

Preliminary Report of REFERENCE COMMITTEE A

Presented by: Scott H. Pasichow, MD, MPH, FACEP – Chair

Madam Speaker and Councillors:

Reference Committee A gave careful consideration to the asynchronous testimony of the resolutions assigned to it and submits the following report and summary information for inclusion and consideration during live testimony.

RESOLUTION 15(23) Additional Vice President Position on the ACEP Board of Directors

RESOLVED, That the ACEP Bylaws Article X – Officers/Executive Director, Section 1 – Officers, Section 2 – Election of Officers, and Section 7 – Vice President, and Article XI – Committees, Section 2 – Executive Committee, be revised to read:

ARTICLE X – OFFICERS/EXECUTIVE DIRECTOR

Section 1 – Officers

The officers of the Board of Directors shall be president, president-elect, chair, immediate past president, vice presidents, and secretary-treasurer. The officers of the Council shall be the speaker and vice speaker. The Board of Directors may appoint other officers as described in these Bylaws.

Section 2 — Election of Officers

The chair, vice-presidents, and secretary-treasurer shall be elected by a majority vote at the Board meeting immediately following the annual meeting. The president-elect shall be elected each year and the speaker and vice speaker elected every other year by a majority vote of the councillors present and voting at the annual meeting.

Section 7 — Vice Presidents

There shall be two vice president positions. The vice presidents shall be ~~a~~ members of the Board of Directors. A director shall be eligible for election to ~~the~~ a position of vice president if he or she has at least one year remaining as an elected director on the Board and shall be elected at the first Board of Directors meeting following the annual meeting of the Council. ~~The~~ A vice president's term of office shall begin at the conclusion of the meeting at which the election as a vice president occurs and shall end at the conclusion of the first Board of Directors meeting following the next annual meeting of the Council or when a successor is elected.

ARTICLE XI – COMMITTEES

Section 2 — Executive Committee

The Board of Directors shall have an Executive Committee, consisting of the president, president-elect, vice presidents, secretary-treasurer, immediate past president, and chair. The speaker shall attend meetings of the Executive Committee. The Executive Committee shall have the authority to act on behalf of the Board, subject to ratification by the Board at its next meeting.

Meetings of the Executive Committee shall be held at the call of the chair or president. A report of its actions shall be given by the Executive Committee to the Board of Directors in writing within two weeks of the adjournment of the meeting.

Summary of Asynchronous Testimony

The testimony regarding this resolution was mixed. Several component bodies offered favorable testimony. Testimony in opposition was primarily from individuals. Favorable testimony referenced the increased workload of the Board of Directors in recent years and the expansion of communication avenues and expediency requirements resulting from social media. Opposition testimony cited the additional stipend as an inappropriate use of funds during an especially tight budget year and the possibility to address workload concerns by reallocating existing duties among the current board composition.

RESOLUTION 16(23) Council Quorum – Defining “Present” – Housekeeping Bylaws Amendment

RESOLVED, That the ACEP Bylaws, Article VIII – Council, Section 4 – Quorum, of the ACEP Bylaws be amended to read:

Article VIII - COUNCIL

Section 4 — Quorum

A majority of the number of councillors credentialed by the Tellers, Credentials, and Elections Committee during each session of the Council meeting shall constitute a quorum for that session. The vote of a majority of councillors voting in person or represented by proxy (if applicable) shall decide any question brought before such meeting, unless the question is one upon which a different vote is required by law, the Articles of Incorporation, or these Bylaws.

Whenever the term “present” is used in these Bylaws to determine a quorum present, with respect to councillor voting, “present” is defined as either in person or participating by approved remote communication technology.

Summary of Asynchronous Testimony

The asynchronous testimony was positive and referenced the origination of this resolution in the Bylaws Committee to ensure the efficient and appropriate operations of Council meetings. No testimony in opposition was submitted.

RESOLUTION 17(23) Establishing the Position and Succession of a Speaker-Elect for the Council

RESOLVED, That the ACEP Bylaws be amended to read:

ARTICLE VIII — COUNCIL

Section 8 — Board of Directors Action on Resolutions (paragraph 3)

The ACEP Council Speaker and ~~Vice Speaker~~ **Speaker-Elect** or their designee shall provide to the College a written summary of the Council meeting within 45 calendar days of the adjournment of the Council meeting. This summary shall include:

1. An executive summary of the Council meeting.
2. A summary and final text of each passed and referred resolution.

ARTICLE X — OFFICERS/EXECUTIVE DIRECTOR

Section 1 – Officers

101 The officers of the Board of Directors shall be president, president-elect, chair, immediate past president, vice
102 president, and secretary-treasurer. The officers of the Council shall be the speaker and ~~vice-speaker~~ speaker-elect.
103 The Board of Directors may appoint other officers as described in these Bylaws.

