American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Memorandum

To: 2023 Council

From: Susan E. Sedory, MA, CAE
Executive Director and Council Secretary

Date: October 3, 2023

Subj: Action on 2021 Resolutions

The 2021 Council considered 82 resolutions: 57 were adopted, 15 were not adopted, 10 were referred to the Board of Directors, and one was referred to the Council Steering Committee.

Note: The first two resolveds of Resolution 35 were adopted and the last three resolveds were referred to the Board of Directors. The first resolved of Resolution 47 was adopted and the third resolved was referred to the Board. The first resolved of Resolution 49 was adopted and the second resolved was referred to the Board.

The attached report summarizes the actions taken on the 2021 resolutions adopted by the Council and those that were referred to the Board and the Council Steering Committee. The updated actions are also available on the ACEP website (scroll to the end of the document to see amended or substituted language and to see the implementation action).

HEADQUARTERS
Post Office Box 619911
Dallas, Texas 75261-9911

4950 W Royal Ln
Irving, TX 75063-2524

972-550-0911
800-798-1822
www.acep.org

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Action on 2021 Council Resolutions

Resolution 1 Commendation for Vidor E. Friedman, MD, FACEP

RESOLVED, That the American College of Emergency Physicians commends Vidor E. Friedman, MD, FACEP, for his outstanding service, leadership, commitment to the College and the specialty of emergency medicine, and to the patients we serve.

Action: A framed resolution was sent to Dr. Friedman.

Resolution 2 Commendation for William P. Jaquis, MD, MSHQS, FACEP

RESOLVED, That the American College of Emergency Physicians commends William P. Jaquis, MD, MSHQS, FACEP, for his outstanding service, leadership, commitment to the College and the specialty of emergency medicine, and to the patients we serve.

Action: A framed resolution was presented to Dr. Jaquis.

Resolution 3 Commendation for Gary R. Katz, MD, MBA, FACEP

RESOLVED, That the American College of Emergency Physicians commends Gary R. Katz, MD, MBA, FACEP, for his service as Council Speaker and Council Vice Speaker, and for his enthusiasm and commitment to the specialty of emergency medicine and to the patients we serve.

Action: A framed resolution was presented to Dr. Katz.

Resolution 4 Commendation for Margaret M. Montgomery, RN, MSN

RESOLVED, That the American College of Emergency Physicians commends Margaret Montgomery, RN, MSN, for her outstanding service and commitment to the College and the specialty of emergency medicine.

Action: A framed resolution was sent to Ms. Montgomery.

Resolution 5 In Memory of Catherine Agustiady-Becker, DO

RESOLVED, That the American College of Emergency Physicians remembers with gratitude and honors the many contributions made by Catherine Agustiady-Becker, DO, as one of the rising stars in emergency medicine; and be it further

RESOLVED; That the American College of Emergency Physicians extends to her husband, Jacob, her sons Wyatt, Theodore, and Quentin, her extended family, colleagues, and friends our condolences and gratitude for her tremendous service to the specialty of emergency medicine and to the countless patients and physicians across the country whom she served selflessly.

Action: A framed resolution was sent to Dr. Agustiady-Becker's family.

Resolution 6 In Memory of Heide J. Lako-Adamson, MD

RESOLVED, That the American College of Emergency Physicians remembers with honor and gratitude the accomplishments and contributions of a gifted emergency physician, Heidi J. Lako-Adamson, MD, and extends condolences and gratitude to her husband, Mark, for her service to the specialty of emergency medicine and to patient care.

Action: A framed resolution was sent to Dr. Lako-Adamson's family.

Resolution 7 In Memory of Joseph Litner, MD, PhD, FACEP

RESOLVED, That the American College of Emergency Physicians recognizes the scope, breadth, and lasting impact of the magnanimous life of Joseph Litner, MD, PhD, FACEP, on the states of Washington, Mississippi, Louisiana, and the Government Services Chapter of ACEP; therefore be it

RESOLVED That the American College of Emergency Physicians and the Government Services Chapter acknowledge the huge loss and bereavement of his many colleagues and friends, but above all, extend condolences to his beloved wife of more than 40 years, Maria Hugi, MD, FACEP, and their precious children, David and Jonathan.

Action: A framed resolution was sent to Dr. Litner's family.

Resolution 8 In Memory of Paul S. Auerbach, MD, MS, FACEP

RESOLVED, That the American College of Emergency Physicians and the California Chapter extend to the family of Paul S. Auerbach, MD, MS, FACEP, gratitude for his tremendous service to emergency medicine.

Action: A framed resolution was sent to Dr. Auerbach's family.

Resolution 9 In Memory of Samuel C. Slimmer, Jr., MD, FACEP

RESOLVED, That the American College of Emergency Physicians cherishes the memory and legacy of Samuel C. Slimmer, Jr., MD, FACEP, who was a pioneer in the specialty and dedicated himself to his patients, to his profession, and to his family; and be it further

RESOLVED, That the American College of Emergency Physicians and the Pennsylvania College of Emergency Physicians extend to his son Samuel J., daughter-in-law Kelly, daughter Lara, and granddaughters Ellianna and Eily gratitude for his tremendous service as one of the first emergency physicians, as well as for his dedication and commitment to the specialty of emergency medicine.

Action: A framed resolution was sent to Dr. Slimmer's family.

Resolution 10 Board of Directors Action on Council Resolutions – Bylaws Amendment (as amended)

RESOLVED, That the ACEP Bylaws Article VIII – Council, Section 8 – Board of Directors Action on Resolutions, be amended to read:

The Board of Directors shall act on all resolutions adopted by the Council, unless otherwise specified in these Bylaws, no later than the second Board meeting following the annual meeting and shall address all other matters referred to the Board within such time and manner as the Council may determine.

The Board of Directors shall take one of the following actions regarding a non-Bylaws resolution adopted by the Council:

1. Implement the resolution as adopted by the Council.
2. Overrule the resolution by a three-fourths vote. The vote and position of each Board member shall be reported at the next meetings of the Steering Committee and the Council.
3. Amend the resolution in a way that does not change the basic intent of the Council. At its next meeting, the Steering Committee must either accept or reject the amendment. If accepted, the amended resolution shall be implemented without further action by the Council. If the Steering Committee rejects the amendment, the Board at its next meeting shall implement the resolution as adopted by the Council, propose a mutually acceptable amendment, or overrule the resolution.

The ACEP Council Speaker and Vice Speaker or their designee shall provide to the College a written summary of the Council meeting within ~~14~~ 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.**

Thereafter, the Board of Directors shall provide to the College written and comprehensive communication regarding the actions taken and status of each adopted and referred resolution. A summary of the Board of Directors' intent, discussion, and decision for each referred resolution shall be included. These communications shall be provided at ~~30 calendar day~~ quarterly intervals until these communications demonstrate that no further Board action is required according to the Bylaws listed previously in this section.

Bylaws amendment resolutions are governed by Article XIII of these Bylaws.

Action: The Bylaws were updated.

Resolution 12 Permitting Bylaws Amendments on the Unanimous Consent Agenda – Council Standing Rules Amendment

RESOLVED, That the ACEP Council Standing Rules "Unanimous Consent Agenda" section, paragraph two, be amended to read as follows with the proviso that the change will become effective after the 2021 Council meeting:

"All resolutions assigned to a Reference Committee~~, except for Bylaws resolutions,~~ shall be placed on a Unanimous Consent Agenda."

Action: The Council Standing Rules were updated.

Resolution 14 Establishing a Young Physician Position on the ACEP Nominating Committee

RESOLVED, That the Council Steering Committee submit a Bylaws amendment to the Council in 2022 to support the establishment of a young physician position on the Nominating Committee.

Action: The Steering Committee discussed this resolution at their January 24, 2022, meeting and it was assigned to the Bylaws & Council Standing Rules Subcommittee to develop a resolution. The draft resolution was discussed at the May 1, 2022, Steering Committee meeting and it was approved for submission to the 2022 Council. The 2022 Council adopted the Bylaws amendment to add a young physician to the Nominating Committee.

Resolution 18 Change to ACEP Conflict of Interest Statement (as amended)

RESOLVED, That the ACEP Conflict of Interest form include all immediate family members or intimate partners as well as non-adopted children of a current spouse; and be it further

RESOLVED, That the ACEP Conflict of Interest forms be provided to all members and relevant staff and be included in the introductory materials for the project, committee, or task force; and be it further

RESOLVED, That a question be added to the College's Conflict of Interest form to indicate if the person completing the form is related to a non-physician provider; and be it further

RESOLVED, That every candidate for the College President, Board of Directors, or Council Officer positions, including those running from the floor, complete the ACEP Conflict of Interest (COI) form and copies of those COI statements be included in election materials and available to all councillors.

Action: Assigned an objective to the Ethics Committee, working with ACEP's General Counsel, to review and update, as appropriate, the "Conflict of Interest" (COI) policy statement. The Board of Directors approved the revised "Conflict of Interest" policy statement in April 2023.

ACEP's General Counsel updated the COI disclosure form as directed by the resolution. ACEP's Executive Director, Chief Operating Officer, and Senior Vice President staff members are required to complete COI statements. The Committee Manual was updated and staff liaisons instructed on how to facilitate these changes, including information about distributing the COI disclosure statements. All candidates are required to complete the updated COI disclosure form instead of the "Candidate Disclosure Form" that was used in the past. The updated disclosure form was distributed to all members and staff that are required to complete the disclosure form.

Resolution 19 Clear and Complete Conflict of Interest Disclosure at the Council Meeting (as substituted)

RESOLVED, That the Council Steering Committee develop a Conflict of Interest form to be utilized by councillors, alternate councillors, or any person providing testimony at the Council meeting and develop means for councillors to access such forms during or prior to the Council meeting.

Action: Assigned to ACEP's General Counsel to review and update the "Conflict of Interest" (COI) disclosure form, as directed in Amended Resolution 18(21). Assigned to Governance Operations staff to work with component bodies to collect conflict of interest disclosure forms from councillors and alternate councillors and others providing testimony during the Council meeting. Assigned to Technology Services staff to develop a means for councillors to access conflict of interest forms during or prior to the Council meeting.

The updated disclosure form was distributed electronically to the Council on September 9, 2022. The completed conflict of interest disclosure forms were available as a single PDF document on the ACEP website and a direct link to the forms was provided prior to the Council meeting. Annual completion of COI disclosures for the Council is now an ongoing process. The Council area of the ACEP website includes access to the completed COIs and the ability to search for an individual COI disclosure statement.

Resolution 21 Diversity, Equity, and Inclusion

RESOLVED, That ACEP convene a summit meeting inviting the societies of emergency medicine to align efforts to address diversity, equity, and inclusion within the next year; and be it further

RESOLVED, That ACEP embed diversity, equity, and inclusion into its strategic plan and the internal and external work of ACEP; and be it further

RESOLVED, That ACEP report back to the 2022 Council meeting the outcome of the summit and have a road map created to promote diversity, equity, and inclusion in the specialty of emergency medicine.

Action: Assigned to Clinical Affairs staff and ACEP's Diversity, Equity, & Inclusion Committee that was appointed in July 2022.

In addition to being has been assigned objectives to address health equity and advocacy, data collection and monitoring, organizational accountability, and education, staff and the committee are working to develop a plan to ensure that diversity, equity, and inclusion is included in the strategic plan and the internal and external work of the College.

Because its efforts were already underway, ACEP supported the Society for Academic Emergency Medicine's "SAEM22 Consensus Conference on "Diversity, Equity, and Inclusion: Developing a Research Agenda for Addressing Racism in Emergency Medicine" that was held in person on May 10, 2022. The intent of the conference, as described by SAEM, was as follows: "The overarching goal of this Consensus Conference is to stimulate researchers and educators in our specialty to generate a research agenda around the role of racism in modern healthcare and medical education that results in disparate outcomes for our patients. The themes of the conference have been informed by national experts both within and outside our specialty and include: Education and Training; Leadership; Research, and Social Determinants of Health. The specific objectives are to: 1) Identify best practices, clarify knowledge gaps and prioritize research questions; 2) Bring together key stakeholders with varied backgrounds to develop collaborative research networks; and 3) Disseminate findings of the consensus conference through peer-reviewed publications, national meetings, policy briefs, and other venues."

One outcome from the summit was the formation of an All-EM organizations working group on diversity, equity and inclusion. ACEP is participating in this effort to further align efforts, particularly in promoting diversity, equity and inclusion across the specialty of emergency medicine.

As needed, ACEP staff and the Diversity, Equity, & Inclusion Committee may further develop a plan to convene a virtual summit meeting of emergency medicine organizations.

Resolution 22 Expanding Diversity and Inclusion in Educational Programs

RESOLVED, That ACEP survey its speakers and educational presenters and report on speaker/educator demographics; and be it further

RESOLVED, That ACEP set guidelines for including material pertaining to diversity, inclusion, and/or healthcare disparities related to educational content being presented.

Action: Assigned to the Education Committee and work with the new Diversity, Equity, & Inclusion Committee, and the Diversity, Inclusion, & Health Equity Section on the second resolved. The Education Committee discussed the resolution at their December 6, 2021, meeting began working on a plan to address the resolution. The members assigned to plan ACEP22 courses/tracks added learning objectives pertaining to diversity, inclusion, and/or healthcare disparities in all courses where appropriate. This requirement will continue for future meeting planning. Additionally, the committee formalized an annual "Leon L Haley, Jr Lecture" for *Scientific Assembly* that focuses on diversity, equity, and inclusion as well as professionalism, humanitarianism, and advocacy for the elimination of healthcare disparities. The first lecture was held at ACEP22 in San Francisco and will continue as a named lecture in future years. The committee's objectives have been updated to include: 1) developing an annual Educator and Education Committee and Subcommittees Demographics Report to increase diversity, equity, and inclusion in all ACEP education activities; 2) purposefully increase DEI within ACEP education by recruiting leading URM (Under-Represented in Medicine) educators to the committee, subcommittees, and advisory group; mentoring new URM committee and subcommittee members to successful membership and leadership roles; identifying and mentoring URM faculty to successful first and subsequent lectures; 3) ensure each track for *Scientific Assembly* includes at least one didactic session with a learning objective related to systemic racism and social determinants of health.

ACEP's Diversity, Equity, & Inclusion Committee was appointed in July 2022 and was assigned objectives to address health equity and advocacy, data collection and monitoring, organizational accountability, and education.

