S. 2376

To recognize and clarify the authority of the States to regulate air ambulance medical standards pursuant to their authority over the regulation of health care services within their borders, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2012

Ms. SNOWE (for herself and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To recognize and clarify the authority of the States to regulate air ambulance medical standards pursuant to their authority over the regulation of health care services within their borders, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Air Ambulance Serv-
tices Clarification Act”.

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SEC. 2. CLARIFICATION OF STATE AUTHORITY OVER THE

MEDICAL STANDARDS OF AIR AMBULANCE

SERVICES.

(a) In General.—Chapter 401 of title 49, United
States Code, is amended by adding at the end the fol-
lowing:

"SEC. 40131. CLARIFICATION OF STATE AUTHORITY OVER
AIR AMBULANCE MEDICAL STANDARDS AND
MEDICAL CARE RELATED LICENSING RE-
QUIREMENTS.

"(a) Rule of Construction.—With respect to an
air ambulance and the medical services provided within an
air ambulance, the term ‘law, regulation, or other provi-
sion having the force and effect of law related to a price,
route, or service of an air carrier’, as used in section
41713, may not be construed to include any medical care
related license and certification requirements based on
medical standards effectuated pursuant to a State’s au-
thority over the licensure and regulation of health care
within its borders.

"(b) Definitions.—In this section:

"(1) Air ambulance.—The term ‘air ambu-

lance’ means a fixed wing aircraft or a helicopter
used for the provision of care and patient transport.

"(2) Air ambulance medical personnel.—
The term ‘air ambulance medical personnel’ means
the doctors, nurses, paramedics, emergency medical
technicians, physician assistants, respiratory thera-
pists, or other medical specialists providing air am-
bulance services aboard an air ambulance.

“(3) Air Ambulance Operator.—The term
‘air ambulance operator’ means a commercial holder
of a part 121 or part 135 certificate that has re-
ceived, from the Federal Aviation Administration—

“(A) an operations specification A021 (Air
Ambulance Operations—Helicopter); or

“(B) an operations specification A024 (Air

“(4) Air Ambulance Provider.—The term
‘air ambulance provider’ means a program or agency
licensed by the State to provide air ambulance med-
ical services.

“(5) Air Ambulance Services.—The term
‘air ambulance services’ means the medical care and
patient transport provided aboard an air ambulance.

“(6) Federal Operating Requirements.—
The term ‘Federal operating requirements’ means—

“(A) the requirements under part A of
subtitle VII of title 49, United States Code;

“(B) Federal aviation regulations set forth
in title 14, Code of Federal Regulations; and
“(C) the operation specifications and notices to airmen issued by the Federal Aviation Administration.

“(7) MEDICAL CARE RELATED LICENSE OR CERTIFICATION.—The term ‘medical care related license or certification’ means the permission granted by a State to air ambulance medical personnel, air ambulance providers, or a specific air ambulance for providing medical care and transport that—

“(A) is based solely on, and restricted to, the State’s authority to set standards for providing health care within its borders; and

“(B) is not construed to reference any Federal Operating Requirements.

“(8) MEDICALLY-RELATED DISPATCH.—The term ‘medically-related dispatch’—

“(A) means a medically-related request for an air ambulance to provide medical care and transport to a patient; and

“(B) does not refer to the flight dispatch or operational control of an aircraft.

“(9) REFERRING ENTITIES.—The term ‘referring entity’ means any entity that makes a request for medically-related dispatch of an air ambulance or provides a referral for a provider of air ambulance
services, such as a medical institution, an agency providing emergency medical services, or a first responder.

“(10) ROUTINE.—The term ‘routine’ means medical care and transport that is provided more than 25 times per year in the applicable State.

“(11) SCENE.—The term ‘scene’ means the location at which the patient’s injury or illness, or other event resulting in the need for emergency medical care and transport for the patient occurred.

“(c) MEDICAL AND RELATED MEDICAL CARE STANDARDS TO ENSURE THE CONSISTENT QUALITY OF AIR AMBULANCE SERVICES.—This section shall apply to medical and related medical care standards that—

“(1) are required by a State as a condition of providing—

“(A) a license or certification to an air ambulance, air ambulance providers, and air ambulance medical personnel based in such State; or

“(B) routine medical care and transport to patients in such State; and

“(2) address—

“(A) the quality of emergency medical care provided to patients;
“(B) the qualifications and training of air ambulance medical personnel, scope of practice, credentialing, and ongoing clinical experience in critical care settings;

“(C) the medical direction and clinical oversight of patient care including qualifications and credentialing of physicians providing medical direction or clinical oversight;

“(D) the maintenance of medical records and data collection and reporting;

“(E) health outcome and proficiency measures;

