



**LAW OFFICE OF GERALD
OGINSKI, LLC**

35 South Drive
Great Neck, NY 11021

T 516-487-8207

Gerry@Oginski-Law.com

During Trial Can I Take Subpoenaed Medical Records Home to Review?

We're in the middle of a medical malpractice trial in New York, and now, during a break in testimony, I asked the judge whether I can take the medical records that are in evidence home to review to prepare for the next witness. What do you think the judge is going to say? You think he'll say yes? Come join me for a moment as I share with you exactly what the judge is going to say.

Hi, I'm Gerry Oginski. I'm a New York medical malpractice and personal injury attorney practicing law in the state of New York. The judge is going to say, "No, counselor. If you want to read it, you're welcome to sit down at council table, and read it to your hearts content, and prepare, after all the testimony is done for the day. You cannot and will not take information that is in evidence now, and take it home." Now, the defense attorney, if he hasn't had a chance, will already pipe up and say, "Judge, I object to that. I don't know what's going to happen when Mr. Oginski takes those medical records home. I don't know if he's going to remove pages. I don't know if he's going to alter something."

That information, those records, are already in evidence, which means that at the end of the trial, the jury can go ahead and look through every single page of that document. Testimony has been given about what's contained in those records. Now, if an attorney takes those records home, we have no way of knowing whether or not there were alterations. It doesn't matter if the attorney swears not to make any alterations, but he just wants to take it home and study them. No, no, no. You see, the whole purpose of discovery, during the course of a law suit is to get all of the medical records that we need in order to make out a case, to show that we are more likely right than wrong. We will already have all the copies necessary of whatever medical records are involved.

Now, at the time of trial, we will subpoena those original records, or certified copies of those records, into court, so that now they are certified as being accurate photo copies of the original records. Now the jury is going to be relying on that information. We cannot take those records home. Documents and records that are in evidence have to stay in the courtroom. They are protected. They are locked up each and every night by the court officer. Every morning, when we come in the next day, the court officer has to remove those locked records, now put them on council table to be available for the attorneys and the witnesses.

The question can I take those records home, those that are in evidence? The answer, absolutely not. Why do I share this great information with you? I share it with you just to give you an insight and understanding into what goes on in the civil lawsuits involving accident cases, and medical malpractice cases, and wrongful death cases here in New York. I realize you're watching this video because you have questions or concerns regarding your own particular matter. Well, if your matter did happen here in New York, and you're thinking about bringing a lawsuit, but you have questions that need answers first, what I invite you to do is pick up the phone and call me. I can answer your legal questions. You know, this is something I do every single day, and I'd love to talk to you. You can reach me at 516-487-8207, or by e-mail at gerry@oginski-law.com. That's it for today's video. I'm Gerry Oginski. Have a great day.