

# HCR 81

## Notary Study Committee Documents

compiled by

*Louisiana Notary*  
**THE NOTARY'S NEWSLETTER** since 1983

Post Office Box 4206  
Baton Rouge, Louisiana 70821-4206

The electronic version of this document is available at <http://www.louisiananotary.com/hcr81> and is prepared as a public service by Louisiana Notary and is intended for free distribution on the Internet. Individuals may print copies for their personal use and may make additional printed copies for distribution as long as this notice is included and the document is distributed in its entirety.

This document copyright 2002 The Golden Bough, Ltd.

## **House Concurrent Resolution 81 Notary Study Committee Information and Documents**

House Concurrent Resolution 81 - 2001 Regular Legislative Session . . . . .	1
House Concurrent Resolution 39 - 2002 Extraordinary Legislative Session . . .	2
Study Committee Membership Roster . . . . .	3
Minutes of Meeting 1, Jan 17, 2002 . . . . .	4
Minutes of Meeting 2, February 27, 2002 . . . . .	11
Legislative Proposal - Title 35 Revisions - Paul Bello (Orleans Parish . . . . .	21
<u>Subcommittee Reports - July 2002</u>	
Report of Subcommittee #1- Standardized Testing . . . . .	33
Reports of Subcommittee #2- Mandatory Continuing Education . . . . .	34
Majority Report . . . . .	34
Minority Report . . . . .	35
<u>Member Reports - July 2002</u>	
Louisiana Notary <sup>TM</sup> March/May Questionnaires Summary . . . . .	38
Walter Brunty (Bossier Parish) . . . . .	42
Jo Etta Landry (Livingston Parish) . . . . .	43
Jim Estes (Caddo Parish) . . . . .	44
Minutes of Meeting 3, July 24, 2002 . . . . .	45

**ENROLLED**

Regular Session, 2001

**HOUSE CONCURRENT RESOLUTION NO. 81  
BY REPRESENTATIVE BRUNEAU****A CONCURRENT RESOLUTION**

To request the secretary of state to study and make recommendations regarding the issuance of statewide commissions for non-attorney notaries public and to report his findings to the House Committee on Civil Law and Procedure and the Senate Committee on Judiciary A prior to January 1, 2003.

**WHEREAS**, non-attorney notaries public have been interested in acquiring a commission which would allow them to practice their profession on a statewide basis; and

**WHEREAS**, the profession of the notary public is one which requires great skill and knowledge of certain laws; and

**WHEREAS**, it is of great importance to the integrity of the profession that statewide standards be applied and that each notary public commissioned in this state keep current with the ever-changing laws of Louisiana; and

**WHEREAS**, it is mandatory that standards or rules of professional conduct as well as standardized testing and mandatory continuing education be required to receive a statewide commission; and

**WHEREAS**, an effective central authority or system for the enforcement of standards or requirements should be developed to ensure the integrity of the profession and to protect the citizens of Louisiana from those individuals who are commissioned as a notary public and who do not keep current with the laws, and who, through negligence or intentional conduct, violate the trust granted to them by virtue of their commission; and.

**WHEREAS**, in order to fully study and consider the issues of statewide commissions, rules of professional conduct, standardized testing, and, more particularly, continuing education, the secretary of state should consider the input from representatives from the notary profession; and

**WHEREAS**, it will be necessary to collect certain fees to ensure the continued operation of any department, agency, or organization created to monitor and enforce standards established for those commissioned as notaries public.

**THEREFORE, BE IT RESOLVED** that, as a prerequisite to the Legislature of Louisiana considering the availability of a statewide commission for non-attorney notaries public, the secretary of state shall develop standards of conduct, including standardized testing and mandatory continuing education, and a system for the monitoring and enforcement of any standards or requirements developed, including necessary fees, to ensure the integrity of the profession and to report his findings to the House Committee on Civil Law and Procedure and the Senate Committee on Judiciary A prior to January 1, 2003.

**BE IT FURTHER RESOLVED**, that the secretary of state invite and include in its study and deliberations, at a mutually convenient time and place, the Custodian of Notarial Records, and a representative from each of the following associations:

- (1) A representative of the Louisiana Notary Association.
- (2) A representative of the Notaries' Association of New Orleans.
- (3) A representative of the Professional Association of Civil Law Notaries.

(4) A representative of the International Union of Latin Notaries.

**BE IT FURTHER RESOLVED** that a copy of this Resolution be transmitted to the secretary of state and to the Louisiana Notary Association, the Custodian of Notarial Records, the Notaries' Association of New Orleans, the Professional Association of Civil Law Notaries, and the International Union of Latin Notaries.

s/ Charles DeWitt, SPEAKER OF THE HOUSE OF REPRESENTATIVES

s/ John J. Hainkel, Jr PRESIDENT OF THE SENATE

**ENROLLED**

First Extraordinary Session, 2002

**HOUSE CONCURRENT RESOLUTION NO. 39**

**BY REPRESENTATIVES WADDELL AND BRUNEAU**

**A CONCURRENT RESOLUTION**

To include the Professional Civil Law Notary Association of North Louisiana and any other interested notary organization or individual as participants in the study conducted by the secretary of state pursuant to House Concurrent Resolution No. 81 of the 2001 Regular Session on the feasibility of statewide commissions for non-attorney notaries.

**WHEREAS**, House Concurrent Resolution No. 81 of the 2001 Regular Session requested the secretary of state to study and make recommendations regarding the issuance of statewide commissions for non-attorney notaries public; and

**WHEREAS**, numerous interested organizations requested to be specifically included in the study; and

**WHEREAS**, it was not the intent of the legislature to exclude any interested notary organization or individual from the study, but that it was the intent of the legislature for the study to be open to all such interested organizations and individuals; and

**WHEREAS**, the secretary of state has included all organizations and individuals who have expressed an interest in the ongoing study of the notary profession requested by the legislature.

**THEREFORE, BE IT RESOLVED** that the secretary of state continue including all interested organizations and individuals in the study requested by House Concurrent Resolution No. 81 of the 2001 Regular Session and that the Professional Civil Law Notary Association of North Louisiana be specifically included in the study.

**BE IT FURTHER RESOLVED** that certified copies of this Resolution shall be forwarded to the secretary of state and to the Professional Civil Law Notary Association of North Louisiana.

s/ Charles DeWitt, SPEAKER OF THE HOUSE OF REPRESENTATIVES

s/ John J. Hainkel, Jr PRESIDENT OF THE SENATE

## Study Committee Roster

**Chairman: Cynthia Cotten**, Administrative Assistant in charge of Notary Operations  
**Al Ater**, Baton Rouge, First Assistant Secretary of State  
**Paul Bello**, New Orleans, Louisiana Delegate, International Union of Latin Notaries  
**Stephen Broussard**, New Orleans, President, Notaries' Association of New Orleans  
**Walter E. Brunty**, Benton  
**Kathleen L. Clark**, Mandeville  
**Randall David**, Opelousas, President, Louisiana Notary Association  
**Linda Davidson**, Bethany  
**Cheryl "Sue" Dier**, Walker  
**James "Jim" Estes**,<sup>1</sup> Shreveport  
**Wendy Hilker**, Slidell, President, Professional Association of Civil Law Notaries  
**C. Alan Jennings**, Baton Rouge  
**Jo Landry**, Baton Rouge  
**Ronnie J. Le Boeuf**,<sup>2</sup> Baton Rouge  
**Narciso Lomeli**, Commission of International Cooperation, International Union of Latin Notaries  
**Warren Ponder**, Baton Rouge, Executive Counsel to the Secretary of State  
**William L. Pratt**, New Orleans, Custodian of Notarial Records in and for the Parish of Orleans  
**Carvel Sims**, Baton Rouge  
**John C. Shidler**, Shreveport  
**Glenn Stallings**, Shreveport  
**Ronald S. Wood**,<sup>3</sup> New Orleans

### Of Counsel

**Robert Singletary**, Staff Attorney, House Committee on Civil Law and Procedure  
**Tracy Sudduth**, Staff Attorney, Senate Committee on Judiciary A

## Subcommittee Appointments

### Standardized Testing

Jo Landry  
Linda Davidson  
C. Alan Jennings  
Wendy Hilker  
Stephen Broussard

### Mandatory Continuing Education

Glenn Stallings  
Sue Dier  
Walt Brunty  
Paul Bello  
Kathleen Clark

### System for Monitoring and Enforcement of Standards

John Shidler  
Carvel Sims  
William Pratt  
Ronnie LeBoeuf  
Randy David.  
Jim Estes

---

<sup>1</sup> Mr. Estes was appointed in April pursuant to HCR 39 (2002 1<sup>st</sup> Extraordinary session)

<sup>2</sup> Mr. LeBoeuf passed away in March. He was unable to attend any meetings due to illness.

<sup>3</sup> Mr. Wood was unable to serve after the January meeting

**NOTARY STUDY COMMITTEE MEETING****Minutes****January 17, 2002**

The Notary Study Committee meeting was called to order at the State Capitol, Baton Rouge, Louisiana in House Committee Room No.1 at 10:00 a.m. authorized by House Concurrent Resolution No. 81 from the 2001 Regular Session of the Legislature.

Meeting called to order by Chairman, Cynthia Cotten.  
Roll called by Chairman, Cynthia Cotten.

The following committee members were present: Al Ater, First Assistant to the Secretary of State, Warren Ponder, Executive Counsel for the Secretary of State, Jo Landry, Robert Singletary, Tracy Sudduth, Attorney for the Judiciary A Committee, Judy Bilich, Representative of the Association of Civil Law Notaries, William L. Pratt, Orleans Custodian of Notarial Records, Randy David, President of the Louisiana Notary Association, Stephen Broussard, President of the Notary Association of New Orleans, Paul A. Bello, International Union of Latin Notaries, Narciso Lomeli, Carvel Sims, Alan Jennings, Louisiana Notary Association, Ronald S. Wood, Sue Dier, John Shidler, Linda Davidson, Kathleen Clark and Walter E. Brunty.

Ronnie LeBoeuf, The Practicing Notary, and Glenn Stallings were absent.

Also present were: Merietta Spencer Norton, General Counsel for the Secretary of State, and Steve Hawkland, Attorney Supervisor, for the Secretary of State.

Cynthia Cotten, Chairman, presided and Lindsey Lejeune, Notary Department, recorded the proceedings of the meeting. Glenna Doucet, acting as secretary, took the minutes.

Cynthia Cotten, Chairman, introduced Al Ater, First Assistant to the Secretary of State.

Al Ater, First Assistant to the Secretary of State, welcomed all members and asked everyone to briefly give a few personal comments about themselves. He then recognized Cynthia Cotten, Chairman, for her dedicated work in the Notary Department.

Al Ater, First Assistant to the Secretary of State, thanked everyone for coming. He wanted everyone to know how much the Secretary of State appreciated their time and willingness to be a part of this study. Mr. Ater thought he would recap what we see as our mission. He stated that the Secretary of State does not have a stake in this issue. What we have been charged to do by the legislature is to organize this study committee and let this committee: (1) assess the situation, is a statewide program something we want and something that is needed, and if so (2) what would we recommend and how do we think it should be set up. That's what the charge to the Secretary of State's office was by the legislature. It will be up to the legislature as to whether or not there is a program or is not a program. What our charge will be is to make a recommendation as to whether or not we think it is a good idea to have one and if so, what that program should look like. That's what we hope to accomplish through a series of meetings. I think what we hope to be able to do is encourage free thinking, free talking, free suggestion making and kind of talking outside the box and to think the whole process through. I think we are charged by January of 2003 to make these findings of this committee known. We wanted to call this meeting, and hopefully we'll be able to have one more before the legislative session starts. Then when the legislative session starts we will probably not be able to have any meetings again until after the legislature meets, so we may pick up in July or August and then really have to crunch something out to get the recommendations together. Once again, Mr. Ater introduced Cynthia Cotten, who will be chairing these meetings. Cynthia Cotten is an Administrative Assistant in the Secretary of State's office in charge of all our notary operations.

Cynthia Cotten, Chairman, discussed what was in the packets before each person: (1) copies of House Concurrent Resolution No. 81 (2) revised amendments of Title 35 (3) fee information gathered by all parishes (4) a list of questions we asked from other states, and (5) a list of the members of this committee, with addresses and phone numbers. Also, Cynthia stated the items mandated by HCR 81 were: (1) standards of conduct, standardized testing, and mandatory continuing education and, (2)

system for the monitoring and enforcement of any standards or requirement developed to ensure the integrity of the profession. The Chairman then opened the floor for discussion.

Warren Ponder, Executive Attorney for the Secretary of State, addressed the committee informing them that the Secretary of State has been charged by the Legislature through House Concurrent Resolution No. 81 to find out what the notaries public statewide want. (1) do we need to do any changes to the existing law, (2) do we need to expand to statewide jurisdiction for the notaries, and (3) do we want to have statewide commissions. If we do feel we need to have statewide commissions, (1) who is going to administer the test, (2) will it be a standardized test for statewide application, (3) who is going to oversee, and do we need continuing education. The legislature wants us to study and answer these issues. We want to do what the legislature tells us to do. They are the ones who will be making the decisions. It is incumbent on each committee member here to talk to the members of your organization and other notaries to find out what their feelings are and what they think we should do as far as going to a statewide commission. Once we get that decision, even if it is no, and everyone is satisfied with the way it is now, I believe the legislature has charged us with the duty that if we go statewide what should it look like. In other words, if the answer you get is no, we do not want a change in the notary profession, tell them there will be a change-tell us what you want if it is changed. We want these meetings informal, open for suggestions, discussions, and all the input we can get from the notary profession.

Ronald S. Wood, attorney, expressed his concerns whether the rules we are here to talk about for notaries will apply to attorney notaries or lay notaries? Are we working toward setting up a commission with standardized testing and continuing legal education that would apply to both groups, are there going to be a separation between attorney notaries and lay notaries? I would think that the attorneys with the continuing legal education that they must meet for the Louisiana Bar Association would qualify them for any rules we may come up with for continuing legal education for notaries. As far as the testing, I do not know whether that anticipates just one initial test in order to get a commission or will there be continuing testing yearly or every so many years or just what is anticipated. Would there be a separation between the two entities?

Also, he mentioned cyber notaries, what would happen there? He thought that may pose a problem. He was part of a group that was trying to do this same thing regarding abstractors, trying to form a commission that would license abstractors statewide. It just never got going. This study as been initiated by the legislature so that gives us a step ahead. The Louisiana Land Title Association was the one that was trying to have something like this for the abstractors. I guess the reason it never got that far was that the abstractors were opposed to it statewide. Mr. Wood mentioned we do not know what the notaries, statewide, will feel about this issue. Also, Mr. Wood mentioned there would have to be some way to appropriate funds. If we are going to set up a committee will it be responsible for drafting the testing guidelines, taking care of the CLE qualifications, and handling the CLE? Would these people volunteer to serve? If there is going to be some type of committee would it require an office with an executive staff? Is this going to necessitate an expense like that?

Warren Ponder, Attorney for the Secretary of State, stated that these are the pertinent questions that need to be discussed with our members. Ponder stated that traditionally attorney notaries have been treated separate and apart from the non attorney notaries. That is one of the issues we need to present to the legislature and how it should be resolved, or how we recommend it to be solved.

Paul Bello, Union of Latin Notaries, stated that attorneys already have continuing education but who would regulate the education in non attorney notaries? He suggested a committee or a notary board. He recognized that William Pratt, Orleans Custodian of Notarial is the only non-judicial person in the state who regulates notaries.

Carvel Sims stated that ex-officio notaries, attorney notaries, and non attorney notaries all have the same power except the ex-officio notary. He sees notary malpractice in all three divisions, but more documented are the attorney notaries. All misconduct throughout the state is reported to the wrong people. Any misconduct needs to be reported to the Secretary of State or in our case the local district judges who have the regulatory power over the notary. He proposed to get a handle on this we are going to have to find a distinction between the ex-officio notaries, attorney notaries, and non attorney notaries.

Clerks of court and deputy clerks of court acting as ex-officio notaries also pose a problem. They have no training and should only be performing notarial acts concerning their employment which they do not adhere to. Does the secretary of state want to be the notary police? Maybe each ex-officio notary could be given a number.

Robert Singletary addressed the committee saying we were not here to feud regarding the distinction between attorney notaries and non attorney notaries and ex-officio notaries. We need a central authority, there is no single voice out there. What do notaries want. We have the chance to change the laws.

Sue Dier, sees hundreds of instances where deputy clerks and justices of the peace are notarizing documents where there is no witness, and never filed. Malpractice is not only with attorneys. This is a real problem. We need continuing education, but she admits that it would be a real problem to regulate. You are either ethical or not. If the notary does not accomplish their continuing education, do we take away their commission?

Linda Davidson, stated that when she undertook the notary profession she was scared. The fact that the notary profession has so much power and so little regulation. People have gone bankrupt through negligence from the notary. To make matters worse, the exams are totally different in every parish. All other professions require continuing education. The notary might need to pay fees, we all have a vested interest in this profession. Definite changes are warranted, due to the power a notary has.

Paul Bello, International Union of Latin Notaries, agrees that ex-officio notaries go beyond their authority, but the legislation has charged us with the problem of commissioned notaries. Maybe at a later date we can address the problem of ex-officio notaries.

John Shidler agrees with the comments Linda Davidson stated regarding continuing education. It is a good idea. Anything that raises the reputation of the notary is good for all of us.

Carvel Simms agrees that continuing education is very important, but who is going to pay for it? The problem I see is that the figure that has been circulated is 12 hours

a year and that has to be done over a 2 day period. If you look at that you cannot get a one day class for less than \$100, so the impact we are going to have on these people, at 6 hours a year we are talking a 6.2 million dollar expense and at 12 hours a year the cost would be 12.4 million dollars a year. Who ever monopolizes notary education is going to have a gold mine. We are looking at 18 to 19 million dollars a year that is going to be spent by the notaries of the state. Maybe a fee of \$100 a year would work, but who would monitor it? Should the notary bond be higher to protect people? We do need to look into malpractice issues.

Walter E. Brunty, a notary in a rural parish, admits that he has not attended any of the educational courses but he does keep up with the latest education regarding his profession. But he also states that he and other rural parish notaries could not afford to travel to a city for a few days to accomplish an education course. He's not sure that is what we want to do to those notaries, but he does agree that something needs to be done in terms of making notaries maintain knowledge of the laws to protect the citizens. He fears the notaries that could afford to attend continuing education would develop a monopoly over the notaries that could not afford the added expense.

William Pratt, Orleans Custodian of Notarial Records, stated it's his understanding that the reason this committee is here is that the system has outgrown itself and is somewhat a wild west as such. I'm looking at the quantities of notaries by type that are on this list. We have 25,071 notaries that are unknown as to whether their status is attorney or non attorney notaries. There are a total of at least 62,000 notaries in this state and I have had the pleasure to see some of the examinations given from around the state, I give it in New Orleans, and some of them are an absolute joke. I've seen some that have thirty questions, two lines to answer, what is a deed is the big question first one out of the box and these guys can walk into a situation where they can do oil and gas leases, they can do transactions of all types, wills, they can do anything a lawyer can do. I know some lawyers that have gone to law school for three years, come out, and still aren't necessarily capable and competent notaries. The power that is given to a notary is very vast, very large. Beauticians and Barbers have more oversight than do notaries. I think this is set up for a potential disaster for some notaries that are out there practicing. You've got to

remember that notaries and attorneys are the front line for the public records doctrine for the state of Louisiana. When you start putting forth shoddy workmanship, people who don't have the authority to notarize things, people who do not keep abreast of the law, which is constantly changing and evolving, case law changes things notaries have to do. If you don't subscribe to advance sheets you are not going to know about changes in the law. If the legislature passes certain laws and regulations you are not going to know about it because you don't get advance sheets, that opens you up to screwing up. You might not see a lot of malpractice with notaries because a lot of notaries don't have a lot to chase, if they do screw something up. Lawyers tend to carry big malpractice insurance and they tend to do bigger transactions. Mr. Sims stated that he didn't see many malpractice cases with notaries and that kind of surprises me, to tell you the truth. The opportunity for one to be sued for malpractice is vast. I know a lot of notaries out there who are not attorneys that do a tremendous amount of volume and could conceivably step in it very easily. I think what we're here to do is to try and fix this and try and regulate it somewhat and believe me, regulation goes against the core of my very being, but this is so wide open at this point something has to be done, there is no continuity amongst the parishes as far as examinations are concerned. I give a 101 questions exam, it's about 15 pages long, I've seen the one in Baton Rouge, it's 40 pages long, we're all over the parking lot as far as examinations go. That's one of the reasons we are here, do we do a statewide examination? That's something that desperately needs to be looked at. As far as the CLE's are concerned, I feel that definitely needs to be addressed. I'm not so concerned with monopolies, I think anybody can get in the game to provide courses and teaching, so long as we have an arbiter that says that it is suitable. The Bar has such a mechanism, if you want to teach a CLE class it has to be approved by the Bar Association. I'm sure there is some sort of committee that could be put together. But the bottom line is there has to be some sort of central control here. In New Orleans parish I am completely separate and apart from what everyone else does. I control my notaries, I have them annually put forth an annual fee they have to post their bonds and show me that it has been done. I have zero unknowns. I'm looking at the Secretary of States records, I do not think they have any oversight that I have. Annually I have to file a rule against any notaries who have not complied. I send them a statement

they either send in their money and evidence that they have a bond, this is for the non attorney notaries. The attorneys have to do the same, except that do not have the bond aspect. Also if they are in military service, if they've been disbarred, or if they're deceased, I have to put that in a rule as well. I have to file in Civil District Court and have to tend the rule and after it is advertised in the Times Picayune twice and no one has responded to my request to come and comply, I then get a court order to rule them off and those that have complied are put in good standing. That is what I do, as far as I'm knowledgeable of it is not done anywhere else in the state. That's why you are seeing 25,000 unknown status of notaries on this list out of 62,000. I keep close tabs on my notaries, I have to, that's what the law mandates me to do. Obviously, Orleans parish is going to be somewhat different than most parishes because we have bigger commercial work for notaries to do. All in all, you're still doing transactions that effect the public records doctrine and if it is not complied with it will be undermined, as with the bankruptcy trustee stated earlier, she sees it all the time. It disallows you from having executory process if something is done wrong, I see that constantly. Someone didn't get the proper signature, somebody gave a little crack in the door for the attorney to go through the ordinary process for his executory process. That is a mistake that the notary accomplished on behalf of his client. It is not malpractice, necessarily, but those are the types of mistakes that people constantly have to deal with when a notary doesn't properly serve his function. So I think this committee has been given a big opportunity to fix what is broken out there, and a lot of it is broken, mainly because there is no oversight outside of Orleans Parish. A five thousand bond, that's nothing, compared to the damage you could actually put forth to somebody. I carry 1 to 2 million dollars worth of malpractice insurance, but I'm not saying you need malpractice insurance, if you want to go out there and be uninsured, so be it! Those are just some of the topics that I think we are here to talk about and now is the opportunity to fix what's broken. It's in disarray, we've got to do something.

Paul Bello, International Union of Latin Notaries, addressed the problem of rural notaries who could not afford a two day education class out of their area. Mr. Bello stated that education classes would not entail two days. We really do have to consider the rural parish notaries. I think what you will find and I have found it in

other areas, there are distant courses and correspondence courses that are employed in other areas in the country for other professions. I think this addresses the concerns you have for your notaries in rural Louisiana. You wouldn't have to uproot yourself and travel to New Orleans, Baton Rouge, Shreveport, or Lafayette. You could do it by distance and correspondence. And I think if such a requirement is ever imposed I can almost assure you that the marketplace would answer that necessity.

Ronald Wood, Attorney, stated he thinks the civil law system has been eroded to the point that we don't have a whole lot left of what was our traditional type civil law system. I think the problem we have here is that as we all know the notary publics in Louisiana have much broader powers than notaries in any other state. Basically notaries in other states perform the function of acknowledging signatures and I think that probably most lay notaries only do that. The ones that do automobile titles and notarize documents for people are performing the type of function that notaries in the rest of the country do. Now these notaries in other states get a commission for only a certain number of years, it is not a life time commission, I disagree with Mr. Sims in that I think we need to have two classifications of notary publics in Louisiana. We basically need a classification for the notaries that will function like those of other states who will only do acknowledgments and then we need a class of notaries that has the qualifications or powers to execute legal documents. When I became a notary, in 1968 the title of notary public was virtually a state office, you had to go through a legislator to sponsor you, to get your commission, and you got a certificate signed by the Governor appointing you as a notary public. I'm not sure that still happens (Chairman Cotten affirms that it does still happen). The traditionally civil law system notary has broad powers as Mr. Sims said, and I do think you have to have more control and regulation over notaries who have those type of powers, as far as continuing legal education and so forth. But I also think there is a need for other types of notaries. I thought at one time there was some control over the number of notaries who could be qualified in the state. Apparently, there is no such regulation any more. But I personally feel that we need two classes of notaries in the state.

Patricia D. Daret, a witness, who is a commissioned notary and also a legal secretary stated that she can appreciate Mr. Wood wanting two classes of notaries.

Those that could only acknowledge documents and those of us who actually function with all the powers given to us. I also appreciate Ms. Davidson's statement as to how it just blows you away when you realize that being a notary is serious and important job. This is not something someone can sit in the store front and sign documents. As a legal secretary, I have worked for an attorney who had no clue on what a notary could do. I use a form I have developed for wills that the client fills out, I can give no legal advice, so I tell the person who fills out the form if they have any questions, please call an attorney. When my boss found out I was doing wills, he forbade me, due to the fact that the client might come back on him, as he is an attorney. I informed him that notaries can do wills. He had no idea!! If there is to be another level, it needs to be called something else. Notaries do not want there to be a Notary A and Notary B because people in the community will only see notary. I do not think that attorneys should be excluded from the continuing education for the reason I already gave. Many of them haven't got a clue!

Deborah F. Landreneau, a witness, with The Professional Association of Notaries stated that she has the same concerns regarding a monopoly due to the fact that some notaries could not afford the continuing education if were not local. Also, she feels that a number system should be used just as the attorneys have. This way an inactive notary or an authentication could be better kept up with. She agrees that we need continuing education.

Carvel Sims stated that maybe the reason there are too many unknown notaries is the fact that according to 35:71, the notary bonds have to be approved by your local clerk of court. It does not require it to be recorded, however, most clerk of court will not approve it if it hasn't been recorded. The average notary believes he has recorded his bond. But the requirement by law states it must be recorded by Secretary of State and pay an additional fee. It is confusing whether or not the attorney notary or the nonattorney notary are inactive or active on the web site. Maybe a bond application by the Clerk of Court and a declaration with the Secretary of State might work. Many notaries are filing with the Clerk of Court and not with the Secretary of State which causes a problem, many think they are active when indeed they are not. We need a central authority. He addressed the problem of ex-officio notaries and the need for them to have continuing

education. There is no simple solution.

