Florida Law Review

Volume 18 | Issue 3 Article 9

December 1965

Evidence: The Admissibility of Hospital Records Under Florida Statutes, Section 382.31

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EVIDENCE: THE ADMISSIBILITY OF HOSPITAL RECORDS UNDER FLORIDA STATUTES, SECTION 382.31

Florida Statutes, section 382.31, requires that hospitals, public or private, keep "a record of all personal and statistical particulars relative to the inmates of their institutions . . . ."[1] When a statute of this form exists the required records are generally considered public documents and as such are evidentiary exceptions to the hearsay rule.[2] Although Florida seemingly adopts the public documents exception,[3] the statute and the case decision leave in doubt the character and extent of the materials that comprise legitimate hospital records.

The permissibility of using hospital records as a source of evidence varies according to the jurisdiction concerned. For example, some states have specifically limited, either by case or statutory law, the use of hospital records as evidence.[4] When a confidential communication rule is recognized for intercourse between a physician and patient, hospital records have been construed to fall within the privileged area.[5] Massachusetts pointedly restricted the use of such records as

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1. FLA. STAT. §382.31 (1963): "Hospitals and almshouses required to keep records.— All superintendents or managers, or other persons in charge of hospitals, almshouses, lying in or other institutions, public or private, to which persons resort for treatment of diseases, confinement, or are committed by process of law, shall make a record of all the personal and statistical particulars relative to the inmates of their institutions . . . and in case of persons admitted or committed for treatment of disease, the physician in charge shall specify for entry in the record, the nature of the disease, and where, in his opinion, it was contracted, or if injured the nature and cause thereof. The personal particulars and information required by this section shall be obtained from the individual himself if it is practicable to do so; and when they cannot be so obtained, they shall be obtained in as complete a manner as possible from relatives, friends, or other persons acquainted with the facts."

2. 26 AM. JUR. *Hospitals and Asylums* §6 (1953); 32 C.J.S. *Evidence* §626 (1964).

3. With the exception of Florida Power & Light Co. v. Bridgeman, 133 Fla. 195, 182 So. 911 (1938), the cases interpreting FLA. STAT. §382.31 (1963) seem to assume, without special reference thereto, that Florida accepts the Public Documents exception. Cases in other areas specifically note Florida's acceptance. See Smith v. Mott, 100 So. 2d 173 (Fla. 1957); Corbett v. Berg, 152 So. 2d 196 (3d D.C.A. 1963).

4. Banker's Reserve Life Co. v. Harper, 188 Ark. 81, 64 S.W.2d 327 (1933); Lusardi v. Prukop, 116 Cal. App. 506, 2 P.2d 870 (1931); Mutual Benefit Health & Acc. Ass'n v. Bell, 49 Ga. App. 640, 176 S.E. 124 (1934); Consolidated Coach Corp. v. Garmon, 233 Ky. 464, 26 S.W.2d 20 (1930); National Life & Acc. Ins. Co. v. Cox, 174 Ky. 683, 192 S.W. 636 (1917); Dolan v. Metropolitan Life Ins. Co., 11 La. App. 276, 123 So. 379 (1924); State v. Shapiro, 89 N.J.L. 319, 98 Atl. 437 (1916); McGine v. State Mutual Benefit Soc'y, 124 Pa. Super. 602, 189 Atl. 889 (1937). See Annot., 120 A.L.R. 1136 (1939); Annot., 75 A.L.R. 378 (1931).

5. Massachusetts Mut. Life Ins. Co. v. Michigan Asylum, 178 Mich. 193, 144 N.W. 538 (1913); Smart v. Kansas City, 208 Mo. 162, 105 S.W. 709 (1907); Rush

evidence to the areas that will not touch upon issues of civil or criminal liability.[6] Some courts have denied the use of hospital records as proof because they contained opinion[7] or self-serving declarations,[8] were speculative,[9] or had not been preceded by the laying of a proper foundation.[10] The usual obstacle, however, is the prohibitory barrier of the hearsay rule.

