

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

#514 Dept of Health
(Emerg. Medical Technicians)

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 3/19 Temporary Rule _____

Resubmitted and Received 4/4

2nd Oral Notice 4/12/79 re: typos etc
4/12/79: Resubmittal to our office re: lack of copies

DUE DATE ~~4-6~~ 4-14

Oral Notice to Wm Miller

a. Returned to Agency w/o filing w/Secy of State 4/3
b. Approved _____ Date Sent Back to Agency _____

Finally Approved Upon Resubmission: 4/16

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1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable n/a
4. Order for Hearing ✓
5. Notice of Hearing ✓
   (i) Sufficiency OK under old rules
6. Secretary of State's List ✓
7. Certificate of Acquisition of Secretary of State's List ✓
8. Affidavit of Mailing ✓
   (i) At least 30 days prior to hearing ✓
9. Statement of Need and Evidence ✓
10. Hearing Examiner's Report ✓ no copies – OK 4/4
11. Agency's Findings of Fact _____ no copies " "
12. Certificate of Board's Resolution Adopting Rules, where applicable n/a
13. Order Adopting ✓ no copies OK 4/4 no copies OK 4/4
14. Report of Chief Hearing Examiner ✓
    (i) Finding of No Substantial Change ✓
    (ii) Permission to Incorporate by Reference, where applicable n/a
15. Certificate of Compliance with Rulemaking Procedures ✓
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓
17. Petition by Public, where applicable n/a.

#514

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Larry Woods
Department of Health

DATE: April 13, 1979

FROM : Joanne E. Hinderaker JEH
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of Proposed Rules Relating to the Registration of Emergency Medical Technicians

As I indicated to you in our telephone conversation of April 12, 1979, the rules in the above-captioned matter have not been approved by this office for the following reasons:

1. It appears that the Department intended to make minor changes in the adopted text of the rules, pursuant to the Hearing Examiner's recommendations. Such changes have not been made in the adopted text with amendments. Specifically,

   a) In the last sentence of Rule § 1.542 B.1, it appears that the reference to "Applications submitted after the applicant's birthday" should be changed to track with the corresponding amended reference, in the first sentence of this rule to "the anniversary date of the initial registration".

   b) Based upon Findings #18 and #25 at pages 10 and 14 of the Hearing Examiner's Report and at pages 10 and 14 of the Department's Findings, it appears that the Department concurred with the Hearing Examiner's statement that in the rules as proposed "in connection with an initial application [§ 1.542 A.1.], the power to request additional information is vested only in the Commissioner, whereas in connection with a renewal registration [§ 1.452 B.1.] the power is vested in the Commissioner 'or his agent'. For purposes of consistency, the two should be similar." The text of the adopted rules does not indicate that the Department has changed either rule to make the two provisions consistent, although it appears that the Department intended to do so. Such a change should be considered, in light of the record in this matter.

   c) At Finding #10 of the Hearing Examiner's Report, p. 3, and at the same Finding and page of the Department's Findings, there is a reference to the Department's intent to substitute "the word 'skills' for the word 'techniques' in the third line" of rule § 1.541 B.4. However, at p. 2 of the adopted rules the word "skills" has been stricken and "techniques" added and the rule does not read properly. The Department should clarify the amendment of this rule.

2. There are several typographical/grammatical errors in these rules which do not affect the legality of the rules, but should be changed to improve the form of the rules. The following minor changes are suggested in this regard:

   a) Delete the parenthetical marks which appear in conjunction with the MCAR citations. Such marks are unnecessary, and in fact, inappropriate. See: at p. 1 of the Adopted Rules the first two rule title/headings under Part II; § 1.451 A., the reference in the first sentence; § 1.451 B., the reference in the first sentence therein; at p. 4 the title/heading of rule § 1.542; § 1.452 B. the reference in the first sentence therein. This is not intended to be an exhaustive list, and the entire text of these rules should be scrutinized to detect such parenthetical marks.

   b) In rule § 1.452 A.1, it would be better form if the clauses in a., b., and c. of that rule were followed by semicolons, instead of periods.

   c) In rule § 1.452 A.2.c. the word "attendent" should read "attendant" and a comma should separate "attendant" and "fire, police, or rescue squad member" etc.

   d) In rule § 1.452 A.2.d. and e. it would be better grammer to replace "have passed" with "has passed" and in § 1.452 A.3. to replace "had met" with "have met".

   e) In rule § 1.452 B.1., the second sentence of the rule, the period at the end of the sentence should not be stricken as it is necessary to end the sentence.

   f) It is suggested that it would be preferable for the reference in rule § 1.452 B.3.a. to "24 hours of continuing education" to be consistent with the references in § 1.451 B.4. and in § 1.452 B.2. to "24 clock hours". Thus the addition of the word "clock" to § 1.452 B.3.a. should be considered.

   g) In rule § 1.452 B.3.c., a comma should separate "attendant" from "fire, police or rescue squad member".

   h) In rule § 1.452 C.3. there appears to be a typographical error and the word "or" should be changed to "of".

After consideration of the issues addressed herein, and appropriate action, if any, the Department may resubmit three copies of the amended rules, as adopted, to this office.

Please contact me if you have any questions in regard to this memo or any other matter.

JEH:mb
cc: Duane Harves
Marshall Whitlock
Enclosure

Rules of the Commissioner of Health

Relating to the Registration of Emergency Medical Technicians

Chapter 30
Human Services Occupations

Part II

7MCAR §§ 1.541-1.545 REGISTRATION OF EMERGENCY MEDICAL TECHNICIANS

7MCAR § 1.541 PURPOSE AND DEFINITIONS

A. Purpose

The purpose of 7MCAR §§ 1.541-1.545 is to establish the administrative structure, the procedures and the requirements for the registration of those persons with basic emergency care training as emergency medical technicians.

B. Definitions

For the purposes of Rules 7MCAR §§ 1.541-1.545 , the words, terms and phrases listed below in this subdivision shall have the meaning stated herein, unless the language and context clearly indicates that a different meaning is intended.

1. "Applicant" means a person who applies, pursuant to these rules, either initially or on a renewal basis, to be registered as an emergency medical technician.

2. "Basic emergency care" means care given at the scene of a medical emergency, during transport to a medical care facility and/or until responsibility can be transferred to appropriate personnel. Such care may include (but not be limited to) recognizing a life-threatening situation, providing cardiopulmonary resuscitation, monitoring vital signs, controlling hemorrhage, clearing airway passages, treating shock, immobilizing fractures, dressing and bandaging wounds, assisting in childbirth, caring for burn or poison victims, diabetic

or epileptic persons, managing unruly and disturbed persons, lifting and moving victims properly, extricating victims, providing safe transport and using such other skills which may be necessary to reduce the seriousness of an emergency situation.

3. "Basic Emergency Care Course" means the course that is at least 81 hours of instruction in at least the following areas: (a) procedures and skills currently accepted and necessary to perform basic emergency care; (b) equipment currently used in providing basic emergency care; (c) current legal requirements for emergency care.

4. "Continuing education in basic emergency care" means at least 24 clock hours of formal review of basic emergency care skills and instruction and examination in new knowledge and skills in basic emergency care skills, equipment, communication procedures and legal requirements. The formal review, instruction, and examination must cover at least the following skill areas;

   (a) setting up, adjusting and closing down oxygen equipment;

   (b) use of suction equipment, artificial airways, and bag mask resuscitator;

   (c) determination of blood pressure;

   (d) bandaging the head, eye and extremity;

   (e) performance of cardiopulmonary resuscitation - one and two rescuers;

   (f) performance of an examination of life-threatening problems and a systematic check of injuries;

   (g) splinting a fracture of the upper and lower extremity;

   (h) lifting and moving patients from bed-height surfaces and positioning them on a stretcher;

   (i) immobilization of neck and torso of a sitting patient on a short backboard;

(j) moving a patient with a suspected cervical spine injury from the floor and immobilizing him/her on a long backboard.

5. "Commissioner" means the Commissioner of Health.

6. "Council" means the Emergency Medical Technicians Advisory Council defined in 7MCAR 1.543.

7. "Emergency Medical Technician" means a person registered pursuant to these rules to provide basic emergency care.

8. "EMT" means an emergency medical technician.

9. "Ambulance driver or attendant, police, fire or rescue squad member," means a person who provides basic emergency care for an ambulance service licensed by the State of Minnesota.

10. "National Registry of Emergency Medical Technicians" means the private national accrediting organization in Columbus, Ohio which establishes voluntary standards, training and examinations for qualifying ambulance personnel.

11. "Registration" or "registered" means that an applicant has been found to meet the qualifications specified in these rules for providing basic emergency care. Only persons so registered are permitted to use the designated title of "emergency medical technician" or "EMT".

7MCAR § 1.542 REGISTRATION REQUIREMENTS: CAREER PROGRESSION: DISCIPLINARY ACTIONS

A. Initial Registration

1. All applicants for initial registration shall submit an application on a form provided by the Commissioner and fees as prescribed in 7MCAR 1.542 .

The information required by the Commissioner on the application shall be so as to permit a complete evaluation of each applicant to determine whether the applicant meets the requirement for registration as specified in these rules and any applicable statutes. To clarify incomplete or ambiguous information presented in the application, the Commissioner may require an applicant to submit additional information as may be necessary to determine the applicant's qualifications. In order to be registered, an applicant, except as specified in 7MCAR 1.542.A.2. and 3. shall:

a. Be at least 18 years old;

b. Have successfully completed tne basic emergency care course; and

c. Have passed the written examination administered by the National Registry of Emergency Medical Technicians or its agent.

d. Have passed a practical examination on basic emergency care administered by the Commissioner or an agent of the Commissioner.

2. An applicant need not have successfully completed a basic emergency care course if the applicant:

a. Holds a current Advanced Red Cross First Aid card; and

b. Has successfully completed continuing education in basic emergency care; and

c. Has served as an ambulance driver or attendant, fire, police, or rescue squad member for one year immediately prior to submission of the application; and

d. Has passed the written examination administered by the National Registry of Emergency Medical Technicians or its agent; and

e. Has passed a practical examination on basic emergency care administered by the Commissioner or an agent of the Commissioner.

3. Applicants who are or have been licensed or registered in a state other than Minnesota may be registered pursuant to these rules without having met the criteria of 7MCAR 1.542 A.1 and A.2. if they had met the standards of the National Registry of Emergency Medical Technicians as those standards existed on July 6, 1978.

4. An applicant shall not make more than two attempts in any 12 month period to successfully complete either the written examination of the National Registry of Emergency Medical Technicians or the practical examination of the Commissioner.

B. Renewal Registration

1. An applicant's registration shall expire biennially on the anniversary date of the initial registration. Each applicant shall be required to renew his/her registration every two years. Every applicant shall submit a registration renewal application, on a form provided by the Commissioner, together with a renewal fee for the biennium or part thereof. The information requested by the Commissioner on the registration renewal application shall be such so as to permit a complete evaluation of each applicant to determine whether the applicant meets the requirements for registration renewal as specified in these rules and any applicable statutes. To clarify incomplete or ambiguous information presented in the renewal application, the Commissioner may request an applicant to submit additional information as may be necessary to determine the applicant's qualifications for renewal. Applications submitted after the anniversary date of the initial registration must be accompanied by the late fee together with all other information required by this rule.

2. For registration renewal each registrant shall submit evidence of successful completion of 24 clock hours of continuing education in basic emergency care.

3. Applicants who have permitted their registrations to expire for more than one calendar year may regain registration when they:

   a. Successfully complete 24 clock hours of continuing education in basic emergency care; or

   b. Have met the standards of the National Registry of Emergency Medical Technicians, as those standards existed on July 6, 1978, and

   c. Have served as an ambulance driver or attendant, fire, police or rescue squad member for one year immediately prior to submission of the renewal application.

   Applicants who cannot meet the requirements set forth above in 7MCAR 1.542B.3. must meet requirements of 7MCAR 1.542 A. for initial registration application.

C. Application Fees

Fees to be submitted with initial or renewal applications shall be as follows:

1. Initial application fee: $11.00.

2. Renewal application fee: $11.00 or $2.00 if registrant is a volunteer ambulance driver or attendant, police, fire, or rescue squad member who provides services without the expectation of remuneration and does not depend in any way upon the provision of these services for his or her livelihood.

3. Penalty fee for submission of renewal application after registration date: $10.00.

D. Denial of Registration; Disciplinary Actions

1. Upon receipt of a complaint or other communication, whether oral or written, which alleges or implies the existence of a ground for denial of registration or disciplinary action as specified in 7MCAR 1.542.D.2. the Commissioner or Council may initiate an investigation. In so doing, the Council may request the registrant to appear before it to determine the merits of the situation in question. Prior to any disciplinary action, a written complaint will be obtained from a complaining party. In each case, the Council shall make a recommendation to the Commissioner as to whether proceedings under the Administrative Procedures Act would be appropriate and should be initiated.

2. The Commissioner may refuse to grant or renew a registration, suspend or revoke a registration, or use any reasonable lesser remedy against a registrant for any of the following reasons:

   a. Submission of false or misleading information or credentials in order to obtain or renew registration;

   b. Failure to meet the requirements for initial or renewal registration;

   c. Incompetency, or inappropriate conduct in the performance of basic emergency care services or related functions.

3. Disciplinary actions shall comply with the provisions of the Administrative Procedure Act, Minn. Stat. Ch. 15 (1976, as amended).

4. Upon revocation or suspension, the registrant shall return to the Commissioner the registration and current renewal certificates.

5. A registrant who has had his registration revoked shall not be entitled to apply for re-registration until at least one year following the effective date of the revocation or such longer period of time specified by the Commissioner at the time of such revocation.

6. A suspended registration may be reinstated upon fulfillment of the terms of suspension; provided, however, that all requirements of the rules for registration renewal, if applicable, shall be met prior to reinstatement.

7MCAR §§ 1.543 THE EMERGENCY MEDICAL TECHNICIANS ADVISORY COUNCIL

A. Membership

The Council shall consist of seven members appointed by the Commissioner as follows:

1. Two public members as defined by Minn. Stat. 214.02 (1976, as amended);
2. One EMT representative of ambulance personnel, fire, police, or rescue squad members, who provides emergency care services for at least 1,560 hours per year for remuneration.
3. One EMT representative of ambulance personnel, fire, police or rescue squad members, who provides emergency care services for less than 1,560 hours a year with or without remuneration..
4. Two physicians who are knowledgeable in the national, regional and local development in the area of EMT training. One shall be from a metropolitan hospital and the other from an out-state hospital.
5. One full-time registered nurse employed in an emergency department of a hospital.

At least one of those persons referenced in 7MCAR 1.543 A.4. and 5. shall be actively involved in the education of EMT's.

B. Organization, Duties and Responsibilities

1. The Council shall be organized and administered under the provisions of Minn. Stat. Sec. 15.059 (1976, as amended) and the Commissioner's policies relating to advisory councils.*

2. The Council shall:

   a. Advise the Commissioner regarding EMT registration rules;

   b. Advise the Commissioner on the enforcement of the EMT rules;

   c. Provide for the dissemination of information regarding EMT registration standards; and

   d. Assess the qualifications of each applicant before recommending credentialing to the Commissioner.

   e. Such other duties as directed by the Commissioner not inconsistent with these rules.

7MCAR §§ 1.544-.545 Reserved for future use.

*The Commissioner's policies concern only internal management which do not directly affect the rights of or procedures available to the public and are therefore not subject to rule-making.

