

ELECTRONIC NOTARIZATION ENABLING ACT

NAC 240.600 Definitions. (NRS 240.206) As used in NAC 240.600 to 240.735, inclusive, unless the context otherwise requires, the words and terms defined in NAC 240.610 to 240.635, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.610 “Credential” defined. (NRS 240.206) “Credential” has the meaning ascribed to it in NRS 240.1823 and includes, without limitation, a card or other document issued by a governmental entity as a means of identifying the principal that contains the photograph and signature of the principal and constitutes satisfactory evidence of the identity of a principal for the purposes of NRS 240.1655.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.615 “Electronic notarial certificate” defined. (NRS 240.206) “Electronic notarial certificate” means the portion of an electronic document that:

1. Is completed by an electronic notary public; and
2. Bears the electronic signature and electronic seal of the electronic notary public and the wording of the applicable notarial certificate as required by NRS 240.1655, 240.166 to 240.167, inclusive, 240.1685 or 240.169.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.617 “Electronic notarization solution” defined. (NRS 240.206) “Electronic notarization solution” means a set of applications, programs, hardware, software or technology designed to enable the performance of an electronic notarial act.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.624 “Identity proofing” defined. (NRS 240.206) “Identity proofing” means a process or service through which the identity of a principal is affirmed through a review of personal information from public or proprietary data sources.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.630 “Principal” defined. (NRS 240.206) “Principal” means the natural person for whom an electronic notarial act is performed.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.635 “Solution provider” defined. (NRS 240.206) “Solution provider” means a third-party vendor that provides an electronic notarization solution.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.645 Registration required; suspension or revocation of appointment of notary public for performing or offering to perform electronic notarial act without valid registration. (NRS 240.192, 240.206)

1. A person may not perform an electronic notarial act, including, without limitation, an electronic notarial act performed using audio-video communication, unless the Secretary of State has approved the registration of the person as an electronic notary public pursuant to NAC 240.658 and the registration is in active status.

2. The Secretary of State may suspend or revoke the appointment of a notary public who

performs or offers to perform an electronic notarial act without a registration as an electronic notary public that has been approved by the Secretary of State pursuant to NAC 240.658 and is in active status.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.648 Additional information required for registration. (NRS 240.192, 240.206) In addition to the information required by NRS 240.192, a person registering as an electronic notary public must include with his or her registration:

1. The notary public commission number assigned to the person by the Secretary of State;
2. The name of each solution provider whose electronic notarization solution the person intends to use to perform an electronic notarial act;
3. A copy of the electronic seal and electronic signature of the person that is:
 - (a) An exact representation of the handwritten signature of the person on file with the Secretary of State; and
 - (b) In a file format that can be read without additional software and be compared for authentication purposes to the person's handwritten signature on file with the Secretary of State;
4. A certificate or other proof of successful completion of the course of study on electronic notarization provided pursuant to NRS 240.195, which indicates successful completion of the course not earlier than 90 days before submission of the registration; and
5. A statement certifying that the person will comply with the applicable provisions of this chapter and chapter 240 of NRS.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.650 Course of study and payment of fee required for registration. (NRS 240.192, 240.206) A notary public seeking to register as an electronic notary public must successfully complete the required course of study on electronic notarization provided pursuant to NRS 240.195 and pay the fee charged by the Secretary of State to each person who enrolls in such a course of study. The required course of study on electronic notarization provided pursuant to NRS 240.195 and the fee for that course is in addition to the requirements imposed on the notary public to successfully complete a course of study pursuant to NRS 240.018 and to pay the fee for that course.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.654 Methods of payment of fee for registration; authority of Secretary of State to refuse or revoke registration if method of payment is dishonored or stopped; resubmission of registration after refusal or revocation. (NRS 240.192, 240.206)

1. A person registering as an electronic notary public must pay the registration fee required by NRS 240.192 and the fee for the course of study provided pursuant to NRS 240.195 using any of the following methods of payment:
 - (a) A credit card.
 - (b) A debit card.
 - (c) The Trust Account for Advance Fees established by the Secretary of State pursuant to NRS 225.165.
 - (d) Any other method of payment used by the Secretary of State for the provision of online services.
2. If any method of payment submitted by a person to the Secretary of State pursuant to subsection 1 is returned to the Secretary of State or otherwise dishonored upon presentation for

payment because the person has insufficient money or credit, or because the person stopped payment on the method of payment, the Secretary of State may refuse to register the person as an electronic notary public or, if the Secretary of State has registered the person as an electronic notary public, immediately revoke the person's registration. If, pursuant to this subsection, the Secretary of State refuses to register a person as an electronic notary public or revokes the registration of a person as an electronic notary public, the Secretary of State will notify the person of the refusal or revocation. A person whose registration is denied or revoked pursuant to this subsection must resubmit a registration as an electronic notary public pursuant to the provisions of this chapter and chapter 240 of NRS.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.658 Approval of registration; authority of Secretary of State to refuse registration; effective date of registration. (NRS 240.192, 240.206)

