STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE

SUPERINTENDENT OF INSURANCE
Russell Toal

DEPUTY SUPERINTENDENT
Robert E. Doucette, Jr.

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SUPERINTENDENT OF INSURANCE

BULLETIN 2020-023

December 4, 2020

TO: EVERY INSURER AUTHORIZED TO SELL COMMERCIAL INSURANCE IN NEW MEXICO

RE: MORATORIUM ON FILING OF COMMERCIAL INSURANCE FORMS

Section 59A-18-12(A)(4) NMSA 1978, which became effective on July 1, 2007, authorizes the superintendent to exempt, by rule, "various lines and kinds of commercial insurance" from the requirement that he approve any insurance form prior to its use in New Mexico. On October 1, 2007, the superintendent promulgated 13.8.3.9 NMAC, which exempts most commercial insurance products from the prior approval requirement of Section 59A-18-12(A).

Commercial insurers have experienced significant claims as a result of the current COVID-19 public health emergency. In response to those claims, and anticipated claims, commercial insurers have filed with the superintendent, and have proposed to file, endorsements that would exclude coverage for various risks presented by COVID-19.

In this bulletin, the superintendent expresses no opinion as to whether any such filed or proposed exclusion or endorsement should be approved for sale in New Mexico. But the timing and nature of those filings has caused the superintendent to question whether a rule that exempts certain commercial insurance product from substantive compliance review prior to use remains in the public interest during a period of public health emergency. The superintendent's concern is amplified by Section 59A-18-14(C) NMSA 1978, which provides that the superintendent may only withdraw prior approval of a form "after a hearing thereon." Because that process involves significant inherent delay, a "file and use" policy form that does not comply with New Mexico

law, and deprives New Mexicans of protection from COVID-19 related claims, may become widely used before the superintendent can give the proposed policy form full consideration.

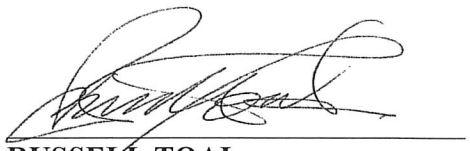
To ensure that COVID-19 related changes to commercial insurance forms are subjected to consistent and equitable review under meaningful substantive criteria, the superintendent will not accept new commercial insurance filings that include COVID-19 related changes pending the conclusion of the 2021 New Mexico legislative session. The superintendent will extend this moratorium as necessary to effectuate and accommodate any form review reforms adopted during that session. Any pending commercial insurance form filings that include COVID-19 related changes will be administratively withdrawn pending the rescission of this bulletin.

Any previously approved commercial insurance forms may continue to be sold in New Mexico until further order of the superintendent.

This Bulletin is effective immediately.

If you have questions regarding this Bulletin, please contact Bryan E. Brock, General Counsel, at Bryan.Brock@state.nm.us.

ISSUED this 4th day of December, 2020.



RUSSELL TOAL
Superintendent of Insurance