in the practice of naturopathic medicine;

(11) Conduct or practice contrary to recognized standard of ethics of the naturopathic profession;

(12) Using medical service or treatment which is inappropriate or unnecessary;

(13) Submitting to or filing with the board any notice, statement, or other document required under this chapter which is false or untrue or contains any material misstatement of fact;

(14) Failure to report to the board any disciplinary action taken against the licensee in another jurisdiction within thirty days after the disciplinary action becomes final;

(15) Using the title "physician" without clearly identifying oneself as being a naturopathic physician;

(16) Prescribing, administering, and dispensing naturopathic formulary that are not included in the formulary established by the board under section 455-6; and

(17) Violation of any provision of this chapter or rules adopted under this chapter.

(b) Any fine imposed by the board after a hearing in accordance with chapter 91 shall be no less than $500 and no more than $10,000 for each violation. [L 1986, c 76, §2; am L 1992, c 202, §105; am L Sp 2009, c 22, §10]

§455-12 REPEALED. L 1992, c 202, §215.

CHAPTER 456
NOTARIES PUBLIC

SECTION

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§456-1 Appointment; renewal. (a) The attorney general may, in the attorney general's discretion, appoint and commission such number of notaries public for the State as the attorney general deems necessary for the public good

and convenience. The term of office of a notary public shall be four years from the date of the notary's commission, unless sooner removed by the attorney general for cause after due hearing; provided that after due hearing the commission of a notary public may be revoked or otherwise disciplined by the attorney general in any case where any change occurs in the notary's office, occupation, residence, or employment which in the attorney general's judgment renders the holding of such commission by the notary no longer necessary for the public good and convenience. Each notary shall, upon any change in the notary's office, occupation, residence, or employment, forthwith report the same to the attorney general.

(b) Each notary public shall be responsible for renewing the notary public's commission on a timely basis and satisfying the renewal requirements provided by law. The failure to renew a commission in a timely manner may cause the commission to be forfeited, if the attorney general finds that the failure was done knowingly; provided that a forfeited commission may be restored by the attorney general within one year after the date of forfeiture upon compliance with the commission renewal requirements provided by law and upon written application and payment of all applicable fees. [CC 1859, §1266; am L 1887, c 11, §1; RL 1925, §3174; am L 1929, c 3, §1; RL 1935, §5200; am L 1941, c 322, §1; am L 1943, c 173, pt of §1; RL 1945, §7661; am L 1953, c 30, §1; RL 1955, §168-1; am L 1959, c 4, §1; HRS §456-1; am L 1978, c 122, §1; gen ch 1985; am L 1998, c 290, §2]

Cross References

Hearings, see chapter 91.
Legislators not disqualified, see Const. Art. III, §8.

[§456-1.5] Powers and duties of the attorney general. In addition to any other powers and duties authorized by law, the attorney general shall have all powers necessary or convenient to effectuate the purposes of this chapter, including, without limitation, the following powers:

(1) Issue notary public commissions to applicants pursuant to this chapter;
(2) Adopt, amend, or repeal rules pursuant to chapter 91;
(3) Suspend or revoke any commission for any cause prescribed by this chapter or for any violation of the rules adopted pursuant to this chapter, and refuse to issue any commission for any cause that would be grounds for suspension or revocation of a commission; and
(4) Impose administrative fines for any cause prescribed by this chapter or for any violation of the rules adopted pursuant to this chapter. [L 2008, c 175, pt of §2]

[§456-1.6] Definitions. As used in this chapter, unless the context requires otherwise:

"Alter" means to change by means of erasure, obliteration, deletion, insertion of new content, or transposition of content.

"Personally knowing" means having an acquaintance, derived from association with the individual, which establishes the individual's identity with at least a reasonable certainty.

