Minutes: NASS Remote Notarization Task Force Meetings
10:00 AM - 11:00 AM, July 15th, 2016
4:00 PM – 5:00 PM, July 16th 2016
Nashville, TN

Participants:
Hon. Tom Schedler, LA (co-chair)
Hon. Alison Lundergan-Grimes, KY (co-chair) (by proxy)
Hon. Paul Pate, IA
Hon. Denise Merrill, CT
Hon. Kris Kobach, KS
Hon. John Wobensmith, MD
Hon. Matt Dunlap, ME
Hon. Steve Simon, MN
Hon. Jason Kander, MO (by proxy)
Hon. Linda McCulloch, MT
Hon. Barbara Cegavske, NV
Hon. Elaine Marshall, NC
Hon. Al Jaeger, ND
Hon. Bill Gardner, NH
Hon. Jeanne Atkins, OR
Hon. Pedro A. Cortés, PA
Hon. Nellie Gorbea, RI
Hon. Carlos Cascos, TX
Hon. Jim Condos, VT
Hon. Ed Murray, WY

Notary Public Administrators (NPA) Participants
Danielle Fusco, AR
Carla Bonaventure, LA
Cathy Beaudoin, ME
Kathy Smith, MD
Lori Hamm, MT
Ozie Stallworth, NC
Maureen Ewing, RI
Hon. Kelly Thomasson, VA
Karen Wheeler, WY

Task Force Meeting on July 15

Secretary Schedler called the meeting to order and described the scope and mission of the Task Force. He noted that stakeholder participation the Task Force has been integral to the process. NASS Executive

Director Leslie Reynolds noted that the Task Force reports to the Business Services Committee, and said the Committee agenda for the conference includes consideration of the national E-Notarization Standards which are up for renewal. She noted that the standards require personal appearance, and said the work of the Task Force is designed to help inform the discussion on that issue. She also noted that NASS is tracking and compiling relevant information and resources on the remote notarization topic and posting that information to the Task Force page on the NASS website. She said those resources include letters and statements from stakeholder groups outlining their position on the remote notarization issue.

Katie Robinson, Legislative Program Director with the Uniform Law Commission (ULC) provided an update on the recent ULC meeting in Vermont. She noted that during the meeting the ULC approved an amendment to RULONA that would authorize notaries in a state to provide a remote notarization for individuals located overseas. She noted that the amendment language is in brackets to indicate that it is optional. She said that under the amendment, a remote notarization must be performed in the state where the notary is commissioned, and the notary must use of audio- and video-technologies for real-time communication, and requires the notary to record the interaction. She added that the amendment authorizes the Secretary of State to adopt rules for implementing the Act. She also noted that during the meeting in Vermont, the ULC approved the creation of a new study committee on RULONA that will explore the use of remote notarization for individuals within the US. She asked members to reach out to her if they would be interested in participating on the committee.

Bill Fritzlen, Attorney Advisor, US State Department, said the State Department does not have an official position on the topic of remote notarization but said that consular officers overseas handle notarizations and they do have concerns about remote notarization potentially violating the sovereignty of a country where the signer is located, and the safety of US citizens who may utilize a remote notarization procedure. He said whether or not a remote notarization procedure would violate a particular countries law is not something that can be clearly determined, so people would be advised to seek the advice of a local lawyer on those issues.

Secretary Marshall expressed concern that the ULC amendment appears to lack any requirement that the overseas individual be a U.S. citizen, and as a result it's not clear what documents would be used to verify the person's identity. Secretary Condos expressed concern about the potential for fraud with remote notarization and indicated that remote notarization policies go beyond the scope of what states are able to control.

Secretary Marshall noted that she and her staff have participated in ULC meetings on this issue and expressed their concerns about the process, including emphasizing the importance of the NASS supported e-notarization standards which require personal presence.

Bill Fritzlen noted that the process for getting a notarization performed by a US consular office has become easier as a result of an online appointment system. He said the cost of a notarization at a consular office is based on fees in the code of federal regulations which establish the cost for placement

of the seal at $50. He said this cost which takes into account a variety of factors involved in providing that service.

Virginia Secretary of the Commonwealth Kelly Thomasson provided an overview of Virginia's remote notarization law. She said the law was passed in 2012, and acknowledged that she was skeptical of the process when she took office in 2014, including the lack of a personal appearance requirement. She indicated that as she learned more about it the process and saw it develop, including the various security safeguards, she became a strong supporter. She noted that the law had significant stakeholder support including from banker associations, the state bar, the technology sector, the real estate industry, chambers of commerce, court clerks, NFIB, and other organizations. She noted that the National Notary Association was a key stakeholder that expressed reservation about the process initially, but said that they have since changed their position and will be including a remote notarization process in their Model Notary Act. She also noted that the purpose of the Virginia law wasn't to make electronic notarizations more convenient but to make the process more secure and provide more standards. She indicated that while some have concerns about fraud with remote notarization, the process involves safeguards and security measures that go beyond what is required with in-person notarizations. She said that as with in-person notarizations, the state does not track how many remote notarizations are being conducted in the state, but she indicated that one remote notarization vendor has seen a large increase in staffing in the last two years. She said that Virginia is not in a position to tell states how they should proceed on the issue of remote notarization, but indicated that the world is moving in this direction, and encouraged NASS to work constructively on the issue, whether or not it's something NASS ultimately supports.

Adam Pace from Notarize Inc., and Brian Felker from SIGNiX, each gave a presentation demonstrating how their remote notarization solutions worked.

The meeting adjourned at 11:10AM.

Task Force Meeting on July 16, 2016

Secretary Schedler noted it was the second meeting of the Task Force and he introduced Megan McKay from the Kentucky Secretary of State's Office to deliver a presentation on notarization on behalf of Secretary Grimes who was unable to attend the conference. Ms. McKay's presentation provided an overview of the different types of notarizations and discussed the pros and cons of remote notarization. She said that Secretary Grimes would like the Task Force to continue to meet and discuss the topic of remote notarization with members and stakeholders.

Secretary Dunlap described recent issues with fraudulent notarizations on petitions in Maine and noted that it was important to find a way to ensure that notarization remains a meaningful Act. Secretary Thomasson noted that the technology available with remote notarization includes safeguards that can help to prevent fraud and she emphasized the importance of remaining forward thinking and proactive on the issue. Secretary Marshall noted the importance of proper notary training and education and emphasized that a strong law enforcement mechanism is necessary in order to ensure the integrity of the notary process. Secretary Cortés said he has been very impressed with the demonstrations on

remote notarization and indicated the process has more safeguards than he has seen in any other method of notarization. He said he plans to support utilization of the process in Pennsylvania. Secretary Schedler expressed concern about the potential for fraud and duress with the remote notarization process and noted the serious consequences that can result in a variety of contexts when a notarization is not carried out properly. Mark Snell from Iowa noted that the ULC efforts to amend RULONA in an expedited manner to allow remote notarization for individuals overseas indicates their interest in moving forward on this issue. Secretary Cegavske said it was important to continue to carefully examine and evaluate the issue and get a better understanding of how it works. Secretary Thomasson said she would be happy help facilitate meetings or discussions between member offices and notaries in Virginia who conduct remote notarizations.

Secretary Jaeger noted that regardless of whether NASS can reach agreement on this topic, each state has the option to move forward individually, and he emphasized the importance of NPA in sharing information and exchanging ideas.

Executive Director Reynolds said that based on the discussion it would be beneficial for the Task Force to meet again. Secretary Jaeger and Secretary Schedler agreed that it was important to continue the discussion.

The meeting adjourned at 4:50PM.