

PROPOSED ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
REPEALING, RENUMBERING, RENUMBERING AND AMENDING, AMENDING, AND
CREATING RULES

The Wisconsin Department of Health and Family Services proposes to **repeal** HFS 113.03 (12), (27), 113.04 (1) (c), (d), and (Note) and (2) (b) 5. to 7. , 14. 17. , and (d) 2. and (Note), (3) (d) 2. and 3. a. to k. , (4) (b) (Note) (c), and (d), (5) (d) and (e), (7) (intro) and (a) to (d), (9) (a) 6. (10) (d) 2.and 3. (Note); to **renumber** HFS 113.03 (1); to **renumber and amend** HFS 113.04 (2) (b) 8. to 13. , 15., and 16., (3) (d) (title) 1. , 3., and (Note), and (7); to **amend** HFS 113 (title), 113.01, 113.02, 113.03 (4), (13), (14), (16) to (18), (19) (Note), (20) (Note), (21), (24), (25), (26) and (28) to (31), 113.04 (title), (1) (a), (b) and (e), (2) (title), (a), (b) (intro.), 3. , 4., and (Note), (c), (d) 1. and 3., (e) 1. to 3., (3) (title), (a) (intro.), 1. to 3. and 7., (c) (intro.), 1., 3. and 4., (4) (title), (a), (b), (e) and (f), (5) (intro.), (a), (b) 1. to 4., (c) and (f), (6) (a) (intro.), 1m. , 2. and 3., (b) to (d), (8) (a), (9) (title), (a) (intro.), 5. and 7. to 10., (b) to (e), (10) (b) (intro.), 1., 2., and (Note), (c) and (d) 1. b., 113.05 (1) (intro.), (2) (a) and (b), (3) (a) to (c), and (4) (a) and (b); and to **create** HFS 113.03 (1), (20m), 113.04 (2m), 113.05 (3) (d), relating to certification of first responders.

SUMMARY OF PROPOSED RULE

Statute interpreted:

Sections 146.50 (6g), (8), (8m), (9) and (13), Stats.

Statutory authority:

Sections 146.50 (6g) (a), (13) (a) and (b), and 227.11 (2) (a), Stats., and CFR 1205.3 (a) (5)

Explanation of statutory authority:

Section 146.50 (6g) (a), Stats., requires the Department to certify qualified applicants for the performance of defibrillation under standards that the Department promulgates as rules. Section 146.50 (13) (a) and (b), Stats., authorizes the Department to promulgate rules for certification and recertification of first responders; rules for authorizing the use of defibrillators by certified first responders; authorizing the performance of defibrillation and other techniques including non-visualized advanced airways, administration of medications, and techniques that are specified in the most current guidelines issued by the National Highway Traffic Safety Administration under CFR 1205.3 (a) (5); medical director qualifications; and any other rules necessary for the administration of the first responder program, including required training.

Related statutes or rules:

Section 146.50, Stats., and chs. HFS 110, 111, and 112.

Plain language analysis:

Section 146.50 (8), Stats., authorizes any person certified as a first responder to perform non-visualized advanced airways to treat patients who are either not breathing or whose airway has been compromised due to trauma or other means, and to administer medications that are specified by the Department by rule.

The current rules are outdated and limit first responders to performance of defibrillation; application of spineboard and cervical collar for purpose of spinal immobilization; administration of oxygen;

and skills contained in the national standard curriculum and basic life support in accordance with skills and medications covered in the Wisconsin revision of the national standard curriculum for training first responders. The proposed rules are being promulgated to update ch. HFS 113, to be consistent with current practice; to remove provisions that are inconsistent with s. 146.50 (8), Stats.; and to authorize certified first responders to administer epinephrine to patients who have suffered a severe allergic reaction.

Summary of, and comparison with, existing or proposed federal regulation:

The Department knows of no existing or proposed federal regulations that address first responders.

Comparison with rules in adjacent states:

All of the states require applicants to successfully complete the U.S Department of Transportation First Responder National Standard Curriculum through a Department approved training program.

Requirements for application, such as age and educational background are also similar. Iowa requires applicants to speak, write, and read English. Criminal background checks are mentioned in some of the rules either as reasons for not being eligible for a certificate or license, or for being dismissed if the individual is found to be guilty of such conduct. In other states, a criminal background check is not mentioned in rule, but is covered in the application process.

Minnesota and Illinois have a voluntary registration process for first responders. Those registering must meet the same education and continuing education requirements as in the other three states. Iowa and Wisconsin issue a certificate to their first responders. Michigan issues a license. All states require both written and practical examinations. The length of the registration or certification/licensure period varies by state, and is from two to four years.

