

Report From Agency

ADMINISTRATIVE RULES REPORT TO LEGISLATURE CLEARINGHOUSE RULE 06-075

By the department of health and family services relating to chs. HFS 110 and 111, relating to licensing emergency medical technicians, and affecting small businesses.

Basis and Purpose of Proposed Rule

The basis of these proposed rules are as follows.

Statutory Authority

- Section 146.50 (4) (c), Stats., gives the department authority to promulgate rules that establish standards for the emergency medical technician intermediate.
- Section 146.50 (5) (b), Stats., gives authority to issue training permits for all levels of emergency medical technicians.
- Section 146.50 (6) (b) 2., Stats., gives the department the ability with the Wisconsin Technical College System to develop training, education, and examination standards for emergency medical technicians.
- Section 146.50 (8m), Stats., indicates that a medical director is required for any level of provider above the basic life support level.
- Section 146.50 (13), Stats., authorizes the department to promulgate rules that apply to s. 146.50, Stats.

Reasons for the Proposed Rules

Wisconsin has two levels of emergency medical services. They are basic life support and advanced life support. These two levels are distinguished by the skills and medications that can be used by emergency medical services personnel when performing pre-hospital care. At the basic life support level, the department licenses individuals as emergency medical technician-basic (EMT-basic) and emergency medical technician-intravenous (EMT-basic IV) and certifies individuals as First Responders. At the advanced life support level, the department licenses individuals as provisional emergency medical technician-intermediate (provisional EMT-intermediate), emergency medical technician-intermediate (EMT-intermediate), and emergency medical technician-paramedic (EMT-paramedic). The requirements for basic life support are codified in chs. HFS 110 and HFS 113. Requirements for advanced life support are codified in chs. HFS 111 and HFS 112.

The training and competency requirements for the EMT-basic IV license are identical to the training and competency requirements for the provisional EMT-intermediate license. Because the EMT-basic IV requirements are codified in the basic life support code, ambulance service providers are reimbursed at the basic life support level of care instead of the advanced life support level of care. The ambulance service provider industry report that this situation is having a negative fiscal impact on ambulance service providers that use EMT-basic IV licensees to provide emergency medical services and may eventually cause a reduction of services in the communities that they serve.

To maintain the level of emergency medical services that are currently being provided and to avoid

confusion about the skills and level of care provided by the EMT-basic IV licensee, the department proposes to change the name of the EMT-basic IV license to EMT-intermediate technician and move the licensing requirements to ch. HFS 111. No changes to skills and competency requirements are being proposed. The department also proposes to modify the continuing education requirements under

ch. HFS 110 to allow ambulance service providers flexibility in providing refresher training to EMT-basic licensees. This change will reduce financial and scheduling burdens on providers by allowing them to use their training dollars more cost effectively, and it will create uniformity between the basic refresher requirements and the refresher requirements that are in place for the other skill levels.

The department implemented these changes in a substantially identical emergency rule effective July 1, 2006 in order to avoid a probable increase in the reported negative effects on the ambulance industry that would have occurred if under the pre-July provision requiring individuals licensed as provisional EMT-intermediate licensees to become EMT-basic IV licensees effective July 1, 2006.

Responses to Legislative Council Rules Clearinghouse Recommendations

The Department accepted the comments made by the Legislative Council Rules Clearinghouse and modified the proposed rule as suggested except as follows:

Comment 2.f.: In SECTIONS 22 to 24, 26 to 29 and 31 to 32, numerous provisions of ss. HFS 111.04 to 111.08, spanning 15 pages of text, are amended or renumbered and amended, or have newly created language, making it virtually impossible to see how the modified provisions will read as a whole. In particular, it is difficult to separate out the actions that the two types of EMTs intermediate may take and in what respect those differ. These provisions would benefit greatly from being repealed and recreated, as was done in SECTION 30 of the rule, relating to training course content and hours.

Response: The revised rule provisions in the referenced SECTIONS, for the most part, only added the term “EMT-intermediate technician” or “emergency medical technician-intermediate technician”. The Department is not prepared to repeal and recreate additional provisions at this time. The Department expects to make significant changes to chs. HFS 110, 111, 112, and 113 within the next year to better clarify and organize the rules.

Comment 5.c.: In s. HFS 110.05 (5) (d) 1. and (e) 1. c. and e., should there be a reference to “equivalent training approved by the department,” as there is in sub. (5) (b) 3.?

Response: Section HFS 110.05 (5) (b) 3. should not be changed because if a license lapses the licensee will be required to take a formal refresher course.