1. If a person who is registering as an electronic notary public satisfies all of the requirements for such a registration pursuant to this chapter and chapter 240 of NRS, the Secretary of State will:

(a) Approve the registration of the person as an electronic notary public;

(b) Cause the processing system maintained by the Office of the Secretary of State to be updated to indicate the registration of the person as an electronic notary public; and

(c) Notify the person that he or she has been registered as an electronic notary public.

2. If a person who is registering as an electronic notary public does not satisfy all of the requirements for registration set forth in this chapter and chapter 240 of NRS, the Secretary of State may refuse to register the person as an electronic notary public. If the Secretary of State refuses to register a person as an electronic notary public pursuant to this subsection, the Secretary of State will notify the person of the refusal.

3. The registration of a person as an electronic notary public becomes effective at the time the processing system maintained by the Secretary of State has been updated pursuant to paragraph (b) of subsection 1 to indicate such a registration.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.660 Commission number assigned to notary public retained. (NRS 240.192, 240.206) A notary public who is registered by the Secretary of State as an electronic notary public retains the commission number assigned by the Secretary of State to the notary public.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.665 Duties of electronic notary public. (NRS 240.206) An electronic notary public shall take reasonable steps to:

1. Ensure the integrity, security and authenticity of each electronic notarial act performed by the electronic notary public;

2. Maintain a secure backup of the electronic journal kept by the electronic notary public in accordance with NRS 240.201;

3. Maintain a secure backup of each recording of an electronic notarial act performed by the electronic notary public which is made pursuant to NRS 240.1995; and

4. Ensure that any audio-video communication for the purpose of performing an electronic notarial act is secure from unauthorized access or interception.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.668 Maintenance of record of electronic notarial act. (NRS 240.206) An electronic

notary public shall maintain an accurate and reliable record of each electronic notarial act performed by the electronic notary public.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.670 Electronic notarial act using audio-visual communication: Confirmation of identity of principal. (NRS 240.206)

1. Before performing an electronic notarial act by means of audio-visual communication, an electronic notary public shall confirm the identity of the principal by:

(a) Personal knowledge;

(b) The oath of a credible witness who personally knows the principal and the notary public;

or

(c) Each of the following:

(1) Remote presentation by the person of a government-issued identification credential that contains a photograph and the signature of the person;

(2) Credential analysis of the government-issued identification credential and the data thereon that satisfies the requirements of NAC 240.695; and

(3) A dynamic knowledge-based authentication assessment that satisfies the requirements of NAC 240.697 or identity proofing in accordance with NAC 240.700.

2. If an electronic notary public is unable to determine that a credential presented by a principal is a valid identification of the principal or is unable to match the physical features of the principal with the credential presented by the principal, the electronic notary public must not take any further action to complete an electronic notarial act by using that credential to confirm the identity of the principal.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.674 Electronic notarial act using audio-video communication: Performance of act for person physically located outside United States. (NRS 240.017, 240.206) For the purposes of NRS 240.1993, an electronic notarial act using audio-video communication is performed for a person who is physically located outside the United States if the person is physically located outside the geographic boundaries of a state or commonwealth of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.676 Electronic notarial act using audio-video communication: Agreement to performance of act by electronic notary public and principal. (NRS 240.017, 240.1991, 240.206)

An electronic notary public may perform an electronic notarial act using audio-video communication only if the electronic notary public and the principal agree to the performance of the electronic notarial act using audio-video communication.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.678 Electronic notarial act using audio-video communication: Identification of principal and electronic document. (NRS 240.017, 240.1991, 240.206) An electronic notary public who is performing an electronic notarial act using audio-video communication shall:

1. Identify the principal in accordance with NAC 240.670; and

2. Identify the electronic document that is the subject of the electronic notarial act as the document on which the principal executed his or her signature.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.680 Electronic notarial act using audio-video communication: Requirement to restart performance of act under certain circumstances. (NRS 240.017, 240.1991, 240.206)

1. An electronic notary public who is performing an electronic notarial act using audio-video communication must start the performance of the electronic notarial act from the beginning, including, without limitation, confirming the identity of the principal in accordance with NRS 240.1997 and NAC 240.670, if, at any time during the performance of the electronic notarial act:

(a) The principal or the electronic notary public exits the session;

(b) The audio-video communication link is broken; or

(c) The electronic notary public believes that the process of completing the electronic notarial act has been compromised and cannot be completed because of the resolution or quality of the audio or video transmission, or both.