APPROVED AS TO FORM AND LEGALITY

APR 16 1979

_____ 19____

WARREN SPANNAUS, ATTORNEY GENERAL

BY Joanne Hinderaker

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 16 1979
Joan Anderson Growe
Secretary of State

9:10 AM

RECEIVED
JUN 9 1978
OFFICE OF HEARING EXAMINERS

514

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules Relating The Registration of Emergency Medical Technicians

STATEMENT OF FACTS

ESTABLISHING

REASONABLENESS OF AMENDMENTS

The Minnesota Commissioner of Health (hereinafter "Commissioner), pursuant to Minn. Stat.§ 15.0412 subd. 4 (1976), hereby affirmatively presents facts establishing the reasonableness and justifying the adoption of the above-captioned amendments to the Board's rules. The need and statutory authority for the proposed amendments is set forth in the Statement of Need submitted herewith Terms used throughout this Statement will have the definitions given them in Proposed rule 7MCAR 1.541 (MHD. 541).

INTRODUCTION AND BACKGROUND: (MHD.541) Purpose and Definitions: Minn. Stat. § 214.13, Subd. 1, places upon the Commissioner of Health, among other responsibilities, the duties to "... establish procedures for the identification of human services occupations not now credentialed by the state, recommend appropriate regulatory modes, and promulgate by rule standards and procedures relating to the credentialing of persons practicing in the affected occupations."

In January of 1975, a letter of intent from the Emergency Medical Services Advisory Committee to apply for credentialing of Emergency Medical Technicians was received by the Allied Health Credentialing Advisory Committee, which became the Human Services Occupations Advisory Committee in 1976. The completed application was received May 20, 1975 and a subcommittee was appointed. A series of subcommittee meetings and a public forum were held to gather information in order to recommend to the Board of Health: (1) Whether EMT's should be regulated; and, if so, (2) Which mode of regulation; and (3) What administrative structure is appropriate. The recommendation to credential EMT's through a system of registration under an advisory council to the State Board of Health, now the Commissioner, was approved by the Allied Health Credentialing Advisory Council and the State Board of Health in May of 1976. The complete record of this decision-making process appended as Appendix A.

Com #7

The rationale for this credentialing decision can be summarized:

(1) The unregulated practice of emergency medical technicians can harm or endanger the health, safety and welfare of the public. The potential for such harm is recognizable and is neither remote nor dependent on tenuous arguement. These persons are responsible for providing basic emergency care at the scene, transporting victims to hospitals and maintaining life supports until medical care is available. Error can result in increased injuries, delayed recovery or death;

(2) The emergency medical technicians can be distinguished from other health occupations by specialized skills and training in emergency medical procedures and equipment that is not normally used by or taught to other health professionals. These skills and procedures include use of backboards, anti-shock trousers, extrication techniques, assessment skills, immobilization techniques, establishing and maintaining airways and respiratory and circulatory function while at the scene of an emergency as well as specialized transportation and communication skills; and

(3) The public is not effectively protected by other means. Existing licensing requirements for ambulance services require use of persons who "possess a current advanced Red Cross Card or other emergency care certificate authorized by the Commissioner "(Minn. Stat. Sect. 144.804). The proposed rule requirements for registration meet the national training standards used by the United States Department of Transportation for funding purposes. Also, the Advanced First Aid Certificate of the American Red Cross while equivalent to 50 or 60 hours of training, does not cover certain major skills that are covered in the emergency care course requirement proposed in these rules. These include cardio-pulmonary resuscitation, oxygen therapy, maintenance, the use of anti-shock trousers, telemetry and communications, airway management and the skills required to properly operate "minimum equipment" required by statute to be carried by an emergency ambulance. Also the Red Cross requires continuing education every three years rather than the two year requirements proposed in these rules.

Registration as a proposed mode of regulation is defined in Minnesota Statutes, Section 214.001, Subdivision 3 (1976) as a regulatory device "whereby practitioners who will be the only persons permitted to use a designated title are listed on an official roster after having met predetermined qualifications." Adoption of a registration system would provide state certification that an individual registered as an emergency medical technician has been specially trained in basic emergency care as defined by these rules. Registration of the title Emergency Medical Technician would not prohibit private citizens, firemen, policemen, or other rescue workers from providing care in emergency situations.

Minn. Stat. § 214.13, Subd. 3, (1976) provides "that rules promulgated by the Commissioner...may include procedures and standards relating to the registration requirement, the scope of authorized practice, fees, supervision required, continuing education, carrer progression and disciplinary matters." The proposed rules detail the initial registration requirements, a scope of practice, fee requirements, enforcement procedures and administrative structure.

These rules are statements"...of general applicability and future effect... made (by the Commissioner) to implement" the responsibilities and duties placed upon the Commissioner by Minn. Stat. § 214.13, (1976) and therefore must be promulgated by rules pursuant to Minn. Stat. § 15.0411, Subd.3, (1976).

The content of these rules was developed in cooperation with the Emergency Medical Services Section of the Minnesota Department of Health and a technical advisory group of 20 persons including EMTs, physicians, nurses, and other individuals involved in the training and employment of EMTs. A public forum concerning these rules was held in September, 1976, in order to gain public information and input. The record of these activities is appended to this statement. The proposed rules were also submitted for review to the Human Services Occupations Advisory Council in January of 1977, before the Commissioner ordered the holding of a public hearing.

(MHD.541) A. Purpose

This section sets out the scope of the proposed rules in preparing the administrative framework for a system of registration for those persons who want to use the title of Emergency Medical Technician.

(MHD.541) B. Definitions

The definitions in this section provide common terminology in discussing and understanding the substantive provisions of these rules for both the person who formally requests registration to use the title of Emergency Medical Technician and the public who can know the standards a person met in order to use the title.

1. An applicant is any person who formally requests materials or information in order to register or renew registration as an emergency medical technician.

2. The term "basic emergency care" is defined here to delineate a scope of practice, as authorized in Minn. Stat. § 214.13 subd.3, (1976), that will provide a basis for training, testing and continuing education requirements for use of the title, Emergency Medical Technician. This paragraph outlines the type of care or the type of situation for which an EMT must be prepared when at the scene of an emergency, en route to a medical facility and/or until the responsibility of care can be transferred to a nurse or physician at

either the scene or the facility. The EMT must be trained to skillfully assess the situation and provide care appropriate to his/her level of training. The scope of this care goes beyond basic first aid and includes special skills in extrication, basic life support, lifting and moving and transporting victims as quickly and safely as possible to a facility where medical treatment is available.

3. The basic emergency care course is a training program of a minimum of 60 clock hours of didactic instruction and approximately 21 hours of inhospital experience in the minimum competencies for the skill areas listed in the scope of practice of these proposed rules. The course usually consists of twenty lesson areas taught by lay-instructors, physicians and nurses as appropriate. The lessons provide skills in record-keeping and safe transport, alleviation of airway obstruction, pulmonary resuscitation, determination of vital signs, cardiopulmonary resuscitation, obstructed airway management, control of bleeding, treating shock, I.V. therapy, lifting and moving, extrication, immobilizing fractures, bandaging, administration of oxygen, medical emergencies like diabetes, epilepsy or emergency childbirth and management of other emergency situations like burns, poisoning, bites and stings and disturbed or unruly patients.

4. The continuing education in basic emergency care program is provided through training modules to review the most required skills and knowledge of basic emergency care and to bring registrants up-to-date on new knowledge in patient care skills, employment of acceptable newly developed equipment, equipment that is not acceptable and changes in state licensure or medico-legal requirements. The skill areas listed are representative of the scope of the material to be learned in the basic emergency care course or acquired through equivalent training and experience. The ten areas are the minimum patient care skills an emergency medical technician should know to be operating in the field.

5. Throughout these proposed rules the term "Commissioner" refers to the Commissioner of Health, the administrative officer of the

Minnesota Department of Health.

6. The term "Council" in these rules will always mean the Emergency Medical Technicians Advisory Council. The Council will advise the Commissioner and its composition, duties and responsibilities are further explained in the rules, MHD 543.

7 and 8. The title "Emergency Medical Technician" or the acronym "EMT" can only be used by persons who have met the predetermined standards set forth in these rules and are registered, according to these rules, by the Commissioner.

9. A full-time ambulance driver or attendant is defined as a salaried employee of an ambulance service in order to distinguish this person from volunteer personnel or part-time employees for purposes of representation on Council. Experience with licensing ambulance services suggests that full-time employees are in urban-based services primarily and most of their ambulance runs are relatively routine transports.

10. The National Registry of Emergency Medical Technicians is located at 1395 E. Dublin-Granville Road, P.O. Box 29233,Columbus, Ohio 43229. It is a private certifying organization that has the support of the Ambulance Association of America, the American Medical Association, and Employers Insurance of Wausau, to promote improved delivery of emregency medical services. It works with the Federal government to establish voluntary standards, training and examinations for qualifying personnel. The Registry uses a uniform national training curriculum that has been accepted by the United States Department of Transportation and that is identified as the standard national training program. The Commissioner has been using the Registry written examination to test knowledge of basic emergency care. Appendix B contains the statistics regarding test reliability and other written materials from the National Registry.

11. Registration is defined in Minn. Stat. Sec. 214.001, subd. 3, as a system "whereby practitioners who will be the only persons permitted to use a designated title are listed on an official roster after having met pre-determined qualifications." Only those applicants who have met the standards set forth in these rules may use the title

of "Emergency Medical Technician" or its initials "EMT".

12. The part-time ambulance driver or attendant is defined in these rules to differentiate him or her from the full-time employed ambulance driver or attendant for the purpose of these rules.

13. Volunteer ambulance drivers or attendants as defined in Minn. Stat. § 144.8091, Subd. 2.(Supp. 1977)provide basic emergency care for licensed ambulance services without expecting reimbursement for such care. Two-thirds of those persons affected by these proposed rules are volunteers and they provide most of the emergency care service prior to hospitalization in most rural areas of this state.

(MHD. 542) REGISTRATION REQUIREMENTS, CAREER PROGRESSION; DISCIPLINARY ACTIONS

1. The requirements for initial registration provide reasonable standards to require of a person who provides basic emergency care and who uses the title of Emergency Medical Technician which implies a minimum level of competence. All applicants must provide the Commissioner with sufficient information to allow a determination of the applicant's qualifications as set forth in these rules. To become registered, an applicant must show evidence of:

   a) Being at least 18 years old and possessing a high school diploma or its equivalent, as it is reasonable to expect a certain level of maturity and intelligence from persons who will be reasposible for basic life support skills in an emergency situation; and

   b) Successful completion of the basic emergency care course, as defined in these rules (MHD. 541 B. 3) is a reasonable requirement, as the course is designed to provide instruction in all the basic life support skills and procedures of the EMTs' scope of practice, as defined in these rules (MHD. 541 B. 2); and

   c) Successful completion of a written examination from the nationally recognized National Registry of Emergency Medical Technicians that tests academic knowledge of material covered in the basic emergency care course that is designed to provide a program of instruction in basic emergency care as defined in these rules (MHD. 541 B. 2). Use of a national written examination conforms with Minn. Stat. § 214.03 direction to "All state examining and licensing boards...shall use national standardized tests for the objective, non-practical portion of any examination given to prospective licensees to the extent that such national standardized tests are appropriate...". This written exam consists of multiple choice questions covering knowledge

of skills required in: patient assessment, shock therapy, general pharmacology, injuries related to the respiratory system, cardiovascular system, central nervous system, musculoskeletal system, soft tissue injuries, Ob-Gyn emergencies, pediatric emergencies, emotionally disturbed patients, rescue techniques and telemetry and communication skills. The related areas are combined in six major subtests and an applicant must receive an average overall score of 70% plus a minimum score for each subtest. Failure of any subtest will constitute total failure of the written examination. Additional material on the reliability and validity of this examination is provided in the attached material.

d. Besides testing academic knowledge of this area, it is reasonable to require successful completion of a practical examination that is designed to evaluate learned skills and procedures through an actual demonstration of oral pharyngeal suctioning or esophageal airway insertion and operation; dressing and bandaging wounds; cardiopulmonary resuscitation; victim examination and assessment techniques; fracture immobilization; splinting; use of short board in spinal cord injuries. These are all examples of skills that are taught in the basic emergency care course and are necessary for basic life support in an emergency situation. The Commissioner will use specially trained examiners to administer this examination (which will be held at several regional locations around the state) in order to maintain uniform quality standards of knowledge and skill performance in the personnel being trained as well as in the numerous training programs.

2. An alternative method of obtaining registration as an emergency medical technician is available to those persons who, for whatever reason, do not take the basic emergency care course, as it

is defined in these rules. The Commissioner acknowledges that competencies can be acquired other than through educational programs. The following requirements (a-e) combine actual emergency care experience with continuing education to provide the learning background necessary to challenge the required written examination and practical examination that are designed to evaluate the skills and knowledge or basic emergency care. An applicant must:

a) Hold a current Advanced First Aid Certificate of the American Red Cross; this does not mean that all basic emergency care skills have been learned, but it does represent approximately 50 clock hours of training in the majority of required skill areas. A holder of such a card is currently qualified, pursuant to Minn. Stat. § 144.804 to serve as an ambulance attendant.

b) Successfully complete a minimum of 24-clock hours of continuing education in basic emergency care which provides a formal review and update of the skills and knowledge gained in the basic emergency care course. This is an opportunity to acquire new required skills as well as maintain competency in the old ones.

c) Show evidence of actual experience as a full-time, part-time or volunteer ambulance driver or attendant for at least one year. There are many potential applicants who have at least one year of actual experience in this field and this should be acknowledged for their benefit.

d) Successfully complete the same written examination from the National Registry of Emergency Medical Technicians as will be required of those applicants who choose the first option for initial registration and take the 81-hour basic emergency care course. All applicants, no matter where they get training, must demonstrate their knowledge about the same scope of practice, basic emergency care.

e) Successfully complete the practical examination that is

also required of all applicants in order for specially trained instructors to ascertain their competencies in basic emergency care through an actual demonstration of specific procedures and techniques.

The Commissioner is aware that the Emergency Medical Services Section of the Department of Health has, in the past, a voluntary certification for persons taking the 81-hour basic emergency care course. An alternative route was proposed for those people not taking the course and this proposed route included a requirement of ten hours in-hospital experience in addition to the other requirements (MHD. 542 A. 2. a-c above) that are included in these proposed rules. This 10-hour in-hospital requirement was not included in these rules because:

(1) It is reasonable to assume that persons with a year(s) of experience are more likely to have knowledge gaps in academic areas, rather than in actual in-hospital experience, and

(2) It is not reasonable to require an experience for which no testing procedures exist and for which no mechanisms exist to assure that each student/applicant learns a specified amount or that each applicant's experience or opportunity to learn is of equal quality.

3. This section of the proposed rules applies to those persons who are or have been regulated in a state other than Minnesota. These applicants will be accepted for registration in Minnesota if they are registered with the National Registry of Emergency Medical Technicians at the time of their application. This is a reasonable restriction because Minnesota's requirements for registration are similar to those of the National Registry and this will assure registration of only those applicants who have met nationally recognized standards which will not unduly restrict movement of persons between states.

4. The purpose of this proposed rule is to limit the number of times an applicant can take either the written or practical examinations. These examinations that are designed to evaluate skills and knowledge necessary to completely perform basic emergency care are offered many times throughout the state each year. It is not unreasonable to limit the number of times an applicant takes either exam because the amount of material being tested is not so great that a certain amount of memorization is probable. Allowing an applicant to keep paying the test fees in order to continue taking the tests until he/she passed, does not assure competent pre-hospital care under stress to victims in emergency situations.

(MHD. 542) B. Renewal Registration

1. It is reasonable for registrations to be renewed biennially and evidence of 24 hours of continuing education in basic emergency care be submitted. The continuing education opportunities are available state-wide. Registrations that lapse for more than two years can be regained upon submission of evidence of employment as a full-time or volunteer ambulance driver or attendant for at least one year prior to re-application and completion of the 81-hour basic emergency care course or be currently listed with the National Registry of EMTs which has standards that are equivalent to Minnesota's standards. If these requirements cannot be met, the applicant must meet standards for initial registration..

