

SUBCHAPTER 07B – GENERAL REQUIREMENTS

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 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 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.gov.
- (2) Electronic Mail: For basic information the Notary Public Section may be contacted by email at notary@sosnc.gov. Electronic mail shall not be used for filing applications.
- (3) Telephone Number: The telephone number for Notary 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.

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

18 NCAC 07B .0104 FORMS (TRANSFERRED TO 18 NCAC 07B .0401 EFF. JUNE 1, 2023)

18 NCAC 07B .0105 RESERVED FOR FUTURE CODIFICATION

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 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07B .0108 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07B .0109 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07B .0110 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;
Transferred from 18 NCAC 07B .1001 Eff. June 1, 2023.

SECTION .0200 – FEES PAID TO THE DIVISION

18 NCAC 07B .0201 US CURRENCY

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.

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;
Transferred from 18 NCAC 07B .0105(a) Eff. June 1, 2023.

18 NCAC 07B .0202 ONLINE FEE PAYMENT

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

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;
Transferred from 18 NCAC 07B .0105(b) Eff. June 1, 2023.

18 NCAC 07B .0203 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07B .0204 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07B .0205 UNPAID FEES

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;
Transferred from 18 NCAC 07B .0105(c) Eff. June 1, 2023.

SECTION .0300 –INITIAL APPOINTMENT

18 NCAC 07B .0301 INITIAL COMMISSION (TRANSFERRED TO 18 NCAC 07C .0201 EFF. JUNE 1, 2023)

18 NCAC 07B .0302 TIMING OF FILING OF INITIAL APPLICATION (PARAGRAPH (A) TRANSFERRED TO 18 NCAC 07C .0202 AND PARAGRAPH (B) TRANSFERRED TO 18 NCAC 07C .0502 EFF. JUNE 1, 2023)

SECTION .0400 – FORMS

18 NCAC 07B .0401 GENERAL

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;
Transferred from 18 NCAC 07B .0104 Eff. June 1, 2023.

18 NCAC 07B .0402 REAPPOINTMENT TEST (TRANSFERRED TO 18 NCAC 07C .0603 EFF. JUNE 1, 2023)

18 NCAC 07B .0403 APPLICATION AFTER REAPPOINTMENT DENIAL BASED ON FAILING TEST (TRANSFERRED TO 18 NCAC 07C .0504 EFF. JUNE 1, 2023)

SECTION .0500 - COMMISSIONS

18 NCAC 07B .0501 APPOINTMENT AND ISSUANCE OF COMMISSIONING CERTIFICATE (TRANSFERRED TO 18 NCAC 07C .0401 EFF. JUNE 1, 2023)

18 NCAC 07B .0502 COMMISSIONING CERTIFICATE DATE (PARAGRAPH (A) TRANSFERRED TO 18 NCAC 07C .0402 AND PARAGRAPH (B) TRANSFERRED TO 18 NCAC 07C .0203 EFF. JUNE 1, 2023)

18 NCAC 07B .0503 OATH OF OFFICE AND DELIVERY OF COMMISSIONING CERTIFICATE (TRANSFERRED TO 18 NCAC 07C .0406 EFF. JUNE 1, 2023)

18 NCAC 07B .0504 REAPPOINTMENT IF OATH NOT TAKEN WITHIN 45 DAYS (TRANSFERRED TO 18 NCAC 07C .0505 EFF. JUNE 1, 2023)

18 NCAC 07B .0505 TERM OF OFFICE (TRANSFERRED TO 18 NCAC 07C .0409 EFF. JUNE 1, 2023)

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

18 NCAC 07B .0601 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; Transferred from 18 NCAC 07B .0901 Eff. June 1, 2023.

18 NCAC 07B .0602 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;
Transferred from 18 NCAC 07B .0902 Eff. June 1, 2023.

18 NCAC 07B .0603 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;
Transferred from 18 NCAC 07B .0903 Eff. June 1, 2023.

18 NCAC 07B .0604 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;
 Transferred from 18 NCAC 07B .0904 Eff. June 1, 2023.

18 NCAC 07B .0605 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;
 Transferred from 18 NCAC 07B .0905 Eff. June 1, 2023.

18 NCAC 07B .0606 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;
 Transferred from 18 NCAC 07B .0906 Eff. June 1, 2023.

18 NCAC 07B .0607 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, 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.

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;
 Amended Eff. October 1, 2019;
 Eff. February 1, 2021;
 Transferred from 18 NCAC 07B .0907 Eff. June 1, 2023.

