

## Burgos, Alexander N

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**Subject:** FW: [External] Responses to your technical change requests (TCRs) and questions regarding 18 NCAC 07B  
**Attachments:** Response to 18 NCAC 07B TCRs (5.14.25).docx

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**From:** Ann Elmore <aelmore@sosnc.gov>  
**Sent:** Wednesday, May 14, 2025 3:46 PM  
**To:** Ascher, Seth M <seth.ascher@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Wall, Ann B <awall@sosnc.gov>  
**Subject:** [External] Responses to your technical change requests (TCRs) and questions regarding 18 NCAC 07B

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hi, Seth.

Please use the enclosed document instead of the one by the same name sent at 2:16PM today. The earlier version contains a footer for draft tracking. Removal of that footer changed spacing, so I moved the last paragraph to the signature page. The text is otherwise the same.

Thank you for your consideration.

Sent on behalf of Ann B. Wall, General Counsel and Rulemaking Coordinator.

Truly,  
AnnE

Ann McNellis Elmore, Agency Legal Consultant

***NC Department of the Secretary of State***

*PO Box 29622*

*Raleigh, NC 27626-0622*

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*State of North Carolina  
Department of the Secretary of State*

ELAINE F. MARSHALL  
SECRETARY OF STATE

ANN B. WALL  
General Counsel

May 14, 2025

By email

Seth M. Ascher  
OAH counsel to RRC  
[seth.ascher@oah.nc.gov](mailto:seth.ascher@oah.nc.gov)

**Re:** Request for technical changes to  
18 NCAC 07B

Enclosed please find our responses to your requests for changes to 18 NCAC 07B as well as responses to your questions. For convenience, we have numbered the technical change requests. The language of the adopted rules and your technical correction requests are provided in black font, with your requests italicized. Our responses and changes made, if any, are provided in blue font.

Please feel free to call me if you have any questions.

**RESPONSES TO**  
**REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10**  
**FOR 18 NCAC SUBCHAPTER 07B**

**RFC #1**

***18 NCAC 07B .0102:** In item (18), the definition for journal, does the post-publication strike-through of the reference to statute and rule change the intended meaning? It reads to me like removing unnecessary verbiage to help with readability, but I want to make sure I have not missed some nuance in this change.*

**18 NCAC 07B .0102      DEFINITIONS**

For purposes of this Chapter:

...  
(18) "Journal" means a collection of entries describing notarial acts that is created and maintained by a notary public. ~~[public in compliance with Chapter 10B of the General Statutes and the rules in this Chapter.]~~  
...

Your understanding of the reason for the strikethrough is correct. We do not think the strike-through changes the meaning of the definition.

## **RFC #2**

***18 NCAC 07B .0105: Is there a concrete standard behind reasonable efforts? Or is that meant to be subjective to the person responding?***

### **18 NCAC 07B .0105      OBTAINING REQUESTED INFORMATION**

A ~~filer~~ person responding to a departmental information request shall:

- (1) use reasonable efforts to obtain information requested by the Department;
- (2) deliver to the Department all requested information that is available to the ~~filer~~ person; and
- (3) if unable to obtain requested information, describe to the Department the efforts taken to obtain the information.

We have provided a single response following the second question on this topic.

*Put another way, would you view it as a violation of this rule if a responder was unable to provide the information, described what they tried to do to obtain the information, and you believe that there are additional actions they should take?*

The purpose of this rule is to ensure transparency regarding the steps that are expected to be taken by a person when the Department requests information, whether as part of an application, an investigation, or some other reason. The person must supply available requested information and explain what it has done to find information requested but not provided. Whether the Department would determine that a failure to provide requested information violates the rule would be dependent upon factors such as the Department's reason for asking for the information, the significance of the information, and exigent factors outside the control of the respondent.

