

STATE OF MINNESOTA

DEPARTMENT OF HEALTH

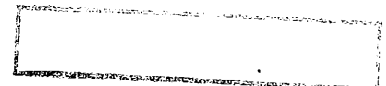
IN THE MATTER OF THE PROPOSED
ADOPTION OF AN AMENDMENT TO
PART 4690.4600 RELATING TO THE
ISSUANCE OF EMERGENCY CARE COURSE
CERTIFICATES TO PERSONS WITH
AMERICAN RED CROSS ADVANCED FIRST
AID TRAINING

STATEMENT OF NEED
AND REASONABLENESS

I. Introduction and Statutory Authority

The function of ambulance service in Minnesota is to transport ill and injured persons to destinations where appropriate treatment can be rendered. Licensed ambulance services are required by Minnesota Statute Section 144.804, subdivision 1, to utilize properly trained attendants certified by the Commissioner of Health ("Commissioner"). These persons are expected to perform skills appropriate to a standard of care consistent with acceptable quality prehospital care within the state. These skills obtained are obtained by completion of standard curriculum available through training institutions approved by the Commissioner.

The certification of these attendants is conducted under authority of Minnesota Statute Section 144.804, subdivision 1 and Minnesota Rules parts 4690.3900 -.5100. The statute provides in part:



No publicly or privately owned basic ambulance service shall be operated in the state unless its drivers and attendants possess a current emergency care course certificate authorized by rules adopted by the commissioner of health...

The Commissioner certifies persons as having completed an emergency care course if they have successfully completed an approved training program, including a written and practical examination. Re-certification is required every two years. The rule provisions relating to certification are set forth in Minnesota Rules part 4690.4600.

The existing rules specify one method by which a person may obtain an emergency care course certificate. The amendments to part 4690.4600 proposed in this proceeding set forth an alternative way by which a person may qualify for a certificate. This alternative, for reasons explained below, will be available only through August 1, 1994.

II. Compliance with Procedural Rule-Making Requirements

A. General Procedures

The proposed rule amendment was developed as a result of discussions and subsequent recommendations regarding a larger set of proposed rule revisions submitted to the Commissioner by the former Emergency Medical Services Statewide Advisory Task Force in June, 1990. In order to hasten the promulgation of this particular rule amendment, it has been removed from the larger

set of proposed rule revisions and a non-controversial rule-making process has been initiated. To prepare the proposed amendment, the Department of Health followed procedures mandated by the Minnesota Administrative Procedures Act. A notice to solicit outside opinion concerning the proposed amendment was published in the State Register on Monday, March 11, 1991 (see 15 S.R. 2051). Following publication of the notice of intent to solicit outside opinion, comments received were reviewed and considered by staff of the Department of Health's Community Health Services Division, Section of Emergency Medical Services prior to publication of the notice of intent to adopt the proposed rule in the State Register. A summary of those comments appears later in this document.

The Department is proceeding under Minnesota Statute 14.22 to 14.28 relating to the adoption of rules without a public hearing. Notice of the Department's intent to adopt these rule amendments will be published in the State Register, mailed to persons who have registered with the Department pursuant to Minnesota Statute Section 14.14, subdivision 1a, and mailed to other parties the Department believes will have an interest in these amendments. This Statement of Need and Reasonableness was made available to the public before the date of the Department's notice to adopt the amendments and was sent to the Legislative Commission to Review Administrative Rules. If 25 or more people

request a hearing on the amendments during the comment period, a hearing will be held under separate notice.

This statement of need and reasonableness must be read within the context of the proposed rule amendment. A copy of the proposed amendment is available from the Emergency Medical Services Section, Minnesota Department of Health, 717 Delaware Street Southeast, Box 9441, Minneapolis, Minnesota 55440-9441, telephone (612) 623-5482.

