

# Remote Online Notarization: Avoiding the Sharp Edges



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# Disclaimer

I am a Notary Public Training Provider approved by the Montana Secretary of State.

To clarify, I am a paralegal, not a lawyer. I cannot—and will not—provide legal advice. Paralegals, like anyone who is not an attorney, are prohibited from offering legal advice or opinions, even if they know the answer.

Nothing in this presentation should be construed as legal advice. Legal matters are unique and specific; therefore, I strongly encourage every individual and business to seek guidance from legal counsel for their particular legal situation.

If you need legal advice, please consult an attorney for an official legal opinion.

For advice regarding internal law office procedures, I recommend discussing the matter with the shareholders or partners of your law firm. It may also be beneficial to review these policies with your firm's professional liability insurance carrier.



- PUBLIC -  
NOTARY



# QUICK OVERVIEW

# Definitions

**TWIN: Traditional Wet Ink Notarization**

**IPEN: In-Person Electronic Notarization**

**RON: Remote Online Notarization - RON**

**RIN: Remote Ink Notarization or Remote Notarization**

# The Fundamentals Remain The Same

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**Identity** – that the person appearing to the notary is who he/she says they are and is the person who is supposed to sign the document ...

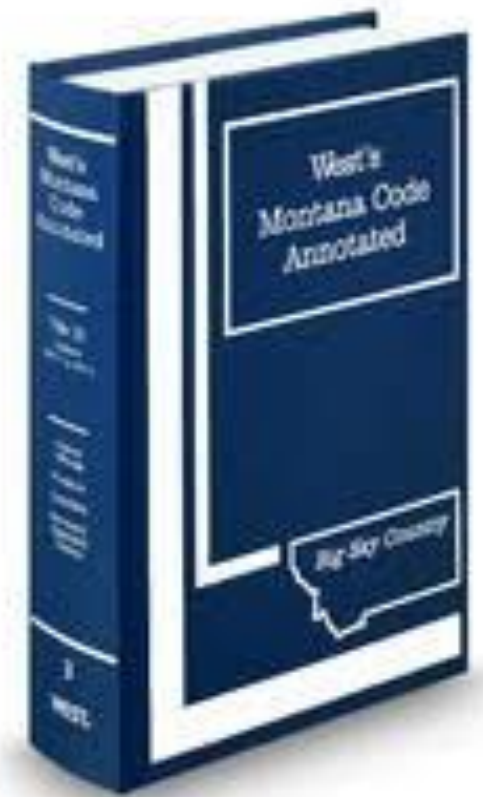
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**Understanding** – that the signer understands what the document is and what the implications of the transaction are... (i.e., “competent”)

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**Intent** – that the signer is voluntarily signing the document (i.e., not under duress or coercion, “willing”)

# REQUIREMENTS IN MONTANA FOR PERFORMING TECHNOLOGY-BASED NOTARIZATIONS



# Registration

Notaries who wish to perform IPEN, R.O.N. or Remote Notarizations must:

- Select one or more electronic notarization systems or communication technologies
- Complete an approved course of instruction provided by the technology provider(s) or an approved third-party provider
- Pass an examination based on the course(s)
- Submit the Notary Public Information Update form and proof of completion of the course and examination

# System Requirements

- Must provide simultaneous visual and audio transmission
- Must provide evidence of any change or tampering to a record
- Must ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures
- Signal must be live, real-time
- Transmission must be recorded



# Compliant Notary Certificates for RON

- Principal located outside the U.S. – §1-5-610(9), MCA
- Principal located within the U.S. – §1-5-610(10), MCA

# Journal and Recording

- Must record the entire communication between signer(s) and notary (a/v file)
- Must retain sole possession of recording or transmit to an approved repository
- Must create a separate tangible or electronic journal record of transaction per §1-5-618, MCA
- May provide copy of a/v recording per §1-5-618, MCA
- May charge additional fee for copy of journal entry or a/v recording per §1-5-626(3), MCA



# METHODS OF IDENTIFICATION

# Methods

- Personal Knowledge
- Credible Witness
- Multi-Factor Identification using two or more different types of technologies. The currently approved types of identification technologies are:
  - Dynamic knowledge-based authentication (DKBA)
  - Public key certificate
  - Identity proofing
  - Credential analysis and remote presentation
  - Blockchain

*Notaries should be aware of the types of identification technologies, but it is the communications technology provider who is responsible for identifying the signer using these technologies prior to the active remote session.*

**IT IS THE NOTARY'S ULTIMATE RESPONSIBILITY TO ACCEPT (or reject) THE RESULTS OF THE TECHNOLOGY-BASED IDENTIFICATION**

# Credible Witness

## 44.15.108 REMOTE AND REMOTE ONLINE NOTARIZATIONS

(8) If the individual for whom the notarial act is being performed is being identified by *credible witness*, the recording of the remote notarization shall include:

(a) a statement by the notary public as to how the credible witness was identified;

(b) an explanation by the credible witness as to *how the credible witness has come to know the individual for whom the notarial act is being performed* and the length of time the credible witness has known the individual; and

(c) a sworn statement by the *credible witness identifying the principal*.

CHRISTI JACOBSEN  
MONTANA SECRETARY OF STATE



Four Six  
Notary



NOTARY PUBLIC  
HANDBOOK

CREDIBLE  
WITNESSES

# The credible witness must be:

- Personally known to the signer.
- Either personally known to the notary or identified on the basis of documentary proof as defined above.
- Appearing personally (either physically or by means of communication technology) to the notary at the time of the notarization.
- An unbiased third party who has no interest in, or benefit from, the transaction.