The proposed "reasonable efforts" standard is designed to provide respondents with flexibility to explain why requested information could not be delivered to the Department. Deleting the "reasonable efforts" standard such that the respondent would be required to deliver requested information in all instances would establish instead a strict compliance standard, which in foreseeable instances would not be fair to the respondent. Having no standard would eliminate programmatic integrity by allowing respondents to baldly declare information unavailability without having to provide any support for the assertion. Adopting a "best efforts" standard approaches the draconian outcomes of a strict compliance standard. The Department has concluded that the "reasonable efforts" standard, accompanied by a description of efforts actually undertaken to obtain the requested information, is the standard that strikes the correct balance between providing circumstantial flexibility and assuring programmatic integrity.

There are certainly foreseeable instances where, under the circumstances, the Department might not consider as "reasonable" efforts to obtain requested information that the respondent nonetheless considered reasonable. Such instances, in the experience of Department staff, are exceedingly rare, to the point of being non-existent. Where such a disagreement could not be resolved by negotiation, dispute resolution would be found in the Office of Administrative Hearings.

The Department does not think there can be a single standard for "reasonable efforts" to obtain information that it requests. For example, consider the difference between a departmental request for:

- omitted information on a notary's commission application that could simply be a skipped blank, or
- details regarding specific aspects of a technology provider's current contingency plan when the Department is investigating a prolonged system outage.

In the first instance, a reasonable effort might be looking up the omitted information and filling in the blank. In the second instance, a reasonable effort might include searching paper or computer documents for the relevant sections of their documented plan and documenting the deviation between the plan and actual steps taken.

---

**RFC #3**

**18 NCAC 07B .0402:** *Add an and at the end of item (1)(d).*

*Add an and at the end of item (2)(i)(iv).*

**18 NCAC 07B .0402      CONTACT INFORMATION**

For purposes of the rules in this Section, unless otherwise indicated, "contact information" means:

- (1) ~~for a key an~~ individual who is identified pursuant to ~~G.S. 10B-134.19(e)(2);~~ G.S. 10B-134.19(c)(2)  
by a platform, by an IPEN, or for key individuals operating a sole proprietorship or general partnership:
    - (a) the full name of the individual;
    - (b) the following addresses:
      - (i) residential address;
      - (ii) business address;
      - (iii) mailing address;
    - (c) business telephone numbers;
    - (d) business email addresses;
    - (e) any other names by which the individual is known, including nicknames;
  - (2) for a business entity:
    - (a) the name of the entity on record with the Secretary of State, formation or filing office in its state, federally recognized tribe, or country of formation;
    - (b) the name of the state, federally recognized tribe, or country of formation;
    - (c) the year of formation;
    - ~~(e)(d)~~ the street address, and the mailing address if different, of the entity's principal office;
    - ~~(d)(e)~~ the street address, and the mailing address if different, of the entity's registered office;
    - ~~(e)(f)~~ the principal office telephone number of the entity;
    - ~~(d)(g)~~ the email address of the entity;
    - ~~(g)(h)~~ the URL for the entity's website, if any;
    - ~~(h)(i)~~ the name of an individual who is designated by the entity as the primary contact between the Department and the entity, and for that individual:
      - (i) title and position;
      - (ii) telephone number;
      - (iii) mailing address if different from the addresses provided in Sub-Items (2)(c) and (d) of this Item;
      - (iv) primary email address;
      - (v) secondary email address, if applicable;
- ...

The Department agrees with both technical change requests for 18 NCAC 07B .0402 and proposes to make the changes as highlighted below in **green**.

**18 NCAC 07B .0402      CONTACT INFORMATION**

For purposes of the rules in this Section, unless otherwise indicated, "contact information" means:

- (1) ~~for a key an~~ individual who is identified pursuant to ~~G.S. 10B-134.19(e)(2);~~ G.S. 10B-134.19(c)(2)  
by a platform, by an IPEN, or for key individuals operating a sole proprietorship or general partnership:
  - (a) the full name of the individual;
  - (b) the following addresses:
    - (i) residential address;
    - (ii) business address;
    - (iii) mailing address;
  - (c) business telephone numbers;
  - (d) business email addresses; **and**

