





# **AM No. 20-07-04-SC** 2020 Interim Rules on Remote Notarization of Paper Documents

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# General Provisions

## *Scope*

-  Limited to the notarization of paper documents and instruments with handwritten signatures or marks through the use of videoconferencing facilities.
-  These Rules shall **not apply** to the execution of notarial wills.



# General Provisions


## *Localities Where the Rules Apply:*

- ✍ Where the notary public ("NP") or at least one of the principals resides, holds office, or is otherwise situated in a locality that is under community quarantine due to COVID-19 (***Section 3, Rule I***)



# General Provisions

## *Legal Effect and Enforceability*

-  Any notarial act performed through videoconferencing facilities pursuant to these Rules shall have the same validity, force, effect and may be relied upon to the same extent as any other notarial act performed under the 2004 Rules on Notarial Practice. **(Section 5, Rule I)**







**"Personal appearance," "appears in person" or "in the presence of the notary public":** the principal, witnesses, and the notary public can see, hear, and communicate with each other, and present and confirm competent evidence of identity to each other in real time through the use of videoconferencing facilities or technologies that achieve the same purposes.



**Videoconferencing facilities:** any tool, device, system, application and technology that has sufficient interactive audio-video capabilities that allow all the parties physically located in different locations to see, hear and communicate with, and present and confirm competent evidence of identity to each other in real time.



# Acknowledgment, Affirmation, Oath of Jurat

## 1. Principal shall cause the delivery of:

### A. The instrument or document to the Notary Public:

- a. Integrally complete;
- b. Bear the handwritten signature, thumbmark, or other mark of the principal;
- c. Placed in an envelope; and
- d. Envelope sealed with the initials of the principal



**Note:** In case of thumbmark or other marks in lieu of handwritten signature of the principal, the principal is required to affix such mark in the presence of two (2) unaffected and disinterested witnesses who shall sign their own names in addition to the principal's mark.

A large, stylized, brown letter 'Q' with a thick horizontal line underneath it, serving as a visual representation of a mark or signature.

**B. Copies of any competent evidence of identity, and document granting his or her authority to sign, if applicable:**

- a. If the principal is not personally known to the notary public:
  - i. two (2) copies of any competent evidence of identity;
- b. If the principal is signing in a particular representative capacity:
  - i. Two (2) copies of any competent evidence of identity; and
  - ii. Two (2) certified copies of the document granting his or her authority to sign in such capacity.
- c. If the party granting the authority to sign is a corporation:
  - i. Two (2) copies of any competent evidence of identity of the principal;
  - ii. Two (2) copies of any competent evidence of identity of the corporate secretary; OR
  - iii. Two (2) duplicate originals or certified copies of the Board Resolution granting his or her authority to sign in such capacity.





**Note:** For affirmation, oath or jurat, letter b and c are not applicable.

- d. If the instrument or document ("I/D") subject of the notarial act bears the signature of parties who acted as witnesses to the execution:
  - i. two (2) copies of any competent evidence of identity of the witnesses not personally known to the notary public.



***The principal shall be required to exhibit to the notary public the original evidence of his or her identity*** and the original document granting his or her authority to sign **during the videoconferencing** for examination and comparison with the copies so provided.





**C. Videoclip showing that the principal actually signed the instrument or document delivered for affirmation or oath.**

- a. Contained in a CD or USB placed in a sealed envelope and delivered by personal or courier service; or
- b. By sending the videoclip by e-mail or any other means of digital communication.

**2. By personal or courier service (provided that the principal be required to furnish the Notary Public with the details necessary to track its delivery once these details become available);**



# Acknowledgment, Affirmation, Oath or Jurat

 Upon receipt of the sealed envelope and video clip, the notary public shall schedule a videoconference with the principal.

## **The Notary Public shall:**

- A. Require the principal and witness/es, if any to confirm his or her identity by exhibiting to the NP the originals of their competent evidence of identity;
- B. Require the principal and the witness/es to confirm his or her location to the satisfaction of the notary public by showing his or her geolocation through an application with global positioning satellite (GPS) capabilities or by showing the notary public identifiable landmarks or buildings within the vicinity.