"Proof of the signer's signature and identity" means proof evidenced by production of a current identification card or document issued by the United States, this State, any other state, or a national government that contains the bearer's photograph and signature. [L 2008, c 175, pt of §2]

§456-2 Qualifications; oath. Every person appointed a notary public shall, at the time of the person's appointment, be a resident of the State, possess the other qualifications required of public officers and be at least eighteen years of age. Every person appointed to that office shall, before entering thereon, take and subscribe an oath for the faithful discharge of the person's duties, which oath shall be filed in the department of the attorney general. [CC 1859, §1267; RL 1925, §3175; RL 1935, §5201; am L 1941, c 322, §2; am L 1943, c 173, pt of §1; RL 1945, §7662; RL 1955, §168-2; am L 1965, c 248, §1; HRS §456-2; am L 1972, c 2, §22; am L 1976, c 146, §1; am L 1978, c 122, §2; gen ch 1985]

Law Journals and Reviews

For discussion of residence qualification, see The New Resident: Hawaii's Second-Class Citizen. 5 HBJ 77 (1968).

§456-3 Seal. Every notary public shall constantly keep an engraved seal of office or a rubber stamp facsimile seal which shall clearly show, when embossed, stamped, or impressed upon a document, only the notary's name, the notary's commission number, and the words, "notary public" and "State of Hawaii". The notary public shall authenticate all the notary's official acts, attestations, certificates, and instruments therewith, and shall always add to an official signature the typed or printed name of the notary and a statement showing the date that the notary's commission expires. Upon resignation, death, expiration of term of office without reappointment, or removal from or abandonment of office, the notary public shall immediately deliver the notary's seal to the attorney general who shall deface or destroy the same. If any notary fails to comply with this section within ninety days of the date of the notary's resignation, expiration of term of office without reappointment, or removal from or abandonment of office or if the notary's personal representative fails to comply with this section within ninety days of the notary's death, then the notary public or the notary's personal representative shall forfeit to the State not more than $200, in the discretion of the court, to be recovered in an action to be brought by the attorney general on behalf of the State. [CC 1859, §1268; RL 1925, §3176; RL 1935, §5202; am L 1941, c 322, §3; RL 1945, §7663; RL 1955, §168-3; HRS §456-3; am L 1976, c 200, pt of §1; am L 1978, c 122, §3; am L 1984, c 127, §1; gen ch 1985; am L 1986, c 327, §1; am L 1998, c 290, §3; am L 2013, c 29, §1]

§456-4 Filing copy of commission; authentication of acts. Each person appointed and commissioned a notary public under this chapter shall forthwith file a literal or photostatic copy of the person's commission, an impression of the person's seal, and a specimen of the person's official signature with the clerk of the circuit court of the circuit in which the notary public resides. Each person appointed and commissioned a notary public under this chapter may also, at the person's option, file the above-named documents with the clerk of any other circuit court. Thereafter any clerk, when thereunto requested, shall certify to the official character and acts of any such notary public whose commission, impression of seal, and specimen of official signature is so filed in the clerk's office. [L 1941, c 322, pt of §4; RL 1945, §7664; RL 1955, §168-4; HRS §456-4; am L 1978, c 122, §4; am L 1982, c 45, §1; gen ch 1985]

§456-5 Official bond. Each notary public forthwith and before entering upon the duties of the notary's office shall execute, at the notary's own expense, an official surety bond which shall be in the sum of $1,000. Each bond shall be

approved by a judge of the circuit court.

The obligee of each bond shall be the State and the condition contained therein shall be that the notary public will well, truly, and faithfully perform all the duties of the notary's office which are then or may thereafter be required, prescribed, or defined by law or by any rule made under the express or implied authority of any statute, and all duties and acts undertaken, assumed, or performed by the notary public by virtue or color of the notary's office. The surety on any such bond shall be a surety company authorized to do business in the State. After approval the bond shall be deposited and kept on file in the office of the clerk of the circuit court of the judicial circuit in which the notary public resides. The clerk shall keep a book to be called the "bond record", in which the clerk shall record such data in respect to each of the bonds deposited and filed in the clerk's office as the attorney general may direct. [L 1941, c 322, pt of §4; RL 1945, §7665; am L 1955, c 104, §2; RL 1955, §168-5; HRS §456-5; am L 1978, c 122, §5; gen ch 1985; am L 1998, c 290, §4]

§456-6 Liabilities; limitations on; official bond. (a) In the performance of a notarial act, a notary's liability shall be limited to a failure by the notary to perform properly the actions required for the jurat, acknowledgment, or other notarial act. The notary's liability shall not be based on statements in a notarized document apart from the notarial certificate.