- (e) any other names by which the individual is known, including nicknames;
- (2) for a business entity:
  - (a) the name of the entity on record with the Secretary of State, formation or filing office in its state, federally recognized tribe, or country of formation;
  - (b) the name of the state, federally recognized tribe, or country of formation;
  - (c) the year of formation;
  - ~~(e)~~(d) the street address, and the mailing address if different, of the entity's principal office;
  - ~~(d)~~(e) the street address, and the mailing address if different, of the entity's registered office;
  - ~~(e)~~(f) the principal office telephone number of the entity;
  - ~~(f)~~(g) the email address of the entity;
  - ~~(g)~~(h) the URL for the entity's website, if any;
  - ~~(h)~~(i) the name of an individual who is designated by the entity as the primary contact between the Department and the entity, and for that individual:
    - (i) title and position;
    - (ii) telephone number;
    - (iii) mailing address if different from the addresses provided in Sub-Items (2)(c) and (d) of this Item;
    - (iv) primary email address; **and**
    - (v) secondary email address, if applicable;
- ...

#### **RFC #4**

**18 NCAC 07B .0411:** *In item (2), I think you need a comma: “if a commissioned notary **public** **public**, the notary’s commission number;”*

#### **18 NCAC 07B .0411 NOTICE OF CHANGES REGARDING CRIMINAL HISTORY RECORD**

The form for notice of changes in criminal history record requires:

- (1) the name of the individual;
- (2) if a commissioned notary public the notary's commission number;
- (3) the last four digits of the individual's SSN; . . .

The Department agrees and proposes to make the change as highlighted below in **green**.

#### **18 NCAC 07B .0411 NOTICE OF CHANGES REGARDING CRIMINAL HISTORY RECORD**

The form for notice of changes in criminal history record requires:

- (1) the name of the individual;
- (2) if a commissioned notary **public** **public**, the notary's commission number;
- (3) the last four digits of the individual's SSN;

...

## **RFC #5**

**18 NCAC 07B .0420:** *There is a potential grammar problem in your list in item (4). As written, it is unclear if “privacy or accuracy” is meant to modify just “credential verification” or both “credential verification” and “identity proofing.” Depending on your intended meaning I think it needs to be either (highlights to emphasize difference):*

*“to involve security, **or** privacy or accuracy of **either** credential verification or identity proofing;” or*

*“to involve security, or privacy or accuracy of credential **verification**, or identity proofing;”*

### **18 NCAC 07B .0420 NOTARY FORM TO REPORT TECHNOLOGY DYSFUNCTIONS**

The form notaries public and electronic notaries public use to report technology dysfunctions pursuant to 18 NCAC 07D .0309 requires:

- (1) the notary's commission name;
- (2) the name of the technology provider with which the notary is experiencing dysfunctions;
- (3) a description of the dysfunction;
- (4) the basis for concern if a dysfunction is suspected to involve security, privacy or accuracy of credential verification or identity proofing;
- (5) the dates, times, and duration of the dysfunctions; and
- (6) the efforts undertaken to resolve the dysfunctions by the notary or the technology provider.

The Department proposes making the change highlighted below in **green**

### **18 NCAC 07B .0420 NOTARY FORM TO REPORT TECHNOLOGY DYSFUNCTIONS**

**The form notaries public and electronic notaries public use to report technology dysfunctions pursuant to 18 NCAC 07D .0309 requires:**

- (1) the notary's commission name;**
- (2) the name of the technology provider with which the notary is experiencing dysfunctions;**
- (3) a description of the dysfunction;**
- (4) the basis for concern if a dysfunction is suspected to involve **Credential verification or identity proofing.****
  - (a) security;**
  - (b) privacy; or**
  - (c) accuracy;**
- (5) the dates, times, and duration of the dysfunctions; and**
- (6) the efforts undertaken to resolve the dysfunctions by the notary or the technology provider.**

## **RFC #6**

**18 NCAC 07B .0422:** *In item (11)(b), capitalize rule in “this Rule”.*

*In item (11)(c)(iii), consider a comma after promises: “representations, promises, and assurances”.*

### **18 NCAC 07B .0422 APPLICATION FOR TECHNOLOGY PROVIDER AUTHORIZATION – GENERAL**

Technology provider application forms shall require:

...