104 Section 2 — Election of Officers

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107 The chair, vice-president, and secretary-treasurer shall be elected by a majority vote at the Board meeting
108 immediately following the annual meeting. The president-elect shall be elected each year and the ~~speaker and vice~~
109 ~~speaker~~ speaker-elect elected every other year by a majority vote of the councillors present and voting at the annual
110 meeting.

111 Section 4.2 — President-Elect

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113 In the event of a vacancy in the office of the president-elect, the Board of Directors, speaker, and ~~vice-speaker~~
114 speaker-elect may fill the vacancy by majority vote for the remainder of the unexpired term from among the
115 members of the Board. If the vacancy in the office of president-elect is filled in such a manner, at the next annual
116 Council meeting, the Council shall, by majority vote of the credentialed councillors, either ratify the elected
117 replacement, or failing such ratification, the Council shall elect a new replacement from among the members of the
118 Board. The Council shall, in the normal course of Council elections, elect a new president-elect to succeed the just-
119 ratified or just-elected president-elect only when the latter is succeeding to the office of president at the same annual
120 meeting.

121 Section 4.4 — Council Officers

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124 In the event of a vacancy in the office of ~~vice-speaker~~ speaker-elect, the Steering Committee shall nominate
125 and elect an individual who meets the eligibility requirements of these Bylaws to serve as ~~vice-speaker~~ speaker-elect.
126 This election shall occur as the first item of business, following approval of the minutes, at the next meeting of the
127 Steering Committee, by majority vote of the entire Steering Committee. If the vacancy occurs during the first year of
128 a two-year term, the ~~vice-speaker~~ speaker-elect will serve until the next meeting of the Council when the Council
129 shall elect a ~~vice-speaker~~ speaker-elect to serve the remainder of the unexpired term.

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131 In the event of a vacancy in the office of speaker, the ~~vice-speaker~~ speaker-elect shall succeed to the office of
132 speaker for the remainder of the unexpired term, and an interim ~~vice-speaker~~ speaker-elect shall then be elected as
133 described above. Any time remaining in the unexpired term of the previous speaker will not abbreviate the term
134 that the new speaker would have originally served prior to the occurrence of the vacancy.

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136 In the event that the offices of both speaker and ~~vice-speaker~~ speaker-elect become vacant, the Steering
137 Committee shall elect a speaker, as outlined in paragraph one of Section 4.4, to serve until the election of a new
138 speaker and ~~vice-speaker~~ speaker-elect at the next meeting of the Council. This individual, having served as
139 speaker following election by the Steering Committee, shall be eligible for nomination to serve the full terms of
140 speaker or speaker-elect, provided that all other candidate eligibility criteria are met.

141 Section 4.6 — Vacancy by Removal of a Council Officer

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144 In the event of removal of ~~a Council officer, nominations for replacement shall be accepted from the floor of~~
145 ~~the Council, and election shall be by majority vote of the councillors present and voting at the Council meeting at~~
146 ~~which the removal occurs. In the event that the speaker, is removed and the vice-speaker speaker-elect is elected~~
147 shall succeed to the office of speaker. Any time remaining in the unexpired term of the previous speaker will not
148 abbreviate the term that the new speaker would have originally served prior to the removal.

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150 In the event of removal of the speaker-elect, the office of vice-speaker nominations for replacement shall
151 be accepted from the floor of the Council, and election shall be by majority vote of the councillors present and
152 voting at the Council meeting at which the removal occurs shall then be filled by majority vote at that same
153 meeting, from nominees from the floor of the Council. The new speaker-elect will succeed to the office of speaker
154 at the end of the unexpired term.