Linda Davidson, finds it interesting that New Orleans is the only parish in the state that regulates and keeps up with the notary profession and has an appointed office to handle notaries. Judges in other parishes are the only regulatory force and she suggests that they would not object to giving up their power on this issue. She stated that evidently everyone must be happy with the way things are handled now, due to the fact that there are very few people here to join in on this notary study.

Mr. Pratt replies that all other parishes have a clerk of court system and Orleans Parish has a Registrar of Conveyances and Recorder of Mortgages. I preserve the papers. It was set up in 1867 for all notarial papers to be in one office. Orleans parish also enables me to regulate my notaries. Judges regulate notaries in all the other parishes. Mr. Pratt agrees that the judges would probably not fight to give up their power in regulating notaries.

Paul Bello, International Union of Latin Notaries, in relation to both the question of whether there should be two classes of notaries in Louisiana and to create the appearance in the United States of other civil law notaries in Florida, Alabama, Oklahoma and Washington D.C. It is a movement which is continuing and it is an encouraging movement. I've learned with my involvement through the UNIL I've met some people involved in Florida and Alabama and it's truly encouraging to me and it's ironic that the people in this room are discussing a plan to create a common law class for notaries that other states are doing because of the pressure of world wide trade and the globalization of economies have found it necessary to actually immolate our system and create a civil law notary system that will allow their instruments to be easily recorded and enforceable in foreign civil law jurisdictions. We feel an odd ball because we have the only civil law state, even considering the erosion of our system with the pressures of American homogenization. We are in the family of nations, we are in the majority. I've become more aware of that as I have come in contact with other distinguished notaries such as Mr. Lomeli who I would like to thank now for offering his experience and knowledge and allowing us to have a broader look at the civil law notary that will enable us to see how we fit in a civilian world, and what other jurisdictions are doing around the world who we share our system with. One other point,

looking at other systems, I have come to know the notaries of British Columbia, and it was a big surprise to me that in Canada, other than Quebec, they have notaries who have powers similar to ours. Such are the notaries of British Columbia, who like us are not required to be attorney. They consider themselves common law notaries under the law of 1858 which was the bench mark decision where solicitors in Britain were successfully able to strip notaries from conveyances authority and power and other such things. But they remained articulated under the prior law of 1858 so they retained many Latin notary characteristics. We would do well to look at British Columbia as a model.

Sue Dier, stated that in response to the different classifications of notaries, the problem I see with doing something like that is that the public has no earthly idea if you are a jurat notary and can do affidavits, or if you are a fully commissioned notary with all the powers. The reason I say this is the public doesn't even know the difference between notaries and Justices of the Peace. I'm talking about my parish, people come to me. I am trying to educate my constituents. I have a brochure and I explain what a commissioned notary is and what an attorney is and then I give the explanation of a Justice of the Peace. They say why have they been going to a Justice of the Peace for a real estate or other similar document. I see a problem with this. I am one in the fore front for continuing education, I even teach a notary class in Livingston Parish, which has one of the hardest tests in the state. Congratulations to Jo Landry for passing the test recently. She is the first one in five years!! It is a very, very, hard test. We need uniform testing.

Jo Landry, suggested that notaries need to know civil law. Many notaries have no idea what the civil law book contains. Is it fair to the public that there are notaries in Louisiana that do not know the civil code law?

Sue Dier, I agree with what Jo is saying. I went to talk with a group of notaries and some did not even know what the civil code was. I am for statewide exams and I'm sure continuing education will be in our future. The problem is, some notaries only want to do car titles and simple documents. I do not believe these notaries should be forced to take continuing education. I believe if you're a notary worth your salt you are going to continue your education. As far as the attorneys, in defense of them regarding malpractice, there are several notaries I know

who have been suspended or put on probation, it is not only attorneys. I agree that notaries need a state wide exam and that the notaries need a commission number, similar to the attorneys.

Warren Ponder, Attorney, stated that a lot of questions need to be answered and we are not going to make any decisions today, we have a year to do it. But I think it is incumbent on all of you, which we are a small number, to contact the larger number and educate them as to what is going on, this is the input we need. Let us go ahead and give the legislature something it can use. I'll call your attention to HCR No. 81 which is in your packet and the pertinent information which says "Therefore, be it resolved that, as a prerequisite to the Legislature of Louisiana considering the availability of a statewide commission for non-attorney notaries public, the secretary of state shall develop standards of conduct, including standardized testing and mandatory continuing education, and a system for the monitoring and enforcement of any standards or requirements". Also, the fees, I can tell you that generally the legislature has been going to fees being generated by the persons effected. In other words, this will not be a general tax on the population. The notaries public are going to be the ones paying. The committee needs the input from the larger number of attorney notaries and non attorney notaries not represented here at this meeting. We need to find out if notaries would pay a fee to be regulated. By 2003 we need to report our findings to the legislation.

Paul Bello, International Union of Latin Notaries, asked Warren Ponder if the reports each notary compiles on this issue need to be in writing.

Warren Ponder, Attorney stated that would not be necessary.

William Pratt, Orleans Custodian of Notarial Records, stated that notaries throughout the state need to be notified of this study.

Warren Ponder, Attorney, stated that we also need to look into what other states do.

Kathleen Clark, stated that state wide commissions and standardized testing are a must.

Judy Bilich, agrees that we need statewide testing. Maybe required continuing education could be managed through the universities and the Internet. Rural people would still have access. We do not want to see any powers taken away from our current notaries. We do not want separate classes and feel it would be harmful to the public.

John Shidler, wanted to know if any thought had been given to subcommittees? Also, he jokingly asked if the committee had thought of having a meeting in north Louisiana (closer to his home).

Cynthia Cotten, Chairman, stated the committee had thought it would be a good idea to select subcommittees and that would be addressed in the next meeting. She jokingly stated that the committee would think about having a meeting in north Louisiana.

Paul Bello, International Union of Latin Notaries, stated that regarding the issue of offering continuing education through the universities, he feels that Louisiana community and technical colleges are considering offering notary curriculums. It would be an ideal place for it. Hopefully, the development will continue and will be accomplished.

Cynthia Cotten, Chairman, stated that the discussions needed to come to a close and announced that the next meeting would be held on February 27, 2002. The Chairman told the committee she would be available for any questions or comments.

There being no further business, the meeting was adjourned at 11:50 a.m. by the Chairman, Cynthia Cotten.

---

Secretary

**NOTARY STUDY COMMITTEE MEETING****Minutes****February 27, 2002**

The Second Notary Study Committee meeting was called to order at the State Capitol, Baton Rouge, Louisiana in House Committee Room No.1 at 10:13 a.m. authorized by House Concurrent Resolution No. 81 from the 2001 Regular Session of the Legislature.

Meeting called to order by Chairman, Cynthia Cotten.  
Roll called by Chairman, Cynthia Cotten.

The following committee members were present: Warren Ponder, Executive Counsel for the Secretary of State, Jo Landry, William L. Pratt, Orleans Custodian of Notarial Records, Randy David, President of the Louisiana Notary Association, Stephen Broussard, President of the Notary Association of New Orleans, Paul A. Bello, International Union of Latin Notaries, Narciso Lomeli, Alan Jennings, Editor of Louisiana Notary, Carvel Sims, and Glenn Stallings.

Ronnie LeBoeuf, The Practicing Notary, Walter Brunty, Kathleen Clark, Linda Davidson, Sue Dier, and John Shidler were absent.

Cynthia Cotten, Chairman, presided and Lindsey Lejeune, Notary Department, recorded the proceedings of the meeting. Glenna Doucet, acting as secretary, took the minutes. Nancy Underwood, Elections Staff, was in charge of witnesses and the testifying cards.

Cynthia Cotten, Chairman, discussed what was in the packets before each person: (1) the agenda, (2) a list of the subcommittees and members and, (3) information received by Mr. Narciso Lomeli, regarding a profile on Latin Notaries. Cynthia Cotten welcomed everyone again to the meeting, stating that today we do have a few people that were ill and said they could not be here, but we're going to go ahead and get started. The Chairman then introduced Warren Ponder.

Warren Ponder welcomed everyone back. He stated we should have a short meeting today, hopefully, and everyone could back to their real jobs and real work. He then thanked everyone for their participation.

Cynthia Cotten stated that at the last meeting each member was given a charge to go and get feedback from the other notaries you are associated with. So we'll go to the floor and let each one of you report your findings.

Paul Bello began with his findings of the last few years through last week. According to my research most non-attorney notaries are generally in favor of state wide commissions. I personally believe that the majority of these notaries do not oppose continuing education for non attorney notaries. The Louisiana Notary Association conducted a non binding poll on whether CLE should be required for notaries and the poll return showed solid support among rank and file for CLE. In that poll 55.5% of the respondents favored mandatory CLE for non attorney notaries. Response made up 42% of the membership, a larger rate than is usual for votes cast for LNA Board Elections. 58% of the membership expressed no opinion one way or the other. 42% of the members participated in the poll. Today there are approximately 1200 LNA members. It is generally believed among its supporters that the MCLE proposal is a significant step in preserving and saving our notariat and solidifying perceptions of our professionalism. It seems to be generally admitted that frequent changes in the law require CLE for notaries. The LNA leads the state in voluntary CLE programs in regional and state wide seminars, frequent shop talks, publications and practice forms. The CLE requirement, I believe, would be painless to LNA members and members of the other notary associations who also conduct regular seminars, conferences and meetings. Attorney notaries, of course, must have CLE through the Bar Association, and CPA's, real estate agents, barbers, massage therapists and many other professions and vocations require continuing education to maintain their status and the trend toward CE and the trades and the profession is seen as generally a good and necessary exercise. I believe the concern of rural notaries over access and affordability to CLE will be met through correspondence and distance courses which will be reasonably priced and that require little travel for the rural notaries. Most recently and significantly I received support from about 60 individual notaries who favor MCLE and the Louisiana Bankers Association has communicated to

me that they support mandatory continuing legal education for notaries.

Glenn Stallings stated that this was his first meeting and he appreciated the opportunity to be here. I also did take some time, as being a relatively new notary in the last couple of years I looked at the information you sent me at the last meeting and decided to take a random poll in my northwest Louisiana area, I was able to make 164 calls and able to actually talk with 71 people and just from that small group I found that there was a 57 to 14 balance that wanted continuing education and felt it was worth the time and the effort. The only concern they expressed was that it needed to be on a local basis if at all possible, or at least made readily accessible to the different areas of the state. There had been concern that much of the training that had been available in the past had been mostly in the southern part of the state and has made it difficult for those that live in the north to travel here. In addition to that, I found that many people were willing to adopt a fee if necessary even a yearly fee if it took that to make that available to us. 59 to 12 were in favor of some type of fee system, maybe even on a yearly basis if it took that. The average fee that they indicated I thought was interesting because it ranged from \$5 to as high as \$150. The bulk of the people, however, were looking at prices in the \$25-50 range and felt that would be fair. In addition to that, I was asking concerning the fact of having the notary on a statewide basis, I thought this was kind of interesting in lieu of the other numbers in that 49 people did not want to have a statewide notary situation at all and 22 said that they did. The main reason for most of those people that said they did not, as I questioned that, was due to the fact they have no need to travel to other parts of the state and do business and that they only do business in one or two parishes typically, we have six in our area that we can do business in; most of them are confined to the one parish they are in, or possibly two. So it was a little bit of an interesting statistic for me. I guess the great hope that I had from what I heard was that they were hoping that there would be continuing education on their part, so that was probably the bright side of the things that I heard and I myself certainly do support the idea of continuing education. I think that it is critical to our industry to give us an opportunity to be more professional. One sideline that really wasn't part of what you asked for but I just thought I would throw it in: I also asked how many of these notaries were making a profit in their business; I hope they

were being honest; I think they were. But it was interesting that 64 said that they really make very little money in what they do with this and there were only 7 who said that they make \$1000 a year or more in their notary practice. I thought that was another interesting statistic to deal with because if we are going to supply, for example, continuing education and if we are going to mandate that we follow up with these things, to make sure that enforcement takes place, that they are properly monitored and the things they are suppose to have, we are going to have to be able do that so we can reach out to those that are not doing a whole lot of business, or we are going to find in the process of continuing education perhaps higher fees to monitor these things, that we will loose a significant number of notaries in the state, from what I have observed so far.

Carvel Sims stated he spoke to several of the notary instructors in East Baton Rouge Parish and some of the notaries in the surrounding parishes. They thought it would be extremely helpful if the Secretary of State could get involved in assigning commission numbers with letter prefixes so that ex-officio notaries, clerks of court, and justice of the peace, would have to have expiration dates on their mechanical seals. As you are aware, we do not need a mechanical seal for commissioned notaries such as an attorney or a non attorney notary. Because ex-officio notaries have very limited powers and cannot do anything outside of their official functions, normally, if they had an "X" number and were required to put a commission number then the department of motor vehicle and all other state agencies would know that this is not an ordinary notary. Also, in speaking to some of the clerks of court, they are having trouble and they are recalling all these notary seals that were given out, if they had an expiration on the seal and it was required and they also had a "C" number for clerk of court, and all clerks of court have an expiration date, because it would be when the next election was due. These things would expire by themselves. Also, they would know that the clerk of court can do certain functions that even a justice of the peace cannot and a justice of the peace is elected; suppose they were given "J" numbers so that the Secretary of State and any lay person could track these much more readily. I have problems where people come in and show me a notarial act, I can't read the notary's name, the law does require that the notary sign their name underneath their signature, they don't do that, but if they had a number that

would greatly assist it. All those with “C”, “J”, or “X” would be required to have an expiration date. Most of the attorneys that I spoke with and non attorney notaries like the idea of the education. Twenty years ago when I was appointed to the examination committee in East Baton Rouge Parish, I called on my law school education which was inadequate in the area of notarial law. It is not that we consider it beneath us to teach it in law school, but there are so many more pressing matters that you teach the very complicated things and feel that the average attorney can go find it out by reading the book. That’s what I did, but it took me probably a year to two years to become somewhat knowledgeable in the detailed field, that is I knew generally the answer to the question, but I didn’t know why I knew the answer. When you asked me a question I could give you the correct answer, because the procedure had been drummed into me in law school, but I didn’t have any idea why, where it came from, civil code, revised statutes, what the particular law was because I hadn’t read it, I just knew the answer. They do want voluntary education; the attorneys think that since they have mandatory, the notaries must have mandatory. I’m trying to get the designation CNE for continuing notarial education, as opposed to CLE to distinguish it from legal education, because we don’t want to instill in the notaries that they are studying the law to give legal advice. We want to instill upon them that they are studying notarial practices, procedures and laws. I think that is important to stress, what they did not want is they don’t want to have to go to school more than one day a year. To take out the time and go, the average cost for one day is roughly \$100, when you throw in a meal and the cost of getting there and back, it is \$100. There are a lot of good organizations that are offering these locally and statewide. They didn’t want to have to pay too much, most didn’t want to pay at all, but realize it is a fact of life, they were going to have to. They didn’t want it mandatory because they are going to have to take a certain amount this year, and if there’s only one course offered they have to take that, instead of what they want. I know that I am just bombarded with 50-60 seminars a year, and I can pick and choose what I feel I need to study, but the notaries are not going to have that option, at least not at first. They are looking at making it non-mandatory. I have done some calling around and I have spoken to some of the people who sell both errors-and-omissions and notarial bonds, and I’ve asked them and they said they can’t remember (in Baton Rouge), when they had anybody who made a claim on a bond. I’ve

searched the literature, which is all the reported cases that I could find, which was Court of Appeals and Louisiana Supreme Court and the only notarial malpractice I could find was attorney malpractice. So I think the self-limiting factor is that these notaries who don’t understand a particular process or the way the law works, won’t touch it with a ten foot pole. Now, that is comforting, but there is always somebody out there who is going to try. Apparently, it’s a very, very small percentage and many of them go seek an attorney for assistance. The next thing is they wanted the assistance of the Secretary of State, to keep an up-to-date database to make sure that the bonds are current. I have lots of people who come into my office and say someone is a notary, but when I pull up the name on the Secretary of State’s database, most of the time they are inactive. They have not renewed their bond; actually they have renewed their bond, but they filed it with the clerk of court, but did not file it with the Secretary of State. We have included in some of the seminars that I have been involved with a reminder that you have to do that. The statute is not easily interpreted. It is not difficult, but if you are not familiar with the process, it doesn’t jump out at you. All the people I have done, 60-70% are not current. I talked with them about statewide commissions. A few thought it would be handy, some thought it would be more of a nuisance because they can decline to do something because it is out of their parish of commission, and there are a lot of national lenders who want to send people halfway across the state. When they realize the cost, they say no thank you. But there are some notaries that would find it very convenient to have some additional adjacent parishes, so that perhaps anything within 75-100 miles they could petition to get on. Some of these outlying areas, 75 or 100 miles is not necessarily that far to travel to do a notarial job, because people need the service. They find it would be more convenient to have additional adjacent or close by parishes that they could get either by petition or by posting an additional bond or something and perhaps being reviewed by the district judge. Currently, in statute, there are three reasons to remove a notarial commission: for example, failure to pay over money, and the last one is for any just cause, which is very broad. It leaves it to the discretion of the local judges. They know how many notaries they have in their area, and they know the reputation of the person, so it is the local district judge that supervises these local notaries. They don’t feel any need for a statewide commission, but the district judges and their staff, they take their obligations very seriously,

they supervise these exams very seriously, and they supervise their notaries. Before any notary is commissioned, many times that district judge sits down and talks with them, and lets them know they are going to be watching you, if you do anything illegal. The problem with statewide testing is the local district judges like to have control over the testing and the commissioning process. A problem I see is that the notaries are more aware of the change in law than what the law originally stated. Most of the things they do, the law has not changed nor the procedures. I think word of mouth education is a very good thing in Louisiana. I will make available the web site in Louisiana, if there is any questionnaire that the committee would like to put out there and we can have the people respond to. The people would have to register their name, address, and phone number so we can be sure it is not one person voting eight or ten times and I can report this back to the committee.

Cynthia Cotten advised Mr. Sims that that would be a good topic to address to his subcommittee.

Alan Jennings received one letter addressed to the publication and I would like to read a pertinent paragraph from Ms. Terese C. Boudreaux, in Borgue, Louisiana, which reads: With regards to the study being done by the Secretary of State on the office of notary in Louisiana, it is my opinion, emphasis placed by Mr. Jennings, as her opinion, that if I and all those like me, with certain rules and specifications, have obtained a lifetime commission then as long as we practice under and adhere to those rules and specifications we should be allowed to retain our lifetime commissions, if there is interest in establishing new rules and specifications and those rules and specifications are changed, then it seems only just to me that the new rules should apply to new notaries and that those of us who were commissioned for life should be allowed to continue to practice as we were commissioned. Of course, this is my opinion, and you can take it for what you consider it is worth, but I have spoken with other notaries whom I know and have found them to be of the same opinion. Ms. Boudreaux thanked Mr. Jennings for his kind attention. Mr. Jennings stated that is the only thing that came to me from the field. But I didn't want that to sway me from making a short comment on the three areas that we have been asked to look into. On standardized testing, I believe the most important thing this committee can do is to slam the gate to incompetents coming in and getting

commissions. Whatever we have to do to make sure that no more who are not properly prepared, and the chain is as strong as it's weakest link. That the easiest test in Louisiana be a substantial test. Whatever we can do to bring that to bear will improve things from this day forward. We can easily work on it, it needs to be done. I believe we can do it without threatening any local politics and serving certain parishes who would just as soon not have to come up with this test. But I believe we can secure the gate dealing with the deputy clerks of court who can easily have the same power we do with no test whatsoever. Whether it is in the Resolution to look at that or not, if we are going to make a standardized notary, if we are going to have someone who rises to a certain level of competence that can do these things, we can not allow an appointee to do those things without a test. I do not think it is unreasonable to look at the deputy clerk power. On governance and regulation of notaries and any notary policy that might be established, I believe that that must be by our peers. I do not believe that any board should be appointed by any bureaucrat, legislator, or governor, but if we are going to have any kind of governing body it should be elected by notaries, or at least by house of delegates of notaries elected by notaries in an election managed by the division of elections, where we go and say these 200 people will seek this board. I just don't believe that we can be supervised, other than legislatively, by any body other than within the membership of our profession. As to MCLE, any programs managed by any governance body that is situated as I just described, I wouldn't have any problem with it. I wouldn't have any problem with saying that if a notary gets anything certified by the bar association in terms of specific areas of practice of interest to notaries that that shouldn't qualify for any kind of requirements, with anything else that would tend to make education an industry, itself, just a profitable windfall for people who say, if we get this passed we can make some money. I think that has to be discouraged. I think that the notaries have to govern what the notary education is, and say this is what we believe, that if you take this course you are furthering your profession. I think we should keep in mind that we are appointed public officials at a parish level. I think great care must be taken to preserve the 200-300 years' cultural heritage that we have in terms of being local officials governed by the courts. To make changes in the nature of the office unnecessarily, I think, is very unwise. I'm not saying that we shouldn't consider a jurisdiction that extends beyond the parish area

right now or the ability to commission in other parishes. But I think that we can do almost everything called for in this resolution and still not make this a state office, but still maintain the nature of it as a parish office.

Wendy Hilker stated that the Professional Association of Civil Law Notaries is very happy to be a part of this committee. We've met several times, the first time we met regarding these topics was back in August of last year, I do have all my notes and all that, but just briefly, I wanted to say that the consensus of the organization is that we do truly believe in Continuing Notarial Education and we do want to look a little further into the statewide commission. A lot of the notaries in the organization feel the same way that a lot of you do. They are not going to travel 900 miles, whatever it is, to do work in another parish, just because it's there, but they want to have the opportunity to work in maybe a cluster. I'm from St. Tammany, and we don't have any clusters; I am privileged to be a part of the Orleans Parish notary and it's pretty nice to be able to cross that line, it's not like you walk across the parish line and you forget everything you know because, of course, it's not true. It's a little harder in Orleans but we learned to do it because it's something we've all studied. The monitoring and enforcement is something we find extremely, extremely important to us. A lot of the work that comes through my office is done by notaries that either are just flying by the seat of their pants and they are not really sure of what to do, and they send them over to me with their paperwork to look at, and it's like I wouldn't touch it with a ten foot pole. So I do think there is (and so does the organization) a big call for monitoring and enforcement. On the issue of ID's granted to the notaries for their commission, we do believe that is something necessary. So that we can track, a lot of times when I have work that comes into my office, through motor vehicles, I can't read the notary signature on the form and they don't use the embosser so you can't even figure out what their name is and so it's hard to know if in fact it was a notary or if it was a doubloon that was used, I do know that it happens, that with a rubber mallet I hear it's wonderful, but it's terrible for us because we can't accept work we can't prove that has been done by a real notary. Standardized testing, we definitely, definitely want to chime in on that. We think that is something that is definitely necessary. St. Tammany has a pretty good test, it is not nearly as hard as people say it is, of course, it is a matter of opinion. It depends on how hard you study.

We know that there are some tests being given out there that is almost a breeze to walk in and that's why the notarial profession is being so saturated with people that just think it's a great easy job to be a notary and they don't take the seriousness of their profession. We want to chime also in on the fact that we are against having separate classes of notaries, that's not something that we even want to put on the table. It would be such a chore to educate the public on this topic that we would just rather spend our time on something else. The Professional Association of Civil Law Notaries would like to be involved in the standards of conduct that's going to be set with the notaries, and we have three of our members here today, I don't want to give any specifics about what we're going to talk about in the committees but we do have three members here that are going to be hopefully joining in on some of the subcommittees just to be able to chime in and let them know there are other organizations out there that are interested in all this stuff.

Jo Landry spoke with several lay notaries from non-reciprocal parishes. I requested that they send in letters and have given Becky some of the important statements that were made by these notaries. I would like to read one particular paragraph written by Ms. Rebecca McCormick who I think pretty much sums it all up: "those of us who have earned the right of commission want to be good notaries, just as the State of Louisiana and subsequent interested parties want us to be. Therefore, it is only prudent that the testing focus shift from that of individual parish agendas to that of a Civil Code focus, consistently, across Louisiana. Comprehensive standardized testing will fulfill the demand that all candidates, statewide, have been tested thoroughly and fairly, prior to receiving a commission. The consistency brought by this shift in focus to the Louisiana Civil Code as the primary testing tool will help eliminate incompetent instruction and encourage good candidates to pursue obtaining a commission. Further, testing consistency will set a precedent for and encourage the same type of consistency in continuing education. She respectfully asked that all committee members realize the importance of implementing comprehensive standardized testing in Louisiana, followed by mandatory continuing education for all notaries". I agree with Wendy, standards of professional conduct are long overdue, and I think the subcommittees are going to be worthwhile.

Carvel Sims stated that a client once told him "there

is nothing more self righteous than a reformed sinner". What I'm telling you is that to exempt anybody who is presently a notary from the classification of any changes in the law, I think would be unfair. You know, "I didn't meet these standards but all the other ones have to", I think this would be unfair. In preparing tests, I know that the only parish that I am aware of and there maybe more, that have drawn up written standards of what knowledge a notary should possess is East Baton Rouge Parish. I didn't bring them with me but I can get a copy and make them available. One of the important standards is that the notary should be able to prepare from a blank sheet of paper certain notarial acts and there's about 15 or 20 of them. So when you do a test, to put an emphasis on the civil code is fine but not only do you have to know the law you have to know how to apply it and you have to know how to interpret it and prepare these acts. So not only do you test on the knowledge, you test on the application of the knowledge, you test all sorts of ways to see if they know that, by giving them written problems, what is the solution and so forth. It was my privilege to have one person who teaches who's got a doctorate and also a commissioned notary, and he said "you know the test that you prepare is rather difficult, in that you test the knowledge, the application of that knowledge and you test the result of that application through another question". So he talked about different levels of learning. I think what it means is that I call it an umbrella knowledge: what goes up the chimney but won't come down, down the chimney but not up; however they learned it, we're going to ask them in a different way. So that you're not going to see it unless you learn it backwards and forwards, you're not going to know what we're looking for.

Cynthia Cotten stated it was time to open the meeting for open testimony. All cards, if filled out, need to be brought to Nancy Underwood at this time.