Starting in August 2021, ACEP has been participating in a collaboration between the Accreditation Council for Graduate Medical Education (ACGME) and the Council of Medical Specialty Societies (CMSS) called "Equity Matters." The program, as described by CMSS: "Equity Matters is an Accreditation ACGME initiative that supplies a framework for continuous learning and process improvement in the areas of diversity, equity, and inclusion (DEI) and anti-racism practices. The purpose of this initiative is to achieve health equity through increasing physician workforce diversity, and by creating clinical learning environments that are safe, inclusive, and equitable." It was hoped that ACEP's capstone project would address this resolution; while significant learning occurred with this program, the capstone effort was not fully completed due to changes in staff and volunteer availability..

Resolution 23 Media Marketing of Value of Emergency Medicine Board Certification (as amended)

RESOLVED, That ACEP focus more on marketing to and educating the public on the value of ~~ABEM/AOBEM~~ **emergency physician (as defined in ACEP's policy statement "Definition of an Emergency Physician")** board certification in emergency medicine, focusing on the differences in education and training that ~~ABEM/AOBEM~~ board certified emergency physicians go through compared to non-~~ABEM/AOBEM~~ board certified emergency physicians and non-physician practitioners; and be it further

RESOLVED, That ACEP focus more resources on a local, state, and national level campaign of marketing to the public through TV, radio, newspaper, social media, and public service announcements.

Action: The Board of Directors amended the resolution during their October 28, 2022, meeting. The Steering Committee discussed this amendment during their meeting on January 24, 2022, and determined that the change did not alter the intent of the resolution. Per the Bylaws, the amended resolution was implemented without further action by the Council.

The resolution was assigned to Communications staff for implementation, in collaboration with similar efforts being done by ABEM. A meeting was held on January 31, 2022, with some patient advocacy groups to begin discussions about the difference in training between physicians and nurse practitioners and the need to educate the public on who is caring for them.

ACEP Communications staff developed a video that launched on You Tube and was released as part of a a new national scope of practice public relations campaign in correlation with National Doctors Day on March 30, 2022. Who Takes Care of You in an Emergency? is specifically designed to educate people about emergency physicians' role and the vast difference in experience, education, and training compared to other members of the care team. In addition to the results of a national opinion poll on scope of practice issues, ACEP released a Chapter/Spokesperson toolkit with talking points, media materials (including a template op-ed), sample social media, and infographics. A series of shorter videos were also released on ACEP's YouTube channel to better explain the vital role of emergency physicians. This is an ongoing campaign and to date there have been 18,274 views across various platforms. A toolkit, which includes talking points, a sample op-ed and social media posts, infographics, and video content are available in the ACEP Media Hub. A second video was released in October 2022. Resources for members to advocate at the state and local level on this topic can be found on the ACEP website at acep.org/scope. ACEP will continue to develop internal and external communications that highlight the importance of board certification in emergency medicine.

Throughout the fall of 2022 and spring of 2023, ABEM piloted a campaign promoting the value of board certification in three markets (urban, suburban, and rural) that included billboards and other environmental ads, a digital campaign, and pre- and post-campaign surveys. The campaign was successful in strengthening relationships between ABEM and local hospitals/health systems. Enduring materials from the campaign are available to diplomates and the public on the ABEM website, which includes video content provided by ACEP. Co-branded advertisements from this campaign will be displayed in Philadelphia, PA, concurrent with ACEP23. ACEP will continue to use these resources and other resources in our ongoing efforts to communicate the importance of board certification in emergency medicine and fight inappropriate scope of practice practices and legislation.

Resolution 26 Advocacy for Syringe Services Programs and Fentanyl Test Strips (as amended)

RESOLVED, That ACEP support federal funding of syringe services programs; and be it further

RESOLVED, That ACEP develop advocacy materials to assist and encourage chapters to advocate for state and local laws permitting syringe services programs intended to reduce the risk of harm associated with injection drug use in addition to naloxone and educational material; and be it further

RESOLVED, That ACEP update harm reduction materials and resources available to its members to include informing patients of the risks of fentanyl analogues and other potentially harmful admixtures and the utilization and limitations of fentanyl test strips and other methods of testing for contaminants and adulterants.

Action: Assigned first and second resolved to Advocacy and Practice Affairs staff for federal and state advocacy initiatives. Assigned third resolved to the Public Health & Injury Prevention Committee to review ACEP's existing resources and update them as needed.

The Public Health & Injury Prevention Committee developed two handouts that were added to the ACEP website: 1) physician handout on fentanyl test strips and opioid resources for patients; and 2) patient handout on opioid risks and fentanyl test strip and naloxone use.

ACEP tracked provisions of the American Rescue Plan Act (P.L. 117-2), including Section 2706 that provided funding to the Substance Abuse and Mental Health Services Administration (SAMHSA) for overdose prevention programs, syringe services programs, and other harm reduction measures; ACEP federal advocacy staff continue to follow the implementation of those programs and monitor legislation related to syringe services programs specifically. Several bills have been introduced to eliminate or prohibit federal funding of these programs, and we continue to track those as well.

The State Legislative/Regulatory Committee identified state and local laws to be used as a model for ACEP chapters to use. Legal and logistical issues were discussed by work groups. The committee is planning to develop comprehensive advocacy materials for chapters to use.

Resolution 28 Consumer Awareness Through Classification of Emergency Departments (as substituted)

RESOLVED, That the ACEP ED Accreditation Task Force specifically consider the merits of a tiered ED classification based upon qualification of the clinician as part of the accreditation process with a report of findings to the Council by July 1, 2022.

Action: Assigned to the ED Accreditation Task Force.

The Board of Directors discussed the task force report on June 24, 2022, and it was distributed to the Council on July 1, 2022. As a next step, the Board approved funding up to $50,000 to develop a business plan for an Emergency Department Accreditation Program. While the proposed initial criteria are merely that and do not establish the final standards that will be ultimately be included, the Board approved that the future Emergency Department Accreditation Program will include tiers based on staffing levels; that further delineation of these tiers in various settings may include care delivered by physicians who do not meet the ACEP definition of an emergency physician; that Emergency Department Accreditation shall only be considered for sites where all care delivered by physician assistants and nurse practitioners is supervised in accordance with ACEP policy; and that all tiers for the Emergency Department Accreditation Program must require an emergency physician (as defined by ACEP policy) to be the medical director.

The Board approved launching the ED Accreditation Program (EDAP) based on the business plan and the preliminary criteria and tiers for the program in February 2023. The Board approved the governance charter in June 2023.

Resolution 29 Downcoding (as amended)

RESOLVED, That ACEP develop strategies to assist chapters in identifying if downcoding is occurring in their state; and be it further

RESOLVED, That ACEP work with the Centers for Medicare & Medicaid Services and private insurers to prevent the practice of downcoding in state Medicaid programs and by private insurers; and be it further

RESOLVED, That ACEP work with chapters to develop specific model legislative language to require transparency when insurance companies make changes to or require additional information for a claim.

Action: Assigned to Advocacy and Practice Affairs staff for federal, regulatory, and state advocacy initiatives. Promote the availability of potential funding through the Public Policy Grant Program to assist chapters with advocacy efforts.

In November 2021, ACEP and the State Legislative/Regulatory Committee made a targeted push to encourage chapters to apply for the College's existing Public Policy Grant Program (that has existed since 2006 to assist chapters with advocacy efforts) specifically to fight downcoding and prudent layperson issues at the state level. Two chapters are currently in the process of applying for a grant to address downcoding.

ACEP Advocacy & Practice Affairs staff were successful in strengthening existing prudent layperson protections with inclusion of new language in the first interim final rule (IFR) to implement the *No Surprises Act*. While this language focused predominantly on retroactive denials, it could help strengthen our opposition to downcoding as well. ACEP Advocacy & Practice Affairs staff continued efforts to gain further protections from downcoding via regulatory channels by providing strong recommendations in comment letters on the first IFR, and in advance of the second IFR's release. The second IFR mainly focused on the federal independent dispute resolution process. ACEP, and most all physician organizations, expressed extreme concern regarding the qualified payment amount in the independent resolution process. ACEP issued a statement on October 1, 2021, opposing the IFR, and another statement on November 9, 2021, standing firmly with more than 150 bipartisan members of Congress calling on the Biden Administration to change the IFR. ACEP, the American Society of Anesthesiologists (ASA), and the American College of Radiology (ACR), filed a lawsuit against the federal government on December 22, 2021, charging that the IFR goes against the language of the *No Surprises Act* and will ultimately harm patients and access to care. Lawsuits were also filed by the American Medical Association and American Hospital Association, the Texas Medical Association, an individual in New York, an air ambulance association, and the Georgia College of Emergency Physicians. ACEP/ASA/ACR filed a motion for summary judgement in the lawsuit on February 9, 2022. A federal judge in Texas ruled on February 23, 2022, in the lawsuit filed by the Texas Medical Association, that the *No Surprises Act* implementation fails to follow the letter of the law, and that giving unequal weight to the Qualified Payment Amount (QPA) tilts the process unreasonably in favor of insurance companies. The court also determined that by skipping a customary notice and comment period while the law was being finalized, the government failed to follow its own well-established and transparent regulatory process. The federal government has appealed the Texas court ruling TMA lawsuits I through IV continue to work their way through the legal process.

ACEP and the Medical Association of Georgia were involved in litigation with Anthem/Blue Cross Blue Shield regarding retroactive denial of emergency department claims starting in July 2018. On October 22, 2020, the 11th Circuit

Court ruled in favor of the appeal filed by ACEP and the Medical Association of Georgia. The case was remanded back to the Northern District Court in Georgia. The wording of the opinion was strongly supportive of ACEP's position It was announced on March 9, 2022, that ACEP and the Medical Association of Georgia agreed to withdraw the lawsuit in response to the discontinuation of Blue Cross Blue Shield Healthcare Plan (BCBSHP) of Georgia, Inc.'s "avoidable ER" program. The change was effective March 28, 2022.

The Federal Government Affairs Committee formed a work group to review the resolution and discuss actions that could be pursued to address these issues. ACEP continues to work in conjunction with EDPMA to analyze claims data, as well as developing a contract with an outside vendor to collect additional information about claims denials to get a better understanding of the scope of this problem. In addition to supplementing ACEP's advocacy actions with federal regulators, the results of these data collection efforts would also be helpful in ACEP's legislative efforts to persuade federal lawmakers to address this issue.

The Federal Government Affairs Committee, the Reimbursement Committee, and the State Legislative/ Regulatory Committee continue to track actions by insurers to deny and downgrade claims. ACEP has sent letters protesting action by United Health Care and various Medicaid plans. ACEP met with several members of Congress in the Maryland delegation to highlight inappropriate denials by United's Optum for mental health care provided by emergency physicians in the ED in the state. ACEP has also been working with the VA chapter to resolve downcoding issues in the state with Medicaid managed care plans. In July 2022, ACEP sent a joint letter with the California Chapter to CCIIO and the entire California Congressional delegation to bring attention to payment denials by Anthem to small groups in the state. The letters have already prompted follow-up investigatory actions by several members of the delegation and the federal agencies.

The Federal Government Affairs continues to track instances of suspected/confirmed prudent layperson standard (PLS) violations and downcoding issues, including work with Sen. Cardin (D-MD) to investigate and assist with issues related to mental health services provided by emergency physicians in Maryland, as well as a joint letter from ACEP and the California Chapter to the California congressional delegation raising the issue of downcoding/nonpayment issues by Anthem in the state.

The State Legislative/Regulatory Committee worked with EDPMA to draft a model state bill "An Act to Protect Emergency Patients using the Prudent Layperson Standard" to strengthen state laws on prudent layperson transparency and protections from insurer downcoding. The model bill has been added to the ACEP website and shared with chapters.

The *No Surprises Act* final rule was issued in August 2022 and due to ACEP's advocacy, it implements the specific protections from downcoding ACEP asked for in its response to the IFRs. While there are some concerning provisions in the rule, it establishes for the first time a federally-recognized official definition of downcoding as well as a requirement that if a QPA is based on a downcoded service code or modifier, the plan must provide an explanation of why the claim was downcoded, including a description of which service codes were altered, if any, and which modifiers were altered, added, or removed, if any; and the amount that would have been the QPA had the service code or modifier not been downcoded. The rule also notes that without information on what the QPA would have been had the claim not been downcoded, the provider may be at a disadvantage during open negotiation compared to the plan or issuer.

ACEP will continue to fight for its members and employ strategies to assist chapters in combating downcoding by insurers.

Resolution 30 Unfair Health Plan Payment Policies

RESOLVED, That ACEP develop model legislation and advocate for enactment at both the state and federal levels, prohibiting health plans from implementing new payment policies during the term of a provider's contracts unless the new policy is required by new laws or regulations; or the provider consents in writing to the specific policy change prior to its being implemented; and be it further

RESOLVED, That ACEP advocate at the American Medical Association to promote legislation prohibiting health plan contracts from requiring adherence to new health plan payment policies unless the new policy is required by new laws or regulations.

Action: Assigned first resolved to Advocacy and Practice Affairs staff. Assigned second resolved to the AMA Section Council on Emergency Medicine.

ACEP has worked with chapters and individual groups in 14 states to challenge threats to reimbursement – specifically a 40-50% reduction in payment for services by Cigna and some BCBS plans. ACEP Public Affairs staff have collected letters from these insurers threatening cuts as well as termination notices and have worked with the AMA, members of Congress, and the press to show how Cigna is weaponizing the NSA against physicians.

ACEP has worked with several congressional advocates to raise attention to unfair health plan payment policies and practices and has explored potential legislative efforts to address these issues, even despite reluctance from many in Congress to address these issues in the relatively fresh wake of the *No Surprises Act* (NSA). In response to actions by insurers in North Carolina demanding rate cuts due to the NSA, ACEP worked with Rep. Greg Murphy, MD (R-NC), who

sent letters (along with Ronny Jackson, MD (R-TX)) to Blue Cross Blue Shield, Aetna, and United Healthcare noting that these extreme rate reductions defied the congressional intent of the law and requested that the plans halt any reduction of rates until the appropriate regulations are finally in place and that any pursuant litigation is resolved. We continue working closely with Dr. Murphy's office on this issue, recently discussing similar new efforts by another NC insurer and are in the process of developing a new advocacy strategy.

ACEP also worked with the California ACEP chapter to notify the California congressional delegation about unfair payment practices by Anthem in the state. In a joint letter, ACEP and California ACEP alerted legislators to Anthem's practice of unilaterally denying payment for the highest level of ED E/M services (CPT 99285) throughout the state at different hospitals staffed by different emergency physician groups, regardless of whether they were in- or out-of-network with the plan. In response, several legislators reached out to us to gain more information and track the issue. The effort also caught the attention of Anthem's federal affairs team who reached out to us for a meeting, where we and California ACEP laid out the ongoing issue and requested appropriate resolution. ACEP also notified the Centers for Medicare & Medicaid Services (CMS) Center for Consumer Information and Insurance Oversight (CCIIO) of the issue, to which CCIIO responded that they would look into the matter.

