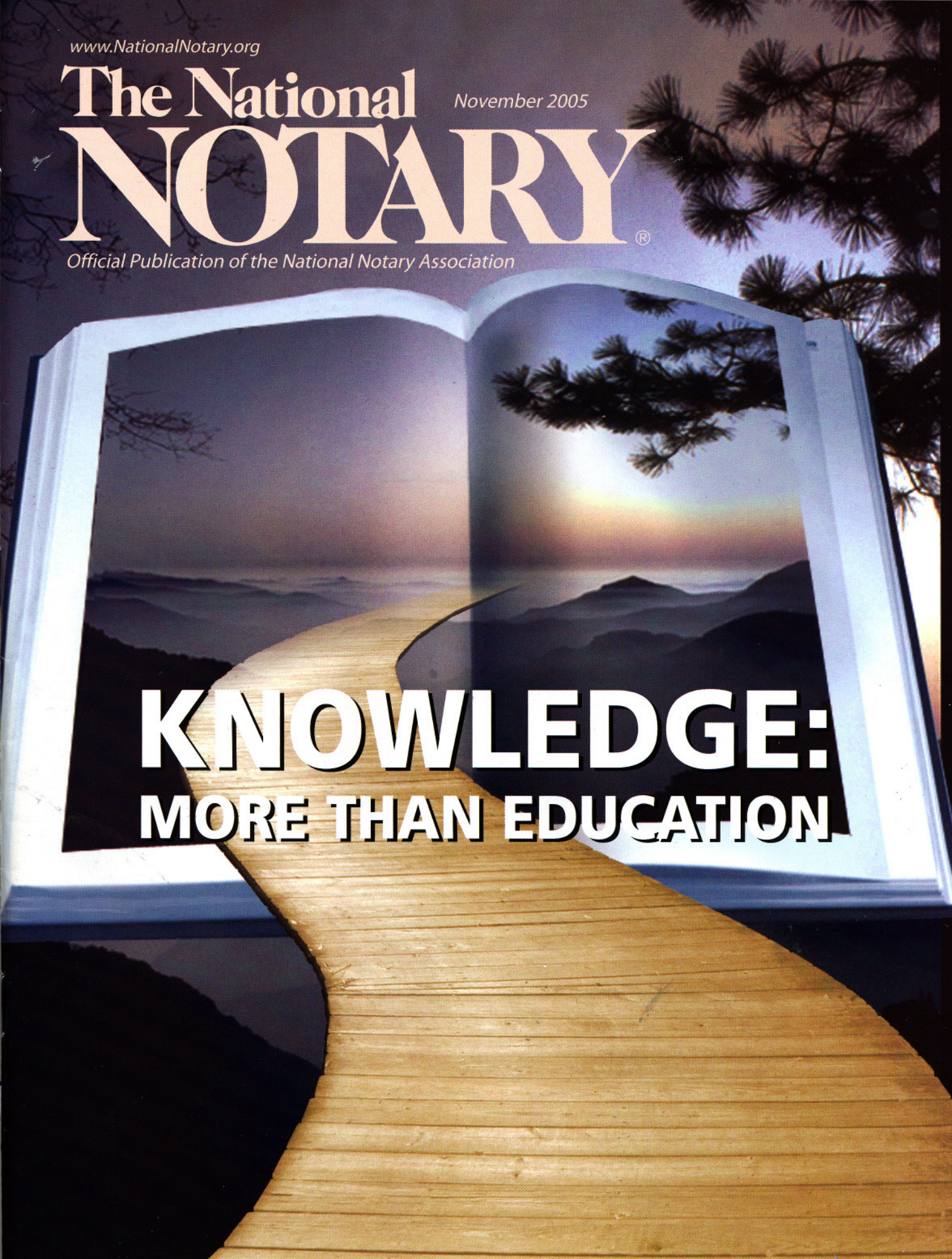


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**KNOWLEDGE:
MORE THAN EDUCATION**



