American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

2023 Council Meeting

Preliminary Report of REFERENCE COMMITTEE B

Presented by: Diana Nordlund, DO, JD, FACEP – Chair

Madam Speaker and Councillors:

Reference Committee B 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 27(23) Addressing Interhospital Transfer Challenges for Rural EDs

RESOLVED, That ACEP work with state and federal agencies to create state and regional transfer coordination centers to facilitate transfer of patients when normal transfer mechanisms are impaired by hospital and ED capacity problems and to report their activities publicly; and be it further

RESOLVED, That ACEP advocate for state and federal requirements that tertiary centers have a regional process for rapidly accepting patients from rural hospitals when the patient needs an emergency intervention not available at the referring hospital, even when capacity is limited at the tertiary center; and be it further

RESOLVED, That ACEP advocate for regional dashboards with updated information on hospital specialty service availability including procedural interventions and other treatment modalities (e.g., ERCP, ECMO, dialysis, STEMI, interventional stroke, interventional PE, neurosurgery, acute oncologic disease) and in this region is defined as patient catchment areas rather than jurisdictional boundaries; and be it further

RESOLVED, That ACEP support research to strengthen the evidence base regarding rural hospital transfer processes including delays, administrative burden on sending hospitals, and clinical association with patient outcomes and experience and include investigation of common challenges experienced by all small, non-networked hospitals; and be it further

RESOLVED, That ACEP create a task force to examine current models and existing research yielding detailed recommendations for ACEP advocacy efforts regarding interhospital transfer challenges for rural EDs and the task force should:

- Examine existing and theoretical transfer models to identify best practices, including coordination of transfers across state borders.
- Enumerate and endorse effective mechanisms to facilitate tertiary care hospitals' acceptance of patients in transfer with time-sensitive conditions who are initially treated at EDs without needed services.
- Identify key capacity measures for public reporting of hospital capacity limitations, and propose mechanisms to create and sustain appropriate state/regional dashboards.

Summary of Asynchronous Testimony

Asynchronous testimony was almost unanimously in support, though some noted qualifications. One suggested that the resolution could be separated into multiple resolutions and there is a need for a clearer policy statement, noting the complexity of the underlying problem. Another noted concerns about the language "…even when capacity is limited at the tertiary center…" in the second resolved, as capacity in most tertiary centers is already typically very limited. One commenter suggested amended language in the first resolved, as ACEP cannot "create" these centers but could "advocate for" them, and your reference committee suggests this change.

RESOLVED, That ACEP work with state and federal agencies to ~~create~~ **advocate for** state and regional transfer coordination centers to facilitate transfer of patients when normal transfer mechanisms are impaired by hospital and ED capacity problems and to report their activities publicly; and be it further

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RESOLUTION 28(23) Facilitating EMTALA Interhospital Transfers

RESOLVED, That ACEP work with the American Hospital Association and appropriate agencies to compel hospitals to make available to other hospitals transfer coordinator information, including contact numbers for accepting transfers, for each Medicare participating hospital bound by EMTALA; and be it further

RESOLVED, That ACEP support state efforts to encourage state agencies to create and maintain a central list of transfer coordinator numbers for hospitals, including contact numbers for accepting transfers, for each Medicare participating hospital bound by EMTALA.

Summary of Asynchronous Testimony

Asynchronous testimony was unanimously in support of the resolution. Some comments suggested that the language in the second resolved could be strengthened to match the tone of the first resolved, such as changing "encourage" to "compel." Another noted that the creation of a dashboard of hospital subspecialty/service/bed availability, in addition to contact information, would be more effective.

RESOLUTION 29(23) Addressing Pediatric Mental Health Boarding in Emergency Departments

RESOLVED, That ACEP advocate for federal support to decrease ED boarding of pediatric mental health patients; and be it further

RESOLVED, That ACEP advocate for tiered reimbursement for pediatric mental health admissions and a standard payment for boarding of children for whom there is no other medical necessity for hospital care.

