

Kansas Administrative Regulations

Secretary of State

Article 43.—Notaries Public

7-43-22. Notarial acts for remotely located individuals; providers of communication technology.

(a)(1) Any notary public authorized to perform notarial acts for remotely located individuals may use a provider of communication technology and identity proofing if the provider has submitted evidence under penalty of perjury to the secretary and to the notary public that the provider meets the requirements in K.A.R. 7-43-18 and 7-43-19(b), in addition to the following:

(A) Allowing the notary public sole control of the journal entry and audiovisual recording of the notarial act using audiovisual communication, subject to the authorized access granted by the notary public; and

(B) providing the notary public with access to the journal entry and audiovisual recording of the notarial act using audiovisual communication technology.

(2) The provider shall make and retain a secure backup of any audiovisual recording that is related to a notarial act for a remotely located individual.

(A) If the provider of communication technology and the provider of the backup are the same entity and the provider ceases business operations, the provider shall notify the notary public in advance of the cessation of business operations and, at the notary public's request, shall release any audiovisual recording related to a notarial act performed for a remotely located individual by the notary public.

(B) If the provider of communication technology and the provider of the backup are separate entities, the provider of communication technology shall sign an agreement with the provider of the backup that includes both of the following requirements:

(i) If the provider of communication technology or the provider of the backup ceases business operations, the entity ceasing business operations shall notify the other entity and the notary public in advance of the cessation of business operations.

(ii) At the notary public's request, the provider of the backup shall release to the notary public any audiovisual recording related to a notarial act for a remotely located individual performed by the notary public.

(b) Each provider of communication technology shall protect from unauthorized access the audiovisual recording of each notarial act and any "personal information," as defined in K.S.A. 50-7a01 and amendments thereto, disclosed during the performance of a notarial act using communication technology. The audiovisual recording shall be created in an industry-standard file format and shall not include images of any electronic record on which the remotely located individual made a statement or on which the remotely located individual executed a signature.

(c) Each notary public shall take reasonable steps to ensure that the communication technology used to perform a notarial act for a remotely located individual is secure from unauthorized interception.

(d) Any provider of communication technology may provide a hardware or software update to the technologies that the notary public identified in the notification form to perform notarial acts for remotely located individuals if the hardware or software update is not materially different from the technologies that the notary public identified on the notification form to perform notarial acts for remotely located individuals. The provider of communication technology shall offer an assurance to the notary public that the update does not represent a material difference from the technology that the notary public identified on the notification form provided to the secretary. If the provider of the technology notifies the notary public that the hardware or software update is materially different from the hardware or software identified on the notification form to perform notarial acts for remotely located individuals provided to the secretary, the notary public shall update the technology information with the secretary.

(Authorized by K.S.A. 2022 Supp. 53-5a27; implementing K.S.A. 2022 Supp. 53-5a15; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022; amended Dec. 29, 2023.)

***** Authenticated Kansas Administrative Regulation *****