Becky McCormick, witness, stated first of all I would like to thank all of you for allowing me this opportunity to stress the importance of implementing comprehensive standardized testing and mandatory continuing education for notaries. I recently passed the notary examination administered in December 2001. I have worked in the commercial insurance industry for over ten years and this continuing education is certainly a distinguishing mark of my profession as well as in many professional industries. I am also a junior at LSU majoring in accounting and once

I obtain my CPA, I am sure this continuing education will play a prevalent part in my success as a professional. Currently, instructors preparing notary candidates for testing in the surrounding parishes face a difficult task. The inconsistency in testing methods, parish willingness to release study material or sample tests and what each parish deems important spans too far in extremes for an instructor to effectively address these issues. This stressful, expensive process only frustrates those candidates who follow the instructor's advice in preparing for the exam and subsequently fail the exam, sometimes multiple times. Specifically, a candidate may be faced with any or all of the following situations while endeavoring to obtain a notary commission: (1) instructor may not be prepared to address issues for a specific parish test. The lack of a ruling authority over instructors allows a course to be publicized as a general preparatory course when in reality it would be more accurately publicized as a parish specific preparatory course. In short, these courses are costly and often ineffective in helping an individual properly prepare for the exam, (2) following the exam, the 45-day wait time to receive test results often extends to 60 plus days, and (3) the notary candidate is likely to find the instructor's focus was not equivalent to the test parish focus, which often becomes painfully apparent in the form of a failing grade. Rebecca McCormick also stated that those of us who have earned the right of commission want to be good notaries, just as the State of Louisiana and subsequent interested parties want us to be. Therefore, it is only prudent that the testing focus shift from that of individual parish agendas to that of a Civil Code focus, consistently, across Louisiana. Comprehensive standardized testing will fulfill the demand that all candidates, statewide, have been tested thoroughly and fairly, prior to receiving a commission. The consistency brought by this shift in focus to the Louisiana Civil Code as the primary testing tool will help eliminate incompetent instruction and encourage good candidates to pursue obtaining a commission. Further, testing consistency will set a precedent for and encourage the same type of consistency in continuing education. She respectfully asked that all committee members realize the importance of implementing comprehensive standardized testing in Louisiana, followed by mandatory continuing education for all notaries.

John Brennen, witness, stated I have been occasioned by legislators who have great experience in these matters

that the study committees are where things are sent to die a quiet death. I am again impressed to see that that is not the case with regard to this matter. This is an important matter that should be given all the weight and all the consideration that you can muster. I am familiar with some of the people on this panel, I know some personally and some by reputation. I see that the Secretary of State has its Executive Counsel, that again shows me that this matter is being taken seriously. Just a few personal comments, if I may, and if I can be of help to any of the subcommittees, I will be glad to do so. I have been an attorney since 1975, I've been a commissioned notary since 1977. In approximately 1996, I decided to limit my legal practice to notarial matters. I was amazed to find out that all those years I was practicing law, others were doing likewise who were not attorneys. The Civil law notary is a very, very powerful position. I would venture to say that a lot of attorneys are not familiar with the fact that non- attorney notaries have the same power as they do; I for one did not. I don't for a minute regret that fact. I do, however, feel that it is incumbent upon all civil law notaries, particularly those that are not attorneys, to make themselves familiar with the changes that occur in the law from time to time. Mr. Davidson, (at the end of the meeting, Mr. Brennen asked that the record reflect that he misspoke and meant to say "Mr. Stallings") you are right, if this committee recommends and the legislature passes something of this nature, there will be less notaries in the state. I don't think that is a bad thing, we have way too many. I'm sure all of you have come across a situation from time to time that someone has done something they should not have done. I believe if we should make the notarial commission somewhat more difficult to obtain and maintain. Perhaps if we make it a little more expensive for those who don't want to spend the money, if we make it a little more time consuming for those who don't want to spend the time, if we make it a little more responsible for those who don't want to be responsible. I did not want to get off on that particular point. But I think there are too many notaries, I am sure there are plenty of attorney notaries in this category who treat the notarial commission as a sideline, as something that they do from time to time and not really as their way of life. I would like to make it more difficult for those people to continue to do so. It would stand to reason, I would think, these are the individuals who are not keeping track of what's happening in Baton Rouge, these are the individuals who are not following the jurisprudence that is relevant to matters of

this nature. These are the people, sad to say, who are signing things when individuals are not in their presence. These are the individuals who are not making their signature legible so that no one can come back to them and say why did you sign, this is wrong. These are the people that we need to eliminate, quite frankly. I think we can do that if we recognize and acknowledge the powerful position we have. If we recognize and acknowledge it requires a certain degree of expertise. Now this resolution deals specifically with a statewide commission in exchange for mandatory education, as I appreciate the resolution. I've read it several times, it's rather brief but it seems to me that what was the intent was to trade a statewide commission for the imposition of mandatory education. Not a bad trade off, as I see it. Should that apply to notaries who have already been commissioned? Absolutely, and the reason being, we simply cannot allow the individuals who have previously been commissioned to go about their ways, as they have always done. This is a change in the status quo. And that is sorely needed. So yes it has to apply to all notaries in the state. Some will allow their commissions to lapse, fine, they did not have what is needed to be a notary in the first place. They should have left their seal in the drawer and I presume it will gather dust henceforth, and that, again, is not a bad thing. Mr. Sims, I listened with great interest your recommendation with regard to ex-officio notaries with regard to justices of the peace. If that can be done in a way which is fair and equitable I think that is a good suggestion. Perhaps it will not allow members of the public to know that this individual may not have the power that this individual is purporting to have, but it will, I think, place upon that individual certain restrictions in his own mind that he won't succeed. As it is right now, there are no distinctions. Although we know, and Mr. Jennings is well familiar with individuals who exceed their authority, they go unchallenged. No one wants to necessarily take on someone in a position of authority. So they do what they have always done. It wasn't right when they first started doing it and it's not right now. So it seems to me that this is the first step in perhaps what might be a long line of considered approaches to the notarial profession, be it attorney or non-attorney participants. As a lawyer I have to have 16 hours of continuing education every year. Do I enjoy it? No, I do not always enjoy it. Is it an imposition on me? Yes, it is. Have I come to understand that it is important? Absolutely. I can honestly say there could not have been 10% of the members of the bar who were in

favor of continuing education when it was passed. No one likes to have anything mandated upon them, but I think every attorney in his heart of hearts, if he was honest with you, would say yes, I think that continuing legal education that has been mandated upon me by the courts and by legislative fiat has made me a better lawyer. I don't go to even the most simplistic of gatherings of other lawyers or non-attorney notaries where I don't learn something, or I don't remember something I had forgotten that is important or I should have been remembering all along. We are simply too busy in our day-to-day life. We need to take some time out, we need to reflect upon what we are doing and if we are doing it right. Yes, it will cost a few dollars, yes, there will be some time spent away from the office. But this is so important. What can be more important than preparing a will for someone, and having that will later be determined not to be in proper form. The notary was not even disciplined for signing the document without even examining it as to proper form. We have got to stop that kind of activity. If the courts aren't going to do it, then perhaps the legislature should. I really feel strongly about the profession of notaries. All notaries need to be professional. As in every profession, attorneys not excluded, there are those who will exceed their authority, there are those don't take their job seriously, those who should be really doing something else. I strongly support any legislation that would impose continuing education upon all attorneys notaries and non-attorney notaries, I would hope there would be an exemption for the educational hours that attorneys have to put in if they would cover notarial matters. When I do attend educational seminars, I take those that will further my understanding of my notarial world. But that is simply because I have limited my practice to notarial matters. When I did that I was amazed to find that there were others who did not have a law degree, who hadn't passed the bar, but were practicing law, and that's how important it is. I have no desire to limit the authority of the non-attorney notary, that's been tried, these efforts were misguided. What they did do was to emphasize the importance of the areas the non-attorney notaries can be involved in. They tried to limit the authority of the civil law notary. That is not what we should be doing. We should be allowing the civil law notary to have all the authority and all the power that was intended, but at the same time making sure that power is not abused. Making sure that one who possess that power, one who has the seal, if you will, is predisposed to do so in a professional manner, has

the knowledge and expertise to fulfill the function, perform the duties that are commensurate with it. I offer whatever continuing experience I may have in this area.

Cynthia Cotten asked if there were any other witnesses. She then stated the subcommittee assignments will be handed out at this time. We have broken up the state, from the north all the way down to New Orleans, so there is an equal amount of northern non-attorney notaries on the subcommittee, you'll see it's broken up that way. Some of the people didn't get back with me on their preference, so you were given a subcommittee to be on. At this time I'm going to let Mr. Ponder give you your charge for the subcommittees.

Warren Ponder suggested that the subcommittees are going to be where the work really takes place. We certainly do appreciate your cooperation, and taking your subcommittee assignment very seriously. We divided the subcommittees into the three main categories that we are talking about and spread it across the state. What I suggest, and it is merely a suggestion, I will leave it up to the subcommittees to decide on how they want to handle it. We will ask how the subcommittee decides how they want to take testimony from all non-attorney notaries, or for that matter attorney notaries, anybody, the general public, whoever wants to have input into this matter, we want to hear from them. We want as many people commenting as possible. Let me reemphasize what Mr. Ater said at the first meeting. "The Secretary of State office takes no position, we are not here to tell you what should be presented to the legislature. We are here to let you tell us what you want us to present to the legislature. What the legislature will then do, and with Mr. Singletary, is what it deems is appropriate. It may not follow our recommendation, it may not follow your recommendation. It may take your recommendation and do something completely different. It may take all the recommendations and only act on one category. But we want to present them with all the possible explanation or experience you have had, so that they can have all that input to make their decision. It would be very dangerous to leave them with no information and no input and let them do something to you. Can be, I'm not saying it will be. Once the testimony is taken, then I'll ask the subcommittees, you have an odd number purposely, ask the subcommittees to meet and select what it considers to be a majority report. Vote on what you want the legislature to do in your particular area.

If it is a 3 to 2 vote, I want the 2 members to get together and prepare a minority report, and report it to this committee. If it is a 3-1-1 let's have three reports, if it's a 2-1-1-1 let's have four reports, whatever it takes, let's bring the information back, let's have the input for the committee as a whole. Then at the next meeting, and I think Cynthia has set it for July 17th, which is after the legislative sessions, so we will all be available. We will meet as a committee as a whole, to hear the reports from the subcommittees. We will have a discussion, then in the next meeting, the committee as a whole will vote on what report it wants to present to the legislature. Again it may be a minority report or it may be a majority report. Again, we are not limited to what the subcommittee does. At that meeting, whoever is on the opposition side for the majority report, can prepare a minority report. The legislature may say I see where the majority wants to have mandatory continuing education, but we think it is in the best interest not to do this, so let's look at the minority report and see their arguments. We are just trying to present as much possible information input from you to the legislature. So we may have to do it piecemeal. But whatever it takes, we want to do it. The Secretary of State's office will then review all the reports as taken from the committee as a whole and we will add our input on things like cost, and feasibility. For example, you may say you want the Secretary of State's office to be the keeper of all these things, and the Secretary of State's office will then administer the continuing legal education at no cost to the notaries. Of course, that will not happen!! Those are the type of things we will comment on. We are not trying to take a position, but we do want to point out the problems, if there are some. Feasibility is one of them, and cost is another, because we are always on a limited budget. That is generally what I suggest we do, if anyone has a better idea, please let us know. I suggest the subcommittees meet, and you decide among yourselves the best way to do this. We will be here to help if we can. Anyone have any questions, comments?

Carvel Sims asked once this subcommittee and committee produce these reports and the Secretary of State gets them and it goes to the legislature will the members of the study committee be able to get a written copy of those results?

Warren Ponder assured Mr. Sims that everyone on the committees will have a copy before it is sent to the

legislature. Let me also point out, although we are a study committee that has been mandated by the legislature, this does not preclude any member from this committee from giving testimony to the legislature when the matter comes up. I'm sure they want the input also. We want input from everyone, we want the subcommittees to talk to anyone who wants to put input into it. We think that is very important. What is very important to the notaries may not be exactly what the public wants. While this is a subcommittee and the legislature will affect the notaries, there are more public out there voting for the members of the legislature, than there are notaries. It is very important to make sure that whatever we do the public is also behind, or at least not opposed to, it. Whatever you do, I should say.

Mr. Paul Bello requested contact information on the committee members.

The Chairman informed him that the information he was requesting was in the folder presented to him at the beginning of the meeting with the other information.

He wanted to know what procedure do you want us to use to schedule the meetings? Since we are coming from all around the state, it seems it would be logical for us to all meet in Baton Rouge when we do and will there be a facility for us to meet and how do we go about all of that?

Warren Ponder stated he will leave it up to the subcommittee on how you want to meet. Let me point out we are trying to do this as informally as possible. We think that is the best way to get the public input that we need, input from the notaries and from the public in general. As far as I'm concerned, testimony given to one member of the subcommittee then shared with other members of the subcommittee will be fine. Mr. Stallings from Bossier Parish may be talking to people up there, as long as he sends it down to New Orleans or wherever it may go, at some point the subcommittee needs to meet, obviously, but how we get the information to the subcommittee is really up to you. I just encourage you do it in a way to get the most information possible.

Cynthia stated that the next meeting will be after the legislature is finished meeting and it is going to be Wednesday July 17, 2002. We tried not to make it toward

the end of the month because a lot of you told us that it was a busy time at the end of the month. So we have put it right in the middle, July 17th. Are there any more comments?

Alan Jennings asked if the subcommittee meetings considered public meetings? Do they have any standing where notice must be given, where people are entitled to attend.

Warren Ponder stated these are not meetings that are going to decide issues. They are not going to vote on agenda or vote on an item before the subcommittee. They are really public testimonial type meetings. Meeting of one, in some cases. Information gathering source, is how we are going to use the subcommittee. When the subcommittee meets to decide which proposal to present to the committee, that will be another matter. I suggest that that should be a true meeting, as one subcommittee, and of course we will make our facilities available for said meeting. That's where the real work is going to be done as far as gathering the information. Luckily, the legislature will meet in the meantime. We are giving the most possible time to gather the information and arrive at the proposals.

Alan Jennings - does one have the right to attend any quorum if one of these committees. If it sits as a committee, is it open to anyone?

Warren Ponder stated once the committee meets, yes, it is an open meeting. Nothing should take place behind closed doors. I suggest that when the meetings take place, notify Cynthia and let her be the clearing house for all this information. The Secretary of State would also like to be notified, if possible, when you are going to meet.

Cynthia Cotten stated she would be glad to get any information out to you, if you get it to me.

Glenn Stallings suggested as we meet as a committee and then try to get this information on an individual basis, there are a few people who are not much further than 50 or 60 miles from here north, other than myself, in order to obtain information from such places as Monroe,

Alexandria, and the other areas around there, is it possible, if we're willing to contact the local paper and perhaps hold a meeting in those towns to allow people to come make input to an individual.

Warren Ponder thought this would be a great idea. Keep in mind that we do not have a budget, so if the local paper want to be paid for an ad, we cannot do that. But as a public service type notice, I encourage that. If the subcommittee is willing, you can hold a meeting in Alexandria or in Monroe, or wherever you want to meet, and make it as public as possible and let everyone know about it. We also encourage use of the Internet, mailing, newsletters, however we can do it, we want it done.

Cynthia Cotten, stated we have a department that also can get out press releases and she would try and assist in this area, if possible.

Randy David asked if each subcommittee should elect a chairman?

Warren Ponder stated that would be fine. Just select a chairman of the subcommittee, and use whatever procedure you think is appropriate to make sure we get as much input as possible. We are not bound by the Roberts Rules of Order, and we don't want to be. We want it as open and as much of a discussion as anything else.

Paul Bello stated that several notaries on the committee have access to notarial publications and they might find an avenue to get public service messages in publications in a particular area where a subcommittee member is seeking involvement of the public.

Cynthia Cotten, Chairman, stated we have no more comment, we are going to adjourn the meeting now. Just know that I will be glad to help you or be of service to you in any way that I can, just let us know.

There being no further business, the meeting was adjourned at 11:32 a.m. by the Chairman, Cynthia Cotten.

---

Secretary

**Legislative Proposal - Revisions to La. R. S. 35 - Paul A. Bello (Orleans Parish)****MEMORANDUM****FROM: Paul A. Bello, N.P.****Notary Study Committee member****TO: The Hon. Secretary of State, Al Ater, esq.,  
First Assistant SOS, Cynthia Cotten,  
Chairman, Notary Study Committee, All  
Members, Notary Study Committee, and All  
Interested Notaries and Citizens.****DATE: May 28, 2002****RE: PROPOSED REVISIONS TO TITLE 35  
REGARDING HCR 81**

Dear Mr. Secretary, Mr. Ater, Ms. Cotten, members of the Committee, esteemed Colleagues and citizens:

I have undertaken a review and draft of the pertinent sections of Louisiana Revised Statutes Title 35 in light of the task assigned to the Hon. Secretary and the Notary Study Committee under House Concurrent Resolution No. 81

I would appreciate it if the committee and its subcommittees consider this draft in its deliberations and report, and would likewise appreciate it if this draft was presented for discussion at the open regional meetings.

In short, the draft provides for

- (1) A resident-parish commission with full state-wide authority and qualification for all notaries, present and future,
- (2) A single, large central bank of exam questions maintained and kept current and certified by the Custodian of Notarial Archives and issued to each parish examining committee,
- (3) A Code of Ethics and Professional Code exclusive to notaries enforced by the Louisiana Board of Ethics, who may enforce no other code of ethics against them.  
(Currently the Board maintains they have

jurisdiction over notaries as public officials under the current state-wide Code of Ethics). I have drawn this draft ethics code based upon and after reviewing the notary ethics codes of our colleagues in Quebec, Mexico, and South America, with the Quebec code being the principal source.

- (4) Broadening the notary enforcement authority of the Custodian of Notarial Archives from his current jurisdiction over notaries of Orleans parish only to encompass notaries of every parish, and to provide that the \$20.00 annual notary fee paid to the Custodian currently by Orleans parish notaries only is applied state-wide, to defray costs of enforcement.
- (4) Broadening the Annual Notary Statement of residency and sufficiency of bond reporting requirement, currently required of Orleans parish notaries only, to require an additional statement proving sufficient annual continuing education credits and to apply the requirement to notaries of every parish.
- (5) Related "Housekeeping" draft revisions.

The draft is attached, and I welcome your comments.

Sincerely,

Paul A. Bello, N.P.

**PROPOSED REVISIONS TO TITLE 35  
REGARDING HCR 81[Rev 0.1]  
by Paul A. Bello, N.P.**

Please note that underlined portions represent proposed changes to the statutes. ~~Struck-out~~ portions represent deletions to current law.

**La. R.S. 35:191**

**CHAPTER 4. APPOINTMENT, QUALIFICATIONS,  
AND BONDS OF NOTARIES**

§191. Appointment; qualifications and bond; examination; examiners

A. Any resident citizen or alien of the state, eighteen years of age or older, may be appointed a notary public in and for the parish in which he resides ~~and in and for any one other parish in which he maintains an office~~, provided that he meets the requirements established by law ~~for each parish in which he applies~~.

~~(2) Notwithstanding the provisions of Paragraph A(1) or Subsection C of this Section, a person validly appointed notary public in the parish of his residence may exercise any and all of the functions of a notary public in an adjacent parish which has a population of less than thirty-five thousand and in which he maintains an office, without additional bonding or further application or examination, but must file with the district court for the other parish an affidavit giving the location of his office and attesting to his appointment as a notary public in his parish of residence. Additionally, the applicant shall obtain a dual commission by complying with the procedures established by the office of the secretary of state.~~

B. A resident citizen seeking to be appointed notary public ~~in the parish of his residence~~ or possessing a valid notarial commission ~~in and for a parish based on his residence~~ must be a registered voter ~~of that in the parish of his residence~~.

C. Each applicant, otherwise qualified, may be appointed a notary public in and for a parish upon meeting all of the following conditions:

(1) Submitting an application to be appointed a notary public to the appropriate district court together with a certificate establishing his age, and residence, ~~location of his office when the applicant seeks to be appointed a notary based on such office, location of the office which was the basis for a current appointment as a notary in any other parish, if any~~; and a statement as to the applicant's good moral character, integrity, competency, and sober habits, sworn to and subscribed by two reputable citizens of the parish.

(2)(a) Taking and passing a written examination administered by an examining committee composed of three notaries appointed by the district court having jurisdiction in the parish, or in Orleans Parish the custodian

of notarial records, and one attorney, and one notary public who is not an attorney. Two of the notaries shall be attorneys and one a notary public who is not an attorney. However, if no person within the parish who is a non-attorney notary will accept such appointment, the district court having jurisdiction in the parish shall appoint an additional attorney to serve on the examining committee.

(b) The examining committee members shall be appointed to serve a term of two years beginning October 1, 1977, and every two years thereafter. Examinations shall be given on the second Monday in July and the second Monday in December of each calendar year beginning in December, 1977, and may be given at such other times as the examining committee shall determine. Application to take such examination must be filed with the district court no later than thirty days prior to the date as fixed herein for such examination. Results of the examination shall be announced to each applicant within forty-five days following the examination. If the examining committee fails to schedule and give the examinations as herein directed, then the said committee shall automatically be discharged and a new committee shall be appointed to fulfill the unexpired terms in accordance with the above provisions.

(c) In Orleans Parish, the examination shall be administered at the office of the custodian of notarial records.

(d) The examination provided for by this chapter shall be drawn from a current and certified central bank of at least one thousand possible notary examination questions and answer key from which a minimum of 100 questions and a maximum of 250 questions shall be drawn for each examination given, or, of a number sufficient and of such level of difficulty to demonstrate to each respective examining committee of each parish, in its discretion, in the successful passing thereof, their notary candidates' high level of proficiency and competency over the broadest examination possible of notarial duties and authority, but in no case shall an examination be drawn of less than 100 questions.

(e) The central bank of questions and answer key thereof provided for in this paragraph shall be composed, maintained and issued by the Custodian of Notarial Archives at no cost to the examining committees, and for their sole and exclusive use, and he shall diligently, by every means in his power, keep the central bank of

questions and answer key accurate, current and up to date as to the law at all times, and the examining committees shall reclaim all examination questions immediately following the end of each examination, and, immediately following the grading thereof, shall destroy all questions and answer key to safeguard the integrity of the examination.

(f) The Custodian of Notarial Archives shall certify his central bank of questions as accurate, current and up to date as to the law through the date of each examination given and it shall be the duty of the examining committees to post the certification conspicuously at the place of and during each given.

(g) If found competent and possessed of the necessary qualifications, the court shall issue to the applicant an appropriate certificate, signed by a judge of the court.

(h) The examination provided for in this Paragraph may be dispensed with by the court if the applicant has been duly admitted to practice law in this state ~~or holds a valid notarial commission in this state.~~

(i) The examination provided for in this Paragraph shall be dispensed with by the court if the non- attorney applicant holds a valid notarial commission in this state.

(2) Giving bond, with good and solvent security, in the sum of five thousand dollars conditioned for the faithful performance of all duties required by law toward all persons who may employ him in his profession of notary.

D. Notwithstanding any other provision of law to the contrary, any person who is validly appointed notary public in and for ~~the any parish of Orleans~~ this state ~~the parish of St. Bernard, the parish of Plaquemines, or the parish of Jefferson~~ is hereby authorized and deemed eligible and qualified to exercise any and all of the functions of a notary public in ~~the parishes of Orleans, Plaquemines, St. Bernard, and Jefferson~~ every parish of this state. No additional bonding or further application or examination shall be required due to the expanded jurisdictional limits authorized by this Subsection

~~E. Notwithstanding any other provision of law to the contrary, any person who has been a validly appointed notary public in or for any parish for a period of five years and who changes his residence to another parish, and in the parish of his new residence complies with the laws governing notaries public in said parish, except taking and~~

~~passing an examination, shall be issued a notarial commission for the parish of his new residence by the governor without advice and consent of the Senate and may exercise the functions of notary public in that parish.~~

~~F. Notwithstanding any other provision of law to the contrary, any person who is validly appointed notary public in and for any of the parishes of Tangipahoa, Livingston or St. Helena is hereby authorized and deemed eligible and qualified to exercise any and all of the functions a notary public in the parishes of Tangipahoa, Livingston and St. Helena.~~

~~G. Notwithstanding any other provision of law to the contrary, any person who is validly appointed notary public in and for any of the parishes of Bienville, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Union, or West Carroll is hereby authorized and deemed eligible and qualified to exercise any and all of the functions of a notary public in the parishes of Bienville, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Union, or West Carroll.~~

~~H. Notwithstanding any other provision of law to the contrary, any person who is validly appointed notary public in and for any of the parishes of Caddo, Bossier, Bienville, DeSoto, Claiborne, or Webster is hereby authorized and deemed eligible and qualified to exercise any and all of the functions of a notary public in the parishes of Caddo, Bossier, Bienville, DeSoto, Claiborne, and Webster. No additional bonding or further application or examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.~~

~~I. Notwithstanding any other provision of law to the contrary, any person who is validly appointed notary public in and for either of the parishes of Catahoula or Concordia is hereby authorized and deemed eligible and qualified to exercise any and all of the functions of a notary public in the parishes of Catahoula and Concordia.~~

~~J. Notwithstanding any other provision of law to the contrary, any person who is a validly appointed notary public in and for either of the parishes of Iberia or St. Mary is hereby authorized and deemed eligible and qualified to exercise any and all of the functions of a notary public in the parishes of Iberia and St. Mary.~~

~~K. Notwithstanding any other provision of law to the~~

~~contrary, any person who is validly appointed notary public in and for any of the parishes of Allen, Beauregard, Calcasieu, Cameron, Vernon, or Jefferson Davis is hereby authorized and deemed eligible and qualified to exercise any and all functions of a notary public in the parishes of Allen, Beauregard, Calcasieu, Cameron, Vernon, and Jefferson Davis. No additional bonding or further application or examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.~~

~~L. Any notary public in and for the parish of Acadia, Lafayette, or Vermilion is hereby authorized and qualified to exercise all of the functions of a notary public in and for any of said parishes. No additional bonding or further application or examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.~~

~~M. Any notary public appointed in and for the parish of Iberia or Vermilion is hereby authorized and qualified to exercise any and all functions of a notary public in both parishes. No additional bonding or further application or examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.~~

~~N. Any notary public appointed in and for the parish of Ascension, East Baton Rouge, East Feliciana, Livingston, Pointe Coupee, West Baton Rouge, or West Feliciana is hereby authorized and qualified to exercise all of the functions of a notary public in and for any of said parishes. No additional bonding or further application or examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.~~

~~O. Notwithstanding any other provision of law to the contrary, any person who is validly appointed notary public in and for any of the parishes of Acadia, Evangeline, or St. Landry is hereby authorized and deemed eligible and qualified to exercise any and all of the functions of a notary public in the parishes of Acadia, Evangeline, and St. Landry. No additional bonding or further application or examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.~~

~~P. Notwithstanding any other provision of law to the contrary, each person who is licensed to practice law in this state who is a notary public in and for any parish in this state may exercise the functions of a notary public in every parish in this state. The expanded jurisdictional limits~~

~~authorized by this Subsection are additional to other provisions of law. No additional bonding or further application or examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.~~

~~Q. Notwithstanding any other provision of law to the contrary, any person who is validly appointed notary public in and for either of the parishes of Lafayette or St. Landry is hereby authorized and qualified to exercise all of the functions of a notary public in and for both parishes. No additional bonding or further application or examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.~~

~~R. Notwithstanding any other provision of law to the contrary, any person who is a validly appointed notary public in and for any of the parishes of Iberia, St. Martin, or St. Mary is hereby authorized and deemed eligible and qualified to exercise any and all of the functions of a notary public in the parishes of Iberia, St. Martin, and St. Mary. No additional bonding or further application or examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.~~

~~S. Notwithstanding any other provision of law to the contrary, any person who is a validly appointed notary public in and for either of the parishes of Sabine or Vernon is hereby authorized and deemed eligible and qualified to exercise any and all of the functions of a notary public in the parishes of Sabine and Vernon. No additional bonding or further application or examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.~~

~~T. Notwithstanding any other provision of law to the contrary, any person who is a validly appointed notary public in and for any of the parishes of Avoyelles, Grant, or Rapides is hereby authorized and deemed eligible and qualified to exercise any and all of the functions of a notary public in the parishes of Avoyelles, Grant, and Rapides. No additional bonding or further application or examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.~~

~~U. Notwithstanding any other provision of law to the contrary, any person who is validly appointed notary public in and for the parish of St. Mary, the parish of Assumption, the parish of Lafourche, or the parish of~~

~~Terrebonne is hereby authorized and deemed eligible and qualified to exercise any and all of the functions of notary in the parishes of St. Mary, Assumption, Lafourche, and Terrebonne.~~

**R.S. 35:321 et seq.**

**PART III. OFFICE AND CUSTODIAN OF NOTARIAL RECORDS**

§321. Terms defined

As used in this Part, the terms defined in this Section shall have the meanings here given to them, except when the context clearly indicates otherwise:

~~(1) "Notary" or "Notary Public" shall mean a "Notary Public in and for the Parish of Orleans".~~

(1) "Custodian" means "Custodian of Notarial Records in and for the Parish of Orleans".

