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From: Sullivan-Leshin, Isaac, PRC
Sent: Thursday, December 16, 2021 2:55 PM
To: Records, PRC, PRC
Subject: 21-00296-TR-M; Filing Submission
Attachments: 21-00296-TR-M-12.16.2021-Commission-Order Granting Waiver.pdf

IN THE MATTER OF STAFF'S PETITION TO GRANT A PANDEMIC-)
RELATED WAIVER TO AMBULANCES FROM RULE 18.3.14.11(A)) Case No. 21-00296-TR-M
NMAC)

Please file the attached ORDER GRANTING WAIVER into the above captioned case.

Thank you.

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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF STAFF’S PETITION TO GRANT)
A PANDEMIC-RELATED WAIVER TO) Case No. 21-00296-TR-M
AMBULANCES FROM RULE 18.3.14.11(A) NMAC)**

ORDER GRANTING WAIVER

THIS MATTER comes before the New Mexico Public Regulation Commission ("Commission") on the December 3, 2021, Transportation Division (“Staff”) of the New Mexico Public Regulation Commission (“Commission”) Staff’s Petition to Grant Pandemic-Related Waivers to Ambulance Carriers (“Staff’s Petition”), concerning a waiver request from 18.3.14.11(A) NMAC. Having reviewed Staff’s Petition and being otherwise fully advised in the premises,

THE COMMISSION FINDS AND CONCLUDES:

1. Staff’s Petition requested that that the Commission grant all certificated ambulance service carriers a temporary waiver from, 18.3.14.11(A) NMAC during the public health emergency resulting from the COVID-19 epidemic.
2. Specifically, Staff’s petition requests a waiver to “permit one (1) licensed EMT to be present at the scene of an emergency when, due to the pandemic, an insufficient number of EMTs is available and emergency service could not otherwise be provided. A separate ambulance driver would continue to be required in all circumstances.”¹
3. As grounds for a temporary waiver of 18.3.14.11(A) NMAC, Staff’s Petition asserted that ambulance staff have routinely faced high-risk exposure during the pandemic and

¹ Staff’s Petition at page 2.

must comply with quarantine mandates that put a strain on already limited staffing resources. The strain is even more pronounced with carriers relying on volunteers.

4. Rule 18.3.14.11(A) reads as follows;

Ambulances.

- (1) A minimum of two (2) licensed EMTs from the ambulance service shall be present at the scene of the emergency, except that two (2) EMTs need not be present at the scene for prearranged transfers of a stable patient or in those unusual situations where there are overlapping calls, disasters, or similar unforeseen circumstances which result in an insufficient number of EMTs being available.

- (2) A minimum of one (1) EMT shall be in the patient compartment at all times during patient care and transport.

5. Staff's Petition further recommended that the Commission additionally waive the technical requirements of Rule 1.2.2.40 NMAC which requires each separate ambulance carrier submit a request for the waiver in the form of a petition and accompanying an affidavit.

6. The Commission finds that it may, in its discretion, waive or vary any requirement of its Motor Carrier Rules if the Commission finds that such waiver or variance would be in the public's health, welfare, and safety interests.

7. The Commission further finds that the resources of the ambulance service carriers and communities have been strained during the pandemic and a waiver would be consistent with the statutory requirement, "[i]n establishing standards for ambulances... the commission shall take into consideration the resources of the various communities, institutions and sponsoring organizations providing ambulance service to the public." NMSA 1978, §65-6-4(B)(2).

8. Based upon the reasons set forth in Staff's Petition, the Commission finds that it is in the public's health, welfare, and safety interests to grant the requested waivers because they will enable allow certificated ambulance service carriers in the state of New Mexico to continue

providing emergency ambulance transports thus benefitting the residents of the State during the current public health emergency.

9. The Commission notes that the waiver request is limited to situations when an insufficient number of EMTs is available and emergency service could not otherwise be provided. Ambulance service providers should not utilize the waiver when a sufficient number of EMTs are available for service. Ambulance service providers should not schedule single EMTs, i.e. reduce availability through scheduling, when a sufficient number of EMTs are available to be scheduled in an effort to reduce costs under this waiver. Ambulance service providers shall continue to provide normal service regarding providing a sufficient number of EMTs except in extraordinary circumstances when the waiver is applicable.