2. As used in this section, “session” means the performance of one or more electronic notarial acts using audio-video communication on a single set of electronic documents as a single event by a single electronic notary public with one or more principals and any applicable witness.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.682 Electronic notarial act using audio-video communication: Duty of electronic notary public and solution provider to protect recording and identifying information from unauthorized access. (NRS 240.017, 240.1995, 240.206) An electronic notary public performing an electronic notarial act using audio-video communication and the solution provider whose electronic notarization solution is used to perform the electronic notarial act using audio-video communication shall ensure that the recording of the electronic notarial act made pursuant to NRS 240.1995 and any personally identifying information disclosed during the performance of the electronic notarial act is protected from unauthorized access.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.684 Electronic notarial act using audio-video communication: Use of solution provider to store electronic journal and recording. (NRS 240.017, 240.1995, 240.201, 240.206)

1. An electronic notary public may use a solution provider to store the electronic journal of the electronic notary public and the recording made pursuant to NRS 240.1995 of an electronic notarial act performed using audio-video communication if the solution provider has registered with the Secretary of State pursuant to NAC 240.722 and the registration is in active status.

2. Except as otherwise provided in this subsection, a solution provider that stores the electronic journal of an electronic notary public and the recording made pursuant to NRS 240.1995 of an electronic notarial act performed using audio-video communication must allow the electronic notary public sole control of his or her electronic journal and the recording made pursuant to NRS 240.1995. The solution provider may allow access to the electronic journal of an electronic notary public or a recording made pursuant to NRS 240.1995 if the electronic notary public has authorized such access or the access to the electronic journal or recording is authorized pursuant to this chapter or chapter 240 of NRS.

3. As used in this section, “sole control” has the meaning ascribed to it in NRS 240.201.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.686 Electronic notarial act using audio-video communication: Availability of recording to certain persons and entities. (NRS 240.017, 240.1995, 240.206) The recording

made pursuant to NRS 240.1995 of an electronic notarial act performed using audio-video communication may be made available:

1. To the principal for whom the electronic notarial act was performed;
2. To the Secretary of State;
3. To a law enforcement or federal, state or local governmental agency in the course of an enforcement action or the performance of any lawful duty;
4. Pursuant to a court order or subpoena;
5. To the electronic notary public who performed the electronic notarial act for any purpose set forth in subsections 1 to 4, inclusive; or
6. To any other person who is authorized by the parties to the electronic notarial act to obtain the recording.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.689 Electronic notarial act using audio-video communication: Access to certain documents and information by employer and solution provider. (NRS 240.017, 240.1995, 240.206) For any authorized purpose and to ensure compliance with the provisions of this chapter and chapter 240 of NRS governing electronic notarial acts, the employer of an electronic notary public who performs an electronic notarial act using audio-video communication or the solution provider whose electronic notarization solution was used to perform such an electronic notarial act, or both the employer of the electronic notary public and the solution provider, may access:

1. The electronic seal of the electronic notary public;
2. The electronic signature of the electronic notary public;
3. If the electronic notary used an electronic notarization solution to perform the electronic notarial act, the electronic notarization solution; or
4. The recording made pursuant to NRS 240.1995 of the electronic notarial act.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.695 Requirements for credential analysis to confirm identity of principal. (NRS 240.017, 240.1991, 240.1997, 240.206)

1. To conduct a credential analysis for the purpose of identifying the principal pursuant to NRS 240.1997 and NAC 240.670 and 240.678, an electronic notary public shall use a reputable third-party vendor or software tool that:

(a) Demonstrates a proven credential analysis process that enables the electronic notary public to compare for consistency the information and photograph on a credential presented by a principal and the principal as viewed by the electronic notary public; and

(b) Employs a technology that:

- (1) Requires a credential to pass a test of its authenticity that:
 - (I) Is consistent with sound commercial practices;
 - (II) Uses appropriate technologies to confirm the integrity of visual, physical or cryptographic security features;
 - (III) Uses appropriate technologies to confirm that the credential is not fraudulent or inappropriately modified; and
 - (IV) Uses information held or published by the issuer of the credential or another authoritative source, as available, to confirm the validity of the details of the credential; and
- (2) Provides the output of the authenticity test to the electronic notary public.