B. Minnesota Statutes Section 14.11 Requirements

The proposed amendments will not require the expenditure of public money by local public bodies in excess of \$100,000 in either of the two years immediately following their adoption. Accordingly, the Department does not have to comply with the notice provisions of Minnesota Statute Section 14.11, subdivision 1. The primary basis for this conclusion is that the rule does not require the expenditure of any funds by local public bodies. The extent that local public bodies voluntarily assume the obligation to pay for training of its ambulance personnel, the rule provides a less expensive alternative for ambulance personnel to be certified by the commissioner than what now exists in rule. In addition, pursuant to Minnesota Statutes, Section 144.8091, local public bodies which operate ambulance services utilizing volunteer staff are reimbursed by the Commissioner of Health for the training a person must undergo in

order to be an ambulance attendant. The training required by these proposed rule amendments would be reimbursable under section 144.8091. Even if this situation were considered to come within the scope of Minnesota Statute Section 14.11, subdivision 1, local municipalities still would not have to expend over \$100,000 in either of the two years immediately following adoption.

Based on figures accumulated by the Department of Health in August, 1991, one hundred-eighty five (185), or 60% of all licensed ambulance services are operated by local public bodies. A little over ten percent (642 persons) of all ambulance personnel are American Red Cross trained and eligible for certification, if they meet all the other requirements, under this proposed rule amendment. The emergency care refresher course costs between approximately \$125.00 and \$160.00. The Department does not know how many of the 642 persons work for ambulance services operated by local public bodies. However, if it is assumed, based on the percentages stated above, that sixty percent of the American Red Cross trained persons (385) work for ambulance services operated by local public bodies and that all 385 persons pursue the option provided by these proposed amendments, the cost to local public bodies at \$160.00 would be only \$61,600, well below the \$100,000 specified in Minnesota Statutes, Section 14.11. While it is possible that more than

sixty percent of the American Red Cross trained personnel work for local public body operated ambulance services, it would take 625 of them taking the course at \$160.00 to reach the \$100,000. There is no evidence to support this conclusion. Accordingly, the provisions of Section 14.11 do not apply.

The proposed amendments also will not have any impact on agricultural land. Thus, the requirements of Minnesota Statutes Section 14.11 do not apply to this rule making proceeding.

C. Impact on Small Businesses

Minnesota Statutes, Section 14.115, requires state agencies to give special consideration to small businesses when promulgating rules. It is the Department's position that Section 14.115 does not apply to this set of rule amendments.

Subdivision 7 of Section 14.115 exempts from the section's requirements "service businesses regulated by government bodies, for standards and costs, such as nursing homes, long-term care facilities, hospitals, providers of medical care, day care centers, group homes, and residential care facilities...." Ambulance services fall squarely within this provision. They are "small businesses," specifically "providers of medical care," which are "regulated by government bodies, for standards and costs." The standards regulation is performed by the Department of Health pursuant to Minnesota Statutes, Section 144.801,

et.seq. The cost regulation comes under the Medicare and Medicaid programs. With respect to Section 14.115, ambulance services are identical to nursing homes, long-term care facilities, and hospitals, all of which are explicitly exempted from the provisions of this section.

Nevertheless, should it be determined that Section 14.115 does apply to this set of proposed rule amendments, the Department provides the following information in compliance with its provisions.

Minnesota Statute Section 14.115, Subdivision 2, requires a state agency to consider the methods for reducing the impact of proposed state rules on small businesses within the state. The Department's consideration of the five factors is as follows:

- 1) The establishment of less stringent compliance or reporting requirements for small businesses.

Under Minnesota Rule part 4690.4600, in order to serve as an ambulance driver or attendant, a person must receive from the Commissioner a certificate for successfully completing an approved emergency care course. This is a 110-hour course. However, a number of ambulance services, especially in Greater Minnesota, have personnel who have not completed the 110-hour course but who have received American Red Cross training in advanced first aid and emergency care. These persons, pursuant to Minnesota Statutes Section 144.804, subdivision 1, may serve

as drivers until August 1, 1994, or may be an attendant if necessary to ensure twenty-four hour emergency ambulance coverage under a variance granted by the Commissioner. The proposed amendments will establish less stringent compliance or reporting requirements for small businesses by enabling these American Red Cross trained personnel who meet specified standards to take only a twenty-four hour emergency care refresher course in order to receive from the Commissioner a certificate for successfully completing an emergency care course. This certification will enable these persons to be fully recognized as ambulance drivers and attendants even after August 1, 1994, and will also eliminate the need to qualify them through the variance process. In addition, as is explained below in the justification for the amendment, this proposal will enable small businesses to meet the requirements of Section 144.804 in a manner which will still assure that ambulance staff are well-trained, but will avoid an unnecessary training requirement for appropriate personnel.

2) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

Biennial renewal of the variance referenced above for advanced first aid trained personnel would no longer be required. These persons would be reported on the roster of the licensed ambulance service as fully certified attendants.

3) The consolidation or simplification of compliance or reporting requirements for small businesses.

Less paperwork and at least one less form will be required of small businesses operating licensed ambulance services. The form to be deleted will be the application for variance for persons who have training in American Red Cross advanced first aid and emergency care. This form is currently used to certify that these persons have been trained in the use of all equipment and procedures necessary for attendants of basic ambulance services. This form will no longer be necessary once all personnel are fully certified as ambulance attendants.

4) The establishment of performance standards for small businesses to replace design or operational standards required in the rule.

This provision in this statute is not applicable to the proposed rule. There are no design or operational standards in the proposed rule.

5) The exemption of small businesses from any or all requirements of the rule.

It would be counter to the concept of public protection offered by the licensure of ambulance services and the provision of services by properly trained personnel functioning as attendants on ambulances, as required by Minnesota Statute 144.801 et. seq. to exempt ambulances from the requirement that

they have attendants with proper training. Subdivision 3 of Minnesota Statute 14.115 affirms the need to not exempt small businesses from the requirements of this proposed rule, because doing so would be contrary to the statutory objectives that are the basis of the proposed rule amendments.

In summary, this proposed rule amendment does not require any small business to change the way it operates. It does allow American Red Cross advanced first aid and emergency care personnel to combine previous training and experience with additional training so that they may be fully upgraded at this time to be certified as ambulance attendants. The proposed rule will not burden licensed ambulance services with new expenditures that will be detrimental to their continued operation. Instead, the proposed rule will make it easier for ambulance services to operate.

Minnesota Statute Section 14.115, Subdivision 4, requires the state agency to provide the opportunity for small businesses to participate in the rule-making process. This requirement will be satisfied by mailing the notice of intent to adopt these rule amendments to all licensed ambulance services within the state (see Minnesota Statute Section 14.115, subdivision 4(c)).

III. Need and Reasonableness of the Proposed Rule Amendment

Prior to 1989, Minnesota Statute Section 144.804,

subdivision 1 provided that drivers and attendants of basic ambulance services had to possess a "current advanced American Red Cross first aid certificate or other first aid or emergency care certificate authorized by rules adopted by the ... commissioner...." In 1989, the legislature, in an effort to upgrade the qualifications of ambulance attendants and drivers and in recognition of the creation of emergency care courses, amended the provisions of section 144.804. The amendment changed the ambulance staffing training requirement. Under the change, ambulance attendants and drivers have to "possess a current emergency care course certificate authorized by rules adopted by the commissioner..." (Minnesota Laws 1989, Chapter 134, section 6). The emergency care course which ambulance staff must take in order to obtain the required certificate is identified in Minnesota Rules parts 4690.3900 to 4690.5100, rules promulgated by the Commissioner. However, at the time of upgrading the requirements for staff training in 1989, the legislature also recognized that there had to be a transition period to enable existing ambulance staff who had the American Red Cross training to take the emergency care course. To accomplish this, the legislature created a five year window during which ambulance services could use American Red Cross trained persons who were qualified to use basic life support ambulance equipment and procedures. These persons could function as ambulance drivers,

or, under variance to their license granted by the Commissioner, to serve as the attendant if necessary to ensure 24-hour emergency ambulance coverage (Minnesota Laws 1989, chapter 134, section 6 and Minnesota Laws 1990, chapter 568, article 2, section 11).

