

Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

IN THE MATTER OF:	)	DIA NO. 08DPHES020
	)	CASE NO. 08-10-10
Martin Rouse	)	
604 9 th Street	)	PROPOSED DECISION
Grundy Center, IA 50638	)	

On November 10, 2008, the Department of Public Health-Emergency Medical Services Bureau (Department) served a Notice of Proposed Action-Suspension on Martin Rouse (Appellant). The Appellant filed a timely Notice of Appeal on December 2, 2008. A telephone hearing was held before Administrative Law Judge Margaret LaMarche on February 18, 2009 at 11:00 a.m. Assistant Attorney General Heather Adams represented the Department. The Appellant was self-represented and elected to have an open hearing, pursuant to Iowa Code section 272C.6(1).

THE RECORD

The record includes the Notice of Telephone Hearing, testimony of the witnesses, and the following exhibits:

Department Exhibit 1:	641 IAC chapter 131; Continuing Education Guidelines for EMS Providers
Department Exhibit 2:	Notice of Proposed Action: Suspension, 11/10/08
Department Exhibit 3:	Certification Information
Department Exhibit 4:	Complaint, 3/28/08
Department Exhibit 5:	Preliminary Investigative Report, 11/5/08
Department Exhibit 6:	Final Request, Ferrell To Rouse, 4/18/08
Department Exhibit 7:	Continuing Education Documentation
Department Exhibit 8:	Letter, Farrell to Rouse, 8/21/08
Department Exhibit 9:	Continuing Education Documentation
Department Exhibit 10:	Telephone Logs
Department Exhibit 11:	Letter, Rouse to Schmitt, 11/17/08
Department Exhibit 12:	Request for Appeal, 11/25/08
Department Exhibit 13:	Prior Cases

FINDINGS OF FACT

1. The Appellant owns a car dealership in Grundy Center, Iowa and has volunteered with the Grundy Center Ambulance Service as an EMT-B and ambulance driver for a number of years. When the Appellant is on an ambulance call, he typically drives the ambulance because he has excellent driving skills. However, the Appellant also assists in providing emergency medical services after the ambulance crew arrives at the scene. (Testimony of Appellant; Jeff Latwesen)

2. On March 26, 2008, the Appellant submitted an application to renew his certification as an Emergency Medical Technician-Basic, Certification #B-08-237-85, which was due to expire on March 31, 2008. In connection with this application, the Appellant was required to answer questions concerning his completion of continuing education during the two-year certification period. The Appellant answered "yes" to the following questions:

- Have you completed at least 24 total continuing education hours (CEH's) during your certification period?
- Have you completed at least 12 approved formal CEH's during your certification period?

The Appellant certified that the "information provided is true and correct to the best of my knowledge. I understand that providing false and/or misleading information may result in citation and warning, denial, probation, suspension or revocation of my certification." (Testimony of Joe Ferrell; Appellant; Department Exhibit 3)

3. On March 28, 2008, the Department received a telephone complaint regarding the Appellant. The Complainant had seen the Appellant's certification renewal on the Department's website and stated that he was sure the Appellant did not have enough CEH hours to recertify. The Complainant requested an audit of the Appellant's continuing education. (Testimony of Joe Ferrell; Department Exhibit 4)

4. The Department sent the Appellant an initial audit request for the certification period of April 1, 2006-March 31, 2008. When the Appellant did not respond, a final audit request was sent by certified mail, requesting a response within 45 days.

The audit requested documentation showing the continuing education claimed by Appellant on the renewal application, including the date of the program, program sponsor number, title of the program, the number of approved hours, and the appropriate supervisor signatures if clinical or practical evaluator hours are claimed. A reporting form was attached. (Testimony of Joe Ferrell; Department Exhibits 5, 6)

The Appellant received the final audit request on July 7, 2008 and submitted his response on August 20, 2008. The Appellant listed 14 hours of formal continuing education and 11 hours of optional continuing education, for a total of 25 hours. The sponsor numbers assigned by the Department are followed by an FE, to indicate formal education, or an OE, to indicate optional education. The sponsor numbers provided by the Appellant in response to the audit did not include either the FE or the OE designation after the sponsor number. The Department sent a letter to the Appellant asking him to provide the complete sponsor numbers, ending with FE or OE. (Testimony of Joe Ferrell; Department Exhibits 6-8)

The Appellant responded by adding the FE and OE designation to each sponsor number. Only five courses attended by the Appellant, for a total of 10 CEH's, had the FE designation. The other three courses, for a total of 4 CEH's, had the OE designation. These included courses on Electrical Hazards, Team Building, and Gait Belts. As a result, the Appellant was short two hours of formal education required for certification renewal. (Testimony of Joe Ferrell; Department Exhibit 9)

5. Formal education hours are important to ensure that emergency medical care providers keep current with medical knowledge and skills. In order to meet the requirements to qualify as formal education, course topics must be relevant to the delivery and documentation of patient care and must address at least one of the following topics: airway management, patient assessment, trauma/medical/behavioral emergencies, obstetrics/gynecology, infants and children, or patient care record documentation. The Department posts Continuing Education Guidelines for EMS Providers on its website. The Guidelines explain the continuing education requirements to EMS providers in simpler language than the Department's published rules. (Testimony of Joe Farrell; Department Exhibit 1)

6. On November 10, 2008, the Department issued its Notice of Proposed Action-Suspension, which provided that the Appellant's certification would remain suspended until he meets the following conditions and the Department approves his reinstatement:

- Submit an EMS Reinstatement Application and the applicable fees;
- Meet all applicable eligibility requirements;
- Complete a refresher course or equivalent approved by the department;
- Pass the EMT-Basic practical and cognitive certification examinations.

