

# Signing Documents When Physically Unable

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## Introduction

Sometimes a person wants to sign a document – such as a power of attorney, Will, or deed - but is physically unable to write her name. As long as the person is mentally competent to understand what she is signing, the fact that she cannot actually sign does not prevent the person from executing the document as long as the following procedures are followed. The laws discussed in this publication are attached at the end of the information for your reference.

## Using a Notary Public

The Revised Code of Washington, [RCW 42.44.080\(2\)](#), permits a notary to sign on behalf of a disabled person who is unable to sign a document under the following conditions:

1. The notary must have satisfactory evidence that the person is physically unable to sign her name or to make her mark and is otherwise mentally competent.
2. The notary's statement must state that the signature was obtained under the provision of [RCW 64.08.100](#).
3. The person appearing before a notary must tell the notary to sign the person's name on her behalf.

**IMPORTANT:** If a physical impairment has affected the *quality* of penmanship, but the person *can* still sign with a mark that she considers to be her signature, no notary is required. The mark, considered to be one's signature, is enough legally no matter how good or bad it looks. It may be a good idea, however, to have a mark notarized or witnessed if it is difficult to read in case an argument arises about whether or not the disabled person really signed the document. That way, if there is an argument, the fact that it is notarized should settle the argument.

## Signing A Will

There is a specific statute dealing with how to sign a Will when an individual is unable to sign. This statute is [RCW 11.12.030](#). Suppose that May Jones is mentally competent but paralyzed by a stroke. May can tell her friend, Sue Smith, to sign May's name on her Will. Sue Smith would sign May Jones' name and then her own name and state that she signed May Jones' name at May's request. (The Will would look like this: "May Jones, signed by Sue Smith at May Jones' request.")

Or, May could just make a mark, such as an "X," on the signature line, and it would be considered the same as an actual signature. The requirement that the signing of a Will be witnessed by two people would still apply when the Will is being signed by a mark or at the direction of a person unable to sign.

## If the Person Signing Lacks Legal Capacity

A person is considered to have legal capacity until a court rules that she is not. However, if a person is actually not able to understand what she is signing, or the consequences of signing, the signature may later be declared to be invalid. A notary will not sign or notarize a document when capacity is an issue. To avoid this result, the document should be signed, when possible,

by the legal guardian or by someone with a valid, durable power of attorney. If there is no guardian or durable power of attorney, it may be necessary to file a court action to declare the person incapacitated and appoint a guardian to sign documents for her. It is a good idea for all adults to give someone trustworthy a durable power of attorney to prevent the need for court proceedings. Northwest Justice Project has a do-it-yourself packet with the forms and instructions needed to sign a power of attorney. See our publication [About Powers of Attorney](#). Like any other document, the person signing a power of attorney must understand what she is signing for the document to be valid.

## **The Laws:**

### **[RCW 64.08.100](#) - Acknowledgments by persons unable to sign name**

Any person who is otherwise competent but is physically unable to sign his or her name or make a mark may make an acknowledgment authorized under this chapter by orally directing the notary public or other authorized officer taking the acknowledgment to sign the person's name on his or her behalf. In taking an acknowledgment under this section, the notary public or other authorized officer shall, in addition to stating his or her name and place of residence, state that the signature in the acknowledgment was obtained under the authority of this section.

### **[RCW 42.44.080](#) - Standards for notarial acts (in pertinent part)**

A notary public is authorized to perform notarial acts in this state. Notarial acts shall be performed in accordance with the following, as applicable:

1. In taking an acknowledgment, a notary public must determine and certify, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the acknowledgment is the person whose true signature is on the document.
2. In taking an acknowledgment authorized by [RCW 64.08.100](#) from a person physically unable to sign her name or make a mark, a notary public shall, in addition to other requirements for taking an acknowledgment, determine and certify from personal knowledge or satisfactory evidence that the person appearing before the notary public is physically unable to sign his or her name or make a mark and is otherwise competent. The notary public shall include in the acknowledgment a statement that the signature in the acknowledgment was obtained under the authority of [RCW 64.08.100](#).
3. In taking a verification upon oath or affirmation, a notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the verification is the person whose true signature is on the statement verified.
4. In witnessing or attesting a signature, a notary public must determine, either from personal knowledge or from satisfactory evidence, that the signature is

that of the person appearing before the notary public and named in the document. . . .

8. A notary public has satisfactory evidence that a person is the person described in a document if that person: (a) Is personally known to the notary public; (b) is identified upon the oath or affirmation of a credible witness personally known to the notary public; or (c) is identified on the basis of identification documents.
9. The signature and seal or stamp of a notary public are prima facie evidence that the signature of the notary is genuine and that the person is a notary public. . . .

**RCW 11.12.030 - Signature of testator at his direction - Signature by mark**

Every person who shall sign the testator's or testatrix's name to any will by her direction shall subscribe his own name to such will and state that he subscribed the testator's name at his request: *Provided*, that such signing and statement shall not be required if the testator shall evidence the approval of the signature so made at his request by making his mark on the will.

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