It is reasonable to expect the registered persons to maintain and update their basic emergency care skills. Renewal of registration tied to continuing education requirements will encourage continued re-training to maintain competencies. Basic emergency care skills need to be performed regularly to keep the skill level high enough. Continuing education is particularly important for volunteers and others who may not have the opportunities to regularly utilize all the basic emergency care skills as well as for every registrant to practice and reinforce the skill levels considered necessary for

initial registration and to learn new skills or techniques that develop as the field of emergency medical services changes.

It is anticipated that all persons registered by the Commissioner pursuant to the Human Services Credentialing Act, renewal of registration will be required every two years. Staggered renewal based on birthdate is administratively reasonable because it is a more reliable constant than alphabetical listings. For the first renewal period more time is allowed in order to not penalize those persons who would have renewal requirements due in less than 2 years.

2. The requirements of 24 clock hours of continuing education is reasonable as it represents only 2 full days or 4 part-time modules each year. As stated previously, regular practice or utilization is necessary to maintain skill levels and to maintain knowledge of special techniques or equipment that will suddenly be very important in a stress-filled situation. It is not unreasonable to expect the applicants to show this minimum amount of time spent at learning and re-learning basic emergency care skills. This is in compliance with federal guidelines for EMT continuing education.
3. This section sets forth the requirements that must be met by those applicants who want to become registered again after letting their registration lapse beyond a 90-day period. The 90-day limit is a reasonable designation since prior to this the applicant can renew his/her registration by meeting prescribed continuing education requirements which are designed to maintain and improve minimum skill levels for competent practice. Ninety days is a reasonable time lapse before requiring retraining or evidence of employment during this period. Basic life support skills require regular application or use in order to maintain the required skill level. Persons who work in this field think that skill level deterioration is very apparent after three months of non-use.

Beyond the 90-days, an applicant has two choices: 1) to success-

fully complete the basic emergency care course that covers the essential basic emergency care skills, or 2) to provide evidence of a current registration with the National Registry of Emergency Medical Technicians that has registration standards similar to those proposed in these rules, as well as to provide evidence of employment or volunteer work as an ambulance attendant during the six months just prior to submitting this application. It is necessary to regularly practice basic life support skills in order to maintain a minimum level of competence. Persons who do not attempt to keep this minimum skill level should not become registered until the initial skill requirements are met.

(MHD. 542) C.

1. Pursuant to Minn. Stat. Sec. 214.06 and 214.13 the Commissioner of Health, with the approval of the Commissioner of Finance, may assess a sufficient amount so that the total fees collected will as closely as possible equal anticipated expenditures. A $30 fee for application for the initial biennial registration has been set for all applicants. The $30 charge is a reasonable approximation of the cost of administering this program as may be seen in the attached chart, Appendix C. This is actually a total cost of $15 per year to the registrant. Each applicant is responsible for the cost of the examination.
2. Again the attached chart demonstrates that, pursuant to Minn. Stat. Sec. 214.06 and 214.13, the $30 biennial renewal fee (or $15 per year) reasonably approximates the costs of a registration program for EMTs. That volunteer ambulance drivers and attendants will not have to pay more than a $2 fee for biennial renewal is mandated by Minn. Stat. § 144.809 (Supp 1977), which states that "No fee set by the Commissioner of Health for biennial renewal of an emergency medical technician's certificate by a member of a volunteer ambulance service or volunteer fire department shall exceed $2.00".
3. A penalty fee of $10 will be required for registration renewal beyond the required deadline in order to encourage compliance with

the the regulations. This fee also approximates the cost to the Commissioner to process and administer the renewal application outside of the designated renewal period.

(MHD. 542) D. Denial of Registration; Disciplinary Actions

1. The primary purpose of registration is protection of the public through the establishment of minimum standards of competence. Only those persons meeting these predetermined standards can use the title of Emergency Medical Technicians and these rules establish reasonable enforcement mechanisms to protect the public from incompetent EMTs as well as to provide the EMTs with all due process protections. All complaints or other communications to the Commissioner or the Council that allege or imply a situation that may require disciplinary action or denial of registration will be investigated. It is necessary to include oral complaints in order to have an accurate record of all complaints and to be able to insure that all complaints are processed appropriately. Oral complaints make the enforcement system more accessible to the public although disciplinary action can only be taken upon written complaint from a member of the public or a member of the Council.

   The Commissioner is the administrative authority for the registrants but the Council may initiate the investigation as his agent and make a recommendation to the Commissioner on the situation after the investigation in order to assure a reasonably rapid determination on the complaint. If the Commissioner finds that disciplinary action is appropriate all subsequent activities will proceed following the Administrative Procedures Act, Minn. Stat. Ch. 15 (1976 amended) in order to assure all protection of due process.

2. This section identifies the reasons for which the Commissioner may have to take some form of disciplinary action against a registrant. Persons who are registered as EMTs are subject to disciplinary action if they:

a) Provide false information or misleading evidence of credentials in order to become registered or to renew a registration; the registration is granted upon the condition that pre-determined requirements are met and these requirements are the minimum skill levels necessary to provide competent basic emergency care to the public;

b) Fail to meet the requirements for initial or renewal registration; these requirements have been pre-determined by the Commissioner and technical experts in this field to be necessary for competent performance of basic emergency care skills and this skill level will provide the best possible protection for the citizens of this state;

c) Perform basic emergency care skills or related functions in an incompetent or inappropriate manner based upon the standards for competency set through the initial and renewal requirements for registration.

3. Any disciplinary action will comply with the provisions set forth in the Administrative Procedures Act in order to protect the person being investigated and to assure due process of law for all persons.

4. If it should become necessary to revoke or suspend a registration, it is reasonable to expect the registrant to return to the Commissioner the actual registration document and any current renewal certificates in order that the former registrant not be able to indicate to the public that he/she is in fact still registered by the state.

5. A person who has had his/her registration revoked must wait one year or longer, as specified by the Commissioner before applying for re-registration. This is a reasonable requirement because the disciplinary actions are necessary to protect competency standards in basic energency care and persons who have been found to violate these standards must show that the standards have been met before the registration can be reinstated. For the revocation to be effective, use of the title should not be allowed for at least

one year.

6. The suspended title can be reinstated when the applicant can show that all conditions of the suspension have been met and that all standards for registration renewal have also been satisfied. This is a reasonable method for the upholding of the standards attached to the title of Emergency Medical Technician.

(MHD. 543) The Emergency Medical Technicians Advisory Council

A. Membership

Minn. Stat. Sec. 214.13 (Subd. 4) (1976, amended) states "the Commissioner of Health may establish an advisory council to advise it. . . on matters relating to the registration and regulation of an occupation. A council shall have seven members appointed by the Commissioner of which five are members of the registered occupation or related registered or licensed occupations, and two are public members. A council shall expire, and the terms, compensation and removal of members shall be as provided in Section 15.059".

The membership of the EMT Advisory Council was designed with the help of a technical advisory group to provide the best representation of interests in administering policy for emergency medical technicians statewide:

1. Each of two public member positions, as required by Minn. Stat. §§ 214.13, subd. 4 (1976) amended), are defined as "a person who is not, or never was, a member of the profession or occupation being licensed or regulated or the spouse of any such person, or a person who does not have or has never had a material financial interest in either the providing of the professional service being licensed or regulated or an activity directly related to the profession or occupation being licensed or regulated."
2. One Emergency Medical Technician to represent those persons for whom being an EMT is a full-time salaried job. These people tend to reflect the concerns of larger, more urban-oriented ambulance services.

3. One other Emergency Medical Technician to represent the majority of EMTs who are volunteer or part-time ambulance drivers or attendants. Most of these volunteer EMTs are from out-state, rural Minnesota and it is reasonable that their specific concerns about services, training and their role in the emergency medical services system have specific representation on this policy body.

4. Physician representation on this Council is a reasonable requirement because EMTs are supervised by physicians in work situations and it is reasonable to require the physician representatives to have knowledge of EMTs and the training required for minimum competency and who are in a position to remain current in national, regional and local training developments.

   It is reasonable that one physician be affiliated with a metropolitan area hospital because he or she would generally be more familiar with the requirements and procedures of a large urban hospital emergency room as well as the emergency service system requirements of an urban region.

   It is reasonable that there also be a physician representative from an out-state hospital because he or she would be more familiar with the special needs of volunteer EMTs and the procedures required in a more rural situation where emergency rooms, special personnel and equipment are farther apart.

5. Representation of a registered nurse who is employed full time in an emergency department of a hospital is reasonable because the emergency department nurses are very involved in working with, training and supervising EMTs.

6. Physicians, and nurses to some extent, have traditionally been involved in determining emergency medical care standards in this state because the physician assumes final legal responsibility for emergency care. It is reasonable then to require

that one of the physicians or the nurse representative also be involved in the education of EMTs since an educator can bring to the Council a knowledge of curriculum content, current research and other performance related issues.

(MHD. 543)

B. Organization Duties and Responsibilities

1. Minn. Stat. Sec. 15.059 (1976, as amended) as designated in Minn. Stat. Sec. 214.13, Subd. 4, sets forth the terms, the compensation and the procedures for the removal of members of the EMT advisory council. The Council is also governed by the Commissioner's policies regarding advisory councils. The Commissioner's policies concern only internal management which do not directly affect the rights of or procedures available to the public and are therefore not subject to rule-making procedures.

2. The Council, which is composed of EMTs and related professions, will advise the Commissioner regarding these registration rules. They will be working with these rules and it is reasonable to expect that they will have the expertise and experience to keep the rules updated and be best able to establish policy that assures competent EMTs. Given their expertise these are the best people to advise the Commissioner on the enforcement of these rules. The Council will be composed of people who are technically expert and representative of all relevant interest areas. They are in a position to be most familiar with the rules and the enforcement issues. The Council is also the body which will assess the qualifications of each applicant and recommend credentialing to the Commissioner based on the predetermined minimum competency standards established in these rules. Another responsibility of the Council will be to provide for the dissemination of information to the public concerning the competency standards for registration. It is important for the public to be aware of the standards that must be met by a person

who uses the title, Emergency Medical Technician,

Of course, the Commissioner may direct the Council to perform such other activities that are not inconsistent with the policy-making responsibilities of this Council.

Dated: 6/9/, 1978.

STATE OF MINNESOTA

Commissioner of Health

Warren R. Lawson

ATTORNEY GENERAL

LARRY WOODS, Department of Health April 12, 1979

JOANNE E. HINDERAKER
Special Assistant
Attorney General

In the Matter of Proposed Rules Relating to the
Registration of Emergency Medical Technicians

As I indicated to you in our telephone conversation of April 12, 1979, the rules in the above-captioned matter have not been approved by this office for the following reasons:

1. It appears that the Department intended to make minor changes in the adopted text of the rules, pursuant to the Hearing Examiner's recommendations. Such changes have not been made in the adopted text with amendments. Specifically,

   a) In the last sentence of Rule § 1.542 B.1, it appears that the reference to "Applications submitted after the applicant's birthday" should be changed to trade ok with the corresponding amended reference, in the first sentence of this rule to "the anniversary date of the initial registration".

   b) Based upon Findings #18 and #25 at pages 10 and 14 of the Hearing Examiner's Report and at pages 10 and 14 of the Department's Findings, it appears that the Department concurred with the Hearing Examiner's statement that in the rules as proposed "in connection with an initial application [§ 1.542 A.1], the power to request additional information is vested only in the Commissioner, whereas in connection with a renewal registration [§ 1.452 B.1.] the power is vested in the Commissioner 'or his agent'. For purposes of consistency, the two should be similar." The text of the adopted rules does not indicate that the Department has changed

either one of these rules to make the two provisions consistent. Although it appears that the Department intended to do so, such a change should be considered in light of the record in this matter.

c) At Finding #10 of the Hearing Examiner's Report, p. 3, and at the same Finding and page of the Department's Findings, there is a reference to the Department's intent to substitute "the word 'skills' for the word 'techniques' in the third line" of rule § 1.541 B.4. However, at p. 2 of the adopted rules the word "skills" has been stricken and "techniques" added and the rule does not read properly. The Department should clarify the amendment of this rule.

2. There are several typographical/grammatical errors in these rules which do not affect the legality of the rules, but should be changed to improve the form of the rules. The following minor changes are suggested in this regard:

a) Delete the parenthetical marks which appear in conjunction with the MCAR citations. Such marks are unnecessary, and in fact, inappropriate. See: at p. 1 of the Adopted Rules the first two rule title/headings under Part II; § 1.451 A., the reference in the first sentence; § 1.451 B., the reference in the first sentence therein; at p. 4 the title/heading of rule § 1.542; § 1.452 B. the reference in the first sentence therein. This is not intended to be an exhaustive list, and the entire text of these rules should be scrutinized to detect such parenthetical marks.

b) In rule § 1.452 A. 1, it would be better form if the clauses in a., b., and c. of that rule were followed by semi colons, instead of periods.

c) In rule § 1.452 A. 2. c. The word "attendent" should be read "attendant" and a comma should separate "attendant" and

"fire, police, or rescue squad member" etc.

d) In rule § 1.452 A. 2. d. and e. it would be better grammer to replace "have passed" with "has passed" and in § 1.452 A. 3. to replace "had met" ~~to~~ with "have met".

e) In rule § 1.452 B. 1., the second sentence of the rule, the period at the end of the sentence should not be stricken as it is necessary to end the sentence.

f) It is suggested that it would be preferable for the reference in rule § 1.452 B. 3. a. to "24 hours of continuing education" to be consistent with the references in § 1.451 B. ~~1~~ 4. and in § 1.452 B. 2. to "24 clock hours". Thus the addition of the word "clock" to § 1.452 B. 3. a. should be considered.

g) In rule § 1.452 B. 3. c., a comma should separate "attendant" from "fire, police or rescue squad member".

h) In rule § 1.452 C. 3. there appears to be a typographical error and the word "or" should be changed to "~~a~~ of".

After consideration of the issues addressed herein, and appropriate action, if any, the Department may resubmit 3 copies of the amended rules, as adopted, to this office.

Please contact me if you have any questions in regard to this memo or any other matter.

JEH/bw
cc: Duane Harves
Marshall Whitlock

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - Health

Office Memorandum

TO : Lee Sheehy
Special Assistant
Attorney General
G-25 Administration Building

DATE: March 13, 1979

FROM : William G. Miller
Special Assistant
Attorney General

PHONE: 6-5500

SUBJECT: In the Matter of Proposed Rules Relating to the Registration of Emergency Medical Technicians

I have enclosed for your review, pursuant to Minn. Stat. § 15.0412 subd. 4 (1978) the record, with all relevant documents, relating to the adoption of the above referenced rules.

WGM:ejb

Enclosure

ATTORNEY GENERAL

WILLIAM G. MILLER
Special Assistant
Attorney General

April 3, 1979

JOANNE E. HINDERAKER
Special Assistant
Attorney General

296-4692

In the Matter of Proposed Rules Relating to the Registration of Emergency Medical Technicians

I am returning to you the record in the above-captioned matter as you have not provided to this office the following:

1.) Three (3) complete copies of the Hearing Examiner's Report.

2.) Three (3) complete copies of the Agency's Findings and Conclusions.

3.) Three (3) copies of the Order Adopting the Rules.

4.) Three (3) copies of the Chief Hearing Examiner's Report.

These rules may be resubmitted to this office when the requisite copies are included. If you have any questions in this regard, please contact me.

JEH/bw

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : WILLIAM G. MILLER
Special Assistant
Attorney General

DATE: April 3, 1979

FROM : JOANNE E. HINDERAKER JEH
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of Proposed Rules Relating to the Registration of Emergency Medical Technicians

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1.) Three (3) complete copies of the Hearing Examiner's Report.

2.) Three (3) complete copies of the Agency's Findings and Conclusions.

