

# STATE OF NEW YORK

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2058

2017-2018 Regular Sessions

## IN SENATE

January 11, 2017

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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)]~~ (thirteen) of ~~[subdivi-~~  
12 ~~sion-one]~~ subsection (a) of section 7-102 of the uniform commercial  
13 code, pursuant to a plan approved in writing by the state commissioner  
14 of health, admissibility under this subdivision may be established by a  
15 certification made by the manager of the warehouse that sets forth (i)  
16 the authority by which the record is held, including but not limited to  
17 a 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-

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

LBD05128-01-7

1 able charge for providing the certification described by this subdivi-  
2 sion. Where a hospital record is located in a jurisdiction other than  
3 this state, admissibility under this subdivision may be established by  
4 either a certification or authentication by the head of the hospital,  
5 laboratory, department or bureau of a municipal corporation or of the  
6 state or by an employee delegated for that purpose, or by a qualified  
7 physician.

8 § 2. This act shall take effect immediately.