Iowa and Illinois have two levels of first responders; a first responder and a first responder-defibrillation. The duties of a first responder in Minnesota and Michigan are defined by local protocols submitted to the state emergency medical services office for approval. The other states have a combination of duties spelled out in the rules and local protocols.

Continuing education is required in all states for renewal of license or certification/registration. Continuing education follows the national standard curriculum.

Standards for establishment of approved training centers are similar in all states. Instructor qualifications include knowledge and experience in EMS as well as familiarity with EMS skills to be taught. The lead instructors are required to be licensed or certified at the same or higher level as the students being taught. Lead instructors are also required to complete a state instructor course that follows the national standard curriculum for EMS instructors or an equivalent course.

Summary of factual data and analytical methodologies:

The department does not currently certify first responder service providers other than first responders that are certified to defibrillate and does not believe that these proposed rules affect small businesses other than private business entities that provide first responder services. The department invites comments from members of the public, including private entities who are first responder service providers, and other small businesses who believe that these proposed rules will have a fiscal impact on their small business.

Analysis and supporting documents used to determine effect on small business:

The department does not currently certify first responder service providers other than first responders that are certified to defibrillate and does not believe that these proposed rules affect small businesses other than private business entities that provide first responder services. The department invites comments from members of the public, including private entities who are first responder service providers, and other small businesses who believe that these proposed rules will have a fiscal impact on their small business.

Effect on small business:

The department does not currently certify first responder service providers other than first responders that are certified to defibrillate and does not believe that these proposed rules affect small businesses other than private business entities that provide first responder services. The department invites comments from members of the public, including private entities who are first responder service providers, and other small businesses who believe that these proposed rules will have a fiscal impact on their small business.

Agency contact person

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Place where comments are to be submitted and deadline for submission:

Comments may be submitted to the agency contact person that is listed above until the date stated in the upcoming notice of public hearing. The deadline for submitting comments and the notice of public hearing will be posted on the Wisconsin Administrative Rules Website at <http://adminrules.wisconsin.gov> when the hearing is scheduled.

TEXT OF RULE

SECTION 1. Chapter HFS 113 (title) is amended to read:

Chapter HFS 113 CERTIFICATION OF FIRST RESPONDERS TO PERFORM
DEFIBRILLATION IN PREHOSPITAL SETTINGS

SECTION 2. HFS 113.01 and HFS 113.02 are amended to read.

HFS 113.01 Authority and purpose. This chapter is promulgated under the authority of ss. 146.50 (6g) (a) and ~~(13) (a) and (b), and~~ 227.11 (2) (a), Stats., to ~~protect members of the public who require defibrillation in prehospital settings by establishing~~ establish standards for certification of first responders ~~to perform defibrillation.~~

HFS 113.02 Applicability. This chapter applies to any person who acts as a first responder and applies under this chapter for certification to perform ~~defibrillation~~ first responder skills or has been certified under this chapter to perform ~~defibrillation~~ first responder skills.

SECTION 3. HFS 113.03 (1) is renumbered HFS 113.03 (1m).

SECTION 4. HFS 113.03 (1) is created to read:

HFS 113.03 (1) "Advanced skill" means any method or technique that requires medical direction, including the use of non-visualized advance airways, performance of defibrillation, or administration of epinephrine.

SECTION 5. HFS 113.03 (4) is amended to read:

HFS 113.03 (4) "Biennial certification period" means a 2-year period beginning on ~~January 1, April 1, July 1 or October 1~~ of even numbered years.

SECTION 6. HFS 113.03 (12) and (27) are repealed.

SECTION 7. HFS 113.03 (13), (14), (16) to (18), (19) (Note), (20) (Note), (21), (24), (25), (26), (28) to (31) are amended to read:

HFS 113.03 (13) "First responder ~~defibrillation~~ plan" or "plan" means a plan submitted by or for ~~one or more hospitals providing emergency medical services, one or more licensed physicians, one or more ambulance service providers and one or more first responder service providers~~ intending to implement a first responder ~~defibrillation~~ program and which details the training and utilization of first responders ~~to administer defibrillation~~, as well as the quality assurance mechanisms to be used in the program.

(14) "First responder ~~defibrillation~~ training course" means a course of instruction which will qualify a student for examination and certification as a ~~first responder-DA~~ first responder.

(16) "Medical control" means direction, through oral orders or a protocol, supervision and quality control by the medical director or a physician-designee of the medical director of the activities of a first responder ~~administering defibrillation~~ in the prehospital emergency care of a patient.

(17) "Medical control hospital" means a hospital providing emergency medical services which accepts responsibility to serve as a base for the system of communication, medical control and direction for ~~first responder-DA~~ first responder personnel.

(18) "Monitor and defibrillator" means a device which is capable of monitoring the rhythm of an individual's heart, creating a continuous integrated recording of the electrocardiogram and voice communications, if available, occurring simultaneously during operations by ~~first responder-DA~~ first responder personnel, and delivering a regulated electrical impulse to the individual's heart.