- (11) signature by a key individual employed by the technology provider applicant who has the authority to:
  - (a) bind the applicant;

- (b) make certifications required by this rule and the rules in 18 NCAC Subchapter 07J; and
- (c) declare under penalty of perjury that:
  - (i) the information provided is true and complete to the best of the signer's knowledge and belief;
  - (ii) the application was prepared under the signer's authority and supervision;
  - (iii) the applicant agrees that representations, promises and assurances of performance in the application are binding on it; and

...

The Department agrees with both technical change requests for 18 NCAC 07B .0422 and proposes to make the changes as highlighted below in **green**.

**18 NCAC 07B .0422 APPLICATION FOR TECHNOLOGY PROVIDER AUTHORIZATION  
– GENERAL**

Technology provider application forms shall require:

...

- (11) signature by a key individual employed by the technology provider applicant who has the authority to:
  - (a) bind the applicant;
  - (b) make certifications required by this **rule Rule** and the rules in 18 NCAC Subchapter 07J; and
  - (c) declare under penalty of perjury that:
    - (i) the information provided is true and complete to the best of the signer's knowledge and belief;
    - (ii) the application was prepared under the signer's authority and supervision;
    - (iii) the applicant agrees that representations, **promises promises**, and assurances of performance in the application are binding on it; and

...

**RFC #7**

**18 NCAC 07B .0431:** *Items (2) and (7) are identical. Remove one of them and renumber appropriately.*

**18 NCAC 07B .0431 FORM FOR NOTARY REPORTABLE INCIDENTS**

The form for a notary public notifying the Department of reportable incidents pursuant to 18 NCAC 07D .0310 requires:

- (1) the notary's commission name and commission number;
- (2) how the notary discovered the reportable incident;
- (3) the date of the last notarization performed by the notary before the reportable incident occurred or was discovered;
- (4) the date on which the notary discovered the reportable incident regarding the notary's physical seal, electronic seal, signature, journal, notarial records, or communication technology recording;
- (5) the date on which the reportable incident occurred, if different from the date of discovery;
- (6) the date on which the notary reported to:
  - (a) the Register of Deeds, and the county of that Register of Deeds; and
  - (b) law enforcement, if applicable, including the name of the law enforcement agency and a copy of the law enforcement report if available;
- (7) how the notary discovered the reportable incident;
- (8) any other information that the notary believes may be useful to the Department in assessing the reportable incident; and
- (9) the notary's signature and the date of the report to the Department.



The Department agrees and proposes to make the change as highlighted below in green.

**18 NCAC 07B .0431 FORM FOR NOTARY REPORTABLE INCIDENTS**

The form for a notary public notifying the Department of reportable incidents pursuant to 18 NCAC 07D .0310 requires:

- (1) the notary's commission name and commission number;
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  - (a) the Register of Deeds, and the county of that Register of Deeds; and
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- ~~(7) —~~ how the notary discovered the reportable incident;
- ~~(8);~~(7) any other information that the notary believes may be useful to the Department in assessing the reportable incident; and
- ~~(9);~~(8) the notary's signature and the date of the report to the Department.

**RFC #8**

**18 NCAC 07B .0802:** *With regards to item (c), is there a rule or statute that would otherwise indicate that a notary public could not rely on representations made by third parties?*

**18 NCAC 07B .0802 PRINCIPAL SEEKING ACCOMMODATION**

(a) Before performing a notarial act, a notary public shall require a principal needing reasonable accommodation for vision, hearing, or speech impairments to ~~describe~~ disclose:

- (1) any auxiliary aid that the principal ~~is using~~ has chosen for use in connection with the notarial act; and
- (2) any interpreter, transliterator, or CART captioner that the principal ~~is using~~ has chosen for use in connection with the notarial act.

(b) If the notarial act is a remote notarial act, ~~then~~ the notary shall comply with Paragraph (a) of this Rule before starting the communication technology recording.

