

## What is a Notario Publico?

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In its simplest form, the term notario publico translates to "notary public." On a deeper level, however, the difference between a notario publico and a U.S. notary public is vast, and therefore it can be problematic for notaries to use this particular terminology in the United States. While a notary public in the United States is authorized to perform specific notarial acts and practice limited discretion, a notario publico in many Latin American countries is an individual who has received the equivalent of a law license and who is authorized to represent others before the government.

In the United States, the qualifications for obtaining a notary license vary greatly from state to state with most requiring, minimally, an application, residency in the state where the applicant is seeking commission, and the payment of a fee.

In contrast, Mexico, for example, requires that you be Mexican by birth, older than 35, and an attorney with a minimum of five years of practical experience in the law profession. Additionally, applicants must pass a highly technical examination and then be appointed as a notary public by the Governor of the state in which he or she is working. Unlike in the United States, a new notary in Mexico is appointed only as the population grows above a certain size.

When we delve deeper into the duties and responsibilities of a notary public and notario publico, the differences become even more profound. In most states, notaries may take acknowledgments, administer oaths, protest instruments, and even take depositions. The actions of notaries public are specific to the state where they are commissioned, and the state's governing body strictly defines their duties and actions. In contrast, in Mexico, notaries have a much broader range of duties. For example, a notario publico can draft deeds for transfer of real property. Anytime a signature is required on a deed of transfer of title, it must be made before the notary public. In addition, notaries in Mexico can issue judicial opinions, intervene in judicial proceedings, and ensure that documents do not include legal inconsistencies.

Clearly the difference in terminology, with regard to the extent of the powers of each, can be particularly problematic for someone who markets himself or herself as a notario publico in parts of the United States with a large immigrant population from Mexico or other Latin American countries. Immigrants, seeing such an advertisement, are led to believe falsely that the notary may have powers similar to the ones in Latin America countries. This can lead to immigration related fraud and result in sanctions against the offending notary.

Many states prohibit the use of "notario publico" in advertisements or require that notaries, when their advertisement includes the term "notario publico," add a disclaimer in English and in the language of the advertisement stating that they are not attorneys and cannot practice law or offer legal advice. It is always best to refer to your specific state's laws when using the word "notario publico" in your advertisements.