

**Excerpted from the "Notary Public and Justice of the Peace Manual"
of the State of New Hampshire**

- (2) administering an oath or affirmation;
- (3) taking a verification upon oath or affirmation
- (4) witnessing or attesting a signature;
- (5) certifying or attesting a copy; and
- (6) noting a protest of a negotiable instrument.

The specific requirements for each notarial act are addressed in the separate notarial officers sections. In addition to the acts identified in the Uniform Law, there are notarial acts that certain notarial officers are authorized to perform by other New Hampshire statutes. These acts are addressed below in the section covering the notarial officer authorized to perform them.

456-B:1, I.

IDENTITY OF THE PERSON SEEKING NOTARIZATION

When performing any notarial act, the Uniform Law requires that the notarial officer determine the identity of the person appearing before him or her. The notarial officer's "[R]esponsibility to reasonably verify the identity of every person for whom [he or] she notarizes is profound." Proper identification is critical to prevent one person from using the identity of another in having a notarial act performed. "The notary performs this function of signer identification as a fiduciary of the public. As a result, "the notary is expected to perform [it] with integrity and diligence."

In New Hampshire, a notarial officer has a statutory duty to determine the identity of the person appearing before him or her. The National Notary Association recommends that notarial officers act with reasonable care in performing this duty. Reasonable care is the degree of care that a prudent and competent person engaged in the same endeavor would exercise under similar circumstances. Reasonable care is a test of liability for negligence. While New Hampshire has yet to specifically address the identity issue, other jurisdictions have found that a failure to exercise reasonable care in determining identity constitutes negligence. For example, a Notary Public who, as a favor, notarized a document without having the person named in the document appear before her and without confirming her identity, was found to have acted negligently. As a result, a notarial officer should take the statutory duty to determine the identity of the person appearing before him or her very seriously.

THERE IS NO EXCEPTION TO THE REQUIREMENT OF A PERSONAL APPEARANCE BEFORE THE NOTARIAL OFFICER.

A person must be physically in the presence of the notarial officer for any notarial act to be performed in that person's name. It is not sufficient that the notarial officer know the person and his or her signature on the document to be notarized. It is not sufficient that the person verify by telephone that it is his or her signature. The law does not currently permit a notarial officer to witness an act through video conference or other electronic means where the person making the act is at a physical location different from the notarial officer or otherwise not in the physical presence of the notarial officer. Even where a notarial officer may work with and perform