



601 E Street, NW | Washington, DC 20049
202-434-2277 | 1-888-OUR-AARP | 1-888-687-2277 | TTY: 1-877-434-7598
www.aarp.org | twitter: @aarp | facebook.com/aarp | youtube.com/aarp

December 11, 2018

Division of Regulations, Legislation, and Interpretation
Wage and Hour Division
U.S. Department of Labor
Room S-3502
200 Constitution Avenue, NW
Washington, DC 20210

Submitted electronically to: <http://www.regulations.gov>

Re: Expanding Employment, Training, and Apprenticeship Opportunities for 16- and 17-Year-Olds in Health Care Occupations Under the Fair Labor Standards Act; RIN 1235-AA22

To Whom It May Concern:

AARP appreciates the opportunity to comment on the Department of Labor's (Department) proposed rule that would allow 16 and 17-year old workers to operate power-driven patient lifts by themselves in health care facilities, in reversal of its 2011 policy.¹ AARP, with its nearly 38 million members in all 50 States, the District of Columbia, and the U.S. territories, is a nonpartisan, nonprofit, nationwide organization that helps empower people to choose how they live as they age, strengthens communities, and fights for the issues that matter most to families, such as healthcare, employment and income security, retirement planning, affordable utilities and protection from financial abuse.

We are writing to express our concern that the proposed rule could put older individuals and nursing facility residents (collectively, "patients") at risk of severe injury or possibly worse. AARP has long raised concerns about patient safety in hospitals and nursing facilities. Various reports and studies have raised concerns about safety, such as a Department of Health and Human Services Office of Inspector General report that "estimated 22 percent of Medicare beneficiaries experienced adverse events" during their skilled nursing facility stays and an "additional 11 percent of Medicare beneficiaries

¹ DOL Field Assistance Bulletin No. 2011-3 (July 2011).

experienced temporary harm events” during such stays.² Ensuring the health, well-being, quality of care, quality of life, and safety of older adults in these health care facilities is of utmost importance, yet the Department does not consider this in proposing the policy change in this proposed rule.

Health care workers use power-driven patient lifts to transfer a person between, for example, a bed and a wheelchair or a wheelchair and a toilet. They also use them to reposition patients to prevent skin breakdown. While there are different types of lifts, staff generally operate them by placing the patient in a sling, hooking the sling to a lift, moving the lift to the new location, and then lowering the patient.

The consequences of improperly operating a power-driven patient lift are serious because people who require their use are medically fragile. For example, these individuals may have paralysis, fragile skin, broken bones, unsteady gait, difficulty understanding directions, and brain injuries. They also might be connected to multiple machines and have intravenous medications. Mishandling an individual with these challenges could result in contractures, severe pain, more broken bones, and falls.³

These lifts serve other critical purposes in assessing changes in an individual's condition. Staff should use the process of transferring a person to assess pain, skin integrity, and the need for wound care.

The Department's proposed reversal of its position with no assessment of the risks to older and other vulnerable individuals is inappropriate. While increasing youth employment is a worthwhile goal, the Department should not pursue this change without a thorough and thoughtful analysis that includes evaluating the impact of this proposed change on older adults, including nursing home residents.

Thank you again for the opportunity to comment on this proposed rule, and we urge the Department to consider and address our comments in any final rule. If you have questions, please contact me or Rhonda Richards (r-richards@aarp.org) on our Government Affairs staff at 202-434-3770.

Sincerely,



David Certner
Legislative Counsel & Legislative Policy Director
Government Affairs

² *Adverse Events in Skilled Nursing Facilities: National Incidence Among Medicare Beneficiaries*, Feb. 2014 (OEI-06-11-00370) available at <https://oig.hhs.gov/oei/reports/oei-06-11-00370.pdf>.

³ Center for Disease Control and Prevention, *Falls are the leading cause of injury and death in older Americans* (Sept. 2016), <https://www.cdc.gov/media/releases/2016/p0922-older-adult-falls.html>.