Comment 5.i.: An example of the confusion over permitted activities of EMTs-intermediate and EMTs-intermediate technician is found in s. HFS 111.04 (4) (see SECTIONS 22 and 24). Section HFS 111.04 (intro.), as amended in SECTION 22, states that EMTs-intermediate technician and EMTs-intermediate “may perform only the following actions:”. From that introductory language, the reader expects that the items delineated in the paragraphs following the (intro.) will contain actions that both types of EMTs may perform. Subsection (4) (a) pertains to providing basic life support and does not mention the two types of EMTs; presumably the provision applies to both. However, sub. (4) (b), a newly created provision in SECTION 24, lists “Administration of

the following additional advanced skills and medications *if the individual is licensed as an EMT intermediate technician...*” (emphasis added), thus appearing to pertain only to EMTs intermediate technician. All of the provisions relating to actions of the two types of EMTs should be reviewed and clarified. Also, are all of the “additional advanced skills and medications” listed in this paragraph actions that an EMT-basic IV was authorized to perform, consistent with the statement in the rule analysis that “[n]o changes to skills or competency requirements are being proposed”?

Response: The Department revised s. HFS 111.04 (4) (intro.) to clarify the actions that an EMT-intermediate and EMT-intermediate technician are allowed to take. The advanced skills and medications listed are consistent with the statement in the rule analysis that no changes to skills or competency requirements are proposed. The Department recognizes that ch. HFS 111 could be clearer, however, the Department will not be making additional changes at this time, as our goal in this rulemaking is to move the former EMT-Basic IV from HFS 110 to ch. HFS 111 as an EMT-intermediate technician. The Department expects to make significant changes to chs. HFS 110, 111, 112, and 113 within the next year to better clarify and organize the rules.

Comment 5.j.: In s. HFS 111.06 (3) (b) 1., how can items be “included in the 2001 Wisconsin revision of the national standard curriculum for training...EMTs-intermediate technician,” when that category of EMT is newly created in this rule?

Response: The 2001 Wisconsin revision of the national standard curriculum is the curriculum under which the EMT-basic IV is trained. The EMT-basic IV is now the EMT-intermediate technician. The curriculum is the same except for the name.

Comment 5.n.: In s. HFS 111.07 (7) (a) 10., the word “ambulance” could be inserted before the second “service” on the third-from-the-last line.

Response: The term “service” refers to the individual, not the entity. No change is necessary.

Final Regulatory Flexibility Analysis

The proposed rules do not have an adverse significant economic impact on small businesses.

Changes to the Analysis or Fiscal Estimate

Analysis

No changes were made to the rule’s analysis.

Fiscal Estimate

No changes were made to the fiscal estimate.

Public Hearing Summary

The proposed permanent rule, emergency rule, and notice of public hearing were posted on the Wisconsin Administrative Rules Website on June 22, 2006. The Department began accepting public comments via the Website on June 22, 2006. The Department held 3 public hearings: Madison, July

25, 2006; Eau Claire, July 26, 2006; and Green Bay, July 27, 2006. A total of 5 people attended the hearings.

List of Public Hearing Attendees and Commenters

The following is a complete list of the persons who attended the public hearing or submitted comments on the proposed rule, the position taken by the commenter and whether or not the individual provided written or oral comments.

| Name and Address | Position Taken (Support or Opposed) | Action (Oral or Written) |
|--|--|-----------------------------|
| 1. Terry Wise PO Box 195 Baraboo, WI 53913 | Support | Observed only |
| 2. Susan Gehl, 280 Phillips St. Cheteck, WI 54728 | None given | Observed only |
| 3. Donald Knutson PO Box 417 Colfax, WI 54730 | Support | Observed only |
| 4. Tom Fennell PO Box 1614, St. Cloud, MN 56302 | Support | Observed only |
| 5. Thomas Hoks W10262 Jessica Ln. Crivitz, WI 54114 | None given | Observed only |
| 6. Steve Teale < stephen.teale@wtcsystem.edu > Wisconsin Technical College System | None given | Written |

Public Comments and Department Responses

The number(s) following each comment corresponds to the number assigned to the individual listed in the “Public Hearing Attendees and Commenters” section of this document.

