

**Docket No. SA-530**

**Exhibit No. 5-O**

**NATIONAL TRANSPORTATION SAFETY BOARD**

**Washington D.C.**

**Comments from Jason Schwebach, AVP MedCenter Air re:  
North Carolina Certificate of Need Process and Federal  
Preemption**

(8 pages)

1. I am writing this to help further explain the historical aspects of how the North Carolina Certificate of Need process was superseded by the Federal FAA preemption and also explain the Safety process we have which this preemption jeopardizes.

2. I am employed as the Administrative Director of MedCenter Air, which is a department of the Charlotte-Mecklenburg Hospital Authority d/b/a/ Carolinas Medical Center (“CMC”) that supervises CMC’s air ambulance operations. I am responsible for all operations at MedCenter Air, including safety, quality patient care, day to day operations, and financial viability.

3. I have been employed as Director of MedCenter Air for five (5) years. I am very familiar with the day-to-day operations of MedCenter Air and our air ambulance services as well as the general provision of air ambulance services.

4. CMC has been designated by the North Carolina Department of Health and Human Services as a Level I Trauma Center. As a result, CMC provides medical care for the most severely injured trauma patients. MedCenter Air provides its air ambulance program in conjunction with CMC’s Trauma Center. CMC and MedCenter Air jointly provides state of the art medical equipment, personnel, and training. The level and quality of care provided by MedCenter Air significantly exceeds that required by the North Carolina Office of Emergency Medical Services (“OEMS”) for the provision of air ambulance services.

5. MedCenter Air responds to emergency scenes, at the request of local EMS providers, in order to provide patient care. MedCenter Air provides both air and ground transport for patients. In addition, MedCenter Air provides air transport for patients between hospitals in order to provide necessary patient treatment, and has been in operation since 1986.

6. MedCenter Air has obtained all of the necessary licenses and permits for the operation of its air ambulances.

7. MedCenter Air has received accreditation with commendation from the Commission on Accreditation of Medical Transport Systems (CAMTS).

8. MedCenter Air and CMC provide numerous services to the community, specifically, training programs and continuing education programs to local EMS providers to provide education and outreach programs in order to enhance the skills and services of local EMS providers. An outside air ambulance provider, not based in the community nor part of a trauma center, would likely not seek to incur the costs necessary to provide such essential community services.

9. CMC is a member of the North Carolina Air Medical Affiliation (NCAA), which has a Mutual Aid Agreement in which the Trauma Centers in North Carolina that are air ambulance providers participate. As participants in the Mutual Aid Agreement, each air ambulance provider works in conjunction with the others in order to provide necessary air ambulance services throughout North Carolina. If CMC is unable to accept a call, it can contact other air ambulance providers to assist. CMC is often contacted by other providers of air ambulances to offer services if they are unable to take a call. Please note that on three (3) separate occasions within the last two years, Med Trans was offered the opportunity to participate in the well established and successful Mutual Aid process and denied all offers stating that they wanted full rights to move patients on their own accord. This is a demonstration of how the emphasis is on for-profit business and not with a systematic patient-care focus.

10. There is no need for additional air ambulance providers in our service area. MedCenter Air is able to meet the needs of the patients and EMS providers in its service area.

The addition of any providers to MedCenter Air's service area would lead to a duplication of the services that MedCenter Air already provides. Med-Trans filed a CON application to serve portions of the MedCenter Air service area. The CON Section denied that application for numerous reasons, including the fact that such an air ambulance service was not needed, since it would unnecessarily duplicate existing air ambulance services in the service area.

11. The EMS providers in each county are responsible for making the necessary contact with MedCenter Air when an air ambulance is required. From the time that MedCenter Air receives the call until the patient is brought to CMC, there is constant communication between the medical personnel on the helicopter and the trauma center. The constant interaction allows for real-time updates of patients, which allows for the appropriate physicians and staff to be ready to provide the immediate and best care for a patient as soon as a patient enters the trauma center. As part of the process of determining patient needs, internal space allocations are made to insure that appropriate space exists or will be made available for all patients admitted to the facility.

12. If providers not affiliated with CMC were permitted to provide service throughout MedCenter Air's service area, and sought to deliver patients to CMC for emergency or other care, CMC's ability to monitor quality care would be hampered. CMC and MedCenter Air pride themselves on rigorous quality control. CMC and its MedCenter Air unit work together to constantly monitor the care they provide in order to determine the most appropriate care to provide. Since the assessment of quality of care for MedCenter Air is connected with CMC, the patients receive quality care from the moment they are picked up by an air ambulance until they are discharged from the hospital. An outside provider would not be able to provide such a

coordinated effort because it is not a part of CMC's Trauma Center. As a result, patient care may suffer.