(c) A notary public may rely on representations made by an interpreter, transliterator, or certified CART captioner pursuant to this Section.

Yes, there are many instances in which a notary cannot rely on third party representations. The physical presence of the principal is required for a traditional notarization. G.S. §10B-20(c)(1). There have been instances in which an employer has directed a notary to notarize for a principal based on the employer's statement that the employer recognizes the voice of the principal on the phone authorizing the notarization and the principal's signature. This is a representation upon which the notary may not rely and which may lead to enforcement for failure to require the physical presence of the principal. As another example, 18 NCAC 07H .0302 prohibits a notary public from relying upon a credible witness to identify a remotely located principal. Hence, Item (c) gives needed direction for what is permitted in this narrow circumstance.

Thanks to you, Seth, and your colleague Travis Wiggs for your careful attention to detail.

Regards,

A handwritten signature in black ink, appearing to read "Ann B. Wall". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Ann B. Wall  
General Counsel and Rulemaking Coordinator

## Burgos, Alexander N

---

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**Attachments:** Response to 18 NCAC 07B TCRs (5.14.25).docx

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Please let us know if you have any further questions.

Regards,

Ann

Ann B. Wall  
General Counsel  
Department of the Secretary of State  
[awall@sosnc.gov](mailto:awall@sosnc.gov)  
Phone (919) 814-5310  
Fax 919-814-5391

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*State of North Carolina  
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ELAINE F. MARSHALL  
SECRETARY OF STATE

ANN B. WALL  
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May 14, 2025

By email

Seth M. Ascher  
OAH counsel to RRC  
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**FOR 18 NCAC SUBCHAPTER 07B**

**RFC #1**

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We have provided a single response following the second question on this topic.

*Put another way, would you view it as a violation of this rule if a responder was unable to provide the information, described what they tried to do to obtain the information, and you believe that there are additional actions they should take?*

The purpose of this rule is to ensure transparency regarding the steps that are expected to be taken by a person when the Department requests information, whether as part of an application, an investigation, or some other reason. The person must supply available requested information and explain what it has done to find information requested but not provided. Whether the Department would determine that a failure to provide requested information violates the rule would be dependent upon factors such as the Department's reason for asking for the information, the significance of the information, and exigent factors outside the control of the respondent.

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The Department does not think there can be a single standard for "reasonable efforts" to obtain information that it requests. For example, consider the difference between a departmental request for:

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In the first instance, a reasonable effort might be looking up the omitted information and filling in the blank. In the second instance, a reasonable effort might include searching paper or computer documents for the relevant sections of their documented plan and documenting the deviation between the plan and actual steps taken.

### **RFC #3**

**18 NCAC 07B .0402:** *Add an and at the end of item (1)(d).*

*Add an and at the end of item (2)(i)(iv).*

#### **18 NCAC 07B .0402 CONTACT INFORMATION**

For purposes of the rules in this Section, unless otherwise indicated, "contact information" means:

- (1) for a key an individual who is identified pursuant to ~~G.S. 10B-134.19(e)(2)~~; G.S. 10B-134.19(c)(2) by a platform, by an IPEN, or for key individuals operating a sole proprietorship or general partnership:
  - (a) the full name of the individual;
  - (b) the following addresses:
    - (i) residential address;
    - (ii) business address;
    - (iii) mailing address;
  - (c) business telephone numbers;
  - (d) business email addresses;
  - (e) any other names by which the individual is known, including nicknames;
- (2) for a business entity:
  - (a) the name of the entity on record with the Secretary of State, formation or filing office in its state, federally recognized tribe, or country of formation;
  - (b) the name of the state, federally recognized tribe, or country of formation;
  - (c) the year of formation;
  - ~~(e)(d)~~ the street address, and the mailing address if different, of the entity's principal office;
  - ~~(d)(e)~~ the street address, and the mailing address if different, of the entity's registered office;
  - ~~(e)(f)~~ the principal office telephone number of the entity;
  - ~~(f)(g)~~ the email address of the entity;
  - ~~(g)(h)~~ the URL for the entity's website, if any;
  - ~~(h)(i)~~ the name of an individual who is designated by the entity as the primary contact between the Department and the entity, and for that individual:
    - (i) title and position;
    - (ii) telephone number;
    - (iii) mailing address if different from the addresses provided in Sub-Items (2)(c) and (d) of this Item;
    - (iv) primary email address;
    - (v) secondary email address, if applicable;

...

The Department agrees with both technical change requests for 18 NCAC 07B .0402 and proposes to make the changes as highlighted below in **green**

#### **18 NCAC 07B .0402 CONTACT INFORMATION**

For purposes of the rules in this Section, unless otherwise indicated, "contact information" means:

- (1) for a key an individual who is identified pursuant to ~~G.S. 10B-134.19(e)(2)~~; G.S. 10B-134.19(c)(2) by a platform, by an IPEN, or for key individuals operating a sole proprietorship or general partnership:
  - (a) the full name of the individual;

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- (2) for a business entity:
- (a) the name of the entity on record with the Secretary of State, formation or filing office in its state, federally recognized tribe, or country of formation;
  - (b) the name of the state, federally recognized tribe, or country of formation;
  - (c) the year of formation;
  - ~~(e)~~(d) the street address, and the mailing address if different, of the entity's principal office;
  - ~~(d)~~(c) the street address, and the mailing address if different, of the entity's registered office;
  - ~~(e)~~(f) the principal office telephone number of the entity;
  - ~~(f)~~(g) the email address of the entity;
  - ~~(g)~~(h) the URL for the entity's website, if any;
  - ~~(h)~~(i) the name of an individual who is designated by the entity as the primary contact between the Department and the entity, and for that individual:
    - (i) title and position;
    - (ii) telephone number;
    - (iii) mailing address if different from the addresses provided in Sub-Items (2)(c) and (d) of this Item;
    - (iv) primary email address; **and**
    - (v) secondary email address, if applicable;

...

#### **RFC #4**

**18 NCAC 07B .0411:** *In item (2), I think you need a comma: “if a commissioned notary **public** **public**, the notary’s commission number;”*

#### **18 NCAC 07B .0411 NOTICE OF CHANGES REGARDING CRIMINAL HISTORY RECORD**

The form for notice of changes in criminal history record requires:

- (1) the name of the individual;
- (2) if a commissioned notary public the notary's commission number;
- (3) the last four digits of the individual's SSN; . . .

The Department agrees and proposes to make the change as highlighted below in **green**.

#### **18 NCAC 07B .0411 NOTICE OF CHANGES REGARDING CRIMINAL HISTORY RECORD**

The form for notice of changes in criminal history record requires:

- (1) the name of the individual;
- (2) if a commissioned notary **public** **public**, the notary's commission number;
- (3) the last four digits of the individual's SSN;

...



## **RFC #5**

**18 NCAC 07B .0420:** *There is a potential grammar problem in your list in item (4). As written, it is unclear if “privacy or accuracy” is meant to modify just “credential verification” or both “credential verification” and “identity proofing.” Depending on your intended meaning I think it needs to be either (highlights to emphasize difference):*

*“to involve security, **or** privacy or accuracy of **either** credential verification or identity proofing;” or*

*“to involve security, or privacy or accuracy of credential **verification**, or identity proofing;”*

### **18 NCAC 07B .0420 NOTARY FORM TO REPORT TECHNOLOGY DYSFUNCTIONS**

The form notaries public and electronic notaries public use to report technology dysfunctions pursuant to 18 NCAC 07D .0309 requires:

- (1) the notary's commission name;
- (2) the name of the technology provider with which the notary is experiencing dysfunctions;
- (3) a description of the dysfunction;
- (4) the basis for concern if a dysfunction is suspected to involve security, privacy or accuracy of credential verification or identity proofing;
- (5) the dates, times, and duration of the dysfunctions; and
- (6) the efforts undertaken to resolve the dysfunctions by the notary or the technology provider.

