

- What is a subpoena duces tecum?

Answer: A subpoena duces tecum or subpoena for evidence production refers to the summons of court that is used for ordering the person of interest to come to court with documents or other types of tangible evidences that can be used during the time of trial or hearing. The group of words are a Latin phrase that means, “bring with you under penalty of punishment”. This summons of evidence production is recognized by different names in different fields. The term subpoena duces tecum is popular in many jurisdictions including the jurisdiction of the USA and South Africa. However, with a view to reduce non-English terms in countries jurisdictions, some states in the United States have already replaced the summons with English synonym, “subpoena for production of evidence”. It is a court order for the witness to ask them to bring evidences to the court (Legal Information Institute, 2011).

- In surgery, who has the legal obligation to make the sponge count?

Answer: Both nurses and surgeons are legally obliged for the sponge count. Some jurisdiction also put the obligation on the operation room technicians. The reason is obvious. With multiple person under the obligation of law, the possibility of leaving foreign objects inside the body of patients is reduced significantly (Pozgar & Santucci, 1996, p. 240). Report shows that the practice of counting and documenting surgical instruments before final closure of the incision is helpful in removing surgical instruments left behind, inside patient’s body (Annals Surgery, 2008, p. RH). In some jurisdictions, nurses are solely responsible for any leftover inside patient’s body. However, it is a good practice to set the obligation on the entire operative team and crews legally.

References

Annals Surgery. (2008, September 30). *Sponge count often off after surgery*. Reuters [New York], p. RH.

Legal Information Institute. (2011, August 11). *Subpoena duces tecum*. Retrieved from http://www.law.cornell.edu/wex/subpoena_duces_tecum

Pozgar, G. D., & Santucci, N. M. (1996). *Legal aspects of health care administration*. Gaithersburg, MD: Aspen Publishers.