

**STATEMENT OF  
THE HONORABLE JERRY F. COSTELLO  
SUBCOMMITTEE ON AVIATION  
HEARING ON  
OVERSIGHT OF HELICOPTER MEDICAL SERVICES  
APRIL 22, 2009**

I welcome everyone to the Aviation Subcommittee hearing on Oversight of Helicopter Medical Services.

This hearing will examine two issues. First, the safety of helicopter emergency medical services, or helicopter EMS. And second, the state regulation of helicopter EMS.

The Federal Aviation Administration (FAA) regulates the helicopter and the pilot while states regulate the medical care that a patient receives onboard the aircraft. This hearing is an opportunity to discuss how the aviation industry, government and the healthcare community can work together towards a common goal of enhanced helicopter EMS safety.

The helicopter EMS industry provides an important service by transporting seriously ill patients to emergency care facilities and high-level trauma centers. However, helicopter air ambulances operate in challenging conditions, such as flying during bad weather, going into unfamiliar landing sites, and operating at night.

According to the National Transport Safety Board (NTSB), approximately 400,000 patients and transplant organs each year are safely transported by helicopter, saving countless lives.

Unfortunately, lives have also been lost. Between 1998 and 2008, there were 146 helicopter EMS accidents with 131 fatalities. The greatest number of accidents in any 11-month period occurred between December 2007 and October 2008, resulting in 13 accidents and 35 fatalities.

I want to acknowledge the family members of those who lost their lives in helicopter EMS accidents here with us today. On behalf of this Subcommittee, I offer our condolences.

In 1988, the NTSB conducted a study of helicopter EMS and issued 19 safety recommendations. In January 2006, 18 years later, the NTSB conducted another special investigation after an increase in accidents. As a result of this investigation, the NTSB issued four safety recommendations to the FAA and added helicopter EMS to its "Most Wanted List" in 2009. The NTSB also held a four day public hearing on helicopter EMS operations in February.

I look forward to hearing our NTSB witness explain the recommendations from its four-day hearing. I want a progress report on how the FAA plans to proceed following that hearing, what the agency is doing to address the safety issues raised.

I also look forward to an update on the Government Accountability Office (GAO) 2007 report that I requested, which recommended that the FAA identify and collect data to better understand the air ambulance industry. Without this data, it will be difficult to know how to address the problem.

In addition, Congressmen Salazar and Congressman Lungren introduced legislation addressing many helicopter EMS safety issues. I thank Congressman Salazar for testifying today regarding his bill.

We are here today because we are committed to preventing helicopter EMS accidents. I look forward to the witnesses' testimony on current and future actions industry and government can take to improve helicopter EMS safety. Safety is an must always be priority one.

**This brings me to the second issue that we will explore at this hearing – state regulation of helicopter EMS.**

Currently states have the authority to regulate medical care inside the aircraft, including establishing minimum requirements for medical equipment as well as training and licensing requirements of the medical crew. Illinois requires EMS helicopters to be equipped with a cardiac monitor and an extra battery; a defibrillator that is adjustable for all age groups; an external pacemaker; two sources of oxygen, in addition to other medical equipment.

However, the Airline Deregulation Act of 1978 (ADA) stipulates that states **do not** have the authority to regulate rates, routes or services of air carriers.

Several states have tried to adopt regulations pertaining to helicopter EMS that control items other than medical care such as the Certificate of Need program, rate setting, and limitation on geographic service areas. Courts and the Department of Transportation (DOT) have found that many of these state regulations were essentially economic regulation of air carriers and preempted by the ADA. For example, a federal court in North Carolina recently found that the State regulations establishing a Certificate of Need program, limiting the number of helicopter EMS operators in the State, was preempted by the ADA.

Accordingly, some are calling for clarification of the ADA to allow states to have a greater hand in regulating aspects of helicopter EMS that may be considered to be preempted by the ADA. They argue that states regulate ambulances on the ground; therefore, they should be able to regulate ambulances in the air. However, the issue is not that simple. Air medical transport is an interstate operation. I have concerns about allowing each state to separately regulate helicopter EMS services.

In 2007, the National Academy of Sciences issued a report stating that there is a need to address inefficiencies and problems with the entire emergency medical service (EMS) system. And by trying to tackle the issue of state regulation of helicopter EMS, we may be missing out on some of the “big picture” issues of the EMS system as a whole.

Congressman Altmire and Congresswoman Miller introduced legislation addressing state regulation of medical helicopters. I thank them for bringing these issues before the Subcommittee. The provisions in this legislation are extremely complex, and I hope to have a good discussion of the issues.

###