The AMA has current policy that calls for a mechanism to address grievances and supports advocacy on behalf of patients, 11.2.3 Contracts to Deliver Health Care Services, which was last modified in 2017: E-11.2.3 11.2.3 Contracts to Deliver Health Care Services| AMA (ama-assn.org). A second AMA policy on Physician Negotiations says that physicians should have the right to set the parameters and acceptable terms for their contracts with managed care plans in advance of contract negotiations and that physicians should have the opportunity to request alternative dispute resolution mechanisms to resolve disputes with the hospital concerning managed care contracting, H-383.997 Hospital Based Physician Contacting: H-383.997 Hospital-Based Physician Contracting | AMA (ama-assn.org). A third AMA policy urges CMS to ban "no cause" terminations of MA network physicians during the initial term or any subsequent renewal term of a physician's participation contract with a MA plan, H-285.902 Ban on Medicare Advantage "No Cause" Network Terminations: H-285.902 Ban on Medicare Advantage "No Cause" Network Terminations | AMA (ama-assn.org). The AMA also has policy requiring managed care organizations to provide due process to physicians in all adverse selective contracting decisions, H-285.981 Fair Market Practices: H-285.981 Fair Market Practices | AMA (ama-assn.org).

As this issue impacts the greater house of medicine, ACEP staff will continue to work with AMA advocacy staff to identify opportunities to develop or promote such legislation regarding health plan contracts for enactment at both the state and federal levels.

Resolution 31 Employment Retaliation, Whistleblower, Wrongful Termination (as amended)

RESOLVED, That ACEP submit a resolution to the June 2022 AMA House of Delegates Annual Meeting promoting the concepts of Arizona house bill 2622 (2021) as signed into law as model state and national legislation to protect emergency physicians from corporate, workplace, and/or employer retaliation when reporting safety, harassment, or fraud concerns at the places of work (licensed health care institution) or government, which also includes independent and third-party contractors providing patient services at said facilities; and be it further

RESOLVED, That ACEP develop model legislation emulating Arizona house bill 2622 (2021) to share with chapters through mechanisms such as the State Legislative/Regulatory Committee and other membership outreach.

Action: Assigned first resolved to the AMA Section Council on Emergency Medicine. Assigned second resolved to the State Legislative/Regulatory Committee.

ACEP developed and introduced a resolution at the AMA's 2022 House of Delegates Annual Meeting calling for the AMA to develop a model state legislative template and principles for federal legislation in order to protect physicians from corporate, workplace, and/or employer retaliation when reporting safety, harassment, or fraud concerns at the places of work (licensed health care institution) or in the government, which includes independent and third-party contractors providing patient services at said facilities. The resolution was passed by the full House and will ensure that the entire House of Medicine and the AMA's significant resources will now be fighting to ensure due process protections at the federal and state level.

The State Legislative/Regulatory Committee developed model legislation based on the Arizona legislation and it will be disseminated to the chapters.

Resolution 32 Firearm Ban in EDs Excluding Active-Duty Law Enforcement (as amended)

RESOLVED, That ACEP promote and endorse that Emergency Departments become "Firearm Free" Zones, with the exception of active duty law enforcement officers, hospital security, military police, and federal agents; and be it further

RESOLVED, That ACEP endorse and promote screening for weapons in the emergency department; and be it further

RESOLVED, That ACEP promote public education and academic research to decrease workplace violence.

\Action: Assigned to the Public Health & Injury Prevention Committee to consider all types of security arrangements for emergency departments and develop a policy statement. The committee updated ACEP's policy statement "Protection from Violence and the Threat of Violence in the Emergency Department" and it was approved by the Board of Directors in June 2022.

The third resolved is addressed by current ACEP policy statements and other initiatives. ACEP's policy statement "Firearm Safety and Injury Prevention" calls for "funding, research, and protocols" to address the public health issue of injury and death from firearms. The policy lists six legislative and regulatory actions that ACEP supports, including funding for firearm injury prevention research, protecting physicians' ability to discuss firearm safety with patients, universal background checks, prohibiting high-risk and prohibited individuals from obtaining firearms, restricting the sale and ownership of weapons and munitions designed for military or law enforcement use, and prohibiting 3-D printing of firearms and their components. The policy statement "Violence-Free Society" also notes that "ACEP believes emergency physicians have a public health responsibility to reduce the prevalence and impact of violence through advocacy, education, legislation, and research initiatives." ACEP also supports the efforts of the American Foundation for Firearm Injury Reduction in medicine (AFFIRM) to fund medical and public health research of firearm-related violence, injury, and death and development of evidence-based, best practice recommendations for health care providers to prevent and reduce the incidence and health consequences of firearm-related violence. The Emergency Medicine Foundation (EMF) has partnered with AFFIRM on several research grants. ACEP members are represented as leaders in AFFRIM, have attended strategic planning meetings, and an ACEP staff member is also a member of their Research Council. ACEP's legislative and regulatory priorities include working with members of Congress to promote efforts that may prevent firearm-related injuries/deaths and to support public/private initiatives to fund firearm research.

In early 2022, The Joint Commission established and started enforcing new workplace violence prevention requirements to guide hospitals in developing strong workplace violence prevention programs. ACEP contributed to the development of these new requirements by participating in an expert workgroup and supplying comments.

Advocacy and Practice Affairs staff are monitoring legislative initiatives to address workplace violence and the work of a congressional committee that has been appointed. One of the main focuses of the 2022 Leadership & Advocacy Conference was protecting emergency physicians from ED violence. Emergency physicians at all career levels met with legislators about ED violence and asked legislators to establish important, common sense procedures to protect emergency physicians, health care workers, and patients from violence in the health care workplace. ACEP helped inform and supports the "Workplace Violence Prevention for Health Care and Social Service Workers," (H.R. 1195/S. 4182) ensuring that the legislation gives appropriate consideration to emergency department needs, and has advocated for this legislation for several years. The legislation, which would require OSHA to require health care employers to implement violence prevention programs, was passed in the House of Representatives in April 2021 and awaits further action in the Senate. ACEP's support for the legislation was also specifically noted during committee consideration of the bill and on the House floor during debate and final passage.

ACEP has partnered with ENA on the "No Silence on ED Violence" campaign to draw more public attention to the problem of violence in the emergency department, to drive policymaker action to address the issue, and to provide resources and support to emergency physicians and emergency nurses. The campaign website, www.stopEDviolence.org, includes fact sheets and advocacy materials highlighting the severity of the issue, as well as resources for members seeking ways to reduce the incidence of violence in the ED. ACEP continues working closely with ENA on this issue. Additionally, ACEP has communicated with the American Nurses Association (ANA) and the National District Attorneys Association (NDAA) to gain a better understanding of the various issues that contribute to the current workplace violence landscape where violence against emergency physicians and other health care workers is either not reported or not prosecuted, and the College continues working to develop a better understanding of the patchwork of state laws related to health care workplace violence. In May 2022, No Silence on ED Violence Press Conference leaders and members of ENA and ACEP, together with Senator Tammy Baldwin (D-WI), held a press conference on Capitol Hill calling on Congress to pass legislation aimed at reducing violence against health care workers."

ACEP also helped inform and supports the "Safety from Violence for Healthcare Employees (SAVE) Act," (H.R. 7961), bipartisan legislation re-introduced into the 118th Congress, that would establish federal criminal penalties for violence against health care workers (as this resolution seeks to do), based on federal penalties that already exist for violence against airline and airport employees. This legislation is also supported by the American Hospital Association. ACEP president Gillian Schmitz, MD, FACEP, was quoted in the press release issued previously by the original sponsors of the legislation on June 7, 2022.

The "Safety from Violence for Healthcare Employees (SAVE) Act" was introduced in the Senate by Senators Marco Rubio (R-FL) and Joe Manchin (D-WV). The legislation establishes federal criminal penalties for individuals who assault health care workers and is modeled after existing protections for airline employees. This bill serves as the Senate companion to the previously-introduced House bill that ACEP advocated for during Hill visits at LAC23 in May. The Senate version is essentially identical in terms of the federal penalties language and who would be covered, but there are

two key differences from the House version. The Senate bill strips out the grants for hospitals, and includes a new section requiring a GAO report on the effectiveness of criminal penalties and prosecutions for violence against health care workers. ACEP's letter of support can be found here, and ACEP President Christopher Kang, MD, FACEP, was quoted in the press release.

The ACEP website includes many resources: "Violence in the Emergency Department: Resources for a Safer Workplace," "Risk Assessment and Tools for Identifying Patients at High Risk for Violence and Self-Harm in the ED," and "Emergency Department Violence: An Overview and Compilation of Resources."

CMS released a memo on November 28, 2022, on Workplace Violence in Hospitals. The memo reminds hospital leaders of their responsibility to "provide adequate training, sufficient staffing levels, and ongoing assessment of patients and residents for aggressive behavior and indicators to adapt their care interventions and environment appropriately." The CMS memo also references an April 2020 Bureau of Labor Statistics Fact Sheet that healthcare workers accounted for 73% of all nonfatal workplace injuries and illnesses due to violence in 2018, and states that "with appropriate controls in place," workplace violence can be addressed. CMS reiterates that they "will continue to enforce the regulatory expectations that patient and staff have an environment that prioritizes their safety to ensure effective delivery of healthcare."

Resolution 33 Formation of a National Bureau for Firearm Injury Prevention

RESOLVED, That ACEP support the creation of a National Bureau for Firearm Injury Prevention that would lead and coordinate a long-term, multidisciplinary campaign to reduce firearm injury and deaths based on proven public health research and practices.

Action: Assigned to Advocacy & Practice Affairs staff for federal advocacy initiatives.

In addition to ongoing federal efforts to reduce firearms injury and violence, ACEP joined a new coalition, the Gun Violence Prevention Research Roundtable (GVPRR) as a member of the Steering Committee that is focused on maximizing investments in and impact of federally-funded research to reduce firearms-related injuries and deaths. In these conversations, ACEP has raised the potential creation of a National Bureau for Firearm Injury Prevention as well as our other College priorities on the topic. Additionally, during consideration of various firearms-related legislation in the 117th Congress, ACEP advocated for this priority and others with legislators who led efforts to push related legislation through Congress.

In response to the public health crisis of firearm violence, professionals from 47 multidisciplinary medical societies and health organizations from across the country participated in a Medical Summit on Firearm Injury Prevention at the American College of Surgeons (ACS) headquarters in Chicago September 10-11, 2022. Cohosted by ACEP, ACS, American College of Physicians, American Academy of Pediatrics, and the Council of Medical Specialty Societies, this hybrid in-person and virtual meeting was the second such meeting aimed at developing firearm violence prevention recommendations. It built upon the first Medical Summit's work from 2019. The meeting provided an opportunity for an inclusive and collegial dialogue on identifying opportunities for the medical community to reach a consensus-based approach to firearm injury prevention, with a focus on understanding and addressing the root causes of firearm violence while advocating for bipartisan policy solutions to address the issue. While the summit did not specifically address the creation of a National Bureau for Firearm Injury Prevention, topics discussed included: the public health approach to firearm violence in the US; recent and potential legislative approaches related to prevention; addressing violence through community engagement; utilizing healthcare resources to influence the social determinants that contribute to violence; how effective communication on firearm violence from the healthcare sector can influence policy work and community building. The proceedings, including the key takeaways from the summit, were published in the *Journal of the American College of Surgeons* in March 2023. As a continuation of the summit's efforts, the Healthcare Coalition for Firearm Injury Prevention (HCFIP) has been formed as a multidisciplinary coalition of professional organizations representing medicine and public health to collaborate on firearm injury prevention initiatives, with a focus on non-partisan and evidence-based/data driven solutions. The Steering Committee member organizations of HCFIP are AAP, ACEP, ACP, ACS, and CMSS. Additional invitations to join the coalition will be disseminated to a preliminary list of nearly 70 organizations and work should formally start in late 2023 or early 2024.

In February 2023, ACEP participated in a firearm injury prevention roundtable organized by the AMA. The meeting was joined by the ACS, AAP, the American College of Physicians (ACP), American Psychiatric Association (APA), and the American Academy of Family Physicians (AAFP). As a result of this initial meeting, the AMA has established a Firearm Injury Prevention Task Force on which an ACEP representative will also serve.

ACEP's legislative and regulatory priorities continue to include working with Members of Congress to promote efforts that may prevent firearm related injuries/deaths and support increased funding for firearms injury research.

Resolution 34 Global Budgeting for Emergency Physician Reimbursement in Rural and Underserved Areas

RESOLVED, That ACEP engage appropriate stakeholders, including at the federal and state levels, to find innovative staffing, payment, and reimbursement models, including but not limited to potential global budgeting for emergency physician professional services that incentivize and maintain financial viability of the coverage of emergency departments in rural and underserved areas by board eligible/certified emergency physicians.

Action: Assigned to Advocacy & Practice Affairs staff for federal and state advocacy initiatives and obtain input from the Rural Emergency Medicine Section and the Reimbursement Committee.

ACEP has explored alternative financial models for providing care in rural areas. Specifically, ACEP advocated for increased reimbursement for clinicians, including emergency physicians, who work in Rural Emergency Hospitals (REHs). ACEP has also met with CMS to discuss the viability of incorporating elements of the Acute Unscheduled Care Model (AUCM) in current alternative payment models (APMs) and have stated to the Centers for Medicare & Medicaid Services (CMS) that an AUCM-like approach could help improve emergency care in rural areas.

Structured as a bundled payment model, the AUCM would improve quality and reduce costs by allowing emergency physicians to accept some financial risk for the decisions they make around discharges for certain episodes of acute unscheduled care. Initial episodes focus on patients with the following symptoms: abdominal pain, altered mental status, chest pain, and syncope. In later years, the AUCM will be expanded to include all ED conditions that have national admission rates less than 90 percent, thereby also capturing headache and back pain. The AUCM would enhance the ability of emergency physicians to reduce inpatient admissions and observation stays when appropriate through processes that support care coordination. Emergency physicians would become members of the continuum of care as the model focuses on ensuring follow up, minimizing redundant post-ED services, and avoiding post-ED discharge safety events that lead to follow-up ED visits or inpatient admissions. The model also allows waivers to promote telehealth, care coordination, and home visit services after discharge to encourage risk sharing for the cost of care and better patient outcomes.