3.) Three (3) copies of the Order Adopting the Rules.

4.) Three (3) copies of the Chief Hearing Examiner's Report.

These rules may be resubmitted to this office when the requisite copies are included. If you have any questions in this regard, please contact me.

4/3/79
Ord discussion w/
Miller on this

JEH/bw

4/4/79
Recd copies from
Larry Woods
6-5532

RECEIVED
JUN 5 1978
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to the Registration of
Emergency Medical Technicians

NOTICE OF HEARING

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. §§ 15.0412 subd. 4 (1976), in the Board Room, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota on July 6, 1978, commencing at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed Rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to George Beck, Hearing Examiner, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8108, either before the hearing or within five (5) days after the close of the hearing. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing examiners.

If adopted, the proposed rules would specify the administrative structure, the procedures and the requirements for the registration of those persons with training in basic emergency care who want to use the title of "Emergency Medical Technician" or "EMT". In general the proposed rules specify:

Com #3

1. A definition of basic emergency care that is the scope of practice for emergency medical technicians,

2. The requirements for initial registration;

3. The requirements for renewal of registration;

4. The fee schedule for initial and renewal registration;

5. The process and procedures for disciplinary actions; and

6. The membership and responsibilities of the Emergency Medical Technicians Advisory Council.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to the Minnesota Department of Health, in care of Kathryn Lamp, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

A Statement of Need explaining the Commissioner of Health's position relative to the necessity for the proposed rule and a Statement of Evidence outlining the testimony and evidence which will be filed with the Hearing Examiner's Office at least twenty-five (25) days prior to the hearing and will be available there for public inspection. The statutory authority of the Commissioner of Health to promulgate and adopt these rules is contained in Minn. Stat. §§ 214.001, 214.13, and 214.14 (1976).

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another indivudual or association and who spends more than $250 a year or five (5) hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Dated: May 31, 1978

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner of Health

RECEIVED
JUN 9 1978
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to the Registration of
Emergency Medical Technicians

NOTICE OF HEARING

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All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed Rules captioned above. Statements may be made orally and written materal may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to George Beck, Hearing Examiner, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8108, either before the hearing or within five (5) days after the close of the hearing. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter

Com # 2

at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

A copy of the proposed rules are attached hereto and made a part hereof.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to the Minnesota Department of Health, in care of Kathryn Lamp, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

A Statement of Need explaining the Commissioner of Health's position relative to the necessity for the proposed rule and a Statement of Evidence outlining the testimony and evidence which will be filed with the Hearing Examiner's Office at least twenty-five (25) days prior to the hearing and will be available there for public inspection. The statutory authority of the Commissioner of Health to promulgate and adopt these rules is contained in Minn. Stat. §§ 214.001, 214.13, and 214.14 (1976).

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individual or association and who spends more than $250 a year or five (5) hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Dated: May 23, 1978

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

/s/ Warren R. Lawson
WARREN R. LAWSON, M.D.
Commissioner of Health

RECEIVED
JUN 0 1978
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the Matter of Proposed Rules
Relating to the Registration of
Emergency Medical Technicians

AFFIDAVIT
OF MAILING

Kathryn Lamp, being first duly sworn, deposes and says:

That on the 1st day of June, 1978, at the City of Minneapolis, County of Hennepin, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses provided as in the attached Certificate of the Secretary of State.

Kathryn Lamp

Subscribed and sworn to before
me this 9th day of June, 1978.

Marie B. Tronicek

MARIE B. TRONICZAK
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission expires Oct. 9, 1980

Comm # 4

RECEIVED
JUN 9 1978
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to the Registration of
Emergency Medical Technicians

ORDER FOR HEARING

To effectively implement Minn. Stat. § § 214.001, 214.13, and 214.14, the Minnesota Commissioner of Health deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in it by the above-referenced statutes and Minn. Stat. § 144.011 (Supp. 1977).

NOW, THEREFORE, IT IS ORDERED this 23rd day of May, 1978, that a public hearing on the proposed rules captioned above be held in the Board Room, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on July 6, 1978, commencing at 9:30 a.m., and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be published in the State Register and be given to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose and to all persons who are presently members of the Minnesota Legislature.

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner of Health

Com #1

RECEIVED
JUN 9 1978
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA COMMISSIONER OF HEALTH

In the Matter of Proposed Rules Relating to the Registration of Emergency Medical Technicians

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

Kathryn Lamp, being duly sworn upon oath, deposes and says:

1. That she is an employee of the Minnesota Department of Health.

2. That on the 25th day of May, 1978, she called the Minnesota Secretary of State's office and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules or amendments thereto pursuant to Minn. Stat. § 15.0412 subd. 4 (1976).

3. That on the 30th day of May, 1978, in response to the above request, the Secretary of State provided her with such a list, a photocopy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Kathryn Lamp
KATHRYN LAMP

Subscribed and sworn to before me
this 7th day of June, 1978.

Marie B. Tromiczak

MARIE B. TROMICZAK
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Oct 9, 1980

RECEIVED
JUN 9 1978
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

In the matter of the Proposed Adoption of Rules of [illegible] Division Governing Registration of

EMERGENCY TECHNICAL TECHNICIANS

I hereby certify that the attached [illegible] 5 sheets constitute the complete list of persons, associations, and other interested groups who as of [illegible] o'clock [illegible] .M, this [illegible] day of [illegible], 19[illegible], have requested pursuant to M.S. 19[illegible], [illegible], that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State

[illegible]

By [illegible]

Com #5

RECEIVED
JUN 9 1978
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA COMMISSIONER OF HEALTH

In the Matter of Proposed Rules Relating The Registration of Emergency Medical Technicians

STATEMENT OF NEED

The above captioned rules are newly proposed rules of the Commissioner of Health (hereinafter "Commissioner"). The statutory authority of the Commissioner for promulgation of these rules is contained in Minn. Stat. Sect. 214.001, 214.13 and 214.14 (1976). Minn. Stat. Sect. 214.13 subd. 1 specifies that "The Commissioner of Health shall promote the recognition of human services occupations useful in the effective delivery of human services. The Commissioner shall, consistent with section 214.001, "promulgate by rule standards and procedures relating to the credentialing of persons practicing in the affected occupations. If the Commissioner determines that credentialing of an occupation is appropriate, the Commissioner is empowered only to register the occupation." Further, section 214.13, subd. 3, specifies that "Rules promulgated by the Commissioner pursuant to subdivision 1 may include procedures and standards relating to the registration requirement, the scope of authorized practice, fees, supervision required, continuing education, career progression and disciplinary matters."

The Commissioner's decision to regulate persons in this occupation was based upon Minn. Stat. Sect. 214.001, subd 2, which states that "The legislature declares no regulation shall hereafter be imposed upon any occupation unless required for the safety and well-being of the citizens of the state. In evaluation whether an occupation shall hereafter be regulated, the following factors shall be considered:

(a) Whether the unregulated practice of an occupation may harm or endanger the health, safety and welfare of citizens of the state and whether the potential for harm is recognizable and not remote;

(b) Whether the practice of an occupation requires specialized skill or training and whether the public needs and will benefit by assurances of initial and continuing occupational ability; and

(c) "Whether the citizens of this state are or may be effectively protected by other means."

Con #8

In order to determine whether this occupation should be regulated, the Commissioner was advised by the Human Services Occupations Advisory Council as established in Minn. Stat. 214.14. Using his authority to "establish procedures for the identification of human services occupations not now credentialed by the state, "and to" recommend appropriate regulatory modes", a series of subcommittee meetings and a public forum were held to gather information and evidence relevant to the three factors listed above.
The need for the proposed rules was made apparent by such information, as is outlined below and in the statement of facts establishing the reasonableness of the proposed rules submitted herewith.

During this course of study, it became evident that emergency medical technicians can harm or endanger the health, safety and welfare of the public. These persons are responsible for providing basic emergency care at the scene of an emergency under stress-filled conditions, for transporting victims to hospitals and for maintaining basic life supports until medical care is available. Error can result in increased injuries, delayed recovery or death.

The credentialing study elicited the required skills of the emergency medical technicians which distinguish them from other health occupations. Special training to develop skills in basic emergency procedures and the proper operation of emergency care equipment is not usually given to other health professionals. These skills include use of backboards, anti-shock trousers, extrication techniques, immobilization techniques and establishing and maintaining respiratory and circulatory function while at the scene of an emergency.

The credentialing study also established that the public is not effectively protected by other means. Existing licensing requirements cover ambulance vehicles and personnel who "possess a current advanced Red Cross Card or other emergency care certificate authorized by the Commissioner "(Minn. Stat. Sect. 144.804.)" The Advanced First Aid Certificate of the American Red Cross does not cover certain skill areas required in these proposed rules. The proposed rules for registration meet the training standards extablished by the United States Department of Transportation for funding purposes.

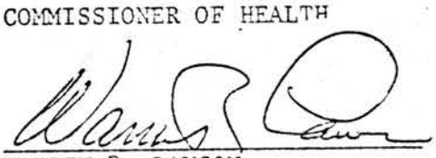
The need to initiate the Administrative process necessary to implement registration of Emergency Medical Technicians is not limited solely to the above noted legislative directive. It is through proposing these rules and the holding of the public hearing thereon that the public and all interested persons and affected persons are provided the opportunity to comment upon and thus help shape the procedures and requirements to be used by the Commissioner in carrying out legislative policy. Additionally, the rule making process serves as a means of providing full notice to all interested persons of what the procedures and requirements will be.

The proposed rules are drafted with the purpose of satisfying the need to specify the standards which must be met prior to utilization of the title "Emergency Medical Technician", the procedures by which these standards are verified by the state prior to granting use of the title, the enforcement procedures that will be used to prevent incompetent persons from using the title of "Emergency Medical Technician", and the establishment of council to advise the Commissioner regarding the registration of Emergency Medical Technicians.

Dated: 6/9/ .1978

STATE OF MINNESOTA

COMMISSIONER OF HEALTH



WARREN R. LAWSON
COMMISSIONER OF HEALTH

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EXAMINERS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules Relating to the Registration of Emergency Medical Technicians

STATEMENT OF EVIDENCE

The Commissioner of Health (hereinafter "Commissioner") will introduce the following evidence at the hearing in the above-entitled matter scheduled for July 6, 1978, commencing at 9:30 a.m. in the Board Room, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota.

1. Documents attached hereto and made a part hereof evidencing the Commissioner's compliance with procedural requirements for rule making:

(a) Order for Hearing;
(b) Notice of Hearing as mailed;
(c) Affidavit of Receipt of the Secretary of State's List;
(d) Certificate of the Secretary of State;
(e) Affidavit of Mailing of the Notice of Hearing; and
(f) "Notice of Intent to Obtain Information on Proposed Rules From Non-Agency Sources," as published in the State Register on November 8, 1976, (1 S.R. 739).

2. Documents attached hereto and made a part hereof constituting the Commissioner's affirmative presentation of facts establishing the need for and reasonableness of the proposed rule and evidencing the Commissioner's compliance with substantive requirements for rule making:

(a) Statement of Need; and
(b) Statement of Facts Establishing Reasonableness of Rule.

3. The following witnesses will represent the Commissioner at the hearing:

Com #10

Kathryn Lamp
Corrine Larson
Colleen Coghlan
James Stoffels

Said witnesses will be available to answer questions as they might relate to the Commissioner's affirmative presentation of facts as set forth through the previously listed and attached documents.

4. The Statement of Need attached hereto contains the citations to the Commissioner's statutory authority to promulgate the proposed amendments to the Commissioner's rules.

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner of Health

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EXAMINERS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules Relating to the Registration of Emergency Medical Technicians

STATEMENT OF NUMBER OF PERSONS EXPECTED TO ATTEND AND LENGTH OF HEARING

The number of persons expected to attend the hearing in the above-captioned matter is 100.

It is estimated that the length of the hearing will be 6 hours.

Dated: June 9, 1978

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

WARREN R. LAWSON
Commissioner of Health

Com #9

Minnesota State Agricultural Society

Business Meeting

The board of managers of the Minnesota State Agricultural Society, governing body of the state fair, will conduct a business meeting starting at 10 a.m. on Saturday, Nov. 13, in the Administration Building on the fairgrounds, Falcon Heights.

State Ethical Practices Board

Allocation of Expenditures Arising from Fundraisers

Advisory Opinion No. 31

Dear Mr. Clutter:

As Executive Director of the Minnesota State Ethical Practices Board you seek an advisory opinion to guide you in advising individuals, funds and committees concerning fundraisers. You, therefore, ask the following:

QUESTION

When are expenditures incurred in connection with fundraisers incurred "on behalf of" candidates so as to make such expenditures allocable against the expenditure limit of those candidates?

OPINION

A. A fundraiser held by the state or local committee of a political party for *more* than one candidate will be considered as "on behalf of" candidates and charged against the expenditure limit of candidates under the following conditions:

1. The fundraiser is expressly or implicitly authorized by the candidate or his treasurer to be held "on behalf of" the candidate;[1] and

2. The candidate is "specifically referred to"[2] in advertisements, tickets, or any advance publicity for the fundraiser; and

3. The candidate receives proceeds, if any, of the fundraiser.

B. A fundraiser held by a political party committee for only one candidate, or a fundraiser held by an individual, fund or committee other than a political party committee or the principal campaign committee of the candidate for candidates will be considered as "on behalf of" and charged against the expenditure limit of candidates if conditions 1 and 3 listed above are satisfied.

Condition 2 listed above only applies to fundraisers held by political party committees for more than one candidate.

The pertinent statutory authority is as follows:

a. Minn. Stat. 10A.17, subd. 2 (1974) provides that expenditures of more than $20.00 *made on behalf* of a candidate by any person or persons other than the candidate and treasurer of the candidate's principal campaign committee shall be counted against the expenditure limitations of the candidate if such expenditures are made *with the express or implied consent of the candidate or his agent, or under the control, direct or indirect, of a candidate or his agent;* (emphasis added)

b. Laws of 1976 ch. 307, § 24 (to be codified as Minn. Stat. § 10A.27, subd. 3), provides in pertinent part that expenditures by the state or local committee of any political party on behalf of *candidates of that party generally without referring to any of them specifically in any advertisement published, posted or broadcast shall not be allocated to any candidate.* (emphasis added)

B. Allen Clutter,
Executive Secretary

Department of Health State Board of Health

Amendments to Rules Governing Employees of Health Facilities

Notice of Intent to Solicit Outside Opinion

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6 (Supp. 1975) that the Min-

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1. Minn. Stat. § 10A.17, subd. 2 (1974) requires prior written authorization from the treasurers of the candidate's principal campaign committees. Prior written authorization is express authorization. Whether a fundraiser is implicitly authorized by a candidate is a factual determination to be made on a case by case basis.

2. "Specifically referred to" means that (1) the name of the candidate is used; (2) a photograph or drawing of the candidate appears; or (3) the identity of the candidate is apparent by unambiguous reference.

nesota State Board of Health will propose the adoption of new rules and the amendment and revision of existing rules.

All interested parties desiring to submit data or views relating to the proposed adoption, amendment or revision of the rules noted below should address their comments (either written or oral) to the Minnesota Department of Health, Division of Health Manpower, 717 Delaware Street S.E., Minneapolis, Minnesota 55440, by writing or calling the persons designated. Evidence submitted for consideration should be pertinent to the matter at hand. Written material received by the Department of Health will become part of the hearing record.

1. Proposed amendments to MHD 36 to 43 relating to hospital administrator registration. Contact: Collin Eid
Phone: (612) 296-5393.