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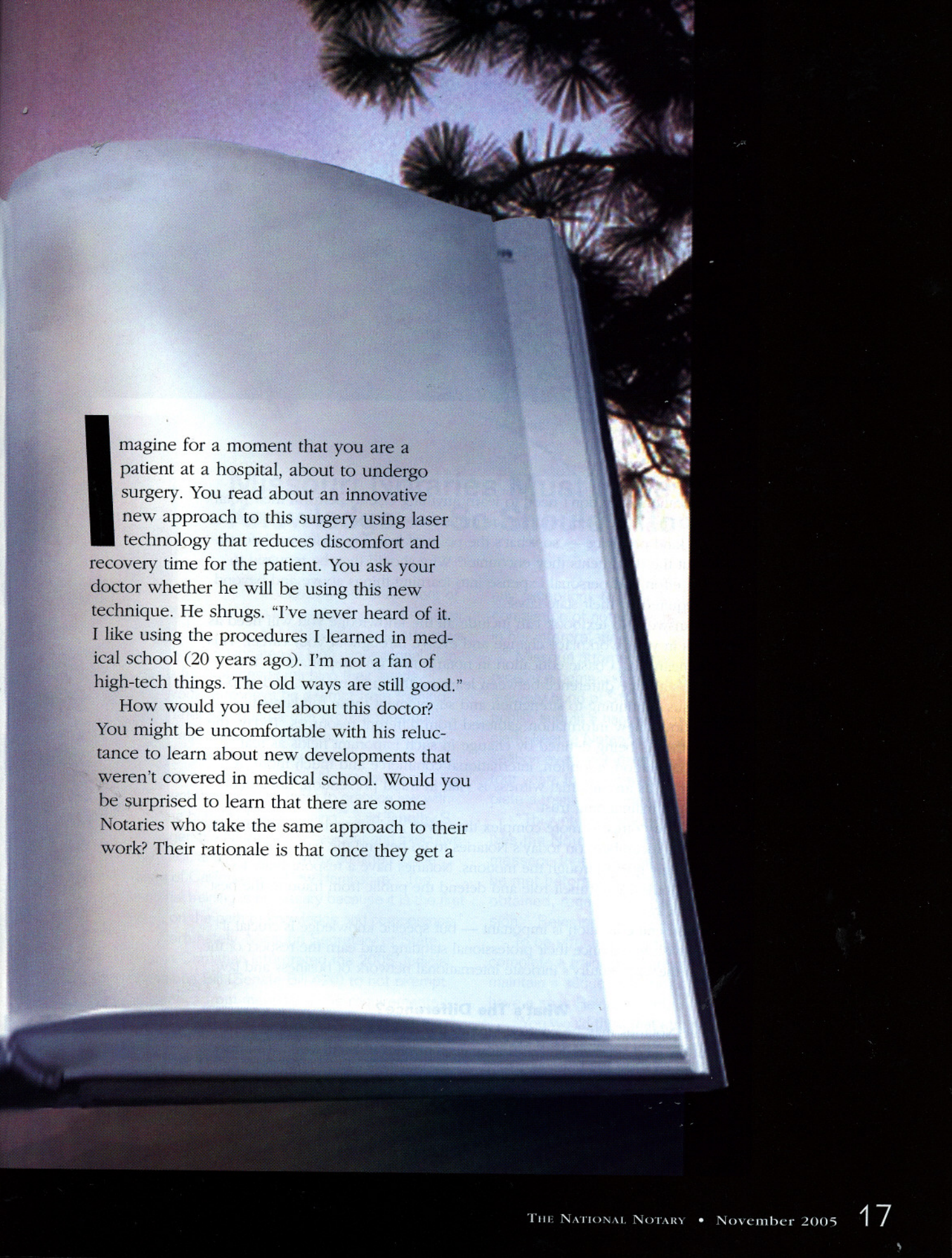
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is only the
launching point for
the professional
Notary's necessary
and constant
search for

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By David S. Thun
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Imagine for a moment that you are a patient at a hospital, about to undergo surgery. You read about an innovative new approach to this surgery using laser technology that reduces discomfort and recovery time for the patient. You ask your doctor whether he will be using this new technique. He shrugs. "I've never heard of it. I like using the procedures I learned in medical school (20 years ago). I'm not a fan of high-tech things. The old ways are still good."