C. Open the sealed envelope within full view of the principal and require him or her to confirm that the instrument or document exhibited to him or her is the very same instrument or document which he or she caused to be delivered;

D. Ensure that the I/D is kept within the full view of the principal at all times during the videoconference;

E. In case of thumbmark or other mark in lieu of handwritten signature of the principal, require the principal to confirm that he or she affixed his or her thumbmark or other mark on the I/D in lieu of a signature.

F. In case the principal puts his thumbmark or other mark in lieu of his handwritten signature, require the principal to confirm that he or she has read the I/D if able to do so, or that the I/D has been read to him or her in its entirety, and that he or she understood its contents by asking searching questions. Each witness is required to



confirm that every signature in the I/D purporting to be that of the said witness belongs to him or her and that it was voluntarily affixed thereon, and to confirm that he or she personally witnessed the principal affixing his or her thumbmark or other mark thereon freely and voluntarily.

G. Require the principal and the witness/es to affix his or her signature, thumbmark, or other mark on blank piece of paper within the full view of the NP for comparison with the signature appearing on the I/D;

H. Require the principal and the witness/es to confirm that the signature appearing at the end of the I/D belongs to him or her and that it was voluntarily affixed for the purposes as represented;

I. **For acknowledgment:** Require the principal to declare that he or she executed the instrument or document as his or her free and voluntary act and deed, and if acting in a particular representative capacity, that he or she has the authority to sign in that capacity.



In case of witness/es, to require each witness to declare that he or she personally witnessed the principal signing the I/D or affixing his or her thumbmark or other mark thereon freely and voluntarily;

**For affirmation, oath or jurat:** Require the principal to avow to the whole truth of the contents of the I/D under penalty of law. In case of witness/es, to require each witness to declare that he or she personally witnessed the principal signing the I/D or affixing his or her thumbmark or other mark thereon freely and voluntarily.

J. Review the video clip submitted by the principal to verify that he or she actually signed and that the witnesses actually saw the principal sign or affix his or her thumbmark or other mark thereon freely and voluntarily;

K. The NP shall assess the principal's voluntariness by asking searching questions. In case of witness/es, the NP to determine whether the witness/es is in fact disinterested and unaffected parties to the I/D by asking searching questions. In case of witness/es, the NP to determine whether the witness/es is in fact disinterested and unaffected parties to the I/D by asking searching questions;





L. Should there be other persons present in the videoconference, the NP shall require such persons to identify themselves and state the reasons why they are in the immediate vicinity, and if not satisfied with the reasons given, require them to leave the immediate vicinity for the duration of the videoconference;

M. Should there be more than one principal, each shall be present singly or on group/s during the videoconference and be required to comply and/or confirm compliance with the requirements and procedures.



**Note:** In Affirmation, Oath or Jurat, there is a need to require the principal to confirm that he or she has read the I/D in its entirety and has understood all its contents.





When the principal, who is unable to affix his or her signature, **requests the notary public to sign on his or her behalf:**

- the principal shall place the instrument or document in a sealed envelope together with the copies of the competent evidence of identity, and two (2) copies of any competent evidence of identity of the witnesses chosen by the principal.
- thereafter, the principal shall cause the delivery of said envelope to the notary public by personal or courier service.





Upon receipt of the instrument or document, the notary public shall schedule a videoconference with the principal and two (2) unaffected and disinterested witnesses chosen by the latter.

**The Notary Public shall:**

A. Confirm the principal's inability to sign or affix his or her thumbmark on the instrument or document and the latter's request to have the notary public sign the instrument or document on his or her behalf;

B. Require the principal to confirm that he or she has read the instrument or document if able to do so, or that the instrument or document has been read to him or her in its entirety, and that he or she has understood its contents by asking searching questions regarding the instrument or document. Should there be other persons present in the videoconference, the notary public shall require such persons to identify themselves and state the reasons why they are in the immediate vicinity of the principal and if not satisfied with the reasons given, require them to leave the immediate vicinity of the principal for the duration of the videoconference;

C. Sign the instrument or document within full view of the principal and the two (2) unaffected and disinterested witnesses who shall also be within full view of the principal;