Summary of Asynchronous Testimony

Asynchronous testimony was unanimously in support. Several commenters noted concerns about the language of "tiered reimbursement" in the second resolved based on a lack of clarity around what this means, and urged that this proposed mechanism be well-defined to ensure appropriate reimbursement for emergency physicians. One suggested specific language to ensure "increased and adequate funding" which is reflected in this preliminary report.

RESOLVED, That ACEP advocate for federal support to decrease ED boarding of pediatric mental health patients; and be it further

RESOLVED, That ACEP advocate for **increased, adequate** ~~tiered~~ reimbursement for pediatric mental health admissions and a standard payment for boarding of children for whom there is no other medical necessity for hospital care.

RESOLUTION 30(23) Advocating for Increased Funding for EMS

RESOLVED, That ACEP advocate for a premium rate for EMS reimbursement in rural areas; and be it further

RESOLVED, That ACEP advocate for EMS reimbursement rates for services and mileage to increase in line with Medicare rates based on changes to the CPI, ensuring that EMS agencies can keep pace with the increased cost of providing these vital services to our communities; and be it further

RESOLVED, That ACEP advocate for reimbursement of EMS based on the value of the care provided; and be it further

RESOLVED, That ACEP actively advocate for reimbursement models for EMS that allow for "treatment-in-place" health care delivery.

Summary of Asynchronous Testimony

Asynchronous testimony was mixed, with most either opposed to the resolution or supportive of the spirit of the resolution, but suggesting the resolution is outside the scope of the College's advocacy and that other organizations such as the National Association of EMS Physicians are more suited to lead such an effort. Several suggested that the resolution be rewritten, pared down, or split into separate resolutions as each resolved is its own unique problem.

RESOLUTION 31(23) Combating Mental Health Stigma in Insurance Policies

RESOLVED, That ACEP advocate and commit resources for the elimination of discrimination against individuals with treated mental health conditions in insurance policies; and be it further

RESOLVED, That ACEP work with other organizations to promote equitable access to insurance for all emergency physicians, regardless of their mental health status.

Summary of Asynchronous Testimony

The vast majority of asynchronous testimony was supportive of the resolution, though some noted concerns that the resolution is too general and needs additional clarification. Several suggested clarifying language to specify what type of insurance policies the resolution seeks to address, as well as clarifying what "equitable access" means. The suggested amended language reflects the Reference Committee's efforts to achieve the intent of the resolution to prevent discrimination against emergency physicians receiving treatment for mental health conditions and to ensure equitable access to disability insurance for all emergency physicians.

RESOLVED, That ACEP advocate and commit resources for the elimination of discrimination against ~~individuals~~ **emergency physicians** with treated mental health conditions in **disability** insurance policies; and be it further

RESOLVED, That ACEP work with other organizations to promote equitable access to **disability** insurance for all emergency physicians~~, regardless of their mental health status~~.

RESOLUTION 32(23) Health Care Insurers Waive Network Considerations During Declarations of Emergency

RESOLVED, That ACEP lobby at the federal level and provide assistance to chapters for state lobbying efforts, for the enactment of legislation and/or regulations requiring health insurers to waive "network" rules and considerations for their insured patients during times at which a Declaration of Emergency has been declared and placed in force by a state governor or by the President of the United States, whether that state of emergency is the result of a natural disaster, an act of war, a pandemic, or other causative forces; and be it further

RESOLVED, That ACEP submit a resolution to the American Medical Association for consideration by its House of Delegates at its upcoming Interim Meeting, asking the AMA to join ACEP in the seeking of legislative or regulatory change designed to compel health insurers to waive "network" considerations during times at which a Declaration of Emergency has been declared and placed in force by a state governor or by the President of the United States, whether that state of emergency is the result of a natural disaster, an act of war, a pandemic, or other causative forces.

Summary of Asynchronous Testimony

The vast majority of asynchronous testimony was in support of the resolution. One comment noted support for the goals of the resolution, but suggested that there needs to be a mechanism to incentivize out-of-network hospitals to accept transfers and associated issues with appropriate compensation. Another suggested that the resolution be amended to have the AMA "also" work toward the goal of the second resolved, as opposed to "join ACEP" in seeking legislative or regulatory changes.

RESOLUTION 33(23) Ban on Weapons Intended for Military or Law Enforcement Use

RESOLVED, That ACEP support a ban on the sale, transfer, importation, and possession of weapons intended for military or law enforcement use, including semi-automatic rifles and handguns, that are designed to rapidly fire multiple rounds; and be it further

RESOLVED, That ACEP encourage policymakers at the local, state, and federal levels to enact comprehensive legislation that addresses the ban on weapons intended for military or law enforcement use while respecting the rights of responsible gun owners; and be it further

RESOLVED, That ACEP advocate for evidence-based measures, including the ban on weapons intended for military or law enforcement use, to prevent and reduce gun-related injuries and fatalities through public education, research, and collaboration with relevant stakeholders; and be it further

RESOLVED, That ACEP urge members to engage in discussions with their patients, communities, and lawmakers to promote policies and initiatives aimed at reducing the availability and potential harm caused by weapons intended for military or law enforcement use, while recognizing the importance of mental health services and violence prevention programs in comprehensive strategies for reducing gun violence.

Summary of Asynchronous Testimony

Asynchronous testimony was mixed and vigorous. Those in support of the resolution noted the College's role in preventing firearm injuries and that the resolution does not seek to ban all firearms, but only particular types of firearms. Those opposed to the resolution expressed concerns that the resolution is vague and overbroad, even if well-intended, and that terms such as "military grade" or "law enforcement use" are not commonly agreed-upon definitions and do not necessarily accurately describe capabilities of firearms. Some further noted concerns that the resolution is a divisive topic and could alienate significant portions of the College's membership.

RESOLUTION 34(23) White Paper on Weapons Intended for Military or Law Enforcement Use

RESOLVED, That ACEP develop a white paper on the examination of weapons intended for military or law enforcement use to inform evidence-based policies, interventions, and public health strategies to address the risks and consequences associated with these firearms and seek collaboration among experts in emergency medicine, public health, and other stakeholders as appropriate to ensure a multidisciplinary approach in the development of the white paper; and be it further

RESOLVED, That the ACEP white paper on the examination of weapons intended for military or law enforcement use include, but not be limited to, the following components:

1. A comprehensive review of existing literature, studies, and research on the medical and public health impact of weapons intended for military or law enforcement use, including injury patterns, morbidity, mortality, and the unique challenges they present to emergency medical response and care.
2. Examination of the specific characteristics and features of weapons intended for military or law enforcement use that contribute to increased lethality and potential for mass casualties.
3. Assessment of the societal impact and psychological consequences associated with the use of weapons intended for military or law enforcement use in mass shootings and other acts of violence.

4. Evaluation of existing policies, legislative measures, and firearm regulations pertaining to weapons intended for military or law enforcement use at the federal and state levels and analysis of their effectiveness in preventing and mitigating firearm-related injuries and fatalities.
5. Consideration of potential interventions, strategies, and evidence-based approaches to reduce the risks and impact of weapons intended for military or law enforcement use on public health and safety, including but not limited to, firearm safety education, mental health services, and law enforcement initiatives; and be it further

RESOLVED, That ACEP seek funding, partnerships, and collaboration with relevant stakeholders, organizations, and governmental bodies to support the development of the white paper on the examination of weapons intended for military or law enforcement use; and be it further

RESOLVED, That upon completion of a white paper on the examination of weapons intended for military or law enforcement use, ACEP will disseminate it to members, policymakers, public health officials, medical organizations, and other interested parties to promote awareness, education, and evidence-based decision-making on the topic of weapons intended for military or law enforcement use; and be it further

RESOLVED, That ACEP actively engage in advocacy efforts to promote evidence-based policies aimed at reducing the risks and impact of weapons intended for military or law enforcement use on public health and safety.