Against this statutory backdrop, ambulance services, especially those in more rural areas, brought to the Department's attention a concern about the difficulty existing staff, who are often volunteers, would have finding the time and money to cover the cost of the 110-hour emergency care course in order to obtain the required certificate by August 1, 1994. This situation was further highlighted by the fact that these staff members had been providing quality care for a significant period of time.

A proposal to address this situation was set forth by the former Statewide Emergency Medical Services Advisory Task Force, which recognized both the concerns of existing ambulance service staff as well as the intent of the legislature to upgrade the training of drivers and attendants of licensed ambulance services. This proposal, set forth in these proposed amendments, to Minnesota Rule, part 4690.4600, reflect that the American Red Cross training, at least three years of experience on an ambulance staff, current knowledge and ability to use basic life support ambulance equipment, plus the successful completion of a 24-hour emergency care refresher course, when taken together,

constitute a reasonable equivalent to the 110 hour emergency care course now required in order to be certified as an ambulance driver or attendant.

It should be noted that Minnesota Statute Section 144.804, subdivision 1 also provides for persons who have successfully completed the United States Department of Transportation first responder curriculum to also function as drivers of licensed ambulance services. This proposed rule amendment does not address these persons because Minnesota Statutes Section 144.809, subdivision 2 addresses the issue of upgrading these personnel to basic emergency care course certificates. By August 1, 1994, the commissioner must adopt rules authorizing the equivalence of certain criteria enumerated in Section 144.809, subdivision 2, toward successful completion of the commissioner's basic emergency care course.

The Commissioner, under Minnesota Statute Section 144.804, subdivision 1, has been granted the authority to determine by rule what shall constitute the "current emergency care course certificate" which each ambulance staff member must possess. The certificate created by these rule amendments will bridge the gap between the pre- and post-1988 training requirements. Because these bridge-the-gap amendments will expire on August 1, 1994, the ambulance services are put on notice that all new staff must take and possess the 110-hour emergency care course. A more

detailed explanation of the substance of Minnesota Rule, part 4690.4600, subparts 7 to 10. the proposed rule amendments, follows.

The proposed amendment to Minnesota Rule part 4690.4600 would permit a person who meets the criteria and standards noted below to receive an emergency care course certificate from the Commissioner. The justification for the criteria follows:

1) The person must be currently certified by the American Red Cross in advanced first aid and emergency care.

As explained above, the holding of an American Red Cross advanced first aid and emergency care certificate was for years the sole requirement for serving as an ambulance attendant or driver. In obtaining this certificate, persons received basic training in emergency care. Training in emergency care is essential to serving on the staff of an ambulance.

2) The person must be on the roster of an ambulance service licensed by the Commissioner.

That the person be currently on an ambulance service roster goes to the very heart of the amendment. The amendment is proposed solely to help those American Red Cross trained individuals who have been working as ambulance service drivers and attendants remain on staff after August 1, 1994, without having to complete the 110-hour emergency care course. Such a person would be in direct contact with the current day-to-day

operation of an ambulance service. The ambulance service for which the person is working must be licensed in Minnesota because the existing rule currently provides a method for out-of-state applicants to be certified (see Minnesota Rule part 4690.4600, subpart 3).

3) The person must have three years experience as a driver or attendant with an ambulance service licensed by the Commissioner.

The Statewide EMS Advisory Task Force recommended that in order for a person to receive an emergency care course certificate without taking the 110-hour emergency care course, not only must the person be currently on the staff of an ambulance service, but also that the person have at least three years experience as a driver or attendant. As noted above, the purpose of the proposed amendments is not to enable ambulance services to evade the statutory deadline of August 1, 1994, by which time all drivers and attendants must possess an emergency care course certificate issued by the Commissioner. The purpose of the amendments is to enable staff to be certified who have experience, skill, and training to perform emergency services equivalent to the 110-hour course, which will enable them to remain on staff after the August 1, 1994 deadline. This is being accomplished by establishing criteria which, by combining experience and training, will be equivalent to the 110-hour

emergency care course. A crucial part of the equivalence requirement is experience. Three years provides an individual with sufficient time to learn and demonstrate an ongoing ability to properly use all basic life support equipment and to otherwise function as an attendant or driver. Three years is also a sufficient period of time to demonstrate that a person is committed to emergency care on a long term basis.

