Testimony
Administrative Rules Committee
Thursday, June 10, 2010
North Dakota Department of Health

Good morning, Chairman Klein and members of the Administrative Rules Committee. My name is Tom Nehring, and I am director of the Division of Emergency Services and Trauma for the North Dakota Department of Health. I am here to provide testimony concerning rules published in the July 2010 supplement.

1. *Whether the rules resulted from statutory changes made by the Legislative Assembly.*

   Two changes in the rules resulted from statutory changes made by the Legislative Assembly. Senate Bill 2048 created a new section to chapter 23-01.2 of the North Dakota Century Code that enacted trauma center designation. Senate Bill 2048 also amended and reenacted section 23-27-04.6 quick response units.

   Other rule changes did not result from statutory changes.

2. *Whether the rules are related to any federal statute or regulation. If so, please indicate whether the rules are mandated by federal law or explain any options your agency had in adopting the rules.*

   These rules are not related to any federal statue or regulation. However, the changes in the mandatory equipment regarding pediatric list are modeled after the national guidelines set forth by a National Emergency Medical Services for Children stakeholder group.

3. *A description of the rulemaking procedure followed in adopting the rules, e.g., the type of public notice given and the extent of public hearings held on the rules.*

   Over the past year, the North Dakota Department of Health conducted meetings with the EMS Advisory Committee and State Trauma Advisory Committee. From these meetings, recommended rule changes were taken into consideration.

As required by NDCC Section 46-05-01, public notices were placed in all legal newspapers from December 15 to 21, 2009. A public hearing was held on January 21, 2010, and a written comment period was open through February 5, 2010.

4. *Whether any person has presented a written or oral concern, objection, or complaint for agency consideration with regard to these rules. If so, describe the concern, objection, or complaint and the response of the agency, including any change made in the rules to address the concern, objection or complaint. Please summarize the comments of any person who offered comments at the public hearings on these rules.*

Comment 1: Wanted an Emergency Vehicle Operations Course (EVOC) or its equivalent to be required for advanced life support and basic life support ambulance drivers.
Response: The Department of Health agreed with the comment and made the change to Section 33-11-02-01.

Comment 2: When a rural community ambulance is doing a transfer, they need to have a backup crew available to cover their 911 calls while they are gone.
Response: The Department of Health did not agree with the comment. Currently, basic life support ambulance services and advanced ambulance services that serve a city with a population of less than 15,000 are required to have only one ambulance available. These ambulance services serve small communities and have fewer resources than larger ambulance services. The requirement would result in some local ambulance services refusing to take inter-facility transfers, resulting in outside ambulance services being called for the transfer and ultimately resulting in delay of transfers.

Comment 3: Supported the changes for all the pediatric equipment, in hopes that the Department can provide grants to help pay for it.
Response: The Department of Health agreed with the comment but does not currently provide equipment grants.

Comment 4: Suggested that basic life support ambulance services be allowed to carry aspirin and nitroglycerin.
Response: The Department of Health does allow all ambulance services to carry these medications, but the decision to administer is left up to the physician medical director.

Comment 5: Suggested change to state the following: "The minimum staffing requirement for an advanced life support licensed ground ambulance must consist of a paramedic or equivalent and an emergency medical technician or equivalent. If the crew consists of three or more personnel, the paramedic and emergency medical technician crew may have a CPR-trained driver."
Response: The language was changed as suggested.

Comment 6: Proposed changes to 33-11-01.2-14 2b to add the words "primary" and "fibrinolytic."
Response: The Department of Health made the following change to 33-11-01-.2-14(2b) – "A patient suffering acute chest pain that is believed to be cardiac in nature or an acute myocardial infarction determined by a twelve-lead electrocardiograph must be transported to a licensed health care facility capable of performing primary percutaneous catheter insertion or ~~thrombolytic~~ fibrinolytic therapy."

Comment 7: Commenter wanted the 10-minute time restriction removed when bypassing one hospital for another within the same community.
Response: The Department of Health disagreed with the comment. Flooding, weather or other extreme circumstances are taken into consideration, and an emergency medical service has the ability through online medical control to decide transport destination based on the best interest of the patient. Beyond extraordinary circumstances, any transport adding more than 10 minutes of travel time would ultimately be delaying definitive care.

Comment 8: The commenter wanted all patients having signs or symptoms of stroke to be transported to the nearest primary stroke center or hospital with an equivalent designation.
Response: The department partially agreed with the comment. It is important that stroke patients receive the proper therapy at facilities capable of providing the appropriate care. However, at this time, there is only one designated stroke center in the state, and it would not be feasible to require all ambulance services to transport these types of patients to that stroke center based on distance and transport time from many areas. The department would consider this recommendation in the future once the stroke center designations have been fully established and implemented.

5. *The approximate cost of giving public notice and holding any hearing on the rules and the approximate cost (not including staff time) of developing and adopting the rules.*

   The cost of conducting the rulemaking process was $1730.54

6. *An explanation of the subject matter of the rules and the reasons for adopting these rules.*

   - Number of personnel required was adopted for the purpose of ensuring that all services have qualified personnel who can respond when called upon.
   - Response times were added for the purpose of providing reasonable emergency medical services throughout the state.
   - The training and certification sections of the rules were updated with the new EMS Education Standards that have been adopted nationwide.
   - Trauma system rules and licensure registration for quick response units were revised in accordance with Senate Bill 2048.

7. *Whether a regulatory analysis was required by North Dakota Century Code (NDCC) Section 28-32-08 and whether that regulatory analysis was issued. Please provide a copy.*

   No regulatory analysis was conducted or required.

8. *Whether a regulatory analysis or economic impact statement of impact on small entities was required by NDCC Section 28-32-08.1 and whether that regulatory analysis or impact statement was issued. Please provide copies.*

   The proposed rules will have an impact on the regulated community in excess of $50,000. There are several additions to the minimum equipment list for ambulance services. Through a survey process, we know that most of the ambulances are equipped with these items; however, some ambulance services will need to purchase some nondisposable equipment. The bullets below list the items that have a substantial cost and the expected impact on the regulated community:
   - Pediatric long backboard – $200 each x 133 ambulances = $26,600.
   - Pediatric lower extremity traction splint – $200 each x 204 ambulances = $40,800.

- Pulse oximeter – $700 each. The survey identified no ambulances without a pulse oximeter, so this will be no additional cost to the regulated community.

9. *Whether a constitutional takings assessment was prepared as required by NDCC Section 28-32-09. Please provide a copy if one was prepared.*

   A takings assessment was not done because no use of private real property will be limited with the proposed rules.

10. *If these rules were adopted as emergency (interim final) rules under NDCC Section 28-32-03, provide statutory grounds from that section for declaring the rules to be an emergency and the facts that support that declaration and provide a copy of the Governor's approval of the emergency status of the rules.*

    These rules were not adopted under emergency rules.

This concludes my comments. I am happy to answer any questions you may have.