

## Operating Room Nursing: Nurses Are Responsible For Correct Sponge Counts, Court Rules.

**T**he New York Supreme Court, Appellate Division, ruled that the surgeon was not negligent and should be dismissed from the case. The court placed legal responsibility squarely upon the operating-room nurses for a laparotomy pad being left inside a surgical patient.

***The court accepted the testimony of a registered nurse with substantial operating room experience, that the operating-room nurses are responsible for making sure that no foreign objects remain in a patient's body at the end of surgery.***

NEW YORK SUPREME COURT,  
APPELLATE DIVISION, 1996.

The operating-room nurses, and not the surgeon, according to the court, have the legal responsibility to insure that no foreign object is left inside a patient's body, by keeping correct counts of sponges, needles and surgical instruments. **Stafford vs. Molinoff**, 645 N.Y.S. 2d 313 (N.Y. App., 1996).

(Editor's Note: This is an anomalous ruling. Most U.S. jurisdictions have a "captain-of-the-ship" rule that makes the surgeon's "deep pockets" available to a surgical patient who sues over any aspect operating-room care, even issues like sponge, needle and instrument counts over which the surgeon has no actual control.

However, even where the surgeon is considered captain of the ship nurses and other surgical personnel are still accountable to patients for their own actions. They and their employers can be sued for their negligent acts and omissions, along with the surgeon.)

## Ulnar Nerve Injury Alleged From Surgery: Hospital Not Liable - Circulating Nurse's Documentation Of Patient's Positioning Carries The Day.

***In this case, a detailed record was made in the chart by the circulating nurse of the positioning of the patient for a right total hip replacement. The nurse's entry was written in the operating room, at the time of the events in question, not after-the-fact.***

***The circulating nurse noted how the patient's body was positioned. She stated exactly how each hand and arm was padded and how each arm was extended to keep it away from where the surgeons would be standing.***

***Expert medical witnesses reviewed the circulating nurse's note. They all concluded it established affirmatively that the proper standard of care had been met for positioning and stabilizing the patient's body and arms and for cushioning her right hand and arm during surgery.***

***The nurse's note was proof of no negligence had occurred. Therefore, the legal rule of res ipsa loquitur did not apply.***

COURT OF APPEAL OF LOUISIANA, 1996.

**T**he patient sued the surgeon and the hospital over persistent numbness in her right hand, which she first noticed after her total right hip replacement. Her suit alleged the numbness was an ulnar nerve injury from improper positioning or from the surgeon pressing against her arm or hand in surgery.

The Court of Appeal of Louisiana upheld the jury in a lower court which exonerated all defendants from blame. The reason for the favorable result was the effort the circulating nurse made to document in precise detail how the patient had been positioned, stabilized and padded before surgery, and specifically her documentation of the steps taken to extend the patient's arms out of harm's way and to pad her arms and hands to avoid positioning- or pressure-related injury.

The court record reiterated the circulating nurse's note verbatim:

"#6 table with safety strap in place 2" above knees - supine with bean bag underneath patient post induction & catheter insertion into the left side, with right side up, per \_\_M.D. & \_\_M.D. - auxiliary roll in place (1000cc bag IV fluid wrapped in muslin cover) - held in place per surgeons until bean bag deflated with suction - pillow placed under right leg with left leg bent slightly - U drape in place per surgeons pre prep - left arm extended on padded arm board - right arm placed on mayo tray that is padded."

It was critical that the nurse wrote a detailed statement exactly how the patient was positioned and padded, and that the nurse refrained from unsubstantiated judgmental assertions like merely stating that the patient was positioned properly or in a manner designed to avoid injury. **Shahine vs. Louisiana State University Medical Center**, 680 So. 2d 1352 (La. App., 1996).