(19) Note: The U.S. department of transportation national highway traffic safety administration's national standard curriculum for training first responders may be consulted at the ~~offices of the Department's Bureau of Emergency Medical Services and Injury Prevention or at the Secretary of State's Office or the Revisor of Statutes Bureau~~ National Highway Traffic Safety Administration's website at <http://www.nhtsa.gov>.

(20) Note: The U.S. department of transportation national standard refresher curriculum for training first responders may be consulted at the ~~offices of the Department's Bureau of Emergency Medical Services and Injury Prevention or at the Secretary of State's Office or the Revisor of Statutes Bureau~~ National Highway Traffic Safety Administration's website at <http://www.nhtsa.gov>.

(21) "On-line medical control physician" means a physician who is designated by the program medical director to provide voice communicated medical directions to ~~first responder-DA~~ first responder personnel and to assume responsibility for the care provided by ~~first responder-DA~~ first responder personnel in response to that direction.

(24) "~~Program coordinator~~service director" means the person designated by the program medical director to be responsible for day-to-day operations and recordkeeping for ~~the first responder-DA~~ first responder program described in the plan.

(25) "Program medical director" means the physician who is designated in a first responder ~~defibrillation~~ plan to be responsible for: the medical control, direction and supervision of all phases of the first responder ~~defibrillation~~ program operated under the plan and of first responders performing ~~defibrillation~~ under the plan; the establishment of standard operating procedures for these personnel; the coordination and supervision of evaluation activities carried out under the plan; if physicians are to be used in implementing the ~~first responder-DA~~ first responder program, the designation of on-line medical control physicians; and meeting the requirements of s. HFS 113.04 (3) (a) and, if applicable, s. HFS 113.04 (3) (b).

(26) "Protocol" means a written statement developed and distributed by the department and signed by the program medical director which lists and describes the steps a first responder is to follow in assessing and treating a patient ~~suffering cardiac arrest from ventricular fibrillation or rapid ventricular tachycardia.~~

(28) "Service medical director" means a physician who accepts responsibility for the medical aspects of the first responder ~~defibrillation~~ program and for medical supervision of first responder ~~defibrillation~~ services for a specific first responder service provider.

(29) "Training center" means a medical or educational institution which offers or sponsors a department-approved ~~first responder-DA~~ first responder training course.

(30) "Training course instructor-coordinator" means a physician; a physician's assistant certified under ch. 448, Stats.; a registered nurse licensed under ch. 441, Stats.; or; an EMT-basic; EMT-basic IV tech; EMT-intermediate; and/or an emergency medical technician-paramedic EMT-paramedic licensed under s. 146.50, Stats., designated by the training course medical director and training center to coordinate and administer a first responder ~~defibrillation~~ training course.

(31) "Training course medical director" means a physician who accepts responsibility for the medical aspects of a first responder ~~defibrillation~~ training course offered by a training center.

SECTION 8. HFS 113.03 (20m) is created to read:

(20m) "Non-visualized advanced airway" means a tube that is inserted through a patient's mouth into the patient's esophagus or trachea without direct visualization of the larynx. An endotracheal tube is not a non-visualized advanced airway.

SECTION 9. HFS 113.04 (title), (1) (a), (b), and (e), (2) (title), (a), (b) (intro.), 3., 4., and (Note), (c), (d) 1. and 3., (e) 1. to 3., (3) (title), (a) (intro.), 1. to 3. and 7., (c) (intro.), 1., 3. and 4., (4) (title), (a), (b), (e) and (f), (5) (intro), (a), (b) 1. to 4., (c) and (f), (6) (a) (intro.), 1m., 2. and 3., (b) to (d), (8) (a), (9) (title), (a) (intro.), 5. and 7. to 10., (b) to (e), (10) (b) (intro.), 1., 2., and (Note), (c) and (d) 1. b., are amended to read:

HFS 113.04 (title) **Certification for defibrillation.** (1) RESTRICTIONS (a) No first responder may perform ~~defibrillation~~ unless certified by the department under this section as a ~~first responder~~ first responder, and a participant in a department-approved first responder ~~defibrillation~~ program.

(b) No person may function as a ~~first responder~~ first responder unless certified by the department as a ~~first responder~~ first responder, except a person who is licensed as a an EMT-basic; EMT-IV tech; EMT-intermediate; EMT-paramedic; a registered nurse under ch. 441, Stats.; or who is certified as a physician assistant under ch. 448, Stats., or is a physician, and has successfully completed a first responder ~~defibrillation~~ training course.

(e) ~~Only~~ Semi or fully automatic defibrillators may be used by first responder ~~defibrillation~~ personnel or service providers.