- 4) The person must present evidence in the form of a statement from the medical director or medical advisor that s/he has current knowledge, training, and skill in the use of basic life support equipment.

American Red Cross training and three years experience does not guarantee that a person actually knows how to use basic life support equipment. Documentation from the ambulance service medical director or medical advisor helps assure that a person has basic ability to function as a driver or attendant. To truly benefit from the 24-hour emergency care refresher course, the person must already have a basic understanding of and ability to perform emergency care. With this foundation of knowledge, the refresher course will be truly useful. When the existing knowledge and ability are coupled with the additional training, it is reasonable to equate this to being the equivalent of the 110-hour emergency care course.

- 5) The person must successfully complete the 24-hour

emergency care refresher course.

The course, the content of which is detailed below, provides an overview of knowledge needed to provide emergency care and covers the more crucial subject areas also addressed in the 110-hour emergency care course. It is the Commissioner's position that when the refresher course is coupled with the four factors discussed above, a person will have the equivalent training of the 110-hour emergency care course. Indeed, it would not be unreasonable to assume that a person who meets the five criteria will be better equipped to respond to emergencies than a person who has only completed the 110-hour emergency care course training, because the former person will have had a minimum of three years experience of providing emergency care services. Experience, when combined with training, is often more valuable than training alone.

The basic thrust of the amendments is to require that a person demonstrate that s/he meet the first four criteria discussed above before being permitted to take the 24-hour refresher course. However, when the Statewide EMS Advisory Task Force made its recommendation in June, 1990, which is embodied in this proposed amendment, some persons who did not understand the need to have the recommendation promulgated as rule proceeded in good faith to take the 24-hour refresher course. It is for this reason that the proposed amendment also allows persons who

completed the 24-hour refresher course after July 1, 1990, and who comply with the four criteria above receive an emergency care course certificate. See proposed Minnesota Rule, part 4690.4600, subpart 9.

For comparative purposes, the following information outlines the requirements of the current 110-hour emergency care course, the 24-hour emergency care refresher course, and the American Red Cross advanced first aid course (approximately 52 hours):

A. The American Red Cross advanced first aid course curriculum includes the following: wound care; injury care of the eye, head, face, neck, chest, abdomen, extremities; treatment of shock; respiratory emergencies and artificial respiration, including water accidents; poisoning; drug use and abuse; burns, exposure to radiation; heat and cold exposure; bone and joint injuries; splinting, dressings, and bandages; sudden onset of illness; emergency childbirth; lifting and carrying, including the use of backboards; extrication techniques from vehicles.

B. The 110-hour emergency care course contains all of the subject matter listed in (A) above, plus the following: overview of anatomy and physiology; practical skill training in patient assessment; complete cardiopulmonary resuscitation skills for adults, children, and infants; practical use of airway management adjuncts, including suction devices, oxygen delivery systems, and

resuscitation devices; use of medical anti-shock garments; psychological aspects of emergency care; hazardous material situations; practical lab principles of extrication from vehicles and other potentially inaccessible situations; ambulance operations including record-keeping, reports, and radio communications; situational review and practice in staged emergency scenarios; a minimum of ten hours in-hospital observation and training, including familiarization with emergency, surgical, intensive care, obstetrical, and psychiatric areas of a general hospital; a final written test; a final practical evaluation of hands-on skills.

The 110-hour emergency care course emphasizes practical skills and the use of all equipment used on ambulances. It includes eight hours of direct physician participation through lectures and demonstration of patient assessment skills. Other medical professionals teach various segments of specialty care, such as respiratory therapists, registered nurses, and paramedics.

C. The 24-hour emergency care refresher course provides at least twenty hours of instruction and four hours of testing in all of the subjects listed in (A) and (B) above. Emphasis is generally placed on patient assessment skills during emergency situations. Instruction must be provided in cardiopulmonary resuscitation by one and two persons, infant resuscitation, and

management of the obstructed airway in conscious and unconscious persons. A written and a practical examination must be passed in order to successfully complete the emergency care refresher course.