2. Rules relating to the establishment of application procedures for determining credentialing of human services occupations. Contact: Corrine Larson
Phone: (612) 296-5393

3. Proposed amendments to MHD 21-35 relating to Morticians, Funeral Directors, and the Disposition of the Dead. Contact: Eugene Larson
Phone: (612) 296-5491

4. Rules relating to the establishment of credentials for those categories of human services occupations as such are determined by the Board of Health to constitute a useful new category of human services responsibility and important to regulate in the public interest pursuant to Laws of 1976, ch. 222 §§ 8 and 9. Said rules will include but will not be limited to the credentialing requirement; scope of practice authorized; supervision required; continuing education; career progression; disciplinary procedures; and the development, administration, and grading of examinations to verify the qualifications of applicants. Categories of human services occupations presently seeking a credentialing requirement and on which public input is being received which might lead to the promulgation of rules include: (1) chemical dependency professionals; (2) speech pathologists and audiologists; (3) emergency medical technicians; (4) sanitarians; (5) x-ray machine operators.
Contact: Corrine Larson
Phone: (612) 296-5393

Any materials submitted shall be reviewed and considered by the Department of Health during the preparation of the proposed rules. Notice of the public hearing on the proposed rules shall be published in the State Register and given to all interested parties who have registered with the Secretary of State's Office in accordance with the provisions of the Administrative Procedure Act.

Under the provisions of Minn. Stat. § 10A.01, subd. 11 (1974), any individual representing persons or associations attempting to influence administrative action, such as the promulgation of these proposed rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual. The State Ethics Commission is located at Room 401, State Office Building, Saint Paul, Minnesota 55155.

Warren R. Lawson, M.D.
Secretary and Executive Officer

Department of Health
State Board of Health
Amendments to Rules Governing the Management of Health Care Facilities

Notice of Intent to Solicit Outside Opinion

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6 (Supp. 1975) that the Minnesota State Board of Health will propose the adoption of new rules and the amendment and revision of existing rules.

All interested parties desiring to submit data or views relating to the proposed adoption, amendment or revision of the rules noted below should address their comments (either written or oral) to the Minnesota Department of Health, Executive Offices, 717 Delaware Street S.E., Minneapolis, Minnesota 55440, by writing or calling the persons designated. Evidence submitted for consideration should be pertinent to the matter at hand. Written material received by the Department of Health will become part of the hearing record.

1. Rules establishing the method by which complaints against health care facilities, health care providers or administrative agencies are to be made to the office of Nursing Home Complaints pursuant to the provisions of Laws of 1976, Chapter 325. Contact: Ernest Kramer
Phone: (612) 296-5471

Department of Natural Resources Minerals Division

Notice of Request for Proposals for an Ecological and Floristic Study of the Peatland Vegetation of Northern Minnesota

Estimated cost: $33,000

Contact person: Barbara Coffin, 296-4807

Submission deadline: May 17, 1978

William Nye
Commissioner

Minnesota Teachers Retirement Association

Notice of Availability of Actuarial Consultant Contract for the Period Beginning July 1, 1978 and Ending June 30, 1980

Contact Person: Harvey W. Schmidt, Minnesota Teachers Retirement Assn., 302 Capitol Square Building, St. Paul, Minnesota 55101, telephone (612) 296-2409.

Description: Provide actuarial consultant services to Association; prepare and submit actuarial valuations, actuarial surveys and reports as required by Minn. Stat. § 356.215; assist in the preparation of the certification of funds required from the state; consult with the Director of the Board and staff on any matters of actuarial nature; make any necessary special statistical studies in connection with proposed legislation; and perform any other services of an actuarial nature which the Board may deem desirable.

Estimated cost: Approximately $17,500.00.

Final submission date: May 29, 1978.

Board of Cosmetology

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Continuing Education of Senior Instructors and the Practice of Cosmetology in Nursing Homes

Notice is hereby given that the Minnesota State Board of Cosmetology is seeking information or opinions from sources outside the Board in preparing to propose the adoption of rules governing the continuing education of senior instructors and the practice of cosmetology in nursing homes and other possible amendments to the cosmetology rules. Any interested persons may submit information on these subjects in writing or orally to:

Cynthia Allen
Minnesota State Board of Cosmetology
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9405

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Any written material received by the Board shall become a part of the hearing record in the event rules governing these subjects are promulgated.

May 2, 1978

Department of Health Health Manpower Division

Notice of Intent to Solicit Outside Opinion Concerning Procedures for Determining Regulations of Human Services Occupations; Hospital Administrator Registration Program; Registration of Various Human Services Occupations; and Obtaining of Information from Licensed or Registered Health Manpower

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412 subd. 6 (Supp. 1977) that the Minnesota Commissioner of Health will propose the adoption of new rules and the amendment and revision of existing rules as indicated below.

All interested parties desiring to submit data, views, opinions, comments or other related information concerning the proposed adoption, amendment or revision of the rules noted below should write or telephone the persons indicated below at the Minnesota Department of Health, Division of Health Facilities, 717 Delaware Street S.E., Minneapolis, Minnesota 55440. Evidence submitted for consideration should be pertinent to the matter at hand. Written material

...received and considered by the

received by the Department of Human Services before the hearing record.

1. Proposed amendments to the Rules regarding Procedures for Determining Regulation of Human Services Occupations, 7 MCAR §§ 1.536 to 1.538 (Minn. Rules MHD 536-538), to: (a) define "human services occupations"; (b) make more explicit or define the factors specified in Minn. Stat. § 214.001 subd. 2 (1976) to be used in evaluating whether a human services occupational group should be regulated; and (c) establish criteria for choosing a national standardized test for each occupational group registered. Contact Colleen Coghlan; telephone (612) 296-5393.

2. Proposed amendments to and general revision of the rules relating to the Hospital Administrators Registration Program, 7 MCAR §§ 1.036-1.038 (Minn. Rules MHD 36-38). Contact Collin Eid; telephone (612) 296-5393.

3. Proposed new rules establishing a registration form of regulation, including but not limited to the scope of authorized practice, supervision required, continuing education, career progression, disciplinary procedures, and the development of administration and grading of examinations to verify the qualifications of applicants, pursuant to Minn. Stat. §§ 214.001, 214.13, and 214.14 (1976), for the following human service occupational groups: (a) chemical dependency specialists; (b) speech pathologists; (c) audiologists; (d) emergency medical technicians; (e) environmental health specialists; and (f) contact lens technicians. Contact Colleen Coghlan; telephone (612) 296-5393.

4. Proposed new rules regarding the types of information to be collected and the forms to be used for the collection of data on individuals licensed or registered by the Commissioner or health-related licensing boards. The information is to be collected pursuant to Laws of 1978, ch. 759, for the purpose of making decisions pertaining to health manpower. Contact Mary Volk; telephone (612) 296-5393.

Any materials submitted will be reviewed and considered by the Department of Health during the preparation of the proposed rules. Notice of the public hearing on the proposed rules will be published in the *State Register* and given to all interested parties who have registered with the Secretary of State's Office in accordance with the provisions of the Administrative Procedure Act.

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends

The statute provides [illegible] be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

May 5, 1978

Warren R. Lawson, M.D.
Commissioner

Department of Public Welfare
Income Maintenance Division

Notice of Intent to Solicit Outside Opinion Concerning Proposed Amendment of DPW Rule 55, General Assistance

Notice is hereby given that the Minnesota Department of Public Welfare is considering proposed amendments to DPW Rule 55 (12 MCAR § 2.055), General Assistance. The General Assistance rule is designed to provide financial assistance and services to persons unable to provide for themselves, who have not refused suitable employment, and who are not otherwise provided for by Law; to strengthen and preserve the family unit; to aid those persons who can be helped to become self-supporting or to attain self-care; and to provide property tax relief by providing state financing for some welfare costs historically financed by county property tax levies.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Wally Goettl
Department of Public Welfare
Client Eligibility Unit
4th Floor, Centennial Office Building
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-3340.

All statements of information and comment must be received by June 5, 1978. Any written material received by the Department shall become part of the hearing record.

Any materials submitted shall be reviewed and considered by the Department of Health during the preparation of the proposed rules. Notice of the public hearing on the proposed rules shall be published in the State Register and

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General William G. Miller, do hereby declare that I have examined the proposed rules relating to the registration of emergency medical technicians and all related documents and that, based on such examinations and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

Dated: January 16, 1979

WILLIAM G. MILLER
Special Assistant
Attorney General

Re: In the Matter of Proposed Rules Relating to the Registration of Emergency Medical Technicians

To All Interested Persons:

Pursuant to your request and in accordance with Minnesota Statutes, Section 15.0412, subdivision 4 and Rule HE 102:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Attorney General's Office on March 19, 1979, for review as to form and legality. Pursuant to Rule ATTY GEN 305, any person may question the legality of the above-captioned rules within ten (10) days after receipt of the rule by the Attorney General. Thereafter, the Office of the Attorney General shall conduct its review. If you desire to question the legality of the above-captioned rules, you should direct your comments to the Attorney General's Office, G-25 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155.

If you are interested in determining what changes, if any, were made in the proposed rules after the hearing and before submission to the Attorney General you may contact: Larry Woods, Division of Health Manpower, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, Telephone No.: (612) 296-5532.

WILLIAM G. MILLER
Special Assistant
Attorney General

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to the Registration of
Emergency Medical Technicians

AFFIDAVIT OF SERVICE

Larry Woods, being duly sworn upon oath, deposes and says:

That the attached "Notice of Submission of Rules to the Attorney General" was mailed, first class, postage paid, to all persons who requested such notice, pursuant to Minn. Stat. § 15.0412 subd. 4 (1978).

The following persons received this notice:

Wallace Amundsen
Sylvan B. Bauer
Warren Berntson
Marti Binter
Orlo R. Bjerk
Neil Boerger
Donivon L. Boyd
Ginny Braun
Sandra A. Breuder
Wally Cayl
John P. Colona
Philip Crowe
Mark J. Custer
Dave Devin
Lyle Dilley
Tom Galligan
Douglas Gettle
Phil Grunewald
Gerald Gustafson
Keith Haglin
M. Katherine Hasse
James Hennessy
Wayne Johnson
Henry J. Kalis
Ralph L. Kays
Ralph L. Kays
Forest Kenworthy
Richard Kosec
Frank Kurth
Robert P. LaFlamme
Clarence Latch
Jim Maher
R. W. Mielke
Dennis Miller
William L. Nelson
Nona Niemeier
Tim O'Bannon
Bill Olsen
June Olstad
Ted Otremba
Gerald W. Otto
Roger Paschke
Gary Pearson
Tim Penny
Tim Poorker
Bob Pye
Brad Reeves
Lloyd Reid
Maureen Reineke
Jerry Renchin

Linda Sandvig

Sally Sattler

Ronaele Sayre

Bill Schultz

William Setter

Jim Sinkbeil

George Tourville

Roger J. Trobec

Harold Ulrich

Selmer T. Urne, Jr.

B. J. Walker

Chris Wersal

Robert Wetherille, Jr.

Further affiant sayeth not.

Larry Woods

LARRY WOODS

Subscribed and sworn to before me

this 28th day of MARCH, 1979

Beverly Wilbur

BEVERLY WILBUR
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My Commission Expires Nov. 13, 1981

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF HEALTH

In the Matter of Proposed Rules Relating to the Registration of Emergency Medical Technicians.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing on July 6, 1978, at the Department of Health's Board Room in Minneapolis before Allan W. Klein, duly appointed Hearing Examiner.

This is a rule hearing pursuant to Minn. Stat. Ch. 15 to determine whether the proposed rules should be adopted.

The following persons appeared for the Department of Health (hereinafter the "Department"): Kathryn Lamp, William Miller, James Stoffels and Colleen Coghlin. Sixty-five persons attending the hearing signed the register. The hearing continued until all interested groups and persons had had an opportunity to be heard.

Pursuant to Minn. Stat. § 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Commissioner of Health shall, if he proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his Report to the Commissioner on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Commissioner shall be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

PROCEDURAL REQUIREMENTS

1. On June 5, 1978, the Department filed the following documents with the Chief Hearing Examiner:

   (a) A copy of the proposed rules;
   (b) A proposed Order for Hearing;
   (c) A proposed Notice of Hearing; and
   (d) A Statement of the estimated length and number of people attending the hearing.

2. On June 1, 1978, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

3. On June 5, 1978, a Notice of Hearing and a copy of the proposed rules were published at 2 State Register 2159.

4. On June 9, 1978, the Department filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and list;
(f) The Statement of Need;
(g) The Statement of Facts;
(h) The Statement of Evidence;
(i) The names of Department personnel who would represent the agency;
(j) Two Notices of Intent to Solicit Outside Opinion, the first published on November 8, 1976 at 1 S.R. 738, and the second published on May 15, 1978 at 2 S.R. 2033.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through July 26, 1978 for the receipt of written comments and statements.

STATUTORY AUTHORITY

6. The statutory authority for these rules is found in Minn. Stat. § 214.13, subd. 1 (1976) which states that the then Board of Health (now the Department) shall "promote the recognition of human services occupations useful in the effective delivery of human services" and shall, consistent with Minn. Stat. § 214.001, promulgate by rule standards and procedures relating to the credentialling of persons practicing in affected occupations.

Subdivision 3 of § 214.13 provides that rules promulgated under subd. 1 may include:

> Procedures and standards relating to the registration requirement, the scope of authorized practice, fees, supervision required, continuing education, career progression and disciplinary matters.

That subdivision goes on to direct that any such rules may not conflict with Chapter 214 and Laws of Minnesota 1976, Chapter 222, §§ 1 to 7 (now codified as various parts of Chapter 214).

7. A related set of rules which must be considered in conjunction with the statute is the Department's Rules of Procedure for Determining Regulations of Human Services Occupations, 7 MCAR §§ 1.536-538. Although those procedural rules were not in effect during much of the time that consideration was being given to the question of whether Emergency Medical Technicians (hereinafter "EMTs") ought to be credentialled, they were in effect at the time that the instant rulemaking proceeding was initiated.

RULE-BY-RULE DISCUSSION

8. Proposed 7 MCAR § 1.541* contains both a purpose section and numerous definitions. The purpose section merely "sets the stage" for the remainder of the rules, informing the reader that these rules contain certain items.

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* Subsequent references to this and other rules will use the three-digit rule number only. Thus, 7 MCAR § 1.541 will be referred to as Rule 541.

Rule 541 also contains definitions. Many of the definitions drew no public comment, and readers are referred to the Department's Statement of Facts Establishing the Reasonableness of the Proposed Rules (Commissioner's Ex. 7, hereinafter referred to as "Statement of Facts") for an explanation of those definitions.

9. The first definition to draw comment was Rule 541.B.3., which defines "Basic Emergency Care Course" to be at least 81 hours of instruction in three broadly described areas. The Statement of Facts indicates that the 81 hours would be broken down into 60 hours of didactic instruction and 21 hours of in-hospital experience. However, there is no such breakdown in the rule. At the hearing, Kathryn Lamp stated that the U. S. Department of Transportation has guidelines relating to the training of emergency medical technicians, and that the 81-hour course meets those guidelines. She stated that the course is offered extensively through area vocational technical schools and is extended to other communities upon request.

Gerald Otto believed that the definition for the course ought to recognize DOT standards so that there would be no possibility of losing substantial DOT funding which the state presently receives.

While more will be said about this 81-hour course in connection with Rule 542.A.1.c., the Department should be aware that since it failed to specify any breakdown between classroom and hospital in the rule, itself, it cannot enforce any such division.

10. The next section to draw comment was Rule 541.B.4., which defines "Continuing Education in Basic Emergency Care," which is essentially a refresher course which a subsequent rule requires for renewal of registration.

At the hearing, the Department indicated that it desired to amend the proposed rule by making three changes. The first change inserted the word "examination" in two places in the rule to clarify that there would be an examination in connection with this refresher course. The second substituted the word "skills" for the word "techniques" in the third line of the rule. The final change was in subparagraph (g), and was designed to indicate that persons taking the course would have to review splinting fractures of both the upper and lower extremities. The proposed rule had indicated only the upper extremities. None of these changes are substantial.

