BUFFALO, NY - It is a story being talked about throughout the nation.

An employee at a senior living center in California -- who identified herself as a "nurse"--- refusing a 9-1-1 operator's instructions to begin CPR on a resident ...stating that it was "against her employer's policy".

It has also gotten many people curious about what the policies might be in New York State.

"All assisted living residences are required to act promptly to secure necessary medical assistance for residents, which in emergency situations is to call for emergency medical assistance by dialing 911," said Lisa Newcomb, Executive Director of the Empire State Association of Assisted Living in a statement to WGRZ-TV.

However, she also indicated the 250 member agencies represented by the association would not prohibit an employee from administering CPR.

"While the state does not mandate the use of CPR, individuals employed by the assisted living residence are free, in their individual capacities, to exercise their own judgment and perform CPR if they feel they have the knowledge, training and/or support to do so," Newcomb said.

But that was not the case for one former employee of an assisted living center in Chautauqua County, who spoke to Channel 2 News on the condition of anonymity. He said he was frustrated with his former employer's expressed policy, which prohibited the administering C-P-R, even though he had been an emergency room nurse prior to his employment with the assisted living center.

"It's real hard to stand there with your finger in your ear, watching someone die, waiting for help to arrive when you could just do what you were trained to do but they won't allow it," he said. (The assisted living center he worked for does not appear on a list of Empire State Association of Assisted Living member agencies).

The New York State Department of Health confirmed the stance of the Association of Assisted Living.

"State Health regulations require an assisted living facility to call 9-1-1 to obtain necessary emergency medical assistance if needed," said Peter Constantakes, a Department of Health spokesperson. "These regulations do not require staff to perform CPR."

"I think at the end of the day, the regulations could be interpreted that way," said Michael Scinta, an attorney specializing in cases of nursing home and assisted living abuse with the Brown Chiari law firm. "But they're not just baby sitters or landlords as they would have you believe. They have an obligation, in our opinion, a legal and moral obligation toward their residents," Scinta said.

"Maybe her (the worker in California) guidelines said not to do anything ,but now she has to live with that decision that she made for the rest of her life based on a guideline," said Joe Fouca, a firefighter and emergency medical technician at the Niagara Falls Air Reserve station. Fouca, who was spending Tuesday volunteering to teach children CPR at the Niagara Wheatfield schools, said, "I'd rather save the person's life and then worry about getting reprimanded later."

"There seemed to be no reason not to do it (CPR) ...other than just this rule," said Dr. Jack Freer, regarding the case at the California assisted living center.

Freer, who practices internal medicine and is affiliated with the University at Buffalo Medical School, is also a Bioethicist, who studies ethics in medicine.
He said if the employee was indeed a nurse trained in CPR, then her choice to put policy over practice raises some real concerns.

"I think anyone who would obey that policy blindly, without thinking about overriding it, is a problem also," he said.

Constantakes, who told Two On Your Side that there is no requirement for an assisted living center to have a nurse on staff, noted that the regulations are different for nursing homes because they are considered, (like hospitals) to be facilities that provide health care, while an assisted living center is not.

"It is recommended that residents or their family members check with an individual facility to learn what its policies and procedures are regarding CPR in emergency situations," Constantakes said.

Click on the video player to watch our story from 2 On Your Side Reporter Dave McKinley and Photojournalist Bill Boyer. Follow Dave on Twitter: @DaveMcKinley2