

Opinion No. 72-47

September 12, 1972

BY: OPINION OF DAVID L. NORVELL, Attorney General Thomas Patrick Whelan, Jr.,
Assistant Attorney General

TO: Mr. Howard A. Geis, Director, Traffic & Rate Division, State Corporation
Commission, P.E.R.A. Building, Santa Fe, New Mexico 87501

QUESTIONS

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1. Does the State Corporation Commission have jurisdiction to regulate those charges assessed by ambulance services for such items as bandages and splints, disposable masks, use of resuscitation or suction equipment, or sterilized water?
2. What means are available to the Commission for the enforcement of the legal rates for ambulance service?

CONCLUSIONS

1. Yes.
2. See analysis.

OPINION

{*77} ANALYSIS

The items listed in question No. 1 are used in ministering to the sick or injured while they are being transported to a medical facility. This emergency first aid is a vital part of the basic service provided by an ambulance -- the safe, fast transportation of the injured and sick to medical facilities. Since the first aid is an integral part of the ambulance's service, charges for materials and equipment used in first aid are clearly subject to regulation by the Commission. Section 64-27-7, N.M.S.A., 1953 Comp. provides:

"Rates, fares and charges. -- All rates, fares and charges made by any common motor carrier shall be just and reasonable, and shall not be discriminatory, prejudicial nor preferential. No such motor carrier shall charge, demand, collect or receive a greater or less or different remuneration for the transportation of passengers or property, **or for any service in connection therewith**, from the rates, fares and charges which have been legally established and filed with the commission; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares and charges

required to be collected by the tariffs on file with the corporation commission or ordered by the commission." (Emphasis Supplied.)

See also, Section 64-27-34, **supra**. First aid treatment is obviously a service "in connection with" transporting people in ambulances; therefore, charges for such treatment are subject to the Commission's jurisdiction.

The Commission has three alternatives for enforcement of the rates fixed for ambulance services. The Commission can prosecute violators since charging other than fixed rates is a misdemeanor. Section 64-27-7, Section 64-27-34, Section 64-27-30, and Section 64-27-62, **supra**. The Commission can suspend or revoke the license of a violator. Section 64-27-13, **supra**. Finally, the Commission can conduct an investigation of the violations and issue appropriate orders for their correction. Section 64-27-6, Section 64-27-37, and Section 64-27-67, **supra**.