The Statement of Facts indicate that this refresher course is designed to review some of the basics taught in the 81-hour course and to bring registrants up to date on changes in practices and techniques. The ten study areas required to be covered by virtue of their inclusion in the definition are alleged to be the minimum that an EMT should know to be operating in the field.

Again, Gerald Otto argued that any definition of such a refresher course should specifically recognize DOT standards. Public Ex. 28, from the Gold Cross Ambulance Services, opposed the inclusion of a specific list of topics to be covered in the refresher course, arguing in favor of a more flexible definition which would allow the course to vary over time.

The definition, as proposed by the Department, is found to be both needed and reasonable. While it might be desirable to have the flexibility suggested by Gold Cross, the Department has apparently decided that it is

more important that there be some assurance that certain basic areas will be covered in the refresher course. The choice between flexibility and assurance is one which the Department must make.

11. Another definition which gave problems is the definition of "registration" contained in Rule 541.B.11. Contained within that definition is one sentence which states the basic prohibition of these rules:

> Only persons so registered [as EMTs] are permitted to use the designated title of "Emergency Medical Technician" or "EMT".

John Colonna, of the St. Paul Fire Department, pointed out that the National Registry of Emergency Medical Technicians sells patches which contain the words "Emergency Medical Technician". Colonna wondered whether this rule would prohibit a non-state registered EMT from displaying such a patch. Kathryn Hasse, of the Leech Lake Ambulance service, pointed out that if it were possible to use the title based upon registration with the National Registry, without being registered with the State, there would be no incentive to register with the State. In a written comment (Public Ex. 33), the Leech Lake Ambulance service again posed the question of whether a person who was registered with the National Registry, but not with the State, may use the title "EMT" without committing a misdemeanor. The comment pointed out that this question will have to be considered.

The definition proposed by the Department is in accord with Minn. Stat. § 214.001, subd. 3(c). It is both needed and reasonable. However, the basic prohibition might be more clearly understood if it were stated as a separate rule rather than "buried" in the definitions. Such a change is largely a matter of style, and the Department may elect whether to make it or not.

12. The final set of comments relating to the defintions all revolved around a conflict which permeated both the public hearing and the written comments. That conflict is whether these rules should be designed for full-time employees of ambulance services, or whether they should be designed to meet the needs of not only ambulance drivers and attendants, but also fire, police, and rescue squad personnel, whether volunteer or full-time, who desire to avail themselves of the use of the title "EMT". For example, the Minnesota Emergency Medical Services Joint Council pointed out (Public Ex. 17 and testimony of Dick Kosek) that subparagraph 9 defines a full-time ambulance driver or attendant as a person who has been employed by a licensed ambulance service for a minimum of 1560 hours per year. Subparagraph 12 defines a part-time ambulance driver or attendant to be a person employed by a licensed ambulance service for less than 1560 hours but more than 520 hours per year. Subparagraph 13 defines a volunteer ambulance driver or attendant to mean a person who provides emergency medical services for a licensed ambulance service without remuneration. They pointed out that there was no place for a person who worked less than 520 hours but did receive some remuneration. Just such a person is Richard Ransom, an EMT for a volunteer fire and ambulance department, who, in Public Ex. 21, stated that he received $228.75 in calendar year 1977 for services which amounted to fewer than 520 hours. The Joint Council comment recommended that this problem be

solved by deleting the words "but more than 520 hours" from the last two lines of subparagraph 12. The Leech Lake written comment (Public Ex. 33) recommended that all definitions which currently read "ambulance driver or attendant" be changed to read "emergency care personnel", so as to include police, fire, and rescue squads as well as ambulance personnel.

This problem of nomenclature is complicated by the fact that the legislature has made certain decisions relating to fees. The first of these decisions, contained in Minn. Stat. § 214.06, subd. 1 (1976 Supp.), states that the Board of Health may, by rule, adjust any fee so that the total fees collected will as closely as possible equal anticipated expenditures during the fiscal biennium. However, Minn. Stat. § 144.809 (1977 Supp.) states that no fee be set by the Board for renewal of an EMT's "certificate" for a member of a volunteer ambulance service or volunteer fire department which shall exceed $2.00.

While the question of fees will be discussed in some detail in connection with Rule 542.C., the basic conflict over coverage of these rules remains. The Joint Council stated, in Public Ex. 17, that it represents well over 90% of the active EMTs in Minnesota today. The Joint Council is made up of the Minnesota Fire Chiefs Association which allegedly provides a major portion of the ambulance service, and well over 95% of the rescue service in the state of Minnesota, as well as the Minnesota Rescue and First-Aid Association, which includes most of the EMT instructors in Minnesota. They stated that two-thirds of the EMTs in Minnesota are in fire, police and rescue services. Given these facts, a review of the Department's presentation was made in an attempt to determine why the definitions spoke only to ambulance drivers or attendants rather than this broader group of emergency care personnel. No such justification was found.

As is stated in the Recommendations at the end of this Report, there is some question in the mind of this Examiner (and others) as to whether this credentialling proposal for EMTs has missed the mark, unintentionally encompassing a broader group of persons than was originally contemplated. This problem can be illustrated by a hypothetical example. If the Department were to intentionally draft two sets of rules, one for full-time paid ambulance personnel, and the other for volunteer police, fire and rescue personnel, any differences (or similarities) between the two would reflect policy decisions made by the Department. If the two sets of rules were the same (other than changes in the appropriate titles), then it could be said that the Department had made a conscious policy decision that all providers who desired to use the title "EMT" must meet the same standards of training and competence and follow the same administrative procedures for registration. If, on the other hand, the two sets of rules varied in substance, then it could be said that the Department had made a conscious policy choice to apply different standards to one group than to the other, even though both would be able to use the same title. What is troublesome about the rules actually proposed by the Department is that the reader is unsure of which policy decision the Department has made. The Examiner has assumed that it has decided to apply the same standards to all who desire to use

the EMT title. In that event, then the definitions ought to reflect that decision and refer to "emergency care personnel" or some similar language. The statutorily-mandated differentiation with respect to fees has been offered as the justification for the proposed definitions. This differentiation can be made clear in the rule relating to fees (Rule 542.C.). In attempting to use the definitional section to do the job, the Department has created unneeded problems and opposition.

13. Rule 542.A. deals with initial registration, setting forth two alternative "tracks" which may be taken to qualify for initial registration. The rule also sets forth requirements for reciprocity and limits retaking examinations in the event of failure.

Rule 542.A.1. essentially sets five requirements for registration under the first alternative "track". There were public comments relating to each of those qualifications. The first qualification is that the applicant be at least 18 years old. In its Statement of Facts, the Department argued that such a requirement was reasonable because persons treated by EMTs had the right to expect maturity and intelligence from those treating them. Public comment varied, with some stating that 18 is a good age (Bill Setter of the Silver Bay Rescue Squad) while others were opposed to the age limitation. In a letter, Public Ex. 5, the Willmar Police Department argued that if individuals could otherwise qualify by training and examination, they ought not to be barred by age. There is no question but that an active EMT will be faced with a variety of circumstances in which good judgment and a cool head may have a substantial bearing upon the well-being of a victim who is usually in no position to question whether treatment is being rendered by one who possesses such qualities or not. While any specific age limit is arbitrary and is not a precise separator of those who have such qualities from those wo do not, the probabilities of finding such qualities do increase with age, particularly during adolescence. It is found that an age limitation is needed, and that the Department's 18-year requirement is reasonable.

14. The second qualification proposed for registration is that the applicant possess a high school diploma or its equivalent. At the hearing, Kathryn Lamp of the Department stated that this qualification was included in the rules because it was thought necessary to assure that a person could read equipment instructions, assimilate information from the 81-hour basic training course, and pass the written test. She stated that it is also a prerequisite to the taking of the National Registry test and was unsure of whether the National Registry would permit Minnesota to use its test if Minnesota did not enforce this requirement. Bill Setter of Silver Bay pointed out that there are 20 people on his rescue squad, four of whom are not high school graduates. However, three out of those four are among the best EMTs on the squad. Senator Tim Penny and Representative Henry Kalis argued that a written examination is a far better indicator of ability to read than is possession of a high school diploma. Daniel K. Toedter, a volunteer EMT, described the high school requirement as arbitrary and artificial, arguing that if a person could successfully complete the 81-hour course and a written and practical examination, they have overcome hurdles which are more

aptly related to their performance as an EMT than high school would be. He pointed out in his letter, Public Ex. 2, that his local volunteer group would lose valuable and long active members if this requirement were imposed. The Willmar Police Department pointed out that neither high school nor college graduation was a valid indicator of performance as an EMT. The Leech Lake Ambulance Service and the Duluth Fire Department both submitted comments, Public Exs. 33 and 35, which argued that the examinations were qualification enough of a person's ability to read and comprehend.

The Department has failed to demonstrate either the need for or the reasonableness of its proposed requirement. Were there no examinations involved in the registration process, there might be a valid case for substituting a high school diploma as evidence of ability to read and comprehend. However, there are examinations, and they do bear a more reasonable relationship to the goals sought than does a high school diploma. A practical problem does result, however, if the National Registry were to require that a person be a high school graduate before they could take the National Registry examination. A review of the record, including two brochures from the National Registry, does not indicate, other than by Ms. Lamp's oral comment, that a high school diploma is in fact a requirement to take the examination. The Department ought to verify her assertion and, if it is found to be correct, endeavor to negotiate with the National Registry concerning this requirement.

15. A third requirement is that the applicant have successfully completed a basic emergency care course (commonly referred to as the "81-hour course"). The Department's Statement of Facts alleges that this course is designed to provide all of the basic knowledge needed for effective performance as an EMT. Bill Setter argued that the 81-hour course costs money (later identified as $65.00) and that small communities did not have adequate funds to train people. He criticized the lack of credit given for in-service training, implying that such training could be an alternative to the 81-hour course. It should be noted that Minn. Stat. § 144.8091, subd. 1 (1977 Supp.) contains a provision directing the Department to reimburse political subdivisions, non-profit hospitals and non-profit licensed ambulance services for expenses incurred in the initial training of volunteer ambulance attendants who commence and complete their training after July 1, 1977. This should amelioriate at least some of the cost considerations raised by the public commentators.

Senator Penny and Representative Kalis argued that 81 hours was too long for volunteers. The Emergency Medical Services coordinator for the Department of Education pointed out in a letter (Public Ex. 29) that during the 1976-77 school year there were 145 such courses given by the Department of Education and that there were no waiting lists for those courses. Kathy Lamp pointed out that for those who do not want to take the 81-hour course, the alternative "track" is available.

Is it reasonable for the Department to require, as one alternative method of becoming an EMT, that a person successfully complete a basic emergency care course" In light of the knowledge and skills demanded of an EMT, it is found to be both needed and reasonable that these persons successfully

complete such a course. The EMS coordinator for the Department of Education stressed, in his oral testimony, a willingness of the Department of Education to provide both this basic course and the refresher course to any community which desired it. Not only are these courses offered at Area Technical Vocational Institutes located throughout the state, but each Institute has a van and other mobile equipment to allow training to be given in any community that requests it. In light of availability of this training, to require that persons who desire to be recognized as competent receive this basic instruction is not unreasonable.

16. The rule would also require persons to pass a written examination "administered by the National Registry of Emergency Medical Technicians or its agent". The use of the National Registry examination provoked a substantial amount of comment, not only because some felt that the presently existing state examination was better than the National Registry examination, but also because of the cost charged by the National Registry ($15.00) and the fact that the National Registry has not, at least in the minds of some of its members, lived up to its promises with regard to post-testing services. The Department essentially put forth two arguments in favor of utilizing the National Registry test. The first was that Minn. Stat. § 214.03 (1976) states as follows:

> All state examining and licensing boards . . . shall use national standardized tests for the objective, non-practical portion of any examination given to propsective licenses to the extent that such national standardized tests are appropriate . . ..

The second argument put forth by the Department was that the National Registry test was better than any test which the Department could reasonably prepare on its own. Kathryn Lamp stated that the preparation of an appropriate examination was a difficult task calling for expertise beyond that in the Department. She also pointed out that if the Department were to prepare its own examination, the costs of preparation and administration would be passed on to the examinees by virtue of the statutory requirement that examination fees equal the cost of the administration preparation.

Dick Kosek, speaking on behalf of the Joint Council, opposed the National Registry test because of cost. Robert LaFlamme of the Duluth Fire Fighters argued against the National Registry because the ability of the Commissioner to affect the ultimate decisions with regard to test material, qualifications, and other matters is very diluted on a national scale. This statement was contradicted by an unidentified member of the St. Stevens Fire Department who stated that, based on his experience, the National Registry is receptive to input. George Tourville stated that he believed the problem with the National Registry was not the test itself, but rather the cost. He agreed that the Minnesota test needed updating and improvements but suggested that the state would be better off with its own test. Public Ex. 1A, a letter from the Metropolitan Council's EMS Program, suggested that the state should give itself the option of using either the National Registry test or its own test in order to have flexibility in the event that it disagreed with the National Registry. The Willmar Police Department wrote, in Public Ex. 5, that the State ought to be able to prepare a test which was at least

as good as, if not better than, the National Registry test. The Woodbury Fire Fire Department wrote, in Public Ex. 18, that the National Registry test is excessively costly. The Bricelyn Volunteer Fire Department Rescue Service wrote, in Public Ex. 22A, that the state test is a very good test and ought to be continued. Ronaele Sayre, a member of the Minneapolis Police Reserves, commented, in Public Ex. 27, that volunteering involves a commitment of time, energy and talent and that one ought not to oppose the National Registry test based on whether one is a volunteer or not. The Duluth Fire Department proposed that the rule be modified to give applicants the alternative of taking either the National Registry test or the state test. June Olstad, a registered nurse, wrote, in Public Ex. 37, in support of the National Registry test, arguing that if the state were to offer its own test, applicants would have to pay for the expense of having an outside firm develop such a test, and that successful examinees would have passed an examination which would probably only be valid for Minnesota and would hinder reciprocity with other states. She also pointed out that there was no requirement in any of these rules that a registrant renew membership in the National Registry. The $15.00 charge covers both the examination fee and initial membership, but renewal of membership will be optional.

There is no question but that some sort of written examination is needed to separate those who have comprehended the basic educational course from those who have attended, but failed to adequately comprehend, its contents. In light of the position taken by the Department with regard to its own capabilities to prepare a valid test, as well as the statutory mandate favoring nationally standardized tests "where appropriate", the Department's election to use the National Registry test is found to be reasonable.

17. The final requirement for initial registration in this first "track" is that the applicant have passed a practical examination on basic emergency care administered by the Commissioner or an agent of the Commissioner. The basic argument in favor of this requirement was set forth in the Department's Statement of Facts which indicated that such a test was needed to evaluate learned skills and to maintain uniformity in quality from registrant to registrant and from basic educational course to basic educational course. The only argument against such a practical examination came from Dr. Roger White of the Mayo Clinic who wrote, in Public Ex. 31, in favor of the National Registry practical examination, rather than one administered by the Commissioner. He stated:

> As I am sure you know, the National Registry of Emergency Medical Technicians has worked for many years to establish nationally acceptable examination standards, both written and practical, and these examination standards reflect the consensus of opinion at a national level, not simply the consensus of one given state. Now that such a national standard for examination and registration is available, it seems eminently desirable, and hopefully eventually essential, that states adopt such a national standard for their own registration.

The Department did not respond to this comment, and the record is barren of any facts, other than the opinion of Dr. White noted above, which would allow the Examiner to differentiate between a state-administered practical examination and the National Registry practical examination. Thus,

while the Examiner can state that the Department has demonstrated the need for and reasonableness of a practical examination, he can make no recommendation with regard to whether one examination is better than the other.