IT IS THEREFORE ORDERED:

A. A temporary waiver from Motor Carrier Rule 18.3.14.11(A) NMAC is hereby granted to all certificated ambulance providers, when an insufficient number of EMTs are available and emergency service could not otherwise be provided. A separate ambulance driver would continue to be required in all circumstances. from the date of this Order until 45 days after the Governor of the State of New Mexico ends or discontinues the state of emergency in the state of New Mexico.

B. A temporary waiver from Rule 1.2.2.40 NMAC requiring each separate ambulance carrier to submit a request for the waiver in the form of a petition and accompanying affidavit are hereby granted to all certificated ambulance providers from the date of this Order until 45 days after the Governor of the State of New Mexico ends or discontinues the state of emergency in the state of New Mexico. The Commission may, at a later date, review which ambulance service carriers have availed themselves of the waivers via a request for response from ambulance carriers.

In the event that the waiver is in effect for greater than one year from the date of this Order, the Commission may require providers to submit a request for continuation of the waiver.

C. Transportation Division Staff shall review the need for the waiver and shall file an update into this docket for the Commission to review six (6) months from the date of this Order and continuing every three (3) months afterwards and make a recommendation in each update as to whether the waiver should still be in effect.

D. This Order is effective immediately.

E. This Order shall be served and noticed by the Transportation Division Director by posting a copy on the commission's internet web site and sending electronic mail to all motor carriers, public officials or agencies, or other persons or entities who have previously supplied electronic mail addresses to the commission for the purpose of publication, advising such persons of the filing and posting.

F. The Transportation Division Director shall immediately notice all motor carriers that the temporary waivers granted herein will expire in 45 days, using the method set forth in Decretal Paragraph E., as soon as the Governor of the State of New Mexico ends or discontinues the state of emergency in the state of New Mexico.

G. The Transportation Division is hereby granted variances from Procedural Rule 1.2.2.40 which normally would otherwise require the filing of a petition and an affidavit in support of the request for a variance from Motor Carrier Rules.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 15th day of
December, 2021.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Cynthia B. Hall, electronically signed

CYNTHIA B. HALL, COMMISSIONER DISTRICT 1

/s/ Jefferson L. Byrd, electronically signed

JEFFERSON L. BYRD, COMMISSIONER DISTRICT 2

/s/ Joseph M. Maestas, electronically signed

JOSEPH M. MAESTAS, COMMISSIONER DISTRICT 3

/s/ Theresa Becenti-Aguilar, electronically signed

THERESA BECENTI-AGUILAR, COMMISSIONER DISTRICT 4

/s/ Stephen Fischmann, electronically signed

STEPHEN FISCHMANN, COMMISSIONER DISTRICT 5



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AMBULANCES FROM RULE 18.3.14.11(A) NMAC)**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Order Granting**

Waiver was sent via email to the following parties on the date indicate below:

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Folsom Emergency Medical Services
Fort Sumner Ambulance Service
Gallup Fire Department
Gila Regional EMS
Hagerman Fire and Rescue
Hatch Ambulance Service
Helios EMS, LLC
Hidalgo County Ambulance Service
Hobbs Municipal Ambulance Service
Incorporated County of Los Alamos
Isleta Emergency Services
Jemez Pueblo Ambulance
Jicarilla Emergency Medical Services
JJDAC, LLC DbA Medstar Ambulance
La Clinica Del Pueblo De Rio Arriba
Laguna Fire and Rescue
Lincoln County Ambulance
Logan Ambulance Service
Lovington Ambulance Service
Magdalena Volunteer Fire Department
Melrose Fire and Ambulance
Mescalero Apache Fire Rescue
Milnesand & Arch Volunteer Fire District
Mora County Ambulance Service
Mountainair Fire & Rescue
Pine Hill Health Center-Ems
Presbyterian Espanola Hospital EMS
Pueblo Of Zuni DbA Zuni Ems
Questa Volunteer Fire Department
Raton Ambulance Service
Rosebud Fire & Rescue Inc.
San Jon Cooperative Ambulance Service
San Juan Regional Medical Center, Inc
Sandoval County Fire Department
Santa Fe County Fire Department
Santo Domingo Ems
Sierra Vista Hospital Ambulance
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DATED this 16th day of December, 2021.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Isaac Sullivan-Leshin, electronically signed

Isaac Sullivan-Leshin, Paralegal

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