(b) For the official misconduct or neglect of a notary public or breach of any of the conditions of the notary's official bond, the notary and the surety on the notary's official bond shall be liable to the party injured thereby for all the damages sustained. The party shall have a right of action in the party's own name upon the bond and may prosecute the action to final judgment and execution. [L 1941, c 322, pt of §4; RL 1945, §7666; RL 1955, §168-6; HRS §456-6; gen ch 1985; am L 1996, c 18, §1]

§456-7 Unauthorized practice as a notary public. (a) A person commits the offense of unauthorized practice as a notary public if the person knowingly engages in or offers to engage in any duties of the office of a notary public without first complying with all of the following:

(1) Being appointed and commissioned as a notary public by the attorney general;

(2) Filing a copy of the person's commission, an impression of the person's seal, and a specimen of the person's official signature with the clerk of the circuit court of the circuit in which the person resides; and

(3) Executing an official surety bond pursuant to section 456-5.

(b) Any person who violates this section shall be guilty of a misdemeanor and shall be sentenced in accordance with chapter 706.

(c) Nothing in this section shall be construed to restrict or to do away with any liability for civil damages. [L 1941, c 322, pt of §4; RL 1945, §7667; RL 1955, §168-7; HRS §456-7; gen ch 1985; am L 2008, c 175, §4]

§456-8 Rules. The attorney general, subject to chapter 91, may prescribe such rules as the attorney general deems advisable concerning the administration of this chapter, the appointment and duties of notaries public, the duties of other officers thereunder, and such measures as may be necessary to prevent the fraudulent use of a notarized document after placement of the notary's seal. The rules shall have the force and effect of law. [L 1941, c 322, pt of §4; RL 1945, §7668; RL 1955, §168-8; am L 1965, c 96, §110; HRS §456-8; gen ch 1985; am L

1998, c 290, §5; am L 2008, c 175, §5]

§456-9 Fees and administrative fines. (a) The attorney general shall charge and collect the following fees for:

(1) Issuing the original commission, $40; and

(2) Renewing the commission, $40.

These fees may be adjusted, and any other fees may be established and adjusted, by adopting rules pursuant to chapter 91.

(b) The court fees for filing a copy of a commission and for each certificate of authentication shall be specified by the supreme court.

(c) The attorney general may impose and collect the following administrative fines for a notary public's failure to:

(1) Maintain an official seal of one type, either a single engraved seal or a single rubber stamp facsimile seal, on which shall be inscribed the name of the notary public, the commission number of the notary public, and the words "notary public" and "State of Hawaii" only, $20;

(2) Surrender the notary public's seal and certificate to the attorney general within ninety days of resignation, removal from office, or the expiration of a term without renewal, $200;

(3) Authenticate every acknowledgment or jurat with a certificate that shall be signed and dated by the notary, include the printed name and official stamp or seal of the notary, identify the jurisdiction in which the notarial act is performed, describe in close proximity to the acknowledgment or jurat the document being notarized, and state the number of pages and date of the document, $500;

(4) Record all of the notary public's transactions as prescribed by section 456-15 and applicable rules, $200;

(5) Surrender the notary public's record books to the attorney general within ninety days of the end date of the commission, resignation, or removal from office, $500; and

(6) Notify the attorney general within ten days after loss, misplacement, or theft of the notary public's seal, stamp, or any record book, inform the appropriate law enforcement agency in the case of theft, and deliver a copy of the law enforcement agency's report of the theft to the attorney general, $20.