13. CMC seeks to continue to offer the best care to patients that are transported to its facility via an air ambulance. This can best be accomplished through the highly coordinated and tightly managed care that is provided between CMC and its MedCenter Air unit. If additional providers are permitted to provide services in North Carolina, patient safety risks may arise.

14. MedCenter Air has had direct experience with Med-Trans' provision of air ambulance services in North Carolina. While Med-Trans does not provide air ambulance services between points in North Carolina, it does bring emergency patients from South Carolina into North Carolina. It has been the experience of CMC and MedCenter Air that Med-Trans makes little to no attempt to coordinate its air ambulance services with CMC or MedCenter Air when bringing a patient to the Trauma Center. As a matter of fact, during two separate occasions in 2008 (July and December), a hospital in South Carolina called our hospital to transfer a critically injured patient. Our process automatically generates a transport request if helicopter transport criteria are met. In both these cases, our helicopter was dispatched to pick up the patient. Unbeknownst to our crews and hospital, a Med Trans helicopter of Spartanburg, SC also responded to the same patient (unclear how exactly this double-dispatch error occurred). Needless to say both helicopters were enroute to the same hospital on a converging collision course. It was only at the last minute, our helicopter crews heard the radio call from our communications center that they heard that the Med-Trans helicopter was also enroute. Our crews made radio calls both on published frequencies and on "guard" frequencies, and heard no response. It was only at the last minute that our crew spotted the other helicopter after our helicopter pulled up to conduct a high-area recon. It was at that moment when we spotted the

Med-Trans helicopter almost underneath our helicopter flying to the hospital helipad. This was just days after the mid-air collision in Arizona and really disturbed our flight crews and everyone else involved. This is only one example of how the current system literally sets crews up for failure. We make every attempt to coordinate transfers, transports and crew coordination; however, market pressures and forces fight these safety coordinated efforts.

15. MedCenter Air and CMC have repeatedly requested that Med-Trans provide it with notice prior to bringing emergency patients to the Trauma Center. Med-Trans consistently provides little to no notice of incoming flights. This notice is essential for two reasons. First, the Trauma Center wants to be sure that it has the appropriate staff and physicians ready to provide the immediate and appropriate care that a patient requires. Without this ability, the very safety and overall patient care is put at risk. Second, and more basic, CMC and MedCenter Air want to be sure that there is a location for an outside air ambulance provider to land such that a patient can be safely off-loaded and transported to the Trauma Center. A MedCenter Air helicopter is often kept on the helipad at CMC when not in use. Without appropriate notice, the helicopter cannot be moved to accommodate another provider. It takes time to get a pilot on-site to move a helicopter to the airport. If a helicopter is already on the helipad at CMC, Med-Trans must be redirected to the airport to be met by a MedCenter Air ground ambulance. This delay in reaching the Trauma Center is not optimal for patient care and could put the very safety of patients at issue.

16. CMC and its MedCenter Air unit want to insure that the best care and services are available to patients when they are transported to the facility by an air ambulance. This can best be accomplished through the highly coordinated and tightly managed care that is jointly provided

between MedCenter Air and CMC. If Med-Trans is permitted to expand services in North Carolina and offer services without restriction, patient care may suffer.

17. If another air ambulance provider not affiliated with CMC were permitted to provide service to North Carolina patients in MedCenter Air's service area, and sought to deliver patients to CMC for emergency care or other care, the ability of CMC to appropriately triage patients would be reduced. The medical staff of MedCenter Air, as employees of CMC, are aware of the protocols and facility offerings available to all patients. Based on CMC's experience, an outside air ambulance like Med-Trans fails to provide the necessary contact, patient updates and monitoring, and coordination with the CMC team in order to insure that space exists at CMC for both emergency and transfer patients. Without this necessary coordination and internal triage, patient safety risks may arise.

18. The cost of providing these air ambulance services is substantial. MedCenter Air's annual budget includes costs for medical personnel, aircraft, pilots, maintenance, adding and updating medical equipment, educational services to the community, and outreach efforts to partner with other healthcare agencies.

19. The provision of air ambulance services by CMC through MedCenter Air is costly and provides CMC with little net income from this service. Positive net income is secondary to providing the type and quality of services that the community served by CMC expects. However, it would take the loss of very few air ambulance flights by MedCenter Air before the provision of the service would operate at such a loss that it would be financially burdensome, if even possible, to continue operating the air ambulance program.

Thank you for the opportunity to provide feed-back and information to the Board

Sincerely

Jason Schwebach

AVP, MedCenter Air

Carolinas Healthcare System