(2) "New Orleans Notarial Archives" means "office of notarial records in and for the parish of Orleans".

§322. Appointment and qualifications; vacancies

A. The governor by and with the advice and consent of the Senate shall appoint a custodian of notarial records, whose term of office shall be for four years, and run concurrent with the governor. In the event of a vacancy in said office, the governor by and with the advice and consent of the Senate shall appoint a custodian for the unexpired term.

B. The custodian shall be a duly licensed and practicing attorney at law and notary public ~~in the parish of Orleans, of this state~~ and shall be a member in good standing of the Louisiana State Bar Association, or a notary public of this state listed as active with the Secretary of State.

§323. Central office; preservation of notarial records; permanent volumes

A. The custodian shall maintain a central office in the city of New Orleans in the Civil District Court Building in quarters presently provided by the city of New Orleans or other quarters in said courthouse to be provided in the city of New Orleans. The custodian shall demand, take possession of, collect, keep, and preserve in this office or in an archival-safe environment the notarial records of notaries in the parish of Orleans.

B.(1)(a) The original of every authentic act, except chattel

mortgages and acts relating to real property outside of Orleans Parish, passed before a notary public in Orleans Parish, and also every act, contract, and instrument except money judgments and chattel mortgages filed for record in the office of either the recorder of mortgages or the register of conveyances for the parish of Orleans shall, as a condition precedent to such filing in the office of the recorder of mortgages or the register of conveyances for the parish of Orleans, be first filed in the office of the custodian of notarial records for the parish of Orleans.

(b) The custodian shall endorse on each act, contract, or instrument filed in his office the date of such filing and a serial number, and shall issue a receipt for such act, contract, or instrument, showing the date of its filing and the serial number. All acts, contracts, or instruments so endorsed, if required by law, shall be filed for record with the recorder of mortgages or the register of conveyances for the parish of Orleans, or both, and shall be registered and/or recorded with the serial number furnished by the custodian; however, nothing herein shall be deemed to impose upon the custodian any obligation to file any act, contract, or instrument with either the recorder of mortgages or the register of conveyances.

(c) The recorder of mortgages and register of conveyances for the parish of Orleans shall thereafter endorse said act, contract, or instrument to the custodian, showing the date and time of filing, and the book and folio or instrument number endorsed thereon by the recorder of mortgages or the registrar of conveyances, and shall return the act to the custodian who shall thereupon have permanent custody of the said act, contract, or instrument, and shall file same in his office in permanent, bound form according to the serial number endorsed thereon by the custodian.

(2) It shall be the duty of all Orleans parish notaries public filing acts for registration and/or recordation pursuant hereto to deposit with the custodian all attachments such as certificates, tax researches, surveys, and other documents pertaining to any act passed before them and this deposit must be made within sixty days of the date of registration and/or recordation of said act. It shall be the duty of the custodian to file these attachments in permanent, bound form, to the act to which they pertain. The bookbinding shall be done in accordance to standards that will ensure the indefinite survival of the records.

C.(1) The custodian of notarial records shall charge the

sum of ten dollars for each act, contract, or other instrument thus filed and deposited in his office, and twenty dollars for each sketch, blueprint, or survey, with one-half of the fee collected to be dedicated to microfilm or other imaging projects, with the remainder to be used only for the expenses and maintenance of said office.

(2) Notwithstanding the provisions of this subsection, all veterans of the armed forces of the United States of America shall be exempt from paying any fee for the filing and depositing of their discharge certificates or other evidence of honorable separation from the armed forces with the custodian of notarial records.

(3) Notwithstanding the provisions of this Subsection, the city of New Orleans shall be exempt from payment of any filing fees.

D. Repealed by Acts 1997, No. 1102, § 2.

E. Every living, qualified notary public is authorized to certify true copies of any authentic act or any instrument under private signature hereafter or heretofore passed before him or acknowledged before him, and to make and certify copies, by any method, of any certificate, research, resolution, survey or other document annexed to the original of any authentic acts passed before him, and may certify such copies as true copies of the original document attached to the original passed before him.

F. Whenever any notary public for the parish of Orleans shall fail to comply with the provisions of this section then it shall be the duty of the custodian of notarial records to institute proceedings by rule in the Civil District Court for the parish of Orleans to require said notary public to show cause why his notarial commission should not be forfeited and why he should not be ordered to turn over all his notarial archives and records to the custodian of notarial records and pay all costs of said proceedings.

G. Repealed by Acts 1997, No. 1102, § 2.

§325. Lists of notaries, central notary examination question bank

(a) The custodian shall keep an accurate alphabetical list of all notaries public, showing their business and residence addresses and the expiration date of their bonds; he shall keep this list at all times open to public inspection during his office hours, and furnish the Secretary of State and the

~~district attorney-attorneys of every parish of this state in and for the Parish of Orleans, annually on or before October 1st, a certified list of all notaries in and for the Parish of Orleans, in the case of the Secretary of State, and all notaries of their respective parishes, in the case of district attorneys, showing the number of notaries and the number and names of those who have ceased to be notaries, and the number and names of those whose bonds have expired.~~

He shall diligently, by every means in his power, keep the list accurate and up to date at all times, and shall immediately notify the governor and the Secretary of State of each vacancy caused by death, resignation, removal from Orleans Parish, or any other cause, as soon as such facts are ascertained by him.

(b) The central bank of questions and answer key provided for in paragraph 191 shall be composed, maintained and issued by the Custodian of Notarial Records at no cost to the examining committees, and he shall diligently, by every means in his power, keep the list accurate, current and up to date as to the law at all times.

(f) The Custodian of Notarial Records shall certify his central bank of questions as accurate, current and up to date as to the law through the date of each examination given, and he shall not issue his questions to any but lawful examining committees.

§326. Execution and recordation of bond; filing of certificate of competency; filing of annual statement, annual fee

A. Each Notary shall, annually, before September 1<sup>st</sup>, furnish to the custodian a statement showing his office and residence address, the date of his bond and the surety thereon, with address, and proof of successful completion of at least 10 hours of Continuing Legal Education in Notarial law and practice, including 1 hour of instruction in ethics and 1 hour of instruction in professionalism, in courses accredited by the Mandatory Continuing Legal Education Committee of the Supreme Court of Louisiana. The failure to furnish the statement is cause for the revocation of the notary's commission.

B. The proof of Continuing Legal Education provided for in this Section may be dispensed with by the court if the notary has been duly admitted to practice law in this state and is in good standing with the Louisiana Bar Association.

C. Proof of Continuing Legal Education shall be dispensed with for any Notary who shall have attained the age of 65 years.

D. Notarial practice shall be further governed by the Code of Ethics and Professional Code of Notaries as provided for in La. R.S. 35:329, which Code of Ethics and Professional Code and no other shall be enforced by the Louisiana Board of Ethics, which shall have jurisdiction under Subchapter F, against notaries public not licensed to practice law in this state and not in good standing with the Louisiana State Bar Association.

E. The provisions of Subsection A of this Section shall not affect the validity of bonds given or recorded in the mortgage or conveyance office of any parish prior to September 9, 1977.

§327. Fee payable to custodian by notaries

Each notary shall pay an annual fee of twenty dollars, on or before September first of each year, to the custodian, the said fees to be used by the custodian for expenses of his office.

Amended by Acts 1972, No. 467, § 1; Acts 1988, No. 650, § 1, eff. July 15, 1988; Acts 1997, No. 1102, § 1.

§328. Testing sureties on bonds, residency, law license, good standing in Bar; proof, new bond; forfeiture of commission for failure to give

A. The custodian shall institute proceedings by rule in the Civil District Court of the parish of Orleans any district court of proper venue and jurisdiction at least once every twelve months, and more often if he deems it proper and necessary, without the payment of costs by the custodian, on all notaries in the state parish to test the surety on their official bonds, in the case of non-attorney notaries, their license to practice law and good standing status with the Louisiana State Bar Association, in the case of attorney-notaries, residency within the parish of commission, and, in the case of resident citizens, residency-based voter registration, and payment of the annual fee to the custodian, and should the sureties on the official bonds so tested be judicially declared not good and solvent as required by law, or should any other requirements so tested be judicially declared deficient, the non-attorney notary whose surety or any other requirement has been so declared shall pay the costs of the rule, and shall be allowed thirty days within which to give a new bond, in the

case of a non-attorney notary, and, as the case may be, to correct any other of said deficiencies, upon the payment of all costs which have been assessed against him in any proceeding filed by the custodian under the provisions of this Part.

B.(1) Whenever the non-attorney notary's commission is revoked for failure to comply with the requirements of this Part, no judgment of any court reinstating the non-attorney notary rendered after the expiration of thirty days as hereinabove provided for shall be valid, and all notaries whose commissions has been revoked hereunder must comply with the requirements set forth under Louisiana Revised Statutes 35:191.A, 35:191.B, 35:191.C.1.a, 35:191.C.1.b, 35:191.C.1.c, 35:191.C.1.d, 35:191.C.1.e, 35:191.C.1.f, 35:191.C.1.g., unless otherwise disqualified to hold the office, to obtain a commission.

(2) He shall not be entitled to act as a notary during the period of thirty days.

§329. ~~Repealed by Acts 1997, No. 1102, § 2 Code of ethics and professional code of notaries~~

A. Duties and obligations towards the public

(1.) The notary must support every measure likely to improve the quality and availability of professional services in the field in which he practices.

(2) A notary must promote measures of education and information pertinent to the field in which he practices. Except for serious reasons, he must also perform the necessary acts to ensure such education and information in the field in which he practices.

(3) A notary must act with dignity and must refrain from using methods or from adopting attitudes that may detract from the good name of the profession and public office of notary or from the notary's ability to serve the public interest. A notary's conduct must in no way be influenced by pecuniary or commercial consideration.

(4) A notary must promptly report to competent authority the fact that he has reason to believe that a notary has used sums of money or other securities for purposes other than those for which they were entrusted to him in the practice of his profession.

B. Duties and obligations towards clients- general provisions

(1) Before accepting engagement from a client to provide notarial services, a notary must bear in mind the

extent of his proficiency and the means at his disposal to carry out the tasks for which he is contracted.

(2) A notary must at all times acknowledge his client's right to consult another notary or another competent person.

(3) A notary must not practice under conditions or in situations likely to impair the quality of his services.

(4) A notary must try to establish a mutual trust relationship between himself and his client.

For that purpose, he must, in particular:

(a) refrain from practicing his profession and conducting the public office of notary in an impersonal manner;

(b) conduct his interviews in such a way as to respect his client's scale of values and personal convictions.

(5) A notary must give disinterested, frank and honest advice to his clients or parties.

(6) A non-attorney notary shall refrain from intervening in his clients' personal affairs concerning matters which are not within the scope generally acknowledged to the profession and public office of notary.

(7) A notary must be familiar with the standards of professional practice provided for in this code of ethics and professional code, as amended, and apply them to the professional services he renders.

#### C. Duties and obligations towards clients-integrity

(1) A notary must discharge his professional and public duties with integrity.

(2) A notary must avoid any false representation with respect to his level of competence or the efficiency of his own services or of those generally provided by the members of his profession and public office. If the client's best interests so require, he must, upon the latter's authorization, consult a colleague, a member of another profession, such as an attorney-at-law or certified public accountant, or another competent person, or refer him to one of these persons.

(3) A notary must inform his client as early as possible of the extent and the terms and conditions of the engagement to provide notarial services entrusted to him by the latter and obtain his agreement in that respect.

(4) A notary must inform the parties of the nature of an act arising out of the engagement to provide notarial

services entrusted to him and of its usual legal consequences. He must also inform them of the existing fiscal implications of such act, and, depending upon the circumstances, refer them to a person who is competent in such matter.

(5) A notary must ascertain the facts essential to the support of an act, instrument or agreement and inform his client on the formalities required for the validity and efficacy of such act or such agreement.

(6) A notary may not use, for his own purposes, the securities of which he has custody. He shall not, in particular:

(a) use as a personal loan the monies entrusted to him for investment;

(b) invest to his advantage, either in his own name, or through an intermediary, the funds received in trust.

(7) Every loan obtained by a notary from a client other than a corporation must be acknowledged by notarial act.

(8) A notary must refrain from endorsing a check made to the order of a client unless he has received the latter's authorization to that effect and provided that the endorsement is made solely for deposit in a trust account.

(9) A notary must refuse to loan his professional services for improper or fraudulent transactions.

(10) A notary who enters upon or participates in matters which are not connected with the practice of his profession, must exercise prudence in order not to jeopardize his personal solvency, his professional independence or his professional obligations.

#### D. Duties and obligations towards clients-availability and diligence

(1) A notary must show, in all matters entrusted to him, reasonable availability and diligence. In addition to opinion and advice, a notary must provide his client with any explanations necessary for the understanding and evaluation of the services rendered to him.

(2) A notary must give an account to his client when so requested by the latter.

(3) Unless he has sound and reasonable grounds therefor, a notary may not cease to act for the account of a client. The following shall, in particular, constitute sound and reasonable grounds:

(a) loss of the client's confidence;

(b) the fact that the notary is in a situation of conflict of interest or in a situation such that his professional independence could be called in question;

(c) inducement by the client to perform illegal, unfair and fraudulent acts.

(4) Before he ceases to exercise his functions for the account of a client, the notary must

forward an advance notice of withdrawal within a reasonable time.

E. Duties and obligations towards clients-independence and impartiality

(1) A notary must subordinate his personal interest to that of his client.

(2) A notary must ignore any intervention by a third party which could influence the performance of his professional duties to the detriment of his client.

(3) A notary must at all times safeguard his professional independence and avoid any situation

in which he would be in conflict of interest. Without restricting the generality of the foregoing, a notary:

(a) shall not constitute himself, in any capacity whatsoever, the surety of a client;

(b) must refrain from paying advances to his clients, except in the form of regular disbursements;

(c) shall not advise a client to make investments in a corporation, firm or property in which he holds, directly or indirectly, majority interest or an interest that permits him to act significantly upon the decisions.

(4) As soon as he ascertains that he is in a situation of conflict of interest, the notary must notify his client thereof and ask for authorization to continue his engagement to provide notarial services.

(5) A notary must not share his fees with a person who is not a notary or remit such fees to him.

(6) A notary shall share his fees with a colleague only to the extent that such sharing corresponds to a distribution of services and responsibilities.

(7) Save for the remuneration to which he is entitled, a notary shall not pay or receive any rebate or commission relative to the practice of his profession and public office.

F. Duties and obligations towards clients-professional secrecy

(1) A notary has a duty to hold in strict confidence all confidential information acquired in the practice of his profession and public office.

(2) A notary must ensure that his employees do not disclose to other persons the confidential information of which they may have taken cognizance.

(3) A notary may be released from professional secrecy only with the authorization of his client or whenever so ordered by law.

(4) A notary shall not disclose that a person retained his services when such disclosure might cause prejudice to that person.

(5) A notary must avoid indiscreet conversations concerning a client and the services rendered him.

(6) A notary shall not make use of confidential information which may be prejudicial to a client or with a view to obtaining a direct or indirect benefit for himself or for another person.

F. Duties and obligations towards clients-accessibility of records

(1) A notary must respect the right of his client to take cognizance of the documents that concern him in any file drawn up in his regard and, subject to inconsistent legislative provisions, to obtain a copy or photocopy of such documents

(2) A notary shall not unduly retain a file or document which belongs to a client.

(3) A notary must provide his client with all the explanations necessary to the understanding of his statement of fees.

(4) A notary must not determine the amount of his fees without knowing all the elements essential to establishing the said amount. He must, however, ensure that his client is notified of the approximate and foreseeable cost of his services. If he foresees that the actual cost will exceed the approximate cost he has determined, he must so inform his client as soon as possible.

(5) A notary must refrain from demanding advance payment of his fees; he may, however, demand retainers on his fees and costs.

(6) A notary may not charge interest on outstanding accounts unless there is an agreement to the contrary or a notice of putting in default has been given.

(7) A notary shall not, without his client's authorization, deduct his fees and costs from the latter's funds, no matter the reason for his holding them.

G. Duties and obligations towards clients-determination and payment of fees

The fees demanded by a notary must be fair and reasonable. Fees are fair and reasonable if they are warranted under the circumstances and proportional to the services rendered in accordance with the standards of professional practice. In determining his fees, a notary must take the following factors into account: (1) the time and effort devoted to the matter; (2) the complexity of the matter; (3) the importance of the matter; (4) his experience and expertise; (5) the performance of services requiring particular competence or exceptional celerity; (6) the degree of responsibility assumed; (7) the result obtained where the matter involved special difficulties or where its outcome was uncertain.

H. Duties and obligations towards clients-advertising

(1) A notary may not engage in or allow, through any means whatsoever, advertising that is false, deceitful, incomplete or liable to be misleading.

(2) All the associates in an office are jointly and severally responsible for complying with the rules that govern advertising, unless the advertising clearly indicates the name of one or more persons who are responsible.

(3) A notary may not claim to possess specific qualifications or skills, particularly with respect to his level of competence or to the range and efficiency of his services, unless he is able to substantiate his claims on request.

(4) In his advertising, a notary may not refer to or allow reference to citations or awards conferred on him, except reference to awards for excellence or merit received in recognition of a contribution or an achievement the honor of which is shared by all members of the profession.

(5) A notary who announces his fees in an advertisement must do so in a manner that can be understood by persons having no particular knowledge of notarial law. The notary must:

(a) keep the fees in force for the period of time indicated in the advertisement, with that period lasting no less than 90 days following the last authorized broadcasting or publication of the advertisement;

(b) indicate the services covered by the fees;

(c) indicate whether or not costs are included.

(6) A notary must keep the original, full copy of the negative and print and of any reduction or enlargement or any other reproduction of an advertisement for one full year from the last authorized broadcasting or publication of the advertisement.

(7) Where a notary uses the coat of arms or the graphic symbol of a notary association or notary organization, or the state seal, for advertising that will be broadcast through a print or an electronic medium, the following notice must be included in the advertisement: "This advertisement is not paid for by (notary association or notary organization and/or the State of Louisiana) and it/they is/are in no way responsible for its content."

I. Duties and obligations towards clients-firm name

(1) The firm name of an office may comprise only the name of a notary or the names of several notaries who practice together, except in the case referred to in section I(2) hereunder.

(2) Notwithstanding the foregoing, the firm name may include the name of a deceased or

retired member. The firm name of an office may end with the words "and Associates" where the names of at least 2 associates do not appear in the firm name.

(3) Where a notary withdraws from an office or dies, his name must no longer appear in the firm name of the office he has left, unless an agreement to the contrary has been entered into with him or with his successors and assigns.

J. Duties and obligations towards the profession-acts derogatory to the dignity of the profession

(1) In addition to those crimes, misdemeanors and delicts referred to elsewhere in the

Louisiana Civil Code, The Louisiana Criminal Code, the Louisiana Code of Civil Procedure and the Louisiana Revised Statutes, as amended, the following acts are derogatory to the dignity of the profession:

(a) pressing or repeated inducement to retain his own services;

(b) misappropriating or using for purposes other than those authorized by the client the monies or securities entrusted to the notary in the practice of his profession;

- (c) giving authenticity to illegal or fraudulent acts;
- (d) committing or participating, in the practice of his profession, in the commission of an illegal act;
- (e) an understanding or agreement with a person other than a practicing notary the purpose of which is to divide or remit fees;
- (f) the habitual use of drugs and habitual drunkenness;
- (g) refusal by the notary to submit to the procedure of conciliation and arbitration as well as to the arbitrators' decisions in accordance with the regulation respecting the procedure for conciliation and arbitration of disputes among notaries;
- (h) taking legal action against a colleague in connection with a matter related to the practice of the profession and public office without having previously referred the dispute to mediation and or arbitration.

(3) The notary shall not, for any reason whatsoever, loan his services or collaboration to a notary who is suspended or whose commission has been revoked in allowing him to use his name to draw up a document or notarial act or to practice the profession and public office. He shall not hire or keep in his employ a notary who is suspended or whose commission has been revoked, nor tolerate, without valid reason, the latter's presence in his office.

K. Duties and obligations towards the profession-relations with oversight authority and colleagues

(1) The notary whose participation on a committee for mediation and/or arbitration of a

dispute between colleagues is requested by a colleague or colleagues, or by any person appointed to assist them, or whose participation on a committee on notarial examination or discipline for a single term is requested by competent authority must accept that duty unless he has exceptional reasons for refusing it.

(2) A notary must reply promptly to all correspondence addressed to him by the officers of competent authority or by any person appointed to assist them.

(3) A notary must, when requested by a colleague duly authorized by a client, transmit to that colleague the files and documents which belong to the client.

(4) A notary shall not abuse a colleague's good faith or be guilty of breach of trust or disloyal practices towards him.

(4) A notary who requests a colleague to execute an

act which he has himself drawn up must discharge him in writing from all responsibility in respect of the content of that act.

(5) The notary who is consulted by a colleague must give the latter his opinion and recommendations as promptly as possible.

(6) A notary who is called upon to cooperate with a colleague must maintain his professional independence. If a task is entrusted to him which is in conflict with his conscience or his principles, he may ask to be excused from doing it.

L. Duties and obligations towards the profession-contribution to the advancement of the profession

(1) A notary must, as far as he is able, maintain his professional knowledge continuously up to date. He must always keep himself abreast of the evolution of law in the different fields of his activity, in particular by following the continuing education, upgrading and retraining courses recommended by the several notary associations and organizations of this state.

(2) A notary must, as far as he is able, contribute to the development of his profession through the exchange of his knowledge and experience with his colleagues or students, by collaborating in vocational training programs, and in the work of universities and notary associations and in contributing to professional publications.

§330. Proceedings by custodian against absent notaries

Should the proper official be unable to find any notary upon whom he desires to make service of process in any cause brought by the custodian under the authority of this Part, the custodian shall advertise such cause at least three times at intervals of not less than seven or more than ten days, in the official journals of the ~~Parish~~ ~~parishes of Orleans~~ of each absent defendant notary, and if no appearance has been made by the defendant notary in said cause, the custodian shall proceed against him as against an absent defendant, as provided by law.

§331. Revocation of non-attorney notary's commission for failure to furnish bond

Failure of any non-attorney notary to furnish proper surety bond and proof of successful completion of at least 10 hours of Continuing Legal Education in Notarial law and practice, including 1 hour of instruction in ethics and 1 hour of instruction in professionalism, in courses accredited by the Mandatory Continuing Legal Education Committee of the Supreme Court of

Louisiana, shall be just cause for revocation of his notarial commission by a court of proper jurisdiction.

§332. Notice by custodian of expiration date of bond

It is the duty of the custodian to notify each non-attorney notary of the expiration date of his bond, within sixty and not less than thirty days of the date of expiration; but the failure of the custodian to give such notice shall not prevent the custodian from proceeding to cancel the non-

attorney notary's commission as provided herein, nor shall it relieve the non-attorney notary of any duties prescribed by law.

§333. Rule to revoke notary's commission

Should any notary fail or refuse to pay the annual fee fixed by R.S. 35:327, or fail or refuse to furnish the information required, or fail to provide the proper bond and proof of successful completion of at least 10 hours of Continuing Legal Education, as required by law, the custodian shall promptly file a rule in the civil district court in and for ~~Parish of Orleans, or any other~~ each court of proper jurisdiction, to have the notary's commission revoked, and the notary shall pay all costs of the proceeding.

§334. Misdemeanor to act after expiration of bond or after surety canceled

It is a misdemeanor, punishable as provided in R.S. 35:335, for any non-attorney notary knowingly to act as such after the expiration of his bond, or after the surety on his bond has been canceled as provided by law.

§335. Willful violations

The custodian or notary willfully violating the provisions of this Part shall be fined not less than five hundred dollars nor more than one thousand dollars, or imprisoned for not less than ten days nor more than six months.

## Report of the Standardized Testing Subcommittee

### July 12, 2002

The Standardized Testing subcommittee of the HCR 81 Notary Study Committee reports its majority concurrence in the proposition that all candidates for a notary commission in any parish should be tested using a uniform statewide *standard* for examination.

This is *not* a recommendation that the "same test" be given to all candidates. Rather, it is a statement that our sense of "uniform statewide standard for examinations" be adopted as the operative condition for any test administered.

We specifically propose that there be developed a very large<sup>1</sup> and comprehensive<sup>2</sup> bank of examination questions<sup>3</sup> (and answers) which would be *published by the state*<sup>4</sup> and from which any particular examination administered to a candidate for a notary commission would be drawn.

This committee believes that it would be beneficial to maintain the current parish examining committee structure, and envisions continued administration of examinations by the parish committees which should remain free to determine the composition of its examination from this bank of questions, and which would be permitted to include questions relating to local custom and rules of court as some defined percentage of the examination.

---

<sup>1</sup> The total number of questions commonly used when discussing this concept being between 1000-2000.

<sup>2</sup> There is a vast amount of information for which notaries in Louisiana may be held accountable depending on their area of practice. In addition to providing for minimum standards for areas of transactional practice to be covered, the statewide standard should be developed in such a manner to assure that notaries are required to demonstrate knowledge not only of the more common statutes, but also of the body of case law, attorney general opinions, the nature of the office, the nature of the public official, his duties responsibility to the public trust, and the crimes with which he can be charged. etc.

<sup>3</sup> In addition to the common testing methods currently used (objective and subjective questions, forms-from-scratch, transactional problems) we consider that the use of open-book research questions (here's the quote, find the citation) might be included.