| Rule Provision | Public Comment | Department Response |
|------------------------|---|---|
| General | Good rule. 3 | No response necessary. |
| 111.05 (4) (a) and (b) | Under the proposed changes, the training permit will not be valid after the training course is closed. This may be interpreted as meaning that the trainee is not eligible to continue with the training course, including completing clinicals. Training permits for an EMT-intermediate and EMT-intermediate technician should be valid for up to 12 months with an option to extend, or to 24 months, given the problems with preceptor availability and | Tying the permit’s expiration to course closure may have unintended consequences for permit holders. Therefore, the Department is no longer proposing to revise s. HFS 111.05 (4) (a) and (b) relating to the expiration and renewal of the training permit. The existing initial permit duration of 2 years, with a one year extension |

| | | |
|---------------------------|--|---|
| | with clinical opportunities. 6 | will remain in effect. |
| 111.06 (1) (c) 6. a. | Under the rule physicians, registered nurses, and physician assistants are considered to have skills up to the EMT-intermediate technician level. Does this mean that persons in these professions qualify for licensing at that level? It appears that the code recognizes these people as being trained to the EMT-intermediate technician level, but unless they qualify for licensing, they would nonetheless not meet the minimum requirements to be instructor-coordinators. HFS 111.06 (2) (a) 1. appears to address a similar issue dealing with paramedics, but fails to mention anything dealing with nurses, physician assistants or physicians. 6 | Under the proposed and existing rules, physicians, registered nurses, and physician assistants are recognized to the EMT-intermediate or EMT-intermediate technician level. Individuals in these professions do not qualify for licensing at these levels based solely on those credentials. Licensure at these levels meets only one of the requirements necessary for certification as an instructor-coordinator. If an individual meets all of the requirements for certification as an instructor-coordinator, that individual may be licensed accordingly. |
| 111.06 (2) (a) 1. and 1m. | Individuals wishing to be instructor-coordinators should be required to have national registration at their respective licensing level in order to be a certified as an instructor-coordinator. Allowing an individual to be certified as an instructor-coordinator who is not nationally registered will mean that these individuals may be considered less qualified than the students they teach. For example, a nationally registered paramedic or EMT-intermediate must complete 24 hours of continuing education to renew national registration. There is no such requirement for individuals who are not nationally registered. The training required at renewal for these individuals is at the discretion of the services physician medical director. 6 | All instructor-coordinators are required to hold national registry of EMTs certification. The EMT-intermediate technician has no national certification equivalent. EMTs-intermediate technician must hold national registry of EMTs-basic certification. |
| 111.06 (2) (a) 2. | EMTs-intermediate and EMTs-intermediate technician instructor-coordinators should have clinical experience at or above the level to be taught. 6 | The Department has revised s. HFS 111.06 (2) (a) 2. to require EMT-intermediate and EMT-intermediate technician instructor-coordinators to have |

| | | |
|------------------------|--|---|
| | | experience at or above the provider level being taught. |
| 111.06 (2) (a) 3. | The Department should not require EMT-intermediate technician instructor-coordinator to have 150 hours of supervised instruction to be qualified to teach. 6 | The intent of the proposed change is to add a teaching experience component that applies only to EMT-intermediate technician instructor-coordinator certification. The Department has revised s. HFS 111.06 (2) (a) 3. to clarify this point. The proposed changes have no effect on the EMT-intermediate instructor requirement to have at least 150 hours total teaching experience. |
| HFS 111.06 (2) (a) 10. | Do the revisions in the proposed rules affect existing language in HFS 111.06 (2) (a) 10., which requires joint approval of instructors employed by the technical college system? 6 | There is no change to the existing requirement for joint approval of instructors by the Department and the technical college system. |
| HFS 111.06 (2) (c) | Only EMTs-intermediate technician should be required to have a Wisconsin license. State licensing of EMTs-basic, EMTs-intermediate, and paramedics should not be required because these levels may be certified at the national level certification. It appears that it is necessary for someone to be eligible to hold a license to be approved as an instructor-coordinator, but must hold a license to renew that approval. Additionally, the way the provision is written, a paramedic has to maintain a Wisconsin EMT-intermediate or EMT-intermediate technician license to be an EMT-intermediate instructor-coordinator. 6 | The Department's practice is to allow those eligible for licensing to become instructor-coordinators before actual licensing to assist the technical college system in meeting the need for instructor-coordinators. Essentially this is a waiver of the licensure requirement. This waiver, however, does not extend to renewal. An instructor-coordinator certified in this manner may not be renewed until the instructor-coordinator is licensed and holds national registry certification. |
| HFS 111.06 (3) (b) 1. | To the best of my knowledge, there is no Wisconsin revision of the National Standard training course for EMTs-intermediate technician. I think the reference to curriculum should be to a "state" curriculum for the EMT-intermediate course. 6 | Because each level of provider, i.e., EMTs-basic, EMTs-intermediate, EMTs-intermediate technician, and paramedics have a Wisconsin curriculum that is based on the provider's respective national curriculum, the Department believes that identifying the Wisconsin curriculum in this |

| | | |
|--|--|---|
| | | manner chosen will help to avoid confusion. |
|--|--|---|