Resolution 35 Preserving Rural Emergency Care in Rural Critical Access Hospitals and Rural Emergency Hospitals – *first two resolveds*

RESOLVED, That ACEP support the rural critical access hospital program including the conversion of struggling rural critical access hospitals to rural emergency hospitals and state and federal governments should increase rural hospital access to low-cost capital to support the conversion of these facilities and preserve access to emergency care; and be it further

RESOLVED, That ACEP support rural health services research, including financial analyses of rural hospitals to better define the optimal funding model for rural critical access hospitals and rural emergency hospitals.

Action: Assigned to Advocacy & Practice Affairs staff for federal, state, and local advocacy initiatives, including increased support for expanded rural health services research.

ACEP stated in our response to a request for information on rural emergency hospitals (REHs) that the conversion of a critical access hospital (CAH) to a REH requires significant time and capital, not only to complete all the necessary infrastructure changes and administrative work, but also to subsidize the hospital operations during this transition time when patient volumes are likely to drop and some services are permanently and temporarily unavailable. We specifically requested to the Centers for Medicare & Medicaid Services (CMS) that low-cost capital be available for conversion of these facilities including covering operating costs during the transition period.

ACEP worked with Congress on the legislative language that was included in the Consolidated Appropriations Act which created the new designation of Rural Emergency Hospitals (REHs) for these converted hospitals. ACEP was proactive in reaching out to CMS to help construct various REH requirements. ACEP submitted a comprehensive response on proposed regulations establishing conditions of participation for REHs that were released in July 2022. ACEP also submitted a joint response to the regulation with the American Academy of Family Physicians focusing on the issue of scope of practice and the importance of having physician-led teams provide the care that is delivered in REHs. We strongly recommended that physicians should supervise all care delivered by non-physician practitioners in REHs. When possible, board-certified emergency physicians should conduct that supervision, but we understand that, due to workforce issues, that is not always possible. When a board-certified emergency physician is not available, it is still critical that physicians experienced and/or trained in emergency medicine (such as family physicians) oversee care being delivered by non-physician practitioners in REHs.

Once critical access hospitals (CAHs) and small rural hospitals have the opportunity to begin converting REHs in January 2023, ACEP will likely play a role in helping to educate hospitals, including CAHs, about the possible benefits of converting to this new facility-type.

Resolution 36 Mitigating the Unintended Consequences of the CURES Act

RESOLVED, That ACEP work with appropriate stakeholders to highlight patient safety issues that may disproportionately impact the emergency department population related to implementation of the CURES Act; and be it further

RESOLVED, That ACEP develop a policy statement advocating for release of records only after the treating physician and team have had sufficient opportunity and time to review those results and discuss them with the patient.

Action: Assigned first resolved to Advocacy & Practice Affairs staff for federal advocacy initiatives. Assigned second resolved to the Emergency Medicine Practice Committee to work with the Health Innovation Technology Committee to review the "Patient Medical Records in the Emergency Department" policy statement and incorporate information about the CURES Act or determine if a separate policy statement is needed.

The Public Health & Injury Prevention Committee determined that a separate policy statement was needed to address the resolution. The Board of Directors approved the policy statement "Mitigating the Unintended Consequences of the CURES Act" in June 2022.

ACEP has been proactive in our advocacy on this issue. The data blocking requirements went into effect in April 2021 and in May of that year ACEP members were polled to gather input on the data sharing requirements. Although respondents generally supported sharing data with patients, the biggest issue flagged repeatedly in the poll was around the *timing* of the data sharing. Specifically, emergency physicians noted the significant unintended consequences associated with sharing notes and lab results immediately-before emergency physicians are able to discuss the results with their patients. Over two-thirds of respondents in the poll stated that lab results are shared immediately with patients once they are available. According to these respondents, this policy of sharing notes immediately has caused patient confusion, anger, and sadness-with some extremely compelling examples, including patients who have found out they had cancer or a miscarriage without first being able to discuss their diagnosis with a physician. Further, there are numerous examples of patients misreading or misinterpreting clinical notes and lab results, causing physicians to have to spend significant time correcting those misconceptions and consoling patients. The results were shared directly with the Office of the National Coordinator (ONC) for Health Information Technology in June 2021. In a conversation with ONC's leadership, including its chief medical officer, we specifically requested that ONC alter regulations to allow for EDs to delay sharing lab results and clinical notes with patients for a 24-hour period or at least until the patient was discharged from the ED. Unfortunately, ONC did not accept our recommendation, and has since clarified that such a delay is unacceptable in most cases. Specifically, ONC stated that having an organizational-wide policy of delaying the release of lab results or clinical notes is considered "interfering" with data sharing. ONC also unfortunately stated that "you cannot claim that sharing results immediately with a patient will cause the patient to experience "harm," which is one of the regulatory exceptions that ONC has granted for the data sharing requirements. ACEP disagrees with this decision, as we believe that instituting a delay in data sharing in the ED does protect patients from emotional harm and should be appropriate use of the harm exception.

ACEP is not alone in expressing disappointment over various aspects of this policy. In an article in Medpage, the American Medical Association (AMA) and AMG*A* (formerly the *American Medical Group Association*) both stated that implementing the data sharing requirements in this way will harm patients and will cause emotional stress to already overburdened clinicians. The AMGA has also specifically requested that ONC allow clinicians to delay sharing results with patients for 24 to 72 hours so that they could deliver them in a "more compassionate way."

During the drafting of the "CURES 2.0" legislation and after introduction in the House of Representatives in late 2021, ACEP advocated to the lead sponsors and other legislators to notify them about potential patient safety issues and urged the development of potential updates to the statute to maintain transparency while ensuring patient safety. However, the bill as introduced does not include such provisions.

ACEP will continue to push for legislative and regulatory changes to the data sharing requirements and will also work with the AMA and others to coordinate our advocacy efforts.

Resolution 38 Prehospital Oversight and Management of Patients Experiencing Hyperactive Delirium with Severe Agitation (as amended)

RESOLVED, That ACEP advocate, at both state and national levels, that ABEM/AOBEM-certified physicians serve as the highest level of medical experts on the matter of management of patients with hyperactive delirium with severe agitation in the out-of-hospital and emergency department settings; and be it further

RESOLVED, That ACEP play an active role, at both state and national levels, in advocating against any non-ABEM/AOBEM-certified specialty's assertion to having greater expertise in the acute therapeutic (i.e., pharmacologic and non-pharmacologic) management of patients with hyperactive delirium in the out-of-hospital setting; and be it further

RESOLVED, That ACEP oppose any non-ABEM/AOBEM-certified specialty's medical oversight of out-of-hospital medical direction, particularly when pertaining to the management of hyperactive delirium with severe agitation; and be it further

RESOLVED, That ACEP partner with the National Association of EMS Physicians (NAEMSP) to work with state and national regulators and legislators on all issues pertaining to the out-of-hospital management of hyperactive delirium with severe agitation.

Action: Assigned to the EMS Committee with support from Advocacy & Practice Affairs staff as needed for federal and state advocacy initiatives.

In June 2021, the Board of Directors approved the document titled *ACEP Task Force Report on Hyperactive Delirium with Severe Agitation in Emergency Settings*. The American Medical Association has adopted a policy opposing "excited delirium" as a medical diagnosis and underscoring the importance of emergency physician-led oversight of medical emergencies in the field.

The EMS Committee shared the task force report with the EMS Section and hosted a webinar in February 2023 with experts from the task force sharing strategies and best practices for managing hyperactive delirium with severe agitation. The task force report was included as part of the materials for the webinar.

ACEP also developed the online course "Recognition and Management of Hyperactive Delirium in Emergency Settings" that is available in the online learning center.

The Clinical Policies Committee developed the draft "Clinical Policy: Critical Issues in the Evaluation and Management of Adult Prehospital or Emergency Department Patients Presenting with Severe Agitation" that has been submitted to the Board of Directors to consider at their October 6, 2023, meeting. The clinical policy compliments the work of the 2021 "ACEP Task Force Report on Hyperactive Delirium with Severe Agitation in Emergency Settings" by providing recommendations informed by a systematic review of critically appraised literature.

Resolution 41 Take Home Naloxone Programs in Emergency Departments (as substituted in lieu of resolutions 40 and 41).

RESOLVED, That ACEP amend the current policy statement "Naloxone Prescriptions by Emergency Physicians" to include endorsement for Take-Home Naloxone programs in emergency departments; and be it further

RESOLVED, That ACEP seek to increase the distribution of naloxone from the emergency department by researching and advocating for a standardized, lower barrier, and cost-effective take-home model for naloxone for at risk patients; and be it further

RESOLVED, That ACEP partner with other like-minded organizations to promote Take-Home Naloxone programs as a best practice for patients at risk of opioid overdose, and work to increase the number of Take-Home Naloxone programs in emergency departments; and be it further

RESOLVED, That ACEP advocate for regulatory and payment reform that would facilitate reimbursement from public and private payers, to hospitals and emergency departments for naloxone dispensed directly to patients as part of Take-Home Naloxone programs, thus removing financial disincentives for hospitals to have Take-Home Naloxone programs; and be it further

RESOLVED, That ACEP educate emergency physicians about strategies to implement Take Home Naloxone programs in their emergency department.

Action: Assigned first resolved to the Clinical Policies Committee to include in their work to revise the "Naloxone Prescriptions by Emergency Physicians" policy statement. The committee coordinated their work with the EMS Committee and the Pain Management & Addiction Medicine Section. The committee revised the policy statement "Naloxone Access and Utilization for Suspected Opioid Overdoses" and it was approved by the Board in February 2023.

Assigned to Advocacy & Practice Affairs staff for regulatory and federal advocacy initiatives. Assigned third and fourth resolved to the Pain Management & Addiction Medicine Section to develop a recommendation(s) to the Board of Directors.

ACEP has advocated to CMS to establish a reimbursement mechanism under Medicare and Medicaid for take home naloxone programs, emphasizing that it is essential for the agency to support these initiatives.

The Pain Management & Addiction Medicine Section, along with additional experts and leaders, continue to work with the CDC, SAMSHA, and the AMA to promote Take-Home Naloxone programs as a best practice for patients at risk of opioid overdose, through:

- Feedback and guidance to the AMA Opioid Task Force (including ANA Naloxone Issue Brief).
- CDC 2016 CDC Guideline for Prescribing Opioids review and feedback (including recommendations relevant to Naloxone).
- Dissemination of CDC Updated Naloxone education and training materials.

Resolution 42 Administration of COVID-19 Vaccines in the Emergency Department

RESOLVED, That ACEP advocate for the administration of vaccines against COVID-19 to qualified patients that present to the emergency department (ED); and be it further

RESOLVED, That ACEP support the development of best practices for discussing COVID-19 vaccines with patients, clinical decision making around when to administer the vaccine, building capacity to administer vaccines to emergency department patients, and integrating ED vaccination programs into larger community vaccination efforts.

Action: This resolution has been completed. ACEP supports and advocates for ED-based COVID-19 vaccination programs and has developed and continues to update and adapt education, tools, and resources for its members to enable them to establish COVID-19 vaccination programs out of their EDs, hospitals, and institutions. There are multiple open access resources that are currently available to ACEP members and anyone who is interested:

- COVID-19 Vaccination Toolkit
- COVID-19 ED Vaccination Program Resource Center
- ACEP Toolkit for COVID-19 Emergency Department (ED) Vaccination Programs
- COVID-19 Vaccination Smart Phrases Now in Several Languages
- ACEP Field Guide Chapter on Vaccinations and Prevention
- COVID-19 Vaccine Resource Center
- Webinar: COVID-19 Vaccinations in the Emergency Department (on demand)

ACEP has also developed numerous resources addressing vaccine hesitancy:

- Patient Poster and Flyer from ACEP's Diversity and Inclusion Section
- Webinar: This Is Our Shot: How EM Docs Can Empower Patients to End the Pandemic (on demand)
- ACEP's Public COVID-19 Vaccine Information Center
- The Language of COVID-19 Vaccine Acceptance

Resolution 44 Caring for Transgender and Gender Diverse Patients in the Emergency Department

RESOLVED, That ACEP promote the equitable, culturally competent, and knowledgeable treatment of transgender and gender diverse patients receiving care in the emergency department; and be it further

RESOLVED, That ACEP compile information on the unique needs and best practices related to care of transgender and gender diverse patients in the emergency department; and be it further

RESOLVED, That ACEP encourage hospitals to provide adequate and appropriate education, training, and resources to all emergency department physicians on the needs and best practices related to care of transgender and gender diverse patients; and be it further

RESOLVED, That ACEP encourage emergency departments to foster and develop practices and policies that uphold supportive and inclusive environments and remove structural barriers to care.

Action: Assigned to the Emergency Medicine Practice Committee to work with the Diversity, Equity, & Inclusion Committee, the Diversity, Inclusion, & Health Equity Section, and the Social Emergency Medicine Section to develop a policy statement and Policy Resource & Education Paper (PREP) and/or other resources to address the resolution.

The Emergency Medicine Practice Committee and the Public Health & Injury Prevention Committee developed the policy statement "Caring for Transgender and Gender Diverse Patients in the Emergency Department" and it was approved by the Board in June 2022. The PREP has also been completed and it was submitted for publication consideration. The PREP will be available on the ACEP website after publication.

Resolution 46 Effects of EM Practice Ownership on the Costs and Quality of Emergency Care

RESOLVED, That ACEP study the impact of emergency medicine practice ownership models on the cost and quality of emergency care.

Action: Assigned to Clinical Affairs staff to coordinate with the Emergency Medicine Group Ownership Task Force.

