Air Ambulance Industry
General Description of Air Ambulance Industry

• “Air ambulances can play an important role in transporting patients with time critical injuries and conditions to medical facilities and providing patients with advanced care while enroute. Air ambulances transported more than 270,000 patients in 2008, and their use is widely believed to improve the chances of survival for trauma victims and other critical patients.”

• “Air Ambulance: Effects of Industry Changes on Services are Unclear”  GAO Highlights, September, 2010
“Composing more than 80 percent of air ambulance aircraft, helicopter air ambulances transport patients from the scene of an accident to a hospital or perform short-distance inter-hospital patient transfers. Because fixed-wing aircraft only fly between airports, they are not typically used to transport injured patients from an accident scene. Patients are transported by ground to and from the airport. Fixed-wing air ambulances generally perform more long-distance inter-hospital transports, often moving patients from a hospital to a distant specialized facility. Just over half of air ambulance transports are for moving patients between hospital facilities, one-third are for transporting victims from the accident scene to a hospital, and the remainder are for other purposes such as organ transports or specialty care flights such as for pediatric and neonatal patients.”

- GAO Highlights, September, 2010
Air Ambulance Industry

“Prior to 2002, helicopter emergency medical services, or HEMS, programs were mainly owned and operated by hospitals, flying medium-sized twin-engine helicopters with experienced emergency physicians and critical care nurses. Hospitals often lost money on the operation but made up for it with payments for the extensive trauma care these patients required. After much lobbying by hospitals, Medicare officials agreed to rebase payment rates to more accurately reflect the true costs of running a high-quality helicopter EMS program.”

“In 2002, Medicare more than doubled its payment for air ambulance transport, expecting that the increased reimbursement would help HEMS programs upgrade their equipment and invest in training and safety.”

“As a result, for-profit operators have added hundreds of new HEMS programs nationwide over the past decade. According to the Atlas & Database of Air Medical Services, in October 2003, there were 545 helicopters flying out of 472 HEMS bases in the U.S. By September 2014, those numbers had nearly doubled, with 1,020 helicopters at 846 bases. Some states have more medical helicopters than all of Canada or Australia. And annual Medicare spending on HEMS transport between 2002 and 2009 grew 434 percent.”

Now more than a third of HEMS programs are owned by three large for-profit operators: PHI Air Medical, Air Methods Corporation and Air Medical Group Holdings, the parent company of Air Evac Lifeteam.
## Wyoming 2016

### Air Medical Services

<table>
<thead>
<tr>
<th>Provider ID#</th>
<th>Service Name</th>
<th>Base Name / Site</th>
<th>City (WY)</th>
<th>Zip</th>
<th>Type Location</th>
<th># Aircraft</th>
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<tbody>
<tr>
<td>WY001</td>
<td>Wyoming Life Flight</td>
<td>Casper/Natrona County International Airport</td>
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<td>82004</td>
<td>Airport</td>
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<td>WY001</td>
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<td>Sheridan Memorial Hospital</td>
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<td>Hospital</td>
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<td>AZ003</td>
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<td>CA001</td>
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<td>Cody</td>
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<td>CO001</td>
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<td>UT001</td>
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<td>UT001</td>
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<td>UT004</td>
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<td>Airport</td>
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### Fixed Wing Only Services

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<thead>
<tr>
<th>Provider ID#</th>
<th>FW Service Name</th>
<th>Airport Name</th>
<th>City (WY)</th>
<th>Zip</th>
<th># FW</th>
</tr>
</thead>
</table>

### Number of Bases & Aircraft Operating in State

<table>
<thead>
<tr>
<th>Type</th>
<th>Bases in State</th>
<th>Aircraft in State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rotor Wing (RW)</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>Fixed Wing (FW)</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Total RW &amp; FW*</td>
<td>11</td>
<td>13</td>
</tr>
</tbody>
</table>

*If a single air medical service has a base with both RW and FW aircraft types, the base is included in RW base inventory AND in FW base inventory, but included only once in Total RW & FW base inventory.
Air Ambulance Companies operating in Wyoming are subsidiaries

- Guardian Flight, LLC, operating out of the Gillette/Campbell County, Wyoming airport appears to be a subsidiary of Air Medical Resource Group, Inc., a Utah corporation with principal offices located in South Jordan, Utah.