<sup>4</sup> *Publication of the questions and answers* of a sufficiently large database would effectively eliminate the ability of examiners to hold the notary candidates to an unknown standard. The volume and quality of the published questions should be such that any candidate who could memorize *all* the questions would be obviously qualified to hold a commission. In practice, a comprehensive exam could be drawn from a fixed number as a percentage of the total questions; Rules for administration could be easily established to eliminate concerns that a candidate would know which questions would appear on his exam.

Under the present system, there are 64 authorized examining committees each preparing its local examinations and administering an exam at least twice a year. This means that there is already large body of material which could be combined into such a bank of questions.

There are a number of parishes which have taken steps toward such a system because it saves them time and effort. Among the parishes currently sharing their questions with other committees for use on exams are East Carroll, Richland, Franklin, Terrebonne, East Baton Rouge,<sup>5</sup> and Orleans. There are probably other cooperating groups, but we have no information about them at this time.

It is our consensus that the state should retain the current parish examination committee structure and that no change is necessary in that regard. It is a good and workable structure that can take into account the nature of the office of notary in the local area when drawing from the question bank for its competency exam. We consider there is no need to re-invent the wheel; a thorough, good and useful question bank that would cover the vast area of knowledge required to be in some portion known to every notary already exists. It is just stored piecemeal in 64 filing cabinets across our state. It is our observation that a selected group<sup>6</sup> of these local committee members could come together and establish the details for a standard that would serve the state very well, and would indeed reduce the considerable duplication of effort currently involved in drafting 64 examinations at least twice a year.

We are in the process of requesting more information from the parish notary examiners to supplement this report, and it is our intent to report that information and any additional information that may become available, at a later date.

This report is for the information of the members of the full committee without recommendation for specific action at this time. We invite input from the members of the study committee and we will render a final report and any recommendations for action at the appropriate future meeting of the study committee.

---

<sup>5</sup> The most recent EBR committee appointees have not yet elected to continue the policy of its predecessor committee and share its exams with the other parishes

<sup>6</sup> Perhaps two members (one non-attorney and one attorney) from each of the supreme court districts, or from each state judicial district could convene biennially to revise questions. (This committee does not really wish to speak formally at this time to the means of assembling the questions, except to state that we believe the current authority over examination content is vested in the state courts, and that is where it should remain.)

Stephen R. Broussard  
 Wendy Hilker,  
 C. Alan Jennings  
 Joetta R. Landry

### Majority Report of Sub-Committee No. 2 - Mandatory Continuing Education

Walter E. Brunty, N.P. Sue Dier, N.P. Glenn Stallings, N.P.

In answer to a request that information be gathered to make a response to a desire for Mandatory Continuing Education (M.C.E.) for Louisiana Notaries or not, the following report is issued.

Public meetings were held in cities throughout Louisiana by this sub-committee. The cities included and the results of their meetings are as follows:

<u>City</u>	<u>Number of Meetings</u>	<u>Majority Feeling</u>
Alexandria	1	Against
Baton Rouge	2	Against
Bossier City	2	Against
La Fayette	1	Against
Mandeville	1	For
Metairie	1	For
Monroe	1	Against
Opelousas	1	Against
Shreveport	3	Against
	13 meetings total	

In addition, several hundred phone calls were made, along with e-mails, letters and personal one-on-one contacts. We believe the M.C.E. Committee has done all it could, and has talked to and with more people than perhaps has ever been done with a cross section of notaries.

The results of this work proved to be very interesting and enlightening. Many people came forward to offer their comments in writing and vocally. Without question the largest numbers of people were [AGAINST] M.C.E., but were for Continuing Education (C.E.). Wanting to understand why, we asked. The reasons people gave for being against Mandated Continuing Education are:

1. Everyone seems to view being a notary [not] as a profession or job, [but rather as] an appointed official to the state performing a service to their constituency in the area they reside.

2. Most notaries do not do enough notary work to pay the cost of a mandated education system that would probably cost \$150-\$300 a year, plus travel.

3. The majority of notaries do not want to be required to travel several hours to attend training, especially at the prices afore mentioned. The need of a possible overnight stay, cost of food, gas, etc. could easily be another \$100 or more, along with being away from home for a day or

more.

It is important to realize that of the above statements, almost all, more than 95% have said continuing education is important. They are receiving it through their local notary organizations. Most organizations offer 45-60 minutes of notary education at their monthly meetings. Members therefore join the organization at a cost of \$20 to \$45 for a one-year membership and receive their C.E. at no additional charge. Most notaries can travel less than an hour and attend such meetings. Any person attending 12 such meetings a year will have received approximately 12 hours of continuing education. We noted fair prices and good instruction at the five different group meetings we attended in organizations this past two years. Keep in mind that does not take into account half-day and full-day seminars held in the state by various organizations.

As the majority committee, we find it difficult to recommend any action other than allowing continuing education to move forward in its present form.

In 1999, L.N.A. did a survey where the question of M.C.E. was asked. Of the 800 plus members in the organization only 300 plus responded. Of those, 55% favored Mandatory Continuing Education. Using the round number of 300, we may conclude that 165 people responded positively, leaving 135 opposed. However, the bigger answer not given is that somewhere between 400 and 500 members thought that no answer was the best answer.

We might assume that those who pay dues to an organization, any organization, feel to do so because they are active and want to keep up with something they care about. Less than 50% responded to the survey mentioned above and just barely over 50% of that group wanted M.C.E. Does that mean that of active notaries belonging to what was claimed to be the largest notary organization, that state felt by 75-80% that M.C.E. was not wanted and that current forms of C.E. work?

The E-Mail Survey done in May 2002 showed the following information:

In favor of M.C.E.:	19
All other responses:	19
	38 Total

(50% AGAINST M.C.E., 50% FOR M.C.E.)

Also, HCR-81 Questionnaire went out with the following response:

In favor of M.C.E.: 13  
 Other responses: 26  
 39 Total

(Only 33% FOR M.C.E.)

Not what we would call an overwhelming response FOR M.C.E.! What it tells us is we can make any report look almost anyway we want it to and we can just outright distort the truth. In fact, most people in the above two studies were FOR continuing education—but not mandated. Many went so far as to place in their answers what conditions they felt should be in place to protect notaries from over-zealous pushers of Mandatory Continuing Education. The record speaks for itself. Without honesty and integrity, numbers can be made to say whatever a person wants.

What the majority committee is saying in plain fact is:

1. Notaries want to keep up to date concerning their notary appointment.

2. They do not want to be mandated to do so. They took an oath of office (attached) and paid a bond to perform with integrity. That means keeping up with the civil code.

We as a committee offer the following recommendations:

1. Clean up the current records of notaries at the Secretary of States office.
2. Suspend any notary who fails to report through the Secretary of States office.
3. Request that all notaries public report violations of notary practices, including Justices of the Peace, ex-official notaries, police, sheriff, and others.

**REMEMBER, NOTARIES ARE A PUBLIC SERVICE APPOINTMENT, NOT PROFESSIONAL BUSINESSES.**

**MINORITY REPORT OF SUB-COMMITTEE No. 2  
 MANDATORY CONTINUING EDUCATION  
 BY KATHLEEN L. CLARK, N.P. AND PAUL A. BELLO, N.P.  
 July 13, 2002**

**I.  
 BACKGROUND**

On February 27, 2002, at the second meeting of the Notary Study Committee convened under the authority of House Concurrent Resolution 81, this sub-committee was appointed by chairperson Cynthia Cotten to hold regional public meetings to gather information from the public on the issues with which this committee is concerned, i.e., Standardized Testing, System for Monitoring and Enforcement of Standards, and Mandatory Continuing Education, to report that information to the full committee and to return recommendations to the full committee with respect to Mandatory Continuing Education.

The meetings were publicized by the several notary associations of this state in their publications, newsletters and web-sites, by public notice announcements in newspapers, by independent notary publications and newsletters and on independent notary internet fora.

Glenn Stallings offered to serve as chair of our Sub-Committee, and there having been no objections, he assumed the chair.

Public meetings were held in all areas of the State. These meetings were held on May 21, 2002, in Bossier City, May 28, 2002 in Alexandria, June 5, 2002 in Monroe, June 8, 2002 in Baton Rouge, June 20, 2002 in Lafayette and in Metairie for the Greater New Orleans area.

**II.  
 GENERAL INFORMATION ON BROAD  
 MISSION OF SUBCOMMITTEE No. 2**

As a result of these meetings, the following observations may confidently be made:

1. Overwhelming support exists for a single, standardized state-wide notary examination;
2. Most notaries favor continuing education.
3. Support for a mandatory program of continuing education is strongest among notaries actively engaged in the profession, and weakest among notaries with little or no activity in the profession.
4. In rural areas particularly, there is the need to insure that any mandatory program provide continuing education courses which are inexpensive and do not require travel to urban areas far from home parishes and that are of sufficient variety to allow notaries to take only courses which interest them, or which address only areas of limited notary practice.
5. The majority of notaries believe at least a minimum of monitoring and enforcement is necessary in order to safeguard the profession and maintain standards, and are generally willing to pay a small annual fee, as is done presently in Orleans Parish, to ensure that notaries are properly bonded and otherwise meet the minimum requirements to maintain *de jure* notary status;

**III.  
 POLLS AND SURVEYS**

The first known poll of notaries on this issue occurred in 1999 when the Louisiana Notary Association polled its

general membership on the question of whether continuing education should be required of notaries by the legislature and returns of that poll indicated that 55.5% of respondents favored mandatory continuing education for civil law notaries, and, further, that respondents to said poll comprised 42% of the general membership, a percentage surpassing the percentage of ballots cast in 1998 at the Annual Meeting to elect members to the Board of Directors, attesting to the keen interest on this particular issue.

Two surveys conducted in March and May of 2002 and released on July 12, 2002 by the Louisiana Notary, a notary journal published and edited by C. Alan Jennings, returned nearly unanimous, mostly unqualified support for Mandatory Continuing Education.

It should be noted that the Louisiana Bankers Association, which has interest in maintaining notary competence in mortgage lending, supports Mandatory Continuing Education.

Letters, telephone calls and e-mails from notaries in support of Mandatory Continuing Education from around the state lend anecdotal evidence that consideration of this issue is widely known, support is generally favored and increasingly popular.

From 1999 to date, responses to surveys, polls and other communications support the contention that most notaries are in favor of Mandatory Continuing Education, and that support has been and continues to spread across the entire Louisiana Civil Law Notariat.

#### IV.

#### **SPECIFIC RECOMMENDATIONS REGARDING CONTINUING EDUCATION**

Based upon the information received from the regional meetings and from comparative studies of other trades and professions, it is recommended that Continuing Education be made mandatory for non-attorney notaries public, and that the establishment of a mandatory program of continuing legal education for notaries should be predicated upon the availability of reasonably priced, easily accessible courses which make use of traditional classroom techniques as well as correspondence, distance and internet courses in order to ensure that rural notaries, small office notaries, and disabled notaries all have the opportunity to continue their education without creating undue burden and hardship.

#### V.

#### **COMPARATIVE SURVEY OF CONTINUING EDUCATION**

A survey of other trades and professions demonstrates wide use of mandatory continuing education in order to maintain and renew licensing to remain active in a given trade or profession. The following trades and professions all require continuing education:

Attorneys at Law  
Architects  
Audiologists  
Certified Public Accountants  
Collection Agents  
Counselors  
Day Care Center Staff  
Dental Hygienists  
Dentists  
Elementary and Secondary School Teachers  
Embalmers and Funeral Directors  
Engineers and Land Surveyors

Massage Therapists  
Insurance Agents  
Interior Designers  
Real Estate Agents  
Social Workers  
Physicians  
Nurses  
Private Investigators  
Psychiatrists  
Psychologists  
Real Estate Appraisers  
Speech-Language Pathologists  
Optometrists  
Veterinarians

This list is not exhaustive, but illustrative of the wide popularity and application of Continuing Education as a tool to protect the public, to provide to the citizens the highest degree of ability, knowledge and professionalism possible in a given field, and to raise and maintain a high standard of practice.

The number of clock-hour credits vary from field to field, ranging from 6 credit hours to 50 credit hours annually.

#### VI.

#### **CREDIT REQUIREMENTS**

We believe that 12 credit-hours of course work, including one credit-hour of Professionalism course work and 1 credit-hour of Ethics course work should be required annually.

This level will be sufficient for the notary to ensure his constituency of his continued ability and competency to practice over the course of his life term within the context of the ever changing laws of this state.

Engaging such a program would also increase the professionalism and general esteem of the public office of notary, increase the notary's confidence in his own abilities, and offer a hedge against the possibility of malpractice.

Though some may maintain that fewer, or others that more, hours should be required, we aver that fewer required hours would not be sufficient to provide a variety of course offerings that would allow notaries the freedom to choose courses from among their interests and actual notary activity. Conversely, requiring more courses would be unduly burdensome and increase time and money spent without, we believe, significantly increasing the protections and professionalism sought.

#### VII.

#### **COSTS OF CONTINUING EDUCATION**

From a review of courses currently offered by certain notary associations around the state given on a voluntary basis (which are attended by fewer than 5% of notaries), fees for 3 to 5 hours of credit range from \$79.00 to \$100.00.

Most of the courses reviewed are approved by the Louisiana Supreme Court for mandated Attorney Continuing Legal Education. This accreditation is provided by the notary associations for the benefit of attorney-notary members and non-members to allow them to comply with their separate licensing requirements.

At one notary association's annual convention last year, 18 hours to 20 hours of Supreme Court accredited courses, far in excess of what is recommended here, were offered for a total price of \$250.00, including meals. These courses covered a wide range of subjects, including motor vehicle transfer work, wills and estate planning, real estate transactions and contracts, recent changes in law, ethics and professionalism

We anticipate that the entire requirement recommended here would cost a notary between \$180.00 and \$225.00 annually to complete.

### VIII.

#### ACCREDITATION REQUIREMENTS

We recommend that all course work be accredited under the rules of the Louisiana Supreme Court, Part H, Rule XXX.

Under this rule, Continuing Legal Education courses are approved for credit by a committee of attorneys and law school professors appointed by the Louisiana Supreme Court. Notary Associations of this state currently are active and successful in seeking and obtaining accreditation for the voluntary courses which they offer each year.

This system works well, and we see no reason to create a new accreditation system to replace a system that is already in place and is currently being used to provide accredited course work to notary associations offering

them.

It is also an advantage that this system is operated by the court, which, after commissioning, is the last and ultimate regulator of the Louisiana Civil Law Notary.

Attached is a full copy of the Rules of the Louisiana Supreme Court, Part H, Rule XXX.\*

### IX.

#### CONCLUSION

**It is of primary importance to the members of the Louisiana Civil Law Notariat and to the public that Civil Law Notaries commissioned in Louisiana keep current on changes and developments through continued legal education. We recommend that rules be established to set minimum requirements for continuing legal education for notaries and that the establishment of a mandatory program of continuing legal education for notaries should be predicated upon reasonably priced, easily accessible courses which make use of traditional classroom techniques as well as correspondence, distance and internet courses in order to ensure that rural notaries, small office notaries, and disabled notaries all have the opportunity to continue their education without creating undue burden and hardship.**

Compliance with continuing legal education requirements of these rules should be easily acquirable and necessary to maintain a notary's commission to practice notarial law in this State.

Respectfully Submitted,

Kathleen L. Clark, N.P.

Paul A. Bello, N.P.

---

#### **Editors Note: About the Louisiana Notary Questionnaire Results Cited in These Reports**

Prior to the July HCR 81 committee meeting, I assembled the actual responses from the March issue questionnaire and my May e-mail survey and furnished them, un-summarized, to the members of the committee for use in making their reports. Upon reading the reports of Subcommittee #2, I observed the majority and minority were reporting conflicting results from the same data.

In an effort to assure accurate representation of the responses to the committee, I prepared a detailed consolidation of the data listing each respondent by name with their position on mandatory continuing education, noting any significant qualifiers to their answer. Then, at the meeting, I reported my data and advised that I found no basis for the minority's statement that the survey "returned nearly unanimous, mostly unqualified support for Mandatory Continuing Education."

I also note that the numbers of responses reported by the majority contained some errors in count evidently due to not recognizing that some responded once by a check-the-box and again in their attached letter. Louisiana Notary readers will find the survey results discussed in the July issue.

The detailed consolidation of the data follows in this publication. Readers may download the complete set of responses at <http://www.louisiananotary.com/hcr81>, or receive a printed copy of the actual responses. Details are available in the July issue of Louisiana Notary, or by writing to me c/o Louisiana Notary, PO Box 4206, Baton Rouge, LA 70821.

– C. Alan Jennings, Editor

**Louisiana Notary™ Spring 2002 Questionnaire/Survey  
Data Summary: MCE & Statewide Jurisdiction Questions**

*The following data are assembled from the responses previously released to the members of the secretary of state's HCR 81 Notary Study Committee. Two additional survey responses are included in the final totals at the end of this report. This summary is provided for the benefit of study committee members for use in the conduct of committee business.*

*-C. Alan Jennings July 21, 2002*

<b>Name</b>	<b>MCE YES =1</b>	<b>MCE Yes, but . . .</b>	<b>MCLE NO =1</b>	<b>Statewide Jurisdiction Important in practice? Y=1</b>
<b>Louisiana Notary™ March 2002 HCR 81 Questionnaire (Short Survey)</b>				
See Survey Responses at <a href="http://www.louisiananotary.com/hcr81/0203resp.pdf">http://www.louisiananotary.com/hcr81/0203resp.pdf</a>				
Allain	1		0	0
Aycock	1		0	0
Bancroft	1		0	1
Barker	0		1	0
Black	1	Internet or correspondence only. No classroom	0	1
Brooks	0		1	0
Cook	0		1	0
Courtney	1	Publish law changes each year and charge a subscription	0	0
Culver	0		1	0
Dupre	0		1	0
Foret	1	Especially for ex-officios	0	
Gary	0		1	0
Gray	0		1	0
Hebert	1		0	0
Hodges	0		1	0
Langlois	1		0	0
Laurent	0		1	1
Magnussen	1		0	1

**Louisiana Notary™ Spring 2002 Questionnaire/Survey  
Data Summary: MCE & Statewide Jurisdiction Questions**

<b>Name</b>	<b>MCE YES =1</b>	<b>MCE Yes, but . . .</b>	<b>MCLE NO =1</b>	<b>Statewide Jurisdiction Important in practice? Y=1</b>
Mann	0		1	0
May	0		1	0
Milburn	1	Attending workshops not always feasible. Need other options. Video etc.	0	1
Nocilla	1	If relevant and inexpensive. State provided.	0	0
Noel	0		1	0
Parker	0		1	0
Picou	1		0	0
Plauche	0		1	0
Tillman	1		0	0
Vercher	1		0	0
Walker	0		1	0
<b>Short Survey 29</b>	<b>14</b>	<b>including 5 qualified</b>	<b>15</b>	<b>3</b>
<b>E-Mail Questionnaire</b>				
See Survey Responses at <a href="http://www.louisiananotary.com/hcr81/0205resp.pdf">http://www.louisiananotary.com/hcr81/0205resp.pdf</a>				
Chaney	1		0	1
Lae	1		0	0
Rea	1		0	1
Gresens	1		0	0
Timberlake	1		0	0
Broeme	1		0	1
Conner	0		1	0

**Louisiana Notary™ Spring 2002 Questionnaire/Survey  
Data Summary: MCE & Statewide Jurisdiction Questions**

<b>Name</b>	<b>MCE YES =1</b>	<b>MCE Yes, but . . .</b>	<b>MCLE NO =1</b>	<b>Statewide Jurisdiction Important in practice? Y=1</b>
Fry	1	Annual notification update from state by subscription	0	1
Mouton	1	If meaningful. Not if like for insurance agents (joke).	0	0
Dey	1		0	1
Miebaum	1		0	1
Pepper	1		0	0
Wade	1	3-4 hours when renewing bond	0	1
Baudoin	0		1	0
Roane	0		1	1
Evers	1		0	0
Boudreaux	1		0	0
Jackson	1		0	1
Suane	1		0	1
Licciardi	0		1	0
Boudreaux	1		0	1
Klug	0		1	0
Bess	1		0	0
Yarnell	1		0	1
Reardon	1		0	0
Wildenfels	1		0	1
Bourg	0		1	1
Montgomery	0		1	1

**Louisiana Notary™ Spring 2002 Questionnaire/Survey  
Data Summary: MCE & Statewide Jurisdiction Questions**

Name	MCE YES =1	MCE Yes, but . . .	MCLE NO =1	Statewide Jurisdiction Important in practice? Y=1
Paliaro	1		0	1
Efferson	1		0	0
Young	1		0	0
Wilson	0		1	0
Spears	0		1	0
<b>E-Mail 33*</b>	<b>24</b>	<b>includes 3 qualified</b>	<b>9</b>	<b>16</b>
<b>Total 62</b>	<b>38</b>	<b>includes 8 qualified</b>	<b>24</b>	<b>19</b>
<b>Additional Responses to Short Survey since July 12 Report</b> See responses at <a href="http://www.louisiananotary.com/hcr81/0203later.pdf">http://www.louisiananotary.com/hcr81/0203later.pdf</a>				
Burroughs	0		1	0
Horn	0		1	0
Calo	1		0	1
Hamby	0		1	1
Total Add'l 4	1		3	0
<b>GRAND TOTAL 66</b>	<b>39</b>	<b>including 8 qualified</b>	<b>27</b>	<b>21</b>
Name	MCE YES	MCE Yes, but . . .	MCLE NO	Statewide Jurisdiction Important in practice?

\* of the 35 e-mails received with discernable data, two were respondents to the short survey also, and their responses are included there. -CAJ

**HOUSE CONCURRENT RESOLUTION 81**  
**COMMENTS BY WALT BRUNTY**  
**Member Notary Public Study Committee**

HCR 81: Line 7-9 How many of the 22,914 Non Attorney Notaries Statewide have approached Rep. Bruneau requesting a statewide commission?

(All of those whom I have spoken with admit that if their commission was statewide, they

would still not travel out of the areas they are currently active in).

(One lady who said she schedules education classes for an organization, felt that a

statewide commission would allow her to notarize documents from out of state ((She

already can if the parties appear before her in her jurisdiction)).

HCR 81: Line 10 The Office of Notary Public is that of a "Public Official", not a professional. (For those who wish to become professionals, I recommend they go to Law School, and take the BAR Exam)

HCR 81: Line 12-15 Every Notary Public Commissioned is administered an Oath of Office requiring them to exercise their duties according to the Laws and the Constitution of the State. (In order for them to fulfill their oath, they must remain aware of changes in the law).

HCR 81: Line 16-18 Testing of applicants for Notary Public Commissions should remain a Parish responsibility. While test questions may be uniform throughout the state, and various editions of the test used to prevent compromise, the test administration should remain with the Parish, and the frequency of the test controlled by the Parish ( Some metropolitan Parishes may not need to test as often because they have an abundance of Notaries already, where a rural Parish may need a few more).

HCR 81: Line 19 A system to insure the Integrity of the Notary Public is already in place.

(It is the District Attorney, the District Court, and the Secretary of State. The citizens of this state are protected by those officials and by the Notary Bond).

HCR 81: Line 25-28 This committee has accomplished the requirement.

HCR 81: Line 29-32 There should be no need to collect additional fees, or create new positions to accomplish something that is not needed or necessary. (Voluntary continuing education is working, give it time).

**OTHER CONCERNS:**

Would the requirement for Mandatory Continuing Education create an unfair advantage for those who were members of the various organizations who provide the education?

Will those organizations send notices of classes to all 22,914 Notaries Public in the state, regardless of whether they are members or not?.

Will those organizations grant the non-members the same price as members for classes or seminars?

Will classes or seminars be presented in rural parishes, thus precluding high travel costs and expenses (Most Notaries Public don't earn enough in annual fees to attend classes or travel) However they do provide a service to constituents in areas where there are few attorneys.

**SUMMATION**

I have spoken with numerous Notaries Public from Baton Rouge to Bossier City, and I have yet to find more that a handful who want changes to the existing laws concerning their office after a little discussion, and I have had more than a few ask me why is Rep. Bruneau trying to fix something that isn't broken?

I also wish to comment on the ludicrous proposal by Mr. Bello for revising Title 35 of the Louisiana Revised Statutes Annotated. Personally, I feel that he is responsible for HCR 81 coming about, and has caused a great deal of unnecessary work for the House, the Senate, and the Secretary Of State.

**IF IT AIN'T BROKE, DON'T FIX IT!**

Walt Brunty

Notary Public

Commission 1/94 East Feliciana

Commission 6/02 Bossier

### Letter from Committee Member Joetta R. Landry

#### Joetta R. Landry

Louisiana Civil Law Notary Public  
 Casino Rouge Executive Office  
 1717 River Road North  
 Baton Rouge, Louisiana 70802  
 E-mail [jo.landry@pngaming.com](mailto:jo.landry@pngaming.com)  
 Phone 225-709-8778 Fax 225-709-8781

July 12, 2002

State of Louisiana  
 Secretary of State  
 Notarial Division  
 Baton Rouge, Louisiana

Re: House Concurrent Resolution No. 81

To: The Hon. Secretary of State, Al Ater, esq., First Assistant SOS, Cynthia Cotten, Chairman, and the Notary Study Committee:

The resolution and proposed legislation contained in HCR 81 in many ways would be beneficial to the citizens of Louisiana and the Notary profession as a whole. Standards of professional conduct are long overdue, as is standardized testing.

The testing for notaries varies tremendously from parish to parish. The inconsistency in testing methods, parish willingness to release study material and what each parish deems important spans too far in extremes.

Those who have earned the right of commission want to be "good" notaries, just as the state of Louisiana and subsequent interested parties want us to be. Therefore, it is only prudent that the testing focus shift from that of individual parish agendas to that of a Civil Code focus, consistently, across Louisiana. Comprehensive standardized testing will fulfill the demand that all candidates, statewide, have been tested thoroughly and fairly, prior to receiving a commission. The consistency brought by this shift in focus to the Louisiana Civil Code as the primary testing tool, will help eliminate incompetence, and encourage good candidates to pursue obtaining a commission. A single, large central bank of exam questions maintained and kept current and issued to each parish Examination Committee would effectively address these issues.

I respectfully ask that all members realize the importance of implementing comprehensive standardized testing in Louisiana. As a participant of Sub-Committee # 1, I confirm and endorse the "Report of the Standardized Testing Committee", dated July 12, 2002, submitted by our committee.

Further, testing consistency will set precedent for and encourage the same type of consistency in continuing education. Continuing education is becoming more essential with our ever changing laws and, more particularly, changes in the regulations of the various state departments. Mandatory continuing education is required in several other fields governed by the state, should notaries be an exception? The majority of notaries are in favor of continuing education, however the word mandatory seems to present concern.

If continuing education becomes obligatory every attempt should be made to insure that the seminars are educational and informative. The cost of such should be commensurate with the amount of income derived by the majority of notaries from performing notarial functions. The income derived from most notarial transactions does not justify the cost of seminars, particularly when combined with commission, bond and errors and omissions renewal fees, in addition to administrative fees for monitoring and enforcement, as is also proposed in HCR 81.

