



**TO:** TOM MITCHELL, CHIEF NC OEMS  
**FROM:** SEAN GIBSON, PRESIDENT, NCAA  
**SUBJECT:** PROPOSED RULE CHANGE TO 10A NCAC 13P.204  
**DATE:** OCTOBER 24, 2016

On behalf of the members of the NCAA, greatly appreciate the opportunity to share our thoughts and concerns regarding the proposed regulatory change. The North Carolina Air-Medical Association strongly supports the continued affiliation requirement between air ambulance providers and our state's level I & II trauma centers. This regulation helps to cement North Carolina's position as the premier provider of air medical services in the nation and more importantly, ensures our residents continue to receive high quality medical care. We, the NCAA members of the North Carolina Air-Medical Association, support the continuance of 10A NCAC 13P.204 and its requirement for Trauma Center affiliation until such time as the requirement can be moved to the appropriate medical oversight regulation.

In response to the injunction issued by the U.S. District Court, Eastern District of North Carolina, the North Carolina Office of Emergency Medical Services has proposed to eliminate the provision of the administrative rule requiring air medical providers to be affiliated with a Level I or Level II Trauma Center in order to operate within the boundaries of the state of North Carolina.

In the Plaintiff's third claim for relief (Order, p. 20-22) the Court held that the endorsement of county or governmental officials could be withheld in efforts to preclude and effectively bar entry into the market, and therefore was preempted by the Airline Deregulation Act. Based on these grounds, the Court held that requiring prospective air medical programs to affiliate with EMS systems served the same function. The Plaintiff specifically challenged, with the Court's agreement, the requirement that any air medical agency within North Carolina be required to "be affiliated with an EMS System and have an EMS Peer Review Committee in order to be licensed in North Carolina" (Def.'s Supp. Br. 5).

The assertion of the Court is such that under the Airline Deregulation Act (Pub.L.95-504) all purview for aviation regulation falls to the Federal Aviation Administration, and not to the individual states. Historically, the provision of healthcare has, however, been under state

control. This includes the licensure of agencies that may serve as ambulance services and personnel that may provide medical services under North Carolina law.

The language of the original court order at no time addresses affiliation with a trauma center. The opinion of the Attorney General's office asserts that this requirement would have been enjoined as well had it existed at the time. This is based on the ruling by the Court that regulation of aviation business is subject to federal rather than state oversight. Further, the Attorney General's office based their opinion on the thought that EMS agencies are not required to affiliate with a trauma center, and thus this constitutes a needless area of regulation designed to bar entry into the market. This rule is not designed to regulate aviation, however, but rather is designed to address a provision of healthcare topic, which is well within the realm of state government.

North Carolina's ground and air emergency response system continues to be recognized nationally as a model for safety, quality and innovation. Through careful coordination between EMS providers and the state's highly sophisticated trauma system providers, residents in our state are ensured high quality medical care.

To further elaborate, North Carolina's air medical providers and the systems that they represent have long been held to a higher standard than their ground counterparts across the nation. These providers represent experienced critical care professionals who are called upon when the resources and level of training provided by local EMS systems are insufficient for the management and care during transport. To that end, a higher level of medical oversight has proven beneficial, and thus the trauma center affiliation requirement has served to better allow for the oversight, advanced training, and innovative treatment provided by these programs. Removing the affiliation requirement would, simply, lower the level and quality of care provided to North Carolina's citizens by air medical service agencies.

Close coordination and affiliation specifically regarding air ambulance programs with trauma centers, ensures critical cross training opportunities between emergency providers and hospital teams. This type of training currently exists. Health care providers spend countless hours training with multidisciplinary teams in and out of hospital settings.

In addition to the areas of care coordination and quality of services, we have concerns regarding financial patient protections. Each of North Carolina's trauma centers are part of non-profit hospital systems. Each of these systems has publically available financial assistance and charity care policies. At the time of a medical emergency, the last thing a patient or their family should be worried about is their bill or if they will be able to afford services delivered. We encourage the state to consider requiring that new health care providers or transport services offer this same level of transparency.

Again, we the members strongly oppose the current change to rule of 10A NCAC 13P.204 and feel this change will impact the safety and quality of care of programs who are not affiliated with a level I or II trauma center.