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National Conference of Insurance Legislators (NCOIL)

Resolution Urging the United States Congress to Take Legislative Action and Exempt Matters Properly Governed by the McCarran-Ferguson Act from the Scope of the Airline Deregulation Act of 1978 to Authorize States to Regulate Air Ambulance Billing

Adopted by the NCOIL Health Long Term Care and Health Retirement Issues Committee on July 14, 2017, and the NCOIL Executive Committee on July 15, 2017.

**Sponsored by Assemblyman Kevin Cahill, New York*

WHEREAS, a majority of states require licensed air ambulance providers to respond to emergency situations on a non-discriminatory basis; and

WHEREAS, air ambulance services are being used more frequently to transport patients to faraway hospitals; and

WHEREAS, many states are reporting that some air ambulance providers are not affiliated with a hospital and do not contract with an insurance carrier; and

WHEREAS, this creates numerous situations in which non-network air ambulances are being called to airlift individuals in both emergency and non-emergency situations and are billing some individuals for out-of-network charges; and

WHEREAS, these charges can cost patients tens of thousands of dollars in out-of-pocket expenses when companies do not accept a patient's insurance; and

WHEREAS, emergency patients rarely are in a position, or have the capacity, to choose their own air ambulance carrier; and

WHEREAS, some air ambulance carriers refuse to reveal actual costs to insurers, and some insurers are unwilling to pay billed charges for the service; and

WHEREAS, Medicare reimbursements cover only a small portion of the actual cost of an air ambulance, forcing air ambulances to charge patients more; and

WHEREAS, the air ambulance industry has high fixed costs, including aircraft, pilots, and trained medical staff, which are available 24/7/365; and

WHEREAS, increased competition forces these costs to be recouped from a smaller number of flights per provider, leading to higher prices; and

WHEREAS, the Airline Deregulation Act of 1978 declared that “States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier”; and

WHEREAS, various states have attempted to pass laws to protect consumers from out-of-network air ambulance bills, but courts have determined that these laws are preempted by the Airline Deregulation Act of 1978; and

NOW, THEREFORE, BE IT RESOLVED, that NCOIL urges the U.S. Congress to take legislative action by exempting matters properly governed by the McCarran-Ferguson Act, specifically matters central to the business of insurance that are related to health insurance network participation, reimbursement, balance billing, and/or transparency, from the scope of the Airline Deregulation Act of 1978, thereby permitting States to protect consumers by addressing out-of-network air ambulance charges; and

AND, BE IT FINALLY RESOLVED, that a copy of this Resolution be sent to the U.S. Senate Majority Leader, the U.S. Senate Minority Leader, the Speaker of the House, the House Minority Leader, the members of the U.S. Senate Committee on Commerce, Science, and Transportation, Federal and State insurance legislators and regulators, and other interested parties.