Summary of Asynchronous Testimony

Asynchronous testimony was mixed. Some in opposition noted similar concerns to those expressed in asynchronous testimony for Resolution 33(23), with one adding that the resolution would be redundant as this effort has already been fulfilled by the College, and some suggesting this work could stress limited College resources especially when compared to other priorities. Those in support of the resolution noted that this effort would allow for a comprehensive and inclusive review of evidence. Another in support of the spirit of the resolution suggested that since this affects more than just emergency medicine, it would be more appropriate for the AMA to carry out this effort as opposed to the College.

RESOLUTION 35(23) Declaring Firearm Violence a Public Health Crisis

RESOLVED, That ACEP declare firearm violence to be a public health crisis in the United States.

Summary of Asynchronous Testimony

Asynchronous testimony was largely in support of the resolution. Several comments questioned how this resolution would be different than existing College policy and how it would change any work already being done by the College. Many in support noted that other physician groups have already made public statements declaring firearm violence a public health crisis. Many of the comments expressed concerns with the estimated potential fiscal impact of up to $100,000 and asked for reconsideration of this estimate, though the Reference Committee notes that the fiscal impact estimate qualifies this potential cost depending on the scope of the campaign.

RESOLUTION 36(23) Mandatory Waiting Period for Firearm Purchases

RESOLVED, That ACEP advocate for a mandatory federal waiting period prior to firearm purchases; and be it further

RESOLVED, That ACEP assist state chapters in promoting legislation on mandatory waiting periods at the state level; and be it further

RESOLVED, That ACEP add language to its "Firearm Safety and Injury Prevention" policy statement supporting mandatory waiting periods prior to firearm purchases.

Summary of Asynchronous Testimony

Asynchronous testimony was mixed, but leaned in support of the resolution with strong testimony both in support and opposition. Those in support of the resolution noted a growing body of evidence-based research supporting mandatory waiting periods for firearms purchases to reduce morbidity and mortality of firearm violence. One of the authors of the resolution also noted that the resolution was vetted by the College's Tactical and Law Enforcement Medicine Section. Those opposed to the resolution expressed concerns that even if well-intentioned, mandatory waiting periods could harm law-abiding citizens while benefiting those who illegally obtain a firearm and that the resolution is divisive and the College should focus efforts on safety, training, and research. Another asked whether or not there is clear evidence that waiting periods help reduce morbidity and mortality.

RESOLUTION 37(23) Support for Child-Protective Safety Firearm Safety and Storage Systems

RESOLVED, That ACEP support efforts to improve firearm safety in the United States, including smart gun technology, while respecting responsible firearm ownership; and be it further

RESOLVED, That ACEP promote child-protective firearm safety and storage systems.

Summary of Asynchronous Testimony

The vast majority of asynchronous testimony was in support of the resolution and endorse that efforts to promote harm reduction – especially for children – are well within the College's purview. One comment expressed concerns that "smart gun" technology is interesting, but unreliable and not ready for widespread use. One comment suggested revising the first resolved to support further research into smart gun technology rather than general support of the technology writ large. Another suggested amended language in the first resolved to generalize smart gun technology, which is reflected in the proposed amended language as shown for the first resolved. One author of the resolution noted that this resolution was vetted by the College's Tactical and Law Enforcement Medicine Section.

RESOLVED, That ACEP support efforts to improve firearm safety in the United States, including **personalized firearms with authorized-use technology, such as** smart gun technology, while respecting responsible firearm ownership; and be it further

RESOLVED, That ACEP promote child-protective firearm safety and storage systems.