The proposed rule will acknowledge those persons currently certified in American Red Cross advanced first aid, that is, having successfully completed an American Red Cross advanced first aid course. It recognizes experienced personnel, with at least three years of active service on the roster of a licensed ambulance service. It also recognizes the fact these persons have been trained and tested under the supervision of a medical director or medical advisor of a licensed ambulance service in all of the skills and equipment required by a basic ambulance service, and not taught in the American Red Cross advanced first aid course. These factors taken together compare favorably with the content of the current 110-hour emergency care course, and will enable the person certified in advanced first aid by the American Red Cross to qualify for admission to a 24-hour emergency care refresher course administered by the Department of Health.

Written comments in response to this proposed amendment to rule have been received from the following:

- 1) James J. Langenbrunner, Assistant Director of Public Safety, Cloquet Fire and Ambulance, Cloquet, Minnesota. Mr.

Langenbrunner expresses concern that the skills learned in the 110-hour emergency care course cannot be done in an Advanced Red Cross Course. He feels that permitting this proposed rule to be approved may result in a lowering of standards of patient care.

The Department's response to this comment is that the proposed rule does not substitute just the American Red Cross course for the 110-hour emergency course, as explained above.

What the Department is setting forth in the proposed amendment as being the equivalent of the 110-hour emergency care course is not only the American Red Cross training, but also the 24-hour emergency care refresher course, three years experience, current placement on the roster of an ambulance service, and verification of ability to use basic life support ambulance equipment.

2) Mark Abrahamson, Health Director, Grand Portage Health Service, Grand Portage Reservation, Grand Portage, Minnesota. Mr. Abrahamson is in support of the proposed amendment, citing his experience first hand with the high skill level of experienced Advanced First Aid personnel. He cites the difficulty in recruiting persons in rural areas to complete the full 110-hour emergency care course.

3) Kathy Lande, President, Gunflint Trail Rescue Squad, Gunflint Trail, Grand Marais, Minnesota 55604. Ms. Lande is strongly in favor of the proposed rule change. She cites the all volunteer staff of the rescue squad as anticipating the step up

to emergency medical technician by its experienced Advanced Red Cross personnel. This proposed rule change will enable all members of the squad, serving this remote rural area of Minnesota, to be fully certified by the Commissioner.

4) Susan Kerfoot, Box 100GT, Grand Marais, Minnesota. Ms. Kerfoot is strongly in favor of the proposed rule change. She cites the current situation in her community, where several members of the Gunflint Trail Rescue Squad are Advanced Red Cross certified. It will be a good incentive for these people to remain associated with the rescue squad if the opportunity exists to upgrade their certification status.

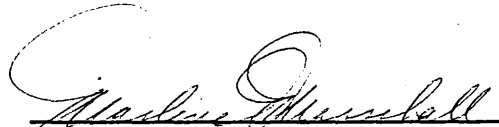
5) Richard Smith, President, Gunflint Trail Association, Grand Marais, Minnesota 55604. Mr. Smith writes on behalf of the Association in support of the proposed rule change. He cites its importance for rural areas such as the Gunflint Trail in Northeastern Minnesota, which rely entirely upon volunteers to operate first responder units and licensed ambulance services. Allowing highly qualified advanced first aid personnel to become fully certified by the Commissioner would greatly strengthen the staff of rural ambulance providers in this area of the state.

It is the opinion of the Department that these amendments to its rules will have a positive impact on local ambulance services, particularly in the more rural areas of Greater Minnesota, where volunteers comprise the majority of staff. The

proposed rule will apply only to those experienced Advanced Red Cross personnel, currently on the roster of ambulance services, with proven records of patient care under the supervision of medical direction. It will assure that a basic and consistent level of training exists state wide. The Department will be in a position to certify that all persons serving as ambulance attendants are trained, by August 1, 1994, to a minimum level for the provision of emergency medical services as required by Minnesota Statute Section 144.804, Subd. 1.

DATED:

October 11, 1991



MARLENE E. MARSCHALL
Commissioner of Health