

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

IN THE MATTER OF:) DIA NO. 10DPHES001
) CASE NO. 08-08-01
Adam Wainwright)
111 West High Street)
Villisca, Iowa 51566-2506) PROPOSED DECISION
)
Certification: #PS-10-100-15)

On January 6, 2010, the Department of Public Health-Emergency Medical Services Bureau (Department) served a Notice of Proposed Action-Suspension/Probation on Adam Wainwright (Respondent). The Department proposed a 30 day suspension of Respondent's certification as a Paramedic Specialist, to be followed by a one year period of probation. This sanction was based on Respondent's actions as an EMS provider on July 20, 2008. The Department alleged that the emergency medical care provided by Respondent on that date was not authorized under Iowa Code chapter 147A and was professionally incompetent. Respondent filed a timely Notice of Appeal, and a telephone hearing was held before the undersigned Administrative Law Judge on March 9, 2010 at 9:00 a.m. Assistant Attorney General Heather Adams represented the Department. Respondent was self-represented and elected to have a closed 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:	Notice of Proposed Action: Suspension/Probation, 1/06/2010
Department Exhibit 2:	641 IAC 131.7
Department Exhibit 3:	Certification Information
Department Exhibit 4:	Emails, 7/31/2008 and 8/01/2008
Department Exhibit 5:	Letter, Nathem to Ferrell
Department Exhibit 6:	Investigative Report , 9/30/2009

Department Exhibit 7:	Investigative Report,12/4/2009
Department Exhibit 8:	Investigative Report
Department Exhibit 9:	Board of Nursing Records
Department Exhibit 10:	Request for Hearing
Respondent Exhibit A:	Run Report, 7/20/2008
Respondent Exhibit B:	Villisca EMS Assn, Inc. Standard Protocols
Respondent Exhibit C:	Iowa Code section 147A.8 (2003 Supp)

ISSUE

Whether Respondent's Paramedic-Specialist certification should be suspended for 30 days and then placed on probation for one year because he provided emergency medical care on July 20, 2008 that was outside the authority of his ambulance service and that was professionally incompetent ?

FINDINGS OF FACT

Adam Wainwright (Respondent) has been certified as a Paramedic-Specialist since October 24, 2002. He was initially certified as an Emergency Medical Technician-Basic (EMT-B) on May 28, 1998. At all times relevant to this proposed decision, Respondent was employed by the Clarinda Ambulance Service and was also a volunteer member of the Villisca Ambulance Service. (Testimony of Respondent; Exhibits 3, 4)

Respondent's wife (JW) is a diabetic who is prescribed Humalog, a fast acting insulin, and Lantus, an insulin that lasts for 24 hours. At 11:46 p.m. on July 19, 2008, JW took an IV pump, without physician or hospital authorization, from the hospital where she worked as a registered nurse,. JW admitted taking the pump at the end of her shift with the intention of administering insulin to get her blood sugars under control. JW apparently changed her mind about using the IV pump, but then mistakenly reversed the dosages on her bedtime insulin. (Exhibits 8, 9)

JW woke Respondent shortly after midnight on July 20, 2008 and told him that she thought she mixed up her medications. Their two children (ages 9 and 1) were asleep. Respondent testified that they did not want to wake the children and did not want to make an unnecessary trip to the emergency room (which was 20 miles away) in the event that JW had not actually reversed the medications. However, Respondent's

mother lived nearby, and she could have come to stay with the children while they went to the hospital. (Respondent testimony)

The Villisca Ambulance Service where Respondent worked as a volunteer paramedic-specialist had two ambulances, and each ambulance had one assigned locked drug box. The drug boxes were supposed to stay with the ambulance. A written record must be made in the drug box log any time it is opened. The ambulance service did not have written standard operating procedures for the drug boxes but employees had been told that the drug boxes are not to be removed from the ambulances. (Exhibit 7) Only Respondent and the Chief of the Ambulance Service were authorized to open the locked drug box, and Respondent was the only person authorized to administer all of the medications in the drug box. (Respondent testimony)

After JW told him that she may have reversed her insulin dosages, Respondent decided to drive to the Villisca Ambulance Service and bring the locked drug box from the secondary ambulance home with him. The drug box contained a number of syringes, needles, controlled substances such as morphine and valium, and other drugs available only by prescription. One locked drug box remained with the ambulance service in its primary responding rescue unit. Respondent estimates that he retrieved the drug box at around 12:30 a.m. Both he and his wife stayed awake after he arrived home, and his wife continued to check her blood sugars every 15 minutes.

