

Docket No. SA-530

Exhibit No. 5-M

NATIONAL TRANSPORTATION SAFETY BOARD

Washington, D.C.

NC Draft Legislation re ADA

(3 pages)

A Bill

To recognize and clarify the authority of the States to regulate intrastate helicopter medical transport services pursuant to their authority over public health planning and protection, emergency medical services, and the practice of medicine within their jurisdictions.

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

Chapter 401 of title 49, United States Code, is amended by adding at the end thereof the following new section:

Section _____ . State Regulation of Helicopter Medical Transport Services

(a) Declaration of policy. Congress hereby recognizes that, while the oversight of aviation is within the purview of the federal government, the oversight of public health planning and protection, emergency medical services, and the practice of medicine is within the purview of the States. Accordingly, the Congress declares that the existing or future regulation of helicopter medical transport services by the several States to address matters set forth below is in the public interest and that Part A of Subsection VII of Title 49 United States Code (including Section 41713 contained therein) does not preempt or otherwise impose a barrier to such regulation by the several States.

(b) Clarification of State Authority. Part A of Subsection VII of Title 49 United States Code (including Section 41713 contained therein) does not prohibit a State pursuant to its authority over public health planning and protection, emergency medical services, and the practice of medicine within its jurisdiction from regulating helicopter medical transport services provided between locations within such State (or helicopter medical transport services provided between locations in more than one state if undertaken pursuant to an agreement between or among such States) with respect to requirements related to –

(1) the medical qualifications and medical training of aircraft medical personnel, provided that no new or additional requirements are imposed upon the pilot;

(2) the necessary medical equipment to be carried on board the aircraft; the physical attributes of the aircraft necessary for the provision of quality medical care (including climate control, adequate access and egress, sufficient internal space or electrical supply); or communication capabilities enabling the aircraft to communicate with emergency medical services personnel, institutions receiving patients, or enabling the flightcrew to communicate with the medical crew, provided that any such State requirements are subject to and consistent with relevant federal requirements applicable to an aircraft that is otherwise capable of meeting such State requirements;

(3) the obligation of service providers to comply with health planning and medical service requirements (including coordinating the transportation of patients with emergency medical services, receiving institutions or other medical transport service providers; demonstrating adequate capacity to provide services; demonstrating a need for new or expanded services; limitations on the number of aircraft providing services within a state or region of a state; affiliation with health care institutions; or the provision of emergency transport services to uninsured patients who are unable to pay for such services; sanitation and infection control protocols; medical records requirements; or participation in patient safety and medical quality control efforts (such as peer review processes or error reporting systems));

(4) the designation of destinations for emergency patient transport; the specification of service requirements with respect to geographic areas within a state or during specified hours and days; or compliance with accreditation requirements, provided that any such State requirements are harmonized with any relevant federal operating requirements.

(c) Rules of Construction. The clarification of State authority set forth in Subsection (b) of this Section shall not be construed –

(1) as effectuating any change in any limitations that may exist upon the authority of a State pursuant to Section 41713 of Title 49 United States Code with respect to rates, taxes, or user fees of an air carrier; or

(2) as effectuating any change in existing limitations on or the existing authority of a State except as clarified by subsection (b).

(d) Definitions. As used in this section –

(1) the term "helicopter medical transport services" means the helicopter transport of patients in both emergency and non-emergency situations as well as the medical services provided to patients in the course of transport by such helicopter.

(2) the term "federal requirements" means requirements under Part A of Subsection VII of Title 49 and federal aviation regulations set forth in Part 14 of the Code of Federal Regulation so long as such regulations are not inconsistent with this section.