How would you feel about this doctor? You might be uncomfortable with his reluctance to learn about new developments that weren't covered in medical school. Would you be surprised to learn that there are some Notaries who take the same approach to their work? Their rationale is that once they get a

Know

basic education, they don't need to learn anything else to perform their notarial duties. They may point out that, as ministerial officers, they're forbidden to give any kind of advice — so what's the point of learning additional information about the documents they encounter? Why should they be required to put extra effort and personal expense into learning things above and beyond what's required by their state laws?

The answer: No textbook can include all the knowledge you will need as situations in your workplace change and evolve throughout your career. This doesn't mean that a basic education in notarization isn't important — it is. But there's a huge difference between learning the fundamentals and stopping versus continuing to strengthen and supplement those fundamentals with pertinent new information gathered from different resources. Today, the Notary office is being defined by change in such important fields as real estate, immigration, adoption, international commerce and much more. A Notary's role as an impartial witness is vital in fraud prevention, document security and maintaining trust.

The Notary office is more complex than ever, and becoming more so every day. So it is incumbent on today's Notaries to go beyond the basics or else they're simply going through the motions. Notaries have a responsibility to know the intricacies of their role and defend the public from fraud to the best of their ability.

Yes, general education is important — but specific knowledge is crucial if Notaries wish to enhance their professional standing and earn the respect of the public in the 21st century's intricate international network of business and law.

What's The Difference?

Some Notaries may be confused about the difference between the terms "education" and "knowledge" and how each applies to their work. It's important to understand the distinction. *Education* concerns the fundamentals of the Notary office. Learning the difference between acknowledgments and jurats, how to properly fill out and affix a seal to certificate wording, making a proper journal entry and avoiding the unauthorized practice of law — these are the important foundations that a new Notary must learn well.

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Missouri Secretary of State Robin Carnahan

Missouri Notaries Must Have The Knowledge — So Should Attorneys

Missouri's recent enactment of a law expanding the definition of Notary to include attorneys initially left advocates of high professional standards for Notaries scratching their heads.

Would attorneys be exempt from training and other safeguards that protect the public from unprofessional Notaries?

"To grant an attorney notarial powers without requiring training in Notary law is no different than allowing them to practice law without the benefit of legal training," said Timothy S. Reiniger, the NNA's Vice President and Executive Director, and also an attorney admitted to the Bars of California and New Hampshire. "The notarial training is necessary because it is the first step on the path to knowledge and competence."

Fortunately, Missouri Secretary of State Robin Carnahan interpreted the 2005 Judicial Omnibus Bill (Senate Bill 420) to not exempt attorneys from meeting all the requirements expected of anyone else who applies for a Notary Public commission.

"SB 420 does not modify or amend the other 40 statutory sections which address the requirements for securing and maintaining a Notary Public commission, nor does it create

any exceptions to the rules for proper completion of notarial acts," Carnahan wrote in her interpretation.

Missouri attorneys may apply for and receive a commission as a Notary if they obtain a surety bond of \$10,000 as protection for the public; submit a handwritten signature to the clerk; keep a Notary journal; affix a Notary seal on every notarized document; reapply every four years for a renewed commission; and complete a training program before reapplying.

"This interpretation further professionalizes the Notary office by sending a clear message that important requirements must be met before a Notary commission can be obtained, regardless of a person's profession," Reiniger said.

To be effective Notaries, attorneys need to complete a training program, secure a bond, maintain a sequential journal of notarial acts and have a seal, Reiniger said.

"You would think that attorneys with law school training would be well-versed in notarial procedure and the Notary's ethical role," Reiniger said. "Unfortunately, this is not the case, because law schools do not yet require a course in notarization nor do bar exams test on it."

Extra Knowledge Can Help Spot Fake IDs

As fraudulent IDs become more sophisticated, Notaries must become more vigilant in scrutinizing any identification document they are presented with. Spotting discrepancies in a counterfeit driver's license or passport is a difficult challenge.

Spotting false identification is an important part of a Notary's duty but, unfortunately, the ability to do so is not included in most states' commissioning qualifications.