D. Require the witnesses to confirm their respective identities by exhibiting to the notary public the originals of their competent evidence of identity;

E. Require the witnesses to confirm their respective locations to the satisfaction of the notary public by showing their geolocation through an application with GPS capabilities or by showing the notary public identifiable landmarks or buildings within their respective vicinities;

F. Determine whether the witnesses are in fact unaffected and disinterested parties to the instrument or document by asking searching questions;

G. Require each witness to declare that he or she personally witnessed the notary public affixing his or her signature on the instrument or document on behalf of the principal; and

H. Indicate below the notary public's signature, the following statement: "Signature affixed by notary in the presence of (names and addresses of the principal and two [2] witnesses)."



# **Copy Certification**

1. The Principal shall cause the delivery of the instrument placed in an envelope which shall be sealed with the initials of the principal;
2. By personal, courier service or electronic mail.

## **Scheduling of videoconference by the Notary Public:**

- A. Determine whether the instrument or document to be copied is not a vital record, a public record or publicly recordable. If it is, the NP shall immediately notify the principal that the I/D cannot be copy-certified, and request him or her to cause its retrieval at his or her expense.
- B. If the instrument or document can be copy-certified, schedule a video-conference, schedule a videoconference.





# **Notarial Acts via videoconference**

## **The Notary Public shall:**

- A. Require the principal to confirm that the I/D, or printout in case sent by e-mail, exhibited by the NP is the same instrument or document which he or she cause to be delivered.
- B. Proceed to make copy/ies, as required by the principal or supervise the copying of the I/D;
- C. Compare the I/D with the copy/ies made and ensure that is or they are accurate and complete;





The Notary Public shall complete the Notarial Certificate attached to the instrument or document or appearing before the signature portion thereof, affix his or her signature by hand, set his or her Official Seal.

**The Notarial Certificate shall state:**

1. That the notarial act was done through the use of videoconferencing facilities in accordance with AM. No. 20-07-04-SC;
2. That the NP, P and W, if any, were in a locality within the territorial jurisdiction of the court which issued the NP's commission at the time the notarial act was performed. In case of Copy Certification, a statement that the NP was within the territorial jurisdiction of the court which issued his or her commission shall suffice.





## **Photograph or screenshot:**

1. The NP shall take a photograph or a screenshot of the videoconference clearly showing all the parties who participated in the notarial act;
2. In the said photograph or screenshot, the NP must be seen holding the I/D to make the first page of the notarized document visible and identifiable as such;
3. The photograph or screenshot must bear a time and date stamp which accurately reflects the time and date when the videoconference was conducted;
4. A physical copy of the photograph or screenshot must be produced and attached to the notarial register;
5. The photograph or screenshot shall serve as proof of the personal appearance of the principal/s and/or witnesses before the NP and shall likewise substitute their signatures in the NP.



## **Retrieval of the instrument or document**

-  The principal shall shoulder all expenses, including expenses for the reproduction of the I/D and delivery thereof either by personal or courier service;
-  The principal shall cause the retrieval of the notarized documents from the NP either personally or by courier service.

## **Notarial Register**

### **Charges**

The NP may charge the maximum fee prescribed by the Supreme Court, unless he or she waives the fee in whole or in part.

### **Payment**

The fee charged by the NP may be paid by the principal through:

1. Electronic remittance;
2. Bank transfer; or
3. Any other means agreed upon by the parties.



## Notarial Register

In addition to the entries required by the 2004 Notarial Rules, the Notarial Register must include an entry indicating that the notarial act was performed through videoconference as required by these Rules, and specifying the particular videoconferencing facility used by the parties therein.

The NP shall retain two (2) copies of the I/D on which he or she performed a notarial act pursuant to these Rules.

The NP shall attach to these copies the:

1. Competent evidence of identity provided by the parties and witnesses;
2. Photograph or screenshot.

Both shall be properly marked with the document number and page number of the relevant entry.

**First set of copies:** attached as annexes to the Notarial Register and form part of the entries

**Second set of copies:** kept by the NP for his or her records.

