

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 665
HOUSE BILL 1016

AN ACT TO AMEND THE SUBPOENA LAW RELATING TO MEDICAL
RECORDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 45(c) is amended by inserting between the third and fourth sentences of that subsection the following new sentences:

"Where the subpoena commands any custodian of hospital medical records (as defined in G.S. 8-44.1) to appear for the sole purpose of producing certain records in his custody, the custodian subpoenaed may, in lieu of a personal appearance, tender to the presiding judge or designee by registered mail or by personal delivery at no cost certified copies of the records requested, on or before the time specified in the subpoena, together with a copy of the subpoena and an affidavit by the custodian testifying to the identity and authenticity of the records, that they are true and correct copies, and as appropriate, that the records were made and kept in the regular course of business at or near the time of the acts, conditions, or events recorded, and that they were made by persons having knowledge of the information set forth; or if no such records are in his custody, an affidavit to that effect. When the copies of medical records are personally delivered, a receipt shall be obtained from the person receiving the records. Any original or certified copy of medical records, or affidavit, delivered according to the provisions of this rule shall not be held inadmissible in any action or proceeding on the grounds that it lacks certification, identification, or authentication, and it shall be received as evidence if otherwise admissible. The copies of the medical records so tendered shall not be open to inspection or copy by any persons, except to the parties to the case or proceeding and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communications under law to be disclosed."

Sec. 2. G.S. 8-44.1 is rewritten to read:

"§ 8-44.1. Hospital medical records. – Copies or originals of hospital medical records shall not be held inadmissible in any court action or proceeding on the grounds that they lack certification, identification, or authentication, and shall be received as evidence if otherwise admissible, in any court or quasi-judicial proceeding, if they have been tendered to the presiding judge or designee by the custodian of the records, in accordance with G.S. 1A-1, Rule 45(c), or if they are certified, identified, and authenticated by the live testimony of the custodian of such records.

Hospital medical records are defined for purposes of this section and G.S. 1A-1, Rule 45(c) as records made in connection with the diagnosis, care and treatment of any patient or the charges for such services except that records covered by G.S. 122-8.1, G.S. 90-109.1 and federal statutory or regulatory provisions regarding alcohol and drug abuse, are subject to the requirements of said statutes."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.