The Board of Directors approved the ACEP Statement on Private Equity and Corporate Investment in Emergency Medicine on April 6, 2022expressing increasing concern about the expanding presence of private equity and corporate investment in health care, including emergency medicine and reaffirming ACEP's core beliefs and emphasizing the physician-patient relationship as the moral center of medicine that can never be compromised. This statement also acknowledged that objective data is critically needed to measure the impact of private equity and corporate investment in emergency medicine on patient care and outcomes, as well as on emergency physician well-being.The Emergency Medicine Group Ownership Task Force was formed in early 2020 to address portions of Council Resolution 58(19): Role of Private Equity in Emergency Medicine. The report, which was distributed to the Council on September 23, 2022,

provides a history of the efforts and a summary of the knowledge gathered regarding the effects of the group ownership model on emergency medicine and in particular, emergency physicians. Milliman, Inc. was retained to investigate and report on data sources that could provide meaningful data to inform the various research elements sought in the initial proposal, including a high-level market scan of emergency medicine ownership models. However, Milliman was unable to identify public and proprietary data sources that could provide sufficient disaggregated or identifiable data. Task force members also unsuccessfully attempted to collect data via an ACEP member survey. The final report of the task force report acknowledged the need to the development of standardized, EM-focused definitions of ownership models, that consider ownership of the facility versus ownership of the physician practice and delineate private equity's role in ownership. Options for both internal and external approaches are presented in this report.
Other research has demonstrated the difficulties in obtaining this information for similar projects. In 2022, ACEP asked the Physicians Advocacy Institute to report specifically on emergency medicine in its next round of research with Avalere on trends in physician employment and acquisitions of medical practices. All of the major physician specialties were included in the report they published on their website. However, their results seem to undercount corporate ownership of emergency medicine practice models. For example, compared to a national average of 73.9%, only 66.7% of emergency medicine physicians were employed by hospitals and other corporate entities in 2022. Broken down, they found that more EM physicians were hospital-employed (53.4% vs 52.1% overall) and fewer EM physicians were employed by "other corporate entities" (13.3% vs 21.8% overall). This places EM as one of the specialties with the least amount of corporate employment. Further, they found that the decline in independent EM physicians/physicians practices (from around 45% in 2019 to 33% in 2022) mainly shifted to health system ownership (just over 45% in 2019 to 53% in 2022) rather than to corporate (just under 10% in 2019 to 13% in 2022). The PAI/Avalere findings were also of concern for other specialties, such as Anesthesiology, which was found to be among the specialties with the lowest percentage of corporate employment, at 13.9%. While Avalere's definition of "other corporate entities" did include private equity firms or health insurers, it is unclear how the data used in the research (IQVIA OneKey) counts consultant/independent contract physicians. It is also not reported in the findings the extent to which physician practices categorized as "independent" may actually have corporate ownership or backing.

In December 2022, the Centers for Medicare and Medicaid Services (CMS) publicly released ownership data for all Medicare-certified hospitals. The new information includes detailed information on the ownership of more than 7,000 Hospitals certified to participate in the Medicare program regardless of any change in ownership. Additional information can be found at https://data.cms.gov/provider-characteristics/hospitals-and-other-facilities/hospital-all-owners. Although this data does not identify practice ownership, ACEP will continue to monitor and advocate for greater disclosure of this kind of data transparency to ensure that facilities are held accountable and people can make the best-informed decisions on their care.

In February 2023, Ivy Clinicians, a career marketplace co-founded by Leon Adelman, MD, MBA, FACEP, FAAEM, released a report on the State of the Emergency Medicine Employer Market. Based on an 18-month search process, the Ivy Clinicians team attempted to fill the data gap by carefully matching every ED with its emergency medicine (EM) practice counterpart. This report examined the EM employer landscape across various metrics (e.g., rurality, insurance rates, residency sites, clinician shortages) by four employer types: clinician partnerships, private equity-owned organizations, health system-employed structures and government-employed structures. ACEP has subsequently established a limited data-sharing agreement with Ivy Clinicians in an attempt to further improve the ongoing quality of the data and potentially establish its use for research such as that called for in this resolution.

Resolution 47 Family and Medical Leave – *first resolved*

RESOLVED, That ACEP advocate for paid family leave, including but not limited to supporting the American Medical Association's effort to study the effects of Family Medical Leave Act expansion including paid parental leave (AMA Policy H-405.954).

Action: Assigned to Advocacy & Practice Affairs staff for federal advocacy initiatives.

Broad paid family leave provisions were included in the "Build Back Better" (BBB) budget reconciliation framework adopted by the House of Representatives in November 2021, the main legislative priority for President Biden and the Democratic majority in Congress. ACEP tracked this (in addition to numerous other provisions) and while supportive of paid family leave, ACEP did not take a formal position on the BBB given its expansive nature and overall relatively indirect impact on emergency medicine, as well as other political considerations. However, the significantly slimmed-down budget reconciliation deal that ultimately passed in August 2022 (and renamed as the "Inflation Reduction Act") did not include paid family leave. ACEP continues working to identify legislative opportunities to advocate for paid family leave.

At its November 2022 Interim Meeting, the AMA House of Delegates (HOD) modified existing policy to encourage implementation of parental, family and medical necessity leave for medical students and physicians. The updated policies call on the AMA to: (1) study the impact on and feasibility of medical schools, residency programs,

specialty boards and medical group practices incorporating into their parental leave policies a 12-week minimum leave allowance, with the understanding that no parent should be required to take a minimum leave; and (2) recommend that medical practices, departments and training programs strive to provide 12 weeks of paid parental, family and medical necessity leave in a 12-month period for their attending and trainee physicians as needed.

Resolution 48 Financial Incentives to Reduce ED Boarding (as amended)

RESOLVED, That ACEP study financial and other incentives that might be used to reduce boarding of admitted patients in the emergency department.

Action: ACEP participated in a study of ED boarding with the Emergency Department Benchmarking Alliance (EDBA)and the report was released in October 2022.

Addressing boarding and crowding have been longstanding priorities of the College, and federal legislative and regulatory advocacy efforts continue as well. ACEP has reached out to both CMS and The Joint Commission to determine what federal action can be taken to address the issue. Addressing boarding and crowding were included as key priorities in communications with Congress during the 117th Congress as legislators in both the House and Senate develop legislative efforts to address the nation's mental health crisis. ACEP Advocacy & Practice Affairs staff continue to discuss potential solutions with legislators in both chambers.

ACEP President Christopher Kang, MD, FACEP, met with senior officials of the Biden Administration in mid-October 2022 to discuss several issues and specifically recommended that the White House host a summit on ED boarding and workforce issues that would bring together key stakeholders from the clinician, hospital, nursing home, emergency medical services (EMS), and patient communities to discuss potential solutions. ACEP sent a letter to the White House on October 28, 2022, calling attention to the boarding problems in the U.S. and formally asked the Administration to convene a meeting of stakeholders to identify immediate and long-term solutions. Many other medical organizations signed on to the letter. ACEP also sent a letter sent to the National Governors Association on November 9, 2022, that included a copy of the White House boarding letter. A template letter was also created for ACEP chapters to share the White House letter with their individual governors. ACEP began a communications campaign in November 2022 to keep members informed of the initiatives underway to address boarding. A resource page was created on acep.org and a digital storybook to highlight many of the stories ACEP collected.

The Emergency Medicine Practice Committee developed an ED Boarding Toolkit that will be available on the ACEP Website once it is finalized. The committee also revised the "Boarding of Admitted and Intensive Care Patients in the Emergency Department" policy statement and it was approved by the Board in February 2023.

The 2022 Council adopted Amended Resolution 38(22) Focus on ED Patient Boarding as a Health Equity Issue. A Boarding Task Force was appointed and the EDBA report was provided to them for review. Their objectives include: 1) create an agenda for a boarding summit along with recommendations for organizations to be represented; and 2) create a list of potential solutions to boarding with an emphasis on what the state/federal government can do to reduce boarding.

ACEP hosted a Boarding Summit on September 27, 2023. Attendees included representatives from the Agency for Healthcare Research and Quality (AHRQ), Health & Human Services' Administration for Strategic Preparedness & Response-Biomedical Advanced Research and Development Authority (ASPR-BARDA), nursing homes/post-acute care, hospitals, psychiatry, nursing, emergency nursing, patients, National Governors' Association, Association for State and Territorial Health Officials, and others. The summit participants identified what they perceived as the causes of boarding, discussed barriers to overcome them, and then reached group consensus on areas to prioritize for addressing. The next steps include writing up a report of the Summit and creating a listserv for continued collaboration with the group and others, as appropriate, for advocating at the state and federal level. Information about the Summit will be publicized along with the results of public opinion polling that is being conducted.

Resolution 49 Forced EMS Diversion – *first resolved*

RESOLVED, That ACEP work with other stakeholders to discourage states and hospitals from using forced EMS diversion to substitute for system-wide hospital admission load balancing.

Action: Assigned to the EMS Committee. The committee worked with other stakeholders such as the National Association of EMS Physicians (NAEMSP), National Association of State EMS Officials (NASEMSO), National Association of EMTs (NAEMT), International Association of Fire Chiefs (IAFC), and the American Ambulance Association (AAA) to develop strategics to address forced EMS diversion. Historically EMS diversion has best been addressed at the local level through collaboration between the facilities and EMS services once the reasons for the diversion have been identified.

Resolution 50 Complications of Marijuana Use (as amended)

RESOLVED, That ACEP develop practice guidelines on the treatment of complications of marijuana use as seen in emergency department presentations; and be it further

RESOLVED, That ACEP provide education and guidance to emergency physicians in relationship to documentation and overall awareness of cannabis related ED diagnoses; and be it further

RESOLVED, That ACEP develop and disseminate public facing information on the complications of marijuana use as seen in the emergency department.

Action: Assigned first resolved to the Clinical Policies Committee to develop a clinical policy or practice guidelines. Assigned second and third resolveds to the Public Health & Injury Prevention Committee.

The Clinical Policies Committee began reviewing information on the conditions where there is evidence for an association between marijuana use and ED presentations: hyperemesis, psychosis, trauma, and, possibly, dysrhythmias. An initial literature search was performed to gain understanding of the scope of existing literature on the topic and found there was limited published data. The committee was also informed that the Society for Academic Emergency Medicine's "Guidelines for Reasonable and Appropriate Care" (GRACE) program is currently working on a practice guideline for cannabis-induced hyperemesis. The committee shifted its focus to developing a systematic review of the evidence for an association between marijuana use and specific ED presentations, which will take the form of a scientific article accompanied by a best practice document. The literature for the first critical question, regarding cardiovascular outcomes in marijuana users, is being graded by methodologists. The second critical question, regarding psychiatric outcomes in marijuana users, is in the literature review stages. The committee will continue working on the resolution in the 2023-24 committee year.

The Public Health & Injury Prevention Committee developed two handouts that are available on the ACEP website: 1) patient information on risks and potential effects of marijuana use; and 2) physician information on management of tetrahydrocannabinol presentations in the emergency department.

Resolution 52 Standardization of Medical Screening Exams of Arrested Persons Brought to the ED (as amended)

RESOLVED, That ACEP work with interested state chapters and other stakeholders to develop guidelines for the medical screening examination of individuals who are in law enforcement custody when the arresting agency requests a medical evaluation of that individual prior to processing into a detention center; and be it further

RESOLVED, That ACEP develop best practice guidelines for the conveying of an arrested person's pertinent medical information to medical personnel at the receiving correctional facility, consistent with medical ethics and medical privacy laws.

Action: Assigned to the Ethics Committee to work with the Medical-Legal Committee and the State Legislative/ Regulatory Committee to develop a policy statement and Policy Resource & Education Paper (PREP). The committees developed the policy statement "Best Practice Guidelines for Evaluating Patients in Custody in the Emergency Department" and it was approved by the Board in August 2023. A Policy Resource & Education Document (PREP) was also developed as an adjunct to the policy statement. The PREP will be available on the ACEP website as soon as it is finalized.

Resolution 54 Understanding the Effects of Law Enforcement Presence in the Emergency Department (as amended)

RESOLVED, That ACEP support the research, development, and adoption of best practices regarding law enforcement and security personnel presence in the hospital environment, including but not limited to the ED, to create transparency and protect the rights of its vulnerable patient populations; and be it further

RESOLVED, That ACEP collaborate with other interested organizations to create easily accessible transparent toolkits that outline state-specific policies and laws regarding law enforcement presence in the hospital environment, including but not limited to the ED.

Action: Assigned to the Medical-Legal Committee to work with the Diversity, Equity, & Inclusion Committee; Diversity, Inclusion, & Health Equity Section; and the Social Emergency Medicine Section to develop a policy statement and Policy Resource & Education Paper (PREP). Assigned second resolved to the State Legislative/ Regulatory Committee.

The State Legislative/Regulatory Committee solicited emergency physician groups for different approaches to law enforcement presence in the ED. The Medical-Legal Committee and the State Legislative/Regulatory Committee will continue working on this resolution in the 2023-24 committee year.

Resolution 55 Patient Experience Scores (as amended)

RESOLVED, That ACEP acknowledge and affirm existing ACEP policy (e.g., the 2016 "Patient Experience of Care Surveys" policy statement); and be it further

RESOLVED, That ACEP define standardized inclusion and exclusion criteria for patient experience survey populations; and be it further

RESOLVED, That ACEP define improved methodologies for patient experience surveys, including wording to reduce or eliminate bias, and appropriate power calculations such that sufficient surveys are collected to yield more statistically valid results; and be it further

RESOLVED, That ACEP aggressively advocate for patient experience survey validity and work with CMS and other stakeholders to implement prompt, actionable change to current ED survey practices.

Action: Assigned first three resolveds to the Emergency Medicine Practice Committee. Assigned fourth resolved to Advocacy & Practice Affairs staff for federal advocacy initiatives.

The Emergency Medicine Practice Committee revised the 2016 "Patient Experience of Care Surveys" policy statement and submitted it to the Board in June 2022. The Board referred the revised policy back to the committee for additional revisions. A revised draft was submitted to the Board for consideration at their September 28, 2022, meeting and it was again referred back to the committee for revisions. The Board of Directors approved the revised policy statement "Patient Experience of Care Surveys" in February 2023.

ACEP included specific recommendations about modifying the Consumer Assessment of Healthcare Providers & Systems (CAHPS) for the Merit-based Incentive Payment System (MIPS) survey along with the ED CAHPS survey in our response to the Calendar Year (CY) 2023 Physician Fee Schedule proposed rule. Specifically, we cautioned CMS that most current vendors that would administer ED CAHPS do not survey a large enough sample size to allow for statistically valid individual physician attribution. We further urged CMS that we believe the patient engagement module ACEP offers for all participants of our qualified clinical data registry (QCDR), the Clinical Emergency Data Registry (CEDR) is superior to ED CAHPS and advocated that we believe strongly that performance improvement cannot be accomplished without the capability to give individual clinicians feedback and resultant skills training to improve physician-patient communication.

Resolution 56 Race-Based Science and Detrimental Impact on Black, Indigenous, and People of Color Communities (as amended)

RESOLVED, That ACEP issue a statement to the membership regarding the lack of validity in race-based science and its detrimental impact on the health of Black, Indigenous, and People of Color patients and communities; and be it further

RESOLVED, That ACEP commit to the education of its membership by denouncing the use of race-based calculators in its clinical policies; and be it further

RESOLVED, That ACEP commit to not support research studies that utilize race-based calculations that are not supported by sound scientific evidence.

