

# LEGAL EAGLE EYE NEWSLETTER

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## Nursing Documentation: Court Says Charting Only Abnormal Findings Is Unacceptable.

The death of an elderly Alzheimer's patient in a skilled nursing facility prompted an investigation by state survey inspectors.

The inspectors levied a very large civil monetary penalty after finding that the facility was not in compliance with Federal regulations.

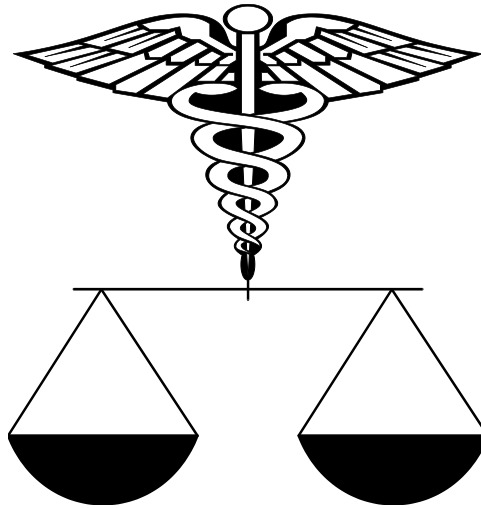
The US Court of Appeals for the Sixth Circuit (Kentucky) upheld the survey inspectors' findings.

### Physician Consultation

Federal regulations require a skilled nursing facility to notify the resident's physician immediately if there is a significant change in the resident's physical, mental or psychosocial status, that is, a deterioration in health, a life threatening condition or clinical complications.

The resident in question vomited at 8:00 p.m. and again between 12:00 a.m. and 1:00 a.m. Her nurse documented that the resident's clothing had to be changed. However, the physician was never notified as he should have been.

The resident was found unresponsive in her bed at 4:00 a.m. that same morning. Per standard procedure at the facility, emergency medical services were phoned. They arrived twenty minutes later and transported the resident to the hospital where she passed away at 7:10 a.m.



***The skilled nursing facility claimed the reason for no documentation of daily O<sub>2</sub> saturation readings was its policy for nurses only to chart abnormal findings.***

***Even if such a policy did actually exist, it would not be acceptable to fulfill the requirements of applicable Federal regulations, given the physician's explicit orders.***

UNITED STATES COURT OF APPEALS  
SIXTH CIRCUIT  
September 6, 2013

### Quality of Care

Every resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental and psychosocial well-being, in accordance with the resident's comprehensive assessment and plan of care.

In this case the violation of the quality of care regulations came from the fact that the physician had ordered daily oxygen saturation readings for the resident in question, but none could be found in the chart.

The facility claimed it had a policy for "documentation by exception" which meant that its nurses only charted abnormal findings and that explained why no O<sub>2</sub> saturation readings were to be found in the chart.

The Court said that even if such a policy did exist at the facility, it was unacceptable for compliance with Federal quality of care standards.

When the resident was found unresponsive an O<sub>2</sub> sat of only 46% was obtained. Despite the dire implications and the physician's order for supplemental oxygen if the regularly-obtained O<sub>2</sub> sat dropped below 88% the resident was not suctioned or given oxygen until paramedics arrived. ***Life Care Center v. US Dept. of HHS, \_\_\_ Fed. Appx. \_\_\_, 2013 WL 4767019 (6th Cir., September 6, 2013).***

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