Today, graphic design programs and desktop computers can produce a copy of an official ID that is nearly indistinguishable from the genuine article. These systems are easily affordable and consumers purchase and use them for many legitimate purposes on an everyday basis. Unfortunately, this also means that the ambitious criminal has easy access to the tools to create counterfeit identification.

To counter this, a Notary has to be particularly vigilant in screening IDs. Not only should the Notary look for discrepancies in the description of the signer (weight, height, hair, eye color, etc.) but also for improbabilities in the signer's information. For example, a grey-haired, elderly gentleman presenting an ID stating he was born in 1987 is a clear warning to the Notary that something is amiss. The Notary should also tune in to discrepancies in the physical appearance of any card, including unauthorized laminations, bumps in the card surface and discordant type styles.

A reference publication on U.S. and international identification documents, such as the *I.D. Checking Guide*, is also helpful. By studying and becoming familiar with different forms of ID, the Notary is less likely to be taken unaware by counterfeit and tampered documents.

Be sure also to keep abreast of your state's laws regarding IDs acceptable for notarization. Some states limit the types of ID that may be accepted by Notaries (e.g., military IDs, state driver's licenses). Others stipulate that any ID relied on must have certain components, such as a photo, signature and description. These rules can change with each legislative season and it is important that Notaries stay current.

Knowledge, however, is about learning and personal growth above and beyond the minimum. Seeking knowledge means taking your life experiences and new developments in your career field, and combining that vital knowledge with your basic education in order to further improve your performance as a Notary. Education will give you a basic grounding in what you need to know to perform your functions as a Notary Public. But the continuing quest for new knowledge will help make sure that you apply that education properly as the specific rules and procedures of notarization continue to evolve.

To help illustrate the difference, let's look at two Notaries who work in the same shopping center. Both have completed the basic training required to be commissioned in their state. The first Notary, however, has been content to work without any further training. The second Notary regularly checks the Web site of the secretary of state for new developments in his state's Notary laws and procedures.

A signer approaches the first Notary and asks for a jurat on a legal document. The Notary watches the document being signed, administers an oath, and completes the certificate wording and journal entry properly. The signer thanks him and leaves. All correct, so far, according to the basics. However ...

... A signer with the same type of document asks for a jurat from the second Notary, whose eyebrows go up. "I just read about a new change in state law," Notary Two says. "For this document to be accepted, I need to see photo ID, have you swear an oath and use a new form of jurat."

Notary Two examines the ID carefully and completes the rest of the notarization. The signer didn't know about the law change and thanks Notary Two for helping him avoid the headache of having the document rejected because of an incorrect jurat form.

Notary One's signer, on the other hand, comes back a few days later, having had her document returned because Notary One didn't complete the identification requirement and used the wrong jurat form. "Hey, I'm sorry," Notary One said. "How was I to know? It's a new thing."

Notary One's mistake was that he relied too much on his basic education to carry him through any situation. It didn't occur to him that state laws could change in the period since he completed his education as a new Notary Public. Notary Two, on the other hand, prepared for this contingency. Because he regularly sought out knowledge of new developments from his state's regulating agency, he was prepared for the change in procedure and performed his duties correctly.

The Benefits Of Knowledge To the Notary

It takes extra time and effort to seek out pertinent new knowledge, but it can also bring many rewards for the Notary — professional, financial and personal.

"When you move beyond basic job knowledge, there are a number of benefits," said Jan Margolis, managing director of Applied Research Corporation in Metuchen, New Jersey, a consulting firm that coaches managers and professional leaders. "First, it improves your professional standing and respect. Second, you are contributing to maintaining high standards for your profession as a whole. Third, you are improving your potential business because you will become known as a person who does their work in the best possible way."

