

EMS Draft Rules Comments

November 29, 2012 Draft Rules

Rulemaking Comments

Comment: A commenter asked when the comment period would close.

Response: The online survey is set to expire at midnight on Sunday, December 30.

Comment: The use of “and” and “or” is confusing.

Response: The rules must conform to format and style requirements also set in rule. In a list, the next-to-the-last element in the list has an “and” or “or” and this word is assumed to be applied to all the elements in the list. Thus, if the next-to-the-last element in a list has an “or,” any of the elements in the list would satisfy the requirement, while if the next-to-the-last element in a list has an “and,” all of the elements in the list would be required. To make clearer the meaning in lists where an “or” is used and only one element in the list is required, the Department will preface the list with “one of the following.”

Article 3

R9-25-301 and R9-25-303

Comment: R9-25-301(F) states that a training program certificate "may not be transferred to another person." However, R9-25-303(A)(3) and (4) and (C) allow for a certificate holder name change. These requirements seem inconsistent.

Response: This wording has been in the rules since 2004. The Department has received no indication that the wording has caused a problem. Although a training program certificate cannot be transferred from one owner to another, there is no prohibition on the owner of a training program changing the owner's name. The Department does not intend to impose this additional restriction.

R9-25-302(D)(3)

Comment: Several comments were received stating that requirement in the draft rules that a training program to provide policies and procedures within 2 hours is an unreasonable time frame, and the rules do not clarify what is considered a suitable form of request.

Response: Based on the comments received, the Department will change the wording to be closer to what is in the current rules.

R9-25-304

Comment: Comments were made about why the instructional methodology requirement for instructors was removed. A commenter recommended changing to some sort of non-proprietary instructional methodology for EMS instructors and program directors.

Response: The current rules do not have an instructional methodology requirement for program directors, but do require program directors to evaluate instructors. Individual training programs may require both program directors and instructors to have a background in adult instructional methodologies. The Department will consider making changes during the larger rulemaking to be completed in 2013.

Comment: R9-25-304(A)(5)(b) is indented too far. The indent should be reduced to match (A)(5)(a).

Response: The Department thanks the commenter for pointing out this formatting error.

Comment: Comments were received about the requirements for the construction of examinations in R9-25-304(B)(2)(a)(i), stating that the rules limit the ability of a training program to construct examinations. The commenters expressed a desire for more flexibility in using computer adaptive testing or pre-set exam questions from components of a refresher course (such as ACLS, PALS, PEPP, etc.).

Response: This wording has been in the rules since 2004. The Department will consider making changes during the larger rulemaking to be completed in 2013.

Comment: Several comments were received about the proctoring requirement in R9-25-304(B)(2)(a)(iv). The comments expressed concern about the requirement that the proctor be an individual other than the training program director or an instructor for the course and suggested that it is an unfunded state mandate requiring a training program to hire a third party from other than the training program certificate holder to proctor the exam. One of the comments asked whether this requirement prevents the training program director or any of the instructors from being present during the exam to answer any questions not related to the exam content.

Response: This wording has been in the rules since 2007. Based on these comment, the Department will consider making changes during the larger rulemaking to be completed in 2013.

Comment: Comments were received about the programmatic differences for state certification courses versus accredited institutions in R9-25-304(C)(2). State certification programs have the autonomy to attest to a student's practical skills competence whereas an accredited program must still proctor the stations.

Response: The Department is constrained by statutory requirements but will consider alternative wording during the larger rulemaking to be completed in 2013.

R9-25-305

Comment: The current rules allow students from more than one course session to be combined for didactic instruction. The draft does not allow this.

Response: The Department will change the draft rules to include this.

Comment: In R9-25-305(A)(1), the rule states that a certification course "Covers knowledge, skills, and competencies comparable to the national education standards." The term "comparable" should be changed to "consistent."

Response: The term "comparable" is consistent with statutory language.

Comment: In R9-25-305(C)(1)(b) and (E)(1)(b), an individual is required to have documentation of completion of prior training in an EMT course or higher. Must a copy of that "proof" be kept on file? If CPR and ACLS are offered as part of the course, does it matter if a previous certificate is expired?

Response: The Department will consider making changes during the larger rulemaking to be completed in 2013.

