WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266−1946

Richard Sweet
Assistant Director
(608) 266−2982

David J. Stute, Director
Legislative Council Staff
(608) 266−1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701−2536
FAX: (608) 266−3830

CLEARINGHOUSE RULE 95−143

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. The rule should be reviewed to determine whether each of the terms defined in s. HSS 110.03 is actually used in the text of the rule and is used in accordance with the definition provided in the rule. For example, it appears that the term "approved plan," set forth in s. HSS 110.03 (7), is not used in the text of the rule. Rather, the terms "plan" and "EMT defibrillation plan" are used.

b. In s. HSS 110.04 (4), the numbered subdivisions should be replaced with lettered paragraphs. That is, par. (a) 1. to 3. should be renumbered to pars. (a) to (c).

c. Section HSS 110.05 (1) (e) should contain a cross-reference to the rule provision, if one exists, which provides for department approval of written and practical skills examinations for EMT-basic applicants.

d. In s. HSS 110.05 (2), it appears that the cross-reference to "sub. (1) (b) to (f)" should be replaced by a cross-reference to "sub. (1) (b) to (g)." [See, for example, s. HSS 110.04 (2) (b).]

e. It appears that "(a)," immediately following the title of s. HSS 110.05 (4), should be deleted. Also, in sub. (4) (a), the second occurrence of the word "and" should be deleted.

f. Section HSS 110.05 (4) (b) 3. should contain a cross-reference to the rule provision, if one exists, which provides for department approval of courses on treatment for anaphylactic shock.

g. The requirement, in s. HSS 110.05 (5) (b) 4., that a licensee must provide documentation that he or she meets "any additional eligibility requirements for being licensed specified in s. 146.50, Stats., or this chapter" is vague and should be replaced with a listing of the specific documentation that must be provided. Perhaps that subdivision would better serve the intent of the rule if it read as follows: "Any other documentation which the department deems necessary to prove eligibility for a license." This comment also applies to s. HSS 110.05 (5) (d) 1. d.

h. In s. HSS 110.05 (5) (e) 1. d., the cross-reference to "subpar. d." should be replaced by a cross-reference to "subpar. c." Also, in sub. (3), in order to cover every possible time period, the phrase "more than 4" should be replaced by the phrase "4 or more."

i. The rule would be better organized if all of the requirements for EMT-basic refresher training course approval in s. HSS 110.05 (5) (f) were set forth in s. HSS 110.07, which relates to EMT-basic training.

j. Section HSS 110.05 (5) (b) 3. states that an applicant for renewal of an EMT-basic license need not complete the otherwise-required EMT-basic refresher training if the applicant has received refresher training which meets certain requirements in another state. Section HSS 110.05 (5) (g), lists other training which may be substituted for the EMT-basic refresher training. Because this material all relates to the same requirement, it should be placed in the same location in the rule.

k. In s. HSS 110.07 (1) (d) 6. b., should the word "instruction" be inserted after the second occurrence of the term "CPR"? In addition, a cross-reference to the rule section if one exists, which provides department approval for CPR instructors, should be included in that subparagraph.

l. In s. HSS 110.07 (2), it appears that the paragraphs were inadvertently mislettered; specifically, there is no par. (c).

m. In s. HSS 110.07 (6) (a) 2., 3. and 5. and (d) 1. and 2., the concluding colons should be replaced by semicolons.

n. In s. HSS 110.07 (6) (c) 6., the phrase "under sub. (12)" should be inserted following the phrase "quality assurance program."

o. In s. HSS 110.10 (13) (a), either subd. 6. has been mistakenly excluded from the rule or subd. 4. should conclude with the word "and" and subd. 5. should conclude with a period.

p. Section HSS 110.03 (11) defines the term "certified training center." The rule should consistently use that term or, if that term is not preferred, a different term should be defined. See, for example, s. HSS 110.08 (2) (a), in which the term "training center" is used, and sub. (2) (b), in which the term "certified center" is used. [Also, in terms of consistency, the department should review, in its Notes to the rule, the use of the terms "Wisconsin," "WI" and "Wi."]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The definition provided in s. HSS 110.03 (3) is vague. How are the skills that require medical direction to be determined?