Section 11 — Speaker

The term of office of the speaker of the Council shall be two years. The speaker shall attend meetings of the Board of Directors and may address any matter under discussion. The speaker shall preside at all meetings of the Council, except that the ~~vice-speaker~~ speaker-elect may preside at the discretion of the speaker. The speaker shall prepare, or cause to be prepared, the agendas for the Council. The speaker may appoint committees of the Council and shall inform the councillors of the activities of the College. The speaker's term of office shall begin immediately following the conclusion of the annual meeting at which the election of a new speaker-elect has occurred and shall conclude at such time as a successor takes office. The speaker shall not have the right to vote in the Council except in the event of a tie vote of the councillors. During the term of office, the speaker is ineligible to accept nomination to the Board of Directors of the College. No speaker may serve consecutive terms except in fulfillment of a partial unexpired term.

Section 12 — ~~Vice-Speaker~~ Speaker-Elect

The term of office of the ~~vice-speaker~~ speaker-elect of the Council shall be two years. The ~~vice-speaker~~ speaker-elect shall attend meetings of the Board of Directors and may address any matter under discussion. The ~~vice-speaker~~ speaker-elect shall assume the duties and responsibilities of the speaker if the speaker so requests or if the speaker is unable to perform such duties. The term of the office of the ~~vice-speaker~~ speaker-elect shall begin immediately following the conclusion of the annual meeting at which the election occurred and shall conclude at such time as a successor takes office. During the term of office, the ~~vice-speaker~~ speaker-elect is ineligible to accept nomination to the Board of Directors of the College. No ~~vice-speaker~~ speaker-elect may serve consecutive terms.

Summary of Asynchronous Testimony

Testimony was evenly mixed between those in opposition and those in support. Testimony in opposition centered on the issues of extending the position of speaker to the elected position with the longest tenure within the College without allowing for evaluation of performance through election, the loss of an elected position due to the automatic progression, and the increased difficulty of removing an officer (three-quarter majority vote) as opposed to simply not electing an officer (simple majority vote). Supportive testimony referenced the benefits of continuity between vice speaker and speaker, having another Council officer available to facilitate the candidate interview and election process, the recognition of the historical progression of candidates from the role of vice speaker to speaker, and the existing democratic process for removal of officers, including the speaker.

RESOLUTION 18(23) Referred Resolutions

RESOLVED, That ACEP create two separate “Refer to Board” options: “Refer to Board for Decision” and “Refer to Board for Report” then return the resolution back to the Council for final decision.

Summary of Asynchronous Testimony

The testimony offered compelling arguments as to both positions and was narrowly divided. Testimony in support of the resolution referred to a desire for another referral option that requested specific information from the Board while retaining the Council's decision-making authority. Opposition testimony referenced the additional opportunity for confusion and complexity in the deliberations of the Council. It was also pointed out that any resolution being referred to the Board could be amended by the Council to specify the type of referral desired: Refer to the Board for a decision; or Refer to the Board for report back to the Council.

RESOLUTION 19(23) Scientific Assembly Vendor Transparency

RESOLVED, For transparency as part of the vendor contract, vendors recruiting emergency physicians for employment be required to bring sample contracts for physicians to review during Scientific Assembly exhibits and the sample contracts must include stipulations relating to non-compete clauses, due process, and policies on transparency in billing/collections.

Summary of Asynchronous Testimony

Testimony was supportive of the goal of transparency, but generally in opposition to the resolution. Reasons for objection included the risk of violation of antitrust laws and concerns about the likelihood of obtaining meaningful information from the requested sample contracts. Individuals offered testimony appreciating the intent of the resolution but did not believe that the resolution was the most effective way to obtain the desired information.

RESOLUTION 20(23) Emergency Medicine Research Mentorship Network

RESOLVED, That ACEP establish a formal emergency medicine research mentorship program that promptly identifies and creates collaborative ACEP-staffed networks based on academic topics including, but not limited to, patient-centered social issues, racial and gender-identity concerns, rural and non-academic research mentorship networks; and be it further

RESOLVED, That ACEP's emergency medicine research mentorship program not be limited to either virtually only or in-person only; and be it further

RESOLVED, That ACEP develop multiple emergency medicine research mentorship models with support by ACEP staff with an ACEP.org-based and aligned online structure; and be it further

RESOLVED, That ACEP's emergency medicine research mentorship resources include, but are not limited to, constructive surveys and ACEP-staff curated anonymized feedback with an ongoing mentor development track replete with recognition of contributions and standardized mentorship training opportunities.

Summary of Asynchronous Testimony

Testimony supported mentorship but was in large part opposed to the resolution based on the significant fiscal impact.