“(F) participation in patient safety and quality control initiatives, such as peer review, utilization review, and error reporting;

“(G) medically-related accreditation;

“(H) medical equipment, devices, and supplies on board the air ambulance including the design, capacity, and performance of such equipment;

“(I) sanitation, infection control, decontamination of the air ambulance bay, infectious hazards, and medical universal precautions;

“(J) the design and configuration of the air ambulance medical compartment for the
provision of quality medical care that allows adequate access to the patient for the purposes of resuscitation and emergency procedures consistent with the medical mission, medical equipment, and medical supplies by the medical personnel during flight without becoming unsecured;

“(K) medically-related air ambulance features and capability specifications necessary and appropriate for the provision of quality medical care related to—

“(i) permanently installed medically-related climate control system requirements capable of meeting specified temperature settings;

“(ii) the use of materials in the air ambulance that are appropriate for a proper patient care environment;

“(iii) providing medically appropriate care and transport to patients, including special populations, such as neonatal or pediatric patients;

“(iv) ensuring sufficient electrical supply to adequately power required medical equipment without reliance on medical
equipment batteries and without compromising the ambulance power to lift or fly;
“(L) patient safety standards related to—
“(i) loading or unloading patients; and
“(ii) refueling with a patient on board;
“(M) communication capabilities—
“(i) between air ambulance medical personnel and public safety, emergency medical service agencies and hospitals; and
“(ii) that allow for functional internal communication within the air ambulance for medical purposes; and
“(N) coordination and oversight over a State’s emergency medical system and the air ambulance provider’s participation in such system, such as standards that—
“(i) designate levels of medical capability, medical appropriateness, and medical staffing of air ambulances, such as medical staffing configurations for particular medical missions or the different medical-related licenses or certifications required for air ambulances and air ambu-
lance medical personnel that provide advanced life support, critical care, or specialty care;

“(ii) establish medically-related dispatch and destination protocols for patients with emergency medical conditions being transported that coordinate requests for air ambulance service response based on the medical appropriateness of the air ambulance to meet the patient’s need for medical care and transport to the appropriate medical institution consistent with patient condition, such as protocols for determining the appropriate—

“(I) mode of transport (ground versus air) in accordance with available evidence-based triage criteria;

“(II) available air ambulance to transport a patient in accordance with its capability to meet the patient’s medical need; and

“(III) medical institution to receive the patient, such as trauma, burn, chest pain, or stroke center;
“(iii) require the air ambulance provider to identify its primary service area and its service availability and any updates or changes to such area or availability for the purpose of coordination of ambulance response;

“(iv) require an air ambulance operator agency to identify the medical institutions the air ambulance can reach from its base location within a specified period of time without refueling;

“(v) require the air ambulance operators to provide, for the purpose of coordination of patient care and medical decision making, reasonably accurate estimated times of arrival with due consideration of safety measures, current location, and status of available air ambulances to referring entities; and

“(vi) prohibit practices which may impede the proper functioning of such system, such as—

“(I) referring entities serially contacting air ambulance providers until an air ambulance provider
agrees to medically-related dispatch
(also known as helicopter shopping);

“(II) indicating false or inaccurate ambulance availability or estimated times of arrival to a referring entity;

“(III) exclusive agreements between hospitals and air ambulance providers or between air ambulance providers and referring entities;

“(IV) proffers of gifts by air ambulance providers to referring entities other than solely for medical education purposes; or

“(V) representations by air ambulance providers to referring entities that the air ambulance and the air ambulance medical personnel can provide a level of care beyond its scope of medical capability.

“(d) LIMITATIONS.—A medical or related medical care standard is not within the scope set forth in subsection (e) if such standard has the effect of—
“(1) superseding, or being inconsistent with, any Federal operating requirement with respect to aviation safety;

“(2) denying licensure to an air ambulance, air ambulance medical personnel, or air ambulance provider that otherwise meets such standard from providing routine care and transport to a patient between 2 locations within a State based solely on the ambulance’s base geographic location being within another State;

“(3) preventing an air ambulance licensed in 1 State from transporting a patient into or out of another state on a non-routine basis; or

“(4) impeding intrastate transport of a patient as a result of the delegation by the State to a political subdivision within the State of the development or oversight of the standard.

“(e) LIMITATION OF SCOPE.—The absence of any medical standard from subsection (c) does not create an inference that such standard is or is not a ‘law, regulation or other provision having the force and effect of law related to a price, route or service of an air carrier’.”.

(b) CONFORMING AMENDMENT.—The table of contents for such chapter 401 is amended by adding at the end the following:
“40131. Clarification of State authority over air ambulance medical standards and medical care related licensing requirements.”