

STATEMENT OF BERNARD A. GEIER, CHIEF, GENERAL AVIATION AND COMMERCIAL DIVISION, OFFICE OF FLIGHT OPERATIONS, FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, CONCERNING AIR AMBULANCE SERVICE. APRIL 29, 1980.

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before you today to discuss the subject of air ambulance service. We in the FAA are well aware of the concerns that some people have that the air ambulance industry should be more closely regulated. We have looked at this area in the past, and I'd like to give you a brief history of the FAA's examination of this topic in which I was personally involved.

In 1975, I was designated chairman of an Air Ambulance Standards Working Group charged with developing minimum criteria for air ambulance operations. The working group developed a discussion paper which described proposed requirements for air ambulance operations. These requirements included aircraft patient compartment space dimensions, required medical equipment, patient compartment environmental conditions, minimum flight crew--which included an attendant, attendant training, flight altitude limitations, designation of a responsible physician, and

interior lighting requirements. The working group then held two public meetings, one in Denver and one in Washington, D.C. in July 1975 to solicit public comments.

Following analysis of the comments received, the FAA published an advance notice of proposed rulemaking (ANPRM) in July 1977. The ANPRM set out proposed requirements for operators who hold themselves out to the public as being prepared to provide emergency medical transportation. These included specific requirements for such things as aircraft equipment, medical oxygen, intensive care, medical personnel, emergency medical kits, and procedures manual.

In soliciting comments from interested persons on the ANPRM, the FAA specifically requested information pertaining to the costs, benefits and other impacts of the proposed regulation on air taxi certificate holders, consumers, the medical community, State and local governments and other Federal agencies.

The FAA received comments in response to the ANPRM from over 250 individuals and organizations. A majority of the comments, including those submitted by congressional representatives of 10 states and the governors of two

states, expressed opposition to the proposed regulations. After analyzing the views expressed, the FAA withdrew the ANPRM in 1978. At this time, Mr. Chairman, I'd like to provide you with some perspective of the concerns that were raised.

A key issue raised by some of the commenters concerned the statutory authority of the FAA to adopt the proposed regulations. It was pointed out that the FAA's role in aviation safety does not specifically include the authority to regulate the quality of services provided during a flight when those services are merely incidental to the safety of the flight per se. For example, the FAA does not specifically regulate those aspects of safety which pertain to food services during a flight, such as the possibility of getting food poisoning from contaminated food. Rather, in that case, the responsibility rests with the Department of Health, Education and Welfare.

Some of the supporters of the proposed regulations were particularly concerned about the number of air taxi operators in the U.S. who, although holding themselves out to the public as providing air ambulance services, do not have adequate equipment or personnel to provide medically related services to ill patients. Even if this were a

widespread practice, however, it would not be a problem relating primarily to air transportation safety, but rather one relating to "truth in advertising". As such, it is not a problem that the FAA is, by statute, empowered to deal with. In withdrawing the ANPRM, we pointed out that the commenters' remedy is more properly found under section 411 of the Federal Aviation Act of 1958, as amended, which is administered by the Civil Aeronautics Board. Section 411, which specifically applies to air taxi operators (See 14 CFR 298.11), precludes "deceptive practices" in "air transportation or the sale thereof."

Since 1958, when the functions of the FAA and the CAB were split apart, the CAB has handled "consumer" issues--ensuring that the air traveller gets the services he pays for. For instance, the CAB regulates a whole range of practices regarding the sale of airline passenger tickets. In addition, the CAB promulgates and enforces in-flight regulations relating to passenger comfort, such as the establishment of smoking/non-smoking sections. Therefore, it is our view that the regulation of air ambulance equipment and procedures falls within the CAB's purview, both legally and historically.

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Mr. Chairman, I might point out that, in addition to possible regulation by HEW and the CAB, a majority of states have enacted air ambulance regulations or guidelines. Some states which have no guidelines or regulations, such as New Jersey, nevertheless require specific approval of individual air ambulance operations in order for them to participate in Medicaid and related programs. Of course, the needs of individual states vary greatly--what works for New Jersey is not necessarily suitable for Iowa, Alaska, or Montana. Thus, the regulation of air ambulance services in the different states also varies greatly in order to reflect the particular needs of those states.

In the course of our activities concerning air ambulances, we received many comments from the public. I would like to point out some of those additional ideas put forth by commenters to assist the Subcommittee in its review and to suggest that they appear to raise legitimate issues that should be considered by those Federal and State agencies which do have authority to regulate in this area.

The prescription of standards for the medical aspects of air ambulance services is perhaps the most technically complex and controversial of all the issues raised. As you might

except, a review and analysis of the comments received from medical experts revealed no consensus within that group. Views expressed by these experts ran the gamut from those urging no involvement of the Federal Government to those proposing lengthy and exceedingly complex and technical specifications to be followed for every conceivable type of "air ambulance" operation. For example, some comments urged us to promulgate regulations to account for such things as post-operative care in cases of major surgery prior to the patients' having fully recovered, and other comments urged the requirement by regulation of a long list of specialized equipment for neonatal care. Thus, there was wide disagreement in the medical community not only concerning whether air ambulance regulations should be adopted, but, if so, how extensive and comprehensive they should be.

Other comments expressed the view that, if adopted, our proposed regulations would prove so unduly burdensome and costly as to drive many aircraft operators out of business, with the result that communities might be deprived of needed air ambulance service in certain sparsely populated areas of the country. It was pointed out that charter operators engaging in air ambulance service currently work closely with doctors and hospitals in their areas of operation and

rely on them to determine what specialized equipment and personnel will be necessary for the particular patient to be transported. Most of the comments received expressed the view that these matters should continue to be the responsibility of the aircraft operators and professional medical personnel.

Mr. Chairman, the main issue involved in regulating air ambulances is one of ensuring that the patient receives the type of care that has been contracted for on his behalf. As such, it is not an issue of safety of flight per se, but rather a consumer issue--one of truth in advertising, and eliminating deceptive trade practices. This places the issue within the bailiwick of the CAB, through Section 411 of the FAA Act of 1958, or possibly the FTC. The views of interested parties that I have noted here today may prove useful to those agencies which have the legal authority to regulate in this area. We would also be pleased to make available to such agencies the other comments we received regarding the desirability of air ambulance regulations.

That concludes my prepared statement, Mr. Chairman. I would be pleased to respond to any questions you might have at this time.