RESOLUTION 21(23) Mitigation of Competition for Procedures Between Emergency Medicine Resident Physicians and Other Learners

RESOLVED, That ACEP support emergency medicine resident physicians' right of first refusal over non-physicians, such as physician assistants and nurse practitioners, in performing ACGME-required procedures that are deemed medically necessary in emergency departments.

Summary of Asynchronous Testimony

All asynchronous testimony submitted supported the proposed resolution and its goal of maintaining emergency medicine physician quality and preference of resident training over non-physician providers.

RESOLUTION 22(23) Supporting 3-Year and 4-Year Emergency Medicine Residency Program Accreditation

RESOLVED, That ACEP recognizes the value of choice in emergency medicine residency training formats and supports the continued accreditation of both three-year and four-year emergency medicine residency programs.

Summary of Asynchronous Testimony

The testimony was primarily in favor of the resolution. Proponents noted that there is an absence of evidence supporting better outcomes as a result of one training format over another, thus supported the validity of both three and four-year emergency medicine residency programs. An individual opposed noted that this lack of evidence should preclude us from taking any stance on the issue.

RESOLUTION 23(23) Opposing Sale-Leaseback Transactions by Health Systems

RESOLVED, That ACEP advocate for regulatory agencies and other entities, as appropriate, to closely monitor, discourage, and oppose sale-leaseback transactions involving health systems, ensuring transparency, accountability, and consideration of the long-term impact on patient care and health care infrastructure.

Summary of Asynchronous Testimony

Testimony was primarily in opposition to the resolution. Opposition testimony referenced the breadth of the issues related to the transactions described in the resolution as being outside of ACEP's direct reach. Testimony in support noted the negative impact of the corporatization of medicine and the desire for increased transparency and accountability.

RESOLUTION 24(23) Addressing the Growing Epidemic of Pediatric Cannabis Exposure

RESOLVED That ACEP advocate for changes in product packaging so as not to resemble non-cannabis containing products, i.e., candy commonly marketed towards children; and be it further

RESOLVED, That ACEP appeal to regulatory bodies and public health agencies for labeling regulations to reduce the likelihood of accidental ingestion by young children and clearly communicate dosing information as well as the potential risks to children associated with cannabis products.

Summary of Asynchronous Testimony

Testimony was supportive of the resolution and referenced the importance of protecting children and others from accidental ingestion of cannabis. More than one individual offered testimony suggesting that ACEP work with other institutions or agencies to achieve the goals set forth in this resolution. One individual expressed concern regarding the unknown fiscal impact of supporting this effort and proposed starting with a policy statement that chapters could use in their advocacy efforts.

RESOLUTION 25(23) Compassionate Access to Medical Cannabis Act – “Ryan’s Law”

RESOLVED, That ACEP support allowing patients access to medical cannabis; and be it further

RESOLVED, That ACEP endorse and support the passage of Ryan’s Law across the entire United States; and be it further

RESOLVED, That ACEP endorse, support, and assist ACEP chapters in the passage of Ryan’s Law legislation in their states.

Summary of Asynchronous Testimony

Limited but mixed testimony was offered, though most was in opposition to the resolution. The testimony in opposition was varied with reasons including references to a reported lack of data supporting the marijuana use for medical purposes and that the issue is one for the entire house of medicine and therefore better addressed by other entities. Supportive testimony centered around the evidence of benefits that marijuana is reported to have. An amendment was also offered to change the scope of the resolution to one about re-scheduling marijuana.

RESOLUTION 26(23) Decriminalization of All Illicit Drugs

RESOLVED, That ACEP endorse and support the decriminalization of the personal possession and use of small amounts of all illicit drugs in the United States; and be it further

RESOLVED, That ACEP endorse and support ACEP chapters to develop and introduce state legislation that decriminalizes the personal possession and use of small amounts of all illicit drugs.

Summary of Asynchronous Testimony

Testimony was entirely in opposition for varying reasons including a lack of evidence to support the benefit of illicit drugs and the rise in opioid and illicit drug use.

Madam Speaker, this concludes the preliminary report of Reference Committee A. I would like to thank William D. Falco, MD, FACEP; Gregory Gafni-Pappas, DO, FACEP; Catherine A. Marco, MD, FACEP; Laura Oh, MD, FACEP; Stephen C. Viel, MD, FACEP; Maude Surprenant Hancock, CAE; and Laura Lang, JD, for their excellent work in developing this preliminary report.