

112TH CONGRESS
2D SESSION

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.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Air Ambulance Serv-
5 ices Clarification Act”.

1 **SEC. 2. CLARIFICATION OF STATE AUTHORITY OVER THE**
 2 **MEDICAL STANDARDS OF AIR AMBULANCE**
 3 **SERVICES.**

4 (a) IN GENERAL.—Chapter 401 of title 49, United
 5 States Code, is amended by adding at the end the fol-
 6 lowing:

7 **“SEC. 40131. CLARIFICATION OF STATE AUTHORITY OVER**
 8 **AIR AMBULANCE MEDICAL STANDARDS AND**
 9 **MEDICAL CARE RELATED LICENSING RE-**
 10 **QUIREMENTS.**

11 “(a) RULE OF CONSTRUCTION.—With respect to an
 12 air ambulance and the medical services provided within an
 13 air ambulance, the term ‘law, regulation, or other provi-
 14 sion having the force and effect of law related to a price,
 15 route, or service of an air carrier’, as used in section
 16 41713, may not be construed to include any medical care
 17 related license and certification requirements based on
 18 medical standards effectuated pursuant to a State’s au-
 19 thority over the licensure and regulation of health care
 20 within its borders.

21 “(b) DEFINITIONS.—In this section:

22 “(1) AIR AMBULANCE.—The term ‘air ambu-
 23 lance’ means a fixed wing aircraft or a helicopter
 24 used for the provision of care and patient transport.

25 “(2) AIR AMBULANCE MEDICAL PERSONNEL.—
 26 The term ‘air ambulance medical personnel’ means

1 the doctors, nurses, paramedics, emergency medical
 2 technicians, physician assistants, respiratory thera-
 3 pists, or other medical specialists providing air am-
 4 bulance services aboard an air ambulance.

5 “(3) AIR AMBULANCE OPERATOR.—The term
 6 ‘air ambulance operator’ means a commercial holder
 7 of a part 121 or part 135 certificate that has re-
 8 ceived, from the Federal Aviation Administration—

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

11 “(B) an operations specification A024 (Air
 12 Ambulance Operations—Airplane).

13 “(4) AIR AMBULANCE PROVIDER.—The term
 14 ‘air ambulance provider’ means a program or agency
 15 licensed by the State to provide air ambulance med-
 16 ical services.

17 “(5) AIR AMBULANCE SERVICES.—The term
 18 ‘air ambulance services’ means the medical care and
 19 patient transport provided aboard an air ambulance.

20 “(6) FEDERAL OPERATING REQUIREMENTS.—
 21 The term ‘Federal operating requirements’ means—

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

24 “(B) Federal aviation regulations set forth
 25 in title 14, Code of Federal Regulations; and

1 “(C) the operation specifications and no-
 2 tices to airmen issued by the Federal Aviation
 3 Administration.

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

10 “(A) is based solely on, and restricted to,
 11 the State’s authority to set standards for pro-
 12 viding health care within its borders; and

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

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

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

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

22 “(9) REFERRING ENTITIES.—The term ‘refer-
 23 ring entity’ means any entity that makes a request
 24 for medically-related dispatch of an air ambulance or
 25 provides a referral for a provider of air ambulance

1 services, such as a medical institution, an agency
 2 providing emergency medical services, or a first re-
 3 sponder.

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

7 “(11) SCENE.—The term ‘scene’ means the lo-
 8 cation at which the patient’s injury or illness, or
 9 other event resulting in the need for emergency med-
 10 ical care and transport for the patient occurred.

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

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

17 “(A) a license or certification to an air am-
 18 bulance, air ambulance providers, and air am-
 19 bulance medical personnel based in such State;
 20 or

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

23 “(2) address—

24 “(A) the quality of emergency medical care
 25 provided to patients;

1 “(B) the qualifications and training of air
2 ambulance medical personnel, scope of practice,
3 credentialing, and ongoing clinical experience in
4 critical care settings;

5 “(C) the medical direction and clinical
6 oversight of patient care including qualifications
7 and credentialing of physicians providing med-
8 ical direction or clinical oversight;

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

11 “(E) health outcome and proficiency meas-
12 ures;

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

16 “(G) medically-related accreditation;

17 “(H) medical equipment, devices, and sup-
18 plies on board the air ambulance including the
19 design, capacity, and performance of such
20 equipment;

21 “(I) sanitation, infection control, decon-
22 tamination of the air ambulance bay, infectious
23 hazards, and medical universal precautions;

24 “(J) the design and configuration of the
25 air ambulance medical compartment for the

1 provision of quality medical care that allows
2 adequate access to the patient for the purposes
3 of resuscitation and emergency procedures con-
4 sistent with the medical mission, medical equip-
5 ment, and medical supplies by the medical per-
6 sonnel during flight without becoming unse-
7 cured;

