

Notaries Should Know How to Handle Sworn Statements

Once you have confirmed the identity of the person seeking your notary services and verified that they are prepared to sign freely and willingly, the next duty of a notary public is to determine what type of document they have presented to you. The two most common types of notarized documents are sworn statements and acknowledged statements. Sworn statements are often (but not always) called affidavits.

Some documents have the word affidavit in the title but no wording that requires an oath. The title is there to identify the document and does not determine what it is, so go by the wording in the document itself. If the document has a Jurat as a notary certificate, you know it is a sworn statement. Just be aware that not every sworn statement has a Jurat. Look at the opening sentence or two of the document. If it says anything about "being duly sworn" or "upon oath," that is a sworn statement.

For all sworn statements, the notary must administer an oath or affirmation. The difference between these two is that an oath is a promise made before God that the statement is truthful, while an affirmation does not make any reference to a deity. In either case, a sworn statement is made under penalty of perjury, which is a serious matter.

This is a solemn event and should be treated as such. Either ask the client to raise his right hand or to place it over his heart. Recite an oath and/or affirmation and require a yes answer; non-verbal responses or grunts are not acceptable.

The oath or affirmation administered by the notary should comply with the laws in his or her state. If the state law does not specify any wording, the notary may look at the suggested wording in the [Revised Uniform Law on Notary Acts](#) or other [model laws](#) that can be found online. The intent of the oath or affirmation is to impress upon the signer the seriousness of the statements made in the document, the necessity for being truthful in executing the document, and the consequences of knowingly making a false statement in this instance.

After the notary has administered an oath or affirmation, he or she will sign the notary certificate, which, for a sworn statement, should verify the following four facts:

1. The signer appeared before the notary.
2. The notary verified the identity of the signer.
3. The signer signed the document freely and willingly in the presence of the notary.
4. The signer swore or affirmed (under penalty of perjury) that the facts in the statement were true and/or that he would do what the statement said he would do.

The simple wording "sworn to and subscribed before me this ___ day of ___" conveys all of these facts either directly or by implication. That wording is the shortest form of what is called a Jurat.

Sometimes, the notary certificate for a sworn statement does not include the 4th fact because the party who prepared the document chose to include different wording. In such a case, the notary certificate is called an Acknowledgment.

The following is Sufficient Wording for Administering an Oath OR Affirmation in Delaware:

Oath: "Do you SWEAR under penalties of perjury that the testimony you are about to give will be the truth, the whole truth and nothing but the truth, so help you God?"

AFFIRMATION: "Do you AFFIRM under the penalties of perjury that the testimony you are about to give will be the truth, the whole truth and nothing but the truth?"

The oath-taker MUST respond by saying "YES", "I DO" or "I WILL"

If the signer is unable to speak, the signer may nod or use some other gesture to indicate agreement or write a response. This ceremony **MUST** take place. If no oath is given, or if there is no response, the oath or affirmation has **NOT** been properly administered, possibly invalidating the transaction. Failure to administer an oath or affirmation when required constitutes grounds for revocation of the notary commission.

NOTE: This article serves as information purposes to broaden the knowledge of the notary public. The Delaware Notary Association is dedicated in keeping the Delaware Notary with working information in performing their duties to the best they can and to the fullest.

The Delaware Notary Association recommends contacting the State of Delaware Notary Public office for any detailed questions at (302)739-4111 or email: notary@delaware.gov

Jurats and acknowledgments will be covered in upcoming articles here