- Wyoming Life Flight, LLC, operating out of the Casper, Natrona County, Wyoming airport is a fictitious name. The actual name of the legal entity providing air ambulance services in the Casper, Wyoming area is Rocky Mountain Holdings, LLC, a Delaware corporation with principal offices located in Englewood, Colorado.

- REACH Air Medical Services, LLC, operating out of the Yellowstone Regional Airport, is a California corporation, with principal offices located in Santa Rosa, California.
Wyoming Air Ambulance Litigation

- EagleMed, LLC, et.al., v. John Cox, in his official capacity as Director of the Wyoming Department of Workforce Services, et al., Appellate Case No. 16-8064, currently pending in the Tenth Circuit Court of Appeals.
- The Court determined that it had subject matter jurisdiction to impose prospective injunctive relief against State officials to prohibit them from enforcing the fee schedule for air ambulance transportation that is contrary to federal law. *Ex parte Young*, 209 U.S. 123 (1908).
- The Court found that a decision in favor of the plaintiffs would not be destructive of State sovereign immunity because the Tenth Amendment reserves to the States only those powers not expressly granted to Congress. The U.S. Constitution has expressly conferred upon Congress the power to regulate interstate commerce, which includes the power to regulate air carriers and navigable airways.
- The “reverse preemption” provisions of the McCarran-Ferguson Act (15 U.S.C. § 1011) are not applicable because the Wyoming workers’ compensation system does not constitute the “business of insurance.”
Based on a close reading of the Wyoming Workers’ Compensation Act, the Court concluded that air ambulance companies are precluded from “balance billing” injured workers to the extent air ambulance charges exceed the amount provided by the fee schedule.

Having determined that air ambulance companies cannot balance bill injured workers, the Court determined that Wyoming’s air ambulance fee schedule was preempted under the Airline Deregulation Act of 1978 (49 U.S.C. § 41713. Preemption).

The Court enjoined the State from enforcing [the air ambulance fee schedule] and ordered the defendant state officials to “compensate air ambulance entities the full amount charged for air ambulance services.”
Effects of Summary Judgment in Wyoming

- Since 05/18/2016, the Workers’ Compensation Division has paid $2,519,392.80 for air ambulance transport
  - B002097355: 93 miles $20,840.10 St. Vincent Healthcare—B202097406: 93 miles $41,444.74 Eaglemed LLC
    \[\text{DIFFERENCE: 99}\%\]
  - B201694451: 54 miles $19,305.05 University of UT Hospital—B201770496: 54 miles $40,435.65 Rocky Mountain Holdings
    \[\text{DIFFERENCE: 109}\%\]
  - B201445152: 63 miles $16,926.70 (04/27/14) IHC Health Services—B201748189: 63 miles $54,999.00 (12/12/14) Rocky Mountain Holdings
    \[\text{DIFFERENCE: 225}\%\]
    \[\text{DIFFERENCE: 15}\%\]
  - B201663407: 153 miles $18,898.00 (DOS 09/25/14) Billings Clinic—B201486318: 153 miles $54,264.74 (DOS 04/21/14) Guardian Flight
    \[\text{DIFFERENCE: 187}\%\]
Air Ambulance litigation in other States


• Air Evac EMS, Incorporated v. Texas, Department of Insurance, Division of Workers' Compensation, 851 F.3d 507 (C.A.5 (Tex.), 2017)

• Texas Mutual Insurance Company v. Phi Air Medical, LLC., 2016 WL 8919378 (W.D. Texas 2016)


Next Steps

• Options being considered in your States

• Feasibility of joining in a petition for a writ of certiorari

• Legislative proposals being considered at the state and federal levels

• Other matters that should be considered