



January 24, 2020

RE: **HB 2260**

Dear Colleagues:

The Arizona Assisted Living Homes Association (AALHA) strongly opposes proposed HB 2260. If enacted, HB 2260 would create an untenable situation for all assisted living homes and similar health care institutions.

HB 2260 assumes that assisted living caregivers should be trained to assess the severity of a fall and then lift residents who have fallen. In the bill, the assessment and lift is called "*fall recovery*." This is dangerous and bad policy for numerous reasons. All of these reasons evolve around the fact that assisted living homes are non-medical facilities employing non-medical personnel. Every act performed in an assisted living facility requiring any medical knowledge must be approved by a medical practitioner. This bill changes the entire legal landscape of assisted living in Arizona.

1. When a resident falls, we in assisted living are required by law (R-9-10-818 D1) to immediately call the resident's primary care physician. Again, this is because we are considered non-medical facilities. In almost all instances, the primary care physician will instruct the home to call 911. By not calling 911, we are disobeying a direct order from the residents' primary care provider and the facility will be subject to sanctions by the Department of Health Services, the NCIA Board, and private litigation. If an assisted living manager is called before the NCIA Board for disciplinary action because of a bad outcome with a fallen resident, the first question from the Board will be "*Did you call 911?*" If the answer is "*no*", the Board will almost certainly take action against the Manager for negligence or wrongful death.
2. Currently, since a caregiver cannot legally assess the severity of a fall, they call 911 (unless there is obviously no injury, when a resident is oriented and can respond). This bill mandates that caregivers do the work of EMT's, paramedics and even firefighters. Training for an EMT or paramedic can take 1-3 years. Training to become a caregiver is 62 hours. Requiring a caregiver to perform EMT or paramedic duties, even for a specific situation, puts both the fallen resident and the onsite caregiver(s) at great risk. The resident is at risk for further injury, and the caregiver is at risk for negligence, since there is no training that can make a caregiver into a firefighter, paramedic, or EMT, unless the caregiver is actually a firefighter, paramedic, or EMT. *This is because a fall with an incorrect assessment of injury has so many possible ramifications, that only emergency medical personnel can properly assess the situation.*
3. Beyond the ability to assess, are the physical requirements. Firefighters, paramedics and EMT's within their scope of service, must be able to lift between 100 and 200 pounds. That is not the case with caregivers. Few of our certified caregivers can perform the physical requirements of a firefighter, paramedic, or EMT. If they could, they would likely be firefighters, paramedics, or EMT's.

4. Private assisted living homes generally have a staffing ratio of 1 caregiver to 5 residents during the day and 1 caregiver to 10 residents at night. Labor costs for an assisted living home are about 50% of total income, as all facilities must staff 24 hours a day, 7 days a week. The addition of a second caregiver at night for “fall recovery”, would cost over \$63,000/year at minimum wage. The only way to recover the cost of that additional staff member is to increase rates to cover that \$63,000. *Doing so would simply put the cost of assisted living homes out of the range of countless vulnerable adults.*
5. Becoming a firefighter, paramedic, or EMT requires a distinct personality. Most caregivers do not have that command and control personality. It is not their nature. If it were, they would be firefighters, paramedics, or EMT’s.
6. There are no training requirements in the State mandated caregiver curriculum that address fall assessments or caregivers picking someone up from the floor. This is for a reason. Such training is deemed by the industry itself to be outside a certified caregiver’s scope of service. Again, assisted living is a non-medical model. The Arizona Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers, or NCIA Board, (which oversees manager and caregiver training programs) has no requirements that certified caregivers receive any training in fall assessment and recovery. Further, the major caregiver certification schools instruct student caregivers that they are not medical professionals and to call 911 when a fall occurs. To try to force an industry of caregivers to perform EMT tasks is like trying to force a Chaplain at a hospital to be a surgeon at that same hospital, simply because they are both at the same hospital. The skill sets are very different.
7. Finally, the EMT’s, paramedics, and firefighters are responding to a 911 call on behalf of an assisted living resident, who is a private citizen. No fire department should endorse legislation that would exclude a private citizen from receiving emergency services simply because that citizen cannot medically and/or financially live independently, and therefore resides in an alternative living environment with a caregiver.

The Phoenix Fire Department currently has an EMS Senior Stakeholders Group that meets approximately every quarter. We are discussing these very issues. Submitting legislation at this time would undermine the work of this group which includes numerous local fire departments, assisted living facilities, nursing care institutions, their governing bodies, and other related fields. We are confident we can better resolve mutual issues through an inclusive process. We strongly urge that this legislation not be moved forward.

Respectfully,

Rocky McKay
President

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Public Policy Chair

Arizona Assisted Living Homes Association
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