(2) PLAN FOR ~~DEFIBRILLATION BY FIRST RESPONDERS.~~ (a) *Plan requirement.* One or more hospitals providing emergency services, one or more licensed physicians and one or more first responder service providers may submit a first responder ~~defibrillation~~ plan to the department. As an alternative, an existing ~~EMT-defibrillation~~ EMT plan for ambulance service providers licensed under ch. HFS 110 may be amended or expanded to include the first responder service provider or providers within the scope of operations described in the ~~EMT-defibrillation~~ EMT plan. Whichever plan is submitted, a first responder service provider employing ~~first responder~~ first responder personnel shall include documentation in the plan of a written agreement with ambulance service providers who employ EMT-basics who are also licensed under ch. HFS 110 to perform ~~EMT-defibrillation~~ EMT skills. The plan shall contain all the information required under par. (b).

(b) *Required elements.* No person may begin training or use of any first responders responder skills to provide prehospital ~~defibrillation~~ services until a first responder ~~defibrillation~~ plan has been submitted to and approved by the department. At a minimum, the plan shall:

3. Identify and describe the roles, responsibilities and qualifications of the training center to be used and its relationship to the medical control hospital or hospitals. If a previously approved EMT ~~defibrillation~~ training center is to be utilized, the training center may be cited by reference.

4. Describe the first responder service provider or providers planning to use first responder ~~defibrillation~~ personnel under the plan;

Note: Plans should be sent to the EMS Section, Division of Public Health, P.O. Box 2659, Madison, WI, 53701-2659. A guide to assist in developing a first responder ~~defibrillation~~ plan is available from the EMS Section.

(c) *Deadline for submission.* The plan shall be submitted to the department in complete form at least 90 days prior to the date proposed for beginning the first responder ~~defibrillation~~

training course. The plan is not in complete form until all information and materials noted in par. (b) have been received by the department.

(d) *Review and decision.* 1. The department shall, within ~~75~~60 days following receipt of a complete plan, approve or disapprove the plan and notify the applicant accordingly, in writing.

3. Approval or ~~disapproval~~denial of a plan shall be based on the requirements of this section, ~~consideration of the recommendation of the committee under subd. 2.~~ and the findings of a site visit by a department representative to the local hospital ~~or hospitals~~, first responder service ~~or services~~ and, affiliated ambulance service or training center included in the plan.

(e) *Implementation.* 1. Following department approval of a first responder ~~defibrillation~~ plan, all persons named in the plan may implement the program.

2. No change may be made in the first responder ~~defibrillation~~ program in the designation of ~~the hospital or hospitals~~, medical director or directors, or the first responder service provider or providers involved, or in the training program or first responder ~~defibrillation~~ program operations included in an approved plan, unless the change is first approved by the department.

3. The ~~hospital or hospitals~~, program medical director and first responder service provider or providers named in the plan shall biennially review the plan and update it as necessary and submit the updated plan to the department. The department shall notify the parties to the plan before the review and update is due and provide a format to be followed for reviewing and updating the plan. Department approval of the review and update is required for continuation of plan approval and for continuation of first responder ~~defibrillation~~ operations.

(3) ~~MEDICAL CONTROL AND DEFIBRILLATION~~ MEDICAL CONTROL AND DEFIBRILLATION PROTOCOL REQUIREMENTS. (a) *Program medical director.* A first responder ~~defibrillation~~ program shall be under the medical supervision of a program medical director identified in the plan. The program medical director shall be responsible for the medical aspects of implementation of the first responder ~~defibrillation~~ training and operations carried out under the plan and shall:

1. Select, approve or designate the personnel who will train and medically supervise first responder ~~defibrillation~~ personnel, including the training course medical director, the service medical directors, the program coordinator, the training course instructor-coordinator and, if they are to be used in the program, the on-line medical control physicians;

2. Sign the protocol or protocols which will be used by first responder ~~defibrillation~~ personnel in providing ~~defibrillation services~~advanced skills under the plan;

3. Ensure that all aspects of the first responder ~~defibrillation~~ training and operational program are under constant medical supervision and direction;

7. Ensure that the first responder ~~defibrillation~~ program operates in conformance with the approved plan, this section and standards of professional practice.

(c) *Medical control hospital.* The medical control hospital or hospitals designated in the first responder ~~defibrillation~~ plan shall agree to:

1. Support the provision of medical control, if on-line medical control physicians are to be used in the first responder ~~defibrillation~~ program, by permitting designated on-line medical control physicians to use its telecommunications resources for medical control of first responder personnel;

3. Ensure that any medical control provided to first responder ~~defibrillation~~ personnel by on-line medical control physicians at the hospital or hospitals is consistent with the approved protocol or protocols and the medical control policies and procedures established by the program medical director; and

4. Receive patients who have been ~~monitored or defibrillated~~treated by first responder ~~defibrillation~~ personnel and make available to the program and service medical directors and the quality assurance program the patient data necessary to carry out the quality assurance activities required under the plan.