Hearsay evidence is denied admission because the opposing party is precluded from cross-examining the source of the information. Furthermore, the fact finder has neither the opportunity to observe the witness' demeanor nor the assurance that he is properly qualified to testify with regard to the matter seeking admission.[11] Thus, a hospital record may be declared inadmissible on the theory that those responsible for the writings are not present for cross-examination and observation.[12]

Under certain well established exceptions to the hearsay rule, however, hospital records may be admitted without the attendant requirements of cross examination and observation as proof of the facts to which their contents relate. A widely accepted exception covers records kept incident to the regular course of business.[13] Hence in jurisdictions that consider hospitals to be included within the definition of a business, the records regularly kept, such as those relating to diagnosis and care of patients, are admitted into evidence as exceptions to the hearsay rule.[14]

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v. Metropolitan Life Ins. Co., 63 S.W.2d 453 (Ct. App. Mo. 1933); Mehegan v. Faber, 158 Wis. 645, 149 N.W. 397 (1914).

6. Kelly v. Jordan Marsh Co., 278 Mass. 101, 179 N.E. 299 (1932); Inangelo v. Petterson, 236 Mass. 439, 128 N.E. 713 (1920).

7. Reed v. Order of United Commercial Travelers, 123 F.2d 252 (2d Cir. 1941); Becker v. United States, 145 F.2d 171 (7th Cir. 1944).

8. Williams v. Alexander, 30 N.Y.2d 283, 129 N.E.2d 417 (1955); Perry v. Industrial Comm'n, 160 Ohio St. 520, 117 N.E.2d 34 (1954).

9. Green v. City of Cleveland, 50 Ohio L. Abs. 605, 79 N.E.2d 676 (1948); Peagler v. Atlantic Coast Line R.R., 234 S.C. 140, 107 S.E.2d 15 (1959).

10. Globe Indem. Co. v. Reinhart, 152 Md. 439, 137 Atl. 43 (1927); Lund v. Olson, 182 Minn. 204, 234 N.W. 310 (1931); Clayton v. Metropolitan Life Ins. Co., 96 Utah 331, 85 P.2d 819 (1938).

11. 20 AM. JUR. *Evidence* §452 (1953); 5 WIGMORE, EVIDENCE §1362 (3d ed. 1940).

12. Mutual Benefit Health & Acc. Ass'n v. Bell, 49 Ga. App. 640, 176 S.E. 124 (1934); Job v. Grand Trunk Ry., 245 Mich. 353, 222 N.W. 723 (1929); Griekel v. Brooklyn Heights R.R., 95 App. Div. 214, 88 N.Y. Supp. 767 (1904).

13. 5 WIGMORE, EVIDENCE §1517 (3d ed. 1940).

14. See Reed v. Order of United Commercial Travelers, 123 F.2d 252 (2d Cir. 1941); Bailey v. Tennessee Coal, Iron & R.R., 261 Ala. 526, 75 So. 2d 117 (1954); D'Amato v. Johnston, 140 Conn. 54, 97 A.2d 893 (1953); Grossman v. Delaware Elec. Power Co., 34 Del. 521, 155 Atl. 806 (1929); Schmidt v. Riemenschneider, 196 Minn. 612, 265 N.W. 816 (1936); Weis v. Weis, 147 Ohio St. 416, 72 N.E.2d 245 (1947); Pickering v. Peskind, 43 Ohio App. 401, 183 N.E. 301 (1930); Conlon v.

Akin to the business records exception is the common law shop book rule by which one's account books were admissible under certain conditions as evidence of the facts sought to be proved.[15] Today most states have supplemented the shop book rule with a form of the Uniform Business Records as Evidence Act.[16]

Other courts have decided that hospital records are admissible when preceded by the laying of a proper predicate, that is, proof of character, authenticity, correctness, and regularity.[17]

The last major exception to the hearsay rule through which hospital records have been admitted into evidence are records required to be kept by statute.[18] As public documents such records need not conform to the normal requisites for admissibility.[19]

The Florida Hospital Records Statute, Florida Statutes, section 382.31, is well within the allowable area of the public documents doctrine. Further, the language of this law conforms substantially to the wording of similar statutes in other jurisdictions.[20] Grammatical similarity, however, does not necessarily infer interpretive congruity. Florida courts, unlike some others, have done little to establish clear standards and guidelines in this nebulous area.

John Hancock Mut. Life Ins. Co., 56 R.I. 88, 183 Atl. 850 (1936); Murgatroyd v. Dudley, 184 Wash. 222, 50 P.2d 1025 (1935).

15. 5 WIGMORE, EVIDENCE §§1518 1 (a), 2 (a) (3d ed. 1940).