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Specialty Notary Fields Require Extensive Knowledge

The 21st century Notary is no longer a generalist who just affixes a seal. More and more, today's Notaries are becoming specialists in a variety of complex fields, each different from the other and requiring special understanding of the intricacies involved. A Notary in such a field cannot work solely from the premise of, "All I'm doing is notarizing a document." Instead, these fields require Notaries to understand the detailed rules governing each field as well as the potential problems that can arise during a signing. Here are some examples:

• **Notary Signing Agents** — The evolution of the Notary Signing Agent function into a separate career field has been one of the most significant developments affecting the U.S. Notary's office. Signing Agents not only perform the normal functions of their office, but are also paid separate fees to act as couriers for loan documents, making sure that they are signed, notarized and returned in a timely fashion. In performing these additional duties, Signing Agents have the challenging responsibility of balancing their duties to the lenders and services who hire them with their responsibilities as government-appointed impartial witnesses. NSAs must thoroughly understand the loan document industry as well as their own state laws in order to complete their duties. They must also be vigilant not to give advice to signers or try to explain the terms of loan documents, which would constitute the improper practice of law.

• **eNotarization** — The practice of signing and notarizing documents electronically is still developing and has not yet been authorized for widespread use by Notaries. However, because eNotarization will use computers and electronic systems far different from traditional ink stamps and paper, it will be necessary for Notaries to become knowledgeable themselves with basic computer systems, Internet usage, e-mail and other necessary hardware and software to be able to perform paperless notarizations. Further, there are many companies now marketing electronic products as "alternatives to notarization" or "Notary certifications" that in fact are not government-authorized and have nothing to do with the function of the state-commissioned Notary. It is vital that Notaries are aware of these differences and not erroneously perform electronic "notarial" acts that are not officially sanctioned.

• **Immigration** — Here is a specialty field in which knowledge above and beyond the basics of notarization is essential. Because of language difficulties and cultural indoctrination, many immigrants are extremely vulnerable to exploitation when they apply for work visas or citizenship in this country. Fraud is rampant in the immigration field, with many unscrupulous individuals advertising using the Spanish-language term "*Notario Publico*" to deceive clients into thinking they have powers similar to the attorney-like Notaries of Spanish-speaking nations. As a result, many states have imposed strict rules on how a Notary may advertise notarial services in a foreign language, and severe penalties may be imposed on persons who offer unauthorized advice or prepare documents without the required qualifications. A Notary who works in the field of immigration must not only clearly understand correct procedures for dealing with signers, but must also know the proper guidelines for advertising, avoid the unauthorized practice of law, and in most cases must be conversant in one or more foreign languages.

• **Paralegals** — A paralegal, or legal assistant, is a trained professional who assists attorneys in the delivery of legal services. Paralegals perform certain routine duties under an attorney's supervision, such as preparing standard documents, interviewing witnesses and performing legal research.

The roles of paralegals and Notaries are similar. Like Notaries, paralegals must follow a strict code in the performance of their duties and are prohibited from giving unauthorized legal advice. A Notary who also works as a paralegal must be careful to follow the rules of both professions. Notaries should never make the mistake of assuming that being qualified as both a Notary and a legal assistant gives them authorization to act in the role of an attorney. Giving unauthorized legal advice or preparing documents without a lawyer's supervision could result in severe civil and financial penalties for the Notary-paralegal.



EXTENSIVE

A Notary who not only finds new ways to expand job knowledge but volunteers for ways to apply that new knowledge in the workplace is more likely to be recognized and promoted, said Scott Brown, author of the "Job Search Handbook" and CEO of HireSites.com.

"The more you know, the more valuable you are," Brown said. "There's a constant pressure in the marketplace for people to become more skilled in their jobs. Jobs that used to be divided among several people are now done by one person. On a résumé and when you interview, it's obvious if someone seeks out more knowledge. It's one of the things employers look for. If you do the same thing every day, you're not as compelling a candidate as someone who acquired new skills and is really excited about learning."

Signers are far more likely to rely on a Notary who appears knowledgeable and confident, he added. Conversely, Margolis said, Notaries who are indifferent or careless hurt not only their own business, but the public perception of Notaries as a group.

"I once had my signature notarized along with that of a person leaving our firm," she said. "We both produced driver's licenses and the Notary didn't even look at them. I felt that was completely inappropriate. When a profession has folks who aren't even committed, they hurt not only the profession, but the business of other people in that profession."

It's not just bad economics to settle for a mediocre performance as a Notary. It's important to remember that a Notary is also a public servant with a responsibility to protect the public from document fraud. And fraud is no longer committed solely by petty criminals. As Margolis points out, document fraud has been discovered to be a common ruse employed by potential terrorists seeking to create a false identity.