To ensure the integrity of the notary profession a system for monitoring and enforcement of any standards or requirements ought to be developed. We should be allowing the Civil Law Notary to have all the authority and all the power that was intended, but at the same time making sure that power is not abused. Making sure that one who possesses that power, one who has the seal, is predisposed to do so in a professional manner; has the knowledge and expertise to fulfill the function and perform the duties that are commensurate with it.

While all of these proposals have merit, any decisions affecting a notary's ability to retain a commission should be carefully weighed.

Sincerely,  
 Joetta R. Landry  
 Louisiana Civil Law Notary

**Professional Civil Law Notary Association of North Louisiana**  
**Summary Conclusion**

(Submitted to the committee July 24, 2002)

In our meeting we agreed that to better serve the best interest of the notaries we should take the positions listed with respect to the three Sub Committees of study:

1) Standardized Testing:

We are for standardized testing with the oversight remaining with the District Judges.

2) Mandatory Continuing Legal Education:

We are for CLE but not mandatory, and with only the present oversight practice.

3) System for Monitoring and enforcement of Standards:

We are for the completion of a DATA BASE of several hundred questions with perhaps a one-hundred question test, with questions chosen so that all facets of the practice of notary would be addressed in each test. This test is given BEFORE the commission is granted. Our choice for monitoring and enforcement of standards remains with the District Judges.

**CONCLUSION:**

We reject in whole and in part, the proposals of Paul Bello for the overhaul of Title 35

James H. "Jim" Estes  
Shreveport

## NOTARY STUDY COMMITTEE MEETING

### Minutes

July 24, 2002

The Third Notary Study Committee meeting was called to order at the State Capitol, Baton Rouge, Louisiana in House Committee Room No.1 at 10:00 a.m., authorized by House Concurrent Resolution No. 81 from the 2001 Regular Session of the Legislature.

Meeting called to order by Chairman, Cynthia Cotten.

Roll called by Chairman, Cynthia Cotten, who noted that Ronnie LeBoeuf died in April of this year.

The following committee members were present: Warren Ponder, Executive Counsel for the Secretary of State, Jo Landry, Stephen Broussard, President of the Notary Association of New Orleans, Wendy Hilker, President of the Professional Assn. of Civil Law Notaries, Sue Dier, Paul A. Bello, International Union of Latin Notaries, Narciso Lomeli, Alan Jennings, Editor of Louisiana Notary, Carvel Sims, and Glenn Stallings.

William L. Pratt, Orleans Custodian of Notarial Records, Randall David, President of the Louisiana Notary Association, Ronnie LeBoeuf, The Practicing Notary, Walter Brunty, Kathleen L. Clark, Linda Davidson, and John C. Shidler were absent.

Cynthia Cotten, Chairman, presided and Lindsey Lejeune, Notary Department, recorded the proceedings of the meeting. Nancy Underwood, acting as secretary, took the minutes.

Cynthia Cotten welcomed everyone to the meeting, stating that today we do have a few people that are absent and said they could not be here, but we're going to go ahead and get started. The Chairman then introduced Warren Ponder.

Warren Ponder welcomed everyone including guests. He stated: this is not exactly a pleasant job all the time, it's always nice to get out in the public, but the work that you are doing is hard work and I appreciate it, don't think that I don't, I do appreciate what you are doing, and I know that you are doing it for low pay, which in this case is no pay, so your interest in this thing is very much appreciated by our office. Just to review the legislative mandate that we have received on this study committee: the Secretary of State's office reads this mandate as: the Secretary of State's office being more of a facilitator, and a referee in some cases, but not a pusher of one program over the other. We want the notaries public to make the decision

about whether or not any changes are needed and if so, what changes need to be made. I think Mr. Ater, our First Assistant Secretary of State, said at the first meeting, "we do not have a dog in this fight", and we do not want to push one idea over the other. We want you to make the decision, but we want to be here to help in any way that we can, to help facilitate these decisions being made. I cannot emphasize often or hard enough that whatever work we do here will be presented to the Legislature, but this does not preclude any member of this committee, nor any member of an association or any member of the public, from talking to their legislator, or the committee, or testifying before any committee hearings held on all this. The work we're doing now will merely be presented to the Legislature for their consideration; it does not end here, it's just the beginning. We have tried to keep these meetings informal, as much as we can; this does not mean they are unimportant. The Secretary of State's office has a very high interest in the outcome of this study and ultimately in whatever laws the Legislature passes concerning the Secretary of State's office relationship with notaries public; whatever changes are made, or if no changes are made, we are still going to be involved in your profession. So, don't mistake this informality with us thinking it's unimportant or we're not interested. We are very much interested. We want to be a part of this association of professionals. So anything that I've done or said or made light of, or anything else, that has given you the impression that I don't think this is important, I do apologize for that, because I find it very important. I think that the work you are doing is very important and I look forward to concluding this and getting it over to the Legislature and putting it in their hands. Again, welcome and thank you for your participation.

Cynthia Cotten, Chairman, discussed what was in the packets before each person: (1) the agenda, (2) the reports submitted by the subcommittees, (3) a survey done by Alan Jennings, (4) proposed revisions to Title 35 by Paul Bello, and (5) comment sheets. She stated that although we already have the reports, I'm going to ask that Subcommittee #1 officially submit their report at this time. Subcommittee #1 was charged with studying standardized testing, and you'll see that report in your folder. Would someone from Subcommittee #1 officially submit their report?

Wendy Hilker: stated that Subcommittee #1's reporting member is absent and feels that she is very unprepared for this and has been thrown to the wolves, which will be duly noted. Our subcommittee met several times and we did a lot of correspondence through email and telephone calls, and this is a compilation of what we decided as a committee we would like to recommend. I'd like to

respectfully submit this report.

Cynthia Cotten, Chairman, opened discussion on the report submitted by Subcommittee #1, titled "Report of the Standardized Testing Subcommittee, July 12, 2002".

Warren Ponder: stated that he had read the report, and asked how is the general feeling out in the community and the people that you've met about the proposal that you have here? Obviously you've received a favorable response, but was there any opposition to it? Did anyone express some opposition or problems with this proposal?

Alan Jennings: stated that most of the writings and input on these surveys that I did asked for yes/no responses and didn't ask for comments. There was a lot of "yes I think there should be standardized tests"; there were all sorts of different directions on what that might mean. Some people thought it meant one test should be given across the state, and we took that to mean they had concerns about the way, but there wasn't anybody that came up and said oh no. People that were arguing about some of the other aspects of this study were just.... My sense of it was "oh yeah, something like that? yeah, I don't have a problem with that". I get some of that on the phone. I get some "oh well you'd have to be sure that this happened, or who would do this" so there's interest, but we don't really have any questions from the committee who've read it to know what kind of questions we need to answer yet, but we're prepared to do that. If you'll look at the end of the report, we're saying this is what we think based on all this stuff, and some ideas that came of how it could be used, we tried to put those in there. But most of those were just here and there in friendly conversations.

Wendy Hilker: most of the people that I spoke with and come in contact with felt that the need was great to have standardized testing because the feeling was that there's not enough specific information to study to pass the test. After all, the people that were in charge of training you to become a notary or to understand the revised statutes and all the aspects of the notary public office, they're not the ones that are giving you the test. Even sitting in on some of the courses that were being given, the professors or teachers or lawyers or whoever was specifically giving the actual courses would make comments like "I'm not sure if this is going to be addressed", or "I'm not sure if I've addressed all the avenues that you need to know in order to pass the test". So the consensus that I have had through my association has been that it would be great if we knew kind of what they were looking for, and if we had this battery of questions to study, if we knew all 2,000 or 5,000 or 10,000 questions, and knew the answers to them, then we would not only become a good notary public, we'd also be able to pass the test and we'd be assured that we've passed it. Because remember, we take the exam and we get a pass or fail, we don't get a "how you did in what section".

Alan Jennings: I'd like to add one other comment that I picked up, and it was the notion that it would eliminate a lot of the local politics. Sid Horn said in his letter, some parishes can keep you out and other parishes don't care. You can ratchet up the standard of the level of entry into being a notary public in Louisiana and solve a lot of problems. If people had to know more to get in, then some of the back doors of the easier parishes, we'd all be better. You could raise the level of professionalism simply by raising the bar a little bit in the future.

Jo Landry: All of the notaries that I spoke with were in favor of standardized testing. Consistent testing would create for fairness amongst the notary community. Right now it is just not fair from parish to parish. Consistent standardized testing throughout Louisiana would benefit the communities as a whole. That's what the mind-set was on every notary that I spoke with.

Sue Dier: I teach the preparatory course for the notary exam in Livingston Parish. I concur with this committee's findings. In my parish, many times there are ludicrous, silly questions that have nothing to do with the notary's knowledge or the examinee's knowledge of the civil law. I know personally, and heard of, several people that cannot pass the test in one parish after taking the test two, three, four or five times; they go to another parish and register to vote, in a parish with an easy exam, become a notary, go back to their parish of residence, and proceed with their notary practice. I think this would eliminate a lot of that if all of the parishes had some kind of standardized testing. When the person passed the exam, then the examining committee of that parish would know that this person has the knowledge to practice their notary in that parish. I concur with this report and think it's very good.

Carvel Sims: I do want to commend that subcommittee because I did attend at least one of their hearings and they did a very admirable job. This is a problem of the chicken and the egg. When you look at monitoring and enforcement of standards, and then you look at testing procedures, and then you look at statewide powers, it's a question of what comes first and which comes hand-in-hand. Here's the problem I have: I probably have the largest bank of questions on notary exams, because for the last twenty years or so I have been collecting them from all over the state, from anybody who would send them to me, and also from my own. The problems that I have is that as long as you have the local committee and local enforcement of the district judge, then you are going to have the problem of local control. If you take that away, then it's going to be like any other testing that the state does, be it the bar exam, the law school admissions test, the standardized achievement test, the SAT, and all these other tests that we give. You're going to be measuring intelligence, but not necessarily skill in preparation of acts.

I know in East Baton Rouge Parish, we had, on the last test that was given earlier this month, I think on the 8th, 50% of the test was multiple choice questions, and 50%

was to draw a diagram, prepare an act, and so forth. We had a very extensive, comprehensive exam. In some parishes, they lean less toward preparation of notarial acts. In some parishes they ask questions that, for want of a better answer, I think they have the wrong answer. Where I had to do extensive computerized legal research to even find a reference to a word or a term that they wanted to find, I could find only two cases cited in cited legal cases in the last 50-75 years, and none in the civil code, none in the revised statutes, none in the code of civil procedure, or anything else, and that, in my opinion, certainly had nothing to do with notarial practice. The problem is I went to a district judge and said that this person who is a notary, a commissioned notary in, and I quoted a parish which was one of the cluster of East Baton Rouge Parish, and she was convicted of a felony in East Baton Rouge Parish. These people wanted her notarial commission removed, or at least a hearing to remove it. The district judge, who was a very very strict criminal district judge on law and order, who in my opinion was more strict than he should be on most first offenders, even, said he was very reluctant to take away somebody's ability to earn a living. How do you set uniform testing standards when you don't have uniform enforcement of standards, uniform enforcement of notary behavior, and so forth? I do agree with the committee: there are some completely un-uniform tests. I went to a parish adjacent to this parish when a secretary that I had employed lived in that parish and she took the notary exam. The question was "what is the effect of an authentic act?" And that tester wanted that it was self-proving, which is the terminology they teach in law school. But in the civil code, under Article 1832 et seq., it is "full proof against the heirs and assigns universal and particular title." That's what she put, and he marked it wrong. So yes, the committee is absolutely right, it would be wonderful to have a uniform test. Not necessarily of each question, but to have a bank of questions. They're right, we need this available for the people who prepare the tests and also the answers. The problem is, unless you take away the authority from the local committee, then you have to switch it to - who? either a legislative committee or to a bar association committee, or to some other committee, okay? You've got problems. If we go with statewide powers, then statewide testing is clear. It's almost mandated. But if you do not have statewide powers and we stay to our clusters or to the individual parishes in which the notary is commissioned, then it is up to the local district judge to supervise that person. The problem you have is that there is no law that specifically says that if you are convicted of a felony, that you then have to report that to the Secretary of State, that you are then to surrender your notary license or commission, or anything like that. I understand what Mr. Jennings says, when they talk about raising the bar, and I agree with that. That's the bar that you have to hurdle across, but that is an artificial bar. They have raised it for paralegals, and in my opinion, the civil law notary public is a paralegal, a true paralegal, in the sense that this is the legal credentials to assist the attorney. I look at it from that respect because I'm an attorney. When I engage the services of the notary in my office, I'm looking for a

qualified notary public. Somebody who is qualified and commissioned to assist me in their duties as a notary public. The public looks from a different point of view. The problem you have is that with paralegals, they're now saying you need two years of college or its equivalent or an associates degree. But that's an artificial bar. They could just as well have said three years, or one year. Yes it raises the level of education, of caliber and everything else, of the people entering the profession of paralegal, but that has nothing to do with a notary public. If we're going to artificially raise this bar, does that mean we're going to grandfather in other people? I know that in other countries, the education for the attorney is different. I believe in many countries in Europe, I think it's about a six-year education, but that includes college. Ours, in this state, is four years; used to be three years in college and you could take some special entrance into law school and then accredited with your fourth year of college by getting credit for your first year in law school, but they no longer do that. So then it would be about a six-year education. But right now we're essentially talking, in theory, four years and then three and a half, or at least three, plus. So we're talking seven years. I guess that is an artificial bar that we've erected by saying that not only do you have to be educated with a college degree, you then have to go to law school. I am not against an artificial bar. I certainly think there are some very practical ones. You should be able to read and write, how else can you take an exam, how else can you pass an act if you cannot read it? The problem is where to draw that line, and do we do it locally or on a statewide basis. Then if we do that, then we're talking about what I was trying to investigate, which is monitoring and enforcement of standards. We're asking a chicken and egg question. Until you tell me which one you're going to designate, local testing and local powers and local standards, or are we going to talk about statewide powers, statewide standards and statewide testing. I don't know that there's an answer, although they have done about the best job that they can do.

Wendy Hilker: In response to the chicken or the egg, I believe that we're beginning at the beginning, which is the standardized testing. That is the entrance of the notary public into the profession. You study, you take your test, you be appointed, and then everything else happens. I do have to take a stand: I'm a vegetarian, but I am going to take the stand that we're going to be the egg at this point. If you read the report closely you'll see that the bank of questions includes statewide questions, but it also includes the opportunity for the test to include local questions that would address the profession in their particular parish.

Witness Testimony by Arthur A. Maurice: I don't know if this is permissible, but another notary, Henry Sauviac, asked me if I could read a letter from him into the record, because he could not make it here today. *Mr. Maurice then read the letter from Henry J. Sauviac, see attached copy.* I've got some comments I would like to make. First, we apparently have a number of little notarial

organizations, or what have you, claiming to represent a majority of the notaries in this state. I doubt that is a fact. I've never joined an organization or been contacted to join one. What I'd like to know, is if the Secretary of State has the total number of notaries allowed to practice in this state. I'd like to know the total number of notaries, as opposed to the number of members in these International Unions of Latin American Notaries or whatever it is, all of them combined. That way when these organizations are saying they speak for the majority of notaries, we know what their numbers are. Right now we have no idea. I suspect you are going to find that the numbers of these organizations as opposed to the whole is going to be infinitesimal. Ms. Hilker says everyone she talked to was in favor of changing all these laws. Again, Ms. Hilker does not tell us how many people she talked to or who she talked to. I suspect she didn't speak to every notary in the state, I know for a fact that she didn't speak to me. Mr. Jennings brought up the possibility of politics in getting a back-door commission. This is Louisiana, that's going to happen. I don't think it's prevalent. I know when I took the exam I found it was rather stringent. I would be opposed to having a statewide examination mainly because I think local control is better. If I'm not mistaken I believe it was Thomas Jefferson who said "the government that governs least governs best." Again, as Henry Sauviac said, has the Secretary of State's office been inundated with complaints about non-attorney notaries?

Warren Ponder: The only reason we're here is because the Legislature has asked us to do this study. We did not generate the interest in the Legislature to create this study commission. When I say we, I mean the Secretary of State's office. Apparently someone in the Legislature felt the necessity, for whatever reason, to have this study committee convene and look at the possibility of doing these other things. Let me ask you, Mr. Maurice, you said that you do not support a statewide test. Do you oppose the 64 parishes submitting a set of questions to be used as a bank of questions to draw on, and then each parish can draw 100 or 50 questions or whatever it might be?

Mr. Maurice: I would have no objection to that.

Warren Ponder: Well I believe that's what the subcommittee has recommended, is a bank of questions to be used by each parish to draw on, so that statewide it would be a standardized type test. Not that one test be given to each parish.

Mr. Maurice: The impression I got was that, I suspect that what Mr. Bello and the others would like to do, would be to revoke all existing commissions and then have one standardized statewide test where everyone would have to requalify. I know he doesn't state that in these documents, but it's just a suspicion I have from having met him before.

Warren Ponder: I want to make sure that everyone, all people represented by notary associations, all notaries not represented by notary associations, all members of the public: this study commissions is going to make a recommendation or present the recommendations to the legislature, but then the legislative hearings start. That's where any reservations you have about revocation of any existing commissions or whatever should be addressed. I certainly encourage you and all notaries to participate not only in our study but when it becomes time for the legislature to consider this topic.

Mr. Maurice: With regard to the Secretary of State's office, do you know, does the office know, the total number of non-attorney notaries in the State of Louisiana at this time?

Warren Ponder: I don't know that number.

Cynthia Cotten: Yes, we do.

Mr. Maurice: My question, then, is can we compare the total number of non-attorney notaries on record with the Secretary of State as opposed to the total number of notaries purport to be members of these organizations?

Cynthia Cotten: The Secretary of State has no knowledge of notary associations. We don't keep them on file, we have absolutely nothing to do with the associations, so there's nothing for me to compare. I don't know their numbers.

Mr. Maurice: I understand that, but you do know the total numbers of non-attorney notaries.

Cynthia Cotten: That's correct.

Mr. Maurice: We could ask each of these associations to tell us how many members they have. Then we'd have some idea of what percentage they actually represent. Do you see what I'm speaking of?

Cynthia Cotten: Yes, sir. There are members of this committee who are not members of any association, and they are on the committee as just personal notaries.

Mr. Maurice: I understand that. I'm speaking only of these organizations, the Louisiana Notary Association, the International Latin American Notaries or whatever they are.

Cynthia Cotten: They are included in the study, as well as any interested notary.

Mr. Maurice: OK, what I'm trying to get at is I'd like the total number of members of these organizations.

Cynthia Cotten: This is not something we're going to be able to do at this time.

Mr. Maurice: They would not give you that information.

Cynthia Cotten: I've never asked them for that information.

Mr. Maurice: Well that's what I was asking, if you could, then we'd have some comparative basis.

Warren Ponder: If we get the numbers of the organizations, I see your point, but this study committee is not based on the notary associations. They were part of the study commission because the legislation wanted to include these people, but we certainly didn't want to exclude any participation from any notary as part of our study.

Mr. Maurice: Why not have the Secretary of State's office. You have the names and addresses of every notary qualified in Louisiana. If you want some input from the notaries, the majority of them, why not send out a mailer to them and ask them? I found out about this strictly by accident. I never would have known.

Cynthia Cotten: We've put public notices out of all the meeting, all the meetings. We've had it on our website, we have not have a mailout, that would not be feasible. We've put public notices out and had it on our website.

Mr. Maurice: I don't often go to the Secretary of State's website. If it's not feasible to do a mailing to all the notaries, how does the Secretary of State's office going to police the notaries? If this passes, you're in effect going to have to create another department within your department as a police force. Am I wrong?

Warren Ponder: No, that is one of the things that we're going to have to address to the legislature, should they decide to do mandatory continuing education, or put the Secretary of State's office in a position where it is enforcing standards of any sort. One of the things that we're going to have to tell the legislature, and we've tried to always make this clear, is that when they ask what it's going to take in the way of manpower or budget, we're going to report to them what it's going to take. It's not that we're trying to kill any sort of idea, that's not the point at all. We're going to be honest with the legislature, as we've always tried to be in the past.

Mr. Maurice: There is something else I'm a little concerned about. Should this pass, and continuing legal education is mandated, my opinion on that would be that I'm against it, to start with. If a notary doesn't keep up with what he's doing, he's stupid. The public at large has recourse in the courts, just as they would against an attorney. But if continuing legal education is mandated, I would hate to see these little proprietary schools or even the notary association, handle the education. If we're going to make this a profession, let's have an accredited university offer the courses, not a junior college. If you want to take it one step further, why not make notary public a bachelor's degree.

Cynthia Cotten: As far as notifying notaries, the Secretary of State took the position not to exclude anyone. We excluded no one from any of our deliberations, we've had every meeting has been an open meeting, there have been meetings across the state.

Mr. Maurice: I don't argue that point. I'm just saying that a mailing would have been the best way to do it. I've talked to a number of notaries in the last few days since I was notified of this, and no one I've spoken with had ever heard of it. A mailing would have been the simplest way to do it, but you tell me it's not feasible.

Cynthia Cotten: At that time, that's what was discussed.

Wendy Hilker: I have never represented myself as representing other notaries outside of my organization. I have 27 members of my organization. It's The Professional Association of Civil Law Notaries. We were created, we got together and had this organization chartered so that we could keep up with the continuing education needs of the notaries in our area. It's open to all notaries, not just those in St. Tammany parish, and you're welcome to come in and see what we do in our meetings. I do take offense that you are misrepresenting me, because I did not do that. I want to get back to what we're here discussing. Standardized testing. You said yourself that you have nothing against the bank of questions.

Mr. Maurice: I don't.

Wendy Hilker: Ok so what exactly are you against with the committee? You said you did not want standardized testing, and then you said you agree with the bank of questions.

Mr. Maurice: I'm opposed to a statewide test.

Wendy Hilker: Did you read our report? Did you get a copy of it and read it?

Mr. Maurice: I just got it yesterday.

Wendy Hilker: After you read it, we'd be more than happy to discuss more with you as a committee, no problem.

Mr. Maurice: What I'm opposed to is a statewide examination for a statewide commission. I don't see where there's anything broken with the notary profession right now. Why fix something that's not broken? Local authority should maintain the control. Incidentally, I practice in St. Tammany.

Wendy Hilker: The standardized testing report from our subcommittee does not attach statewide commission to standardized testing. It's two different separate parts here.

Mr. Maurice: Well the reading I had on it led me to believe it may be.

Wendy Hilker: Point well taken, but it's not. There's been no place in our report that we say anything about a statewide commission. We were commissioned to address standardized testing, and that's all we addressed.

Mr. Maurice: There was something else I read in the thing, and again I just had a chance to go through this yesterday evening, and I'm not thoroughly versed on it, but there was something in there about creating three classes of notaries. I didn't just dream that up, it'll take me a few minutes but I'll find it. If that is going to come about, I would definitely be opposed to that. If I'm not mistaken, that was another one of Mr. Bello's proposals.

Paul Bello: First, I want to apologize for being late and making Mr. Broussard late, too. Second, I want to just disabuse Mr. Maurice of a couple of statements, a couple of understandings that he believes he has. Number 1: I have never advocated the revocation of any notary's commissions, and Number 2: I also never sought the establishment of separate classes of notaries. So I just wanted to make that statement clear. In support of Ms. Hilker, I'd also like to comment that we're here as a consultative body. We don't represent notaries per se. We're here as a consulting body to make recommendations to give to the Secretary of State, in order for the Secretary of State to have the information he needs to make his report to the legislature. Thirdly, that task is limited in scope. The Secretary of State sent us out to gather information, which we did. Our task was to gather the information and to come up with a set of recommendations which would enable the legislature or the Secretary of State to consider how best to implement the three-pronged approach to the issuance of a statewide commission for non-attorney notaries. None of this is

guaranteed to become law. This is simply just a list of recommendations and a plan we're trying to come up with and we don't pretend that we represent notaries per se on this, we're just merely consulting and information-gathering.

Mr. Maurice: Mr. Bello, how many people are in your organization, how many people do you represent with this?

Paul Bello: I don't represent anyone.

Mr. Maurice: This International Latin American Notaries or whatever it is, how many members do they have?

Paul Bello: I don't know.

Cynthia Cotten: Reminds committee members about how the microphone system works.

Jo Landry: To address Mr. Maurice's statements, as well as Mr. Sims', if you read the subcommittee's report on standardized testing, numbers 10 through 14 specifically state that it would be beneficial to maintain the current parish examining committee structure. And it envisions continued administration of examinations by the parish. So this keeps it local. It does not bring it to a statewide standardized test.

Mr. Maurice: Well then what is the problem, what are you trying to address?

Jo Landry: We're bringing a bank of questions to where it becomes thoroughly fair for every candidate to take a test and become knowledgeable in the field specifically with a civil code focus. A lot of parishes don't focus on the areas that they should be focused on.

Mr. Maurice: So the state is going to tell the parishes what they should focus on, is that correct?

Carvel Sims: I agree with the committee that there should be a bank of questions. The problem is that as long as the committee is kept local, then the question is going to be not how fair is the question, how fair is the answer, and how fair is the grading, and I've been subject to that attack for twenty years, and fortunately I keep such a low profile the attack is very insignificant, but the point is I think they're right in the sense that there should be a bank of questions. But as long as you have local control without any review process of the district judge, there's nothing you can do. But also to answer your question, there are already five classes of notaries. Attorney notaries who have powers statewide; non-attorney commissioned

notaries who have powers only in their local parish and reciprocal parishes; clerks of court and their deputies who have the same powers as commissioned notaries but are not commissioned notaries; justices of the peace who have notary powers but are not outside of their local jurisdiction and also don't have full notarial powers for immovable sales and things like that; and ex-officio notaries. So you have them already. And the problem is that the public doesn't know it, the public is not protected, and many people have said "oh, within the hospital I'm a notary" and do car titles, when in actuality all they can take is an acknowledgment of paternity. You have five classes and I think we ought to do away with it.

Mr. Maurice: Either that or are you going to make justices of the peace take a notarial exam?

Carvel Sims: They are encouraging them to and they are trying to get them to, but many of them cannot pass it. I've had them complain to me.

Mr. Maurice: How could you force them to do it?

Carvel Sims: You can't force them. You can encourage them. But the problem is if they can't pass, and it is a rigorous exam in this particular parish, East Baton Rouge, because I'm on the committee and except for two years I have been for about twenty years. But I do feel it's a fair exam, but very rigorous.

Mr. Maurice: But if you can't pass it you shouldn't be a notary.