(d) The foregoing moneys collected by the attorney general pursuant to this section shall be deposited into the notaries public revolving fund established by section 456-9.5, except that if that fund is terminated, the foregoing moneys shall thereafter be deposited with the director of finance to the credit of the general fund. [L 1941, c 322, pt of §4; RL 1945, §7669; am L 1953, c 30, §2; am L 1955, c 172, §1; RL 1955, §168-9; am L 1959, c 265, §17; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §456-9; am L 1976, c 146, §2; am L 1998, c 290, §6; am L 2008, c 175, §6; am L 2013, c 29, §2]

Cross References

Modification of fees, see §92-28.

§456-9.5 Notaries public revolving fund. (a) There is established in the state treasury the notaries public revolving fund into which shall be deposited:

(1) All fees, administrative fines, charges, or other payments received pursuant to section 456-9;

(2) Penalties and fines for violations of section 456-3, 456-7, or 456-16;
(3) Appropriations made for deposit into the notaries public revolving fund; and
(4) Interest earned on money in the notaries public revolving fund.

(b) The notaries public revolving fund shall be administered by the department of the attorney general. Notwithstanding any law to the contrary, moneys in the notaries public revolving fund shall be used for personnel costs, the acquisition of equipment, and operating and administrative costs deemed necessary by the department of the attorney general to administer this chapter. The moneys in the fund may also be used to train personnel as the attorney general deems necessary, and for any other activity related to notaries public. [L 1998, c 290, §1; am L 2008, c 175, §7]

Note

Transfer of certain interest earnings to general fund until June 30, 2015. L 2009, c 79, §30(a)(37).

§456-10 Duties, by mercantile usage. It shall be a notary public's duty, when requested, to enter on record all losses or damages sustained or apprehended, by sea or land, and also all averages, and such other matters as, by mercantile usage, appertain to the notary's office, and cause protest thereof to be made, duly and formally. [CC 1859, §1269; RL 1925, §3177; RL 1935, §5203; RL 1945, §7670; RL 1955, §168-10; HRS §456-10; gen ch 1985]

§456-11 Protests; negotiable paper. All facts, extracts from documents, and circumstances, so noted, shall be signed and sworn to by all the persons appearing to protest. The notary public shall note, extend, and record the protest so made; and shall grant authenticated copies thereof, under the notary's signature and notarial seal, to those who request and pay for the same. The notary shall also, in behalf of any person interested, present any bill of exchange, or other negotiable paper, for acceptance or payment to any party on whom the same is drawn or who may be liable therefor; and notify all indorsers or other parties to such bill or paper. The notary may, in general, do all the acts to be done by notaries public by the usages of merchants, or which are authorized by the laws of the State. [CC 1859, §1270; RL 1925, §3178; RL 1935, §5204; RL 1945, §7671; RL 1955, §168-11; HRS §456-11; gen ch 1985]

Case Notes

Sufficient protest. 9 H. 299 (1893).

§456-12 Protest, evidence of what. The protest of any foreign or inland bill of exchange, or promissory note or order, duly certified by any notary public, under the notary's hand and official seal, shall be legal evidence of the facts stated in the protest, as to the same, and also as to the notice given to the drawer or indorser in any court of law. [CC 1859, §1271; RL 1925, §3179; RL 1935, §5205; RL 1945, §7672; RL 1955, §168-12; HRS §456-12; gen ch 1985]

§456-13 May administer oath. Every notary public may administer oaths in all cases in which oaths are by law authorized or required to be taken or administered, or in which the administering of an oath may be proper. All oaths administered before June 23, 1888, by notaries public are declared valid and binding. [L 1888, pt of c 6; RL 1925, §3180; RL 1935, §5206; RL 1945, §7673; RL 1955, §168-13; HRS §456-13]

