

Operating Room: Circulating Nurse, Technician Share Liability With Surgeons For Lap Sponge Left In Patient.

The surgeon, the circulating nurse and the surgical technician are all legally responsible if there is an incorrect sponge count in the operating room, and something is left inside the patient which results in a lawsuit for negligence.

Often the victim will elect to seek compensation only out of the physicians' and the hospital's "deep pockets," but there is no legal requirement that the patient limit his or her lawsuit in that manner.

The jury was correct in apportioning responsibility for the \$500,000.00 civil negligence verdict equally among the circulating nurse, the surgical technician and the two surgeons for a bad sponge count.

A lap sponge was left in the patient during a cesarean. It had to be removed, and that surgery led to adhesions which led to a bowel obstruction.

SUPERIOR COURT OF NEW JERSEY,
APPELLATE DIVISION, 1997.

The Superior Court of New Jersey, Appellate Division, has just upheld a jury's verdict that a nurse, a scrub tech and the two doctors are each personally liable to the same degree to pay a share of the civil damages awarded to a patient for medical complications from a lap sponge being left inside her. **Golinski vs. Hackensack Medical Center**, 690 A. 2d 147 (N.J. Super., 1997).

Operating Room: Training Of Personnel Must Be Documented, Court Says.

If a surgical facility is sued over an incident in the operating room, it may have to prove that all surgical personnel present had been cleared and documented before the fact as competently trained for the specific tasks and procedure in question.

Assignment of surgical personnel to specific tasks and specific procedures in the operating must be based on their individual qualifications.

It is negligent for a surgical facility to permit a surgical technician to perform tasks, such as holding retractors, for which the technician does not have specific training.

It is negligent for a surgical facility to assign a surgical technician to a procedure with which the technician is unfamiliar.

Training and familiarity with procedures performed on adults is not necessarily directly transferable to pediatric situations.

Surgical techs should have an understanding of human anatomy, as it relates to the risk posed by improper handling of their responsibilities.

SUPREME COURT OF ALABAMA, 1997.

To protect its patients, a hospital or other healthcare facility offering surgical services must see that its operating room personnel have been adequately trained.

To protect itself from civil liability for negligence, a surgical facility should document, before the fact, that its surgical personnel have been adequately trained for the specific tasks they will be asked to perform and that they are familiar with the specific procedures they will be involved in, according to a recent case from the Supreme Court of Alabama.

This case involved a surgical technician. At the time of the incident in question, the court noted, surgical techs were not subject to mandatory licensing or required certification under state law. The court nevertheless looked for guidance to the then-current version of "Standards and Recommended Practices for Perioperative Nursing" published by the AORN. This publication was accepted by the court as evidence of the legal standard of care. The court believed the publication established a necessity for surgical personnel to have specific training in the tasks and procedures they were asked to perform.

Specifically, the surgical technician in this case should not have been allowed to hold retractors in a pediatric hip arthroplasty. Never having been trained for that task with pediatric patients, the technician was not aware of the risk to the sciatic nerve that could result from even the slightest deviation from the surgeon's manual positioning of the retractor.

The court was willing to accept the qualifications of a registered nurse with considerable operating room experience who had held local offices with AORN who was well versed in the Joint Commission's standards for perioperative nursing as an expert witness. She testified against the hospital. The verdict against the hospital was in excess of \$800,000.00. **Healthtrust vs. Cantrell**, 689 So. 2d 822 (Ala., 1997).