

The Notary Seal

**Both Traditional And Electronic Seals Deter Fraud
And Foster Public Trust In Document Integrity**

A Position Statement From The
NATIONAL NOTARY ASSOCIATION



The Nation's Professional Notary Organization

Abstract

The seal is the universally recognized symbol of the Notary Public office.

The symbolism and rich heritage of the Notary seal, however, often overshadow the real practical advantages of seal use in the modern world, particularly the fraud-deterrent advantages.

This paper describes the public benefits of Notary seal use, whether the seal is a traditional embosser, a photocopyable inking stamp, or a digital device for “wrapping” an electronic document. In five ways, Notary seals facilitate the smooth functioning of commerce and law by enhancing trust in the security of important documents:

- (1) The Notary seal contains information allowing the Notary’s credentials as a trustworthy and duly appointed officer of the state to be corroborated.
- (2) The minor ceremony of affixing the Notary seal provides a comforting and expected psychological sense of closure for the document signer.
- (3) The Notary seal provides a visual — if not also a tactile — assurance to all persons relying on a document that the Notary has lawfully performed the notarial act.
- (4) The adroitly wielded Notary seal can impose daunting hurdles for the forger that discourage and allow detection of document frauds.
- (5) The electronic Notary seal can “wrap” an electronic document so that any attempt to tamper with its contents is evident at a glance.

Symbol of Office

Seals have long been used as an insignia of public office and to authenticate the acts of public officials, whether the seal impression is imparted through ink or wax or by a crimping of the paper itself. Signet ring seals were used in antiquity by kings to issue and certify official

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edicts. Use of seals by the ancestors of modern day Notaries dates at least as far back as the Roman Empire, when *tabelliones* drew up wills, deeds and other transfers of property for the public. Once these instruments were duly signed, witnessed, and authenticated by a

tabellio, they became binding on the parties.

Whether or not they are labeled today as “Notaries,” “*Notarios*,” “*Notaires*” or hold a similar title indicating an evolution over the centuries from the Roman Civil Law, the need for trustworthy and impartial witnessing officials to authenticate instruments and a means to readily identify their attestations is common to all modern legal systems. A seal of office continues to be the most widespread and effective means for accomplishing this purpose.

Contents and Format of Typical Seal

In the United States today, an official notarial seal typically bears most or all of the following

information about the Notary Public who controls and affixes it: (1) the name of the Notary exactly as it appears on the official commissioning paper; (2) the commission serial number (e.g., required in Missouri); (3) the title “Notary Public;” (4) the name of the state, territory or other jurisdiction which has commissioned the Notary (e.g., “State of Rhode Island”); (5) the name of the county where the Notary resides, works or has filed a bond and oath of office; (6) the residence or work address of the Notary (e.g., Utah, West Virginia); (7) the expiration date of the Notary’s commission; (8) the great seal of the jurisdiction which has commissioned the Notary (e.g., Arizona, Utah), though a number of states forbid reproduction of their great seals (e.g., Florida); (9) the word(s) “Seal” (e.g., South Dakota) or “Notarial Seal” (Montana); and (10) the identifying number assigned to the seal manufacturer by the commissioning state or territory (e.g., California). A few states are abstemious in prescribing verbiage for the seal; Colorado, for example, allows only the name of the Notary and the words “Notary Public” and “State of Colorado.” Others allow most anything in a Notary seal.

In the United States today, most Notary seals are rectangular inking stamps, with the maximum dimensions often dictated by statute or administrative rule; in California, for example, a rectangular stamp by law may be no larger than 1 inch in height by 2-1/2 inches in length. Some states allow either an embosser or an inking stamp as the Notary’s official seal, while one jurisdiction, Guam, requires both; embosser seals almost universally are circular in shape, with state laws sometimes prescribing a minimum diameter (e.g., Washington: 1-5/8 inch) or a maximum (California: 2 inches).

Some jurisdictions go so far as to stipulate the type of border a Notary seal must have, with the “serrated or milled edged border” being the most popular.

Embosser’s Fraud-Deterrent Advantages

For two major reasons, the inking rectangular stamp is preferred as a Notary seal across the United States. First, because its impression is readily photocopied by county recording officials. (An embossed seal impression must be “smudged” with carbon or other darkening substance before it can be discerned by a microfilm camera.) Second, because a thin, flat seal can more readily be fit on a densely worded document without overprinting than can a circular seal.

However, because the embossing seal still offers unparalleled fraud-deterrent advantages,

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Notaries increasingly are opting to use an unofficial embosser to supplement their legally required inking stamp. Such use not only offers the societal benefit of reducing document fraud and the resulting burden on our court system, but also minimizes the Notary’s personal liability. Here’s how a Notary adroitly

wielding an embosser seal can deter fraud:

- An embossed Notary seal can tactilely differentiate an original, crimped paper document from a fraudulent photocopy. It can also visually alert the holder of a photocopy that the original bore an embossment because of displacement of the letters “L.S.” (i.e., *locus sigilli*, “place of the seal”).

- An embossed Notary seal can make fraudulent replacement of a document page more difficult, if all pages in a notarized document are embossed together.
- An embossed Notary seal can make fraudulent reattachment of a notarial certificate more difficult, if the certificate bears the wording, “This certificate has been embossed together with the notarized document,” or the like.

