who applies more than three months after compliance with G.S. 10B-8(a) shall

- (1) Comply again with G.S. 10B-8(a);
- (2) Submit an application for initial appointment; and
- (3) Pay the application fee.

*History Note: Authority G.S. 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.*

SECTION .0400 – REAPPOINTMENT OF NOTARIES PUBLIC

18 NCAC 07B .0401 REAPPOINTMENT

(a) Application for Reappointment.

- (1) An applicant for reappointment shall submit an application for reappointment.
- (2) Applicants for reappointment may apply on-line on the Department's website.

(b) Timing of Application for Reappointment. An applicant for reappointment shall apply for reappointment no earlier than 10 weeks before the expiration date of the applicant's commission.

History Note: Authority G.S. 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.

18 NCAC 07B .0402 REAPPOINTMENT TEST

- (a) Attorneys who are licensed members of the North Carolina State Bar do not have to take a reappointment test.
- (b) The reappointment test may be taken either:
- (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-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.

18 NCAC 07B .0403 APPLICATION AFTER REAPPOINTMENT DENIAL BASED ON FAILING TEST

An applicant for reappointment whose application is denied due to failure to pass the reappointment test may reapply by:

- (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-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.

SECTION .0500 - COMMISSIONS

18 NCAC 07B .0501 APPOINTMENT AND ISSUANCE OF COMMISSIONING CERTIFICATE

- (a) Upon determination that an applicant has complied with all requirements of the Act and this Subchapter, the Director shall appoint or reappoint the applicant to the office of notary public and issue a commissioning certificate.
- (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-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.

18 NCAC 07B .0502 COMMISSIONING CERTIFICATE DATE

- (a) A commissioning certificate shall not be back-dated.
- (b) Applications shall not be deemed received until complete.

*History Note: Authority G.S. 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.*

18 NCAC 07B .0503 OATH OF OFFICE AND DELIVERY OF COMMISSIONING CERTIFICATE

- (a) Before taking the oath of office, an appointee shall present to the Register of Deeds satisfactory evidence of the appointee's identity as set out in G.S. 10B-3(22).
- (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-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.*

18 NCAC 07B .0504 REAPPOINTMENT IF OATH NOT TAKEN WITHIN 45 DAYS

- (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.

*History Note: Authority G.S. 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.*

18 NCAC 07B .0505 TERM OF OFFICE

- (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 the date on the commissioning certificate.

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

SECTION .0600 – NOTARY PUBLIC COURSE PROVIDERS – RESERVED

SECTION .0700 – NOTARY PUBLIC CERTIFIED INSTRUCTOR

18 NCAC 07B .0701 INSTRUCTOR CERTIFICATION – SCOPE

- (a) Except as otherwise provided in G.S. 10B-14 and this Section, notaries public shall comply with all requirements for certification or recertification as a notary public instructor as set forth in this Chapter.
- (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.

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.

18 NCAC 07B .0702 INSTRUCTOR CERTIFICATION - GENERAL

Applicants for notary public instructor certification shall:

- (1) Complete the Department's notary public instructor application form and submit it to the Department;
- (2) Comply with the requirements of Rule .0708 through Rule .0711 of this Chapter regarding verification of 12 months of experience;
- (3) Comply with the requirements of Rule .0712 of this Chapter regarding recommendations;
- (4) Comply with the requirements of Rule .0713 of this Chapter regarding an oral presentation of a notary public course curriculum lesson;
- (5) Make a passing grade on the final examination in the notary public instructor certification course as set forth in Rule .0714 of this Chapter; and
- (6) Except as otherwise provided in G.S. 10B-14(c) and Rule .0705 of this Chapter, pay the required fee.

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.

18 NCAC 07B .0703 TIMING OF INSTRUCTOR CERTIFICATION APPLICATION

An application for notary public instructor certification or recertification shall not be submitted to the Division during the period of any sanction issued by the Division.

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.

18 NCAC 07B .0704 DEPARTMENT REJECTION OF APPLICATIONS

The Department shall reject a notary instructor certification or recertification application which is received:

- (1) While an investigation into the applicant's performance of the duties of a notary public or notary public instructor is open; or
- (2) During the period of any sanction issued by the Division.

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.

18 NCAC 07B .0705 FEES

- (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 fee pursuant to G.S. 10B-14(c) shall include verification that as of the date of 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(c).

(c) The Secretary may refuse to administer the notary public instructor certification examination to an applicant who has failed to pay the fee required for certification or recertification as a notary public instructor before the examination date.

*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.*

18 NCAC 07B .0706 VERIFICATION THAT APPLICANT CONTINUES TO MEET REQUIREMENTS FOR A NOTARY COMMISSION

An applicant for notary public instructor certification or recertification shall verify that:

- (1) The applicant continues to meet each of the qualifications for a notary commission found in G.S. 10B-5 and 10B-7; and
- (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-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.*

18 NCAC 07B .0707 OTHER VERIFICATIONS

An applicant for notary public instructor certification shall verify that he or she:

- (1) Possesses and has read the current notary public guidebook; and
- (2) Has read Chapter 10B of the General Statutes and this Chapter.

*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.*

18 NCAC 07B .0708 EVIDENCE OF MINIMUM EXPERIENCE

- (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.

*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.*

18 NCAC 07B .0709 JOURNAL AS EVIDENCE OF EXPERIENCE

- (a) An applicant for notary public instructor certification may submit a journal of notarial acts as evidence of experience performing notarial acts.
- (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-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.*

18 NCAC 07B .0710 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.

*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.*

18 NCAC 07B .0711 ALTERNATIVE EVIDENCE OF EXPERIENCE

An applicant for notary public instructor certification may submit evidence of experience performing notarial acts other than a journal or employer affidavit, provided the evidence includes:

- (1) An affidavit from the applicant verifying that the applicant has performed at least one notarial act in each of the 12 immediately preceding months; and
- (2) An affidavit from at least one person unrelated to the applicant by birth, marriage or adoption which establishes that the applicant has performed at least one notarial act during each of the 12 months immediately preceding the application.

