S T A T E O F N E W Y O R K

9858--A

I N A S S E M B L Y

May 27, 2014

Introduced by M. of A. TITONE -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Subdivision (c) of rule 4518 of the civil practice law and rules, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

(c) Other records. All records, writings and other things referred to in sections 2306 and 2307 are admissible in evidence under this rule and are prima facie evidence of the facts contained, provided they bear a certification or authentication by the head of the hospital, laboratory, department or bureau of a municipal corporation or of the state, or by an employee delegated for that purpose or by a qualified physician. Where a hospital record is in the custody of a warehouse, or "warehouseman" as that term is defined by paragraph (h) of [subdivision] SUBSECTION one of section 7-102 of the uniform commercial code, pursuant to a plan approved in writing by the state commissioner of health, admissibility under this subdivision may be established by a certification made by the manager of the warehouse that sets forth (i) the authority by which the record is held, including but not limited to a court order, order of the commissioner, or order or resolution of the governing body or official of the hospital, and (ii) that the record has been in the exclusive custody of such warehouse or warehousemen since its receipt from the hospital or, if another has had access to it, the name and address of such person and the date on which and the circumstances under which such access was had. Any warehouseman providing a certification as required by this subdivision shall have no liability for acts or omissions relating thereto, except for intentional misconduct, and the warehouseman is authorized to assess and collect a reasonable charge for providing the certification described by this subdivision. WHERE A HOSPITAL RECORD IS LOCATED IN A JURISDICTION OTHER THAN

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

LBD15184-02-4

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

S 2. This act shall take effect immediately.