The Department proposes making the change highlighted below in **green**

### **18 NCAC 07B .0420 NOTARY FORM TO REPORT TECHNOLOGY DYSFUNCTIONS**

**The form notaries public and electronic notaries public use to report technology dysfunctions pursuant to 18 NCAC 07D .0309 requires:**

- (1) the notary's commission name;**
- (2) the name of the technology provider with which the notary is experiencing dysfunctions;**
- (3) a description of the dysfunction;**
- (4) the basis for concern if a dysfunction is suspected to involve **Credential verification or identity proofing.****
  - (a) security;**
  - (b) privacy; or**
  - (c) accuracy;**
- (5) the dates, times, and duration of the dysfunctions; and**
- (6) the efforts undertaken to resolve the dysfunctions by the notary or the technology provider.**

## **RFC #6**

**18 NCAC 07B .0422:** *In item (11)(b), capitalize rule in “this Rule”.*

*In item (11)(c)(iii), consider a comma after promises: “representations, promises, and assurances”.*

### **18 NCAC 07B .0422 APPLICATION FOR TECHNOLOGY PROVIDER AUTHORIZATION – GENERAL**

Technology provider application forms shall require:

...

- (11) signature by a key individual employed by the technology provider applicant who has the authority to:

- (a) bind the applicant;
- (b) make certifications required by this rule and the rules in 18 NCAC Subchapter 07J; and
- (c) declare under penalty of perjury that:
  - (i) the information provided is true and complete to the best of the signer's knowledge and belief;
  - (ii) the application was prepared under the signer's authority and supervision;
  - (iii) the applicant agrees that representations, promises and assurances of performance in the application are binding on it; and

...

The Department agrees with both technical change requests for 18 NCAC 07B .0422 and proposes to make the changes as highlighted below in **green**.

#### **18 NCAC 07B .0422 APPLICATION FOR TECHNOLOGY PROVIDER AUTHORIZATION – GENERAL**

Technology provider application forms shall require:

...

- (11) signature by a key individual employed by the technology provider applicant who has the authority to:
  - (a) bind the applicant;
  - (b) make certifications required by this **rule Rule** and the rules in 18 NCAC Subchapter 07J; and
  - (c) declare under penalty of perjury that:
    - (i) the information provided is true and complete to the best of the signer's knowledge and belief;
    - (ii) the application was prepared under the signer's authority and supervision;
    - (iii) the applicant agrees that representations, **promises promises**, and assurances of performance in the application are binding on it; and

...

#### **RFC #7**

**18 NCAC 07B .0431:** *Items (2) and (7) are identical. Remove one of them and renumber appropriately.*

#### **18 NCAC 07B .0431 FORM FOR NOTARY REPORTABLE INCIDENTS**

The form for a notary public notifying the Department of reportable incidents pursuant to 18 NCAC 07D .0310 requires:

- (1) the notary's commission name and commission number;
- (2) how the notary discovered the reportable incident;
- (3) the date of the last notarization performed by the notary before the reportable incident occurred or was discovered;
- (4) the date on which the notary discovered the reportable incident regarding the notary's physical seal, electronic seal, signature, journal, notarial records, or communication technology recording;
- (5) the date on which the reportable incident occurred, if different from the date of discovery;
- (6) the date on which the notary reported to:
  - (a) the Register of Deeds, and the county of that Register of Deeds; and
  - (b) law enforcement, if applicable, including the name of the law enforcement agency and a copy of the law enforcement report if available;
- (7) how the notary discovered the reportable incident;
- (8) any other information that the notary believes may be useful to the Department in assessing the reportable incident; and

(9) the notary's signature and the date of the report to the Department.

The Department agrees and proposes to make the change as highlighted below in **green**.

