State of New Mexico

Michelle Lujan Grisham
Governor

EXECUTIVE ORDER 2020-039

EXTENDING ORDER TEMPORARILY PERMITTING NOTARIAL ACTS THROUGH AUDIO-VISUAL TECHNOLOGY UNDER CERTAIN CONDITIONS

On March 11, 2020, I issued an Executive Order declaring a public health emergency due to the spread of the COVID-19 in New Mexico and invoking emergency powers under the All Hazards Emergency Management Act and other laws to deal with the spread of COVID-19. See Order Declaring A State of Public Health Emergency and Invoking the Powers Provided by the All Hazard Emergency Management Act and the Emergency Licensing Act, Executive Order 2020-004. That state of emergency and the powers in that Order have since been renewed and extended several times; they continue in effect.

The New Mexico Department of Health has issued a series of orders designed to minimize close contact between individuals, particularly older and immuno-compromised individuals, as a means of containing and mitigating the spread of COVID-19. It is important that New Mexicans strictly follow these orders as a matter of social responsibility and to preserve public health.

It is also important that New Mexicans who are self-isolating, quarantined, or otherwise minimizing face-to-face contact have access to needed notary public services, provided that those services still substantially comply with the requirements of the Notary Public Act ("NPA"), NMSA 1978, §§ 14-12A-1 to -26.

Notaries public are public officers appointed and commissioned by me, and I am charged with ensuring that notaries public are held to the highest standard of their commissions. To this

end, I bear the ultimate responsibility of adjudicating and enforcing violations of the NPA by temporarily or permanently revoking commissions or by issuing official written warnings to cease misconduct under Section 14-12A-26 of the NPA.

The Notary Compliance and Enforcement Unit ("NCEU") of the Regulation and Licensing Department, created by Executive Order 2011-036, investigates alleged violations of the NPA and provides recommendations to me regarding whether to pursue discipline in each case. However, I retain ultimate discretion to impose discipline or to elect not to impose it.

In line with these responsibilities, on March 30, 2020, I issued Executive Order 2020-015, which clarified that notarial acts performed in a certain manner through the use of audio-visual technology substantially complied with the NPA and therefore would not be subject to discipline under the NPA. That Order was effective through June 20, 2020.

It is necessary to extend the provisions in that Order because COVID-19 continues to pose a significant threat and certain vulnerable populations should still reduce person-to-person contact to the greatest extent possible for the near future. That Order will therefore be extended for an indefinite period of time so that it remains in effect throughout the pending public health crisis.

Now, for the above reasons, I, Michelle Lujan Grisham, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and laws of the State of New Mexico, particularly the NPA, hereby ORDER and DIRECT:

1. The NCEU is directed not to recommend any form of discipline for any notary public who performs a notarial act through audio-video technology provided that the following conditions are met:

a. To satisfy the "presence" requirement in Section 14-12A-7(B)(1), (C)(1), and (D)(1)-(2), the technology used must provide for direct interaction between the person

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seeking the notary's services, the notary, and any required witnesses, and each party must affirmatively state that he or she is located in New Mexico during the video conference;

b. If the person seeking the notary's services or any witnesses are not personally known to the notary, each person who is not personally known must present satisfactory evidence of identity (e.g., a valid state-issued photo identification) during the video conference to satisfy the requirements of Section 14-12A-7(B)(2);

c. The person seeking the notary's services must transmit by fax or electronic means a legible copy of the signed document directly to any required witnesses and then to the notary on the same day it was signed; and

d. Once the notary has received a legible copy of the document with all necessary signatures, the notary may notarize the document and transmit the notarized document back to the person seeking the notary's services.

2. I will not impose any form of discipline on a notary public who performs a notarial act that meets the above requirements during the pendency of this Order. That is because a notarial act meeting the above requirements substantially complies with the NPA and will adequately guarantee the integrity of the notarial act.

3. These temporary special requirements permitting audio-visual technology to be used for notarial acts shall only apply to all notarial acts performed during the pendency of this Order and shall not apply to notarial acts performed at any other time.

This Order supersedes Executive Order 2020-015. It also supersedes any previous orders, proclamations, or directives in conflict. It shall take effect immediately and shall remain in effect until the Governor rescinds it.

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ATTEST:

Maggie Toulouse Oliver

MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE
THIS 11TH DAY OF JUNE 2020

WITNESS MY HAND AND THE GREAT
SEAL OF THE STATE OF NEW MEXICO

Michelle Lujan Grisham

MICHELLE LUJAN GRISHAM
GOVERNOR

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