Action: Assigned to the Research Committee to work with the Diversity, Equity, & Inclusion Committee to develop a policy statement. Assigned second resolved to the Clinical Policies Committee to ensure race-based calculators are not used in ACEP's clinical policies.

The Research Committee developed the policy statement "Appropriate Use of Race in Research" and it was approved by the Board of Directors in June 2023. The Clinical Policies Committee confirmed that it does not use race-based calculators and race-based science to inform clinical policy recommendations.

Resolution 57 Social Determinants of Health Screening in the Emergency Department (as amended)

RESOLVED, That ACEP seek to improve the recognition of, and attention to, social determinants of health (SDH) by supporting research of evidence-based SDH screening and interventions in the ED; and be it further

RESOLVED, That ACEP advocate for the allocation of private and public sector resources for identifying and addressing social determinants of health in the emergency department; and be it further

RESOLVED, That ACEP push for legislative and political action to achieve broad, systemic solutions to those social determinants of health that create inequity in health status and outcomes so that to the greatest extent possible, addressing social determinants of health is considered integral to improving the health of the country.

Action: Assigned to Advocacy & Practice Affairs staff for federal advocacy initiatives.

ACEP has repeatedly addressed the issue of addressing social determinants of health in our responses to various Medicare and Medicaid regulations and request for information, and responses to Congressional inquiries. In these responses, we have educated regulators and legislators about the role emergency physicians play in identifying and

screening for social risk factors, as well as some of the tools being used in the ED to help identify barriers to health such as transportation and access to food and housing.

Resolution 58 Updating and Enhancing ED Buprenorphine Treatment Training and Support

RESOLVED, That ACEP support the development of training sessions focused solely on the implementation of buprenorphine induction and prescribing in the emergency department setting to replace the 8-hour training that had previously been required for X-waiver applications; and be it further

RESOLVED, That ACEP develop an online peer mentoring platform, similar to Providers Clinical Support System, but limited to emergency physicians, that utilizes the expertise of members of the College to support the development and implementation of ED substance use disorder practices while responding to specific practice-based challenges that arise in an asynchronous messaging forum available to all ACEP members.

Action: The first resolved has been addressed. ACEP continues to provide education and provide training sessions focused solely on the implementation of buprenorphine induction and prescribing in the ED, including 8-hour DATA 2000 EM MAT Waiver trainings, 4-hour EM MAT Waiver trainings (as part of the 4x4 wavier trainings), and 2-hour "core/condensed" EM MAT waiver trainings. Additionally, ACEP has also developed the following tools and resources:

- **Opioid Regulations: State by State Guide (PDF)**
- A series **of free webinars on various topics related to Opioid Use Disorder and Treatment and Management of OUD in the ED**
- **Buprenorphine in the ED Point of Care tool** that is an algorithm-like tool that walks clinicians through the process of patient evaluation and assessment through to prescription.
- Buprenorphine Initiation in Emergency Departments: Interactive Case Vignettes
- Hosted and developed an **Initiation of Buprenorphine and Pain Management in the ED-Implementation Workshop.** Topics covered in the workshop covered everything from setting up a ED-Buprenorphine program, Naloxone program, stigma, and pain management in the ED.
- E-QUAL Network Opioid Initiative

Assigned the second resolved to the Pain Management & Addiction Medicine Section. The section, along with leaders of the Pain & Addiction Care in the ED accreditation program, launched the EM Opioid Advisory Network. This is an open access network that anyone can use to receive clinical guidance, discover tools and resources, and have their questions answered through six national leaders and experts in pain and addiction within the Pain Management & Addiction Medicine Section.

Resolution 59 Use of Medical Interpreters in the Emergency Department (as amended)

RESOLVED, That ACEP promote the use of qualified medical interpreters for emergency department patient interactions with patients with limited English proficiency.

Action: Assigned to the Emergency Medicine Practice Committee to work with the Social Emergency Medicine Section to develop a policy statement and include a definition of "qualified medical interpreter."

The Emergency Medicine Practice Committee developed the policy statement "Use of Medical Interpreters in the Emergency Department" and it was approved by the Board in June 2022.

Resolution 60 Accountable Organizations to Resident and Fellow Trainees (as amended)

RESOLVED, That ACEP submit a resolution to the AMA that requests the AMA establish a task force consisting of relevant stakeholders with the following goals:

1. Determine which organizations or governmental entities are best suited for being permanently responsible for resident and fellow interests without conflicts of interests.
2. Determine how these organizations can be held accountable for fulfilling their duties to protect the rights and well-being of resident and fellow trainees.
3. Determine methods of advocating for residents and fellows that are timely and effective, without jeopardizing trainees' current and future employability.
4. Study and report back on how such an organization may be created, in the event that no organizations or entities are identified that meet the above criteria; and
5. determine transparent methods to communicate available residency positions to displaced residents.

Action: Assigned to the AMA Section Council on Emergency Medicine.

A resolution (304) calling for the AMA to work with relevant stakeholders to implement these 5 goals was introduced by the Resident and Fellows Section at the AMA's 2022 House of Delegates Annual Meeting in June. The

resolution was ultimately referred, following recommendation of the Reference Committee, and input from the Council on Medical Education, due in part to the complexity of the issue. The Council on Medical Education released a report on The Impact of Private Equity on Medical Training, which contained nine recommendations; the recommendations were adopted and the remainder of the report was filed.

Resolution 61 Advocating for a Required Emergency Medicine Experience at All U.S. Medical Schools (as substituted)

RESOLVED, That ACEP advocate that all U.S. medical schools, allopathic and osteopathic, require formal exposure to the specialty of emergency medicine, including but not limited to a formal clerkship or other activities to ensure that graduating medical students understand the role of emergency departments and the practice of emergency medicine.

Action: Assigned to the Academic Affairs Committee. The committee revised the policy statement "Academic Departments of Emergency Medicine in Medical School" with the revised title "Academic Departments of Emergency Medicine and Required Emergency Medicine Education in Medical Schools" and it was approved by the Board in February 2023.

ACEP's policy statement "Guidelines for Undergraduate Education in Emergency Medicine" states that ACEP "believes that all medical students should be taught the basic principles of emergency medicine in order to recognize a patient requiring urgent or emergency care, initiate evaluation and management, and provide basic emergency care." It also states that, "every medical student should receive clinical exposure to emergency department patients and care" and "should be driven by experts board certified in the field of emergency medicine." The Academic Affairs Committee updated the policy statement to strengthen it and the revised policy statement was approved by the Board in June 2023.

Resolution 62 Support of Telehealth Education in Emergency Medicine Residency (as amended)

RESOLVED, That ACEP promote and endorse telehealth training opportunities for emergency medicine residents; and be it further

RESOLVED, That ACEP advocate for inclusion of telehealth in The Model of the Clinical Practice of Emergency Medicine; and be it further

RESOLVED, That ACEP support the development of additional telehealth fellowship programs.

Action: Assigned to the Academic Affairs Committee. ACEP's recommendations for changes to the EM Model were sent to ABEM in February 2022 and included adding telehealth. The 2022 update to The Model of the Clinical Practice of Emergency Medicine added Telemedicine (20.4.1.5) within the Clinical Informatics area of Systems-based Practice.

This resolution was also addressed by the ACGME Emergency Medicine Requirements Consensus Task Force. The task force developed a list of recommendations for emergency medicine training and workforce needs of the future that were submitted to the ACGME.

The Academic Affairs Committee developed an outline with information on how to support telehealth in residencies and fellowship programs. The manuscript writing phase of the project is still in progress and the committee expects it will be completed in early 2024.

Resolution 63 Physician-Led Team Leader Training (as amended)

RESOLVED, That ACEP engage with the Accreditation Council for Graduate Medical Education, the Council of Residency Directors in Emergency Medicine, the Society of Emergency Medicine Physician Assistants, the American Academy of Emergency Nurse Practitioners, and the American Association of Physician Leaders, and other interested parties to develop a standardized curriculum for teaching physicians to function as team leaders in support of physician-led teams; and be it further

RESOLVED, That ACEP develop continuing medical education to instruct physician-led teams based on the curriculum identified by the stakeholders for physicians who are post residency; and be it further

RESOLVED, That ACEP advocate to the American Board of Emergency Medicine and the American Osteopathic Board of Emergency Medicine that specific competencies in team leadership be incorporated in the next revision of The Model of the Practice of Clinical Emergency Medicine.

Action: Assigned first and third resolveds to the Academic Affairs Committee. Assigned second resolved to the Education Committee and Educational Services staff.

ACEP's recommendations for changes to the EM Model were sent to ABEM in February 2022 and included adding physician-led team leadership/team management. Several updates regarding physician-led team leadership and management are included in the 2022 update to The Model of the Clinical Practice of Emergency Medicine

The Academic Affairs Committee worked with stakeholders and is developing a manuscript. The committee

expects the manuscript will be completed in early 2024. The Education Committee is working to develop and deliver a CME module to instruct physician-led teams based on the curriculum identified by the stakeholders for physicians who are post-residency.

Resolution 64 Rural Emergency Medicine Education and Recruitment (as amended)

RESOLVED, That ACEP support staffing rural hospitals with ED volumes greater than 5,000 patients per year with ABEM/AOBEM board-certified/eligible emergency physicians including cost-based reimbursement that covers the cost of 24/7 ABEM/AOBEM board-certified/eligible physician coverage and support expanded ACEP-led rural provider education, board-certified emergency physician medical direction, and telemedicine access for all rural emergency departments including those who do not yet have full ABEM/AOBEM-certified/eligible physician coverage or those with extremely low volumes; and be it further

RESOLVED, That ACEP support the creation of links between rural hospitals and larger health networks and academic institutions, including medical schools and colleges, to facilitate the creation of rural medicine internships and electives for interested learners at the undergraduate and medical school level; and be it further

RESOLVED, That ACEP support the use of government funding for rural elective rotations for emergency medicine residents at rural critical access hospitals to better train residents for this work and recruit residents to rural practice, where they are most needed; and be it further

RESOLVED, That ACEP support student loan forgiveness for physicians choosing to practice emergency medicine in rural areas.

Action: This resolution is a policy statement. Assigned to the Emergency Medicine Practice Committee to review and determine if additional language is needed for a new policy statement or if the language should be incorporated into the "Definition of Rural Emergency Medicine" policy statement. Include language from Amended Resolution 65(21) Rural Provider Support and a Call for Data (first, third, fourth, and fifth resolveds). Also seek input from the ED Accreditation Task Force to ensure consistency with their work. The committee revised the policy statement "Definition of Rural Emergency Medicine" with the revised title "Rural Emergency Medical Care" and it was approved by the Board in June 2022.

Assigned to Advocacy & Practice Affairs staff for federal advocacy initiatives. Assigned to the Education Committee and Educational Services staff to consider for potential education opportunities.

In October 2021, information was included in ACEP's 911 Update when the Biden Administration announced the student loan forgiveness program. In January 2022, ACEP sent an email to members to remind them of the April 30, 2022, deadline to apply for student loan relief and included information about ACEP's partnership with **Panacea Financial** and **SoFi** to provide members-only options on navigating student loan assistance. ACEP has since established a new partnership with Laurel Road for a full suite of premier financial solutions, including student loan consultation and refinancing. The Young Physicians Section also included information in their communications to section members.

ACEP has developed federal legislation to address emergency medicine workforce considerations and encourage emergency physicians to practice in rural and underserved communities by establishing emergency medicine health professional shortage areas (HPSAs) to help expand access to the National Health Service Corps (NHSC) student loan repayment options, as well as providing relocation/job placement assistance and benefits to spouses/partners of emergency physicians based on existing programs available for spouses of members of the U.S. Armed Forces.

Resolution 65 Rural Provider Support and a Call for Data (as amended)

RESOLVED, That ACEP recognize that patients presenting to rural emergency departments are arguably our most vulnerable ED patient population in the U.S. and deserve increased support; and be it further

RESOLVED, That ACEP support the Rural Section in collecting survey data from rural emergency departments to investigate volumes, clinician staffing patterns, and common barriers of care and staffing based and stratified as follows:

Extreme Frontier	< 0.25 pts/hr (annual volume < 2,190)
Frontier	0.25 pts/hr – 0.5 pts/hr (annual volume 2,191 to 4,380)
Small Rural	0.5 pts/hr – 2 pts/hr (annual volume 4,381 to 17,520)
Medium Rural	2 pts/hr – 4 pts/hr (annual volume 17,521 to 35,040)
Large rural	> 4 pts/hr (annual volume > 35,041); and be it further

RESOLVED, That ACEP recognize that ABEM/AOBEM-certified or eligible physicians are underrepresented in rural emergency departments and that very low volume EDs generally cannot support full-time ABEM/AOBEM-certified physicians; and be it further

RESOLVED, That ACEP encourage rural emergency departments to retain ABEM/AOBEM-certified physicians to serve as emergency department medical directors so there will be physician-led teams in all U.S. EDs; and be it further

RESOLVED, That ACEP support and endorse rural-specific tools including telemedicine initiatives, the development of regional expedited transfer agreements, regional hub and spoke model integration, and rural specific educational tools.

Action: Assigned first, third, fourth, and fifth resolveds to the Emergency Medicine Practice Committee to review in conjunction with Amended Resolution 64(21) Rural Emergency Medicine Education and Recruitment and determine if additional language is needed for a new policy statement or if the language should be incorporated into the "Definition of Rural Emergency Medicine" policy statement. Also seek input from the ED Accreditation Task Force to ensure consistency with their work. The committee revised the policy statement "Definition of Rural Emergency Medicine" with the revised title "Rural Emergency Medical Care" and it was approved by the Board in June 2022.

Assigned second resolved to the Rural Emergency Medicine Section to collect the data and provide recommendations to the Board on how to utilize the data. The section developed a survey, identified the locations to be surveyed, and developed a plan to deploy the survey to approximately 2,000 hospitals.

Resolution 70 Creation of Specialized Scope Expansion Advocacy Teams for State Level Advocacy (as amended)

RESOLVED, That ACEP create a toolkit for members to use at the state level to address practice scope expansion efforts that emphasizes the importance of a physician led team for optimal patient safety; and be it further

RESOLVED, That ACEP's advocacy team create a tracking system for unsupervised practice efforts in each state to ensure that the voice of emergency physicians can be heard for this important patient safety topic; and be it further

RESOLVED, That ACEP's advocacy team create a "strike team" of advocacy experts in emergency medicine scope expansion issues that can be tasked to help engage states who are actively involved in scope expansion legislation and support the state chapters and physicians at the local level; and be it further

RESOLVED, That ACEP report on efforts to maintain and challenge scope of practice for our Council's consideration highlighting, at a minimum, activities by ACEP and state chapters in states where scope of practice is being challenged and outcomes of those efforts.