b. Section 146.50 (6) (c) (intro.), Stats., requires ambulance service providers to provide medical malpractice insurance sufficient to protect all emergency medical technicians who perform for compensation as employes of the ambulance service provider. In light of this mandatory requirement, why does s. HSS 110.04 (3) (e), Stats., state that an ambulance service provider must provide insurance only "**if** required by s. 146.50 (6) (c) (intro.), Stats." (emphasis added)?

c. May a person applying for late renewal of a license under s. HSS 110.05 (5) (d) 1. c. fulfill the requirement of completing department-approved EMT-basic refresher training by completing refresher training in another state, as set forth in sub. (5) (b) 3.?

d. Various provisions of the rule require persons or organizations to retain certain records and documents. Those rule provisions should also state how long the records and documents must be retained. [See, for example, s. HSS 110.07 (1) (d) 4.]

e. Section HSS 110.07 (2) (b) and (3) (b) should be reviewed for consistency regarding the required curriculum for EMT-basic and EMT-basic refresher training courses. Subsection (3) (a) states that the national standard curriculum for training EMT-basic *shall* be used for a training course. However, that same paragraph implies that deviations from the national standard curriculum may be approved, and sub. (2) (b) states that an applicant for initial course approval may submit either a copy of the course curriculum or a statement that all sections of the national standard curriculum will be followed. The rule should be rewritten to clarify whether the national standard curriculum actually must be followed and, if not, under what circumstances another curriculum may be followed.

f. In s. HSS 110.08 (1) (intro.), how much prior written notice will be given by the department? This should be specified. [See also s. HSS 110.10 (15) (a) (intro.).]

g. The provision, set forth in s. HSS 110.08 (1) (e), that the department may deny, refuse to renew, suspend or revoke the license or permit of a person who has permitted, aided or abetted the commission of *any unlawful act* appears overly broad. Must the unlawful act be related to the performance of professional duties? Also, the rule refers to permitting, aiding or abetting an unlawful act, but not actually to committing an unlawful act.

h. In the first line of s. HSS 110.10 (4) (b), should the phrase "-basic" be inserted after "technician"?

i. Section HSS 110.10 (5) (b) 2. implies that a hospital, physician or ambulance service that wishes to utilize EMTs to provide prehospital or interfacility defibrillation services must provide a training course in defibrillation. Is this an accurate interpretation of the rule? Would it be reasonable to permit the use of a training course offered by a different entity, or to implement a plan which utilizes only EMTs who are already fully trained in defibrillation? The rule should clarify these points.

j. Section HSS 110.10 (5) (b) 18. is somewhat vague. Specifically, which local and regional governmental agencies and medical and emergency medical services agencies must endorse the proposed program?

k. Section HSS 110.10 (7) (a) 2. states that a person enrolled in a department-approved EMT-basic course beginning after June 30, 1995 must take automatic defibrillation training as part of the course. It appears that if training in automatic defibrillation is to be required as part of the curriculum in EMT-basic courses, that requirement also should be in the section of the rule which sets forth the required elements of training course curricula. Also, it appears that the requirement regarding automatic defibrillation training should be imposed on the training provider rather than upon the student. Finally, sub. (2) on its face seems contradictory. The first sentence requires automatic defibrillation training after June 30, 1995, while the second sentence says that basic training courses approved under s. HSS 110.07 (2) are exempt from the requirements of "this section." Does the second sentence exempt training courses approved by the department from providing defibrillation training? If so, how is a person enrolled in a department-approved training course going to take defibrillation training after June 30, 1995?

l. Section HSS 110.10 (7) (f) should set forth at least minimal elements of the procedure that should be followed for obtaining department approval of a proposed training course.

m. Should s. HSS 110.10 (14) (b) set forth extra requirements for a person whose certification has been expired for a significant length of time similar to the requirements for reinstatement of a lapsed license under s. HSS 110.05 (5) (e)?

n. In s. HSS 110.10 (15) (e), the last sentence should be rewritten in the form of the last sentence in sub. (16) (d). The latter provision specifically states that review will not be available if a request for hearing is not received in a timely fashion by the Office of Administrative Hearings. The reader is informed of the consequences of failing to meet a time deadline.