"There's not just an economic incentive, there's a patriotic incentive to do your job well," Margolis said. "Notary duties are important. A careless Notary could let a terrorist slip into the country."

The tendency to gravitate toward work that is "easier" is one that's common throughout the workforce, not just the Notary field, Brown said. However, he emphasized that it's an attitude Notaries especially need to be wary of.

"I think 'easy' is a potentially dangerous attitude," Brown said. "The more you get out of that comfort zone and do things that challenge you a bit more, the better you will be in your career. People who get into a business simply because they think it's easy usually find it's not as simple as they think. To stay with a job for the long haul, you must have a passion for it."

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KNOWLEDGE

Teaching The World How To Notarize — On Paper And Computer

Recruited by the National Notary Association, the country's leading experts on notarization — among them judges, attorneys, state administrators and a special team from Yale Law School — poured their expertise into the NNA's *Uniform Notary Act* of 1973 and, later, the updated *Model Notary Act* of 1984. Teaching lawmakers about the vital components of a good Notary system was the main purpose of these two influential documents.

The two model statutes, published by the NNA, were created with the intention of providing a guide for the entire country to follow, eventually leading to uniform Notary laws in the United States. Indeed, numerous states and U.S. territories over the years have implemented parts, or even all, of the two models when revising their notarial statutes.

However, the world was changing. Specifically, the paper-based world was changing. More documents were being sent electronically than ever before and it was vital to show exactly how Notaries fit into the new electronic world.

To do that, the *Model Notary Act* of 1984 had to be updated. Definitive knowledge of electronic notarization, a great unknown to many, had to be obtained. To that end, a group of experts was again recruited by the NNA to form a *Model Notary Act* Revision Committee, whose insights and experience created the role of the electronic Notary.

The end result: the *Model Notary Act* of 2002, which features an entire section, Article III, on eNotarization.

"Twenty years ago, electronic documents and signatures were unheard of. Who could have imagined such a thing?" said NNA President Milt Valera, who served on the Revision Committee. "Today, they are part of everyday business, and so we had to respond accordingly."

Specifically, Valera said, it was imperative that pertinent experts — including not only state Notary administrators, county recorders, law professors and attorneys, but also software experts — be recruited to best figure out how Notaries could tap into cutting-edge technology.

"We couldn't let the world pass us by," Valera said. "The world of electronic documents wasn't just about to welcome Notaries with open arms. We had to get people to see why the role of the Notary is critical, whether a document is paper or electronic."

"To do this, the *Model Notary Act* of 2002 was developed and now stands as a teaching model for implementation of electronic notarization across the country."

'Ministerial,' Not 'Ignorant'

One of the most important attributes of the Notary Public office is the Notary's ministerial nature, which means that Notaries do not advise signers about the documents being notarized. However, ministerial duties do not mandate that Notaries shun knowledge about the documents they encounter or the businesses they work with — in fact, the opposite is true. An uninformed Notary, when confronted with an unusual situation, is far more likely to make a mistake through ignorance. A knowledgeable Notary, on the other hand, is more likely to properly handle ambiguous or questionable issues during a notarization.

Notaries shouldn't assume that signers or employers will be aware and inform them if there are special circumstances involved in notarizing a document. Few signers and businesses have a clear idea of the complexities of notarization, especially when it comes to documents sent between different states. In fact, signers and businesses more commonly rely on Notaries to understand the process of notarization and protect them from fraud, Margolis pointed out.

"You trust Notaries to know what they are doing," she said. "For example, there are so many people taking care of elderly parents. You can't grant a power of attorney to your children without notarization. It's a potential area for fraud. People rely on the Notary to protect them."

Do The Best You Can — It's Your Responsibility

As the old adage says, "Anything worth doing is worth doing well." It's not easy to seek out the knowledge you need to keep up with your job. But no one should believe for an instant that being a Notary is simple. Nothing worth doing is ever simple. Seeking out knowledge does not just make you stand out as a better professional. It means you will be better prepared for unexpected challenges, more successful in your career, and that you will be raising the standards and public respect for Notaries as a whole. **NNA**