The Appellant responded to the Notice of Suspension, stating that he had not understood the distinction between formal and optional education and believed that the hours he submitted as formal education qualified. He proposed taking four additional hours of formal education to make up for those that did not qualify, thereby exceeding the continuing education requirement for formal education by two hours. He further stated that if he was required to fulfill all of the reinstatement requirements he would let his certification lapse. The Appellant's letter was signed by the Grundy Center Mayor, a Councilman and the Grundy Center Ambulance Chief. When the Department refused the Appellant's proposal, he filed a timely appeal. (Testimony of Joe Ferrell; Appellant; Department Exhibits 2, 11, 12)

CONCLUSIONS OF LAW

The legislature has directed the Department to adopt rules pertaining to the examination and certification of emergency medical care providers.¹ The Department has adopted rules at 641 IAC chapter 131.

An Emergency Medical Services (EMS) certificate shall be valid for two years from issuance unless specified otherwise on the certificate or unless sooner suspended or revoked.² All continuing education requirements must be completed during the certification period prior to the certificate's expiration date.

¹ Iowa Code section 147A.4(2) (2007).

² 641 IAC 131.4(3)"a."

Failure to complete the continuing education requirements prior to the expiration date shall result in an expired certification.³

To be eligible for renewal through continuing education, an Emergency Medical Technician-Basic (EMT-B) must complete a current course in CPR and 24 hours of approved education.⁴ At least 50 percent of the required hours for renewal shall be formal continuing education including, but not limited to, refresher programs, seminars, lecture programs, scenario-based programs, conferences, and Internet-delivered courses provided by CECBEMS and shall meet the criteria established in paragraph 131.4(6)"d."⁵

Courses approved as formal education must meet the following criteria:

- (1) Involve live interaction with an instructor or be an Internet-delivered course approved by CECBEMS; and
- (2) Be based on the appropriate department curricula for EMS providers and include one or more of the following topic areas: airway, patient assessment, trauma assessment and management, medical assessment and management, behavioral emergencies, obstetrics, gynecology, pediatrics, or patient care record documentation.⁶

An individual who has not completed the required continuing education during the certification period or who is seeking to reinstate an expired, inactive, or retired certificate shall:

- (1) Complete a refresher course or equivalent approved by the department.
- (2) Meet all applicable eligibility requirements.
- (3) Submit an EMS Reinstatement Application and the applicable fees to the department.
- (4) Pass the appropriate practical and written certification examinations.⁷

The Department may deny an application for issuance or renewal of an emergency medical care provider certificate, including endorsement, or place on probation, or issue a citation and warning, or suspend or revoke a certificate when it finds that

³ 641 IAC 131.4(3)"b."

⁴ 641 IAC 131.4(4)"b"(2).

⁵ 641 IAC 131.4(4)"c."

⁶ 641 IAC 131.4(6)"d."

⁷ 641 IAC 131.4(3)"f."

the applicant or certificate holder has committed any of the following acts or offenses:

...

d. Fraud in procuring certification or renewal including, but not limited to:

(1) An intentional perversion of the truth in making application for a certification to practice in this state;

...

s. Willful or repeated violations of Iowa Code chapter 147A or these rules.

...

v. Falsifying certification renewal reports or failure to comply with the renewal audit request.

The preponderance of the evidence established that the Appellant did not have the required hours of formal continuing education required for renewal of his EMT-B certification on March 26, 2008. The Appellant was required to have at least 12 hours of formal education but completed only 10 hours of formal continuing education. The Department's rules clearly provide that the continuing education must be completed within the certification period prior to the certification expiration date and that failure to do so results in an expired certification.⁸ Therefore, the Department was correct when it rejected the Appellant's offer to make up the credits. The rules do not permit providers to make up continuing education hours outside the certification period.

However, the preponderance of the evidence failed to establish that the Appellant knowingly falsified his renewal certification report, in violation of 641 IAC 131.7(2)"d" and "v." The Appellant credibly testified that he believed he had completed four additional hours of formal education, as claimed on his renewal application, because he had certificates from Hawkeye Community College for these courses that appeared to be the same as the certificates for his other formal education hours. The Appellant credibly testified that he did not understand the significance of the FE or OE designation following the sponsor number. Although the Appellant's misunderstanding of the continuing education requirements is not an excuse for failure

⁸ 641 IAC 131.4(3)"b."

to comply, it does provide a defense to the allegation that he knowingly falsified the renewal application.

Nevertheless, regardless of whether the Appellant intentionally or negligently failed to complete the required hours of continuing education, the outcome is the same. The Appellant may not retain his EMT-B certification that was issued in error, based on an incorrect reporting of his continuing education hours. The Department's rules require the Appellant to fulfill the steps leading to reinstatement set out in 641 IAC 131.4(3)"f." This includes completing the EMT-B refresher course and retaking and passing the EMT-B practical and cognitive certification examinations.

ORDER

IT IS THEREFORE ORDERED that the Notice of Proposed Action-Suspension issued by the department to Appellant Martin Rouse on November 10, 2008, is hereby AFFIRMED.

Dated this 4th day of March, 2009.

Margaret LaMarche

Margaret LaMarche
Administrative Law Judge
Iowa Department of Inspections and Appeals
Division of Administrative Hearings
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This proposed decision and order becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director of the Department of Public Health is taken as provided in subrule 131.12(11). Any appeal to the director for review of this proposed decision and order shall be filed in writing and mailed to the director of the Department of Public Health by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be sent to the administrative law judge. Any request for appeal shall state the reason for the appeal. 641 IAC 131.12(11).