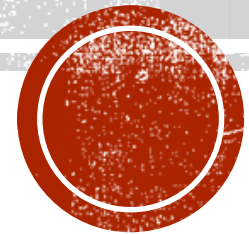


# ELECTRONIC AND ONLINE NOTARIZATIONS

*What they are and what you need to know before  
performing them*



Presented by:

Kathleen Butler, American Society of Notaries

Briana Godbey, Texas Secretary of State

# TODAY'S DISCUSSION

Traditional Notarization (Electronic, Paper Documents) | Online Notarization (Remote)

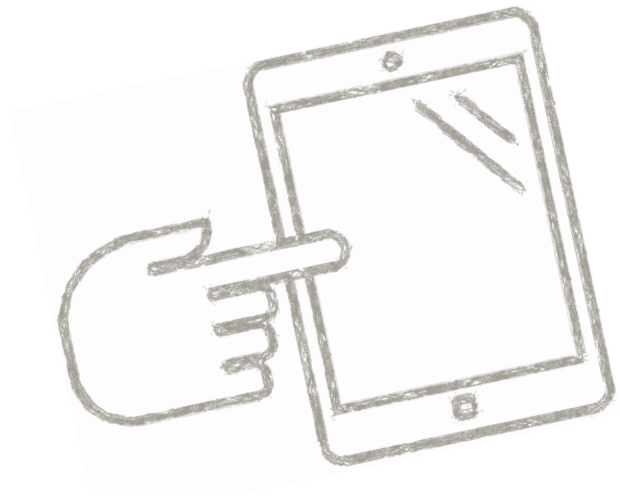
- Kathleen*
- Familiar fundamentals
  - Assurances
  - eNotary toolkit

- Briana*
- Online Notarization
    - Becoming an Online Notary
    - Notarizing online
    - Commission responsibilities
    - Administrative rule changes



# WE ARE EXPERIENCED “e” USERS

- eSignatures and processes permeate our lives
- eNotarization – less common than other e-processes, but growing rapidly



# ELECTRONIC NOTARIZATION: 🏠 TEXAS STYLE 🏠

	<b>Traditional eNotarization</b>	<b>Online Notarization</b>
<b>Primary Law, Rules</b>	Gov't Code Chapt. 406; Tex. Administrative Code	Same
<b>Commission</b>	“Traditional Notary Public”	“Online Notary Public”
<b>Principal Signer’s Appearance</b>	Physical presence	Interactive, two-way audio-video
<b>Notarial Acts</b>	All acts authorized under Sec. 406.104	Same
<b>Technology</b>	Not specified	Specified



# ELECTRONIC NOTARIZATION: SAME FUNDAMENTALS

- Formalities of the notarial act
  - Personal appearance
  - Identification
  - Comprehension, free will assessment
  - Notarial ceremony
  - Completed certificate
  - Notarial record



# ELECTRONIC NOTARIZATION: SAME EFFECT

- Same formalities, same assurances  
*(that only notarization provides)*
  - Notary as independent witness
  - Notarial certificate – prima facie evidence  
*(taken on its face to be factual)*

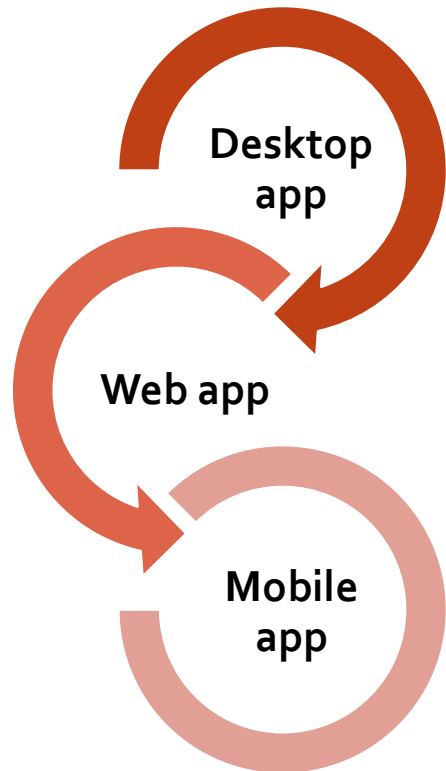


# AN eNOTARY'S BASIC TOOLS

Web-ready device	PC, laptop, tablet, phone
Web connection	Secured (VPN)
Notary esignature, seal	Stored on device, cloud or vendor server
Journal	Traditional Notary – paper or electronic Online Notary – electronic



