

# LEGAL EAGLE EYE NEWSLETTER

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## Code Status Not Clarified: Court Upholds Penalty Imposed On Skilled Nursing Facility.

The US Circuit Court of Appeals for the Sixth Circuit has ruled that clarification of each patient's code status is part of the process of ongoing assessment and care-planning required by Federal regulations for patients in nursing facilities.

The court upheld a civil monetary penalty, dollar amount not specified, imposed on a skilled nursing facility by a contract inspector working for the US Centers for Medicare and Medicaid Services (CMS).

In these legal proceedings, patients are identified only by aliases in compliance with patient-confidentiality rules.

### **Patient CLI**

The admission assessment indicated the patient had no durable power of attorney or other paperwork regarding a health care directive.

The patient had to be taken to the emergency room and was admitted to the hospital as a full-code patient, but then was described as a no-code patient in her hospital discharge papers.

Back at the nursing facility she became pale and unresponsive, stopped breathing and had no pulse. Based on the no-code designation in the hospital papers the nurse did not call paramedics, but instead called the physician to clarify the patient's code status.



***Federal regulations call for comprehensive care-planning in nursing facilities.***

***These regulations, which are written in very general terms, can be interpreted in very specific terms to require clarification of each patient's code status before an event which requires staff to know whether or not to resuscitate.***

UNITED STATES COURT OF APPEALS  
SIXTH CIRCUIT  
October 11, 2005

The court agreed with the CMS inspectors that the nurse's phone call to the physician fifteen minutes after the patient became unresponsive showed that the patient's code status had not been properly clarified.

### **Proper Clarification Defined**

A patient's code status is properly clarified, according to the court, when the physician writes a Full Code or a Do Not Resuscitate order, after having considered the patient's advance directive, or lack thereof, discussions with the patient, family and friends, the patient's religious beliefs, etc.

### **Patient R27**

The patient's chart contained a hospital transfer form indicating she was no-code. The physician's admission notes went over the fact the family wanted the patient classified as no-code due her terminal illness.

However, there was no physician's DNR order. When asked about the patient's code status, the nurses could not find a DNR order in the physician's-order section of the chart and told the CMS inspectors the patient was, therefore, a Full-Code patient. The court saw that as substandard care planning in violation of Federal regulations. **Omni Manor Nursing Home v. Thompson, 2005 WL 2508547 (6th Cir., October 11, 2005).**

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