16. 5 WIGMORE, EVIDENCE §1520 (3d ed. 1940). For application of the Uniform Act to hospital records see Weller v. Fish Transport Co., 123 Conn. 49, 192 Atl. 317 (1937); Beverly Beach Club Inc. v. Marron, 172 Md. 471, 192 Atl. 278 (1937); Sadjak v. Parker-Wolverine Co., 281 Mich. 84, 274 N.W. 719 (1937). Florida has adopted a similar statute, FLA. STAT. §92.36 (1963). See also Ginsberg, *The Admissibility of Business Records as Evidence*, 29 NEB. L. REV. 60 (1950).

17. Carney v. RKO Radio Pictures, 78 Cal. App. 2d 659, 178 P.2d 482 (1947); Whittaker v. Thornberry, 306 Ky. 830, 209 S.W.2d 498 (1948); Greene v. Greene, 145 Miss. 87, 110 So. 218 (1927); Sommer v. Guardian Life Ins. Co., 253 App. Div. 763, 300 N.Y. Supp. 938 (Sup. Ct. 1937); Young v. Liddington, 50 Wash. 2d 649, 309 P.2d 761 (1957).

18. Missouri Pac. R.R. v. Soileau, 265 F.2d 90 (5th Cir. 1959); Borucki v. MacKenzie Bros. Co., 125 Conn. 92, 3 A.2d 224 (1938); Leonard v. Boston Elevated Ry., 234 Mass. 480, 125 N.E. 593 (1920); Gile v. Hudnutt, 279 Mich. 358, 272 N.W. 706 (1937); Allen v. American Life & Acc. Ins. Co., 119 S.W.2d 450 (Ct. App. Mo. 1938); Kirkpatrick v. Wells, 319 Mo. 1040, 6 S.W.2d 591 (1928); Galli v. Wells, 209 Mo. App. 460, 239 S.W. 894 (1922); Cassidy v. Cincinnati Tractor Co., 21 Ohio N.P. (n.s.) 125 (C.P. 1917); Hampton v. State, 111 Wis. 127, 86 N.W. 596 (1901).

19. 5 WIGMORE, EVIDENCE §§1630, 1633 (a) (3d ed. 1940).

20. N.J. STAT. ANN. §26:8-5 (1964); TEX. REV. CIV. STAT. ANN. art. 4477, Rule 50 (a) (1960). For variation in language from that of FLA. STAT. §382.31 (1963) see LA. REV. STAT. §13:3714 (Supp. 1964); MASS. ANN. LAWS ch. 111, §70, (1954), ch. 233, §79 (1956); MO. REV. STAT. ANN. §193.270 (1959); OHIO REV. CODE ANN. §749.15 (1964).

A perusal of the cases applying the Florida statute reveals that a physician's "progress and consultation" notes are inadmissible under the public documents exception,[21] while a hearsay recordation relating to the cause of an infection is deemed acceptable;[22] a notation showing the time of admittance into the hospital is excluded,[23] yet an identification record that relies solely upon the driver's license of an unconscious admittee is acceptable evidence in proof of the identity of that patient.[24] In general terms, it has been stated that an admissible hospital record should be one relating to diagnosis and treatment of the patient,[25] but the fact that the papers in the record are prepared during the course of a person's hospital confinement does not in itself qualify them as hospital records within the exception.[26] Consequently, the practicing attorney is often uncertain whether a particular segment of his evidence conforms to the generic classification of a medical record. In doubt, he is therefore forced to prepare alternative, and usually expensive, means of evidentiary presentation.[27]

The decisions interpreting similar statutes in other states have been somewhat more liberal and definitive than the Florida cases.[28] Texas, for example, has a statute[29] applicable to all public hospitals in that state. The Texas statute is almost identical to Florida Statutes, section 382.31. In construing this law the Texas courts have apparently taken a broad view of the legislature's intent declaring: "A record or document kept or prepared by a person whose public duty is to record truly the facts stated therein is, when relevant, admissible as prima facie evidence of such facts."[30] The Texas court further reasoned that since public hospitals are required to keep a "record of the condition of each patient when admitted and from time to time thereafter," such a record is clearly contemplated as a public document, not to be restricted to the private use of the hospital, but to be accorded the full status and availability of a public record.[31]