# eNOTARIZATION TECHNOLOGY SOLUTIONS



## All in one place:

- eNotarization platform
- Notary esignature, seal
- Electronic journal
- Remote notarization platform

## Technologies can be:

- Desktop apps (download to desktop)
- Web apps (access online, log in)
- Mobile apps (download app to phone)





# BECOMING AN ONLINE NOTARY

- Eligibility
  - 18 years of age
  - Texas resident
  - No disqualifying conviction
- Commission
  - Apply online
  - Digital certificate and electronic seal
  - Term of commission



# REQUIREMENTS FOR DIGITAL CERTIFICATE

- Must be provided by third party
- Must use PKI technology
- Must be X.509 compliant
- Must include image of electronic signature;  
may include image of electronic seal
- Must be capable of independent verification  
and make document tamper evident when  
affixed



# ONLINE NOTARIZATION: SAME FUNDAMENTALS

- Personal appearance
- Identifying the principal
- Comprehension, free will assessment
- Notarial ceremony
- Completing the notarial certificate
- Notarial record
  - Electronic journal entry
  - Recording of audio-video session



# ONLINE NOTARIZATION: PERSONAL APPEARANCE

- Notary must be physically in Texas at the time of the notarization.
- Principal appears by an interactive two-way audio and video



# ONLINE NOTARIZATION: PERFORMING THE NOTARIAL ACT

- Online Notaries may perform the notarial acts authorized in Gov't Code Chapter 406, Subchapter A
  - Acknowledgments, proofs
  - Oaths, affirmations
  - Certify copies of nonrecordable documents
  - Take depositions, issue protests



# ONLINE NOTARIZATION: IDENTIFYING THE PRINCIPAL

- Online Notary personally knows the principal
- Principal introduced by oath of credible witness
- Principal identified using identity proofing and credential analysis
  - Must be performed by reputable third party
  - Must comply with Chapter 406, Subchapter C of the Gov't Code and Chapter 87 Tex. Admin. Code



# ONLINE NOTARIZATION: COMPLETING THE NOTARIAL CERTIFICATE

- Online Notary shall attach an electronic notarial certificate
  - Identifies the principal
  - Date of notarization
  - State and County in which notarization performed
  - That the act was an online notarization
  - Language evidencing the type of notarization performed
  - Attach digital certificate and electronic seal



# ONLINE NOTARIZATION: RECORDING THE NOTARIZATION

- Must be kept electronically
- Must comply with §406.108 Gov't Code and Ch. 87 TAC
- Includes recording of audio-visual conference showing:
  - Confirmation that the principal has completed ID proofing/credential analysis
  - Visual confirmation of the identity of the principal
  - The actual notarial act performed





# ONLINE NOTARIZATION: SYSTEM REQUIREMENTS

- Online system used to perform online notarial acts by means of audio-visual communication
- Must comply with §87.71
- Notary must take reasonable steps to ensure audio-visual communication secure



# CHANGES AFTER COMMISSIONING

- Requirements for all notaries
- Updates to digital certificates
- Updates to electronic seal



# CHANGES TO ADMINISTRATIVE RULES

- Definitions
- Organization
- Good Cause



# ELECTRONIC and ONLINE NOTARIZATIONS: SECRETARY OF STATE RESOURCES

The screenshot shows a web browser window with the URL <https://www.sos.state.tx.us/statdoc/notary-public.shtml>. The page header identifies the Texas Secretary of State as David Whitley. A navigation menu includes links for About the Office, Election Information, Business Filings, Notary Public & Statutory, State Rules & Open Meetings, Uniform Commercial Code, and Border & International. A news banner at the top of the main content area discusses the 2019 Notary Public Conference. The main content area is titled "Notary Public" and contains several bullet points: registration for the 2019 conference is closed; administrative rules governing Texas notaries public have been revised effective August 19, 2018; beginning July 1, 2018, commissioned notaries can apply to be commissioned as an Online Notary Public; Section 406.014 of the Texas Government Code and Section 121.012(b) and (c) of the Texas Civil Practice and Remedies Code were amended; notaries public commissioned for the first time on or after January 1, 2016, and notaries public renewing their commissions on or after that date must have their notary ID number on their seal of office; and a link to update mailing address online. A sidebar on the left contains a "Statutory Documents" section with a search box and a "Forms Index" section with links to various forms and services.

<https://www.sos.state.tx.us/statdoc/notary-public.shtml>

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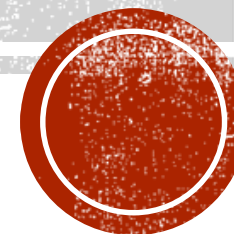


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*Questions?*

*Thank you!*