(4) FIRST RESPONDER ~~DEFIBRILLATION~~ TRAINING. (a) *Direction and supervision.* First responder ~~defibrillation~~ training shall be under the direction and supervision of a training course medical director who shall perform the functions under s. HFS 110.045 (4).

(b) *Instructor-coordinator.* Each first responder ~~defibrillation~~ training course shall have a training course instructor-coordinator who meets the requirements of s. ~~HFS 110.10 (8) (b)~~HFS 110.07 (2).

(e) *Department approval.* Department approval of a proposed training course shall be a prerequisite to the initiation of first responder ~~defibrillation~~ training. Approval of a training course shall include approval of a curriculum, procedures, administrative details and guidelines necessary to ensure a standardized program.

(f) *Record of student performance.* The training ~~course~~ medical director shall, upon completion of a first responder ~~defibrillation~~ training course, submit to the department a record of student performance for each first responder who participated in the course and a list of the first responders who successfully completed the course.

(5) FIRST RESPONDER SERVICE PROVIDER REQUIREMENTS. A first responder service provider using ~~first responder-DA~~ first responder personnel shall:

(a) Submit a written plan of operation or an amendment to an existing ~~ambulance service~~ ~~defibrillation~~ plan;

(b) 1. Performance of ~~defibrillation~~advanced skills by first responders is carried out under medical control;

2. ~~First responder-DA~~first responder personnel receive continuing education and performance evaluations with sufficient frequency to maintain safe and effective delivery of ~~defibrillation~~advanced skills;

3. The ~~defibrillation~~ protocol developed and distributed by the department ~~is~~may be used as the service protocol; and

4. ~~First responder-DA~~First responder personnel who fail to demonstrate acceptable competency in implementation of the ~~defibrillation~~ protocol are not permitted to engage in the

provision of ~~defibrillation~~ services until they have been reevaluated and have demonstrated competency in performance of the protocol to the service medical director's satisfaction;

(c) Provide the service medical director with sufficient access to ~~first responder~~—DA first responder personnel to enable the service medical director to carry out the responsibilities specified in par. (b);

(f) Ensure that all written records, ~~monitor and defibrillator recordings and voice and electrocardiogram recordings~~ of each emergency response in which a negative event occurred during or as part of the response ~~first responder~~—DA personnel rendered treatment to a pulseless, non-breathing patient are delivered to the program or service medical director for review within 72 hours after the response and are made available to the quality assurance program described in the plan in a manner which conforms to the applicable requirements of ss. 146.50 (12), 146.81 and 146.83, Stats.

(6) CONTINUING EDUCATION. (a) A first responder ~~defibrillation~~ plan shall include requirements for continuing education. Completion by the first responder ~~defibrillation~~ personnel of the continuing education requirements is a condition for maintenance of the program medical director's approval of them to provide first responder ~~defibrillation~~ services. Continuing education shall include, at a minimum:

1m. Completion of training on responding to acts of terrorism. Completion of an NT100 terrorism and hazardous materials awareness training course that meets the requirement for training for response to acts of terrorism. Course material for training for response to acts of terrorism shall be included in all initial and refresher EMT courses beginning January 1, 2003 and shall also be available as a stand-alone course module for ~~EMTs~~first responders who received training before January 2003.

2. ~~Annual recertification~~Recertification in cardiopulmonary resuscitation at the American heart association basic cardiac life support course ~~C level~~ or the American red cross cardiopulmonary resuscitation for the professional rescuer level; and/or any other course approved by the department.

3. Demonstration of competent performance of the protocol in a simulated ~~cardiac arrest situation~~medical situations to the satisfaction of the service or training course medical director or the training course instructor—~~coordinator once a month for the first 3 months following initial certification by the department and once every 6 months thereafter.~~ The demonstration shall be witnessed by the service medical director at least once annually for each ~~first responder~~—DA first responder for whom the medical director has responsibility.

(b) The program or service medical director may require additional continuing education of first responder ~~defibrillation~~ personnel functioning under the plan. Any additional requirements set forth by the program or service medical director shall be described in the plan.

(c) A ~~first responder~~—DA first responder who fails to satisfy the continuing education requirements set forth in the plan or who fails to demonstrate competent performance ~~in a required cardiac arrest simulation~~ shall be removed from providing first responder ~~defibrillation~~ services until the program or service medical director has reviewed the individual's performance and approves the individual to return to service. The program or service medical director shall immediately inform the department in writing of the removal of an individual from service and shall inform the department of the date the individual is returned to service.