RESOLUTION 38(23) Advocating for Sufficient Reimbursement for Emergency Physicians in Critical Access Hospitals and Rural Emergency Hospitals

RESOLVED, That ACEP advocate for sufficient reimbursement for emergency physician services in critical access hospitals and rural emergency hospitals to ensure the availability of board certified emergency physicians who possess the necessary skills and expertise to provide high-quality care in these underserved areas, thereby recognizing the critical role of board certified emergency physicians in delivering high-quality emergency care, promoting patient safety, and supporting the sustainability of health care services in rural communities.

Summary of Asynchronous Testimony

Asynchronous testimony was unanimously in support of the resolution.

RESOLUTION 39(23) Medicaid Reimbursement for Emergency Services

RESOLVED, That ACEP advocate at the federal level and support chapters in advocating at the state level for Medicaid programs to reimburse emergency physicians at rates equivalent to or above Medicare rates; and be it further

RESOLVED, That ACEP submit a resolution to the American Medical Association to advocate for reimbursing emergency physicians at rates equivalent to or above Medicare rates.

Summary of Asynchronous Testimony

Asynchronous testimony was unanimously in support of the resolution generally, though several noted concerns with the second resolved. Some noted concerns that as originally written, the second resolved could be interpreted to suggest that Medicare rates could be the ceiling for payers who would otherwise be willing to contract at above Medicare rates, and suggested amended language to clarify that the College would advocate for Medicaid programs to reimburse at rates equivalent to or above Medicare rates.

RESOLVED, That ACEP advocate at the federal level and support chapters in advocating at the state level for Medicaid programs to reimburse emergency physicians at rates equivalent to or above Medicare rates; and be it further

RESOLVED, That ACEP submit a resolution to the American Medical Association to advocate for **Medicaid programs** reimbursing emergency physicians at rates equivalent to or above Medicare rates.

RESOLUTION 40(23) Support for Reimbursement of Geriatric ED Care Processes

RESOLVED, That ACEP advocate for and support the development of policies that will allow for appropriate reimbursement for high value geriatric emergency department care processes that have been shown to improve both health system focused and patient centered outcomes.

Summary of Asynchronous Testimony

Asynchronous testimony was unanimously in support of the resolution.

RESOLUTION 41(23) Use of Medical Coders in Payment Arbitration

RESOLVED, That ACEP advocate for Centers for Medicare and Medicaid Services (CMS) to require that Independent Dispute Resolution Entities use experienced medical billing coders to determine the appropriate billing code in arbitration cases under the No Surprises Act involving disagreements between the code submitted by the physician and the code allowed by the patient's health plan.

Summary of Asynchronous Testimony

Asynchronous testimony was limited, with the author of the resolution recommending that the Council oppose the resolution as it is no longer necessary after further study and consideration of the federal No Surprises Act. The only other comment on the resolution supported in concept, but suggested clarifying language to note the difference between facility and coding expertise.

RESOLUTION 42(23) On-site Physician Staffing in Emergency Departments

RESOLVED, That ACEP work with state chapters to encourage and support legislation promoting the minimum requirement of on-site and on-duty physicians in all emergency departments; and be it further

RESOLVED, That ACEP continue to promote that the gold standard for those physicians working in an emergency department is a board-certified/board-eligible emergency physician.

Summary of Asynchronous Testimony

Asynchronous testimony was unanimously in support of the resolution. One comment in support expressed concerns that some rural emergency departments could shut down because it is not financially sustainable to staff with a physician.

Madam Speaker, this concludes the preliminary report of Reference Committee B. I would like to thank Lisa M. Bundy, MD, FACEP; Puneet Gupta, MD, FACEP; Joshua S. da Silva, DO, FACEP; Torree M. McGowan, MD, FACEP; Michael Ruzek, DO, FACEP; Erin Grossmann; and Ryan McBride, MPP, for their excellent work in developing this preliminary report.