

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 18,912

IN THE MATTER OF:

Served July 28, 2020

Application of PROCARE AMBULANCE OF )  
MARYLAND, INC., Trading as PROCARE )  
INTEGRATED HEALTH AND TRANSPORT, )  
for a Certificate of Authority -- )  
Irregular Route Operations )

Case No. AP-2019-197

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

Although applicant did not originally propose operating under a trade name, by amendment filed December 4, 2019, applicant now proposes operating under the trade name "Procure Integrated Health and Transport." The amendment is supported by proof of registration of the trade name with the Maryland Department of Assessments and Taxation. Maryland is the jurisdiction in which applicant's principal place of business is located.

**I. PRIOR HISTORY**

This is the third application filed by this applicant. Applicant was granted operating authority in 2018, but the issuance of a certificate of authority was expressly made contingent on applicant filing additional documents and passing a vehicle inspection conducted by Commission staff.<sup>1</sup> Applicant failed to satisfy the conditions for issuance of operating authority within the additional time allotted, thereby voiding the Commission's approval.<sup>2</sup>

Applicant filed a second application and was granted operating authority again in 2019, but the issuance of a certificate of authority was expressly made contingent on applicant filing additional documents

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<sup>1</sup> See *In re Procure Ambulance of Md., Inc., t/a Procure Integrated Health and Transp.*, No. AP-18-132, Order No. 17,744 (July 24, 2018) (conditionally granting Certificate No. 3201).

<sup>2</sup> See *id.* (grant of authority void upon applicant's failure to timely satisfy conditions of issuance); Commission Regulation No. 66 (failure to comply with conditions of grant within 180 days voids approval).

and passing a vehicle inspection conducted by Commission staff.<sup>3</sup> Applicant failed to satisfy the conditions for issuance of operating authority within the time allotted, thereby voiding the Commission's approval for a second time.<sup>4</sup>

## **II. FITNESS AND PROPOSED TRANSPORTATION**

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

Applicant verifies that: (1) applicant owns or leases, or has the means to acquire through ownership or lease, one or more motor vehicles meeting the Commission's safety requirements and suitable for the transportation proposed in this application; (2) applicant owns, or has the means to acquire, a motor vehicle liability insurance policy that provides the minimum amount of coverage required by Commission regulations; and (3) applicant has access to, is familiar with and will comply with the Compact, the Commission's rules, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire.

Based on the evidence in this record, the Commission finds that the proposed transportation is consistent with the public interest and that applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

We note that in the event applicant fails to successfully obtain a certificate of authority in this proceeding for failure to timely satisfy the conditions stipulated in this order, the three-strike rule in Regulation No. 66-01 will bar applicant from reapplying for WMATC operating authority for a period of one year as measured from the end of the 180-day compliance period associated with this third application.

## **III. TRADE NAME CONDITION**

The Commission may attach to the issuance of a certificate of authority, and to the exercise of the rights granted under it, any term, condition, or limitation that is consistent with the public interest.<sup>5</sup>

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<sup>3</sup> See *In re Procure Ambulance of Md., Inc., t/a Procure Integrated Health and Transp.*, No. AP-19-029, Order No. 18,081 (Apr. 8, 2019) (conditionally granting Certificate No. 3201).

<sup>4</sup> See *id.* (grant of authority void upon applicant's failure to timely satisfy conditions of issuance); Commission Regulation No. 66 (failure to comply with conditions of grant within 180 days voids approval).

<sup>5</sup> Compact, tit. II, art. XI, § 7(d).

Applicant's legal name includes the word ambulance. Ambulance service is not "transportation for hire" within the meaning of the Compact.<sup>6</sup> Any passenger requiring, requesting or expecting transportation in a vehicle outfitted with life support equipment or operated by persons with training in life support procedures should be transported in an ambulance.<sup>7</sup> Furthermore, Regulation No. 63-05 prohibits a carrier from holding itself out to the public as being capable of rendering life support service.

Accordingly, we find there is an obvious potential for confusion if applicant were to use a legal name containing the word ambulance in WMATC operations.<sup>8</sup> The issuance of a certificate of authority herein granted, and the exercise of the rights granted under said certificate, shall be conditioned on applicant refraining from using its legal name in WMATC operations.<sup>9</sup> Applicant's legal name shall not appear on vehicles used in WMATC operations and applicant shall not use the term ambulance when advertising or conducting transportation subject to WMATC's licensing jurisdiction.

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 3201 shall be issued to Procure Ambulance of Maryland, Inc., trading as Procure Integrated Health and Transport, 9411 Philadelphia Road, #A, Rosedale, MD 21237-4168.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

3. That applicant is hereby directed to file the following documents and present its revenue vehicle(s) for inspection within the 180-day maximum permitted in Commission Regulation No. 66: (a) evidence of insurance pursuant to Commission Regulation No. 58; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) a copy of the for-hire vehicle registration card, and a lease as

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<sup>6</sup> *In re Gem Ambulance, LLC*, No. AP-13-167, Order No. 14,133 (Aug. 7, 2013); *In re Freestate Transp., L.L.C.*, No. AP-10-085, Order No. 12,483 at 2 (July 19, 2010); *In re Aria - Trans. Inc.*, No. AP-06-184, Order No. 10,000 (Oct. 25, 2006); *In re Therese T. Sime, t/a Exact Enterprise*, No. AP-06-037, Order No. 9690 (June 28, 2006).

<sup>7</sup> *In re Rules of Prac. & Proc. & Regs., Nos. 51, 55 & 63*, No. MP-96-21, Order No. 4786 at 4 (Mar. 12, 1996).

<sup>8</sup> See Order No. 14,133 (same).

<sup>9</sup> See *id.* (applicant directed to propose non-ambulance trade name for use in WMATC operations to avoid confusion).

required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; and (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia.

4. That the grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

5. That the issuance of the certificate of authority herein granted, and the exercise of the rights granted under said certificate, are hereby conditioned on applicant refraining from using its legal name in connection with operations subject to WMATC's licensing jurisdiction.

6. That applicant shall not use the term "ambulance" when advertising or conducting transportation subject to WMATC's licensing jurisdiction.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS MAROOTIAN, HOLCOMB, AND RICHARD:



Jeffrey M. Lehmann  
Executive Director