

ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
REPEALING AND RECREATING RULES

To repeal and recreate s. HFS 112.07 (2) (u) 1. a., relating to approval of emergency medical technician-paramedic operational plans.

Analysis Prepared by the Department of Health and Family Services

The Department of Health and Family Services licenses emergency medical technicians-paramedic (EMTs-paramedic) and approves the operational plans that counties, cities, towns, villages and hospitals propose for using EMTs-paramedic to deliver emergency medical care. The Department's rules are in ch. HFS 112, Wis. Adm. Code. No individual may perform the duties of an EMT-paramedic unless licensed by the Department.

The Department proposed the version of s. HFS 112.07 (2) (u) 1. a. contained in this rulemaking order in the final proposed rules it transmitted to the legislative presiding officers on February 20, 2001. However, on June 6, 2001, the Senate Committee on Health, Utilities, Veterans and Military Affairs met in executive session and voted 7-2 to object to a portion of proposed s. HFS 112.07 (2) (u) 1. a. In part, the objected to portion of the rule authorized a two-paramedic service provider to dispatch the paramedics from separate sites and, under certain circumstances, authorized one of the two responders to be released for other duty while the other responder would remain with the patient during transport. The objected to portion of the rule also specified the actions a single paramedic could perform until the arrival of the second responder.

As a result of the Senate Committee action, the Joint Committee for Review of Administrative Rules (JCRAR) was required to nonconcur in the standing committee's partial objection or object to the rule itself. As part of the deliberations over this matter, JCRAR and DHFS agreed that the Department would consider making modifications to the rule. Following receipt of the modifications, the issues before JCRAR were (1) whether an emergency medical technician-paramedic operational plan should require the participation of two responders together from the time of dispatch to the time of return and (2) what services should be provided if another paramedic arrived at the scene of an emergency prior to the arrival of an ambulance.

The Joint Committee for Review of Administrative Rules held a public hearing and executive session on July 18, 2001. At that time, the JCRAR requested modifications to the rule. The Department submitted modifications on August 16, 2001 and the Committee met in executive session on August 30, 2001. At the August 30th executive session, the Committee voted 6-4 to object to part of the rule because, under s. 227.19 (4) (d) 2. and 6., Stats., it constituted an emergency relating to public health, safety and welfare and because it was arbitrary and capricious and imposed an undue hardship. The Committee's action rejected the Department's attempt to move away from the two-person team currently required in an emergency medical technician-paramedic operational plan. JCRAR met again on September 20, 2001 in executive session and voted to rescind a part of its objection to Clearinghouse Rule 00-091. By taking this partial rescission of its previous action, the Joint Committee restored the following language to the rule: "A single paramedic, licensed registered nurse, licensed physician assistant, or physician performing in the staffing configuration specified in this paragraph may perform all of the skills authorized under s. HFS 112.04 (4) for EMTs-paramedic." On September 20, 2001, the Joint Committee voted 8-2 to introduce LRB 3716/2 and 3717/2 to sustain its objection to the rule. However, a subsequent legislative bill introduced as required by s. 227.19 (5) (e), Stats., in support of the objection did not pass. Consequently, the Department is permissibly completing its rule promulgation by filing the remainder of the rule as the Department had originally proposed.

The Department's authority to repeal and recreate these rules is found in ss. 146.50 (4) (c), (5) (b), (6) (b) 2., and (13) and 250.04 (7), Stats. The rules interpret s. 146.50, Stats.

SECTION 1. Section HFS 112.07 (2) (u) 1. a. is repealed and recreated to read:

HFS 112.07 (2) (u) 1. a. Any 2 EMTs-paramedic, licensed registered nurses, licensed physician assistants or physicians, trained in the use of all skills the service is authorized to provide and designated by the medical director, or any combination thereof. If responding separately, the required crew members shall be immediately dispatched for responses to all prehospital emergency transports and intercepts. A single paramedic, licensed registered nurse, licensed physician assistant, or physician performing in the staffing configuration specified in this subdivision paragraph may perform all of the skills authorized under s. HFS 112.04 (4) for EMTs-paramedic prior to the arrival of a second paramedic, licensed registered nurse, licensed physician assistant, or physician, as long as arrival of the second paramedic, licensed registered nurse, licensed physician assistant, or physician is expected within a reasonable and prudent time. After the patient has been assessed and stabilized, one EMT-paramedic, licensed registered nurse, licensed physician assistant, or physician may be released by protocol or verbal order from a physician. Transport of the patient may then occur with one EMT paramedic, licensed registered nurse, licensed physician assistant, or physician and, at a minimum, one EMT-basic. Ambulance services responding with EMTs-paramedic, licensed registered nurses, licensed physician assistants or physicians from 2 different locations or who release one EMT paramedic, licensed registered nurse, licensed physician assistant, or physician after assessment, shall describe in their operational plan how this staffing will take place to ensure a timely response and adequate care.

The repeal and recreation of the rules included in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22(2), Stats.

Wisconsin Department of Health
and Family Services

Dated: August 9, 2002

By: _____
Phyllis J. Dubé
Secretary

SEAL: