Morrison Institute for Public Policy

Arizona State University

Honoring Wishes:

Is Arizona Doing Enough to Protect Seniors?

January 29, 2019

Authors

David Schlinkert, policy analyst, Morrison Institute for Public Policy

Melissa Kovacs, Ph.D., associate director of research, Morrison Institute for Public Policy

In the U.S., 30 percent of all emergency medical services responses are for adults over 65. By 2030, that EMS rate is expected to reach 50 percent as our nation's population ages.[1, 2] In fact, the number of Americans over the age of 65 is set to double over the next 25 years.[3]

Arizona is no exception. Over 17 percent of Arizona's population already is over 65, and 244,000 baby boomers will turn 65 in the next three years.[4]

When it comes time to check a mother, father or grandparent into a senior care facility, families want to know that staff will make every effort to respect both their loved ones' health and wishes.

First responders called to a senior care facility for a cardiac arrest emergency want no less, with their duty focused on saving a life but also respecting a loved one's wishes.

According to some firefighters in Arizona, two things often get in the way of that goal:

- Staff at senior care facilities fail to begin resuscitation before first responders arrive, making lifesaving opportunities all the more difficult with every passing minute.
- End-of-life wishes, called Advanced Directives, are not readily available to first responders, essentially tying their hands on what course to take.

First responders in such situations are forced to either:

- Save seniors in their twilight days who might not want to be saved; or
- Resuscitate seniors who want to be saved, but due to confusion and delay by facility staff, highly likely will suffer brain damage if saved.

It takes Arizona firefighters approximately 8 minutes to arrive at a senior care facility. Brain damage begins after 5 minutes without oxygen.

The following is a true account from an Arizona firefighter via a phone conversation. Names are omitted to protect confidentiality.

> *I jumped on the truck to go to a seizure call at a senior care facility. It took us 7-8 minutes to get to patient. When I walked into the dining room, the patient had her face in a bowl of oatmeal. I asked, "Does this patient have an advanced directive?"*
>
> *The answer was silence.*
>
> *Several well-dressed staff members did nothing except stare at me. No one had started CPR or chest compressions, and no one knew what the patient's end-of-life wishes were.*

We began the invasive procedures necessary to regain a pulse. We did chest compressions, which at times breaks ribs; inserted IV's, some of which may be placed into the bone of the lower leg; passed a tube into her trachea so we could keep her breathing; and gave her a large-dose of medicine to restart her heart.

Her pulse came back.

Now comes the tricky part for firefighters. We "saved the patient," so we should be excited, right? Wrong. Even while I was doing chest compressions, I already knew she would spend the rest of her life unaware (of life around her), on a ventilator with brain damage.

What is survival? And, what is the point of survival without an intact brain?

The real tragedy, in this instance, was that as we were loading her up to go to the Emergency Room, her grandson arrived. He said, "That's my grandmother and she filed her Advanced Directive with the state; it clearly said that she did not want to be saved."

I had to look him in the eye and say, "She's alive now, and we're taking her to the hospital."

He could not believe it. And neither could I.

We (unintentionally) violated her will.

According to some firefighters, events like this happen hundreds of times a year in Arizona.

It can cost $386,000 per person per year for life support.[5]

9-1-1. What's Your Emergency?

Many types of senior care facilities exist in Arizona, ranging from skilled nursing facilities to independent living, with varying levels of services and protections.[6] Arizona lacks some of the consumer protections and enforcements that other states enjoy.

EMS issues for senior care facilities have two underlying themes:

1. "No Touch Policies"
    a. Unwritten instructions that direct staff at senior care facilities to call 9-1-1 when a patient falls, but to refrain from touching them.
2. Lack of first responder access to Advanced Directives
    a. Advanced Directives are legal documents that enable seniors the ability to dictate their end-of-life wishes to avoid confusion during an emergency.

"No Touch Policies"

There is a lack of clarity about who is liable when CPR is performed or not performed at a senior care facility.

While senior care facilities may not have written "No Touch Policies," there are many instances where staff have been verbally instructed to not assist seniors who have fallen on the floor, for fear of a lawsuit. Conversely, some senior care facilities in Arizona make hundreds of calls a year to 9-1-1 for simple assistance to lift someone off the floor, which often is a waste of public and emergency resources.

A lack of continuity and oversight further complicates the issue. While all staff at childcare facilities are required to be CPR-certified and directed to begin CPR in the event of a cardiac arrest, staff at some senior living facilities are not required to be CPR-certified.

According to Nat Nickele, attorney at the Law Office of Nathaniel P. Nickele PLLC in Glendale: "There is a lack of practical and common sense regulations in the senior care world. The industry is simultaneously over- and under-regulated."

Which leaves unanswered questions:

1. Who can family members sue for damages in the event of a failed or unwanted resuscitation attempt?
2. Do present laws provide enough protections for staff at senior care facilities, so they are not sued or fired if they attempt CPR?
3. Is the company that owns the senior facility liable?

These questions are nuanced, and the answers differ depending on each unique incident and each lawyer's interpretation of the law.

This lack of clarity leaves care facility staff without the proper information and protections to respond effectively to a senior's needs and wishes. Some good business practices exist, but they are not uniformly enforced across the industry.