§456-14 Notary connected with a corporation or trust company; authority to act. It shall be lawful for any notary public, although an officer, employee, shareholder, or director of a corporation or trust company to take the acknowledgment of any party to any written instrument executed to or by the corporation or trust company, or to administer an oath to any shareholder, director, officer, employee, or agent of the corporation or trust company, or to protest for nonacceptance or nonpayment of bills of exchange, drafts, checks, notes, and other negotiable instruments which may be owned or held for collection by the corporation or trust company; provided it shall be unlawful for any notary public to take the acknowledgment of any party to an instrument, or to protest any negotiable instrument, where the notary is individually a party to the instrument. [L 1961, c 97, §1; Supp, §168-13.5; HRS §456-14]

§456-15 Record; copies as evidence. Every notary public shall record at length in a book of records all acts, protests, depositions, and other things, by the notary noted or done in the notary's official capacity. For each official act, the notary shall enter in the book:

(1) The type, date, and time of day of the notarial act;
(2) The title or type and date of the document or proceeding and the nature of the act, transaction, or thing to which the document relates;
(3) The signature, printed name, and address of each person whose signature is notarized and of each witness;
(4) Other parties to the instrument; and
(5) The manner in which the signer was identified.

All copies or certificates granted by the notary shall be under the notary's hand and notarial seal and shall be received as evidence of such transactions. [CC 1859, §1273; RL 1925, §3181; RL 1935, §5207; RL 1945, §7674; RL 1955, §168-14; HRS §456-15; gen ch 1985; am L 1995, c 141, §2; am L 2008, c 175, §8]

§456-16 Disposition of records; penalty. The records of each notary public shall be deposited with the office of the attorney general upon the resignation, death, expiration of each term of office, or removal from or abandonment of office. If any notary fails to comply with this section within ninety days of the date of the resignation, expiration of any term of office, or removal from or abandonment of office or if the notary's personal representative fails to comply with this section within ninety days of the notary's death, then the notary or the notary's personal representative shall forfeit to the State not less than $50 nor more than $500, in the discretion of the court, in an action brought by the attorney general on behalf of the State. [PC 1869, c 77, §§1, 2; am L 1913, c 41, §1; RL 1925, §3182; RL 1935, §5208; am L 1941, c 322, §5; am L 1943, c 173, pt of §1; RL 1945, §7675; RL 1955, §168-15; HRS §456-16; am L 1976, c 200, pt of §1; am L 1978, c 122, §6; am L 1982, c 45, §2; am L 1984, c 127, §2; gen ch 1985; am L 1999, c 19, §1]

§456-17 Fees. Subject to section 456-18, every notary public is entitled to demand and receive the following fees:

For noting the protest of mercantile paper, $5;
For each notice and certified copy of protest, $5;
For noting any other protest, $5;
For every notice thereof, and certified copy of protest, $5;
For every deposition, or official certificate, $5;
For the administration of oath, including the certificate of the oath, $5; for

affixing the certificate of the oath to every duplicate original instrument beyond four, $2.50;

For taking any acknowledgment, $5 for each party signing; for affixing to every duplicate original beyond one of any instrument acknowledged before the notary, the notary's certificate of the acknowledgment, $2.50 for each person making the acknowledgment. [CC 1859, §1276; L 1888, pt of c 6; am L 1917, c 132, §1; RL 1925, §3183; RL 1935, §5209; am L 1935, c 147, §1; RL 1945, §7676; am L 1951, c 281, §1; RL 1955, §168-16; HRS §456-17; am L 1976, c 146, §3; am L 1985, c 154, §1; am L 1995, c 141, §3]

Cross References

Modification of fees, see §92-28.

§456-18 Notaries in government service. Except as otherwise provided for by law, the head of every department (which term as used in this chapter includes any department, board, commission, bureau, or establishment of the United States, or of the State, or any political subdivision thereof) may designate one or more of the head of every department's subordinates to be a notary public who, upon duly qualifying and receiving a commission as a notary public in government service, shall perform, without charge, the services of a notary public in all matters of business pertaining to the State, any political subdivision thereof, or the United States.