(d) Each first responder service provider shall retain documentation establishing that each ~~first responder~~ first responder affiliated with the service has satisfied the continuing education requirements. The first responder service provider shall make the documentation available to the department for review upon request.

(8) QUALITY ASSURANCE PROGRAM. (a) A quality assurance program in which ~~first responders~~ first responder participate pursuant to sub. (7) ~~(e)~~ shall meet the requirements of this subsection.

(9) ~~FIRST RESPONDER~~ FIRST RESPONDER CERTIFICATION. (a) A person requesting certification as a ~~first responder~~ first responder shall:

5. Present documentation of current certification at the American heart association basic cardiac life support course ~~C level for the healthcare provider~~ or the American red cross cardiopulmonary resuscitation for the professional rescuer level; or any other course approved by the department.

7. Be affiliated with a first responder service provider identified in an approved first responder ~~defibrillation plan~~;

8. Present evidence of successful completion of an approved ~~first responder~~ first responder training course;

9. Present documentation signed by the program medical director and acceptable to the department of competence in the performance of ~~defibrillation~~ advanced skills according to the protocol for providing ~~defibrillation~~ advanced skills services under the plan; ~~and.~~

10. Have successfully completed the written and practical skills examination required ~~under sub. (4) (d) no more than 6 months prior to the date of application for first responder~~ first responder certification by the department. A person who fails to achieve a passing grade on the required examination may request reexamination and shall be admitted for further examination only after presenting evidence of successful completion of further first responder ~~defibrillation~~ training acceptable to the department. A person who does not apply for certification within ~~6~~ 24 months after successfully passing the required examination shall be required to retake and successfully complete an approved ~~first responder~~ first responder training course and examination to be eligible for certification.

(b) A Wisconsin licensed EMT–basic, intermediate or paramedic is eligible for ~~first responder~~ first responder certification if the EMT meets the qualifications under par. (a) 1., 3., ~~6,~~ 7., 8., 9. and 10. A Wisconsin licensed EMT–basic, ~~intermediate or paramedic with defibrillation certification~~ EMT-IV tech, EMT-intermediate, or EMT-paramedic is eligible for ~~first responder~~ first responder certification if the EMT meets the qualifications under par. (a) 1., 3., ~~6,~~ 7. and 9.

(c) Within 60 days after receiving a complete application for ~~first responder~~ first responder certification, the department shall either approve the application and certify the applicant or deny the application. If the application for certification is denied, the department shall give the applicant reasons, in writing, for the denial and shall give the applicant an opportunity to appeal the denial in accordance with s. HFS 113.05 (4) (a).

(d) In performing defibrillation, a person certified as a ~~first responder~~ first responder may use ~~only an automatic defibrillator and follow the fully~~ automatic or semiautomatic defibrillator protocol included in the plan for the provider for which he or she is authorized to function as a ~~first responder~~ first responder.

(e) A ~~first responder~~ first responder certificate shall expire on ~~April 1, July 1, October 1 or January 1~~ June 30 of even numbered years.

(10) (b) *Requirements for renewal.* To renew a ~~first responder~~ first responder certificate, a certificate holder shall, by the certificate's expiration date and every 2 years thereafter, file with the department:

1. An application for renewal on the form provided by the department. The application form shall be signed by the program medical director responsible for the ~~emergency medical technician-basic~~ program or first responder first responder program involved;

2. Documentation of current certification at the American heart association basic cardiac life support course ~~C-level~~ for the healthcare provider or the American red cross cardiopulmonary resuscitation for the professional rescuer level; or any other course approved by the department.

Note: Copies of the form required to apply for renewal of certification for ~~first responders~~ first responders are available from the EMS Section, Division of Public Health, P. O. Box 2659, Madison, WI 53701- 2659.

(c) *Failure to submit materials by certificate expiration date.* A certificate holder who fails to submit the materials described in par. (b) by the renewal date shall not represent himself or herself as, function as or perform the duties of a certified ~~first responder~~ first responder after the date of certificate expiration.

(d) *Late renewal.* 1. b. An affidavit that the certificate holder has not acted as a ~~first responder~~ first responder during the period in which the certificate was expired.

SECTION 10. HFS 113.04 (1) (c), (d), and (Note), (2) (b) 5. to 7. , 14., and 17., and (d) 2., and (Note), and 3. a. to k. , (4) (b) (Note), (c), and (d), (5) (d) and (e), (7) (intro.) and (a) to (d), (9) (a) 6., (10) (d) 2., and 3. (Note) are repealed.