Comment: In R9-25-305(C)(1)(b) and in other locations in the draft rules, the phrase "registration in a national certification organization" is used. The comment stated that "The National REGISTRY is holding themselves out to be a certification agency. I presume this is from whence the term "national certification organization" arises. If the Department is going to use the term "national certification organization," then the term "registration" should be changed as well to "certification" since certification is how the actions of the NREMT and other "national certification organizations" is being classified."

Response: The Department uses the term "registration" in connection with a national certification organization to distinguish it from the "certification" that is done by the Department.

For R9-25-305(C)(2), see R9-25-406 re CPR

Comment: R9-25-305(E)(2)(b) states that a student in an ALS refresher course needs to have ACLS as a prerequisite to take the course. Several comments were made asking why an AEMT would need ACLS since ACLS skills are outside their scope of practice.

Response: The Department will change this rule and R9-25-406(C)(3)(b) so an AEMT is not required to have ACLS certification.

R9-25-316 (new R9-25-306)

Comment: In R9-25-306(A)(12), either the chief administrative officer or the designee is required on course notification documents. A comment was made that a designee be allowed on all correspondence. Another comment stated that the program director should be required to sign the notification.

Response: The Department will change the draft rules to read:

12. The name and signature of the chief administrative officer or program director and the date signed.

Comment: R9-25-316(C)(2) requires training program certificate holders to maintain records for three years after the start of a student's course session. The comment stated that "If the student in question is enrolled in a typical two year paramedic training program, this would only require the program to maintain records for less than a year (since students have up to six-months after the completion of their course sessions to meet the requirements for licensure) after completion of the course." The suggestion was made to change "after the start date of a student's course session" to "after the student's final course session."

Response: This requirement is in the current rules at R9-25-315(B). Rather than impose an additional regulatory burden on training program certificate holders at this time, the Department will consider this suggestion as part of the larger rulemaking that will be done in 2013.

Comment: The comment was made that the requirement in R9-25-316(C)(5) that student records be made available within two hours after the Department's request does not seem like an adequate amount of time for a training program to produce requested documents, particularly for programs that do not maintain electronic records. The commenter suggested two business days as more sensible than two hours.

Response: The Department had added this time period consistent with other licensing rules and to give training program certificate holders some parameters for producing the documents. The Department can change the wording to be closer to what is in the current rules.

R9-25-317

Comment: The comment about R9-25-317(B)(2) stated that there is "no mention of emergency proceedings in ARS Title 41, Chapter 6, Article 10. Does the Department have no ability to take emergency action to stop a course which may be placing students or patients at risk of bodily harm? I would think the nature of the profession being regulated by BEMS would necessitate the ability to issue an emergency order. Administrative hearings are all well and good, but if a student or patient is harmed in the 30- to 60-day waiting period for an administrative law judge to rule on the issue, the student, patient, or family thereof will receive little comfort from the judge's ruling."

Response: This language has been in the rules since 2004. The Department has received no indication that the wording has caused a problem. The wording in the draft is a restructuring to improve clarity without making a substantive change.

Exhibit C

Comment: A commenter questioned whether the Department would no longer mandate how many and what types of patients will constitute the minimum requirements for ALS training.

Response: The content of the Exhibit may be discussed as part of the larger rulemaking to be completed in 2013.

Article 4, R9-25-406

Comment: A commenter questioned whether the Department should change the title of Article 4 to be "EMCT CERTIFICATION" rather than "EMT CERTIFICATION."

Response: In Article 4, only Section R9-25-406 is being changed in this rulemaking. All the other Sections in the Article still use the term EMT as it is defined in R9-25-101. The title of Article 4 will be changed during the larger rulemaking, in which the rest of Article 4 will be included.

Comment: Several comments were received about the use of a proprietary name such as "American Heart Association" in R9-25-305(C)(2) and (E)(2)(a) and R9-25-406(C)(3)(a), with two expressing concern that the wording in the draft "could be construed to dictate an unfunded mandate to use only American Heart Association curricula and training materials." Since EMS agencies use not only the "AHA" format but also "ASHI" and the Red Cross, commenters asked that the Department be more inclusive and substitute "national standards," "a program which is nationally recognized and uses the most current national evidence-based Emergency Cardiovascular Care guidelines and incorporates psychomotor skills development into the instruction," or "Guidelines for CPR and ECC" for the current wording. One commenter asked whether the American Heart Association would be the only card accepted for emergency cardiovascular care.