18. The only other comments which were made with regard to Rule 542.A.1. came from Bob Wetherille and the Arrowhead Regional Fire Fighter's Association (Pub. Ex. 36), both of whom questioned the discretion contained in the introductory paragraph of the rule which would permit the Commissioner to require an applicant to submit "additional information as may be necessary to determine the applicant's qualifications" in connection with both an initial registration and renewal registrations. Both comments raised the specter of an unwarranted invasion of privacy. At the hearing, Kathryn Lamp stated that this additional information would not be required of all applicants but only be required when needed to clarify information in the application. In the Statement of Facts, the only reference to this phrase is the following sentence: "All applicants must provide the Commissioner with sufficient information to allow a determination of the applicant's qualifications as set forth in these rules."

While the Examiner can appreciate the intent of the proposed sentence, it is found to be overly broad in its present form, and it is recommended that it be modified so as to limit its use to situations where the initial application is incomplete or ambiguous. In addition, it is recommended that it be modified so that the Commissioner is only empowered to request such information as is needed to clarify the incomplete or ambiguous information presented in the application. With such limitations, it is believed that the concerns of the commentators would be met, and, more importantly, the rule would be immune to attack for excessive discretion.

An additional problem pointed out by Wetherille is the fact that, in connection with an initial application, the power to request additional information is vested only in the Commissioner, whereas in connection with a renewal registration, the power is vested in the Commissioner "or his agent". For purposes of consistency, the two should be similar.

19. With the changes recommended above, proposed Rule 542.A.1. is found to be both needed and reasonable.

20. Rule 542.A.2. provides an alternate method of qualifying for registration, which essentially deletes the requirement of taking the 81-hour course and substitutes a requirement that the applicant hold a current Advanced Red cross First Aid Card, has successfully completed continuing education in basic emergency care, and has served as a full-time or volunteer ambulance driver, attendant, or a rescue squad member for one year immediately prior to submission of the application. The applicant would still be required to pass the National Registry written examination and the Commissioner's practical examination.

The Department's justification for this alternate "track" was that competency can come from experience as well as academic training. In order to obtain an advanced Red Cross First Aid card, a person is required to participate in approximately 50 hours of training, and the Department believed that those 50 hours, when coupled with the 24 hours required for continuing education, would be a satisfactory substitute for the 81-hour course. At

the hearing, Kathryn Lamp stated that this was designed primarily as a "grandfather clause" for those ambulance drivers who, pursuant to statute, had already obtained the Advanced Red cross First Aid Card.

In response to a question from Ralph Kays of the Minnesota Professional Fire Fighters Association, Lamp stated that the term "rescue squad member" was intended to include a broad group of persons - ambulance personnel, fire, police, rescue, and other first responders. It should be noted, however, in connection with the earlier discussion relating to definitions, that this rule would allow only full-time or volunteer personnel to qualify for the alternate registration method. What of part-time personnel? This matter depends on what is ultimately done with the definitions, but there was no justification offered for excluding any group from using this alternate method.

Public comment on this alternate "track" was varied. Dick Kosek, representing the Joint Council, pointed out that subparagraph (c) appeared to give credit for mere membership without requiring any evidence of actual participation or in-service training. He believed that it should require evidence of actual participation, including in-service training, training runs, as well as actual emergency runs. John Colonna, of the St. Paul Fire Department, had essentially the same comment. The Duluth Fire Department wrote, in Public Ex. 35, that this requirement should be modified to give credit for participation "in the emergency services field", to clarify the fact that it would include police and fire.

While the goal sought by these commentators is laudable, the administrative burdens which would be placed upon both the Department and providers if an elaborate timekeeping system were required would be so substantial as to make the system unworkable. The Department's proposal, as it stands, is reasonable. Should the Department desire to respond to these comments by substituting some simple form of verification of actual participation, that would also be reasonable. However, the Department has the option of choosing between the two.

Other public commentators either argued against having any alternate route at all, or argued for restricting the route to a minimal time period. For example, June Olstad suggested that this route only be available for one year from the effective date of the rules because 80% of ambulance drivers and attendants have completed the 81-hour course, and thus, this alternate route would only be attractive to a small number of people. The Gold Cross Ambulance Services, in Public Ex. 28, opposed the alternate route entirely, arguing that the Red Cross course does not cover as much material as the 81-hour course. Their comment points out that when the rules were first drafted, the 81-hour course was not as available as it is now, and its unavailability was one of the reasons for including the alternate method. Since the course is now more widely available, the need for alternate method has diminished. In the same vein, Robert A. Falk, an EMT, wrote in Public Ex. 32, that he believed the 81-hour course to be important. He stated: "I would want somebody that has taken the 81-hour EMT course to work on me instead of the [alternate] way proposed in the new rules." On the other hand,

Kathryn Hasse of the Leech Lake Ambulance Service testified in favor of the alternate route.

Those who opposed the alternate route did so in the good faith belief that competency required the 81-hour course. However, in light of the fact that there is no requirement that ambulance drivers become EMTs and that ambulance drivers are only required by statute to obtain the Advanced Red Cross First Aid training, as well as the fact that persons attempting to register under this alternate route must have passed both the National Registry written examination and the Commissioner's practical examination, the existence of the alternate route cannot be said to be unreasonable. The final comment received with regard to this route came from the Duluth Fire Department, which urged that a person not be required to take both the National Registry written examination and the Commissioner's practical examination, but rather be given the alternative of taking either one. In light of the fact that persons electing to use this alternate route have not received the 81 hours of instruction, the cautious approach proposed by the Department is appropriate and reasonable.

21. With the understanding that some changes will be made to the wording of subparagraph (c), it is found that the alternate route proposed by the Department is both needed and reasonable.

22. Rule 542.A.3. relates to reciprocity and permits persons who are or have been licensed or registered in another state to become registered in Minnesota if they are currently registered with the National Registry. At the hearing, Kathryn Lamp supported this proposal because the National Registry requirements are similar to those proposed by the Department, and the National Registry is recognized as a standard for reciprocity by many states. The Statement of Facts indicates that such a requirement would assure registration for only those applicants who have met nationally recognized standards and would not unduly restrict movement of persons between states.

There was no public comment on the Department's proposal. However, it does contain an impermissible delegation of authority in that it would permit two groups (over which the Department has no control) to set the standards for registration in Minnesota: Other states and the National Registry.

The leading case of unlawful delegation of authority is Wallace v. Commissioner of Taxation, 289 Minn. 220, 184 N.W. 2d 588 (1971), in which the Court held that the state legislature could not delegate its legislative powers to any outside agency, including the Congress of the United States. In that case, the state legislature had enacted certain taxation provisions in 1961 which, at the time, were the same as provisions of the Internal Revenue Code governing the areas in question. In addition, the legislature defined "gross income" as "the adjusted gross income as computed for Federal income tax purposes as defined in the laws of the United States for the taxable year. . . ." In 1964, the Internal Revenue Code was changed by Congress. The Commissioner of Taxation in Wallace attempted to apply the newly enacted provisions of the Code to a Minnesota taxpayer. He contended that by the Congressional change, state law was amended. The Court disagreed. It pointed out that the term "adjusted gross income" was an artificial concept and went on to state:

> The amounts which are to be included or excluded in the determination of adjusted gross income are numerous and are subject to change. Many of the exclusions are based upon political and social rather than economic considerations. The same political and social considerations which are of significance to the federal tax policy are not necessarily of significance to the state's tax collection scheme. Federal provisions with respect to long-term capital gains exclusion, as well as others, are continually the subject of controversy. Any and all of these provisions, as well as others, may be changed at any time by the Congress of the United States -- without consulting the Minnesota Legislature.

In the Wallace case, the legislature attempted to allow the Congress to define Minnesota "gross income" by permitting the Minnesota definition to be automatically changed whenever Congress changed the federal definition. In the case of reciprocal EMT recognition, the Department's standards are ostensibly fixed, but in reality, they too would automatically change whenever either the National Registry or any other state changed standards. The concept is the same, as the result must be: The rule contains an improper delegation of authority.

There are numerous ways to solve this problem.* While there is a need for reciprocal licensing, the Department's proposal must be modified.

23. Proposed Rule 542.A.4. states that an applicant cannot make more than two attempts within the same calendar year to successfully complete either the written examination or the practical examination. This was justified by the Department as being necessary to prevent persons from memorizing either examination.

A number of commentators suggested that under the current wording, it would be possible to take the examination twice in December and twice in January, thus frustrating the intent of the rule. It was recommended that the language be changed to prohibit taking the examination more than twice "in any 12-month period". This would have the effect of achieving the Department's goal and closing this "loophole".

It is found that a rule to prevent memorization is both needed and reasonable but that the recommended language does contain a loophole. While it cannot be said to be unreasonable in its present form, the proposed change would be an improvement. The Department may elect to make the change if it sees fit to do so. It would not be a substantial change.

24. Proposed Rule 542 B. deals with renewal registration. Paragraph 1 describes the procedure for routine renewals; paragraph 2 requires continuing education prior to renewal; and paragraph 3 contains a procedure for lapsed registration.

25. Proposed Rule 542.B.1. states that registration expires bienially on the applicant's birthdate unless renewed; that registration must be re-renewed every two years (except for the initial period); that there must be a renewal application form submitted, and that an application submitted after the applicant's birthdate must be accompanied by a late fee.

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* For example, the Department could grant reciprocal licensing to any person who had "met the standards of the National Registry" as those standards existed on a fixed date. Or, the Department could enumerate the standards rather than incorporating them by reference, so that if the National Registry were to change its standards, Minnesota's would remain fixed. Or, the Department could enter into reciprocal license agreements with individual states. Or, the Department could permit reciprocal licensing of persons licensed in states whose standards were found to be "substantially similar with respect to education and testing" as those of Minnesota.

There was no opposition to the concept of renewal registration and the Department justified it in its presentation.

Before facing the major issue raised by the public comments, a few minor matters should be dealt with. The open-ended grant of power to require "additional information" should be treated in the same way as it was in connection with the initial registration. The words "or his agent" should also be made consistent with the similar clause in the initial registration rule.

The major controversy surrounding the biennial registration requirement proposed by this rule is the proposal that registrations expire on a registrant's birthdate. In essence, the Department argued that it was necessary to spread out renewals over the whole year for the convenience of Department personnel who would be processing the renewals. Objectors argued that volunteer services strived to h ave as many members as possible and that the Department's birthdate proposal would prohibit those services from holding refresher courses and submitting paperwork for all members at one time, putting a tremendous administrative burden on to those volunteer services.

In its Statement of Facts, the Department pointed out that EMTs were but the first of a number of groups which the Department intended to credential, and that staggered renewals based on birthdate is reasonable because it is a more reliable constant than alphabetical listings. At the hearing, Kathryn Lamp drew an analogy to a driver's license, which must also be renewed on a birthdate, and repeated that the Department felt that staggering renewals throughout the year would be more convenient for it. The objectors included Dick Kosek, representing the Joint Council, who stated that it would be a monumental paperwork headache for providers (particularly volunteer services) to keep up with birthdates; B. J. walker of the Woodbury Rescue Squad, who stated that his service could not live with the birthday registration, and that when he raised this objection to the staff of the Manpower Services Division, stressing the fact that in the past Woodbury had conducted its own refresher course once every two years but would find it impossible to do it every month, the staff told him that the refresher course only had to be taken at some point within the two-year period, not immediately prior to renewal, which surprised Walker because he believed that the intent of renewal was to update knowledge through the refresher course, and thus, the course should be taught near the end of the two-year period; George Tourville of the Inver Grove Heights volunteer fire department, who pointed out that EMT training was only one part of the overall training program for fire fighters who also must be trained in fire fighting techniques and other matters, and that requiring registration by birthdate would put a strain on the scheduling for EMT refresher courses. Similar comments came from the Woodbury Fire Department (Pub. Ex. 18), the Woodbury Ambulance Council (Pub. Ex. 20), the Duluth Fire Department (Pub. Ex. 35), and the Leech Lake Ambulance Service (Pub. Ex. 33). The latter volunteer group also had a comment with respect to fees, and they stated:

> If the state does insist on . . . fees, then the board of Health should at least have some consideration for the average Minnesota EMT. Registration should be renewed biannually at the beginning of the year -- not by birthdate as proposed. Although this may be more convenient for the bureaucracy, it only confuses EMTs and volunteer services which have to arrange for the 24-hour emergency care continuing education.

Having found that the concept of biannual registration is needed and reasonable, obviously the rule must make some provision for when that registration is to take place. In light of the comments made both at the hearing and in writing, can it be said that the Department's proposal to require registration on birthdates is unreasonable? It cannot. However, the Department can go a long way toward meeting both its goal (of spreading renewals out over an entire year) and that of the objectors (who want to be allowed to renew members of the same group at the same time) if it were to adopt a system whereby renewals had to be received by the Department on the anniversary date of the initial renewal, which is the method proposed by the Joint Council. When coupled with the provision that the first renewal be made in no less than 24 months and no more than 36 months following the initial registration date, the Joint Council's proposal would result in renewals being received throughout the whole year. Of course, there would have to be some initial coordination to assume that the first renewals were spread throughout the year, but it is suspected that either the Joint Council or the Minnesota Association of EMTs would gladly provide such coordination if that were the price of avoiding birthdate renewals. While this proposal seems to be the best, as a matter of law, it cannot be said that the Department's original proposal was unreasonable. Thus, the Department has the option of adopting its original proposal should it feel it necessary to do so.

Either with or without the proposed change, the proposed rule 542.B.1. is found to be both needed and reasonable.

26. Proposed Rule 542.B.2. would require each registrant applying for renewal registration to submit evidence of successful completion of 24 clock hours of continuing education in basic emergency care. This is the so-called "refresher course".

The Department justified the need for this training in the Statement of Facts by stating that it is reasonable to expect registered persons to maintain and update their basic emergency care skills and that these skills need to be performed regularly to keep the skill level high enough. Continuing education is particularly important for volunteers and others who may not have the opportunities to regularly utilize all the basic emergency care skills, as well as for every registrant to practice and reinforce the skill levels considered necessary for initial registration. The 24 clock hours were justified as being reasonable in that they represent only two full days or four part-time modules each year. The Department felt that it was not unreasonable to expect registrants to show this minimum amount of time spent at learning and re-learning basic emergency care skills. They stated that such continuing education complies with Federal guidelines for EMT continuing education. At the hearing, the EMS coordinator for the Department of Education stated that his Department had agreed to provide the 24-hour course out of each of the 11 Area Technical Vocational Institutes around the state. He went on to state that each of the Institutes has a van and mobile equipment to allow training to be given in any community that requests it. He later wrote, in Public Ex. 29, that during the 1976-77 school year, there were 36 such courses given throughout the state and that there were no waiting lists for them.

Dick Kosek of the Joint Council stated that the rule placed too much emphasis on training, and too little emphasis on experience. June Olstad, a member of the training subcommittee which worked on the educational portions of these rules, stated that the ten items specified in the definition describing the refresher course could be covered through in-service training, and that the course doen't have to be a separate "event." She also stated that the rule is intentionally silent regarding when the course must be taken in order to permit EMTs in rural areas to take the course when it is offered near their community.

There was discussion at the hearing as to whether the Department intended to place limitations on these refresher courses other than those contained in either this rule or the definitional rule. Limitations suggested were that a portion (one person suggested 16 out of 24 hours) of the course must be taught by a physician. If the Department intends to enforce such a requirement, that requirement must be placed in the rule. It is not in the rule at the present time, and thus, it cannot be enforced.