2. If an electronic notary public is unable to validate a credential presented by a principal or

determines that the information and photograph on the credential are not consistent with the principal as viewed by the electronic notary public, the electronic notary public must not:

- (a) Complete the electronic notarial act; or
- (b) Make any further attempt to complete an electronic notarial act for the principal by using the credential to confirm the identity of the principal.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.697 Requirements for dynamic knowledge-based authentication assessment to confirm identity of principal. (NRS 240.017, 240.1991, 240.1997, 240.206) To conduct a dynamic knowledge-based authentication assessment for the purpose of identifying the principal pursuant to NRS 240.1997 and NAC 240.670 and 240.678, an electronic notary public shall use a procedure that:

1. Requires the principal to:
 - (a) Answer five questions concerning the principal that are drawn from public or private data sources and provide a minimum of five possible answers per question; and
 - (b) Obtain a passing score by answering correctly at least 80 percent of the questions within a period of 2 minutes;
2. If the principal does not obtain a passing score as required by paragraph (b) of subsection 1, authorizes the principal to make two additional attempts to obtain that passing score with the same electronic notary public within a 48-hour period but at least two of the questions previously answered by the principal must be replaced with different questions each time that the principal makes an additional attempt to obtain the passing score;
3. Confirms affirmatively whether the principal has correctly answered the questions; and
4. Keeps confidential the questions asked to the principal and the answers provided by the principal to the questions.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.700 Application by solution provider to conduct identity proofing; authority of Secretary of State upon receipt of application. (NRS 240.017, 240.1991, 240.1997, 240.206)

1. An electronic notary public may use a solution provider who is registered with the Secretary of State pursuant to NAC 240.720 and 240.722 to confirm the identity of a principal as required by NRS 240.1997 and NAC 240.670 if the solution provider is approved by the Secretary of State to conduct identity proofing.

2. To apply for approval to conduct identity proofing, an applicant must submit a written application to the Secretary of State that identifies the identity proofing provided by the solution provider and includes evidence sufficient to demonstrate that the identity proofing provided by the solution provider meets or exceeds the accuracy of a dynamic knowledge-based authentication assessment that satisfies the requirements of NAC 240.697.

3. Upon receipt of an application submitted pursuant to subsection 2, the Secretary of State may:

- (a) Request additional information from the applicant;
- (b) Approve the application if the application is complete and the Secretary of State determines that the identity proofing provided by the solution provider meets or exceeds the accuracy of a dynamic knowledge-based authentication assessment that satisfies the requirements of NAC 240.697; or
- (c) Reject the application if the application is incomplete or the Secretary of State determines that the identity proofing provided by the solution provider does not meet or exceed the accuracy

of a dynamic knowledge-based authentication assessment that satisfies the requirements of NAC 240.697.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.705 Information required in electronic seal; electronic document rendered tamper-evident; notation required if audio-video communication used to perform electronic notarial act. (NRS 240.017, 240.199, 240.202, 240.206)

1. Except as otherwise provided in this section, the electronic seal of an electronic notary public must include the information required to be set forth in a mechanical stamp pursuant to NRS 240.040 and must generally conform to the size and other requirements set forth in NRS 240.040 for a mechanical stamp.

2. After the electronic seal, electronic signature and electronic notarial certificate are affixed or attached to or logically associated with an electronic document and the electronic notarial act is complete, the electronic document must be rendered tamper-evident.

3. If an electronic notary public performs an electronic notarial act using audio-video communication, the electronic notary public must include adjacent to the electronic seal or in the electronic notarial certificate a notation indicating that the electronic notarial act was performed using audio-video communication. The notation required by this subsection must be the following statement or a substantially similar statement: “Notarial act performed by audio-video communication.”