*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.*

18 NCAC 07B .0712 RECOMMENDATIONS

A notary public instructor certification applicant shall submit three recommendations on the Division's recommendation form from persons unrelated to the applicant by birth, marriage or adoption.

*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.*

18 NCAC 07B .0713 ORAL PRESENTATION REQUIREMENT FOR APPLICANT

- (a) A notary public instructor certification student shall provide an oral presentation of a section of the notary public curriculum which shall be evaluated according to the standards set forth in Paragraph (c) of this Rule.

- (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-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.

18 NCAC 07B .0714 NOTARY PUBLIC INSTRUCTOR CERTIFICATION AND RECERTIFICATION EXAMINATIONS

- (a) A passing grade on the notary public instructor certification or recertification final examination shall be 90 percent.
- (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-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.

18 NCAC 07B .0715 ADDITIONAL REQUIREMENTS

If the Division receives information or a complaint 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:

- (1) Submit to an interview;
- (2) Submit additional information; or
- (3) Submit audio and visual documentation such as a video of actual instruction.

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.

18 NCAC 07B .0716 MINIMUM INSTRUCTIONAL DUTIES OF CERTIFIED NOTARY PUBLIC INSTRUCTORS

- (a) A certified notary public instructor shall verify the identity of each student during the first instructional period 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).
- (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, certified instructors shall comply with applicable State and federal laws relating to adult education.
- (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-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.

18 NCAC 07B .0717 EVALUATIONS OF INSTRUCTION

- (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 instructor shall:
 - (1) Require that his or her notary public course students in one class each calendar year complete the Division's student evaluation of notary public course instructor form; and
 - (2) Shall submit copies of all completed student evaluation forms to the Division within 30 days of receipt of the completed forms.
- (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-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.

18 NCAC 07B .0718 ELIGIBILITY FOR RECERTIFICATION AS NOTARY PUBLIC INSTRUCTOR

A 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.

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.

18 NCAC 07B .0719 NOTARY PUBLIC INSTRUCTOR RECERTIFICATION REQUIREMENTS

An applicant for recertification as a notary public instructor shall:

- (1) Complete the Department's notary public instructor application form and submit it to the Department;
- (2) Comply with the requirements of Rule .0708 through Rule .0711 of this Chapter regarding verification of 12 months of experience performing notarial acts;
- (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) Except as otherwise provided in Rule .0705 of this Chapter, pay the required fee; and
- (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-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.

18 NCAC 07B .0720 DENIAL OF NOTARY PUBLIC INSTRUCTOR CERTIFICATION OR RECERTIFICATION

An application for notary public instructor certification or recertification may be denied:

- (1) For any reason for which an application for commissioning or re-commissioning 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.

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.

SECTION .0800 – INVESTIGATIONS – RESERVED

SECTION .0900 – ENFORCEMENT AND DISCIPLINARY ACTION

18 NCAC 07B .0901 FACTORS CONSIDERED IN DISCIPLINARY ACTIONS

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

- (1) Nature, number and severity of any acts, offenses, official misconduct or crimes under consideration;
- (2) Evidence pertaining to the honesty, credibility, truthfulness, and integrity of the applicant or notary public;
- (3) Actual or potential monetary or other harm to the general public, group, individual, or client;
- (4) History of complaints received by the Department;
- (5) Prior disciplinary record or warning from the Department;
- (6) Evidence in mitigation;
- (7) Evidence in aggravation;

- (8) Occupational, vocational, or professional license disciplinary record;
- (9) Evidence of rehabilitation. NOTE: Examples include reference letters and proof of class attendance;
- (10) Criminal record;
- (11) Reports from law enforcement agencies;
- (12) Willfulness;
- (13) Negligence.

*History Note: Authority G.S. 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.*

18 NCAC 07B .0902 GENERAL APPLICATION DENIAL

- (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) The Director shall deny an application which contains false information about the applicant's criminal record or record of civil lawsuit findings or admissions of liability based on the applicant's deceit; or
 - (2) The Director may deny an application which contains misleading information, including:
 - (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.
- (d) Applicant notarization. The Director shall deny an application if the applicant notarizes his or her 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-5; 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.dy*

18 NCAC 07B .0903 EXECUTED DOCUMENT VIOLATIONS

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.

History Note: Authority G.S. 10B-2; 10B-5(d); 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.

18 NCAC 07B .0904 COMPLETE AND LAWFUL NOTARIAL ACT VIOLATIONS

(a) The Director may 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-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.

18 NCAC 07B .0905 OTHER VIOLATIONS

The Director may take disciplinary action against a notary for violation of Chapter 10B of the General Statutes or this Subchapter, including failure to provide information required by Rule .0107 of this Subchapter.

History Note: Authority G.S. 10B-2; 10B-14(f); 10B-60;
Eff. April 1, 2007;
Amended Eff. May 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

18 NCAC 07B .0906 MINIMUM SANCTION

(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.

History Note: Authority G.S. 10B-2; 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.

18 NCAC 07B .0907 APPEAL PROCEDURES

(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, 424 North Blount Street, 6714 Mail Service Center, Raleigh, NC 27699-6714; (919) 733-2698; <http://www.oah.state.nc.us/>.

(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.

*History Note: Authority G.S. 10B-2; 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.*

SECTION .1000 – PUBLIC RECORDS AND REQUESTS FOR INFORMATION

18 NCAC 07B .1001 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 for confidential notary information shall be in writing and shall include documentation of 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-7(b); 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.*