#### **18 NCAC 07B .0431 FORM FOR NOTARY REPORTABLE INCIDENTS**

The form for a notary public notifying the Department of reportable incidents pursuant to 18 NCAC 07D .0310 requires:

- (1) the notary's commission name and commission number;
- (2) how the notary discovered the reportable incident;
- (3) the date of the last notarization performed by the notary before the reportable incident occurred or was discovered;
- (4) the date on which the notary discovered the reportable incident regarding the notary's physical seal, electronic seal, signature, journal, notarial records, or communication technology recording;
- (5) the date on which the reportable incident occurred, if different from the date of discovery;
- (6) the date on which the notary reported to:
  - (a) the Register of Deeds, and the county of that Register of Deeds; and
  - (b) law enforcement, if applicable, including the name of the law enforcement agency and a copy of the law enforcement report if available;
- ~~(7) —~~ **how the notary discovered the reportable incident.**
- ~~(8)(7)~~ any other information that the notary believes may be useful to the Department in assessing the reportable incident; and
- ~~(9)(8)~~ the notary's signature and the date of the report to the Department.

#### **RFC #8**

**18 NCAC 07B .0802:** *With regards to item (c), is there a rule or statute that would otherwise indicate that a notary public could not rely on representations made by third parties?*

#### **18 NCAC 07B .0802 PRINCIPAL SEEKING ACCOMMODATION**

(a) Before performing a notarial act, a notary public shall require a principal needing reasonable accommodation for vision, hearing, or speech impairments to ~~describe~~ disclose:

- (1) any auxiliary aid that the principal ~~is using~~ has chosen for use in connection with the notarial act; and
- (2) any interpreter, transliterator, or CART captioner that the principal ~~is using~~ has chosen for use in connection with the notarial act.

(b) If the notarial act is a remote notarial act, ~~then~~ the notary shall comply with Paragraph (a) of this Rule before starting the communication technology recording.

(c) A notary public may rely on representations made by an interpreter, transliterator, or certified CART captioner pursuant to this Section.

Yes, there are many instances in which a notary cannot rely on third party representations. The physical presence of the principal is required for a traditional notarization. G.S. §10B-20(c)(1). There have been instances in which an employer has directed a notary to notarize for a principal based on the employer's statement that the employer recognizes the voice of the principal on the phone authorizing the notarization and the principal's signature. This is a representation upon which the notary may not rely and which may lead to enforcement for failure to require the physical presence of the principal. As another example, 18 NCAC 07H .0302 prohibits a notary public from relying upon a credible witness to identify a remotely located principal. Hence, Item (c) gives needed direction for what is permitted in this narrow circumstance.

Thanks to you, Seth, and your colleague Travis Wiggs for your careful attention to detail.

Regards,

A handwritten signature in black ink, appearing to read "Ann B. Wall".

Ann B. Wall  
General Counsel and Rulemaking Coordinator

## Burgos, Alexander N

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**From:** Ascher, Seth M  
**Sent:** Monday, May 5, 2025 3:49 PM  
**To:** Wall, Ann B; Elmore, Ann M  
**Cc:** Burgos, Alexander N  
**Subject:** Re: [External] Re: 18 NCAC 07B RFC

I'm leaving Wednesday.

### Seth Ascher

Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984) 236-1934

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**From:** Ann Wall <awall@sosnc.gov>  
**Sent:** Monday, May 5, 2025 3:44 PM  
**To:** Ascher, Seth M <seth.ascher@oah.nc.gov>; Elmore, Ann M <aelmore@sosnc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** [External] Re: 18 NCAC 07B RFC

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Great, thanks, and thank Travis for us, as well.

I thought you were out having fun this week?

Ann

Ann B. Wall  
General Counsel  
Department of the Secretary of State  
[awall@sosnc.gov](mailto:awall@sosnc.gov)  
Phone (919) 814-5310  
Fax 919-814-5391

Please be aware that communications with the Secretary of State's office may be public records.

Anns,

I have finished my review of 07B and the RFC is attached. The deadline for response is Friday, May 16. Special thanks to my colleague Travis Wiggs who did a quick pre-review to make my review faster.

To update you on the process thus far: this will be the last RFC for at least a week, but when I get back next week I will pick up the rest. By my count, only 7F, 7G, 7I, and 7K are waiting for my initial review, and they are all comparatively short. Let me know if you think I have missed a subchapter. I am planning to review and respond to the responses you've already sent me over the next couple of days.

**Seth Ascher**

Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984) 236-1934

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