

Long-Term Care Survey Alert

CLINICAL CARE: To Resuscitate Or Not To Resuscitate: If the Resident Appears To Be Dead, Consider This

You have to deal with the regulatory realities in performing CPR.

You walk into a resident's room and see he's lifeless -- and you don't know how long he's been that way. To make matters worse, you don't know for sure if he's DNR, and you have no quick way to find out.

Now what?

"If you don't know if the person is DNR, you assume he is full code," says **Jason Lundy**, attorney with **Foley & Lardner** in Chicago. "The liability for resuscitating someone with a DNR order is minimal compared to the liability for declining to initiate CPR for someone without a DNR order."

Communicate DNR status: Facilities can use various ways to communicate someone's code status -- color-coded charts are one option, says nurse attorney **Barbara Miltenberger**, with **Husch & Eppenberger** in Jefferson City, MO. "Wristbands may be another depending on the state's position on resident's rights. Additionally, currently color codes lack standardization, which may cause problems."

Another solution: Place "a bulletin board inside the person's closet with a symbol that identifies the person as a DNR," suggests Miltenberger. "However, staff have to know what the symbols mean."

How should staff handle unwitnessed arrests for residents who aren't DNR? To be safe, staff should initiate and continue until the first responders arrive, says Miltenberger, who has found that strategy is "necessary for regulatory compliance."

Check State Law

In some states, an RN can pronounce death, which really simplifies the CPR issues if she just says, "OK, he's dead, so don't resuscitate," says **Joseph Bianculli**, an attorney in private practice in Arlington, VA. If the facility is in a state that allows RNs to declare a person dead, the medical director should help develop policies that identify the criteria for making that determination -- for example, lividity, rigor mortis, etc., says Miltenberger. That tactic would protect the facility and the individual nurses, she notes.

Take Cases to IDR, Appeal

If the facility does get cited for not performing CPR on an unwitnessed arrest where the resident clearly appears to be dead, all's not lost.

Example: One facility won an informal dispute resolution on the issue of whether you resuscitate a dead body, reports Bianculli. "The resident died unattended," he says, and the nurse found the body, which was "cold," and the eyes "fixed and dilated, etc." The staff called the family who said the resident was "full code, so resuscitate [him]," adds Bianculli.

Long story short: The family complained to the state and surveyors cited the facility. The IDR included "an excellent tutorial from a medical director on the issue of the mechanics and timing of death, and desecration of dead bodies," adds Bianculli. "The state eventually receded when the surveyors conceded that they had not realized" the condition in which the nurse had found the resident.