4. As used in this section, “tamper-evident” means that an electronic document on which an electronic notarial act is performed will display evidence of any change made to the electronic document after the performance of the electronic notarial act.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.708 Requirements for electronic journal of electronic notarial acts. (NRS 240.017, 240.201, 240.206) An electronic journal kept by an electronic notary public pursuant to NRS 240.201:

1. Must not allow the electronic notary public or any other person to delete a record included in the electronic journal or alter the content or sequence of such a record after the record is entered into the electronic journal; and

2. Must be securely backed-up by the electronic notary public and the solution provider whose electronic notarization solution was used by the electronic notary public.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.710 Electronic journal must not include identifying information or recording. (NRS 240.017, 240.201, 240.206) An electronic notary public shall not include in the electronic journal kept by the electronic notary public pursuant to NRS 240.201:

1. The personally identifying information of any person unless such information is required to be included in the electronic journal pursuant to this chapter or chapter 240 of NRS.

2. The recording required by NRS 240.1995 for an electronic notarial act performed using audio-video communication.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.712 Inspection of electronic journal. (NRS 240.017, 240.201, 240.206) An electronic notary public shall allow for the inspection of the electronic journal of the electronic notary public, as required by NRS 240.201.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.720 Solution provider: Registration required; information submitted for registration; confidentiality of certain information. (NRS 240.206)

1. A person shall not act as a solution provider unless the person is registered with the Secretary of State pursuant to this section and NAC 240.722 and maintains a current state business license issued pursuant to chapter 76 of NRS at all times that an electronic notary public is using the electronic notarization solution of the solution provider.

2. To register with the Secretary of State as a solution provider, a person must submit a registration to the Secretary of State as an electronic document and include in the registration the following information:

- (a) The legal name of the solution provider;
- (b) The type of business organization of the solution provider;
- (c) The mailing address and the physical address of the solution provider;
- (d) The name and phone number of a contact person for the solution provider;
- (e) The name of the electronic notarization solution provided by the solution provider;
- (f) The name of the provider of the identity proofing, dynamic knowledge-based authentication assessment, credential analysis and digital certificate services for the solution provider;
- (g) The business identification number assigned by the Secretary of State to the solution provider pursuant to NRS 225.082;
- (h) A description of the technology used by the solution provider to ensure compliance with the provisions of this chapter and chapter 240 of NRS relating to the performance of electronic notarial acts;
- (i) The plan of the solution provider for the retention, storage and disposition of documents, electronic journals kept pursuant to NRS 240.201, the recordings required by NRS 240.1995 of electronic notarial acts performed using audio-video communication and any other records pertaining to the performance of an electronic notarial act if, for any reason, the solution provider no longer makes its electronic notarization solution available to electronic notaries public; and
- (j) A declaration that the electronic notarization solution provided by the solution provider complies with the laws of this State governing electronic notarial acts.

3. Notwithstanding any other provision of law, the information provided to the Secretary of State pursuant to paragraph (h) of subsection 2 by a person registering with the Secretary of State as a solution provider is confidential proprietary information of the solution provider and is not a public record.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)

NAC 240.722 Solution provider: Requirements for registration; notice to Secretary of State of change in electronic notarization solution. (NRS 240.206)

1. The Secretary of State will register a solution provider if the electronic notarization solution provided by the solution provider meets all of the following requirements:

- (a) Provides secure access to the electronic notarization solution by password or another secure means that identifies the electronic notary public accessing the electronic notarization solution.
- (b) Uses a registry of persons registered as electronic notaries public maintained by the Secretary of State, if any, to verify that the registration of an electronic notary public logging into the electronic notarization solution to perform an electronic notarial act is in active status and prohibits a person whose registration as an electronic notary public is not in active status, as indicated in the registry maintained by the Secretary of State, if any, from beginning or

completing an electronic notarial act using the electronic notarization solution.

(c) Provides for uninterrupted, continuous and simultaneous audio-video communication between an electronic notary public and a principal.

(d) Provides audio-video communication with a video resolution and audio quality that ensures that:

(1) An electronic notary public and a principal are able to see, hear and communicate with each other in real time; and

(2) An electronic notary public is able to match the appearance of a principal with the credential presented by the principal.

(e) Provides a secure communication link for audio-video communication that ensures that only the parties to an electronic notarial act and those persons authorized by each party to the electronic notarial act are part of the audio-video communication.

(f) Provides an electronic journal of electronic notarial acts that complies with the provisions of this chapter and chapter 240 of NRS governing the requirement for an electronic notary public to keep an electronic journal of each electronic notarial act.

(g) Provides for the recording of an electronic notarial act performed by audio-video communication that complies with NRS 240.1995 and NAC 240.682 to 240.689, inclusive, and that is of sufficient quality to ensure verification of the recorded electronic notarial act.

(h) Is capable of confirming that an electronic document presented for the performance of an electronic notarial act is the same electronic document on which the electronic notarial act was performed.

(i) Enables an electronic notary public to affix the wording of a notarial certificate required by NRS 240.1655, 240.166 to 240.167, inclusive, 240.1685 or 240.169, as applicable, and the electronic notary seal of the electronic notary public.

(j) Enables a person viewing an electronic document on which an electronic notarial act was performed to view the electronic signature and electronic seal of the electronic notary public who performed the electronic notarial act.

(k) Provides a method for determining whether an electronic document on which an electronic notarial act was performed has been altered after the electronic seal of the electronic notary public who performed the electronic notarial act has been affixed to the electronic document and the electronic notarial act was completed.

(l) Prevents unauthorized access to:

(1) An audio-video communication between an electronic notary public and a principal;

(2) The recording of an electronic notarial act required by NRS 240.1995 for an electronic notarial act performed using audio-video communication;

(3) Any personally identifying information used in a credential analysis, in identity proofing or in any other part of an audio-video communication, including, without limitation:

(I) A method of credential analysis and the output of that analysis;

(II) Any credential presented to an electronic notary public;

(III) The questions and answers used to conduct a dynamic knowledge-based authentication assessment pursuant to NRS 240.1997 and NAC 240.697;

(IV) Birthdates; and

(V) Social security numbers; and

(4) The electronic document on which an electronic notarial act was performed.

(m) Provides a method for generating a paper copy of the electronic journal of an electronic notary public and an electronic document on which an electronic notarial act was performed,

including, without limitation, the electronic notarial certificate for the electronic document, the electronic signature and electronic seal of the electronic notary public who performed the electronic notarial act and any other document associated with the electronic document.

2. If there is any change in an electronic notarization solution provided by a solution provider that affects the ability of an electronic notary public to comply with the requirements of this chapter or chapter 240 of NRS when performing an electronic notarial act, the solution provider must notify the Secretary of State of the change. Upon receiving notice of the change, the Secretary of State will determine whether the electronic notarization solution continues to satisfy the requirements of this chapter and chapter 240 of NRS. If the Secretary of State determines that the electronic notarization solution no longer satisfies the requirement of this chapter and chapter 240 of NRS, an electronic notary public must not use the electronic notarization solution to perform an electronic notarial act in this State.

3. As used in this section, “real time” means the actual span of uninterrupted, simultaneous communication during which all parts of an electronic notarial act using audio-video communication occur.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.725 Solution provider: Duty to ensure electronic notary public is registered and complies with requirements. (NRS 240.017, 240.206) A solution provider shall take reasonable steps to ensure that an electronic notary public using its electronic notarization solution is registered with the Secretary of State and is in compliance with the requirements of this chapter and chapter 240 of NRS for the performance of an electronic notarial act.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.730 Electronic notary public: Prohibited acts. (NRS 240.206) An electronic notary public shall not:

1. Engage in any act prohibited by NRS 240.075.
2. Perform an electronic notarial act using audio-video communication while the electronic notary public is at a location outside this State.
3. Fail to record an electronic notarial act performed using audio-video communication as required by NRS 240.1995 or fail to keep such a recording in accordance with the requirements of NRS 240.1995.
4. Use an electronic seal or digital certificate that is invalid or fails to meet the requirements of this chapter or chapter 240 of NRS during the performance of an electronic notarial act.
5. Fail to notify the Secretary of State of a change in his or her electronic seal or digital certificate.
6. Use his or her electronic seal, alone or together with his or her electronic signature, except in the performance of an electronic notarial act.
7. Allow unauthorized access to the electronic journal kept by the electronic notary public pursuant to NRS 240.201, his or her electronic signature or his or her digital certificate, or to the electronic notarization solution used by the electronic notary public to perform an electronic notarial act.
8. Violate any other provision of this chapter or chapter 240 of NRS relating to the performance of an electronic notarial act.

(Added to NAC by Sec’y of State by R065-19, eff. 12-30-2019)

NAC 240.735 Penalties, prohibitions, liabilities, sanctions and remedies. (NRS 240.206) The

penalties, prohibitions, liabilities, sanctions and remedies for the improper performance of an electronic notarial act are the same as provided by law for the improper performance of a notarial act that is not an electronic notarial act.

(Added to NAC by Sec'y of State by R065-19, eff. 12-30-2019)