

Sponge Count Off: Court Awards Patient Damages.

The twenty-eight year-old patient underwent a laparoscopic lap-band procedure intended for weight control.

Afterward there was unusual drainage at the site of the incision for the lap-band port. A CT scan showed haziness at the wound site which was interpreted as a possible retained lap sponge. The patient came back seventeen days after the original surgery for an exploratory procedure during which a crumpled lap sponge was removed from just under the skin near the incision for the lap-band port.

All three required sponge counts were accurate and complete according to the charting done by the circulating nurse and the surgical technician.

However, the third count must have been wrong, because there was a crumpled lap sponge found just under the skin where the surgeon had inserted the port for the lap band.

COURT OF APPEAL OF LOUISIANA
October 5, 2011

The Court of Appeal of Louisiana upheld a judgment in the patient's favor splitting fault 50/50 between the surgeon and the hospital.

The circulating nurse and surgical tech had no actual recollection of this particular case when they testified in court.

In their testimony the circulating nurse and the surgical technician outlined in detail the hospital's three-step procedure for sponge and instrument counts, all of which were ostensibly correct in this case according to their documentation.

Notwithstanding their complete understanding of procedures and their ostensibly correct chart record, a lap sponge was in fact left inside this patient and they were partly responsible, the Court ruled. Davis v. Women and Children's, __ So. 3d __, 2011 WL 4579137 (La. App., October 5, 2011).

Patient Fall: Nurse Did Not Turn Bed Alarm Back On.

The eighty-six year-old patient was admitted to the hospital after she fell at home.

Due to her classification as a high fall risk the orders were to raise the side rails on both sides of the patient's bed.

In addition, the patient had an alarm which activated a warning light if and when the patient made contact with the floor near the bed.

The patient was found on the floor of her room at 5:30 a.m. with a fractured right femur. She had apparently injured herself climbing over the bed rails out of bed or by falling down soon after she got out of bed.

The chart contained notations of the night nurse's neuro checks on the patient before midnight and again at 4:00 a.m.

The patient's nursing experts believed the night nurse or one of the aides must have turned off the bed alarm when checking on the patient and neglected to turn it back on.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
October 18, 2011

The Superior Court of New Jersey ruled the family's lawyers could not add the nursing personnel individually as defendants because the family's lawyers waited until after the statute of limitations had expired. A lawsuit was filed in time, but only against the hospital itself, seeking damages for the fracture and claiming that the fall caused the onset of her dementia.

The patient's lawyers obtained a copy of her chart even before they sued the hospital. The chart identified the night nurse and the aides involved in her care. Their documentation tended to allow for the theory that the bed alarm was not turned on again after a nighttime neuro check. Ruday v. Shore Mem. Hosp., 2011 WL 4916411 (N.J. App., October 18, 2011).

Quad Care: Nurses Admit They Falsified Ventilator Care Flow Sheets.

The patient was an eleven year-old who had become a ventilator-dependent quadriplegic as a result of a motor vehicle accident at age five.

He lived at home. A respiratory therapist dropped in during the day and nurses stayed with him day and night.

At 1:30 a.m. his night nurse found him pale and cold. The parents called 911. The paramedics could do nothing for him and pronounced him at 1:45 a.m.

The family's lawyers subpoenaed the flow sheets and the ventilator itself.

The low-pressure alarm was set below the value in the physician's orders.

The day and night nurses testified they left the alarm setting as it was and filled out falsified flow sheets after the patient's death.

COURT OF APPEALS
OF NORTH CAROLINA
October 4, 2011

Paradoxically the Court of Appeals of North Carolina dismissed the day and night nurses and the respiratory therapist from the case. The family's lawyers waited almost four years to name them in the lawsuit, which was long past the statute of limitations in North Carolina.

A lawsuit was filed shortly after the incident against the nurses' and respiratory therapist's corporate employers.

Evidence subpoenaed in the lawsuit implicated the top-copy nursing care flow sheets as forgeries. Carbon copies in the chart showed the low-pressure alarm on the ventilator was set by the respiratory therapist below the value in the doctor's orders. The nurses left the ventilator alarm alone even though they knew it was wrong because the respiratory therapist did not tolerate them making any changes. White v. Maxim Healthcare, 2011 WL 4553130 (N.C. App., October 4, 2011).