8 “(K) medically-related air ambulance fea-
9 tures and capability specifications necessary
10 and appropriate for the provision of quality
11 medical care related to—

12 “(i) permanently installed medically-
13 related climate control system require-
14 ments capable of meeting specified tem-
15 perature settings;

16 “(ii) the use of materials in the air
17 ambulance that are appropriate for a prop-
18 er patient care environment;

19 “(iii) providing medically appropriate
20 care and transport to patients, including
21 special populations, such as neonatal or pe-
22 diatric patients;

23 “(iv) ensuring sufficient electrical sup-
24 ply to adequately power required medical
25 equipment without reliance on medical

1 equipment batteries and without compro-
2 mising the ambulance power to lift or fly;

3 “(L) patient safety standards related to—

4 “(i) loading or unloading patients;
5 and

6 “(ii) refueling with a patient on
7 board;

8 “(M) communication capabilities—

9 “(i) between air ambulance medical
10 personnel and public safety, emergency
11 medical service agencies and hospitals; and

12 “(ii) that allow for functional internal
13 communication within the air ambulance
14 for medical purposes; and

15 “(N) coordination and oversight over a
16 State’s emergency medical system and the air
17 ambulance provider’s participation in such sys-
18 tem, such as standards that—

19 “(i) designate levels of medical capa-
20 bility, medical appropriateness, and med-
21 ical staffing of air ambulances, such as
22 medical staffing configurations for par-
23 ticular medical missions or the different
24 medical-related licenses or certifications re-
25 quired for air ambulances and air ambu-

1 lance medical personnel that provide ad-
2 vanced life support, critical care, or spe-
3 cialty care;

4 “(ii) establish medically-related dis-
5 patch and destination protocols for pa-
6 tients with emergency medical conditions
7 being transported that coordinate requests
8 for air ambulance service response based
9 on the medical appropriateness of the air
10 ambulance to meet the patient’s need for
11 medical care and transport to the appro-
12 priate medical institution consistent with
13 patient condition, such as protocols for de-
14 termining the appropriate—

15 “(I) mode of transport (ground
16 versus air) in accordance with avail-
17 able evidence-based triage criteria;

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

22 “(III) medical institution to re-
23 ceive the patient, such as trauma,
24 burn, chest pain, or stroke center;

1 “(iii) require the air ambulance pro-
2 vider to identify its primary service area
3 and its service availability and any updates
4 or changes to such area or availability for
5 the purpose of coordination of ambulance
6 response;

7 “(iv) require an air ambulance oper-
8 ator agency to identify the medical institu-
9 tions the air ambulance can reach from its
10 base location within a specified period of
11 time without refueling;

12 “(v) require the air ambulance opera-
13 tors to provide, for the purpose of coordi-
14 nation of patient care and medical decision
15 making, reasonably accurate estimated
16 times of arrival with due consideration of
17 safety measures, current location, and sta-
18 tus of available air ambulances to referring
19 entities; and

20 “(vi) prohibit practices which may im-
21 pede the proper functioning of such sys-
22 tem, such as—

23 “(I) referring entities serially
24 contacting air ambulance providers
25 until an air ambulance provider

1 agrees to medically-related dispatch
2 (also known as helicopter shopping);

3 “(II) indicating false or inac-
4 curate ambulance availability or esti-
5 mated times of arrival to a referring
6 entity;

7 “(III) exclusive agreements be-
8 tween hospitals and air ambulance
9 providers or between air ambulance
10 providers and referring entities;

11 “(IV) proffers of gifts by air am-
12 bulance providers to referring entities
13 other than solely for medical edu-
14 cation purposes; or

15 “(V) representations by air am-
16 bulance providers to referring entities
17 that the air ambulance and the air
18 ambulance medical personnel can pro-
19 vide a level of care beyond its scope of
20 medical capability.

21 “(d) LIMITATIONS.—A medical or related medical
22 care standard is not within the scope set forth in sub-
23 section (c) if such standard has the effect of—

1 “(1) superseding, or being inconsistent with,
2 any Federal operating requirement with respect to
3 aviation safety;

4 “(2) denying licensure to an air ambulance, air
5 ambulance medical personnel, or air ambulance pro-
6 vider that otherwise meets such standard from pro-
7 viding routine care and transport to a patient be-
8 tween 2 locations within a State based solely on the
9 ambulance’s base geographic location being within
10 another State;

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

14 “(4) impeding intrastate transport of a patient
15 as a result of the delegation by the State to a polit-
16 ical subdivision within the State of the development
17 or oversight of the standard.

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

23 (b) CONFORMING AMENDMENT.—The table of con-
24 tents for such chapter 401 is amended by adding at the
25 end the following:

“40131. Clarification of State authority over air ambulance medical standards and medical care related licensing requirements.”.

