



May 18, 2016

The Honorable Thad Cochran
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Barbara A. Mikulski
Ranking Member
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Bill Shuster
Chairman
Committee on Transportation
& Infrastructure
U.S. House of Representatives
Washington, DC 20515

The Honorable Peter A. DeFazio
Ranking Member
Committee on Transportation
& Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Cochran and Shuster and Ranking Members Mikulski and DeFazio:

On behalf of the Association of Critical Care Transport (ACCT) comprised of organizations across the country providing critical care air medical services to patients we are writing to express our support for consideration of a narrow amending of the Airline Deregulation Act's (ADA) federal preemption provision (49 USC 41713) to allow State health authorities to oversee emergency medical services to patients consistent with their mandate to oversee healthcare.

We have seen recent correspondence to your committee regarding this issue which we believe is misleading and factually incorrect. We have long advocated for a narrow change in interpretation of the ADA *only as it applies to the air medical transportation of patients.*

First and foremost we need to distinguish federal oversight of the national airspace by the FAA. We completely support the single federal oversight of aviation safety. Aviation safety is not tied to the commercial preemptions of the ADA to "rates, routes, and services of air carriers."

While we agree the ADA has brought improvements in safety, cost, and availability to commercial air travel, the same has not been true for the air medical industry. The commercial air travel industry operates in a relatively free market where purchasers of services can easily compare prices, availability, service differentiation, and the relative safety records of the various providers.

This, however, is distinctly not the case for the air medical industry. Patients requiring emergency services are unique in passage as they do not get to choose carriage or carrier. Emergency medical care is a medical service not a transportation service. Transportation is incidental to the medical care service whether by air or ground ambulance. Critically ill and injured patients requiring our services rarely have the opportunity or ability to choose their provider, compare costs or the aircraft flown, assess the medical capabilities of the various providers, or even compare safety records. Clearly, the free market forces that regulate the behavior of commercial air carriers do not exist in the air medical transport industry. In short the ADA has been usurped to apply to medical care which was never contemplated in the discussions leading to the passage of the ADA.

The ADA has been successfully used by providers of air medical transport services since the 1990s to prevent States from exercising their proper role of public safety in the oversight of emergency medicine similar to their oversight of hospitals, physicians, EMS providers, and all other practitioners of medicine.

The rapid and unprecedented increase in the numbers of medical helicopters since the introduction of the CMS Ambulance Fee schedule, more than tripling in the last decade have also lead to an exponential growth in the charges for these services, often bankrupting the very patients providers claim to serve. Recent requests by Senators Tester and Hoeven have focused in on the rapid increase in prices by some air medical companies. The over 400% increase in charges over the last 7 years is unlike any other pricing issue in medicine with the exception of the recent hearings on a small number of pharmaceutical companies which have dramatically increased charges for medicine.

While we are in complete agreement that federal authority over national airspace needs to be preserved, as well as maintaining a single set of rules under the FAA for the *aviation-related* aspects of air medical transport, States must be allowed the rights denied them under the ADA to regulate emergency care and exercise oversight of the care of patients transported by ground or air ambulance.

We believe the structural integrity of the ADA can and should be preserved, with a limited carve-out of medical service by air. This will allow States to be involved in the appropriate regulation of their emergency care systems, as they are in all other aspects of medical care.

Thank you for your consideration of our position.

Respectfully,



Denise Landis
President
Association of Critical Care Transport



Roxanne Shanks
Executive Director
Association of Critical Care Transport