Action: Assigned to Advocacy & Practice Affairs staff for state advocacy initiatives in coordination with the strategic plan.

ACEP launched a new national scope of practice campaign in correlation with National Doctors Day on March 30, 2022, Who Takes Care of You in an Emergency?, to educate people about emergency physicians' role and the vast difference in experience, education, and training compared to other members of the care team. In addition to the results of a national opinion poll on scope of practice issues, ACEP released a Chapter/Spokesperson toolkit with talking points, media materials (including a template op-ed), sample social media, and infographics. A series of videos were also released on ACEP's YouTube channel to better explain the vital role of emergency physicians. A toolkit, which includes talking points, a sample op-ed and social media posts, infographics, and video content are available in the ACEP Media Hub.

ACEP staff and the State Legislative/Regulatory Committee created a framework for a dashboard tracking key issues regulated at the state level, including scope of practice. The dashboard will begin to be populated in 2022-23.

ACEP recently joined the National Conference of State Legislatures (NCSL) Foundation to give us a seat at the table to provide the EM perspective on some of the biggest issues we face right now, most notably scope of practice. Our membership gives us unparalleled access to state legislators in NCSL-hosted meetings on health and insurance related issues – in most cases, the chair of insurance and health committees. ACEP will identify key emergency physician advocates and fund their travel to these meetings as appropriate when scope issues are underway for a particular state.

ACEP contracted with VoterVoice, an advocacy platform and digital advocacy tool for communicating to federal and state legislative officials and tracking advocate actions. ACEP chapters were offered options to utilize the tool for state level grassroots advocacy. In the first option, the chapter provides alert text and audience targets to ACEP DC staff to send messaging directly on their behalf and provide reports throughout the campaign. The SD and WI chapters utilized this option in regard to scope battles in their state legislatures in 2022. ACEP also negotiated a discounted rate for chapters to purchase their own state platform that they would manage independently. Six states are participating including FL, Il, MI, NY, TX and VA.

ACEP also partnered with the Congressional Management Foundation (CMF), which offers educational and motivational tools to help individuals and organizations gain an understanding of Congress, the skills to influence public policy, and the value of citizen engagement. Throughout the year, ACEP provides information about CMF-sponsored webinars to ACEP chapters allowing their members to access the training either live or through a recorded version at no cost. Brad Fitch, the head of CMF, has also addressed participants at past Leadership and Advocacy Conferences on best practices.

Resolution 72 Fair Compensation to Emergency Physicians for Collaborative Practice Agreements & Supervision (as amended)

RESOLVED, That ACEP support emergency physicians be fairly compensated to supervise ABEM/AOBEM board certified/eligible physician led teams.

Action: This resolution is a policy statement. Assigned to the Reimbursement Committee to determine if the language should be added to the policy statements "Compensation Arrangements for Emergency Physicians," "Fair Payment for Emergency Department Services," and "Emergency Physician Compensation Transparency." The committee determined that the language in the resolution was sufficient as a stand-alone policy statement, although there are some common themes included in the other referenced policies. The rationale for a separate policy statement is that it speaks to a very specific point that could be obscured if included within the broader content of the existing policies. The Board of Directors approved the policy statement "Fair Compensation to Emergency Physicians to Supervise ABEM/AOBEM Board Certified/Board Eligible Led Teams" in June 2023.

Resolution 74 Regulation by State Medical Boards of All Who Engage in Practice of Medicine (as amended)

RESOLVED, That ACEP support that anyone, physicians or non-physician practitioners, who engage in the practice of medicine be regulated by the respective state medical board of their respective states; and be it further

RESOLVED, That ACEP work with the AMA and submit a resolution to their house of delegates to create a universal definition of the practice of medicine to include the ordering of diagnostic tests, diagnosing clinical condition/disease, prescribing of medications, and/or ordering of treatments on human beings.

Action: Assigned first resolved to the State Legislative/Regulatory Committee to develop a policy statement. Assigned second resolved to the AMA Section Council on Emergency Medicine.

The State Legislative/Regulatory Committee had initial discussions on how to break the objective into actionable parts. A work group was assigned to research regulation of the practice of medicine in the states to determine how to best support the position of emergency physicians. The committee developed the policy statement, "State Board of Medicine Regulation of Non-Physician Practitioners Practicing Medicine" and it was approved by the Board in April 2023.

The AMA Section Council on Emergency Medicine discussed the second resolved extensively and was concerned that, contrary to the seeming intent of the resolution, a universal definition of the practice of medicine could leave emergency medicine more vulnerable on scope of practice issues rather than less vulnerable. If defined too narrowly, it leaves an opening for nurse practitioners to further expand their scope of practice and if defined too broadly it could remove needed functions provided by nurse practitioners and potentially nurses as well. An overly broad definition could also introduce new complications wherein anyone offering friendly advice to someone could be construed as providing medical advice and therefore subject them to liability concerns. Another challenge is if a universal definition is offered by emergency medicine to the AMA House of Delegates (HoD), primary care and other specialties in attendance would then propose alterations or alternative definitions more suited to their own members. This could pit emergency medicine against other specialties within the house of medicine with no guarantee that our definition would prevail, and thereby introduce risk that whatever consensus definition ultimately emerged from the HoD could be much more problematic for emergency medicine (especially given its unique nature) than any perceived issues posed by the current lack of a definition. The Board approved recommendations on April 30, 2023, to rescind the motion approved at the October 28, 2021, meeting to adopt the second resolved and to overrule it. The Board also adopted a motion "that ACEP work with the American Medical Association and other stakeholders to support that anyone, physicians or non-physician practitioners, who engage in the practice of medicine be regulated by the respective state medical board of their respective states." The Steering Committee was informed of the recommendations to the Board at their April 30, 2023, meeting. A message regarding the Board's decision was posted on the Council engagED on May 30, 2023. The position and vote of each Board member was provided to the Steering Committee for the October 6, 2023, meeting and included in the 2023 Council meeting materials.

Resolution 78 In Memory of Leon L. Haley, Jr., MD, MHSA, CPE, FACEP, FACHE

RESOLVED, That the American College of Emergency Physicians remembers with honor and appreciation the accomplishments and contributions of a gifted emergency physician, Leon L. Haley, Jr., MD, MHSA, CPE, FACEP, FACHE, and extends condolences and gratitude to his parents Leon and Elizabeth Ann, his children Grant, Wesley, and Nichelle, his sister Lisa, family, friends, and colleagues for his remarkable service to the specialty of emergency medicine, patient care, and the communities he served so well.

Action: A framed resolution was sent to Dr. Haley's family.

Resolution 79 In Memory of Juan Francisco Fitz, MD, FACEP

RESOLVED, That the American College of Emergency Physicians recognizes the scope, breadth, and lasting impact of the magnanimous life of Juan Francisco Fitz, MD, FACEP, on the State of Texas and the Texas College of Emergency Physicians; and be it further

RESOLVED That the American College of Emergency Physicians and the Texas College of Emergency Physicians acknowledges the substantial loss to the medical community and bereavement of his many colleagues and friends, but above all extend condolences to his family.

Action: A framed resolution was sent to Dr. Fitz's family.

Resolution 80 In Memory of Jay Edelberg, MD, FACEP

RESOLVED, That the American College of Emergency Physicians remember with honor and gratitude this trailblazing pioneer, Jay Edelberg, MD, FACEP, and his selfless contributions to emergency medicine; and be it further

RESOLVED, That the American College of Emergency Physicians extends the same gratitude and condolences to his wife, Caral, his family members, colleagues, and friends who are deeply saddened by this loss.

Action: A framed resolution was sent to Dr. Edelberg's family.

Resolution 81 Leon L. Haley, Jr. Award

RESOLVED, That the American College of Emergency Physicians create a national award to honor champions of diversity, inclusion, and health equity and it be named the "Leon L Haley Jr Award" in honor of one of the emergency medicine leaders who promoted diversity, inclusion, health equity and eliminating health disparities throughout his career; and be it further

RESOLVED, That each year at the ACEP Scientific Assembly that there should be a "Leon L Haley, Jr Lecture" that will focus on diversity, equity, and inclusion and on the outstanding qualities exemplified by Leon Haley, including professionalism, humanitarianism, and advocacy for the elimination of healthcare disparities.

Action: Assigned to staff to work with the Diversity, Inclusion, & Equity Section to develop the award description and award criteria for approval by the Board of Directors. Assigned second resolved to the Education Committee and Educational Services staff to develop a plan to incorporate the named lecture for *ACEP22* and for the future.

The award description and eligibility criteria was approved by the Board at their September 28, 2022, meeting. The award is now part of ACEP's awards program. Nominations for the award began in 2023.

The Education Committee formalized the named lecture into the annual planning for *Scientific Assembly.* The first lecture was held at ACEP22 in San Francisco and the lecture will be continued for future years.

Resolution 82 Defining the Job Description of an Emergency Physician (as amended)

RESOLVED, That, the American College of Emergency Physicians (ACEP) work with appropriate stakeholders and the insurance industry to develop ACEP policy defining an accurate job description that can apply to all emergency physicians; and be it further

RESOLVED, That ACEP consider developing an accurate job description for emergency physicians, which can be used to support appeals of long term disability claim denials, until an acceptable ACEP policy is created.

Action: Assigned to the Emergency Medicine Practice Committee.

ACEP developed a letter with a description of emergency medicine work and describing the job requirements of an emergency physician. The letter can be used on behalf of a member's disability claim and can serve as the foundation for a future document.

The Emergency Medicine Practice Committee developed the policy statement "Defining the Job Description of an Emergency Physician" and it was approved by the Board September 28, 2022. The committee also developed the Policy Resource & Education Paper (PREP) "Physical and Cognitive Skills Required for the Practice of Clinical Emergency Medicine."

Resolution Referred to the Council Steering Committee

Resolution 15 Member Determined Council Representation

RESOLVED, That a task force or committee be appointed to consider an alternative method of determining representation of the membership with specific consideration given to addressing the following:

1. Council composition to be determined by the allocation of credits or points that each individual emergency physician members in good standing of the College will be allotted equally.

2. Each and every full member in good standing who pays full membership dues will be assigned five (5) points or credits that the individual emergency physician is free to assign in whatever breakdown the member wishes towards his/her state chapter, another state chapter, a particular section, or any combination the member wishes to assign the points/credits.
3. Council representation will be determined by the total number of votes/points that were assigned by all paying emergency physician members, i.e., total number of Council positions available (councillors) will be divided into the total number of points to determine how many available councillors will be assigned to each specific chapter, section, etc.
4. Consider maintaining a minimum number of councillor positions i.e., one (1) could be assigned to each state and each section with a minimum of 100 paying members, with the remaining councillor positions assigned according to the pro-rated number of credits/points that the individual emergency physicians assigned.
5. Consider a hybrid that gives preference as seen fit; and be it further

RESOLVED, That a task force or committee assigned to review alternative methods of determining representation of the members in the Council conclude its investigation, research, and suggestions and report back to the Board with sufficient time for the Board to report the information to the Council at least one month before the resolution submission deadline for the 2022 Council meeting.

Action: The Steering Committee discussed this resolution at their January 24, 2022, meeting and it was assigned to the Bylaws & Council Standing Rules Subcommittee to review and provide a recommendation to the Steering Committee. The subcommittee's recommendations were discussed at the May 1, 2022, Steering Committee meeting.

The subcommittee had an extensive discussion about Referred Resolution 15(21) Member Determined Council Representation and noted that Reference Committee testimony was generally opposed to the resolution and reflected that the resolution was viewed as cumbersome to implement and addressed an issue not identified as a need. Testimony in favor of the resolution indicated that the resolution continued the efforts of the task force created in response to Amended Resolution 13(18) Growth of the ACEP Council. The subcommittee also reviewed the report from that task force. It was acknowledged that some sections would prefer proportional representation in the Council instead of the current allocation of one councillor per section. The subcommittee expressed concerns that there are potentially many unintended consequences in implementing the alternative methods of councillor allocation as described in the referred resolution, including but not limited to the potential to shift a portion of a chapter's councillor allocation to sections. Additionally, there are implementation challenges such as how points would be assigned if some members do not assign their points/credits as described in the referred resolution. The subcommittee believes: 1) their review and discussion of the referred resolution addresses the request for a task force or committee to consider an alternative method of councillor allocation; 2) the current method of councillor allocation meets the needs of member representation in the Council; and 3) no further study of alternative methods of councillor allocation are needed to address Referred Resolution 15(21) Member Determined Council Representation. The Steering Committee supported the subcommittee's findings.

Resolutions Referred to the Board of Directors

Resolution 16 ACEP Group Membership

RESOLVED, That ACEP group membership policy be revised to provide individual members a 20% discount on annual ACEP membership dues for every year that the group maintains 100% membership in ACEP beginning in 2022; and be it further

RESOLVED, That ACEP state chapters be encouraged to provide annual state chapter individual dues discount for members of groups who maintain 100% ACEP membership.

Action: Assigned to membership staff to review and provide a recommendation to the Board of Directors. ACEP staff have begun testing discounting and other group benefits as a means of enticing and supporting ACEP 100% Club membership. This has included working with the Oregon Chapter for dues discounting to match the national offer, as well as drafting a list of new organizational benefits that further entice groups to join the 100% Club based on their needs as an employer. Feedback from groups is being used to further refine offerings, and any recommended changes to dues structure or pricing will include involvement by chapter leadership and will be submitted to the Board of Directors for approval.

Resolution 25 ACEP Report Card

RESOLVED, That ACEP undertake a new state chapter survey with questions similar to previous Report Card studies but edited to reflect current emergency medicine practice issues in 2021; and be it further

RESOLVED, That ACEP publish and widely distribute the results of a state chapter survey in a National Report

Card 2022 and provide assistance and resources for chapter activities to improve access and quality of emergency care in their state.

Action: Assigned to Clinical Affairs staff, with input from state chapter executives, to develop a recommendation to the Board of Directors regarding implementation of this resolution. The resolution background estimated costs for using an outside contractor(s) to perform many of the tasks, without conducting the additional primary and secondary research performed in the first three Report Cards, could exceed $150,000.

The Board discussed the referred resolution at their June 2022 meeting, including concerns about the scope of the project, associated costs, and the potential value. The Board expressed support for identifying other ways to curate information chapters found most valuable in previous report cards or that could help evaluate and compare health care issues across states. Staff were directed to work to identify ways to provide data through dashboard tools and other resources and provide recommendations to the Board at a future meeting.