Sue Dier: Mr. Maurice, I'm Sue Dier, nice to see you, I'm glad you attended this morning. In an answer to your question, I know of several parishes where people just go in there and they say I want to become a notary, and they give an exam just whenever they get enough people, it's a very simple exam. In one parish I know of several people from that parish, they go in on that Friday, the attorney gives them a list of questions and answers, tells them to return Monday morning. The test is maybe two hours. He tells them they can do nothing but bills of sale on car titles and simple affidavits. In my parish, Livingston Parish, it is now a 4 ½ hour exam. My notary preparatory course is 3 ½ months. We use the civil code and the revised statutes, and when these people take the exam, we've had six that passed the exam in the last five years. Just to note, Jo Landry behind me here is one of those six. You know your stuff when you pass the exam. It is one of the toughest in the state. This is my problem regarding the bank of questions. For instance, on the exam, the question was "how much should a notary charge to notarize an application for a driver's license?" Well, that's repugnant. It's silly. There's no sense in it. How many years in prison would a notary get for representing a client in a court of law? What's the answer to that? Notaries can't

represent in court. This is the point I'm trying to make: all they're saying is, if each parish was required to base their exam on a bank of questions and so many questions would be required, say, for real estate, wills, etc. etc., then we would be on a more uniform basis and the notaries would have to know their stuff. The examinees would have to know their stuff, just like you said, if they can't pass the exam, they don't need to be a notary. But if you just ask ten questions and you become a notary and in my particular parish, there are 800-900 deputy clerk seals given to people. We're trying to reverse that now. You would not believe the stuff that goes on in my parish. And a stop has got to be put to this.

Mr. Maurice: I still don't see a groundswell of complaints against the notarial system as it is now. Again, the Secretary of State's office would have been inundated if there was such a groundswell of incompetency and corruption.

Cynthia Cotten: The Secretary of State has no regulatory powers. They've not been given any by the legislature.

Mr. Maurice: You don't think they'd be notified, since you keep track of all the notaries?

Warren Ponder: Not necessarily, Mr. Maurice, but we would not necessarily be notified if there was a problem with a notary. It may be strictly local. Again, we did not start this study committee, we are responding. What I'm telling you is that, if there was a problem, apparently some of the legislators thought there was a problem to at least examine the way we do things. And we didn't start this, it wasn't our problem, we didn't run to them and say we've gotten a lot of complaints and we need to study this thing; that's not the situation at all. But apparently someone thought it was necessary for the notaries to start looking at this situation to see if any changes need to be made. I hope I made it clear from the very beginning, we may end up saying no changes are necessary. We appreciate your participation today and I hope the committee will note the opposition that you've expressed to the statewide commission, especially, I think is the main thrust of it.

Mr. Maurice: Well, that's about all I've got to say here today, and I appreciate the opportunity to speak.

Witness Testimony by Kathleen D. Bondio: I'm a commissioned notary since 1986 in the parish of Jefferson. I agree with standardized testing and the bank of questions. We do need to do something to maintain our powers and duties. Some of us, probably the majority of us that are here, take the time to have continuing education and take the time to keep up with the civil code. However, in these tests in a lot of these parishes, the people don't even know

what a notary is after they finish taking the test. They don't do wills because they were told they couldn't. They don't do real estate transactions. They have no knowledge of how to do a title transfer. They're scared to death to do anything, and they think it's just a seal for signing their name and attesting to somebody's signature. In the state of Louisiana, a notary is far greater than that. It's for the common people. We're the scribes. We're the ones that need to protect the guy that needs a contract drawn up or needs a will done and doesn't have a lot of money. We need to have the knowledge, and it shouldn't matter what parish you get your commission in, you should have the knowledge of the civil code and the knowledge of how to prepare documents. The only way it's ever going to be fair is to have a statewide mandatory test. Whether you do it from a bank of questions or you have one test, and you pass or fail. I agree with the standardized testing. I also agree with mandatory CLE because the law changes every year and we have to keep up with it. They have people still calling power of attorney a power of attorney instead mandates, because they never got the code, they never kept up. I want them to keep up because I take pride, and the people that I service, they need to know that no matter what notary they go to, they're going to get the same quality.

Witness Testimony by Cynthia Traina: I am commissioned in Orleans Parish and also one of the instructors for the notarial course for the University of New Orleans. I've been teaching it since 1990. First of all, just to clarify, I do support the concept of standardized testing in the sense that there be some mechanism for designing a test bank of sorts. Obviously those of us who teach the courses have developed or acquired over the years a volume of questions from various sources such as students who provide us with questions they've gotten from anonymous sources. It varies - we get them from the parishes, some have been kind enough to submit certain types of test questions, including Orleans and Jefferson, the parishes that I deal with for instruction purposes, mainly focused on Orleans, Jefferson, St. Tammany, Plaquemines, St. Bernard, St. Charles, and St. John. I cover a pretty large area. I'm looking at the report that was done here, and the question would be, and it's probably directed to the Secretary of State because that's where the concept is being developed, the standardized bank or maintaining this. I appreciate your concept behind this, that the various parishes throughout the state would submit to the Secretary of State their set of questions, and from that there would be a test bank developed, and they could then take from that test bank, and only from that test bank, those questions and they would submit answers as well. That would support the fair and uniform idea. I think that's fine, but who would be responsible for monitoring the questions, particularly the ones I know we're all concerned about, and that is questions that are on the notarial exam that relate to attorney practice and notarial work. Questions that have to do with litigation in court, questions that have to do with handling matters that are strictly matters involving attorney practice, versus notarial acts. Who

would be responsible for maintaining and/or siphoning through these questions, and determine what is an attorney-derived question and what is a notarial-derived question? I'm going to defer to the Secretary of State because they're probably the ones who can answer that.

Warren Ponder: I wish I had a good answer. This is going to be one of the problems, I have a note in here for closing remarks, whatever suggestions we make to the legislature, we're going to have some problems with it, we're going to have some questions for the legislature to answer, or for this committee to answer, or for another committee to answer, as to exactly how this is going to be implemented. I think at the last meeting I jokingly said that if we make a recommendation to the legislature that mandatory notary education is going to be required but the Secretary of State is going to pay for everyone to complete this somewhere in the Bahamas, I think we're going to have a serious problem with that. We're going to have to work through some of these and certainly we welcome your suggestions as to how this should be maintained and at the proper time, we will have to make a decision on it.

Ms. Traina: I can appreciate some of the problems that perplex the committee in dealing with this questionnaire, and although I kind of support the idea that, although it may not have been feasible, that the Secretary of State should have generated a questionnaire out to the notaries because we're with the university and we didn't even know that this committee was being put together, but for an accident. We are completely 100% involved in instructional and educational programs and we weren't aware that this was going on until recently. However, I think even though you did not get that poll, the consensus of non-attorney notaries, if that was the group you were doing to direct it to, I think even attorney notaries, if they were to vote and make a decision or have their input involved, would look at the concept of yes, there should be some kind of standardized questioning. I don't think the lack of notice to all the notaries would change the outcome. I've been teaching this for over ten years and I think personally they would all agree. That's the biggest complaint I get from my students. But I would like to address something that will never, I don't think, be resolved, and that is the ability to standardize it the way that you have envisioned. That's the fairness you would refer to. It's going to be as fair as you can absorb the civil code in sixteen weeks. Many of my students come into the class have never even opened the civil code. On the other hand, there are people who've been doing work in some form, whether it's working with a title company, working in banks handling mortgages, working in real estate offices doing title transfers, working in auto title transfers, working in notarial offices that do all kinds of affidavits and forms. The problem that you are going to have is that the notary's function, first of all in reference to line 12-13-14 of your report, you refer to questions being permitted relating to local customs and rules of court. The notary's function is, although limited to a jurisdiction, is a statewide function. It's pursuant to the

civil code, and it's applications are found in the civil code, and local customs, either you understand the civil code and the practice of functioning the acts upon a notary, or you don't. The local customs kind of threw me as to the application, because if you are examined and successfully pass, you are given an appointment through the governor with the senate's approval, and this becomes your license for life. That is something I'd like to point out, it is an appointment. Non-attorney notaries are bonded upon that appointment, and that is a form of regulation, in the sense that your acts, if there were any conduct in question, and someone was to pursue some type of litigation for your acts, that being a non-attorney or attorney notary, and they proceed to go before a court and question your activities. We're bonded, attorneys can carry their malpractice insurance so they don't require a separate bond, and those remedies are remedied by the court in the jurisdiction in which you hold your commission, and that, I believe, applies to the attorney notaries as well. Several years ago, I believe it was in the early 90's, when they amended the statute to allow the attorneys to have a statewide commission, that was not always the case. Even attorneys were limited to a jurisdiction, and it's because of the premise behind what the notary's acts are. The concept, obviously foreign now, is that you know the person who comes before you, most likely, and it was a local jurisdiction when you go back to that. What you're going to ever get around is local control, because of the concept of the notary, even prior to it being statewide for attorneys, because of that you're going to have local imposition of questions. Even if they throw this on to a test bank, they're still, as I see that you proposed, going to be able to pick and choose, and it seems that they'll probably pick and choose their own questions, if it's their option. Unless there's someone going to actually regulate the questions, filter out those which, I personally agree, should be filtered out relative to attorney. If I'm from the parish of Orleans and I submit a test bank of questions to you, and no one's regulating which questions I can use, I'm going to use the same questions I submitted to you. I don't know if it's going to accomplish what should be done here, and that is some form of making sure that we're not having questions on the exam related to practicing law. That is the most difficult task I've had as an instructor, in preparing my students. I have students constantly come back and tell me the questions didn't even make sense, they were attorney questions, and all I can do is handle that locally with the testing committees to say, gentlemen or ladies, if you're going to proceed and continue to ask these questions, you're going to be challenged in the court, these students are going to start doing that. They're going to start wanting this information because you're going beyond, and that's the only method of regulation I've seen so far. I support your idea, I wish I could come up with a concept to regulate it too, but unless it's going to be the Secretary of State, it's going to be difficult if not impossible, and then as instructors, it's going to be the same thing we've had for all these years, and that is we're teaching the civil code but we can't tell you exactly what they're going to put on the test. The question I heard before, somebody mentioned that the comments came

back, I believe it was Ms. Hilker, about being unable to say if that's going to be covered on the test. I have had to say that to my students quite often. Because I don't know, if, out of the civil code they're going to ask a question related to succession, or if three quarters of the exam will be about succession. That's my only question, really, is how would you monitor and how would we do this, so that we could in fact generate a fair set of questions for the students to be prepared for.

Alan Jennings: I wanted to address Cynthia's comment. We footnoted a possible scenario. We want to be real careful not to say as much about how it should be done, because we don't know. We know we have to mold and formulate this, but footnote 6 was one of those scenarios. To try to keep it with the court in some way. Some things didn't get developed in this report. There's a science to writing this sort of thing and I understand that, and I'm not one of those scientists, but the notion that the courts could maintain some control and could establish some uniform standards within the development of the question bank, and make standards that, on any test given, there shall be certain coverage from selected areas that are defined in a standard adopted by these courts, whether legislatively mandated or voluntarily. Our wish is to say that we think that the current authority over content should come from the courts, they could probably do a better job of standardizing the content a little bit. If you're going to publish the questions anyway, and the answers, so that everybody knows what might be on the test, all 2000 or 3000 of them including any local questions you might want to ask in your area, then administration. It starts to say, by adopting a standard bank of questions, we're almost de facto setting the standard for what you have to be to become a notary. Other parishes would begin to look at it as "Oh, you can do that?" Some parishes don't think you're supposed to do some things. We didn't want to suggest that it go to the Secretary of State to do this, we wanted to suggest that the courts might want to figure this out and maintain their control over the authority over the examination content. By nature, developing standards means that various courts in parishes have to kind of figure out a way to pool their existing efforts.

Cynthia Cotten: At this time, we want Subcommittee #2 to submit their reports on Mandatory Continuing Education. We'll take the majority report first. Mr. Stallings, are you going to represent that committee?

Glenn Stallings: We would submit the report to you and I'll reserve any comments until after comments and questions are made.

Cynthia Cotten: You want to summarize it?

Glenn Stallings: Basically, as you can tell from our report, we held approximately thirteen meetings across the

state, made several hundred phone calls, received emails, one-on-one contacts, letters, etc. The general feeling that I received and that the other two committee members reported to me that were on the majority report of the Mandatory Continuing Education, felt that the general public as a whole was not for the idea of MCE, but very strongly were for the idea of continuing education, and felt that there were a number of means available out there to accomplish that.

Cynthia Cotten: Is there any comment?

Paul Bello: I have some questions after going over your report. The committee didn't really have a chance, as a committee, so we didn't actually meet as a committee. You have list of your thirteen meetings. Were there two or three meetings in Baton Rouge?

Glenn Stallings: Two, that I recall

Paul Bello: I was at one of them, that's why I wanted to ask if there was another one that I wasn't aware of. According to my notes and my participation at one of those meetings, it seemed to me that most of the people at that meeting were in favor of a continuing education requirement. I would contest the characterization of both the Baton Rouge meetings being against MCE. I also contacted and touched base with people in Lafayette and Opelousas areas, and they feel that - let's go with Opelousas first. When was that meeting, was that the meeting of the committee that you were alluding to that no one came to?

Glenn Stallings: Yes there was a committee meeting and also it was the publication to take testimony from those that wanted to give their opinion.

Paul Bello: So was there a meeting in Opelousas, or not? And how many attended?

Glenn Stallings: I believe there were only two that actually showed up in Opelousas.

Paul Bello: And that would have been who, yourself and ...

Glenn Stallings: I was there, and Walt Brunty was there, and two people from the public.

Paul Bello: From that you get the impression that the Opelousas area is against MCE? Because I get the opposite indication from the notaries from the area, that in fact they are in favor it. In Lafayette, you also characterized as having a feeling against MCE; about how

many people were at that meeting, if you recall? I wasn't there.

Glenn Stallings: I don't recall.

Paul Bello: Were you disappointed by the participation? Was it more than ten, less than 10?

Glenn Stallings: That's an excellent question, Paul, because I was disappointed in the participation in all the meetings. From the number of notaries we have throughout the state, and for the publication of the information given out that the meetings would be held, the turnouts were absolutely horrible.

Paul Bello: So these majority feelings really, you don't mean to characterize by this that the majority of notaries are against MCE, you can't really make that statement based on these meetings, can you?

Glenn Stallings: Actually, from the number of people that I've talked to, which probably comes close to 400 at this point, the general feeling was yes, they were against MCE, but for continuing education.

Paul Bello: What do you mean by the feeling, how many? Do you have any hard numbers for me?

Glenn Stallings: No.

Paul Bello: You said you made about 400 phone calls. But you do agree that most notaries think continuing education is in the best interests of notaries and the public, your report says. Going further down in your report, you make three reasons people gave you for being against MCE. One reason you said they are against MCE is that everyone seems to view being a notary as being a profession or a job, rather than as an appointed official to the state performing a service to their constituency in the area they reside. I have trouble assigning that as a reason for being against continuing education. What does that mean, with regard to a reason to being against continuing education? It would seem to me that most people view being a notary as a profession that they would be more inclined to consider MCE is needed. How is that construed as a reason, #1 specifically and literally how is that construed as a reason for being against MCE?

Glenn Stallings: As we consider the fact that each one of us is a public official, and that we do not do notary work as a business or a profession. We have to then consider that we are not like a barber or anyone else that we can consider. We function as a public service, and therefore we don't have mandated or required educational requirements at this point. Most people felt like although

they wanted to keep up with the profession, particularly with the civil code, they did not want to be mandated to have to go out and take certain hours or certain types of training. They wanted to be able to and take the kinds of things they wanted to. As a result of that, basically what we were trying to say here is that most people really aren't looking at this as a profession or job. As a matter of fact, probably 95-plus percent of notaries out there don't make a living or even a part of a living out of serving as a notary. This is not a profession, not a business.

Paul Bello: That finding that you just expressed is exactly opposed to #1 in your report.

Glenn Stallings: That does support the reason as to why we don't want to take the MCE.

Paul Bello: I think it supports your opinion.

Glenn Stallings: People told us, as we talked to them...

Warren Ponder: Mr. Bello, excuse me, I don't mean to interrupt any discussion of any of this, but in fairness of Mr. Stallings, I believe these are reported as things that the people that he's talked to, as opposed to continuing notary education, and gave these as reasons, not necessarily Mr. Stallings reasoning on this subject. These were the reasons that the people that he's talked to gave him. I'm not sure he's in a position where he can defend what they told him was their reason for opposing it. I've quickly read down, obviously cost is going to be a big factor if MCE is going to be imposed by the legislature. Cost is going to be a factor on a lot of the notaries and that is going to have to be addressed, by somebody, either by the legislature or by the individual notaries. There is going to be some cost associated, even if the seminars are free, there will be travel cost and down time from your office or whatever profession you're in. I didn't want to stop the discussion, but in fairness I think this is the reasons that were given to Mr. Stallings.

Paul Bello: I just wanted to underline the fact that #1 of the general reasons that people gave for being against MCE -I'm just trying to find a way to understand how that's connected with opposition to MCE, and why it actually runs cross-current to the last line of the report, which says that notaries are a public service appointment, not a profession, which seems to be exactly the opposite of what people reported to the committee. Of course I agree with you, the cost of keeping up certainly has to be considered, except in the context in this way, however, they say that the cost will be about \$150-300 a year. I'd be interested to know, and I know it's hard to get these kinds of figures, just the notaries who are in the regular practice of the profession and are contributing to the public good by serving as notaries in their community, particularly rural communities. It would seem that \$300 a year at

prevailing fees, that's 30 simple signatures a year, it seems like if a notary is operating out of public duty only, rather than as a for profit business or a profession, it seems that it would be pretty easy to recoup that \$300 a year if you're not interested in making a living at it and only interested in assisting the people in their community in simple matters such as that. I also have a comment to make, the report indicates that almost 95% said continuing education is important, basically it said 95% of people are receiving continuing education now through local notary organizations. At monthly local notary meetings, there's usually 45-60 minutes of education offered and it doesn't cost the notary anything above their normal membership fees. I think that's one great way to make sure it's provided. I don't believe that 95% of notaries are taking advantage of that kind of a forum to receive continuing education. I think it's pretty much an established fact that 95% of the notaries in Louisiana aren't.

Warren Ponder: Mr. Bello, I just want to point out, it says more than 90% of the people contacted said that continuing education is important, not necessarily that 95% of the notaries are taking advantage of it. Mr. Sims, I know you are an attorney, the Mandatory Continuing Legal Education was imposed on the bar after you became a member of the bar association, and the continuing legal education was offered long before that, by way of seminars. I would be interested, for my own edification or maybe for the edification of the committee, in finding out how many notaries participate in continuing education on a voluntary basis, and at what cost, statewide. I think that would be an interesting question for this committee to look at or find out, and if the legislature imposed the MCE, I wonder if that would go up or down. Does anyone have any thoughts on that?

Carvel Sims: I can give you personal information. I worked with Mr. LeBoeuf before his death, he had The Practicing Notary, which participated by giving a lot of continuing notarial education, CNE, he called it. He averaged right at 100 people at each seminar. It was lower at first and built up. Right after 911, he still had about 60-70 people that attended that seminar, within 30 days of that or so. We found that, regarding the average cost, about the limit you can charge is somewhere between \$99 - \$129, for a late registration. The most you can get in is about 6-8 hours of education in one day, comfortably. People traveled from all over the state to attend his seminars. I was privileged to guest lecture at all or part of them. They do not want MCE. They are very happy with the voluntary ability. We found that it's going to run approximately \$100 per day, not including your cost of travel and overnight accommodations, to attend seminars. So to get 12-15 hours is going to cost no less than \$175 for a two-day seminar, to a maximum of about \$250, depending on what some of the other organizations do. There are differences between seminars and workshops. Workshops are hands-on, which I know Sue Dier really enjoys and she's excellent at it. The things that she said

attorneys tend to favor is the lecture, which is the lecture, which is the seminar without the actual hands-on filling in forms. Both are valuable, I think. But I can see where, according to my calculations and my database, I have about 20,000 to 25,000 non-attorney commissioned notaries in my computer, that I have weeded out from the Secretary of State's database and all the sources of information that I can get to. I can see that at 20,000, a MCE of about \$200 for the actual schooling and not including any related travel and hotel accommodation expenses, are going to raise approximately \$4,000,000 a year in revenues for the people who teach these courses. I have been privileged to guest lecture for Ms. Hilker at times. She has a wonderful organization. They do an excellent job, they do it quite reasonably. The process of getting all this approved for continuing notarial education credit is going to be a problem. I don't want to go into Subcommittee #3 yet, because that is where you talk about regulation. Right now the regulation is parishwide. I happen to have an email address of an attorney at "notarypublic.com". The gentleman asked how many people were associated with an organization, and the answer is there are approximately 4.5 million notaries in the United States, and I know that "notarypublic.com" has over 20,000 members, between 20,000 and 30,000 at the last check. That is still a drop in the bucket, but in every other state the chief notary official is the Secretary of State, and they are charged with the enforcement of the standards for notaries, such as disciplining, suspension of commissions, and so forth. Whereas, in Louisiana, it's done on a district judge level. There are problems there. My personal feeling is that everyone I speak to is either a notary or a notary student. The notaries don't want MCE unless they're associated with organizations that would benefit or profit from that, by making it mandatory. They all want voluntary education. They want it, they love it, they lust for it, almost, because they need it. But to make it mandatory, then you have to pick and choose. I suppose it's like a doctor who has restricted his practice to noses, having to go in and pick mandatory education and if that year they happen to be teaching about brain surgery, well that's what he takes. I suppose you could then say, well if you're generating \$4 billion a year in continuing education, there's going to be a lot to pick and choose from. As an attorney, I know that "last chance" seminar which is in December, is followed by the end of the year between Christmas and New Years, so last chance isn't the last chance. I hate to see us get caught in that same thing. The cost for an attorney is just a little bit more than that of the cost of what it's going to be for a notary, yet the fees are nowhere that.

Cynthia Cotten: Asks that the minority report of Subcommittee #2 be officially submitted. In essence we are discussing both things, and I didn't want to not have that on record. Then we'll continue the conversation. Mr. Estes, you're next and then Ms. Dier. Mr. Bello, please submit the report.

Paul Bello: I'll go ahead and officially submit the minority report of Subcommittee #2 on Mandatory Continuing Education. (begins reading the report)

Cynthia Cotten: asks that the report be summarized.

Paul Bello: Basically, the general information that we gathered, we found that overwhelming support exists for a single standardized statewide notary examination. We find that most notaries favor continuing education and we find that support for MCE is strongest among notaries actively engaged in the profession, and weakest among notaries with little or no activity. We also found that in rural areas, there's a need to insure that any mandatory program provide continuing education courses which are inexpensive and do not require travel to urban areas far from home parishes, and of sufficient variety to allow notaries to take only courses which interest them, or which address only areas of limited practice. We also find that most notaries believe that there should be at least a minimum of monitoring and enforcement in order to safeguard the profession and maintain standards.

Mr. Estes: I represent the Professional Civil Law Notaries Association of North Louisiana. I have been requested by our membership to speak for them at this meeting. We have 100 members, and at our meetings we have from 30-38 people that attend. We do offer continuing education at every single meeting of the year, of which there are 11; the 12th month we do not meet. Without exception to the membership in our group, they are opposed to MCE, and they ask that I bring that message to this hearing.

Sue Dier: I want to respond to Mr. Bello's objection to the majority report of Subcommittee #2 on Mandatory Continuing Education. The reasons people gave for being against MCE - just to clarify Mr. Stallings' report, I believe what has happened here is that it was just misstated. I believe it's just written wrong. I believe that everyone seems to view being a notary as a professional job. I believe what they're saying is, and this is what I have gotten from several people, that they consider themselves licensed, they use that terminology, licensed, but then they say they're appointed by the governor, it's a lifetime commission, so it's not really a job or a profession like a barber, massagist, beauty shop operator, or whatever. I think it's just misquoted in item #1. About the objection to the majority feeling in the Baton Rouge meetings, I attended one, the other one, unless you are talking about the one that was held here, I attended both of them. I did chair one of those meetings, and from the sense I received and my personal survey of notaries within a 4-5 parish area around East Baton Rouge Parish, talking with them and a personal survey that I did on my own, the majority of the ones that reported back to me were against MCE. All of them were for continuing education on a voluntary basis. I want to Mr. Maurice's question. I do belong to the

LNA. I think our membership is about 1200 at this time. Just to make a note: we talk to many notaries through correspondence, email, on the phone, and at meetings. We could have talked to 2000 in this state, which we possibly did, which, as Mr. Sims said, is not a drop in the bucket, and we're just talking Louisiana notaries. Because it was not feasible for the Secretary of State's office to individually contact each notary on an individual basis, many many people throughout the state had no idea this is going on, and many I talked to found out by accident, even though there were public notices in the paper, the associations notified their members and as many non-members as they could. Of the many notaries in this state, the few that we have talked to and met with, the majority do not want MCE. So if the majority we talked to and met with, and that's just a few compared to the total number of notaries in this state, I would feel like the majority of commissioned notaries do not want MCE. On another subject, all we talk about is commissioned notaries. We don't talk about all these other four designated notaries, and my personal feeling is if one notary should be required to do MCE, all notaries should be required MCE. There are three classes that don't even have initial education. I wanted to clarify my findings in the objection to the Baton Rouge census, I did not attend the other meetings in the other towns.

Glenn Stallings: I was just looking over the report and I couldn't understand why Mr. Bello couldn't understand #1. Obviously I'm a buffoon and I made a big error in typing this. After the word "notary" belongs the word "not". I apologize for that, I made a couple other typos also, I've noticed. Apparently I'm too good at preparing written reports. That's why it doesn't make any sense.

Paul Bello: I just wanted also to enter into the record. I have about 50 or 60 emails from individual notaries who made statements supporting MCE, and I also wanted to note that the Louisiana Bankers Association has also supported MCE for notaries. They feel it's very important in the area of mortgage lending, that notaries keep up. I also have a email from Robert Taylor from the Louisiana Bankers Association expressing his support for MCE.

Warren Ponder: Mr. Stallings, let me point out, as a very poor typist myself, I do not consider you a buffoon for typos.

Carvel Sims: How many here are attorney notaries? I know I am, I know this gentleman is, Mr. Ponder, you are, I presume, and Mr. Lomeli is, by virtue of the way his system is set up. We have our mandatory continuing education, and I can tell you that none of it touches on notarial topics, generally. My only feeling is, while notarial education is excellent, mandatory is not necessarily going to serve any purpose.

Alan Jennings: I wanted to note a statement in Paul's report that led me to analyze my survey data in this file, and there may be one of those "nots" left out of that report, but on the second page he says "two surveys conducted in March and May of 2002 and released on July 12, 2002 by the Louisiana Notary", a publication I write, "returned nearly unanimous, mostly unqualified support for MCE". That was not the sense that I had when I read the material, but I had not analyzed it. I had collected all those things up and stacked them up and sent them to you and hoped that the committee had access to the raw survey responses. When I read that, I wanted to be sure that I hadn't misunderstood what I had read, so I counted everybody, and I put a list in here of the names of the people that responded, and there's two surveys. If you find these actual survey responses, they're available on PDF, if I made some mistakes in my hurry to get all this ready, feel free to tell me that's what's out there is not lined up right in the right columns on this report. The bottom line was a sort of 38-26 split with eight people that might have said yes but might have meant no. I didn't attempt to analyze it, I attempted to give you a summary of it. I hope that you'll look at it yourselves to clarify the results for yourselves and just look at see.