SECTION 11. HFS 113.04 (2) (b) 8. to 13. , 15., and 16., (3) (d) (title) 1. , 2., and (Note), and (7) (e) are renumbered HFS 113.04 (2) (b) 5. to 10., 11., and 12. , (3) (d) (title), 1. , 2. and (Note), and (7) and amended to read:

HFS 113.04 (2) (b) 5. Describe the manner in which each first responder service provider operating under the plan will use first responder ~~defibrillation~~ personnel, including the number of first responders to be trained, the service area to be covered and all ambulance service providers licensed under ch. HFS 110 who will be responding to that service area and how interaction and communication with the responding ambulance service provider will be accomplished;_

6. List the equipment to be used by first responder ~~defibrillation~~ personnel to administer ~~defibrillation, including the brand name, capabilities and technical specifications of each piece of equipment and specify the type of defibrillator to be used by each first responder service provider included in the plan.~~

7. Include a copy of the operating policies and procedures to be used in medical control, implementation and evaluation of the first responder ~~defibrillation~~ program;_

8. Include a copy of the department–provided protocol or protocols required under sub. (3) (d), signed by the program medical director, to be followed by first responder ~~defibrillation~~ personnel in determining the need for ~~defibrillation~~, administering ~~defibrillation~~ and providing additional emergency care ~~to a pulseless, non-breathing patient;_~~

9. Describe the methods by which continuing education and case review will be provided to first responder ~~defibrillation~~ personnel and continuing competency of those personnel will be assured;_

10. Describe the relationship of the first responder ~~defibrillation~~ program to other emergency and public safety services in the geographic area covered by the plan, including how the program will be coordinated with and will secure assistance from any basic or advanced life support services existing in the geographical area covered by the plan;_

11. Include a copy of a letter of agreement from or a contract involving the program medical director, ambulance service provider or providers, the first responder service provider or providers and the service medical director or directors included in the plan, and a quality assurance program. The letter of agreement or contract shall specify that the written record ~~and voice and electrocardiogram recording~~ of each emergency ~~response~~ responses in which first responder ~~defibrillation~~ personnel render treatment to a ~~pulseless, non-breathing~~ patient will be reviewed and evaluated by the quality assurance program;_

12. Document insurance coverage which will be in force ~~on the date proposed for the beginning of the initial first responder defibrillation training course offered under the plan covering all hospitals, physicians, first responder service providers and first responder defibrillation~~ personnel included in the first responder ~~defibrillation~~ program for any liability they incur in the performance of their responsibilities in implementing the program; ~~and_~~

(3) (d) *First responder ~~defibrillation~~ protocol.* 1. Each first responder ~~defibrillation~~ plan shall include a protocol or protocols signed by the program medical director under which first responder ~~defibrillation~~ personnel will provide emergency care to the cardiac arrest victim prior to the ambulance service provider's arrival. Voice contact with an on–line medical control physician is not required for first responder ~~defibrillation~~ personnel to implement the protocol.

2. Any protocol used shall be a standard protocol developed and distributed by the department, ~~based on the recommendations of the panel established under s. HFS 110.10 (6) (d)~~ 2. A protocol shall specify:

~~Note: HFS 110.10 (6) was repealed eff. 3-1-01.~~

(7) Participation by ~~first responders~~–first responders, under a contract or letter of agreement, in a quality assurance program to which copies of the documentation of each cardiac arrest response ~~as required in par. (a)~~ shall be sent by the program or service medical director ~~at least once each calendar quarter upon request~~. The quality assurance program shall meet the requirements under sub. (8) and shall be approved by the department.

SECTION 12. HFS 113.04 (2m) is created to read:

HFS 113.04 (2m) AUTHORIZED ACTIONS OF FIRST RESPONDERS. A first responder may perform all of the following actions:

(a) In addition to the skills contained in the national standard curriculum, administration of basic life support in accordance with skills and medications covered in the Wisconsin revision of the national standard curriculum for training first responders.

(b) Application of spineboard and cervical collar for purpose of spinal immobilization.

(c) Administration of oxygen.

(d) Performance of defibrillation.

(e) Use of non-visualized advanced airway.

(f) Administration of epinephrine in a concentration of 1:1000 for adults and 1:2000 for children for signs and symptoms of anaphylactic shock using an auto injector or other approved administration device.

(g) Administration of additional skills and medications approved by the department based on recommendations of the emergency medical services board under s. 146.58, Stats., the EMS physician advisory committee under s. 146.58 (1), Stats., and the state EMS program medical director under s. 146.55 (2m), Stats.

