

7534

I N S E N A T E

May 15, 2014

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to out of state hospital records produced pursuant to subpoena

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision (c) of rule 4518 of the civil practice law and
2 rules, as amended by chapter 170 of the laws of 1994, is amended to read
3 as follows:
4 (c) Other records. All records, writings and other things referred to
5 in sections 2306 and 2307 are admissible in evidence under this rule and
6 are prima facie evidence of the facts contained, provided they bear a
7 certification or authentication by the head of the hospital, laboratory,
8 department or bureau of a municipal corporation or of the state, or by
9 an employee delegated for that purpose or by a qualified physician.
10 Where a hospital record is in the custody of a warehouse, or "warehouse-
11 man" as that term is defined by paragraph (h) of [subdivision]
12 SUBSECTION one of section 7-102 of the uniform commercial code, pursuant
13 to a plan approved in writing by the state commissioner of health,
14 admissibility under this subdivision may be established by a certifi-
15 cation made by the manager of the warehouse that sets forth (i) the
16 authority by which the record is held, including but not limited to a
17 court order, order of the commissioner, or order or resolution of the
18 governing body or official of the hospital, and (ii) that the record has
19 been in the exclusive custody of such warehouse or warehousemen since
20 its receipt from the hospital or, if another has had access to it, the
21 name and address of such person and the date on which and the circum-
22 stances under which such access was had. Any warehouseman providing a
23 certification as required by this subdivision shall have no liability
24 for acts or omissions relating thereto, except for intentional miscon-
25 duct, and the warehouseman is authorized to assess and collect a reason-
26 able charge for providing the certification described by this subdivi-
27 sion. WHERE A HOSPITAL RECORD IS LOCATED IN A JURISDICTION OTHER THAN
28 THIS STATE, ADMISSIBLY UNDER THIS SUBDIVISION MAY BE ESTABLISHED BY

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 EITHER A CERTIFICATION OR AUTHENTICATION BY THE HEAD OF THE HOSPITAL,
2 LABORATORY, DEPARTMENT OR BUREAU OF A MUNICIPAL CORPORATION OR OF THE
3 STATE, OR BY AN EMPLOYEE DELEGATED FOR THAT PURPOSE; OR A CERTIFICATION
4 MADE IN THE MANNER PROVIDED FOR IN THE LAWS OF THE JURISDICTION WHEREIN
5 THE HOSPITAL RECORD IS LOCATED. AN ENDORSEMENT IN THE CERTIFICATION TO
6 THAT EFFECT BY THE CERTIFIER OF THE RECORD SHALL BE PRIMA FACIE PROOF
7 THAT CERTIFICATION HAS BEEN MADE IN THE MANNER PROVIDED FOR IN THE LAWS
8 OF THE RELEVANT JURISDICTION. PROVIDED, HOWEVER, THAT CERTIFICATION OF A
9 HOSPITAL RECORD LOCATED IN A JURISDICTION OUTSIDE THE UNITED STATES, ITS
10 TERRITORIES AND POSSESSIONS, MUST ALSO COMPLY WITH ALL OTHER APPLICABLE
11 PROVISIONS OF THE LAWS OF THIS STATE.

12 S 2. This act shall take effect immediately.