At about 1:00 a.m., JW's blood sugars started to drop, and she drank some orange juice and ate a peanut butter sandwich. At approximately 1:23 a.m., JW repeatedly stated "I need sugar," stood up as though she was going to get something else to eat, and then passed out. JW was lying supine on her back, was cold and clammy to the touch, and had snoring type respirations. Respondent concluded that his wife's blood sugar had dropped to a dangerous level and that her condition could be life threatening without immediate medical intervention. Respondent did not take the time to test JW's blood sugar. He held the phone on his shoulder and called 911 (on speed dial) as he opened the drug box and removed 25 grams of D50 (50% dextrose). Respondent established an intravenous line and then administered the 25 grams of D50 just as he was telling the dispatcher to send the ambulance STAT. Respondent did not tell the dispatcher that he had the secondary drug box at his home, and the dispatcher did not give him any care instructions for JW. (Respondent testimony)

The ambulance arrived at 1:30 a.m. with two crew members: the driver, who was an EMT-B and an RN/EMT-I. Respondent completed the ambulance run report concerning the incident, including the narrative, which states in relevant part:

We were dispatched to 111 W. High for a 30 y/o female with low blood sugar. Upon (314) arrival, I briefed John. We had a 30 y/o female of Dr. Mahoney who possibly gave herself too much insulin. The secondary drug box was on the scene in case of emergency. This occurred and the patient's blood sugar plummeted. I did a 20 ga IV of Normal Saline wide open; followed by (D50) 25 grams IVP at 01:25. The squad was paged and arrived. The BSG after the D50 was (310). We assisted the patient onto the stair chair and down into the squad. Once inside, we got a set of vitals. The patient was cold and clammy. BSG was (169)...

Respondent also documented a Glasgow Coma Scale score of 15 for his wife, which indicated that she was fully conscious and oriented. Respondent did not document the time of the Glasgow Coma Scale but testified that it was recorded at the time her vitals were taken (1:39 a.m.). This would have been after she was in the ambulance and fourteen minutes following Respondent's administration of the D50. Respondent failed to document that his wife lost consciousness prior to the administration of the D50. (Respondent, Joe Ferrell testimony; Exhibit 9, pp. 6-10; Exhibit A)

Respondent gave his wife oxygen and a heart monitor as they drove to the hospital. Respondent administered another 25 grams of D50 at 1:43 a.m., after JW's blood sugar glucose dropped to 70. Her blood sugar glucose had risen to 120 when Respondent turned her care over to the emergency room nurses. JW fully recovered after a few hours of monitoring and IV fluids at the hospital. (Exhibits A; 9; Respondent testimony)

Following this incident, the Chief of the Ambulance Service met with Respondent and told him that if a similar incident occurred in the future, he should immediately call 911 and have the rescue unit paged or he should transport his wife to the hospital in a private vehicle. Respondent was told that any drug box belonging to Villisca EMS was not to leave the station unless it was going out with the rescue unit on a call. The Chief made a written notation of his conference with Respondent but did not take any formal disciplinary action against him. Respondent has assured the Chief that he would never

again remove the drug box from the ambulance without authorization. (Exhibits 7, 8; Respondent testimony)

Respondent submitted the Villisca EMS Association, Inc. Standard Protocols for Unconscious Patients. The Standard Protocols permit a Paramedic Specialist to "Administer Dextrose 50 cc of 50% solution IV push and observe patient response." (Exhibit B) Villisca Ambulance Service had only one certified Paramedic Specialist (Respondent) and one EMT-I at the time of this incident. Respondent was the only EMT authorized to administer all of the drugs in the drug box. (Respondent testimony)

CONCLUSIONS OF LAW

A properly certified emergency medical care provider is authorized to render emergency and nonemergency medical care at the scene of an emergency, during transportation to a hospital or while in the hospital emergency department, or until care is directly assumed by a physician or by authorized hospital personnel.¹

The legislature has directed the Department to adopt rules pertaining to the examination and certification of emergency medical care providers.² The Department has adopted rules at 641 IAC chapter 131.

641 IAC 131.7(2) provides, in relevant part:

131.7(2) The department may ...place on probation, or issue a citation and warning, or suspend or revoke the certificate when it finds that the applicant or certificate holder has committed any of the following acts or offenses:

...

c. Rendering treatment not authorized under Iowa Code chapter 147A.

...

e. Professional incompetency. Professional incompetency includes, but is not limited to:

...

¹ Iowa Code section 147A.8(1)(2007).

² Iowa Code section 147A.4(2)(2007).