Response: The language in the current draft does not address the credentials of the instructor, just the content of the course. It does not require that an instructor be AHA certified; an instructor may instead be ASHI or Red Cross certified. The card received by an EMCT upon successful completion of the training does not have to be an AHA card either. The courses provided by several national organizations would meet the requirement because they have course content that is consistent with the Emergency Cardiovascular Care guidelines of the American Heart Association, which is what is required in the rule. To make clearer that this is what is required in the rule, the Department will change the rule as follows:

- a. ***Has documentation of current certification in adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs from the American Heart Association***;

For R9-25-406(C)(3)(B), see 305(E)(2)(b) re ACLS

Comment: A comment was made about the requirement in subsection (C)(3)(c) that continuing education be in "topics that are consistent with the content of the applicable refresher course." The commenter asked whether other topics that are of interest to the EMCT and EMS-related but that are outside the scope of the refresher course be allowed.

Response: The option in subsection (C)(3)(c) for continuing education classes substitutes for taking a refresher course or refresher challenge examination or having current registration in a national certification organization and includes the same number of hours as the equivalent refresher course. An EMCT is not prevented from taking other educational classes, but the other classes would not count toward this requirement.

Comment: A comment was made about the minimum numbers of hours dedicated to pediatric training, especially as a proportion of the EMT continuing education hours, stating that the time was too high.

Response: The Department will reduce the minimum hours from six to five.

Article 5

R9-25-502

Comment: Two comments were received asking whether R9-25-502(B)(3) requires documentation, other than a training course certificate of completion issued by the educational program, to be maintained for the skills indicated by "STR" that are parts of the national curricula.

Response: Not all training programs would cover a "STR" skill in a routine training course for a specific level of EMCT, so a training course certificate of completion may not meet the requirement. In R9-25-502(B)(3)(a), the Department requires an EMCT to have documentation of training specific to that "STR" skill. The documentation may be from the person providing a course covering the "STR" skill, from the

EMCT's medical director, or from another source. A medical director is required under R9-25-502(C)(1) to document the completion of training specific to the "STR" skill and the competency of an EMCT in performing the "STR" skill before authorizing the EMCT to perform it.

Comment: A comment was made that requiring a medical director to ensure the competency of an EMCT before authorizing the EMCT to perform an ALS or STR skill was onerous.

Response: The rules do not require a medical director to test each EMCT in every ALS or STR skill before authorizing the EMCT to use the skill, just to ensure competency. This could be by accepting the certificate of a reputable and competent training program or instructor or asking the EMCT pertinent questions during the review of a transport. The Department believes that, since an EMCT is acting under the authority of the medical director in performing an ALS or STR skill, the medical director would want to make sure the EMCT was competent in performing the skill before authorizing the EMCT to perform the skill. If the EMCT were not competent, the medical director's license could be jeopardized. The rules will be changed to clarify the medical director's role in this process.

Table 5.1

Comment: A comment was received about the designation of the levels of EMCTs having BiPAP/CPAP and End Tidal CO2 monitoring /capnography in the EMCT's scope of practice, requesting that the Department allow these two interventions to be used by BLS providers either as an authorized skill or as "STR."

Comments were also received asking for an EMR to be authorized to utilize pulse oximetry; suggesting combining AEMT and I-99 and eliminating the EMT basic; related to EMT-I(99)s and cardiac monitoring and cardioversion; and suggesting that the STR system for EMTs be re-examined given the new level of AEMTs, who have more training than the EMT receives.

Response: The Department has adopted the content of this Table based on recommendations by the EMS Council and the Medical Direction Commission. The Department will continue to consider recommendations for changes to this Table made by these two groups. Until requirements related to EMRs are put into the rules, the scope of practice for EMRs is being removed from the Table. Other changes will be considered during the larger rulemaking.

Comment: Two comments were received pointing out that the Table lists an EMT-I(99) as authorized to use an Automated Transport Ventilator, but that this skill is listed as "STR" for a Paramedic.

Response: The Department thanks the commenters for pointing out this error.