

FOREIGN BODY RETENTION: TO LEAVE OR NOT TO LEAVE

Section 456.072(1)(bb), Florida Statutes, states that leaving a foreign body in a patient is presumptively below the standard of care and a basis for discipline of a health care provider's license to practice, regardless of the intent of the health care practitioner. The statute defines foreign body as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures. Although a rebuttable presumption, based upon the current language of the statute, this includes retention of any object, including "surgical paraphernalia" that is intentionally placed and left in a patient such as mesh or artificial grafts.

When deciding whether or not to publicly discipline a physician for retention of a surgical foreign body, the Florida Board of Medicine considers several factors, such as the size of the patient, if the "counts" were reported as correct, an intra-operative change in procedure, or if the surgical procedure was performed on an emergency basis. Consequently, to avoid sanctions by the Board of Medicine, a physician should insure that all instruments, sponges, needles, or any other "surgical paraphernalia" used during a surgical procedure are included in the counts performed by the staff and include a notation in the operative report concerning those foreign objects that are purposefully left.