21. Chilton v. Dockstader, 126 So. 2d 281 (2d D.C.A. Fla. 1961).
22. Jarvis v. Miami Retreat Foundation, 128 So. 2d 393 (Fla. 1961).
23. Florida Power & Light Co. v. Bridgeman, 133 Fla. 195, 182 So. 911 (1938).
24. Stettler v. Huggins, 134 So. 2d 534 (3d D.C.A. Fla. 1961).
25. Jarvis v. Miami Retreat Foundation, 128 So. 2d 393 (Fla. 1961).
26. Chilton v. Dockstader, 126 So. 2d 281 (2d D.C.A. Fla. 1961).
27. The attorney may have to call several witnesses as opposed to the use of the records prepared by the same witnesses.
28. See Annot., 75 A.L.R. 378 (1931), 120 A.L.R. 1124 (1939); 38 A.L.R.2d 778 (1954).
29. TEX. REV. CIV. STAT. ANN. art. 4477, Rule 50(a) (1960).
30. Dallas Coffee & Tea Co. v. Williams, 45 S.W.2d 724, 729 (Civ. App. Tex. 1931), quoting from 22 C.J. §914, 801 (1920).
31. *Id.* at 730.

Decisions under the Texas statute have held hospital records admissible in evidence to show per capita cost incurred by the state in supporting a lunatic,[32] for recovery in a disability suit in which the witness did not have any personal knowledge of the matter stated in the record and did not know who made or kept the entries in the record,[33] to prove the liability of a hospital by showing, from the record, the cause of an injury and the history of treatment.[34]

The Missouri courts have been equally broad in construing their hospital records statute.[35] Because the statute requires hospitals to maintain certain records, the courts have decided that such records are public documents and, therefore, it is not necessary that the law under which they are maintained additionally provide when they shall be admitted as evidence in the courts.[36] In ruling on the admissibility of a hospital record showing the disease a patient had while confined in a hospital, the Missouri Supreme Court declared: "Under the general rule *all* records required to be kept by law are admissible if properly identified."[37] This attitude with regard to mandatory hospital records has been continually reemphasized by the Missouri courts.[38]

Louisiana,[39] Massachusetts,[40] and Ohio[41] have hospital records statutes, which on their face appear more restrictive than Florida's, yet the liberality of their application exceeds that of the Florida courts.[42] Ohio, for example, has a statute that provides the control of municipal hospitals will be vested in the director of public safety,

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32. Lokey v. State, 291 S.W. 966 (Civ. App. Tex. 1927).

33. Houston Life Ins. Co. v. Dabbs, 95 S.W.2d 484 (Civ. App. Tex. 1936).

34. Brown v. Shannon West Tex. Memorial Hosp., 222 S.W.2d 248 (Civ. App. Tex. 1949).

35. Mo. Rev. Stat. Ann., §193.270 (1959).

36. Galli v. Wells, 209 Mo. App. 460, 239 S.W. 894 (1922).

37. Kirkpatrick v. Wells, 319 Mo. 1040, 6 S.W.2d 591, 593 (Ct. App. Mo. 1928).

38. Vermillion v. Prudential Life Ins. Co. of America, 230 Mo. App. 993, 93 S.W.2d 45 (1936); Allen v. American Life & Acc. Ins. Co., 83 S.W.2d 192 (Ct. App. Mo. 1935); Shaw v. American Ins. Union, 33 S.W.2d 1052 (Ct. App. Mo. 1931); Marx v. Parks, 39 S.W.2d 570 (Ct. App. Mo. 1931); Borrson v. Missouri-Kan.-Tex. R.R., 351 Mo. 214, 172 S.W.2d 826 (1943).

39. La. Rev. Stat. §13:3714 (Supp. 1964).

40. Mass. Ann. Laws ch. 111, §70, ch. 233, §79 (Supp. 1964).

41. Ohio Rev. Code Ann. §749.15 (1964).

42. Lepine v. First Nat'l Life Ins. Co., 184 So. 376 (Ct. App. La. 1938); Unterberg v. Boston Elevated Ry., 265 Mass. 482, 164 N.E. 478 (Sup. Jud. Ct. Mass. 1929); Leonard v. Boston Elevated Ry., 234 Mass. 480, 125 N.E. 593 (Sup. Jud. Ct. Mass. 1920); Burke v. John Hancock Mut. Life Ins. Co., 290 Mass. 299, 195 N.E. 507 (Sup. Ct. Mass. 1935); Raymond v. Flint, 225 Mass. 521, 114 N.E. 811 (Sup. Ct. Mass. 1917); Lumpkin v. Metropolitan Life Ins. Co., 750 Ohio App. 310, 62 N.E.2d 189 (Ct. App. Ohio 1945); Wills v. Nat'l Life & Acc. Ins. Co., 280 Ohio App. 497, 162 N.E. 822 (Ct. App. Ohio 1928).

