

LEGAL EAGLE EYE NEWSLETTER

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Do Not Resuscitate: Nurse Faulted For Delay While Looking For Patient's Code Paperwork.

The patient was in the skilled nursing facility recovering from surgical repair of her broken hip.

The patient began to cough, choke and gasp for breath while her son was visiting with her in her room. The son called for a nurse.

A nurse came to the room and began trying to rouse the patient by shouting and shaking her. The patient kept gasping for breath and had no palpable jugular pulse.

The nurse asked the son whether or not his mother was a DNR patient. The son replied he had no idea what the term "DNR" meant. The nurse began looking around for the patient's DNR paperwork.

Almost eight minutes after the patient first started choking, when the nurse was satisfied there was no DNR order in the patient's chart, CPR was started and paramedics were finally called.

Paramedics transported the patient to a nearby hospital where a neurological consultation led to a diagnosis of brain death. The family consented at this point to withdrawal of life support and the patient soon expired.

The son, as personal representative of his mother's probate estate, sued the nursing home on behalf of the family for the negligence of the nurse.



The patient's family's expert's testimony correctly stated the standard of care.

There was no excuse for an eight-minute delay in starting CPR while the patient's nurse tried to locate the patient's DNR paperwork.

If it is not known that the patient is not to be resuscitated, CPR and a full code response must begin at once.

COURT OF APPEALS OF TEXAS
February 24, 2010

The Court of Appeals of Texas ruled that the patient's family's expert's opinions were right on the mark. As in many states, in Texas a qualified expert's report must be filed with the court along with any civil lawsuit alleging negligence by a healthcare provider.

When a patient goes into respiratory arrest, and it is not known that the patient is in fact a DNR patient, the legal standard of care calls for the patient's nurse or other care-giving personnel to start CPR and call a code.

CPR is to start immediately. Standard response time by a code team in a hospital setting is three minutes or less.

After CPR has been started, calling a code in a nursing home setting would mean phoning 911 for emergency medical services.

No delay in responding to a patient in respiratory arrest is appropriate while caregivers take the time to look for the patient's code-status paperwork, the family's medical expert went on to say.

Prolonged lack of air in the patient's lungs due to her obstructed airway, brain damage and the patient's ultimate death were squarely the result of the inexcusable delay before taking action while the nurse was looking for the DNR paperwork. ***IHS Acquisition v. Crowson, ___ S.W.3d ___, 2010 WL 636964 (Tex. App., February 24, 2010).***

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