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The Expectation of a Seal

It is quite revealing that almost all of the handful of states not requiring Notaries to affix a seal still advise Notaries of the wisdom of using a seal. The reason: around the nation and world, seal use by a Notary Public is expected and any notarized document not bearing a seal will more likely than not be questioned. This admonition in the *Rhode Island Notary Public Guide* is instructive:

Although Rhode Island does not require Notaries to put seals on documents, it is generally prudent for a Notary Public to do so...(O)ther states require Notaries to use a seal as do certain corporations or government agencies. Since a Notary Public will not always know how or where

an instrument he or she is notarizing is to be used, it is safest to always use a seal...

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There is even a compelling psychological reason for the Notary’s use of a seal. When a Notary seal is

imprinted, the document signer gets a comforting sense of closure and finality. The deal is sealed, secure and complete, the signer feels. Such a psychological comfort should not be discounted. Indeed, the sense of security imparted by the Notary’s ministrations, especially the minor ceremony of affixing a seal, is an important “lubricant” in the smooth functioning of commerce and law.

Thus the notarial seal of office is a visual assurance to all who will depend on a document that the Notary has been duly empowered by law to screen its signer for identity, volition and basic awareness. Further, the seal impression gives any private individual or public official interested in the propriety of the document a means for locating and questioning the Notary.

What Is a Notary Seal?

With the advent of computer word processors and electronic documents, the traditional definition of a Notary seal began to be stretched.

Nevada was the first state to allow affixation of a Notary seal “by computer” (1995).

Iowa was the first state to allow Notary seal impressions to be affixed by adhesive labels,

each bearing a different sequential number (2001).

The National Notary Association's *Model Notary Act* of 2002 recognizes computer-affixed and adhesive images as legitimate seal options as long as the Notary strictly controls access to the sealing mechanism. Indeed, such control is increasingly required by state laws for all types of Notary seal:

The seal shall be kept in a locked and secured area, under the direct and exclusive control of the notary. (California Government Code, Section 8207)

Notably, the *Model Notary Act's* Article III ("Electronic Notary") expands the definition of a Notary seal into an altogether new arena — electronic documents. The *Act* provides a purposely skeletal and technology-neutral definition of "electronic notary seal" so as not to exclude any emerging technology:

'Electronic notary seal' and 'electronic seal' mean information within a notarized electronic document that includes the notary's name, jurisdiction, and commission expiration date, and generally corresponds to data in notary seals used on paper documents. (*Model Notary Act* of 2002, Section 14-6)

So far, the NNA's *Model Notary Act* provides the only statutory model for an electronic

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Notary seal. While both the widely enacted Uniform Electronic Transactions Act (UETA) and the federal Electronic Signatures in Global and National Commerce Act ("E-Sign") together do authorize Notaries in all states to use electronic signatures in notarizing other

electronic signatures, these acts do not address electronic seals. A drafter's comment appended to the E-Sign law does state that any Notary seal requirement is suspended when the document is electronic; regardless of this comment, a few states (e.g., California) still insist that even electronic documents must bear the visual image of the seal prescribed by state law for paper documents. However, a growing number of pilot e-recording programs around the nation have recognized a new kind of Notary e-seal — with the capacity both to convey basic information about the notarial officer and to make the electronic document secure from unauthorized change.

The arrival of this true "Electronic Notary Seal" (ENS) heralds a new era for the American Notary. The ENS allows the Notary not only to certify the identity, volition and basic awareness of an electronic document's signer, but also to certify that a particular e-document was not tampered with in transit. In this regard, the Notary seal has come full circle back to its original function of "sealing" an important paper or parchment with ribbons and molten wax in order to show its recipient that it had not been tampered with en route.

Back to the Future

Computer technology has created a way for Notaries to secure an electronic transaction with the modern day equivalent of an embosser, ribbon and wax — only better, much better. New

digital tools can “wrap” a duly signed and notarized electronic record with a “tamper-evident seal.” Once the Notary applies this special e-seal to the signed electronic record, any attempts to modify the record will be immediately obvious and unmistakable.

This form of super-security is attained through what is called private and public key cryptography or “PKI,” for Public Key Infrastructure. To gain access to such a powerful fraud-deterrent system, the Notary would first apply for an “electronic seal certificate” from a government licensed provider, who would rigorously screen the Notary for appropriate credentials.

The e-seal certificate issued to the Notary would contain a private “key,” known and possessed only by the Notary, that can be imbedded within a portable USB flash drive device. The device would remain under the Notary’s exclusive control and be locked in a secure area when not in use — just as is the traditional Notary inking or embossing Notary seal.

At the time of notarization, the Notary places the device into a computer’s USB port and “locks” the electronic record with the private key. Any person receiving the locked e-document is also given the corresponding public key of the private-public key pair in order to “unlock” the document; any tampering during transmission will be immediately evident to the recipient, who can also electronically corroborate the authority and identity of the Notary holding the private key.

Jurisdictions preferring that their notarized e-documents include an optical image of a Notary seal could still require the tamper-evident Electronic Notary Seal to place this image on the record so that both the “soft copy” (electronic version) and any “hard copy” printouts will graphically display the seal.

State laws would strictly regulate the issuance of Electronic Notary Seals, as is increasingly done today with traditional inking and embossing Notary seals. By necessity, Notaries wishing to engage in such electronic transactions would need to be well trained or experienced in computer technology. A new level of professionalism and technical expertise would be expected of such Notaries.

Conclusion

Whether a notarized document is paper or electronic, a Notary seal engenders public trust in the integrity of the attendant transaction.

Both traditional and electronic Notary seals offer the advantages of identifying the Notary to allow corroboration of credentials, providing a comforting sense of closure to the signer, offering assurance to all relying on the document that the notarization was lawfully performed, and imposing daunting hurdles to forgery and other document frauds.

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