and that in the exercise of such control the director may promulgate reasonable regulations. Pursuant to this statute, the director ordered all municipal hospitals to keep patients' records. This directive has been deemed sufficient by the Ohio courts to place hospital records kept in conformance to the regulation, within the public documents exception to the hearsay rule. "It therefore seems . . . that these statutory provisions taken together with the rule of the Director of Public Safety make the record admitted in evidence. . . a Public document . . . ."[43]

The public or official documents exception has been supported by Professor Wigmore on the twin theories of necessity and duty.[44] The necessity theory arises from the idea that to require the public official who has prepared the record always to testify *viva voce* would be to convert him to a Promethean officer perpetually chained to the witness stand. The extent of this court time would endanger the proper execution of his official duties. The duty theory simply presumes that the officer will fulfill his duty by conforming to the statutory requirement, and the law further assumes that there is a great probability his official entries will be correct. Although Florida cases give lip service to the public documents exception to the hearsay rule, it is questionable whether the courts actually embrace the rationale underlying this doctrine when faced with the admissibility of a hospital record.

Florida courts have experienced little difficulty admitting official documents, or even copies thereof, in areas other than hospital records.[45] Municipal ordinances may be proved by copies duly certified by the city clerk.[46] A record of a board of county commissioners, kept by the county clerk, is acceptable evidence.[47] Land office records recorded under the hand and seal of a commissioner are evidence of the facts contained therein,[48] as are records and reports prepared by the secretary of state.[49] In each of these cases the record reflected the duty or knowledge of its maker with respect to a particular subject. Should not a record prepared by a physician, nurse, or other hospital employee, which reflects that person's duty, knowledge, training, or skill be similarly accepted? Why is a record prepared by a tax assessor more reputable than that prepared by an attending physician? Excluding a record that contains self-serving declarations by a patient

43. Cassidy v. Cincinnati Tractor Co., 21 Ohio N.P. (n.s.) 125, 126 (C.P. 1917).

44. 5 WIGMORE, EVIDENCE §§1631, 1632 (3d ed. 1940).

45. Florida has numerous statutory provisions relating to the admission of records, documents, and copies thereof; see FLA. STAT. §§92.01-.39 (1963).

46. Florida Cent. & Peninsular R.R. v. Seymour, 44 Fla. 557, 33 So. 424 (1903).

47. Johnson v. Wakulla County, 28 Fla. 720, 9 So. 690 (1891).

48. Ropes v. Kemps, 38 Fla. 233, 20 So. 992 (1896).

49. Gwynn v. Hardee, 92 Fla. 543, 110 So. 343 (1926).

is understandable, but an exclusion of a doctor's progress notes appears unjustified. The better rule is that if a record is required to be kept by law and it reasonably reflects the expertise and duty of its maker it should be admitted.

Regardless of the rule or standard chosen the practicing attorney prefers certainty in the determination of what constitutes a hospital record for the purpose of admissibility in a court proceeding. Acknowledging the need for guidance, what are the possible remedies to correct the present deficiency?

One means of clarification is for the courts to reconsider their past decisions and speak specifically on this subject. While it is true that present judicial standards are somewhat indefinite, the Florida courts should not be cast as always reluctant to extend themselves in this area. In *Jarvis v. Miami Retreat Foundation*[50] the court ignored the specific requirement of Florida Statutes, section 382.31, that the records be kept by superintendents, managers, or other persons in charge of the hospital and stated that they may be kept "by those persons who are in charge of performing the services offered by the hospital and possess knowledge of the matters to be written in the record."[51] In the same case, the court cautioned that not all records kept under the statute should be given the status of admissible evidence. It implied that only those records related to the "diagnosis and treatment of the patient" would be admissible, but held that the term "diagnosis" can encompass the relating of the cause leading to an infection, and that "the cause leading to the infection would seem to be necessary information to be considered in diagnosis of the condition."[52] The statutory command to keep *all* personal and statistical particulars relative to the inmates was clearly ignored by the court.

In another decision the Third District Court ruled that hospital records were admissible as *business records* under Florida Statutes, section 92.36[53] and that their probative force of evidence was "enhanced" by Florida Statutes, section 382.31.[54] Apparently the district

50. 128 So. 2d 393 (Fla. 1961).

51. *Id.* at 397.

52. *Ibid.* The fact that this action was initiated under the less technical and formal proceeding of a workmen's compensation case may weaken the court's limited "diagnosis rule" for the determination of admissibility.

53. Uniform Business Records as Evidence Act.

54. Stettler v. Huggins, 134 So. 2d 534 (3d D.C.A. Fla. 1961). The Second District Court has affirmed the admission of hospital records under the auspices of the Uniform Business Records as Evidence Act, FLA. STAT. §92.36 (1963), thus apparently following the established preference of the Third District Court. Exchange Nat'l Bank of Tampa v. Hospital & Welfare Bd. of Hillsborough County, 181 So. 2d 9 (2d D.C.A. Fla. 1965).

court preferred the broader business records exception to the hearsay rule over that of the public documents theory.

Consequently, the Florida Supreme Court, to provide guidance, is in the enviable position of being able to choose one of two established alternatives. First, it might enlarge upon what is to be considered "diagnosis and treatment." This choice has an advantage in that support is readily available from the language of the statute itself. Support is derived from such words as "shall make a record of *all* the personal and statistical particulars relative to the inmates . . . ." and "The personal particulars and information . . . shall be obtained . . . in as complete a manner as possible from relatives, friends, or *other* persons acquainted with the facts." (Emphasis added.) Or it may accept the business records theory pressed by the Third District Court of Appeal. The former alternative appears to be the better of the two. It would not be as expansive as the business records exception thus allowing the court to confine admissibility to those matters particularly reflecting the expertise, knowledge, and required function of the record maker.

A second means of clarification and guidance could be provided by the legislature. Legislation could more specifically enumerate the character of the records required, or, like Missouri,[55] allow the entry of *all* records kept pursuant to the present statute. Also, the legislature might adopt the Massachusetts view that while certain records should be kept, these records must not be used for proof of civil or criminal liability;[56] or, perhaps, the legislature would prefer a statutory incorporation of other rules and regulations to which hospitals now conform. For instance, the Florida State Board of Health has a regulation regarding the keeping of hospital records, which is quite explicit:[57]

> Medical records shall be maintained on each patient admitted for care in a hospital. *All* clinical information pertaining to a patient shall be centralized in a patient's record.
>
> (a) Staff physicians of hospitals shall be responsible for medical histories and examination and for authentication by signature of the medical record.
>
> (b) Medical records shall contain the following information: identification data, complaint, present illness, past history, family history, physical examination, consultation, clinical laboratory reports, provisional diagnosis, and autopsy findings.

55. See Kirkpatrick v. Wells, 319 Mo. 1040, 6 S.W.2d 591 (1928).
56. See cases cited note 6 *supra*.
57. FLA. ADMINISTRATIVE CODE §170D-1.12 (2) (1963).

Also, most reputable hospitals have in-house rules regarding the creation and maintenance of patient records. Hospitals accredited by the Joint Commission on Accreditation of Hospitals[58] must keep records that conform substantially to the standards set by the Joint Commission. The minimum allowable standard is similar to section (b) of the above quoted State Board of Health regulation.[59]

CONCLUSION

Courts are traditionally leary of hearsay evidence because of its great potentiality to be false or misinterpreted, and the Florida courts are to be commended for their continued attention, control, and surveillance over the use of such evidence. But it is questionable, in the case of hospital records, whether this zealous attitude is actually necessary. As far as the hospital is concerned there could be no more important record than one that relates to diagnosis, condition, and treatment of its patients. This record is compiled not only from the attending physician's personal observations but by nurses and interns who are aware of the patient's continuing condition. A physician naturally depends upon this record to keep him informed of the patient's status as well as to guide him in the selection of proper treatments.[60] Why should such a record not be reliable? There is every reason to suspect that the entries contained therein are accurate and correct to the best ability of their progenitor. The maker certainly realizes that the treatment of the patient depends largely on this record and that incorrect notations could have disastrous results. In comparing the reliability of a hospital record against a normal business entry, one might wonder whether a clerk in a business office is as cognizant of the consequences of his entries as is the hospital physician preparing a patient's record.

Hospital records should be admitted into evidence when their contents reflect the expertise, skill, and training of their maker and when such contents reasonably relate to the facts sought to be proved. The Florida courts or the legislature would be little criticized if they adopt as a standard for public documents the present Board of Health regulations or the requirements of the Joint Commission.

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58. The Joint Commission is composed of: American Medical Association, American College of Surgeons, American College of Physicians, and the American Hospital Association.

59. For amplification of the Commission's standards, see HAYT & HAYT, LEGAL ASPECTS OF MEDICAL RECORDS 1-35 (1964).

60. It should be noted that a physician, serving as an expert witness, frequently relies upon and refers to the hospital record in the preparation and presentation of his testimony.