- (3) A failure to exercise the degree of care which is ordinarily exercised by the average EMS provider acting in the same or similar circumstances.
- (4) Failure to conform to the minimal standard of acceptable and prevailing practice of certified EMS providers in this state.

The Department's rules also address the authority of emergency medical care personnel. An emergency medical care provider who holds an active certification issued by the Department may:

- a. Render, **via on-line medical direction**, emergency and nonemergency medical care in those areas for which the emergency medical care provider is certified as part of an authorized service program:
 - (1) At the scene of an emergency;
 - (2) During transportation to a hospital; ... (emphasis added) ³

In addition, when emergency medical care personnel are functioning in a capacity identified in subrule 131.3(1)"a," they may perform emergency and nonemergency medical care without contacting a supervising physician or physician designee if written protocols have been approved by the service program medical director which clearly identify when the protocols may be used in lieu of voice contact.⁴

The preponderance of the evidence established that on July 20, 2008, Respondent rendered emergency medical treatment to his wife that was not part of an authorized service program and was not subject to medical direction, in violation of Iowa Code section 147A.8(1) and 641 IAC 131.7(2)"c." The department concedes that as a certified Paramedic-Specialist, Respondent may establish an IV and may administer dextrose to a patient, so long as he does so as part of an authorized service program. In addition, the Villisca Ambulance Service has written Standard Protocols permitting Respondent to establish an IV and administer dextrose to an unconscious patient without first contacting a supervising physician, when he does so as part of an authorized service program.

³ 641 IAC 131.3(1)"a"

⁴ 641 IAC 131.3(2).

The problem in this case is that Respondent was never authorized to take the locked drug box from the Villisca ambulance service to his home. When Respondent retrieved the drug box, there was no emergency and the ambulance had not been dispatched. The other ambulance service personnel did not even know that Respondent had the drug box assigned to the secondary ambulance until the ambulance arrived at his home. Under these circumstances, Respondent's initiation of the IV and his administration of dextrose to JW were not provided as part of an authorized service program. Since Respondent was not authorized to have the locked drug box in the first place, he may not rely on the Villisca EMS Standard Protocols as authorization for the medical treatment that he provided to JW.

In addition, although JW clearly required medical treatment, her condition was not an emergency until just before Respondent started the IV at 1:25 a.m. Shortly after midnight, both Respondent and his wife strongly suspected that she had reversed the dosages of her medications. It was because of this suspicion that Respondent retrieved the drug box at 12:30 a.m. and then kept it at his home in case he needed it later. Respondent had sufficient time to make arrangements for his children and to take his wife to the hospital for medical care. When JW's blood sugar began to drop at about 1:00 a.m., Respondent knew that JW had reversed her insulins, and he should have either taken her to the emergency room or called an ambulance at that time.

Respondent also violated the minimum standards of care for emergency medical personnel when he removed the locked drug box from the ambulance service without any authorization to do so, when he kept the drug box at his home in anticipation of a possible medical emergency for a family member, and when he failed to fully document his wife's condition in the ambulance run report. Although Respondent testified that JW lost consciousness before he started the IV and called 911, Respondent never documented any loss of consciousness. This documentation would have been essential if Respondent was intending to rely on the service's standard protocols for unconscious patients. Respondent's actions violated 641 IAC 131.7(2)"e"(3) and 131.7(2)"e"(4).

II. Sanction

The Department proposed suspending Respondent's Paramedic-Specialist certification for a period of 30 days followed by a one year period of probation. The Department cited a factually similar case in 2007 when an EMT took IV medications from the ambulance service to her home to establish an IV for her son after a car accident. In that

case, the Department's sanction of a 90 day suspension followed by a one year probation was affirmed following hearing. In this case, the Department's witness explained that it imposed a lesser period of suspension on Respondent because the Department accepted his explanation that he was only trying to help his wife and that he was not trying to cover anything up. (Joe Ferrell testimony)

As pointed out by the Department, many emergency medical care providers have family members with chronic health issues that requiring medical treatment, emergency or otherwise. The Department's proposed sanction in this case is a reasonable deterrent to prevent others who may consider providing medical treatment to family members outside the authority of their service program. The proposed sanction is warranted by these factual circumstances and is reasonably consistent with the Department's prior action in a similar case.

ORDER

IT IS THEREFORE ORDERED that the Notice of Proposed Action-Suspension/Probation, issued by the Department to Respondent Adam Wainwright on January 6, 2010, is hereby AFFIRMED in its entirety.

Dated this th30 day of March, 2010.

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).

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