Any provision of this chapter to the contrary notwithstanding, a subordinate so designated and thus qualified and commissioned as a notary public in government service shall:

(1) Be authorized to perform the duties of a notary public in one or more of the judicial circuits of the State as the attorney general shall designate;

(2) Not be required to:

(A) Pay any fee to the clerk of any circuit court for filing a copy of the notary's commission;

(B) Pay any fee to the attorney general for the issuance of the notary's commission or the renewal thereof; or

(C) Furnish and file an official bond unless that bond is required by the head of the department in which the notary is a subordinate, in which event, the expense of furnishing any such bond shall be borne by the department concerned; and

(3) Not demand or receive any fee for the notary's service as a notary public; provided that where the occasion, in the judgment of the head of the department, is deemed one of urgent necessity and convenience, the notary may, but shall not be compelled to, administer oaths or take acknowledgments in nongovernmental matters, for which services the prescribed fees shall be demanded and received as governmental realizations and covered into the notaries public revolving fund established by section 456-9.5, except that if that fund is terminated, the fees shall thereafter be deposited into the general fund of the State; provided further that with the prior written approval of the attorney general, the notary public, upon paying the fees prescribed by law and upon executing, depositing, and filing at the notary's own expense, the required official bond, may demand or receive the fees prescribed by law for services rendered by the notary in matters not pertaining to such public business. [L 1931, c 136, §1; RL 1935, §5210; am L 1941, c

322, §6; am L 1943, c 173, pt of §1; RL 1945, §7677; RL 1955, §168-17; HRS §456-18; gen ch 1985; am L 1998, c 290, §7]

[§456-19] Notary signing for disabled person. A notary may sign the name of a person physically unable to sign or to make a mark on a document presented for notarization; provided that the notary is satisfied that the person has voluntarily given consent for the notary to sign on the person's behalf, if the notary writes, in the presence of the person: "Signature affixed by notary pursuant to section 456-19, Hawaii Revised Statutes." beneath the signature, and if a doctor's written certificate is provided to the notary certifying that the person is unable to physically sign or make a mark because of the disability, and that the person is capable of communicating the person's intentions. [L 1995, c 141, §1]

[§456-20] Failure to verify identity and signature. (a) A person commits the offense of failure to verify identity and signature if the person is a commissioned notary public and knowingly notarizes a document and:

(1) If a witness to the signing of the instrument, fails to verify the identity of the signer by personally knowing the signer or by comparing the personal appearance of the signer with satisfactory proof of the signer's identity; or

(2) If not a witness to the signing of the instrument, fails to verify the identity of the signer by personally knowing the signer or by comparing the personal appearance of the signer with satisfactory proof of the signer's identity; or fails to verify the signature of the signer by recognizing the signature of the signer by personal familiarity with the signature, or by comparing the signature with satisfactory proof of the signer's signature.

(b) Any person who violates this section shall be guilty of a misdemeanor and shall be sentenced in accordance with chapter 706.

(c) A conviction under this section shall result in the automatic revocation of the notary public's commission. [L 2008, c 175, pt of §2]

[§456-21] Failure to authenticate with a certification statement. (a) A person commits the offense of failure to authenticate with a certification statement if the person is a commissioned notary public and knowingly notarizes a document and fails to include any of the following in the notary certification:

(1) Date of notarization and signature of the notary public;

(2) The printed name and stamp or seal of the notary public;

(3) Identification of the jurisdiction in which the notarial act is performed;

(4) Identification or description of the document being notarized, placed in close proximity to the acknowledgment or jurat; and

(5) A statement of the number of pages and date of the document.

(b) Any person who violates this section shall be guilty of a misdemeanor and shall be sentenced in accordance with chapter 706.

(c) A conviction under this section shall result in the automatic revocation of the notary public's commission. [L 2008, c 175, pt of §2]