According to David Voepel, CEO of the Arizona Health Care Association (AHCA): "Our members want to do the best thing for their patients, and some err on the conservative side, calling 9-1-1 no matter what. It's an education thing for our members because we can't have a blanket policy. Care facilities have to make decisions on a case-by-case basis, based on common sense."

The National Association of EMS Physicians' Arizona Chapter and Arizona College of Emergency Physicians agree: "Senior care staff should follow the directions of 9-1-1 operators to perform CPR effectively prior to EMS arrival, and they should have Advanced Directives ready to show first responders when they arrive."

Access to Advanced Directives

By law, first responders must begin resuscitation if an Advanced Directive is not immediately available.

Presently, there is only one way for first responders to get access to a patient's Advanced Directive – and that is during an emergency call at a care facility.

At Care Facilities

Some senior care living facilities are not mandated to have onsite Advanced Directives. Some companies may keep the form in a computer, in a locked file or at the foot of the patient's bed, but no uniform industry standard for quick retrieval and review exists.

Some senior residents choose to wear an Advanced Directive bracelet, but there can be a stigma associated with this scenario, along with the constant reminder of one's own mortality.

There is, however, another way.

State Registry

If first responders or 9-1-1 dispatch had access to the Arizona Secretary of State's Advanced Directives registry, it would make it easier for them to make the right decision when they arrive at a senior care facility during an emergency.

First responders, however, presently cannot access any of the patients' wishes in the database.

"The folks that need the information are the first responder professionals," Voepel said.

In 2016, House Bill 2076 called for the Secretary of State's Advanced Directive Registry be made available to healthcare providers. As of January 2019, no healthcare provider has access to the registry.

Arizona State Sen. Heather Carter, R-North Phoenix/Scottsdale, plans to introduce legislation this year that will move the state registry from the Secretary of State's Office to the Health Information Exchange (HIE). This change can make Advanced Directives electronically available to first responders before they even arrive at a senior care facility.

Carter said: "We need to move the information where healthcare providers and first responders can access the data they need to respect people's wishes."

Emotional and Financial Costs

In order for first responders to do their job, they need access to patients' documented wishes, accurate information and support from government and senior care companies so that people, families and communities control the level of emergency medical response.

Arizona's aging population could have significant financial impacts on care facilities, hospitals, insurance companies and taxpayers' wallets if Arizona does not change its present "no touch" and Advanced Directive policies. Exact financial cost of unwanted or improper resuscitation is difficult to determine, but the cost of continued care for one unwanted resuscitation in Arizona can reach $386,000 per person per year.[7]

Several organizations are collaborating with Arizona fire departments to quantify the frequency of unwanted and improper resuscitation and the costs they generate. Quantifying these costs is crucial to understanding the extent of this problem, but it will take time.

Steve Wagner, an Arizona firefighter paramedic with 17 years of first responder experience, believes that Arizona cannot afford to wait because seniors need protections now: "We are disrespecting people's wishes every day, which causes people and families anguish and hardship."

References

[1] Duong, H., Herrera, L., Moore, J., Donnelly, J., Jacobson, K., Carlson, J., Mann, C., Wang, H. (2018). U.S. National Library of Medicine. National Institutes of Health. National Characteristics of Emergency Medical Services Responses for Older Adults in the United States. Retrieved 1/11/18 from: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5760278/

[2] Center for Disease Control and Prevention. Leading Causes of Death. Centers for Disease Control and Prevention, 2015. (Accessed at http://www.cdc.gov/nchs/fastats/leading-causes-of-death.htm.)
Shah MN, Bazarian JJ, Lerner EB, et al. The epidemiology of emergency medical services use by older adults: an analysis of the National Hospital Ambulatory Medical Care Survey. Acad Emerg Med 2007;14:441-7.

[3] Ortman, JM, Veikoff VA, Hogan H. (2014). An Aging Nation: The Older Population in the United States.

[4] PUMS. 2017

[5] CBS News. (2018). Hacienda HealthCare investigation: Alleged financial fraud at facility under scrutiny. Retrieved 1/24/19 from: https://www.cbsnews.com/news/hacienda-healthcare-investigation-alleged-financial-fraud-of-facility-under-scrutiny/

[6] Types of Senior Living: Independent Living and Senior Apartments. Assisted Living Group Homes, Centers, Facilities and Communities. Continuing-Care Retirement Communities. Skilled Nursing Facilities (SNF): Post-Acute Centers

[7] This estimate does not account for costs accrued by fire departments, or family member costs. Intensive Care Units cost approximately $6,000 a day, and the average stay is 3.5 days.

Photo by Rawpixel. https://unsplash.com/photos/aqFdVMxebsY

•

January 2019 / Morrison Institute for Public Policy, Arizona's premier think tank, was established in 1982. An Arizona State University resource, Morrison Institute utilizes nonpartisan research, analysis, polling and public dialogue to examine critical state and regional issues. Morrison Institute provides data- and evidence-based review to help improve the state and region's quality of life. Morrison Institute is part of the ASU Watts College of Public Service and Community Solutions. *MorrisonInstitute.asu.edu*