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What is the Chain of Custody in a Civil Lawsuit Here in New York?

In a civil law suit in New York what is the chain of custody and why is it important for your accident case, or your medical malpractice case, or even your wrongful death case? Do you want to know the answer? Come join me as I share with you some terrific information. Hi, I'm Gerry Oginski. I'm a New York medical malpractice and personal injury attorney practicing law here in the state of New York.

Now, during the course of your trial, we will have to get copies of your medical records into the court house in order to use them to get them into evidence during trial. We will need our witnesses to rely on your medical records in order to give testimony. Why is the chain of custody important? Because the defense doesn't trust us. Likewise, we don't trust the defense when it comes to getting records into evidence. Each side wants to make sure that those records are coming from an impartial outside source.

For example, when we need to get those medical records, those hospital records into evidence, what we do is we serve a subpoena on the hospital. In many instances, the hospital ... what they used to do, is they used to send the original record to the courthouse and that would stay in the subpoenaed record room until the time of trial, but nowadays, what happens is they will go ahead and create a certified copy of the original record, and now they'll have somebody from the hospital certify that this is an accurate photocopy of the original record. They will then mail it directly into the court where it goes right into a subpoenaed record room.

Now, when your case comes up for trial, the court officer will actually go down to the subpoenaed record room, bring up those records, and now they will be available for any attorney who wants to try to get them into evidence. At the time that we are using it at trial, to get those records into evidence, we have to show not only to my adversary, but to the judge, that there was a chain of custody for these particular records.

It's not as if we copied your medical records, sent somebody to the hospital to copy them and now we're offering our copy of the records. No, instead they are a certified copy from the hospital that went directly to the courthouse and from the courthouse directly up into the courtroom. That's the chain of custody, and now when we try to introduce that into evidence, we have the certification from the hospital, and now these are hospital records that we are introducing into evidence. In all likelihood the defense attorney is not going to object unless there are certain things contained in the hospital record itself that might need to be removed or redacted at a later time.

Why don't I share this quick information with you? I share it with you just to give you an insight and an understanding into what goes on in a medical malpractice case, or an accident case, or even a wrongful death case here in New York. I acknowledge and I recognize you're watching this video because you have questions or concerns about your own particular matter.

Well, if your matter did happen here in New York and you're thinking of bringing a lawsuit, but you have questions that you need answered first, what I invite you to do is pick up the phone and call me. I can answer your legal questions. That's something that I do every single day and I'd love to talk to you. You can reach me at 516-487-8207 or by email at gerry@oginski-law.com. That's it for today's video. I'm Gerry Oginski, have a wonderful day.