Other comments related to whether the course qualifies for DOT standards. The Statement of Facts states that the 24-hour course is in compliance with Federal guidelines. Roger Trobec of the Minnesota Association of EMTs indicated that the National Council of EMS Training Coordinators are at present acting on national acceptance of a DOT refresher course which will soon be changed to 30 hours. He also suggested that it was possible that DOT would require yearly CPR certification, and that the refresher course, as presently proposed by the Department, might jeopardize Federal funds to the state by not complying with DOT standards. Trobec suggested that the National Registry requires 48 hours of continuing education, and that as a minimum, the state should adhere to the National Registry requirements. Trobec also believed the rule to leave too many unanswered questions, such as who would teach the course, and examination requirements. Dr. White of the Mayo Clinic also expressed similar concerns in Public Ex. 31. He believed that the state ought to defer to the National Registry for renewal standards and that the proposed rule would undermine the objectives and the efforts of such organizations as the Minnesota Association of EMTs, which he alleged were assuming an increasing responsibility for providing educational programs which would enable EMTs to fulfill the National Registry's continuing education requirements.

In support of the Department's proposal, the EMS coordinator from the Department of Education stated that some volunteers found it hard to meet a 24-hour requirement, let alone a 48-hour one. He disagreed with tying the state's renewal requirements to the National Registry because the state has no control over the National Registry. He stated that there is, in fact, a proposal to raise the Department of Transportation's minimum education requirement to 30 hours, but that it was only a proposal at this stage.

27. There is no question but that continuing education is needed. The only question is whether the Department's proposed 24 hours is reasonable in light of the 48-hour National Registry requirement and the proposal to expand the DOT minimum to 30 hours. As has been stated before, a number

of commentators are opposed to any reference to the National Registry, and until the DOT does, in fact, extend its minimum educational requirements, it cannot be said that the Department is acting unreasonably requiring only the 24 hours. The Department's proposal is found to be reasonable.

28. The final subparagraph of this rule, proposed rule 542.B.3., states that persons who have allowed their registrations to expire for more than 90 days, must meet certain qualifications before they can renew their registrations. If they have been employed as a full-time or volunteer ambulance driver or attendant or rescue member for one year immediately prior to their renewal, they must either successfully complete (re-take) the 81-hour basic course, or be registered with the National Registry. If they are not employed as a full-time or volunteer ambulance driver or attendant or rescue squad member, they must meet all of the requirements for initial registration (using either of the "tracks" provided in rule 542.A.).

At the hearing, the Department moved to amend the proposed rule by inserting the words "or rescue squad member" into rule 542.B.3.c. so that a rescue squad member would be on a par with a full-time or volunteer ambulance driver or attendant with regard to this rule. While there was no opposition to this change, again there is a question as to the status of a part-time ambulance driver or attendant. This question would be settled if changes are made to the definitions as recommended in the Findings relating to those definitions.

Kathryn Lamp defended the proposed rule (in the face of serious opposition) based upon representations made to her by fieldmen of the Emergency Medical Services section of the Department who had told her that skill levels deteriorate substantially after 90 days of non-use. However, there was no additional factual basis offered to support those representations.

Dick Kosek of the Joint Council pointed out that the rule gives credit for membership in a service without evidence of actual experience or in-service training. This is the same argument which was raised earlier. He also was concerned about the requirement that under either method of renewal following a 90-day lapse, the 81-hour course would be required. He believed that that was essentially a form of punishment for late renewal. He asked if requiring only a 24-hour refresher course prior to renewal was inadequate (the method he favored), then shouldn't the 81-hour course be required for all renewals, whether lapsed or not? He believed the 24-hour course to be adequate, and if the person were able to pass an examination after that course, they should not be required to pass any additional tests or take any additional training. Bill Setter of the Silver Bay Rescue squad pointed out that the 81-hour course for those who failed to renew within 90 days worked a real hardship for persons in sparsely populated areas. 16 out of the 20 people in the Silver Bay Rescue Squad work on shifts, and it is very difficult for them to take the 81-hour course. With the exception of the most recent course, which was offered in Two Harbors, any person from Silver Bay had to go to either Duluth or Hibbing two nights each week in order to complete the 81-hour course, which was a real hardship. B. J. Walker of the Woodbury Fire Department felt the 81-hour requirement to be too severe.

John COlonna of the St. Paul Fire Department agreed with Kosek that there was no reason to require the 81-hour course for lapsed registrants so long as they can pass a test following the 24-hour refresher. Finally, the Duluth Fire Department commented in Public Ex. 35 that the alternate method (which does not require the basic written examination and basic practical examination) be available to any person who has been involved in emergency medical services for one year. Again, the concern is with the exclusion of fire and police. However, if changes are made to the definitions, that problem may be eliminated.

In light of the opposition and arguments put forth by those who practice in the field, contradicting the scant information put forward by the Department, it is found that the Department failed to justify the need for and reasonableness of requiring the 81-hour course prior to renewal of a registration which had lapsed for 90 days. While there is no question but that unused skills do get "rusty", there is also no evidence to convince the Examiner that these skills are not used during the period that the registration has lapsed. The Department may not ignore the fact that registration is not a requirement for serving in the emergency medical services field. Thus, there can be no assumption that failure to continue registration can be equated with rusty skills. The proposed rule was not shown to be reasonable.

29. Proposed Rule 542.C. sets forth fees, and was also hotly contested.

The starting point for an understanding of fees comes from Minn. Stat. § 214.06, subd. 1 (1977 Supp.) which states:

> Notwithstanding any law to thea contrary, the board of health as authorized by section 214.13 . . . may by rule, with the approval of the commissioner of finance, adjust any fee which the board is empowered to assess a sufficient amount so that the total fees collected by [the] board will as closely as possible equal anticipated expenditures during the fiscal biennium. Examination fees, if any, shall be set by rule so that the total amount of annual examination fee income approximately meets the anticipated cost of administering the examinations during the fiscal biennium.

A second statute which must be considered in Minn. Stat. § 144.809 (1977 Supp.), which states:

> No fee set by the state board of health for biennial renewal of an emergency medical technician's certificate by a member of a volunteer ambulance service of volunteer fire department shall exceed $2.

The proposed rule, as published, would have set an initial application fee at $30.00; a renewal application fee at $30.00 (or $2.00 if a registrant is a volunteer ambulance driver or attendant); and a penalty fee for late renewal of $10.00.

At the hearing, the Department moved to modify the fee schedule so it would call for an initial application fee of $11.00; a renewal application fee of $11.00 ($2.00 if registrant if a volunteer ambulance driver or attendant or a volunteer fire department member); and a penalty fee for late renewal of $10.00.

The changes were the result of increasing the estimated number of EMTs from 2,000 to 8,000. By far the largest item in the budget is personnel costs, including a full-time intermediate clerk typist, a half-time

executive secretary, and one-fifth of a professional supervisor. Those personnel costs, when coupled with costs of the proposed Council and administrative costs, such as postage, printing and computer time, results in an annual budget of approximately $40,000 per year, or a biennial budget of $90,000. The $11.00 cost was arrived at by dividing biennial budget by the 8,000 estimated registrants.

The $10.00 penalty fee was described as necessary to encourage timely renewals and to cover increased costs to process an irregular renewal.

Objections to these fees were voiced by virtually all commentators. Dick Kosek, speaking for the Joint Council, predicted that many EMTs would fail to register because of the duplicative costs of both national and state registration, particularly when there is no incentive to register with the state. He argued that the state should recognize EMTs without any fees because the benefits of well-trained EMTs accrue to the public. Most EMTs, being volunteers, receive little or no compensation for the extensive time which they donate. He likened the fee system to the Red Cross charging donors who desired to give blood, or the military charging volunteers an enlistment fee. He did not feel that the penalty fee had been justified. Senator Penny and Representative Kalis testified that the $30.00 fee was unreasonable for volunteers (their testimony had been prepared before the lowered fees were announced). B. J. Walker believed that § 214.06 ought not to apply to EMTs because volunteer EMTs did not fit within the definition of an "occupation" for which the registration process was designed. If the registration process is not applicable to EMTs, then neither is the cost-recovery fee system. Roger Trobec, of the Minnesota Association of EMTs argued that even the $11.00 fee was out of line because volunteers receive so little income for their expenses. In his written testimony, which is identified as Public Ex. 26, he set forth the costs which would be incurred by both full-time and volunteer EMTs. Those costs include the cost of the 81-hour course, the cost of the National Registry written test, the application fee to the state, the 24-hour refresher course, membership in the National Registry, dues to the National Association of EMTs, and gasoline used to attend meetings. He pointed out that while some of the costs are optional, they do not include journals, patches, books, clothing, and other "frills". Although he recognized that Minn. Stat. § 144.8091 provided for state reimbursement of the cost of the 81-hour course for some personnel, he recommended that this reimbursement be extended to a 24-hour refresher course as well. The representative of the Department of Education pointed out that while in the past there had been no tuition charge for the 81-hour course, beginning in the 1978-79 school year, the Department felt it necessary to charge $55.00 tuition fee as well as $10.00 for books. Both Trobec and George Tourville argued against charging different fees to different persons, pointing out that the $2.00 statutory fee for some volunteers only serves to raise the cost to those whose fees were not limited by statute. The City of Arlington, in Public Ex. 1, felt the $30.00 fee to be so excessive as to outweigh the benefits of credentialling EMTs. It suggested that the whole credentialling proposal ought to be scuttled, at least for volunteers.

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In light of the statutory directive that fees be assessed so as to cover the costs of administration, there is little alternative to the proposed fee structure other than reversing the initial decision to register EMTs. The Department entered into the record documentation of the decisions that went into the question of whether EMTs should be registered at all, finding that EMTs were the type of personnel which ought to be registered according to the policies set forth in Minn. Stat. § 214.001, subd. 2, and that their registration did not violate the prohibition contained in §214.13, subd.5, which essentially directs the Department to exercise care to prevent the proliferation of unessential registered human services occupations. The fact of the matter is that, if there is to be registration at all, there will be costs.

According to statute, those costs must be spread among the registrants, which is precisely what the Department did in arriving at its fee structure. The Department also recognized the requirements of Minn. Stat. § 144.809 (1977 Supp.) which states that renewal fees for volunteers as defined shall not exceed $2.00. The fees are found to be both needed and reasonable.

26. Proposed Rule 542.D. deals with disciplinary action and denial of registration.

At the hearing, the Department moved to correct a typographical error contained in the third line of proposed Rule 542.D.1. That line contains a reference to another section which does not exist, and the Department corrected that reference by substituting "D" for "E" in the third line of the first paragraph of the proposed rule.

The first paragraph of the rule relates to complaints, and permits (but does not direct) either the Commissioner or the Council to initiate an investigation following the receipt of a complaint, whether oral or written, which alleges or implies the existence of grounds for either denial of registration or disciplinary action.

In its Statement of Facts, the Department argued that a procedure for disciplinary action was needed to protect the public from incompetent EMTs. The only comments in opposition to this part of the proposed rule came from Senator Penny and Representative Kalis who urged that oral complaints not be allowed. They were speaking on behalf of the Bricelyn Volunteer Fire Department Rescue Service which, in a written statement, argued that permitting oral complaints opened up a "big door" (for abuse). The Arrowhead Regional Fire Fighters Association, in Public Ex. 36, made essentially the same statement. On the other hand, Dick Kosek of the Joint Council supported the rule in its present form.

Any group that seeks a license or other certification from the state must realize that if the state is to be empowered to grant such recognition, it must also be empowered to revoke it in appropriate circumstances. Complaints are one source of information for the enforcement process, and requiring a complaint to be in written form inhibits the ability of a minimally-staffed occupational board to perform its duties effectively. The rule which allows both oral and written complaints is found to be both needed and reasonable.

In the Statement of Facts, the Department stated that prior to any disciplinary action, a written complaint will be obtained. There was no such requirement in the proposed rule. Pursuant to recommendations of the Hearing Examiner, such clarifying language was adopted in the rules final form. As adopted, the rule is needed and reasonable.

27. Proposed Rule 542.D.2. sets forth grounds for disciplinary action. There was no objection to the proposed standards, and they are found to be both needed and reasonable.

28. The remaining sections of proposed Rule 542.D. were justified in the Statement of Facts and drew no public comments. Those justifications will not be repeated here as the remainder of the rule is found to be both needed and reasonable.

29. Proposed Rule 543 deals with the Emergency Medical Technicians Advisory Council. It sets forth qualifications for membership, as well as duties and responsibilities of the Council. There was substantial controversy over the composition of the proposed Council which was set forth in the rule.

The starting point for any discussion of composition of such a Council is Minn. Stat. §§ 214.13, subd. 4, which states in pertinent part as follows:

> The board of health may establish an advisory council to advise it... on matters relating to the registration and regulation of an occupation. A council shall have seven members appointed by the board of which five are members of the registered occupation or related registered occupation or related registered or licensed occupations, and two are public members.

Section 214.02 defines a "public member" to mean:

> A person who is not, or never was, a member of the profession or occupation being licensed or regulated or the spouse of any such person, or a person who does not have or has never had, a material financial interest in either the providing of the professional service being licensed or regulated or an activity directly related to the profession or occupation being licensed or regulated.

The proposed rule provides for two public members, two EMTs (one representative of salaried full-time ambulance personnel, and the other representative a volunteer or part-time ambulance personnel), two physicians (one from a metropolitan hospital and the other from an out-state hospital) knowledgeable in the national, regional and local development in the area of EMT training, and one full-time registered nurse employed in an emergency department of a hospital. At least one of the physicians or the nurse must be actively involved in the education of EMTs.

The essential argument came from those who believed the Council would not be representative of EMTs, particularly of fire, police and rescue personnel. The Department responded, in commissioner's Ex. 14, by stating that the emergency care field has many diverse interests and that the proposed composition adequately represents each of the various interest groups, including fire or police, who "will have representation" through one of the two EMT positions.

At the hearing, Kathryn Lamp stated that the allocation of the five nonpublic members was suggested by the Department's EMS Council and the Technical Advisory Group which worked on the preparation of these rules. The Department justified having two physicians on the Council because it is important for physicians to have knowledge of EMTs and give input with respect to the training required for minimum competency. The nurse position was justified because nurses in emergency wards must work closely with EMTs. Having at least one of the physicians or the nurse be involved in training was justified because nurses in emergency wards must work closely with EMTs. Having at least one of the physicians or the nurse be involved in training was justified on the basis of giving the Council a knowledge of curriculum, content, current research and performance-related issues which the Council will have to face.

There is no question but that physicians and nurses may serve on the Council because they are in "related registered or licensed occupations", even though they are not EMTs. The question of the make-up of a Council such as this is largely one of judgement, and the Examiner will not substitute his judgement for that of the Department.

The Department has clarified the Emergency Medical Technician representative statements and, consistent with the definition of Emergency Medical Technicians, they include fire, police or rescue squad members. The composition of the council thereby recognizes the competing interests and the limited seats. The Council composition is therefore needed and reasonable.

30. Rule 543.B. deals with organization, duties and responsibilities of the Council. The only comment with respect to this portion of the rule came from Bob Wetherille of the State Fire Department Association who questioned the provision in paragraph B.2.d. which directs the Council to "assess" the qualifications of each applicant before recommending credentialing to the Commissioner." At the hearing, Wetherille pointed out the practical difficulties with such a system.

Although admittedly difficult, the Council will, in fact, assess each and every application and forward each recommendation on to the Commissioner.

The proposed rule is found to be both needed and reasonable.

BASED UPON THE FOREGOING FINDINGS, THE EXAMINER HEREBY MAKES THE FOLLOWING:

CONCLUSIONS OF LAW

1. Due, timely and adequate legal notice of the hearing was properly served and published by the Commissioner. All other substantive and procedural requirements have been fulfilled.

2. The Commissioner has demonstrated its statutory authority to adopt the proposed rules.

3. The Commissioner has demonstrated the need for and reasonableness of the adopted rules.

Based upon these Finding and Conclusions, the Commissioner has made the attached Order Adopting Rules.

Dated: 12/29/78

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

Warren R. Lawson, M.D.
Commissioner of Health