Resolution 35 Preserving Rural Emergency Care in Rural Critical Access Hospitals and Rural Emergency Hospitals – *last three resolveds*

RESOLVED, That ACEP support cost-based reimbursement for rural critical access hospitals and rural emergency hospitals at a minimum of 101% of patient care, including emergency care, to enable rural critical access hospitals to provide a safety net for rural patients and cost-based reimbursement should be increased beyond this 101% minimum according to the proportion of Medicare, Medicaid, and uninsured patients seen in the emergency department; and be it further

RESOLVED, That ACEP support changes in Center for Medicare and Medicaid Services regulation that would allow rural off-campus emergency departments and rural emergency hospitals to collect the facility fee as well as the professional fee, as this essential for rural emergency hospital financial viability; and be it further

RESOLVED, That ACEP advocate for insurance plans to aggregate all institutional and professional billing related to an episode of care and send one unified bill to the patient for their portion to shift the burden of collecting from the patient with a high-deductible insurance plan to the insurance company and allow for more equitable payments to both the rural and referral hospitals for initial stabilization in a rural area and definitive care at a tertiary center.

Action: Assigned to Advocacy & Practice Affairs staff to provide a recommendation to the Board of Directors.

ACEP has advocated for increased reimbursement for clinicians, including emergency physicians, that may work in rural emergency hospitals (REHs) once they have been established. The Consolidated Appropriations Act, which created REHs allowed for an additional five percent payment for each service delivered in REHs as well as a monthly payment for REHs. These additional payments would go to the REH facilities themselves under the Medicare Outpatient Prospective Payment System (OPPS), not the physicians or other clinicians who actually provide the services. In order to incentivize physicians and other clinicians to work in rural areas and appropriately staff REHs, ACEP requested in our official response to the Calendar Year (CY) 2023 OPPS proposed rule that the Centers for Medicare & Medicaid Services (CMS) consider creating an add-on code or modifier under the Medicare Physician Fee Schedule (PFS) that clinicians could append to claims for services delivered in REHs. CMS could consider setting the value of this add-on code or modifier at five percent of the PFS rate for each code that is billed—consistent with the additional OPPS payment that the statute provides. In other words, although the statute provides an additional payment for facilities, ACEP argues that there must also be a commensurate payment for clinicians under the PFS in order for REHs to have the resources and staff necessary to be a viable option for patients who need emergency treatment or other services in rural areas.

The third resolved attempts to address insurer billing practices that both confuse patients and add administrative complexity. ACEP has advocated for Congress to enact legislation that would accomplish the specific request articulated in the resolved. When Congress was debating a ban on balance billing in 2018 and 2019, before the *No Surprises Act* was eventually passed into law, ACEP released a framework of what we wanted to see in any legislation. One key element was a request that the insurer directly pay any coinsurance, copay, and deductible for emergency care to the clinician or facility. Insurers would then collect back these amounts from the patient. This ensures patients only have a single point of contact for emergency medical billing and payment and will no longer receive and have to reconcile multiple, confusing bills and EOBs that result from the many clinicians and facilities that are often involved in a single emergency episode. Unfortunately, while this request would have addressed the third referred resolved, not only for rural care but for all emergency services, Congress did not incorporate this policy into the final legislation and it would be difficult at this time to pass additional legislation to reopen this issue. ACEP has previously attempted to push Congress to enact legislation that would meet the goals of the third resolved and will continue to monitor legislation and regulations affecting rural emergency care, including those that would address the complex insurance and billing practices that emergency physicians and their patients continue to face.

The Board of Directors discussed this referred resolution at their September 28, 2022, meeting and affirmed that the intent of the resolution is being addressed by ACEP continuing to monitor legislation and regulations affecting rural emergency care and advocate on behalf of emergency physicians and patients.

Resolution 37 Physician Pay Ratio

RESOLVED, That ACEP support legislation to establish a Minimum Emergency Physician Pay Ratio that all Contract Management Groups and employers are required to pay individual emergency physicians based on what is collected on the billings for the services provided by that individual emergency physician, before collection costs; and be it further

RESOLVED, That ACEP support that when a nominal compensation amount is stated to compensate the emergency physician, the amount must meet or exceed an established Minimum Emergency Physician Pay Ratio; and be it further

RESOLVED, That ACEP support legislation to establish a Minimum Emergency Physician Pay Ratio that all Contract Management Groups and employers are required to pay individual emergency physicians a reasonable, prorated percentage of any other revenue that the contract management group or employer receives as a direct or indirect result of the individual, or group of individual, emergency physicians, providing his/her/their services with a suggested starting point: 0.80-0.85 (80-85%).

Action: As was noted in the resolution background, ACEP's Antitrust Policy states "The College is not organized to and may not play any role in the competitive decisions of its members or their employees, nor in any way restrict competition among members or potential members." Further, "The American College of Emergency Physicians or any committee, section, chapter, or activity of the College shall not be used for the purpose of bringing about or attempting to bring about any understanding or agreement, written or oral, formal or informal, expressed or implied, among two or more members or other competitors with regard to prices or terms and conditions of contracts for services or products."

Assigned to ACEP's General Counsel to provide a legal opinion on the feasibility and advisability of implementing this resolution and seek an opinion from outside legal counsel if needed. The Board will consider further action pending this opinion. The Medical-Legal Committee was assigned an objective for the 2023-24 committee year to develop an information paper on the legal ramifications of collective bargaining and unionization for emergency physicians.

As a means to further general education and awareness on the topic of collective bargaining, a panel entitled "Physician Collective Action: Does Standing on the Picket Line Cross a Moral Line" was presented during the 2022 Leadership & Advocacy Conference.

Resolution 43 Autonomous "Shared Governance" Due Process

RESOLVED, That ACEP adopt and promote a practice of "shared governance based due process" that has the following general qualities and that it applies to:

1. Employees of a hospital or health system.
2. Independent contractors or employees of a large group with a MSO
3. Independent contractors or employees of a small group

Definitions

1. Individual Physician (IP) requesting due process.
2. Management Service Organization (MSO) or individual or entity that makes decisions, negotiates contracts, or provides management. services. This can also apply to administrative physicians in small group or deans/chairs/administrative faculty.
3. Practicing physicians in Physician Group (PPG) would be the entity deciding that outcome of the IP and be limited to the physicians practicing in the group at that hospital in that department. Their vote would be based on number of clinical hours worked in the past six months. Groups could establish some type of seniority multiplier based on years worked or full votes to each full-time clinical physician based on a minimum hours such as 80/hours a month.

The hospital, health system, medical group, or MSO would still arrange and sign contracts with individual physicians (IP). However, in the event a hospital administration, MSO, or health system requests the immediate removal of an IP, or removes them from the schedule, or fails to schedule them for their usual numbers of shifts, the IP would have the opportunity to have a hearing before the PPG. The PPG would then determine if the IP should be immediately terminated or removed from the schedule. The proceedings/vote would be confidential, but results would be reported to the MSO. If the MSO or IP disagrees with the decision, the MSO or IP could still initiate a hospital medical staff due process complaint (if available to them), arbitration process, or legal remedy.

Action: Assigned to the Medical-Legal Committee and to provide a recommendation to the Board of Directors on the advisability of implementing this resolution. ACEP's General Counsel to assist in providing a legal opinion on the advisability of implementing this resolution and seek an opinion from outside legal counsel if needed**.** The committee will continue working on this resolution in the 2023-24 committee year.

Resolution 47 Family and Medical Leave – *third resolved*

RESOLVED, That ACEP develop a policy statement in support of paid family leave outside of the language in ACEP's "Family and Medical Leave" policy statement revised in 2019.

Action: Assigned to the Emergency Medicine Practice Committee to work with the Well-Being Committee to review ACEP's "Family and Medical Leave" policy statement and provide a recommendation to the Board of Directors regarding the advisability of expanding the policy statement in support of paid family leave and any potential revisions as requested in the referred third resolved.

The Emergency Medicine Practice Committee, with input from the Well-Being Committee, revised the policy statement "Family and Medical Leave" and it was approved by the Board in August 2022.

The Well-Being Committee developed the information paper "Recommendations for the Best Practices Supporting Physician Pregnancy, Adoption, Surrogacy, Parental Leave, and Lactation in the Emergency Department" and it has been submitted for publication consideration. It will be available on the ACEP website after publication.

Resolution 49 Forced EMS Diversion – *second resolved*

RESOLVED, That ACEP collect data on the clinical impact of EMS diversion policies.

Action: Assigned to the EMS Committee to develop a recommendation and cost estimates for the Board of Directors regarding the advisability of implementing the second resolved.

The committee worked with other stakeholders such as the National Association of EMS Physicians (NAEMSP), National Association of State EMS Officials (NASEMSO), National Association of EMTs (NAEMT), International Association of Fire Chiefs (IAFC), and the American Ambulance Association (AAA) to collect information and develop strategics to address forced EMS diversion. A list of resources to include examples of EMS systems that have developed effective plans to address diversion are being added to the ACEP website in the EMS Resources section and will be shared with the EMS Section members through the section engagED. ACEP staff are also available to assist with providing information and resources to address the specific causes of the forced EMS diversion. Historically EMS diversion is most effectively addressed at the local or regional level through collaboration between the facilities and EMS services once the reasons for the diversion have been identified. The medical directors and administration of the local hospitals and EMS services typically meet and agree on a plan to address the specific needs of the local system. Coordination between all involved parties and an agreement to follow a planned solution is essential to the success of the system. The Board of Directors affirmed in June 2023 that the actions taken by the EMS Committee meet the intent of the resolution.

Resolution 51 Medical Bill of Rights for Detained and Incarcerated Persons While Receiving Emergency Medical Care

RESOLVED, That ACEP adopt the following Medical Bill of Rights for detained and incarcerated persons in reference to patients presenting under custody for medical evaluation:

Detained, arrested, and incarcerated persons have the right to:

1. Medical neutrality – equal evaluation and treatment for emergency medical conditions regardless of their status as a detained or incarcerated person.
2. Speak with their provider privately.
3. Removal of physical restraints for the purpose of a physical exam at the request of the treating physician.
4. Medical care at a facility that has a protocol for and supports quality analysis of medical care.
5. Privacy and protection from inquiry regarding charges, conviction, or duration of sentence unless expressly pertinent to delivery of care.
6. Informed consent – to be adequately informed of diagnoses, treatment options, risks and alternatives, and follow-up plans.
7. Refuse care and diagnostic testing, including nutrition, laboratory studies, medications, and procedures, with the exception of psychoactive medications if the patient is deemed a potential harm to self or others if psychoactive medications are withheld OR with the exception of previously set forth state policies or contracts determining otherwise.
8. Administration of interventions and requests for consultations in a timely manner consistent with local standards of care.

9. Make their healthcare decisions independently, if deemed competent, and to appoint an appropriate surrogate medical decision-maker in the event they become incompetent. Wardens, sheriffs, guards, police officers, prison administrators, and other law enforcement officials are not eligible medical decision-makers.
10. Visitation by their medical decision-maker according to state laws regardless of the policies of law enforcement or carceral institutions.; and be it further

RESOLVED, That ACEP work with interested parties and key stakeholders to develop federal legislation requiring health care facilities to inform patients in custody about their rights as a patient.

Action: Assigned to the Ethics Committee to collaborate with the Medical-Legal Committee to review and provide a recommendation to the Board of Directors on the advisability of implementing the resolution.

The Ethics Committee discussed the resolution and agreed it is a significant moral issue. It was noted that the committee has written and revised the "Law Enforcement Information Gathering in the Emergency Department" policy statement and committee members have authored several published articles on law enforcement in the ED. It was also noted that many vulnerable groups receive care in the ED, including patients with autism, other behavioral health conditions, involuntarily committed patients, and undocumented immigrants, but ACEP has not adopted a bill of rights for any of these groups. The committee believes that a general bill of rights for ED patients can include rights that are significant for vulnerable patient groups, including detained and incarcerated persons. If medical rights of prisoner patients require additional recognition, ACEP could follow up with a bill of rights specific to that population. The Medical-Legal Committee confirmed their support for this approach. The Board approved assigning an objective to the Ethics Committee for the 2022-23 committee year to develop a medical bill of rights for all ED patients that includes rights for vulnerable patient groups and detained or incarcerated persons. A draft policy statement was submitted to the Board for consideration in August 2023. The Board referred the policy back to the committee for revisions.

Resolution 66 ACEP Promotion of Emergency Physician Led Teams (as substituted in lieu of Resolutions 66, 67, and 76)

RESOLVED, That ACEP publish and promote a policy explicitly stating that all patients presenting to an emergency department deserve to be assessed by an ABEM/AOBEM board certified emergency physician; and be it further

RESOLVED, That ACEP support the standard that board certified/eligible emergency physicians are to be involved in every patient encounter presenting to an emergency department.

Action: Assigned to the Emergency Medicine Practice Committee to review and develop a recommendation to the Board of Directors on the advisability of implementing the resolution as a new policy statement or if the language should be included in any existing policy statements.

The Board revised the policy statement "Guidelines Regarding the Role of Physician Assistants and Nurse Practitioners in the Emergency Department" on March 9, 2022, to address offsite supervision. The policy statement supports the standard that emergency physicians are to be involved in every patient encounter presenting to an emergency department.

ACEP launched a new national scope of practice campaign in correlation with National Doctors Day on March 30, 2022, Who Takes Care of You in an Emergency?, to educate people about emergency physicians' role and the vast difference in experience, education, and training compared to other members of the care team. In addition to the results of a national opinion poll on scope of practice issues, ACEP released a Chapter/Spokesperson toolkit with talking points, media materials (including a template op-ed), sample social media, and infographics. A series of videos were also created to better explain the vital role of emergency physicians.

Resolution 73 Offsite Supervision of Nurse Practitioners and Physician Assistants

RESOLVED, That the ACEP policy statement, Guidelines Regarding the Role of Physician Assistants and Nurse Practitioners in the Emergency Department," be revised to remove "offsite" supervision, including via telephone, telehealth, or video, as a type of indirect supervision of physician assistants and nurse practitioners in the emergency department; and be it further

RESOLVED, That ACEP oppose staffing of emergency departments with physician assistants and nurse practitioners without onsite emergency physician supervision.

Action: The Board of Directors discussed the referred resolution at their January 27-28, 2022, meeting and assigned a Board workgroup to revise the policy statement. The Board adopted the revised policy statement "Guidelines Regarding the Role of Physician Assistants and Nurse Practitioners in the Emergency Department" on March 9, 2022.