

## **CHAPTER 31-08 PRIVATE RECORDS AND WRITINGS**

### **31-08-01. Admissibility in evidence of business records - Term business defined - Exception.**

A record of an act, condition, or event is competent evidence insofar as relevant, if:

1. The custodian or other qualified witness testifies to its identity and the mode of its preparation.
2. It was made in the regular course of business, at or near the time of the act, condition, or event.
3. The sources of information and the method and time of preparation, in the opinion of the court, were such as to justify its admission.

For the purpose of this section, the term "business" includes every kind of business, profession, occupation, calling, or operation of institutions, whether carried on for profit or not.

#### **31-08-01.1. Certain copies of business and public records admissible in evidence.**

If any business, institution, member of a profession or calling, or any department or agency of government in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation, or combination thereof, of any act, transaction, occurrence, or event, and in the regular course of business has caused any or all of the same to be recorded, copied, or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, optical disk, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether or not the original is in existence and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of the court. The introduction of a reproduced record, enlargement, or facsimile does not preclude admission of the original.

#### **31-08-01.2. Medical records authentication.**

If appropriate safeguards have been taken to limit access to medical records in an electronic data storage system, a medical record in an electronic data storage system may be authenticated by an electronic signature or a computer-generated signature code.

#### **31-08-01.3. Medical records recording.**

The recording of hospital medical records by an electronic image system or reproduction process is considered a photographic process. The making or recording of hospital medical records by electronic data processing systems is considered an original written record, and printout or other types of retrieved information in written or printed form must be treated as original records in all courts or administrative agencies for the purpose of its admissibility into evidence.

#### **31-08-02. Proof of witnessed written instruments.**

In proving any written instrument or contract to which there is a subscribing witness, or to which there are two or more subscribing witnesses, it shall not be necessary to call any such witness or witnesses, but the instrument or contract may be proved, except for purposes of filing or recording the same, by the evidence by which an instrument or contract to which there is no subscribing witness may be proved. It shall not be permissible, in any case, to prove such instrument or contract by proof of the handwriting of the subscribing witness or witnesses, but in all cases such instrument or contract must be proved in the same manner as one having no subscribing witness whatever.

**31-08-02.1. Handwriting admissible in evidence for comparison.**

The handwriting of any person shall be competent evidence for the purpose of furnishing a standard of comparison, in all cases wherein the genuineness of a writing is questioned or the identity of the writer is sought to be established.

**31-08-03. Proof of writing by admission of genuineness - Effect of refusal to give admission.**

Superseded by N.D.R.Civ.P. 36, 37(c).

**31-08-04. How copy or inspection of writing in hands of adverse party obtainable - Effect of refusal to give.**

Superseded by N.D.R.Civ.P. 34.

**31-08-05. Statistical tables admissible to establish life expectancy.**

In all cases in which the probable duration of the natural life of any person from and after a particular age is material, standard statistical tables of mortality are competent evidence of such probable duration or expectation of life.

**31-08-06. When instruments affecting real property, or records or copies of records thereof, admissible in evidence.**

Every instrument conveying or affecting real property which has been acknowledged or proved and certified as provided by the laws of this state, together with the certificate of acknowledgment or proof, may be read in evidence in an action or proceeding without any further proof. The record of such instrument, or a duly authenticated copy of the record, may be read in evidence with the same effect as the original, on proof by affidavit or otherwise that the original is not in the possession or under the control of the party producing such record or copy.

**31-08-07. Copies of statements to be provided - When statement admissible.**

Every insurance adjuster, attorney, or any other person who takes the statement of an individual, who may be a party to possible litigation, for use or possible use in the preparation of or trying of a civil suit arising out of a tortious act, and whether said statement be in writing or by any device which records matters stated, other than depositions and court proceedings, shall provide a copy of the statement to the person from whom said statement was taken within thirty days of the making of the statement. No such statement shall be used directly or indirectly in connection with a civil action unless submitted to the person as required herein.