# Steps to a proper notarization using a credible witness:

1. Properly identify the credible witness.
2. Place the credible witness under oath: “Do you swear under penalty of perjury that this is \_\_\_\_\_?”
3. Create a journal record for the oath of the credible witness and have him/her sign the journal as appropriate. The credible witness does not sign the document.
4. The signer signs the document (if not already signed).
5. Create journal record for the signature, acknowledgment, or jurat and have the signer sign the journal as appropriate. (The credible witness’ name is the means of identification.)





# NOTARY CERTIFICATES

# Principal Located Outside the United States

## Mont. Code Ann. § 1-5-610

(9) For a remote notarization or remote online notarization on a tangible or electronic record for a principal located outside the United States:

State of.....

County of.....

This record was (acknowledged) (signed) (signed and sworn to or affirmed) before me by use of communication technology on (date) by (name of principal(s)), who declared that (he) (she) (they) (is) (are) located in (place where principal(s) was/were physically located at the time of notarial act) and that this record is part of or pertains to a matter that is to be filed with or is before a court, governmental entity, or other entity located in the United States or involves property located in, or a transaction substantially connected with, the United States.

.....

(Signature of notarial officer)

(Official stamp)

.....

Printed name and title of officer (if not shown in stamp)

# Principal Located Inside the United States

## Mont. Code Ann. § 1-5-610

(10) For a remote notarization or remote online notarization on a tangible or electronic record for a principal located in or outside this state but within the United States:

State of.....

County of.....

This record was (acknowledged) (signed) (signed and sworn to or affirmed) before me by use of communication technology on (date) by (name of principal(s)), who declared that (he) (she) (they) (is) (are) located in (place within the United States where principal(s) was/were physically located at the time of notarial act).

(Official stamp)

.....

(Signature of notarial officer)

.....

Printed name and title of officer (if not shown in stamp)

CHRISTI JACOBSEN  
MONTANA SECRETARY OF STATE



NOTARY PUBLIC  
HANDBOOK

JOURNALS,  
JOURNALS  
& SPEECHES

# Paper Journal Record

OFFICIAL JOURNAL RECORD OF NOTARIAL ACT		TYPE OF NOTARIAL ACT	
DATE OF NOTARIZATION	10/2/19	TIME	1:45 AM/PM
DATE OF DOCUMENT	10/2/19		
TYPE OF DOCUMENT	Loan docs - LOAN FILE # 105743		
NO. OF DOCUMENTS	7	FEE \$	
SIGNER TO COMPLETE THIS SECTION		TYPE OF IDENTIFICATION	
SIGNATURE	(SEE A/V RECORDING)		
PRINTED NAME	JOHN SMITH		
ADDRESS	1212 ELM ST		
CITY/ST/ZIP	CASPER, WYOMING		
		<input checked="" type="checkbox"/> ACKNOWLEDGMENT	ACT PERFORMED ELECTRONICALLY (Platform) NOTARY CAM
		<input type="checkbox"/> JURAT	
		<input type="checkbox"/> SIGNATURE	ACT PERFORMED REMOTELY (Platform) NOTARY CAM
		<input type="checkbox"/> CERTIFICATION COPY	
		<input type="checkbox"/> OTHER _____	A/V File Location N.C. CLOUD
		<input type="checkbox"/> Personal Knowledge	<input checked="" type="checkbox"/> JD Document WY DL (Type & Issuing Entity) Issue/Exp Date 11/20/21
		<input type="checkbox"/> Credible Witness Name _____ (Signature)	
		<input checked="" type="checkbox"/> OTHER DEBA CRED. ANALYSIS (PKA, Credential Analysis, etc.)	
INCLUDE OTHER INFORMATION ON BACK			No. 002

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\*Image from Montana Notary Handbook, 2022

# Electronic Journal

## **Journal and Recording**

- ✓ Must record the entire communication between signer(s) and notary (a/v file)
- ✓ Must retain sole possession of recording or transmit to an approved repository
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## **Example Credible Witness Speech (RON): (With witness appearing remotely or in camera view for recording)**

Good morning Michael! For purposes of this electronic record, we will move through a few formalities.

My name is Sabrina Hallsten and I am a Montana Notary. Today is August 15, 2024 and I am in my office in Helena Montana. You have asked me to notarize your signature on a Resignation. Is that correct?

I want to let you know that, pursuant to Montana law, this call is recorded and that we will go through several steps to authenticate your identity through NotaryDox. Could you please state your name and current residential address for the record?

During this login, you will accept legal consent to use e-signature and may be prompted for your social security number and date of birth. If you are prompted for this information, it should not be shared, so please do not share your screen during this process.

### ***Credible Witness***

Sean Slinger has agreed to act as our Credible Witness for this signing today so we will move through a small series of questions with Sean. [Sean needs to be on camera]

I have personal knowledge of this credible witness because he is an attorney who works in my office.

Sean, can you please explain how you know Michael?

When did you meet him?

Do you swear under penalty of perjury that this is Michael Doe?

Perfect, now Michael, you and I can move through the signing process.

# KEEP IT SIMPLE

Verify the identity

Verify the document

Verify the understanding

Journal, Journal, Journal







**\$00000...**

**ANY QUESTIONS?**

Thank you!

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