Witness Testimony by Kelly Paliaro: Orleans Parish commission. I am for MCE. I am for that because our positions are to benefit the public, not necessarily to benefit ourselves. Regardless of how much work we actually do, when the public comes to us, we're supposed to know what we're doing. For them to have confidence in us, without any type of MCE, we'll depend on the age of the notary and when they took their test, and the last time they actually reviewed the books. That's the main reason that I'm for MCE.

Cynthia Cotten: Next we have Subcommittee #3, Monitoring and Enforcement of any Standards or Requirements, we have two members here, Mr. Sims and Mr. Estes, who are members of that committee. I was not given a report, do either of you have a report to officially submit?

Carvel Sims: I do want to apologize to the committee. Due to my ill health, I don't know if anyone has noticed but I've lost 80 pounds, I was out of work for about two months. Mr. LeBoeuf, who was also on this committee and was going to help me, died on March 24; he was associated with my office. I have talked to a lot of people. I have been getting information from the websites of other states, because this is what I think is important, and I brought this out earlier. In Louisiana, the local district judge is charged with the enforcement of the notaries within their jurisdiction. In all other states, it's the Secretary of State. I'm not saying that this is something that needs to be shifted, but the designation and problems that I see in monitoring and enforcement of standards is #1, we need to know who is, in fact, a notary, #2 whether or not they're current with their bond, #3 whether or not

they need a bond, and #4 what type of status they have. As I said, there are five classes of notaries and the public is not aware of this. That's why I'm not in favor of creating any type of notary, other than either a notary or a non-notary, because of the problems with the public perception of this. What we need to do is actually get together with the Secretary of State's office and look at proposed legislative changes to give strict enforcement standards. Right now you can only remove a commission from a notary for failing to turn over, under Title 35, money entrusted to him, failing to pay a judgment entrusted to him as a notary, or any just cause. I think we need to elaborate as to any just cause, conviction of a felony, and so forth. I think this is more of a legal problem. We can get around a lot of the different classes of notaries by eliminating ex-officio notaries by seeing the feasibility. This has been proposed to me by different people and I have thrown out there and they seem to have a big advantage, they would like to see unsworn statements under penalty of perjury. If you do have that, then you eliminate the need for ex-officio notaries. In almost all cases, these are sworn statements to be offered in administrative hearings and to be offered in different procedures with the court. If the courts would change some of the procedures and laws which would allow for unsworn statements under penalty of perjury, and the federal government has moved to a lot of this too, then we will eliminate almost entirely the need for ex-officio notaries. The justices of the peace are a under separate system in law and they have their own mechanical seals. When they put on there "justice of the peace", while the public doesn't know, anyone dealing with them does know they're a justice of the peace. The only problem that you have, which Sue Dier brought up, is those clerk of court seals, and the answer is that, since the clerk of court is in essence an ex-officio notary, if you would put down on ex-officio notaries a requirement that they either have a mechanical seal, or give them a type of commission number that began with "X", then you would know that they would need an expiration date. So that even if they have a clerk of court seal, it would automatically expire with the termination of the clerk of court's elected term. So if you gave ex-officio notaries "X" numbers, justices of the peace "J" numbers, clerks of court "C" numbers, commissioned notaries could be given just a number, and attorney notaries could be give "A" numbers, for attorney. You could easily differentiate and then people who get this act would know immediately the status of the individual. You could require that it be put on a mechanical seal or that it be put on each document. The elimination of the different classes of notaries would solve that problem by getting rid of the ex-officios. I personally spoke to the new clerk in your parish (Sue Dier, Livingston Parish) immediately after he took office. He is aware of it, they're out there rounding them up, they're taking them in, they're trying to correct it. However, I don't want to disparage Mr. Patterson's name who was the predecessor who's now deceased, but I believe that possibly it was two things: one was political to help keep him elected, but more importantly, other than that, there were no notaries that were non-attorney notaries in that parish. That is a problem, and Mr. Jennings addressed it, because if there is

a bank of questions, even if they're not mandatory, it is good because then you have something to draw from.

Warren Ponder: Mr. Sims, let me ask you, are attorneys getting the letter "A" a la Hester Prine? Is it that kind of letter? Can I ask you, sometime between now and the next meeting, to prepare just a short one-page draft of the problems as you see it, so that we could at least distribute it among the committee members, and have something to discuss? Obviously this is not as critical, at this juncture, to have the report from Subcommittee #3, but I certainly would like to have something in the file that we can work with. I think it's obvious to me that we have some very strong feelings on all of these topics, and of course from the general public too, and that we have a great deal of interest. I would like to have that report if we could.

Caravel Sims: I will do that, now that my health is mostly good.

Warren Ponder: Congratulations on the 80 pounds. I don't want to go through what you did to lose that weight.

Sue Dier: Just quickly, regarding what Mr. Sims said. This is true, at the present clerk of court is really doing a fantastic job. The problem is, so many notary seals were issued and there's no list of who received them, so they're still operating. The DMV office has been ordered not to accept any, but still some are going through. I wanted to make a note about the ex-officio notaries, possibly doing away with them - it's my understanding that clerks of court, years ago, were appointed deputy clerk notaries ex-officio, for the reason being that in rural areas there was a lack of notaries in the area, so they allowed the deputy clerks to be ex-officio notaries to notarize documents being recorded in the clerk of court's office. I would suggest on possibility is to let the clerk of court stay the deputy clerk ex-officio only, not be allowed to pass out any seals and do away with that, and maybe possibly one or two clerk of court employees going and taking the notary course and becoming commissioned notaries in each clerk of court's office. I see no problem with that. Possibly two or three, in case one would be out sick and they really needed a notary. In my parish the reason the sheriffs are issued clerk of courts previously was so when people sold cars at 1 or 2 o'clock in the morning, there was a notary to notarize the transfer.

Paul Bello: I spoke to Mr. Pratt yesterday, I know he intended to be here this morning and I think he has something written down that he'll pass around. Obviously something happened and he's not here this morning, but I'll make sure when I get back to town and I see him, I'll relay Mr. Ponder's request to him.

Cynthia Cotten: We heard from Mr. Pratt and he had a court appearance.

Witness Testimony by Normand Roy: I'm a self-appointed notary public, commissioned since 1972. That makes me the senior notary in the group, I think. I remember being commissioned when we had to take a four-tier exam. I understand in talking with several notaries across the state that Caddo Parish, among others, is one of the most difficult to obtain a commission. I remember when I got my commission, a dear friend of mine, Judge Boland, called me and said "I can't imagine a yankee passing the exam the first time, this is most unusual, you're not supposed to do that." I did pass the exam the first time, and it was at a time when you passed all four parts, and failure of one part constituted failure of the whole. You had to take it all over again. It is a difficult exam in some parishes, and in other parishes it appears that it's almost a "gimme." For that particular reason, I think that a bank of questions and a standardized exam, yet leaving authority with the local parishes, would be the reasonable thing to do, it would seem to me. It would eliminate the need for a statewide administration, and as the old expression goes, if the wheel ain't broken, you don't fix it. You only fix the wheel that squeaks the most, and then you try to put a little grease on it, to keep it running. For that particular reason, my opinion is that I really don't see any real need for any real administrative changes in the administration of our notaries public across the state of Louisiana. I believe that it ought to remain exactly the way it is. It's worked for over 150 years, and I think it could continue to work another 150 years if it's properly cared for, like everything else. Gee if everything else was properly cared for we wouldn't have any problems. We talked about MCE. My biggest problem with that is that, in looking at MCE, while I really feel that continuing education is necessary, I'll make that fundamental statement right there, but a MCE on the part of notaries, especially from the smaller and poorer parishes, however prejudicially we want to address any one of these parishes, I think it would be difficult because some of the notaries that we have in the smaller parishes are really notaries in the sense that they might do an affidavit of fact or they may do a transfer of title, but more often than not, in a small parish where we only have 1500 people in the whole parish and 16,000 cows, those 1400 people are going to the parish seat and they're going to address their problem to an attorney, and they're not going to address it to the notary. At least this is what I glean from my conversations from other notaries in the small parishes. As Mr. Estes so amply stated, we have the notary association in Louisiana and we meet 11 times a year, he didn't mention the one time during the year where we have an entire day seminar offered to all notaries in Caddo, Bossier, DeSoto, and the cluster parishes that we are associated with. We are talking about \$300 plus the cost of transporting ourselves and putting ourselves up and feeding ourselves somewhere. You are talking about \$400-\$500. Someone said well a mere 30 notaries would cover the cost. But what if it's 30 notary jobs that the poor notary in Winn Parish does in an entire year? You just wiped out his paycheck for an entire year. With our professional organization, we charge a nominal \$15, we may go to \$25, annual fee, to cover the cost of mailing our

newspaper and so forth. We're helping the Secretary of State save money because we're communicating to every one of our people. We also charge \$52 for that one-day seminar. We make certain the specific parts of the notarial duties are covered. We have one of the finest practicing attorneys in the law of succession, attorney Joe Gelso. He may speak two or three times a year. You couldn't get a better professional in the entire state of Louisiana to talk on the subject. We feel that our people are getting what we need with the efforts we have made in promoting a good civil law notary in Louisiana. We have even trouble getting a member over here, a concurrent resolution had to be passed to get him over here. There's been a lot of confusion with all of these meetings and so forth. I think that if we remain the status quo, and I think if we address the problems that we have, that they could be corrected, and those problems could be corrected with the present system as it exists today.

Wendy Hilker: May I just ask you one question, Mr. Roy? I think it might help out with some of the continuing education problem in your area. When you do your one-day seminars, do you actually try to get it accredited? Have you ever gone through the bar association to try to get some hours on it? They have very easy ways of becoming accredited, and I think that we're all trying to make us all work together and make it easy. There's nothing that anyone's said that you have to get your particular training from a particular place. If you look through, and I'm agreeing or disagreeing with anything, and I'm not taking a side on this, but if you look through the minority report for the MCE, Mr. Bello has included a copy of what it takes to get accreditation, and we're a very small organization, the Professional Civil Law Notaries in St. Tammany, we just came together as a group to try to get our local people up to par. When someone says to me, can you do something, and I busy or just don't feel comfortable doing it, I have a bank of people that I know keep up with their education, and that's sort of the premise for us being started, and that's why we keep our membership so low, so we can handle everybody's needs. We don't do this as a living, this is just a sideline. If you look at the requirements that are listed on here, it's something that we've all done, and it's something I think that maybe could help you in the future.

Mr. Roy: I realize what accreditation is all about. I am a professional certified appraiser in real estate, residential. I'm also a realtor and I'm also a certified broker with the state of Louisiana. I'm perfectly clear and understanding of what continuing education is all about. Every three years, including my designation that I have as independent fee appraiser with the National Association of Independent Fee Appraisers, I have to maintain 75 hours of continuing education for all three certifications, every three years. I understand perfectly what it costs. My income is substantial enough to be able to justify paying for accreditation courses. I can tell you right now that my accreditation each year is over \$5000. There's no notary

in the state of Louisiana that could afford a \$5000 accreditation fee. We certainly could give them a certificate, and we do give them certificates. On continuing education, I think it would be simply wonderful if we could retain two or three or four instructors, the caliber of Ms. Traina who testified earlier this morning, I think if we could have them as traveling agents to the various parishes, or clusters of parishes, it would be much easier and cheaper to administer an education seminar program. It could be done through our folks over here during the summer months who really need the extra income because now they're supposed to be on vacation.

Witness Testimony by Michele Fry: I think everything has been covered very well, and so many things were brought up. I run the P M Notary Service here in Baton Rouge, I've been active with the LNA since I became a notary in 1999. I'm one of those people who likes to join, I also belong to The Practicing Notary, and the American Society of Notaries, and I was very hungry for the information. I served on the LNA board last year for a year, and right now I run a little forum called The Louisiana Civil Law Notary. The reason why I mention those things is because while I was on the board of the LNA, I was privy to some information about how they try to contact new notaries. At every test, they're there giving out their pamphlets and brochures. Through their executive director, they've probably contacted every active notary in the state, letting them know of their existence, letting them know of their continuing education. When you contact thousands and thousands of notaries to get only 1200 members, you realize, and I'm sorry the gentleman left before I could make my comments, that it isn't that people aren't notified, it's that they don't act on the notification. I'd like to commend you all, I think you took a little heat for not contact enough people, you did issue public notices but people do have to pick up the paper to read the notices. On the forum that I started, just because of this thing, I became the moderator of a forum, and we've contacted hundreds of notaries, told them about the forum. I've passed out my little forum business cards, and I think in the several months that we've been operating, we have 21 people who are subscribed, and about 5 people who actually write things. We even have Mr. Paul Bello on our forum, they're ready to answer all questions, and there's very few questions really addressed to him. The notary needs to take the responsibility for not taking advantage of the opportunities presented. I'm very much in favor of standardized statewide testing and a bank of questions that could be drawn from. I don't know all the ramifications of how to do all of that, but I think it is absolutely essential that we protect the public and our profession by being professional and having some standards of how we become what we become. My test was very difficult, I passed it the first time out and I'm glad I did, but in all of my testing, I never studied the civil code. I was never told to open the book. I was basically taught to pass the test. I think that there's a lot of problems that we need to address. I did not feel at all prepared to practice as a notary, even though I passed my test. I was very lucky that I had some good mentors, because I joined the LNA and met some notaries right away who were able

to answer my questions. The one thing that bothers me, because I'm a retired school teacher, I was a teacher for 27 years, is not so much that the notary is lacking in knowledge of how to be a notary, but that the public is lacking in knowledge that their signature is their bond and the entire process of why the notary is put into the system for their protection is not taught to the public. I know that has nothing to do with what this committee is about, but I really want it to go on record, and I don't mean to besmirch the state, but in a way it's the state's responsibility to teach the public that they're living in a country where they have private property and that the way this is kept track of is through paperwork, and that their signature is their bond, and that the way that their signature is protected and proven is because we have this wonderful invention called a notary. Not even just a civil law notary, all notaries do this one very important function. One day maybe in years to come, we will discuss the responsibility of the state to educate the public, and not just to educate us.

Cynthia Cotten: Set the next meeting: August 20, 2002, in House Committee Room 2, 10:00 a.m. At that time, we will be, as a committee, voting on the reports.

Paul Bello: I want to officially submit, for consideration and discussion, my proposed revisions to Title 35 within the context of everything that we've been doing.

Warren Ponder: Once again, thank everyone for their participation and lively discussion. I've certainly enjoyed it, especially being nonpartisan in the group, I've enjoyed watching it. We do have some issues before this committee, and hopefully before the public. We're not finished yet. Don't everyone get laid back just yet. Given the discussion we had today, we still have a lot of discussing to do, not only within the committee, but obviously with the public in general. I encourage everyone to continue to notify all notaries public, whether it's in an association or just by email or website, however we can do it, get their input into all the things we've discussed today. Not only the notaries public, but also the public in general, even lawyers, we need to talk to lawyers about this kind of stuff, even though we the scarlet letter "A" on the numbering system. Talk about the problems that we're going to have and potential solutions. I encourage everyone to, as the present ad campaign says, "let's think outside the bun." Whatever we can do to solve the problems that we're going to face, is what we need to present to the legislature. If we don't present them, they won't get discussed, they won't be presented to the legislature. Thank you again for your participation.

There being no further business, the meeting was adjourned at 12:20 p.m. by the Chairman, Cynthia Cotten.

---

Secretary

**HENRY J. SAUVIAC III**  
LIMITED NOTARIAL PRACTICE  
P.O. BOX 640399  
KENNER, LA. 70064

July 23, 2002

Honorable W. Fox McKeithen  
Secretary Of State  
State Of Louisiana

Re: House Concurrent Resolution #81

Dear Sir:

I am asking that this letter be hand delivered to you at the hearing pursuant to the above mentioned resolution of the Louisiana House Of Representatives and that this letter be entered into the record. I am a Notary with a full time practice in Jefferson Parish. Because of my schedule I am unable to attend the Hearing.

In reading the material collected by the study committee over the last year I fail to see the necessity for any material change to the current Code.

**Statewide testing.** This idea seem to be the only one with any merit. Only if each parish can draw from a library of questions compiled by the Secretary Of State and those questions are used by each parish to administer test to applicants. Keeping control of the testing and grading on the parish level.

**Continuing education.** Continuing education is available now through the Louisiana Notary Association. To make continuing education mandatory for Notary Commissions will create an undue burden on the Secretary Of State's Office and the cost to the taxpayers of Louisiana would be an unnecessary expense. In all the data and testimony gathered by the study committee there is not one scintilla of evidence that there is a problem with the competence of non-attorney notaries. If a problem did exist the Secretary Of State's Office would have been flooded with complaints. The dockets of the courts of Louisiana would have been jammed with malpractice suits and this study would have reported those statistics to you. If there is no evidence of a lack of knowledge by the practicing notaries, why would we go though the time and considerable expense to fix a problem that the evidence suggests does not exist? I might suggest that changing the law

might create a situation in which the public would be less served. Taxpayers money would have to allocated to create a body within the Secretary Of State's Office to oversee the continuing education. Employees would have to police the continuing education program to see that each notary would complete his requirements as required by the law. Many part time non-attorney notaries might not continue to practice and reduce the number available and thus some citizens might not have notary service easily available to them and with less numbers the cost for the notary services would surely rise.

Statewide notary commissions. Why? Are there rural parishes in Louisiana that are underserved? Have attorney notaries reported that they have been overburdened by request to travel to other parishes to give notary service to underserved citizens? If neither is the case why change the law? If there is no substantial evidence the citizens of Louisiana would be better served then it is our duty not to recommend changing the law.

Three classes of notaries. Why? No evidence has been collected that the citizen of Louisiana have been harmed by the current system and no evidence has come forth that a change would be beneficial to the citizens of Louisiana.

I know that some notaries who claim to represent the majority of notaries in Louisiana have all sorts of recommendations for changes to the code so as to increase their ability to invade the practice of law. I would say to those who wish to practice law the State Of Louisiana has provided for you. This state has several fine law schools and after graduation and examination you too can be admitted to practice law in Louisiana. It is incumbent on the Legislature not to allow that system to be short circuited by legislative fiat.

Respectively



Henry J. Sauviac

# *Louisiana Notary* **The Notary's Newsletter**

Post Office Box 4206, Baton Rouge, Louisiana 70821

---

A newsletter published three times a year dedicated to the enhancement of the notarial profession in Louisiana

---

Summer, 2002

Dear Fellow Notary:

All notaries in this State share an unavoidable problem. The laws and jurisprudence affecting every aspect of your practice are changing with ever increasing speed. Gone are the days when the knowledge you acquired when preparing for your notarial or bar examination could be counted upon to remain essentially unchanged during your professional career. The results of a failure to remain abreast can be at best embarrassing, and at worst, injurious and potentially costly.

Louisiana Notary is a newsletter designed to bridge this information gap. Published three times yearly (Spring, Summer, and Fall) since 1983, it has become recognized as *the* informational service for notaries. **Non-attorney notaries** find it invaluable for keeping abreast of the endless legislation and jurisprudence affecting their everyday practice. **Attorneys** find it useful in filling the gap in notarial practice left by other legal journals and continuing education seminars.

Louisiana Notary reviews court decisions and legislation of general interest to notaries, and monitors the bureaucracy for changes important to notaries. Additionally, most issues contain a readers' forum where answers to readers' questions are discussed. Common notarial forms presented in a reproducible format are frequently included, in addition to general articles of interest to all Louisiana notaries.

The current issue continues coverage on the legislatively mandated (HCR81, 2001) notary study committee being conducted by the secretary of state. The first page of the current issue is printed inside this flyer so you can have a sample of the publication's style and content.

In addition to the newsletter, subscribers may also access a special and exclusive opt-in e-mail update service and a subscriber-only information site on the Internet.

This service is not only useful; it is a practical necessity. And, you will be pleased by the price – Only \$19.50 per year including state sales tax (\$18.75 + .75) for three issues. If you do any notarial work whatsoever, you will find this publication pays for itself many times over. A subscription order form is appears at the end of this back cover.

Sincerely,

  
C. Alan Jennings, NP  
Managing Editor

# *Louisiana Notary* **The Notary's Newsletter**

## **About our Editors**

### Managing Editor

#### **C. Alan Jennings, NP**

Alan Jennings, commissioned in East Baton Rouge parish in 1990 comes to Louisiana Notary from his former post as the executive director of the Louisiana Notary Association (no affiliation with Louisiana Notary). He has published extensively on notarial law and practice and other subjects of interest to Louisiana's notaries since 1995. He served as LNA publications chairman, contributing writer to, and editor of, their quarterly "Signed & Sealed" from 1995 to 2000.

### Editorial Advisors

#### **Richard P. Bullock, JD, NP**

Richard Bullock was commissioned as a notary public prior to entering law school at Louisiana State University. Richard graduated Order of the Coif (1991) and served as law clerk to Justice James Dennis of the Louisiana Supreme Court. He is a former member of the East Baton Rouge Parish Notarial Examination Committee. He currently has a general law practice in Baton Rouge. He is author of the desk reference Wills, Trusts, and Successions: The Notarial Role.

#### **David Hamilton, JD, NP**

David Hamilton was born and reared in New Orleans, Louisiana where he attended Roman Catholic schools through high school. He received his B.A. in history from LSU in 1968 and his J.D. from LSU in 1974. He has practiced law in Louisiana since April 1975 including eight years as general counsel for the Louisiana Department of Education. He taught the notary public preparation course under the auspices of the LSU Paralegal Program for fourteen years and presents notarial law workshops. He currently is chairman of the EBR parish notary examiners committee.

#### **Sydney I. Horn, JD, NP**

Syd Horn is a practicing attorney in Lake Charles. He has instructed non-attorney candidates preparing for their notarial qualifying exam for over 20 years. He estimates the number of non-attorney notaries commissioned after taking his course is about 2500. He received his J.D. from Tulane University School of Law in 1964 and has been practicing law ever since, hoping, as he says, that "One of these days, I'll get it right." Mr. Horn is the author of the textbook The Louisiana Notarial Handbook & Study Guide

#### **Susan L. Johnson, NP**

Susan Johnson graduated with a degree in Arts in History/Government from Southeastern Louisiana University in 1982, and of the Paralegal Studies Institute at LSU in 1988. She was named "Outstanding Paralegal of the Year" in 1990 (in the State of Louisiana) for her contributions to the paralegal profession. She is a notary public since 1988 and has held commissions in Tangipahoa Parish and more recently in Livingston Parish. She is co-author of A Basic Louisiana Notary Guide, second edition, (3 volumes) and of A Handbook for Louisiana Notary Study, Second edition. She is also the instructor of the Notary Public Preparation Course at LSU in Baton Rouge.

#### **Mary E. Tharp, JD, NP**

Mary Tharp is a partner with the Baton Rouge law firm of Taylor, Porter, Brooks & Phillips, L.L.P. She is a 1980 graduate of the Paul M. Hebert School of Law at Louisiana State University. She has been a guest lecturer on property matters for the Institute of Real Estate Law at LSU, the Institute of Paralegal Education at Eau Claire, Wisconsin, and the Louisiana Notary Association, and a guest lecturer on ethics for the Louisiana Notary Association and the Louisiana Association of Defense Counsel. She was an instructor of real estate law in the Paralegal Studies program at LSU 1990-1998.

### Founding Editor

#### **Gregory R. Olivier-deKeyzer, JD, NP**

Greg DeKeyzer is a practicing notaire/advocate in New Iberia, Iberia Parish, Louisiana. He established this publication in 1983. Now beginning its twentieth year, Louisiana Notary has become the standard for delivering timely and thorough content on notarial law and practice in Louisiana. Greg turned over the pen in 2000, but continues to lend his guiding wisdom to his successor editor and advisors.

**LOUISIANA NOTARY**

**Volume XIX, Issue 3 - July 2002**

*The Notary's Newsletter*

A newsletter published three times a year dedicated to the enhancement of the notarial profession in Louisiana

**HCR 81 - Notary Study Committee**

Study Committee Meeting - July 24, 2002

The HCR 81 Notary Study Committee met again in July to receive the reports of three subcommittees commissioned to fact-find throughout the state and report back to the committee. Two of the subcommittees reported; the third did not report. The full reports are included with this issue in a special supplement. Summaries are given below:

Subcommittee #1 - Standardized Testing:

The Standardized Testing subcommittee of the HCR 81 Notary Study Committee reports its majority concurrence in the proposition that all candidates for a notary commission in any parish should be tested using a uniform statewide *standard* for examination.

Subcommittee #2 - Mandatory Continuing Education reported a majority and a minority report:

The majority report, by members Glenn Stallings (Shreveport), Walter Brunty (Benton), and Sue Dier (Walker), stated that the committee conducted thirteen (13) meetings across the state and hundreds of telephone interviews with notaries. They sum up their findings as follows:

What the majority committee is saying in plain fact is:

1. Notaries want to keep up to date concerning their notary appointment.
2. They do not want to be mandated to do so. They took an oath of office (attached) and paid a bond to perform with integrity. That means keeping up with the civil code.

The majority report also includes a statement of full committee concurrence in other recommendations:

We as a committee offer the following recommendations:

1. Clean up the current records of notaries at the Secretary of States office.
2. Suspend any notary who fails to report through the Secretary of States office.
3. Request that all notaries public report violations of notary practices, including Justices of the Peace, ex-official notaries, police, sheriff, and others.

The subcommittee's minority report is by members Kathleen Clark (Covington) and Paul Bello (New Orleans), who reported their recommendations as follows:

It is of primary importance to the members of the Louisiana Civil Law Notariat and to the public that Civil Law Notaries commissioned in Louisiana keep current on changes and developments through continued legal education. We recommend that rules be established to set minimum requirements for continuing legal education for notaries and that the establishment of a mandatory program of continuing legal education for notaries should

# *Louisiana Notary* **Subscription Order**

To subscribe for one year (three issues), send \$19.50 and this completed form to: Louisiana Notary, Post Office Box 4206, Baton Rouge, Louisiana 70821

**Subscriber Information:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Daytime Phone: (\_\_\_\_\_) \_\_\_\_\_ M3/08/02

**Please begin my subscription with the issue checked:**

\_\_\_\_\_ *Current*  
(July 2002) Issue

\_\_\_\_\_ *Next*  
(November 2002) Issue



Post Office Box 4206  
Baton Rouge, Louisiana 70821

**HAVE YOU HEARD?** Recent proposed changes to laws pertaining to Notaries Public seek to add continuing legal education requirements for retaining your notary commission, propose to add a statutory Code of Ethics for notaries, and would expand the authority of the Custodian of Notarial Archives of Orleans parish to all notaries statewide. **Will you know when and if these changes are enacted by the legislature?**

## **Be informed. Stay updated.**

Subscribe to *Louisiana Notary* today!