SECTION .0700 – PROFESSIONAL LICENSES, CIVIL AND CRIMINAL HISTORY

18 NCAC 07B .0701 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;
Transferred from 18 NCAC 07B .0201 Eff. June 1, 2023.*

18 NCAC 07B .0702 INSTRUCTOR CERTIFICATION – GENERAL (TRANSFERRED TO 18 NCAC 07E .0105 EFF. JUNE 1, 2023)

18 NCAC 07B .0703 TIMING OF INSTRUCTOR CERTIFICATION APPLICATION (TRANSFERRED TO 18 NCAC 07E .0106 EFF. JUNE 1, 2023)

18 NCAC 07B .0704 DEPARTMENT REJECTION OF APPLICATIONS (TRANSFERRED TO 18 NCAC 07E .0107 EFF. JUNE 1, 2023)

18 NCAC 07B .0705 FEES (TRANSFERRED TO 18 NCAC 07E .0104 EFF. JUNE 1, 2023)

18 NCAC 07B .0706 VERIFICATION THAT APPLICANT CONTINUES TO MEET REQUIREMENTS FOR A NOTARY COMMISSION (TRANSFERRED TO 18 NCAC 07E .0108 EFF. JUNE 1, 2023)

18 NCAC 07B .0707 OTHER VERIFICATIONS (TRANSFERRED TO 18 NCAC 07E .0111 EFF. JUNE 1, 2023)

18 NCAC 07B .0708 EVIDENCE OF MINIMUM EXPERIENCE (TRANSFERRED TO 18 NCAC 07E .0201 EFF. JUNE 1, 2023)

18 NCAC 07B .0709 JOURNAL AS EVIDENCE OF EXPERIENCE (TRANSFERRED TO 18 NCAC 07E .0204 EFF. JUNE 1, 2023)

18 NCAC 07B .0710 EMPLOYER AFFIDAVIT AS EVIDENCE OF EXPERIENCE (TRANSFERRED TO 18 NCAC 07E .0209 EFF. JUNE 1, 2023)

18 NCAC 07B .0711 ALTERNATIVE EVIDENCE OF EXPERIENCE (TRANSFERRED TO 18 NCAC 07E .0212 EFF. JUNE 1, 2023)

18 NCAC 07B .0712 RECOMMENDATIONS (TRANSFERRED TO 18 NCAC 07E .0112 EFF. JUNE 1, 2023)

18 NCAC 07B .0713 ORAL PRESENTATION REQUIREMENT FOR APPLICANT (TRANSFERRED TO 18 NCAC 07E .0303 EFF. JUNE 1, 2023)

18 NCAC 07B .0714 NOTARY PUBLIC INSTRUCTOR CERTIFICATION AND RECERTIFICATION EXAMINATIONS (TRANSFERRED TO 18 NCAC 07E .0302)

18 NCAC 07B .0715 ADDITIONAL REQUIREMENTS (TRANSFERRED TO 18 NCAC 07E .0701 EFF. JUNE 1, 2023)

18 NCAC 07B .0716 MINIMUM INSTRUCTIONAL DUTIES OF CERTIFIED NOTARY PUBLIC INSTRUCTORS (TRANSFERRED TO 18 NCAC 07E .0601 EFF. JUNE 1, 2023)

18 NCAC 07B .0717 EVALUATIONS OF INSTRUCTION (TRANSFERRED TO 18 NCAC 07E .1001 EFF. JUNE 1, 2023)

18 NCAC 07B .0718 ELIGIBILITY FOR RECERTIFICATION AS NOTARY PUBLIC INSTRUCTOR (TRANSFERRED TO 18 NCAC 07E .1101 EFF. JUNE 1, 2023)

18 NCAC 07B .0719 NOTARY PUBLIC INSTRUCTOR RECERTIFICATION REQUIREMENTS (TRANSFERRED TO 18 NCAC 07E .1102 EFF. JUNE 1, 2023)

18 NCAC 07B .0720 DENIAL OF NOTARY PUBLIC INSTRUCTOR CERTIFICATION OR RECERTIFICATION (TRANSFERRED TO 18 NCAC 07B .1103 EFF. JUNE 1, 2023)

SECTION .0800 – INVESTIGATIONS – RESERVED

SECTION .0900 – ENFORCEMENT AND DISCIPLINARY ACTION

- 18 NCAC 07B .0901 FACTORS CONSIDERED IN DISCIPLINARY ACTIONS (TRANSFERRED TO 18 NCAC 07B .0601 EFF. JUNE 1, 2023)**
- 18 NCAC 07B .0902 GENERAL APPLICATION DENIAL (TRANSFERRED TO 18 NCAC 07B .0602 EFF. JUNE 1, 2023)**
- 18 NCAC 07B .0903 EXECUTED DOCUMENT VIOLATIONS (TRANSFERRED TO 18 NCAC 07B .0603 EFF. JUNE 1, 2023)**
- 18 NCAC 07B .0904 COMPLETE AND LAWFUL NOTARIAL ACT VIOLATIONS (TRANSFERRED TO 18 NCAC 07B .0604 EFF. JUNE 1, 2023)**
- 18 NCAC 07B .0905 OTHER VIOLATIONS (TRANSFERRED TO 18 NCAC 07B .0605 EFF. JUNE 1, 2023)**
- 18 NCAC 07B .0906 MINIMUM SANCTION (TRANSFERRED TO 18 NCAC 07B .0606 EFF. JUNE 1, 2023)**
- 18 NCAC 07B .0907 APPEAL PROCEDURES (TRANSFERRED TO 18 NCAC 07B .0607 EFF. JUNE 1, 2023)**

SECTION .1000 – PUBLIC RECORDS AND REQUESTS FOR INFORMATION

- 18 NCAC 07B .1001 PUBLIC INFORMATION (TRANSFERRED TO 18 NCAC 07B .0110 EFF. JUNE 1, 2023)**