SECTION 13. HFS 113.05 (1) (intro.), (2) (a) and (b), (3) (a) to (c), and (4) (a) and (b) are amended to read:

HFS 113.05 Denials and sanctions. (1) DENIAL, NONRENEWAL, REVOCATION OR SUSPENSION OF ~~FIRST RESPONDER-DA~~ FIRST RESPONDER CERTIFICATION. The department may deny, refuse to renew, suspend or revoke a ~~first responder-DA~~ first responder certification after providing the applicant or ~~first responder-DA~~ first responder with prior written notice of the proposed action and of the opportunity for a hearing under sub. (4) if the department finds that:

(2) EMERGENCY SUSPENSION OF CERTIFICATE. (a) The department may summarily suspend a ~~first responder-DA~~ first responder certificate when the department is informed by the ~~project~~ medical director that the certificate holder has been removed from the first responder ~~defibrillation~~ program for cause or the department has probable cause to believe that the holder of the certificate has violated the provisions of this section and that it is necessary to suspend the certification immediately to protect the public health, safety or welfare.

(b) Written notice of the suspension, the department's proposed additional action or actions and a written notice of the right to request a hearing shall be sent to the ~~first responder-DA~~ first responder. That person may request a hearing on the decision. A request for a hearing shall be submitted in writing to and received by the department of administration's division of hearings and appeals within 30 days after the date of the notice of suspension. The division of hearings and appeals shall schedule the hearing no later than 15 days after receiving the request for hearing unless both parties agree to a later date and shall provide at least 10 days prior notification of the date, time and place for the hearing. The hearing examiner shall issue a proposed or final decision within 10 days after the hearing. The suspension of the ~~first responder-DA~~ first responder certificate shall remain in effect until a final decision is rendered.

(3) CANCELLATION OF APPROVAL. (a) *Plan approval.* The department may, at any time, cancel its approval of a first responder ~~defibrillation~~ plan if parties to the plan fail to adhere to the plan, if parties to the plan violate any provision of this section or if there is evidence that the first responder ~~defibrillation~~ program operated under the plan presents a danger to the health and safety of patients or the general public. All persons involved in the implementation of the plan shall cease providing first responder ~~defibrillation~~ services upon written notice received by the program medical director from the department, except that first responder ~~defibrillation~~ services may continue pending appeal under sub. (4).

(b) *Provider approval.* The department may, at any time, cancel its approval of the participation by a specific first responder service provider or providers in a first responder ~~defibrillation~~ plan if the provider or providers fail to adhere to the approved plan, violate the provisions of this section or engage in activities in the first responder ~~defibrillation~~ program that present a danger to the health and safety of patients or the general public. The first responder service provider or providers shall cease providing first responder ~~defibrillation~~ services upon written notice received by the owner or operator for each first responder provider involved, except that first responder ~~defibrillation~~ services may continue pending appeal under sub. (4).

(c) *Emergency suspension.* 1. The department may summarily suspend approval of a first responder ~~defibrillation~~ plan or the participation of a first responder service provider or providers in a first responder ~~defibrillation~~ plan when the department has probable cause to believe that implementation of the plan or operation of the first responder service provider or providers under the plan fails to adhere to the plan or violates the provisions of this section and that it is necessary to suspend approval of the plan or the participation of the first responder service provider or providers in the plan immediately to protect the public health, safety or welfare.

(4) APPEAL. (a) In the event that under sub. (1) the department denies issuance of or renewal of or suspends or revokes a ~~first responder~~ first responder certificate, the applicant or ~~first responder~~ first responder may request a hearing under s. 227.42, Stats. The request for a hearing shall be submitted in writing to the department of administration's division of hearings and appeals and received by that office within 30 days after the date of the notice required under sub. (1).

(b) In the event that, under sub. (3) (a) or (b), the department cancels a first responder ~~defibrillation~~ plan or participation by a first responder service provider or providers in the plan, the program medical director, in the case of cancellation of plan approval, or the owner or operator for each first responder service provider involved, in the case of cancellation of provider participation, may request a hearing under s. 227.42, Stats. The request for a hearing shall be submitted in writing to the department of administration's division of hearings and appeals. Review is not available if the request is received in the office of administrative hearings more than 30 days after the date of the notice required under sub. (3) (a) or (b).

SECTION 14. HFS 113.05 (3) (d) is created to read:

HFS 113.05 (d) If the department provides written notice of the grounds for an order and an explanation of the process for appealing an order imposed under this subsection, the department may order any of the following sanctions:

1. That a person or entity stop operating as a first responder without a license.

2. That a person or entity stop violating any provision of certification under s. 146.50 Stats., or rules promulgated under s. 146.50, Stats.

3. That a person or entity submit a plan of correction for violation of any provision of certification under s. 146.50, Stats., or rule promulgated under s. 146.50, Stats.

4. That a person or entity implement and comply with a plan of correction provided by the department or previously submitted by the person or entity and approved by the department.

SECTION 15. EFFECTIVE DATE. The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2), Stats.

Wisconsin Department of Health
and Family Services

Dated: September 9, 2005

By: _____

Helene Nelson,
Secretary

SEAL: