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 1, 2023

Subj: Action on 2020 Resolutions

The 2020 Council considered 58 resolutions: 44 were adopted, 7 were not adopted, and 7 were referred to the Board of Directors.

Note: The first resolved of Resolution 27 was referred to the Board and the three remaining resolveds were adopted. The first two resolveds of Resolution 29 were adopted and the remaining three resolveds were referred to the Board.

The attached report summarizes the actions taken on the 2020 resolutions adopted by the 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 2020 Council Resolutions

Resolution 1 Commendation for Stephen H. Anderson, MD, FACEP

RESOLVED, That the American College of Emergency Physicians commends and thanks Stephen H. Anderson, MD, FACEP, for his exemplary service, leadership, and commitment to the College and the specialty of emergency medicine.

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

Resolution 2 Commendation for James J. Augustine, MD, FACEP

RESOLVED, That the American College of Emergency Physicians extends heartfelt appreciation and gratitude and commends James J. Augustine, MD, FACEP, for his dedication as an emergency physician and his outstanding service and leadership to the College and the specialty of emergency medicine.

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

Resolution 3 Commendation for Jon Mark Hirshon, MD, MPH, PhD, FACEP

RESOLVED, That the American College of Emergency Physicians commends Jon Mark Hirshon, MD, MPH, PhD, FACEP, for his devotion as an emergency physician, educator, and leader in emergency medicine.

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

Resolution 4 Commendation for Janyce M. Sanford, MD, MBA, FACEP

RESOLVED, That the American College of Emergency Physicians commends Janyce M. Sanford, MD, MBA, FACEP, for her service as Chair and Chief of Service for the Department of Emergency Medicine at the University of Alabama at Birmingham.

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

Resolution 5 Commendation for Dean Wilkerson, JD, MBA, CAE

RESOLVED, That the American College of Emergency Physicians commends Dean Wilkerson, JD, MBA, CAE, for his outstanding contributions to ACEP and the specialty of emergency medicine.

Action: A framed resolution was sent to Mr. Wilkerson.

Resolution 6 In Memory of Walter J. Bradley, III, MD, MBA, FACEP

RESOLVED, That the American College of Emergency Physicians (ACEP) cherishes the memory of Walter J. Bradley, III, MD, MBA, FACEP, whose philosophy and approach to patient care was "Whatever the hour you may come, you will find light, hope, and human kindness," and be it further

RESOLVED, That national ACEP and the Illinois Chapter extends to his wife Meme, son Ryan, and the extended Bradley and Wood families gratitude for his tremendous service to emergency medicine and EMS.

Action: A framed resolution was sent to the family of Dr. Bradley.

Resolution 7 In Memory of Lorna Breen, MD, FACEP

RESOLVED, That the American College of Emergency Physicians extends to the family, friends, and colleagues of Lorna Breen MD, FACEP, our condolences and gratitude for her tremendous service to the specialty of emergency medicine and to the patients and physicians of New York and the United States.

Action: A framed resolution was sent to the family of Dr. Breen.

Resolution 8 In Memory of Col (ret) Christopher Scharenbrock, MD, CPE, FACEP

RESOLVED, That the American College of Emergency Physicians remembers with gratitude and honors the many contributions made by Colonel (ret) Christopher G Scharenbrock, MD, CPE, FACEP, as one of the leaders in emergency medicine and military medicine; and be it further

RESOLVED; That the American College of Emergency Physicians extends to his wife Mary, his daughters Emily and Anna, his extended family, colleagues, and friends our condolences and gratitude for his tremendous service to the specialty of emergency medicine, military medicine, and to the countless patients and physicians across the world whom he selflessly served.

Action: A framed resolution was sent to the family of Dr. Scharenbrock.

Resolution 9 ACEP Committee Quorum Requirement – Bylaws Housekeeping Amendment

RESOLVED, That the ACEP Bylaws Article XI – Committees, Section 1 – General Committees, be amended to read:

The president shall annually appoint committees and task forces to address issues pertinent to the College as deemed advisable. The members thereof need not consist of members of the Board, nor shall it be necessary that the chair of a committee be a member of the Board. **A majority of the voting membership of a committee shall constitute a quorum.**

The president shall appoint annually committees on Compensation, Bylaws, and Finance.

Action: The Bylaws were updated.

Resolution 10 Commendation and Memorial Resolutions – Council Standing Rules Amendment

RESOLVED, That the Council Standing Rules, "Reference Committees" section, paragraph one, be amended to read:

"Resolutions meeting the filing and transmittal requirements in these Standing Rules will be assigned by the speaker to a Reference Committee for deliberation and recommendation to the Council**, except for commendation and memorial resolutions**. Reference Committee meetings are open to all members of the College, its committees, and invited guests."; and be it further

RESOLVED, That the Council Standing Rules, "Resolutions" section, be amended to read:

"Resolutions" are considered formal motions that if adopted by a majority vote of the Council and ratified by the Board of Directors become official College policy. Resolutions pertaining only to the Council Standing Rules do not require Board ratification and become effective immediately upon adoption. Resolutions pertaining to the College Bylaws (Bylaws resolutions) require adoption by a two-thirds vote of credentialed councillors and subsequently a two-thirds vote of the Board of Directors.

Resolutions must be submitted in writing by at least two members or by component bodies, College committees, or the Board of Directors. A letter of endorsement is required from the submitting body if submitted by a component body.

All motions for substantive amendments to resolutions must be submitted in writing through the electronic means provided to the Council during the annual meeting, with the exception of technical difficulties preventing such electronic submission, signed by the author, and presented to the Council prior to being considered. When appropriate, amendments will be distributed or projected for viewing.

Background information, including financial analysis, will be prepared by staff on all resolutions**, except for commendation and memorial resolutions,** submitted on or before 90 days prior to the annual meeting.

- ***Regular Non-Bylaws Resolutions***

  Non-Bylaws resolutions submitted on or before 90 days prior to the annual meeting are known as "regular resolutions" and will be referred to an appropriate Reference Committee for consideration at the annual meeting.

  Regular resolutions may be modified or withdrawn by the author(s) up to 45 days prior to the annual meeting. After such time, revisions will follow the usual amendment process and may be withdrawn only with consent of the Council at the annual meeting. As determined by the speaker, extensive revisions during the 90 to 45 day window that appear to alter the original intent of a regular resolution or that would render the background information meaningless will be considered as "Late Resolutions."

- ***Bylaws Resolutions***

  Bylaws resolutions must be submitted on or before 90 days prior to the annual meeting and will be referred to an appropriate Reference Committee for consideration at the annual meeting. The Bylaws Committee, up to 45 days prior to the Council meeting, with the consent of the author(s), may make changes to Bylaws resolutions insofar as such changes would clarify the intent or circumvent conflicts with other portions of the Bylaws.

Bylaws resolutions may be modified or withdrawn by the author(s) up to 45 days prior to the annual meeting. After such time, revisions will follow the usual amendment process and may be withdrawn only with consent of the Council at the annual meeting. As determined by the speaker, revisions during the 90 to 45 day window that appear to alter the original intent of a Bylaws resolution, or are otherwise considered to be out of order under parliamentary authority, will not be permitted.

- ***Late Resolutions***

Resolutions submitted after the 90-day submission deadline, but at least 24 hours prior to the beginning of the annual meeting are known as "late resolutions." These late resolutions are considered by the Steering Committee at its meeting on the evening prior to the opening of the annual meeting. The Steering Committee is empowered to decide whether a late submission is justified due to events that occurred after the filing deadline. An author of the late resolution shall be given an opportunity to inform the Steering Committee why the late submission was justified. If a majority of the Steering Committee votes to accept a late resolution, it will be presented to the Council at its opening session and assigned to a Reference Committee, except for commendation and memorial resolutions. If the Steering Committee votes unfavorably and rejects a late resolution, the reason for such action shall be reported to the Council at its opening session. The Council does not consider rejected late resolutions. The Steering Committee's decision to reject a late resolution may be appealed to the Council. When a rejected late resolution is appealed, the Speaker will state the reason(s) for the ruling on the late resolution and without debate, the ruling may be overridden by a two-thirds vote.

- ***Emergency Resolutions***

Emergency resolutions are resolutions that do not qualify as "regular" or "late" resolutions. They are limited to substantive issues that because of their acute nature could not have been anticipated prior to the annual meeting or resolutions of commendation that become appropriate during the course of the Council meeting. Resolutions not meeting these criteria may be ruled out of order by the speaker. Should this ruling be appealed, the speaker will state the reason(s) for ruling the emergency resolution out of order and without debate, the ruling may only be overridden by a two-thirds vote. ***See also Appeals of Decisions from the Chair.***

Emergency resolutions must be submitted in writing, signed by at least two members, and presented to the Council secretary. The author of the resolution, when recognized by the chair, may give a one-minute summary of the emergency resolution to enable the Council to determine its merits. Without debate, a simple majority vote of the councillors present and voting is required to accept the emergency resolution for floor debate and action. If an emergency resolution is introduced prior to the beginning of the Reference Committee hearings, it shall upon acceptance by the Council be referred to the appropriate Reference Committee, except for commendation and memorial resolutions. If an emergency resolution is introduced and accepted after the Reference Committee hearings, the resolution shall be debated on the floor of the Council at a time chosen by the speaker.

Action: The Council Standing Rules were updated.

Resolution 12 Council Resolution Sponsors and Cosponsors – Council Standing Rules Amendment (as amended)

RESOLVED, That the Council Standing Rules, "Resolutions" section, be amended to read:

"Resolutions" are considered formal motions that if adopted by a majority vote of the Council and ratified by the Board of Directors become official College policy. Resolutions pertaining only to the Council Standing Rules do not require Board ratification and become effective immediately upon adoption. Resolutions pertaining to the College Bylaws (Bylaws resolutions) require adoption by a two-thirds vote of credentialed councillors and subsequently a two-thirds vote of the Board of Directors.

Resolutions must be submitted in writing by at least two members or by component bodies, College committees, or the Board of Directors. A letter of endorsement is required from the submitting body if submitted by a component body. **All resolution sponsors and cosponsors must be confirmed at least 45 days in advance of the Council meeting.**

All motions for substantive amendments to resolutions must be submitted in writing through the electronic means provided to the Council during the annual meeting, with the exception of technical difficulties preventing such electronic submission, signed by the author, and presented to the Council prior to being considered. When appropriate, amendments will be distributed or projected for viewing.

Background information, including financial analysis, will be prepared by staff on all resolutions submitted on or before 90 days prior to the annual meeting.

Action: The Council Standing Rules were updated.

Resolution 13 Counting Fellowship Training Time Toward FACEP – Bylaws Amendment

RESOLVED, That the ACEP Bylaws, Article V – ACEP Fellows, Section 1 - Eligibility, be amended to read:

ARTICLE V — ACEP FELLOWS
Section 1 — Eligibility

Fellows of the College shall meet the following criteria:

1. Be **candidate physician,** regular**,** or international members for three continuous years immediately prior to election.
2. Be certified in emergency medicine at the time of election by the American Board of Emergency Medicine, the American Osteopathic Board of Emergency Medicine, or in pediatric emergency medicine by the American Board of Pediatrics.
3. Meet the following requirements demonstrating evidence of high professional standing at some time during their professional career prior to application.
   A. At least three years of active involvement in emergency medicine as the physician's chief professional activity, exclusive of residency training, and;
   B. Satisfaction of at least three of the following individual criteria during their professional career:
      1. active involvement, beyond holding membership, in voluntary health organizations, organized medical societies, or voluntary community health planning activities or service as an elected or appointed public official;
      2. active involvement in hospital affairs, such as medical staff committees, as attested by the emergency department director or chief of staff;
      3. active involvement in the formal teaching of emergency medicine to physicians, nurses, medical students, out-of-hospital care personnel, or the public;
      4. active involvement in emergency medicine administration or departmental affairs;
      5. active involvement in an emergency medical services system;
      6. research in emergency medicine;
      7. active involvement in ACEP chapter activities as attested by the chapter president or chapter executive director;
      8. member of a national ACEP committee, the ACEP Council, or national Board of Directors;
      9. examiner for, director of, or involvement in test development and/or administration for the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine;
      10. reviewer for or editor or listed author of a published scientific article or reference material in the field of emergency medicine in a recognized journal or book.

Provision of documentation of the satisfaction of the above criteria is the responsibility of the candidate, and determination of the satisfaction of these criteria shall be by the Board of Directors of ACEP or its designee.

Action: The Bylaws were updated. The fellow application and processes were updated.

Resolution 14 Ethics Procedures – Bylaws Amendment

RESOLVED, That the ACEP Bylaws Article IV – Membership, Section 3 – Agreement, and Section 4 – Disciplinary Action, be amended to read:

Section 3 — Agreement

Acceptance of membership in the College shall constitute an agreement by the member to comply with the ACEP Bylaws. The Board of Directors shall serve as the sole judge of such member's right to be or to remain a member, subject to **Article IV, Section 4 of these Bylaws and** the due process as described in the College Manual.

All right, title, and interest, both legal and equitable, of a member in and to the property of this organization shall cease in the event of any of the following: a) the expulsion of such member; b) the striking of the member's name from the roll of members; c) the member's death or resignation.

Section 4 — Disciplinary Action

Members of the College may be subject to disciplinary action or their membership may be suspended or terminated by the Board of Directors**, or a designated body appointed by the Board of Directors for such purpose,** for good cause. Procedures for such disciplinary action shall be stated in the College Manual.

Action: The Bylaws were updated.

Resolution 15 Procedures for Addressing Charges of Ethical Violations and Other Misconduct – College Manual Amendment

RESOLVED, That the College Manual be amended by substitution of the *Procedures for Addressing Charges of Ethical Violations and Other Misconduct* to read:

Procedures for Addressing Charges of Ethical Violations and Other Misconduct

Guiding Principle: Ethics charges and other disciplinary charges are important and will be addressed in accordance with College policy.

A. Definitions

1. **ACEP means the American College of Emergency Physicians.**
2. ***Code of Ethics* means the *Code of Ethics for Emergency Physicians.***
3. ***Procedures* means the *Procedures for Addressing Charges of Ethical Violations and Other Misconduct.***
4. **Ethics Complaint Review Panel consists of three (3) members of the Ethics Committee and two (2) members of the Medical-Legal Committee – in matters requiring the expertise of a different committee, the President may appoint two (2) members of the relevant committee to replace the standing members of the Medical-Legal Committee.**
5. **Bylaws Committee refers to the Bylaws Committee or appointed subcommittee.**
6. **Board Hearing Panel conducts all hearings and consists of the ACEP Vice-President, Chair of the Board, and Board Liaison to the Ethics Committee.**
7. **ACEP review bodies are the Ethics Complaint Review Panel, the Bylaws Committee, the Board Hearing Panel and the ACEP Board of Directors.**

~~A.~~ **B. Complaint Received**

A complaint may be initiated by an ACEP member, chapter, committee, or section. No others have standing to present a complaint.

1. Must be in writing and signed by the complainant;
2. Must specify in reasonable detail an alleged violation by an ACEP member of **an ACEP policy as it existed at the time of the alleged violation, including** ACEP Bylaws, ~~current~~ ACEP ~~"Principles~~ ***Code** of Ethics*, ~~for Emergency Physicians,"~~ other ~~current~~ ACEP ethics policies, or other conduct believed by the complainant to warrant censure, suspension, or expulsion;
3. Must allege a violation that occurred within ~~twelve (12)~~ **ten (10)** years prior to the submission of the complaint**, is not the subject of pending litigation, and any rights of appeal have been exhausted or have expired**;
4. Must state that the complainant has personal, first-hand knowledge or actual documentation of the alleged violation; substantiating documentation must accompany the complaint. Complainant is responsible for ensuring that the documentation does not provide information that can be used to identify a particular patient, including but not limited to, the patient's name, address, social security number, patient identification number, or any identifying information related to members of the patient's family;
5. Must state that the complainant is willing to have his or her name disclosed to the ACEP Executive Director, ~~the Ethics Committee, the Bylaws Committee, the Board of Directors,~~ **any additional ACEP review body listed in these *Procedures***, and ~~to~~ the respondent should the complaint be forwarded to the respondent; **and**
6. Must be submitted to the ACEP Executive Director.

~~B.~~ **C. Executive Director**

1. **a. If any elements of the complaint have not been met, returns the complaint and supporting documentation to complainant, identifying the elements that must be addressed in an ethics complaint.**
   b. If all elements of the complaint have been met, sends ~~1. Sends~~ a written acknowledgement to the complainant confirming ~~the~~ complainant's intent to file a complaint**. Includes a copy of ACEP's *Procedures* providing** ~~and identifying~~ the ~~elements~~ **guidelines and timetables** that ~~must~~ **will** be ~~addressed~~ **followed** in **this matter. Requests complainant sign acknowledgement specifying intent to file** an ethics complaint **and to be bound by the *Procedures***.
2. Confirms receipt of an acknowledgement signed by the complainant specifying intent to file an ethics complaint and to be bound by the ~~"Procedures for Addressing Charges of Ethical Violations and Other Misconduct" ("Procedures")~~ ***Procedures.***

3. Notifies the ACEP President and the ~~c~~Chair of the Ethics Committee or the Bylaws Committee, as appropriate, that a complaint has been filed and forwards to each of them a copy of the complaint.
4. a. Determines, in consultation with the ACEP President and the ~~c~~Chair of the Ethics ~~and/or~~ **Committee, the** Bylaws Committee, **or other committee designee,** that the complaint is frivolous, inconsequential, or does not allege an actionable violation of a policy or principle included in the *Code of Ethics ~~for Emergency Physicians~~* or ~~of~~ ACEP Bylaws, or other conduct warranting censure, suspension, or expulsion. If so, the Executive Director dismisses the complaint and will notify the complainant of this determination, or

   b. Determines, in consultation with the **ACEP President and the Chair of the** Ethics Committee ~~chair~~, **or other committee designee,** that the complaint alleges conduct that may constitute a violation of a policy or principle included in the *Code of Ethics ~~for Emergency Physicians~~*, and if so, forwards the complaint and the response together, ~~as soon as~~ **after** both are received, to each member of the Ethics ~~Committee, or, at the discretion of the chair of the Ethics Committee, to members of a subcommittee of the Ethics Committee appointed for that purpose~~ **Complaint Review Panel**, or

   c. Determines, in consultation with the **ACEP President and the Chair of the** Bylaws Committee ~~chair~~, **or other committee designee,** that the complaint alleges conduct that may constitute a violation of ACEP Bylaws or other conduct justifying censure, suspension, or expulsion, and forwards the complaint and response together, ~~as soon as~~ **after** both are received, to each member of the Bylaws Committee, or at the discretion of the ~~c~~Chair of the Bylaws Committee, to members of a subcommittee of the Bylaws Committee appointed for that purpose, or

   d. Determines that the complaint is more appropriately addressed through judicial or administrative avenues, such as in the case of pending litigation or action by state licensing boards, and ACEP should defer actions pursuant to such other avenues. If so, the Executive Director will refer the matter to the ACEP President for review. If the President also determines that the complaint is more appropriately addressed through judicial or administrative avenues, the complaint will not be considered. The ~~Board of Directors~~ **Ethics Complaint Review Panel or the Bylaws Committee** will review the President's action**.**~~at the next regularly scheduled Board meeting.~~ The President's action can be overturned by a majority vote of the ~~Board, or~~ **applicable ACEP review body**.

   ~~e. Determines that the alleged violation is not the subject of a pending ACEP Standard of Care Review. If the alleged violation is the subject of a pending Standard of Care Review, the Standard of Care Review will be suspended pending the resolution of the complaint brought pursuant to these Procedures.~~

5. Within ten (10) business days after the determination~~s~~ specified in Section ~~B~~**C**.4.b. or Section ~~B~~**C**.4.c. of these *Procedures*, forwards the complaint to the respondent by ~~certified U.S. mail~~ **USPS Certified Mail** with a copy of these *Procedures* and requests a written response within thirty (30) days of receipt of the documents. The communication will indicate that ACEP is providing notice of the complaint, the reasons for the review action, that no determination has yet been made on the complaint, and that the respondent has the right to request a hearing if the ~~Board~~ **applicable ACEP review body** decides not to dismiss the complaint. A copy of the complaint and all supporting documentation provided by the complainant will be included in this communication. Such notice must also include a summary of the respondent's rights in the hearing, and a list of the names of the members of the ~~ACEP Ethics Committee or the ACEP Bylaws Committee, as appropriate~~ **applicable ACEP review body, including~~,~~ and** the Board of Directors. The respondent will have the right to raise any issues of potential conflict or reason that any individuals should recuse themselves from the review. Such recusal shall be at the discretion of the ACEP President.
6. When a written response to a complaint is received, the Executive Director will forward that response and any further related documentation to the complainant and the Ethics ~~Committee,~~ **Complaint Review Panel or** the Bylaws Committee~~, or the subcommittee~~ appointed to review the complaint**,** as appropriate.

D. Ethics ~~Committee~~Complaint Review Process [within sixty (60) days of the forwarding of the complaint/response specified in Section ~~B~~C.4.~~c~~b. above]

1. Reviews the written record of any complaint that alleges a violation of ~~current~~ **the** ACEP ~~"Principles~~ ***Code*** *of Ethics* ~~for Emergency Physicians"~~ or other ~~current~~ ACEP ethics policies **as they existed at the time of the alleged violation and the accompanying response**.
2. Discusses the complaint and response by telephone conference call~~;~~**.**
3. Determines the need to solicit in writing additional information or documentation from the parties, third parties, or experts regarding the complaint.
4. Considers whether:
   a. ~~Current~~ **Applicable version of the** ACEP ~~"Principles~~***Code*** *of Ethics* ~~for Emergency Physicians"~~ or other ~~current~~ ACEP ethics policies apply.

b. Alleged behavior constitutes a violation of ~~current~~ **the applicable version of the** ACEP ~~"*Principles*~~ ***Code*** *of Ethics*~~*for Emergency Physicians*"~~ or other ~~current~~ ACEP ethics policies.
c. Alleged conduct warrants censure, suspension, or expulsion.

~~5. Proceeds to develop its recommendation based solely on the written record.~~

~~6. Develops a report regarding the complaint and recommendation for action. Minority reports may also be presented.~~

~~7~~**5.** ~~The Ethics Committee will deliver its report and minority reports, if any, to the Board of Directors. In its report, the Ethics Committee shall recommend that the Board of~~ Directors**Decides to**:

a. Dismiss the complaint; or
b. ~~Take~~ **Ethics Complaint Review Panel renders a decision to impose** disciplinary action~~, the specifics of which shall be included in the committee's report.~~ **based on the written record.**

~~8. At the discretion of the chair of the Ethics Committee, these functions may be carried out by a subcommittee of five or more members of the Ethics Committee. The Ethics Committee chair shall appoint this subcommittee and designate one of its members to chair the subcommittee. The subcommittee may seek counsel from other consultants with particular expertise relevant to the matter under consideration. In the event that a subcommittee is appointed, it shall deliver its report and recommendations to the Board of Directors.~~

6. If the Ethics Complaint Review Panel determines to impose disciplinary action pursuant to Section D.5.b., the respondent will be provided with notification of the Ethics Complaint Review Panel's determination and the option of:

a. A hearing; or
b. The imposition of the Ethics Complaint Review Panel decision based solely on the written record.

7. If the respondent chooses the option described in Section D.6.b., that is, an Ethics Complaint Review Panel decision based solely on the written record, the Ethics Complaint Review Panel will implement its decision to impose disciplinary action based on the written record.

~~C~~ **E. Bylaws** ~~Committee~~ **Complaint Review Process [within sixty (60) days of the forwarding of the complaint/response specified in Section** ~~B~~**C.4.**~~b~~**c. above]**

1. Reviews the written record of any complaint that alleges a violation of the ACEP Bylaws **as it existed at the time of the alleged violation** and the accompanying response.
2. Discusses the complaint and response by telephone conference call~~:~~**.**
3. Determines the need to solicit in writing additional information or documentation from the parties, third parties, or experts regarding the complaint.
4. Considers whether:
   a. ~~Current~~ **Applicable version of the** ACEP Bylaws apply.
   b. Alleged behavior constitutes a violation of ~~current~~ **the applicable version of the** ACEP Bylaws.
   c. Alleged conduct warrants censure, suspension, or expulsion.

~~5. Proceeds to develop its recommendation based solely on the written record.~~

~~6. Develops a report regarding the complaint and recommendation for action. A minority reports may also be presented.~~

7**.5.** ~~The Bylaws Committee will deliver its report and minority reports, if any, to the Board of Directors. In its report, the Bylaws Committee shall recommend that the Board of Directors~~
Decides to:

a. Dismiss the complaint; or
b. ~~Take~~ **Bylaws Committee renders a decision to impose** disciplinary action~~, the specifics of which shall be included in the committee's report~~**based solely on the written record.**

~~8. At the discretion of the chair of the Bylaws Committee, these functions may be carried out by a subcommittee of five or more members of the Bylaws Committee. The Bylaws Committee chair shall appoint this subcommittee and designate one of its members to chair the subcommittee. The subcommittee may seek counsel from other consultants with particular expertise relevant to the matter under consideration. In the event that a subcommittee is appointed, it shall deliver its report and recommendations to the Board of Directors.~~

6. If the Bylaws Committee determines to impose disciplinary action pursuant to Section E.5.b., the respondent will be provided with notification of the Bylaws Committee's determination and the option of:

a. A hearing; or
b. The imposition of the Bylaws Committee's decision based solely on the written record.

7. **If the respondent chooses the option described in Section E.6.b., that is, a Bylaws Committee decision based solely on the written record, the Bylaws Committee will implement its decision to impose disciplinary action based on the written record.**

~~E. Board of Directors~~

~~1. Receives the report of the Ethics Committee or Bylaws Committee, including minority reports, if any, and receives the complaint and response.~~

~~2. May request further information in writing from the complainant and/or respondent.~~

~~3. Decides to:~~

~~a. Dismiss the complaint; or~~

~~b. Render a decision to impose disciplinary action based on the written record.~~

~~4. If the Board determines to impose disciplinary action pursuant to Section E.3.b., the respondent will be provided with notification of the Board's determination and the option of:~~

~~a. A hearing; or~~

~~b. The imposition of the Board decision based solely on the written record.~~

~~5. The decision to impose disciplinary action shall require a two-thirds vote of Directors voting at a meeting in which a quorum is present pursuant to ACEP Bylaws. Directors entitled to vote include members of the Board who have been present for the entire discussion of the complaint, either in person or by conference call, with no conflict of interest or other reason to recuse themselves from participation.~~

~~6. If the respondent chooses the option described in Section E.4.b., that is, a Board decision based solely on the written record, the Board will implement its decision to impose disciplinary action based on the written record.~~

~~F. Ad Hoc Committee~~

~~1. If a majority of Board members have recused themselves from consideration of a complaint, the Board shall delegate the decisions regarding disciplinary action to an Ad Hoc Committee composed of nine (9) members.~~

~~2. This Ad Hoc Committee shall be composed of all those Board members who have not recused themselves, if any, plus independent third parties who are ACEP members. Should the chair of the Board receive notification of recusal from consideration of an ethics complaint from a majority of Board members, the chair shall request those Board members who have not recused themselves to submit nominations of independent third parties who are ACEP members to serve on an Ad Hoc Committee to act on that ethics complaint. At the next meeting of the Board, the Board members who have not recused themselves shall elect from those nominees, by majority vote, the required number of independent third party members of the Ad Hoc Committee. Should all Board members recuse themselves, the chair shall appoint a committee of seven (7) independent third parties who are ACEP members without conflicts in this matter who will select the nine (9) members of the ad hoc committee.~~

~~3. The Ad Hoc Committee:~~

~~a. Receives the report of the Ethics Committee or Bylaws Committee, including minority reports, if any, and receives the complaint and response.~~

~~b. May request further information in writing from the complainant and/or respondent.~~

~~c. Decides to:~~

~~i. Dismiss the complaint; or~~

~~ii. Render a decision to impose disciplinary action based on the written record.~~

~~d. If the Ad Hoc Committee determines to impose disciplinary action pursuant to Section F.3.c.ii., the respondent will be provided with notification of the Ad Hoc Committee's determination and the option of:~~

~~i. A hearing conducted by the Ad Hoc Committee; or~~

~~ii. The imposition of the Ad Hoc Committee decision based solely on the written record.~~

~~e. If the respondent requests a hearing, the Ad Hoc Committee shall follow the hearing procedures described in Section H below.~~

~~f. An affirmative vote of two-thirds of the Ad Hoc Committee shall be required to take disciplinary action against the respondent. If the Ad Hoc Committee does not achieve a two-thirds vote of its members, the respondent shall be exonerated.~~

~~g. If the respondent does not request a hearing, the Ad Hoc Committee will report to the Board its decision to impose disciplinary action based on the written record. This decision will be final and will be implemented by the Board.~~

~~G.~~ F. Right of Respondent to Request a Hearing

If the ~~Board~~ **Ethics Complaint Review Panel or Bylaws Committee** chooses **to impose disciplinary action,** the ~~option described in Section E.3.b., or an Ad Hoc Committee chooses the option described in Section F.3.cii., the~~ Executive Director will send to the respondent a written notice by ~~certified U.S. mail~~ **USPS Certified Mail** of the right to request a hearing**.** ~~or to have the Board or the Ad Hoc Committee impose its decision based solely on the written complaint.~~ This notice will list the respondent's hearing rights as set forth in Section ~~H.~~ **G.** below. The respondent's request for a hearing must be submitted in writing to the Executive Director within thirty (30) ~~business~~ days of receipt of the notice of right to a hearing. In the event of no response, the ~~ACEP President may determine the manner of proceeding~~ **applicable ACEP review body will implement its final decision.**

~~H.~~ G. Hearing Procedures

1. If the respondent requests a hearing , the complainant and respondent will be notified in writing by ~~certified U.S. mail~~ **USPS Certified Mail** by the Executive Director within ten (10) business days of such request. Such notice will include a list of witnesses, if any, that the Board~~, its subcommittee pursuant to Section H.6. below, or an Ad Hoc Committee pursuant to Section F.,~~ **Hearing Panel** intends to call in the hearing.
2. The Executive Director will send a notification **by USPS Certified Mail** of the date, time, and place of the hearing and will provide the parties with information regarding the hearing process and the conduct of the hearing**.** ~~by certified U.S. mail.~~
3. The time set for the hearing will not be less than thirty (30) days nor more than nine (9) months after the date on which notice of hearing was received by the respondent.
4. The complainant and respondent each may be represented by counsel or any other person of their choice. Each party will bear the expense of his or her own counsel.
5. The parties have the right to have a record made of the proceedings by transcript, audiotape, or videotape at the expense of the requesting party.
6. The hearing ~~may be conducted by the entire Board, by a subcommittee of three to five members of the Board of Directors, at the discretion of and as appointed by the chair of the Board of Directors or, if required pursuant to Section F., by an Ad Hoc Committee described in Section F. If the hearing is conducted by a subcommittee or by an Ad Hoc Committee that includes one or more Board members as described in Section F., the presiding officer of the hearing will be a Board member designated by the chair of the Board. The chair of the Board of Directors will act as the presiding officer throughout the hearing conducted by the full Board unless the chair is unable to serve or is disqualified from serving, in which case the ACEP President will designate a member of the Board of Directors to chair the hearing. If all Board members have recused themselves, the Ad Hoc Committee members shall choose an individual from among themselves to chair the hearing. If a subcommittee of the Board or an Ad Hoc Committee conducts the hearing, such hearing must take place with all of the parties and all the members of the subcommittee or ad hoc committee present in person. If the full Board conducts the hearing, all of the parties, and a quorum of the Board, must be present in person. Hearings may not take place by telephone conference call~~ **will take place before the Board Hearing Panel. All members of the Board Hearing Panel must be present in person, except in circumstances in which it is impossible or commercially impracticable for the parties and the Board Hearing Panel to hold an in-person hearing, at which time the Board Hearing Panel may choose to hold a virtual hearing.**
7. The parties to the complaint have the right to call, examine, and cross-examine witnesses and to present evidence that is determined to be relevant by the presiding officer, even if the evidence would not be admissible in a court of law. Respondent may submit a written statement at the close of the hearing. All witness expenses will be borne by the party who calls the witness.
8. The Board~~, its appointed subcommittee, or an Ad Hoc Committee~~ **Hearing Panel** will, after having given the complainant and the respondent an opportunity to be heard, including oral arguments and the filing of any written briefs, conclude the hearing.
9. ~~In the event that the hearing is conducted by a subcommittee of the Board or an Ad Hoc Committee, such subcommittee or Ad Hoc Committee will, within one hundred twenty (120) days after the hearing concludes, submit the written record of the hearing, along with the subcommittee's recommendation or the Ad Hoc Committee's decision, to the Board of Directors. If the hearing is conducted by a subcommittee of the Board, within thirty (30) days after receiving a subcommittee report and recommendation, or, if the full Board conducts the hearing, within thirty (30) days after the hearing concludes, the Board shall render a decision. The affirmative vote of two thirds of the Directors entitled to vote pursuant to this Section, with a quorum of Directors present pursuant to ACEP Bylaws, shall be required to take disciplinary action against the respondent. If the Board does not achieve a two-thirds vote of entitled Directors with a quorum present, the respondent shall be exonerated. Directors shall be entitled to vote if they have not recused themselves or been recused, and, in the case of a hearing conducted by the full Board, if they have attended the entire hearing. If~~

~~the hearing is conducted by an Ad Hoc Committee pursuant to Section F., the decision of such Ad Hoc Committee will be final and will be implemented by the Board.~~

~~10.~~**9.** The decision of the Board ~~or Ad Hoc Committee~~ **Hearing Panel** will be expressed in a resolution that will be included in the minutes of the meeting at which the decision occurs. Written notice of the ~~Board's or Ad Hoc Committee~~ **Board Hearing Panel's** decision will be sent by ~~certified U.S. mail~~ **USPS Certified Mail** to the respondent and complainant within sixty (60) days of the decision. This written notice will include the ~~Board's or Ad Hoc Committee's~~**Board Hearing Panel's** decision and a statement of the basis for that decision.

H. Notice to the Board of Directors

At the next meeting of the ACEP Board of Directors, following a final determination regarding a complaint, the Board shall be presented with an outline of the steps taken by the applicable ACEP review body in its review of the complaint. The Board shall review the *Procedures* used in the complaint review process but will not review the facts or merits of the case. Should the Board decide these *Procedures* were not followed appropriately, it will remand the case back to the reviewing committee or panel to correct the procedural error.

I. Possible Disciplinary Action~~: Censure, Suspension, or Expulsion~~ and Disclosure to ACEP Members

1. **Nature of Disciplinary Action**
   a. **Censure**
   a. **i.** Private Censure: a private letter of censure informs a member that his or her conduct ~~is~~ **does** not ~~in conformity~~ **conform** with the College's ethical standards; it may detail the manner in which ~~the Board~~ **ACEP** expects the member to behave in the future and may explain that, while the conduct does not, at present, warrant public censure or more severe disciplinary action, the same or similar conduct in the future may warrant a more severe action. ~~The content~~ **Upon written request by a member** of **ACEP, ACEP may confirm the censure; however, contents of the** ~~a private~~ letter ~~of censure shall~~ **will** not be ~~disclosed~~ **provided.** ~~but the fact that such a letter has been issued shall be disclosed.~~
   b. **ii.** Public Censure: a public letter of censure shall detail the manner in which the censured member has been found to violate the College's ethical standards set forth in Section ~~A.~~**B.**2. above. **The censure shall be announced in an appropriate ACEP publication. The published announcement shall also state which ACEP policy or Bylaws provision was violated by the member and shall inform ACEP members that they may request further information about the disciplinary action.**

~~2.~~ **b.** Suspension from ACEP membership shall be for a period of twelve **(12)** months; the dates of commencement and completion of the suspension shall be determined by the ~~Board of Directors~~ **ACEP President**. At the end of the twelve~~-~~**(12)** month period of suspension, the suspended member ~~shall be offered~~ **may request** reinstatement. Request for reinstatement shall be processed in the same manner as that of any member whose membership has lapsed (i.e., has been cancelled for non-payment of dues). **The suspension shall be announced in an appropriate ACEP publication. The published announcement shall also state which ACEP policy or Bylaws provision was violated by the member and shall inform ACEP members that they may request further information about the disciplinary action. ACEP is also required to report the suspension from membership and a description of the conduct that led to the suspension to the Board of Medical Examiners in the states in which the physician is licensed which may result in a report of such action to the National Practitioner Data Bank.**

~~3.~~ **c.** Expulsion from ACEP membership shall be for a period of five **(5)** years, after which the expelled member may petition the Board of Directors for readmission to membership. The decision regarding such a petition shall be entirely at the discretion of the Board of Directors. **The expulsion**

~~**J. Disclosure**~~

~~1. Nature of Disciplinary Action~~

~~a. Private censure: the content of a private letter of censure~~ shall ~~not~~ be ~~disclosed, but the fact that such a letter has been issued~~ **announced in an appropriate ACEP publication. The published announcement** shall ~~be disclosed. The name of the respondent shall be disclosed, but the conduct that resulted in censure shall not be disclosed.~~**also state which ACEP policy or Bylaws provision was violated by**

~~b. Public censure: both the fact of issuance, and the content, of a public letter of censure shall be disclosed.~~

~~c. Suspension: the dates of suspension, including whether or not~~ the member ~~was reinstated at the end of the period of suspension, along with a statement of the basis for the suspension, shall be disclosed. ACEP is also required to report the suspension of membership and a description of the conduct that led to~~

~~suspension to the Boards of Medical Examiners in the states in which the physician is licensed, which~~ **and shall inform ACEP members that they** may ~~result in a report of such~~ **request further information about the disciplinary** action**.** ~~to the National Practitioner Data Bank.~~

~~d. Expulsion: the date of expulsion, along with a statement of the basis for the expulsion, shall be disclosed. If the five-year period has elapsed, the disclosure shall indicate whether the former member petitioned for reinstatement and, if so, the Board's decision on such petition~~. ACEP is also required to report the expulsion from membership and a description of the conduct that led to expulsion to the Boards of Medical Examiners in the states in which the physician is licensed which may result in a report of such action to the National Practitioner Data Bank.

2. Scope and Manner of Disclosure
   a. Disclosure to ACEP ~~members~~: Any ACEP member may transmit ~~to the Executive Director~~ a request for information **to the Executive Director** regarding disciplinary actions taken by the College. Such letter shall specify the name of the member or former member who is the subject of the request. The Executive Director shall disclose, in writing, the relevant information as described in Section ~~J~~ **I**.1.
   b. ~~Public~~ Disclosure **to Non-Members**: **If a non-member** ~~The Board of Directors shall publicize in an appropriate ACEP publication the names of members receiving public censure, suspension, or expulsion. This published announcement shall also state which ACEP bylaw or policy was violated by the member and shall inform ACEP members that they may request further information about the disciplinary action. If any person~~ makes a request for information about disciplinary actions against a member who has received public censure, suspension, or expulsion, the Executive Director shall refer that person to the published announcement of that disciplinary action in an ACEP publication. **No further information shall be provided.**

~~K.~~J. Ground Rules

1. All proceedings are confidential until a final decision on the complaint is rendered by the ~~Board of Directors or an Ad Hoc Committee pursuant to Section F.~~ **applicable ACEP review body**, at which time the decision will be available upon request by ACEP members, to the extent specified in Section ~~J.~~ **I.** Files of these proceedings, including written submissions and hearing record will be kept confidential.
2. Timetable guidelines are counted by calendar days unless otherwise specified.
3. The Ethics ~~Committee~~**Complaint Review Panel**, the Bylaws Committee, **or** the Board~~of Directors, their appointed subcommittees, as appropriate, or an Ad Hoc Committee~~ **Hearing Panel**, may request further written documentation from either party to the complaint; a time to satisfy any request will be specified in the notice of such request, and these times will not count against the ~~committee's, Board's, subcommittee's, or Ad Hoc Committee's overall time to complete its task. However, such requests and the responses thereto shall not extend the time to deliver a recommendation or a decision to the Board beyond ninety (90) days from the date the complaint is forwarded to the appropriate committee, subcommittee, or Ad Hoc Committee.~~ **ACEP review body's overall time to complete its task.**
4. All parties to the complaint are responsible for their own costs; ACEP will pay its own administrative and committee costs.
5. If a participant in this process (such as a member of the Ethics ~~Committee~~ **Complaint Review Panel**, the Bylaws Committee, or **the** Board ~~of Directors~~ **Hearing Panel**) is a party to the complaint, has a material reason for bias, subjectivity, or conflicts of interest in the matter, or is in direct economic competition with the respondent, that person shall recuse himself or herself from the process except as a complaining party or respondent**.** ~~Any committee member who recuses himself or herself shall report this recusal promptly to the committee chair, and any Board member who recuses himself or herself shall report this recusal promptly to the chair of the Board.~~**at which time the ACEP President will appoint a replacement.**
6. Once the ~~Board~~ **Ethics Complaint Review Panel or the Bylaws Committee** has made a decision ~~or implemented a decision of an Ad Hoc Committee pursuant to Section F.~~ on a complaint, it will not consider additional allegations against the same respondent based on the same or similar facts.
7. The ~~Board's~~ **Ethics Complaint Review Panel or the Bylaws Committee's** decision ~~or the decision of an Ad Hoc Committee pursuant to Section F.~~ to impose an adverse action must be based on a reasonable belief that the action is warranted by the facts presented or discovered in the course of the disciplinary process.
8. If a respondent fails to respond to a complaint, to **a** notice of the right to request a hearing, or to a request for information, the ~~Board or an Ad Hoc~~ **Ethics Complaint Review Panel, the Bylaws** Committee**,** ~~pursuant to Section F.~~ **or the Board Hearing Panel** may make a decision on the complaint solely on the basis of the information it has received.

~~9. If a complaint alleges a violation that is the subject of a pending ACEP Standard of Care Review, the Standard of Care Review will be suspended pending the resolution of the complaint brought pursuant to these Procedures.~~

~~10.~~**9.** If a respondent seeks to voluntarily resign his/her ACEP membership after ACEP has received a complaint against that respondent, that request for resignation will not be accepted by ACEP until the complaint has been resolved. For the purposes of this provision, non-payment of ACEP member dues will be interpreted as a request for resignation.

Action: The College Manual was updated.

Resolution 16 Special Board of Directors Meetings – Bylaws Amendment

RESOLVED, That the ACEP Bylaws Article IX – Board of Directors, Section 3 – Meetings be amended to read:

Section 3 — Meetings

The Board of Directors shall meet at least three times annually. One of these meetings shall take place not later than 30 days following the annual meeting of the College. The other meetings shall take place at such other times and places as the Board may determine. Meetings may take place within or outside of the State of Texas. A majority of the Board shall constitute a quorum.

Subject to the provisions of these Bylaws with respect to notice of meetings of the Board of Directors, members of the Board of Directors may participate in and hold additional meetings of such Board by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this section shall constitute presence in person at such meeting, except where a director participates in such meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action to be taken, shall be signed by all of the members of the Board of Directors and Council officers, and such a consent shall have the same force and effect as a unanimous vote of the members of the Board of Directors at a meeting of the Board of Directors.

Special meetings of the Board of Directors may be called by the president **or the chair of the Board** with not less than ~~10~~ **48 hours** ~~nor more than 50 days~~ notice to each director, either personally or by other appropriate means of communication. Special meetings also may be called by one-third of the current members of the Board in like manner and on like notice. Such notice of a special meeting of the Board of Directors shall specify the business to be transacted at, and the purpose of, such special meeting

Action: The Bylaws were updated.

Resolution 17 Unanimous Consent Agenda – Council Standing Rules Amendment

RESOLVED, That the Council Standing Rules, "Unanimous Consent Agenda" section, be amended to read as follows with the proviso that the changes will become effective after the 2020 Council meeting:

Unanimous Consent Agenda

A "Unanimous Consent Agenda" is a list of resolutions with a waiver of debate ~~and may include items that meet one of the following criteria as determined by the Reference Committee~~:

~~1. Non-controversial in nature~~

~~2. Generated little or no debate during the Reference Committee~~

~~3. Clear consensus of opinion (either pro or con) was expressed at Reference Committee~~

All resolutions assigned to a Reference Committee, except for Bylaws resolutions**,** ~~and resolutions that require substantive amendments~~ shall ~~not~~ be placed on a Unanimous Consent Agenda.

~~A~~ **The** Unanimous Consent Agenda will be listed at the beginning of the Reference Committee report along with the committee's recommendation for adoption, referral, **amendment, substitution,** or ~~defeat~~ **not for adoption** for each resolution listed. A request for extraction of any resolution from ~~a~~ **the** Unanimous Consent Agenda by any credentialed councillor is in order at the beginning of the Reference Committee report. Thereafter, the remaining items on the Unanimous Consent Agenda will be approved unanimously en bloc without discussion. The Reference Committee reports will then proceed in the usual manner with any extracted resolution(s) debated at an appropriate time during that report.

Action: The Council Standing Rules were updated.

Resolution 18 ACEP Membership and Leadership (as amended)

RESOLVED, That ACEP will study and create a plan for improving racial/ethnic, gender, and other forms of diversity of its members, committee members, councillors, Council Officers, and Board of Directors; and be it further

RESOLVED, That ACEP collect and publish demographic data about its members, Council, and leaders and encourage community and academic emergency medicine groups alike to publish demographic data about its members and, likewise, to create a plan for improving racial/ethnic, gender, and other forms of diversity among its members; and be it further

RESOLVED, That ACEP create an annual diversity report to be presented to Council for the next 5 years.

Action: ACEP's diversity, equity, and inclusion efforts are headed by the Diversity, Equity, and Inclusion Committee, the Diversity, Equity, Inclusion Section, the Board of Directors, staff liaisons, and supported by others across the organization to ensure that diversity, equity, and inclusion is in the strategic plan and the internal and external work of the College and to develop a plan with the ultimate goal of developing and disseminating measurable benchmarks.

ACEP is committed to increasing the diversity of members in all leadership positions in the Council, the national Board of Directors, committees, sections, and chapters. As directed by Resolution 14(18), ACEP regularly reminds its chapters and sections about the value and importance of appointing and mentor councillors and alternate councillors that represent the diversity of their membership. It is equally important for residents, young physicians, and others who represent a minority of members of the College, to become active in their chapters and sections, seek appointment or election as a councillor or alternate councillor within their chapter or section, and to apply for and be selected to serve on national ACEP committees.

A series of reports about the diversity of ACEP's membership is provided in the Council meeting materials as directed by Amended Resolution 12(19) ACEP Composition Annual Report. The report includes demographics of councillors and alternate councillors by chapter, ACEP's committee and section leaders, Board of Directors, and general membership stratified by age, gender, race/ethnicity, education, board certification, career stage, and employment environment. The data is limited to the extent that members provide this information in their membership profile. Fewer than two-thirds of ACEP members have provided race and ethnicity data on their membership record, with more complete records skewed to members who joined more recently. We will make this data public when we are confident about its accuracy and completeness.

ACEP supported the Society for Academic Emergency Medicine's May 2022 Consensus Conference: Diversity, Equity and Inclusion: Developing a Research Agenda for Addressing Racism in Emergency Medicine. The stated purpose of this meeting is the development of a consensus-driven research agenda, research collaboration network, and dissemination plan for evidence-based practices related to the care of health disparity populations in emergency care settings. 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." As a follow-up to the meeting, an All Emergency Medicine Organizations Task Force on Diversity, Equity and Inclusion (DEI) was established by SAEM, with representatives from AACEM, AAEM, AAEM/RSA, ABEM, ACEP, ACOEP, CORD, EMRA, and RAMS. The task force assisted in the development the All EM DEI Vision Statement that was created and approved by the Board of Directors from each organization.

ACEP's Diversity, Equity, & Inclusion Committee was appointed in July 2022 and has been assigned objectives to address health equity and advocacy, data collection and monitoring, organizational accountability, and education as well as a specific objective to address this resolution. One early accomplishment of the committee was to develop a standard set of demographic questions and categories that are now being collected across multiple channels at ACEP and saved into ACEP member records. The responses to the demographic questions are confidential and include a "choose not to answer" response option so that these data fields can be made mandatory. This data will only be used for reporting in aggregate form and will facilitate the kind of reporting called for in this resolution.

Resolution 19 Framework to Assess the Work of the College Through the Lens of Health Equity (as amended)

RESOLVED, That ACEP create or select a framework to assess the future work of the College (position statements, adopted resolutions, task forces) through the lens of health equity; and be it further

RESOLVED, That ACEP provide to members a biennial assessment of the work of the College as it pertains to health equity.

Action: ACEP's efforts in support of health equity are headed by the Diversity, Equity, and Inclusion Committee, the Diversity, Equity, Inclusion Section, Board of Directors, staff liaisons, and supported by others across the organization. An objective of the committee will be to develop a plan to ensure that diversity, equity, and inclusion is in the strategic plan and the internal and external work of the College as well as develop guiding principles that can be used when creating any new products, education, resources, etc.

ACEP is committed to playing a defining role in addressing health care equity in emergency medicine and in promoting and facilitating diversity and inclusion and cultural sensitivity within emergency medicine. Fourteen of ACEP's

30 committees were assigned objectives in the 2020-21 committee year related to health care disparities/health equity. At the direction of the ACEP President, those committee chairs convened to identify lessons learned from the COVID-19 pandemic regarding health disparities and possible solutions to improve health equity for future public health crises. A report of this work is being developed and is expected to be disseminated in 2022.

ACEP's Legislative & Regulatory Priorities for the First and Second Sessions of the 117th Congress and the First Session of the 118th Congress have included "promote legislative options and solutions to identify and eliminate health disparities, address structural racism, and improve health equity in the health care system. In October 2020, ACEP responded to a request for information (RFI) from the House of Representatives Committee on Ways and Means Chairman Richard Neal regarding racial health inequities and specific questions about the misuse of race and ethnicity in clinical decision support (CDS) tools and algorithms. ACEP's response included specific efforts and initiatives the College has undertaken to reduce disparities and improve outcomes for communities of color, including efforts to reduce unconscious or implicit bias in the delivery of emergency care. It also detailed disparities resulting from or exacerbated by COVID-19 that were identified in the ACEP COVID-19 Field Guide. Additionally, the letter addressed questions about the use of race and ethnicity in CDS tools and clinical algorithms and how this was an ongoing topic of discussion and study not just within emergency medicine, but also the broader field of medicine.

In March 2021, ACEP submitted a response to the Senate Health, Education, Labor, and Pensions (HELP) Committee hearing on COVID-19-related health disparities, detailing issues identified in the emergency department and strategies for prevention, screening, and mitigation.

In July 2021, ACEP held a congressional panel discussion during the 2021 Leadership and Advocacy Conference (LAC), entitled "Breaking Down Barriers: Improving Health Equity Through the Emergency Department." The panel featured congressional staff that ACEP has worked with on health equity issues to provide insight on how emergency physicians can engage with legislators on these topics.

ACEP supported the Society for Academic Emergency Medicine's May 2022 Consensus Conference: Diversity, Equity and Inclusion: Developing a Research Agenda for Addressing Racism in Emergency Medicine. The stated purpose of this meeting is the development of a consensus-driven research agenda, research collaboration network, and dissemination plan for evidence-based practices related to the care of health disparity populations in emergency care settings. 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." As a follow-up to the meeting, an All Emergency Medicine Organizations Task Force on Diversity, Equity and Inclusion (DEI) was established by SAEM, with representatives from AACEM, AAEM, AAEM/RSA, ABEM, ACEP, ACOEP, CORD, EMRA, and RAMS. The Task Force assisted in the development the All EM DEI Vision Statement that was created and approved by the Board of Directors from each organization.

ACEP's Diversity, Equity, & Inclusion Committee was appointed in July 2022 and has been assigned objectives to address health equity and advocacy, data collection and monitoring, organizational accountability, and education as well as a specific objective to address this resolution.

Resolution 20 ACEP Award for Excellence in Innovations in the ED Care of Patients with Behavioral Health and Substance Use Disorder (as amended)

RESOLVED, That ACEP will honor emergency physicians with this annual award who have led the way in improving the care of patients with behavioral health and substance use disorder.

Action: The award eligibility and criteria was developed and approved by the Board of Directors in October 2021. A formal call for award nominations was included in the 2022 awards cycle. A recommendation for the first award recipient was approved by the Board at their April 2022 meeting.

Resolution 21 Medical Society Consortium on Climate & Health

RESOLVED, That ACEP become an official member of the Medical Society Consortium on Climate & Health; and be it further

RESOLVED, That ACEP support one ACEP member representative by paying registration and travel expenses to attend the Medical Society Consortium on Climate & Health annual meeting starting in 2021.

Action: The Consortium was notified of ACEP's decision to join the organization as a Member Society. The liaison representative was approved by the president and participated in the May 2021 annual meeting that was held virtually. ACEP's liaison representative also serves on the Consortium's Steering Committee. Funds for the liaison representative to attend future annual meetings are included in the annual budget.

Resolution 22 State Media Training for Emergency Physicians

RESOLVED, That ACEP develop a dedicated media training course for emergency physicians to respond to requests from state or local media outlets via ACEP constituent chapters and sections with an emphasis on specific talking points pertinent to the key issues affecting those physicians at that level; and be it further

RESOLVED, That ACEP develop a media training course specifically focused on effective, unbiased, fact-based social media delivery; and be it further

RESOLVED, That ACEP partner with state chapters and sections to effectively market a media training course for chapter and section leaders and encourage that chapter and section officers are offered the opportunity to enroll in such training in conjunction with ACEP *Scientific Assembly* or other ACEP meetings.

Action: ACEP developed the Communication Master Course "PR for the ER," an enduring online set of training videos designed to provide members with the fundamentals of effective communications. This course supplements other resources offered on the ACEP Spokespersons' Network webpage. ACEP continues to promote and offer the course to chapters and additional licenses were secured to ensure that all chapters can participate in the virtual training.

ACEP will launch a new national scope of practice campaign in correlation with National Doctors Day on March 30. In addition to the results of a national opinion poll on scope of practice issues, ACEP will release 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 24 911 Awareness and Policy (as amended)

RESOLVED, That ACEP promote awareness that healthcare professionals are increasingly accessing 911 on behalf of patients who cannot call 911 themselves, will not call 911 themselves, or have inadequate communication when speaking to 911 dispatchers themselves; and be it further

RESOLVED, That ACEP promote awareness that medical directors of Public Safety Access Points and EMS may need to build policies to take into strong consideration the patients' medical information and patients' medical needs provided by the treating doctor who activates the 911 emergency on behalf of a patient; and be it further

RESOLVED, That ACEP work with relevant stakeholders to facilitate the process of emergency medical dispatcher processing of calls originated by medical professionals – especially by those utilizing telehealth technologies.

Action: The EMS Committee identified resources in collaboration with other EMS organizations to address 9-1-1 call centers who receive calls from someone other than the patient. The resources were shared on the EMS Section engagED site and on the section's web page. ACEP's policy statement "Access to 9-1-1 Public Safety Centers, Emergency Medical Dispatch, and Public Emergency Aid Training" addresses EMS-related public safety answering points.

Resolution 25 Adverse Impact of Healthcare Insurers on Emergency Medicine Reimbursement & Optimal Patient Coverage

RESOLVED, That ACEP create a task force and commission an independent study on the extraordinary financial influence health insurers have asserted over emergency physicians by leveraging EMTALA mandates and withholding appropriate reimbursement against emergency physicians; and be it further

RESOLVED, That ACEP engage an independent healthcare economist to analyze the reimbursement challenges and adverse financial impacts of the healthcare financing system on emergency medicine and the effect of commercial health insurance and reimbursement policies on emergency care; and be it further

RESOLVED, That ACEP advocate for higher standards and additional scrutiny of health insurer spending, including the Medical Loss Ratio (MLR) standards, to ensure more resources are dedicated to the patient health services and not diverted for other business pursuits without clear benefit to their patient population; and be it further

RESOLVED, That ACEP work with other similarly affected professional organizations, consumer advocacy groups, and the American Medical Association (AMA) to further understand the contribution of health insurers on the increased financial burden of patient access to emergency services and on the physician delivery of emergency care.

Action: A task force was appointed to develop an RFP for commission of a study. The Board of Directors approved the RFP in June 2021. Only one response to the RFP was received and it was reviewed by the Board at their October 28, 2021, meeting. The Board discussed their concerns that only one response was received and the optics of awarding a contract based on the singular response. The Board agreed to seek input from the Emergency Medicine Policy Institute regarding ways to address the resolution. The Emergency Medicine Policy Institute (EMPI) continues to explore ways to study the questions contained in this resolution.

Discussions began in February 2022 regarding possible collaboration related to the specialty specific impact of the *No Surprises Act* driving reimbursement determined by payers using an All Payers Claim Database (APCD). A proposal was developed to review retrospective national claims and analyze median commercial rates for emergency medicine, radiology, and anesthesiology to see if the qualified payment amounts (QPA) match what is expected for fair payment rates.

ACEP will continue advocacy efforts to address the adverse impact of health care insurers on emergency medicine reimbursement and its effect on patients.

Resolution 26 Addressing Systemic Racism as a Public Health Crisis (as amended)

RESOLVED, That ACEP reaffirm the importance of recognizing and addressing the social determinants of health, including systemic racism as it pertains to emergency care; and be it further

RESOLVED, That ACEP continue to explore models of health care that would make equitable health care accessible to all; and be it further

RESOLVED, That ACEP continue to use its voice as an organization and support its members who seek to reform discriminatory systems and advocate for policies promoting the social determinants of health within historically disenfranchised communities at an institutional, local, state, and national level.

Action: ACEP is committed to playing a defining role in addressing health care equity in emergency medicine and in promoting and facilitating diversity and inclusion and cultural sensitivity within emergency medicine. Fourteen of ACEP's 30 committees were assigned objectives in the 2020-21 committee year related to health care disparities/health equity. ACEP's Legislative & Regulatory Priorities for the First and Second Sessions of the 117th Congress included "promote legislative options and solutions to identify and eliminate health disparities, address structural racism, and improve health equity in the health care system."

The Public Health & Injury Prevention Committee was assigned an objective to "compile and disseminate information on health care disparities and strategies to address the disparities related to systemic racism and social determinants of health." The committee was also assigned to work with the Diversity, Equity, & Inclusion Section to obtain their input on ways to address the resolution. A subcommittee developed an article titled "Addressing Bias, Racism, and Disparities in the Emergency Department" and it was submitted to *ACEP Now.* The committee also developed an article titled "Impact of Perceived Race on Public Health" that was also submitted to *ACEP Now*.

ACEP Advocacy & Practice Affairs staff have established and maintained several lines of communication with congressional leaders on efforts to address health disparities, systemic racism, and social determinants of health. This includes direct conversations with House Ways & Means Committee Chairman Richard Neal's staff regarding the committee's efforts to address racial equity and specific efforts related to emergency medicine and ACEP priorities, as well as meetings with the three leaders of the Ways & Means Committee's Racial Equity Initiative to share ACEP's advocacy priorities and efforts. ACEP also submitted a response to the Senate Health, Education, Labor, and Pensions (HELP) Committee hearing on COVID-19-related health disparities on March 25, 2021, detailing issues identified in the emergency department and strategies for prevention, screening, and mitigation. Additionally, ACEP held a congressional panel discussion during LAC21, "Breaking Down Barriers: Improving Health Equity Through the Emergency Department," featuring congressional staff that ACEP has worked with on health equity issues to provide insight on how emergency physicians can engage with legislators on these topics. In 2022, ACEP also highlighted the issue of equity gaps and longstanding disparities in health care in a letter to the House Ways & Means Committee, asking the Committee to examine the COVID-19's disproportionate impact on racial and ethnic minorities, especially among children, that has been exacerbated by systemic inequalities. And in response to the Senate Health, Education, Labor, and Pensions (HELP) Committee's "PREVENT Pandemics" draft legislation issued, ACEP noted support for the Committee's efforts to develop and support robust tracking of granular demographic data related to COVID-19 to better understand the impact on racial and ethnic minority groups and other historically underserved populations, and encouraged the committee to ensure that medical professional organizations such as ACEP would be eligible for the grants created under this bill.

ACEP has repeatedly addressed the importance of addressing social determinants of health in our responses to various Medicare and Medicaid regulations and request for information. In these responses, ACEP educated regulators 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 that continue to impact disenfranchised communities and perpetuate health-related disparities.

Resolution 27 Attributing the Unqualified Term "Resident" to Physicians (as amended) – last 3 resolveds

RESOLVED, That ACEP recognize the valuable contribution of NPs and PAs within a physician-led team in the emergency department and that any development of NP/PA post-graduate training programs must be done with approval of the emergency department leadership; and be it further

RESOLVED, That ACEP work with relevant stakeholders to clarify non-physician post-graduate title terminology, and advocate for alternative terminology replacing the terms "resident" and "residency" and "fellow" and "fellowship" in conjunction with, but not limited, to nurse practitioners (NP) and physician assistants (PA) as their training is not equivalent to the training undertaken by physicians in an ACGME accredited emergency medicine residency and fellowship programs; and be it further

RESOLVED, That ACEP create a "Definition of Emergency Medicine Residency" policy statement.

Action: The first resolved was addressed by the previously convened multi-organization Emergency PA/NP Utilization Task Force. A report from the task force was completed in June 2020. ACEP's policy statement "Guidelines Regarding the Role of Physician Assistants and Nurse Practitioners in the Emergency Department" also addresses this issue.

A resolution was submitted for the AMA's Interim Meeting in November 2020 by the Resident and Fellows Section. ACEP's resident representatives in the Resident and Fellow Section (RFS) were among the authors of the resolution. However, because of the AMA's strict rules for that meeting that only allowed consideration of resolutions of an urgent and high priority nature, the resolution was not approved by the committee set up to screen every resolution for submission to the House of Delegates. The resolution was resubmitted by the RFS for the June 2021 AMA Annual Meeting and was adopted in part. Specifically, the first 5 resolveds of AMA Resolution 305. Non-Physician Post-Graduate Medical Training, introduced by Resident and Fellow Section, were adopted and the final two resolveds were referred.

The Academic Affairs Committee developed the policy statement "Definition of Emergency Medicine Residency" and it was approved by the Board of Directors in June 2021.

Resolution 29 Billing and Collections Transparency in Emergency Medicine (as amended) – first two resolveds

RESOLVED, That ACEP modify the existing policy statement "Emergency Physician Contractual Relationships" through deletion and substitution as follows: "The emergency physician is entitled to detailed itemized reports on what is billed and collected for his or her service on a semi-annual basis regardless of whether or not billing and collection is assigned to another entity within the limits of state and federal law. The emergency physician shall not be asked to waive access to this information."; and be it further

RESOLVED, That ACEP modify the existing policy statement "Emergency Physician Rights and Responsibilities" through deletion and substitution as follows: "5. Emergency physicians are entitled to detailed itemized reports of billings and collections in their name on a semi-annual basis and have the right to audit such billings at any time, without retribution. The emergency physician shall not be asked to waive access to this information."

Action: The Emergency Medicine Practice Committee revised the policy statements "Emergency Physician Contractual Relationships" and "Emergency Physician Rights and Responsibilities" and they were approved by the Board of Directors in April 2021. The revised policy statements include the revisions directed in the resolution.

Resolution 30 Protection and Transparency (as amended)

RESOLVED, That ACEP establish policy that encourages all employers, persons or entities who contract for emergency physician services to provide information on a semi-annual basis to non-federal physicians for any and all compensation or benefit, cash, and payment-in-kind, received by the employer or Contract Management Group (CMG) as a result of the physician providing his or her services without any requirement of the physician requesting it.

Action: : The Emergency Medicine Practice Committee revised the policy statements "Emergency Physician Contractual Relationships" and "Emergency Physician Rights and Responsibilities" and they were approved by the Board of Directors in April 2021. The revised policy statements reflect the intent of the resolution.

Resolution 31 Insurer Accountability/Policy Weakness Disclosure (as amended)

RESOLVED, That ACEP establish policy advocating for legislation requiring health insurers to provide written disclosures to potential customers explaining the policy and potential shortfalls where customers would be financially responsible, before they could receive any benefit and at the time of sale of any healthcare policy; and be it further

RESOLVED, That ACEP support legislation imposing penalties on insurers who do not provide written disclosures explaining the policy and potential shortfalls where customers would be financially responsible to policyholders as required, i.e., before they purchase the policy that include requiring the insurer to cover 100% of all charges without deductible, co-pay, exclusions, etc.

Action: The resolution was assigned to the Federal Government Affairs Committee. Insurer transparency is a key component of ACEP's advocacy on congressional efforts to address out-of-network billing issues. Communications with stakeholders urged inclusion of these provisions and they were secured into law under the *No Surprises Act* that ensured patients' financial responsibility will be no more than their in-network deductible and cost sharing whether in- or out-of-network, as well as requiring that policyholders' insurance cards include information on their deductibles and out-of-pocket maximums to provide a better understanding of the extent/limits of their coverage. Patients must also be supplied with meaningful and simple explanations regarding their coverage for emergency care guaranteed under federal law.

Unfortunately, the Biden Administration is significantly behind in implementing the regulations for several major insurer transparency provisions from the *No Surprises Act*. These include:

- Plan obligations related to delivery of patient advanced EOBs
- Plan obligations related to accuracy of network directories.
- Plan obligations related to plan/insurance identification cards.

ACEP continues to advocate to the Administration to strongly urge them to implement these important

requirements. ACEP also supported legislation, the "Improving Seniors' Timely Access to Care Act" (H.R. 3173) that passed the House of Representatives on September 14, 2022. This bill improves and streamlines the burdensome "prior authorization" process that some Medicare Advantage plans use to inappropriately delay or deny care. It also requires plans to annually publish specified prior authorization information, including percentage of requests approved and average response time, and to provide each beneficiary with access to the criteria used by the plan for making such determinations (unless it would disclose proprietary information), as well as establishing other beneficiary protection standards.

Resolution 34 Public/School Bleeding Control Kit Access and Training

RESOLVED, That ACEP support access to bleeding control kits in all schools and public venues nationwide akin to the automated external defibrillators (AED) access programs; and be it further

RESOLVED, That ACEP support the expansion of bleeding control training in schools and communities to support educated use of these kits in the event of an emergency until help arrives.

Action: The resolution was assigned to the EMS & Disaster Preparedness staff to continue efforts to expand the Until Help Arrives training program in schools and public venues. The Until Help Arrives program was on hold during the COVID-19 pandemic because of the in-person nature of the training. The program is promoted by the Disaster Medicine Section on their website as well as the EMS-Prehospital Care Section website.

Starting in late spring 2022, ACEP began collaborating with the American Red Cross to update and expand the course to include treatment of opioid overdose and Naloxone use. The American Red Cross is taking the lead on updating the course (with ACEP providing medical content review), administration, and distribution of the course through online availability only.

Resolution 35 Supporting the Development of a Seamless Healthcare Delivery System to Include Prehospital Care

RESOLVED, That ACEP take a leadership role to ensure the inclusion of prehospital care (e.g., emergency medical services) as a seamless component of health care delivery rather than merely a transport mechanism; and be it further

RESOLVED, That ACEP advocate for bidirectional data integration between hospitals and EMS; and be it further

RESOLVED, That ACEP advocate for appropriate payment of EMS services to include all clinical services separate from transport; and be it further

RESOLVED, That ACEP advocate for the development of a payment structure for EMS medical direction and oversight including physician field response; and be it further

RESOLVED, That ACEP advocate for additional support to the National Highway Traffic Safety Administration Office of EMS to allow for further federal leadership of EMS systems development and evolution and expansion of the National EMS Information System; and be it further

RESOLVED, That ACEP collaborate with other stakeholder organizations to promote legislation that will allow for the integration of reimbursed prehospital care into a seamless patient-centered system of healthcare delivery.

Action: The resolution was assigned to the Advocacy & Practice Affairs staff for federal advocacy initiatives and to Chapter & State Relations staff for state advocacy initiatives.

ACEP's Legislative & Regulatory Priorities for the First and Second Sessions of the 117th Congress and the First Session of the 118th Congress have included "support legislative efforts to improve pre-hospital services and oversight, especially medical direction of EMS and community paramedicine" and "maintain/establish federal funding levels for the National EMS Information System (NEMSIS)." This continues to be a priority for the First Session of the 118th Congress.

ACEP has been working in conjunction with the National Association of EMS Physicians (NAEMSP) to develop legislation that would improve quality and accountability in EMS, as well as provide reimbursement for both off-line and on-line EMS medical direction. The "Assuring Quality and Accountability of EMS Care" legislation has been drafted and ACEP is working to identify congressional sponsors to introduce the legislation. ACEP sought support from other organizations representing EMS interests, such as the fire chiefs, firefighters, EMTs, and ambulance transport during the drafting phase, however, these groups expressed significant opposition to the proposal, which will make advancing the legislation through Congress more difficult.

ACEP tracks and report to chapters legislation related to EMS service and staff have been involved in meetings to promote the development of the new mental health crisis 988 lines. ACEP is also working with other stakeholder organizations as significant legislation is proposed in many states.

ACEP has worked with the Centers for Medicare & Medicaid Services (CMS) around the implementation of the Emergency Triage, Treat, and Transport (ET3) payment model. As background, the ET3 model is a voluntary payment model that allows Medicare to pay ambulance providers for taking beneficiaries to alternative destinations beyond the emergency department (such as urgent care centers and primary care clinics). It also would reimburse for treatments provided in place by a qualified health care practitioner (physician, NP, or PA) either in-person on the scene of the 911 emergency response or via telehealth. In June 2019, ACEP met with CMS to discuss the model in detail. ACEP expressed strongly that the ET3 payment model must include appropriate patient safeguards, specifically oversight of all triage,

treatment, transport, and destination decisions by involved EMS medical director physicians. ACEP outlined some concerns about the model to CMS and expressed its commitment to work with CMS going forward to ensure that ambulance providers participating in the model have sufficient patient safety safeguards included in their protocols.

ACEP also included comments in response to the Senate Health, Education, Labor, and Pensions (HELP) Committee's draft of the "PREVENT Pandemics Act," noting the need for a broader and more coordinated national trauma system, the "National Trauma and Emergency Preparedness System" (NTEPS) model built upon a framework of Regional Medical Operations Coordination Centers (RMOCCs) (a framework supported by ACEP in concert with the American College of Surgeons). Among the numerous functions of this framework are efforts to integrate all levels of health care leadership from regional health systems and hospitals into emergency operations centers and operational plans; provide real-time situational awareness of capabilities and capacity including data collection, analysis, and dissemination (i.e., hospital and EMS capacity data), and other functions that ensure EMS is incorporated into this integrated model.

ACEP will continue advocacy efforts to ensure the inclusion of EMS is vital component of health care delivery.

Resolution 38 Universal Access to Telehealth Care

RESOLVED, That ACEP, in collaboration with other medical organizations, advocate for universal access to telehealth care through expanded broadband infrastructure and wireless connectivity to all rural and underserved areas of the United States as well as supporting innovative strategies to improve individual access to broadband and cellular technology.

Action: ACEP has and continues to advocate for expanded telehealth access, including increased broadband infrastructure for rural and underserved communities. Previously, ACEP's comments on this specific issue were directly quoted in the House Ways & Means Committee's Rural and Underserved Communities Task Force report issued in July 2020, and ACEP continues to advocate on this point. In the First Session of the 117th Congress, ACEP again helped draft and endorsed the "Creating Opportunities Now for Necessary and Effective Care Technologies (CONNECT) for Health Act of 2021," which in addition to several emergency-medicine specific provisions, included provisions aimed at expanding telehealth use in rural and underserved communities. The Infrastructure Investment and Jobs Act (P.L. 117-58) passed in November 2021 provided $65 billion to increase broadband deployment and provide internet subsidies for low-income families. ACEP is also working on bipartisan emergency medicine-specific telehealth legislation and supports legislation that would extend the Medicare waivers of the geographic and originating site restrictions for a full two years once the COVID-19 public health emergency (PHE) ends. ACEP joined 374 other organizations in a letter to Senate leadership calling for such an extension. ACEP continues to work with numerous other physician specialties to encourage Congress to make these telehealth expansions permanent and fully integrate telehealth into the U.S. health care system.

Resolution 41 Personal Protection Equipment (as amended)

RESOLVED, That ACEP work with relevant stakeholder organizations to establish appropriate minimum standards and regulations applicable to hospitals for the readily accessible storage of appropriate levels of personal protections equipment for all workers at the facility, and to strengthen penalties for violation for such regulations; and be it further

RESOLVED, That ACEP work with relevant stakeholders to establish or strengthen whistleblower protections who in good faith report deficiencies in the quantity or quality of personal protective equipment (PPE) made available to them for the purposes of caring for patients; and be it further

RESOLVED, That ACEP establish a new policy supporting emergency physicians and other emergency workers providing their own personal protection equipment without any penalty of any kind if adequate and sufficient personal protection equipment to be used as intended by the manufacturer of the personal protection equipment is not provided.

Action: ACEP has worked with federal lawmakers and regulators throughout the COVID-19 pandemic to ensure prioritization of the production of medications and PPE and more effectively distributed to needed sites of care, with an emphasis on domestic production, and to secure $10 billion in federal appropriations to carry out activities under the Defense Production Act, which was used for the manufacturing and procurement of PPE, drugs, diagnostic products, medical devices, and biological products. ACEP also advocated for increased transparency of the supply chain for these products to better identify and proactively address current and future potential shortages. ACEP worked with the Congress and the Biden Administration to review the country's response to the pandemic, promote additional policy changes to prevent PPE shortfalls in the future, and develop legislative proposals to better prepare the country for another man-made or natural disaster. Additionally, ACEP worked with federal lawmakers to advance legislation that would provide due process protections for all emergency physicians, regardless of their practice arrangement.

The Supply Chain Task Force developed a report with recommendations that addressed PPE supply.

In February 2021, ACEP participated in a meeting of health care industry leaders hosted by OSHA on how to best strengthen COVID-19 workplace protections. During the meeting, ACEP again strongly advocated for emergency physicians' rights to be supplied effective PPE by their hospital, to wear their own PPE if they prefer, and to have access to peer support and mental health treatment without fear of professional reprisal.

The Emergency Medicine Practice Committee worked with the Medical-Legal Committee to review the current policy statements and determine if revisions were needed or whether a new policy statement should be developed to specifically address whistle blower protection. After discussion with ACEP's General Counsel, proposed revisions to the current policy statement "Safer Working Conditions for Emergency Department Staff" were developed to address the third resolved of the resolution. The Board discussed the revised policy statement their October 22, 2021, meeting, and referred it back to the committee for further revisions to address whistleblower protections for emergency physicians who raise concerns regarding patient safety/clinical issues, the safe environment of the emergency department, and the responsibility of the hospital to provide/allow appropriate PPE. The committee submitted an updated revised policy statement to the Board of Directors for consideration at their October 6, 2023, meeting.

ACEP has also taken numerous actions to advocate for emergency physicians' right to wear their own PPE or be able to report safety concerns without fear of reprisal. In March 2020, ACEP started collecting stories of emergency physicians being restricted by their hospital from wearing PPE or even being punished for doing so (whether the PPE was supplied by the hospital or personally obtained). ACEP relayed these examples directly to The Joint Commission (TJC) and the Occupational Safety and Health Administration (OSHA). ACEP staff met with TJC the same month to convey our concerns about this issue. Right after our meeting, TJC issued a statement supporting physicians' right to bring their own standard face masks or respirators to wear at work when their healthcare organizations cannot routinely provide access to PPE.

In April 2022, ACEP submitted a letter responding to OSHA's Emergency Temporary Standard (ETS), "Occupational Exposure to COVID-19." OSHA is in the process of developing a final safety standard for COVID-19 and sought comments on specific topics and questions related to the ETS to help inform that process. ACEP's comments included allowing health care workers to wear the PPE they believe is needed to feel safe, including their own PPE.

Resolution 42 Addressing Ethical Challenges of the COVID-19 Pandemic for Emergency Physicians (as amended)

RESOLVED, That ACEP develop policy statements to address:

1) the implications of inadequate personal protective equipment for emergency physicians;
2) the care of patients under crisis treatment standards; and
3) the proportionality of responses by hospitals and practice organizations toward emergency physicians' compensation or benefits during times of pandemic illness or other similar events.

Action: Sixteen of ACEP's 30 committees were assigned objectives for the 2021-22 committee year to address COVID-19/future pandemics. The Ethics Committee developed the policy statement "National Pandemic Readiness: Ethical Issues" and it was approved by the Board of Directors in April 2021.

The Disaster Preparedness & Response Committee developed four policy statements in response to the resolution and three were approved by the Board of Directors at their October 22, 2021, meeting: "Emergency Physician Involvement, Utilization, and Compensation During a Pandemic;" "Role of Emergency Physicians in Disaster Preparedness and Response (Impact of COVID Pandemic);" "The Care of Patients Under Crisis Standards of Care." The committee developed a draft policy statement "Protecting Emergency Physicians and Health Care providers from Inadequate Personal Protective Equipment" that was referred back to the committee regarding the utilization of personal protective equipment (PPE) and consider language that would allow emergency physicians to bring their own PPE if the baseline supplies did not meet their perceived risk standards. The draft policy statement will be resubmitted to the Board of Directors for review at their September 28, 2022, meeting.

The Disaster Preparedness & Response Committee developed the information paper "The Challenges of Providing Health Care in Rural Areas with a Focus on the Challenges Created by the COVID-19 Pandemic." The committee also worked with the Emergency Medicine Practice Committee to assess personal protective equipment based on five exposure potentials and information was posted on the ACEP website.

The Medical-Legal Committee reviewed liability issues for emergency physicians who speak out about or refuse to work due to insufficient PPE. The committee developed language for a "smart phrase" for emergency physicians to insert on charts indicating that care is being provided during a federal disaster declaration.

ACEP created multiple resources on the ACEP website regarding COVID-19, including a Field Guide that has been widely used by members.

Resolution 43 Creating a Culture of Anti-Discrimination in our Emergency Departments and Healthcare Institutions (as amended)

RESOLVED, That ACEP promote transparency in institutional data to better identify disparities and biases in medical care; and be it further

RESOLVED, That ACEP continue to encourage training to combat discrimination for all clinicians; and be it further

RESOLVED, That ACEP continue to explore frameworks for integrating anti-discrimination into our emergency departments and institutions at all levels including, but not limited to, patients, families, medical students, staff, trainees,

staff physicians, administration, and other stakeholders.

Action: The resolution was assigned to the Diversity, Inclusion, & Health Equity Section to work in collaboration with committees that have assigned objectives on this issue and provide recommendations to the Board to address this resolution.

ACEP is committed to playing a defining role in addressing health care equity in emergency medicine and in promoting and facilitating diversity and inclusion and cultural sensitivity within emergency medicine. Fourteen of ACEP's 30 committees were assigned objectives in the 2020-21 committee year related to health care disparities/health equity. ACEP's Legislative & Regulatory Priorities for the First and Second Sessions of the 117th Congress and the First Session of the 118th Congress have included "promote legislative options and solutions to identify and eliminate health disparities, address structural racism, and improve health equity in the health care system."

The Emergency Medicine Practice Committee revised the policy statements Cultural Awareness and Emergency Care" and "Non-Discrimination and Harassment" and they were approved by the Board in April 2021.

In July 2021, ACEP was selected to join the Council of Medical Specialty Societies and ACGME as part of ACGME EquityMatters™. ACGME Equity Matters is a new initiative that introduces a framework for continuous learning and process improvement in the areas of diversity, equity, inclusion (DEI), and anti-racism practices. The initiative aims to drive change within graduate medical education (GME) by increasing physician workforce diversity and building safe and inclusive learning environments while promoting health equity by addressing racial disparities in health care and overall population health. ACEP representatives to this program include Mark Rosenberg DO MBA FACEP, ACEP President 2020-2021, Jenice Baker MD FACEP, New Jersey Chapter President 2021-2022, and ACEP Executive Director, Sue Sedory. 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." ACEP's participation in the program continued through December 2022 and will culminate in a capstone project. ACEP will coordinate efforts from this initiative with those of the Diversity, Inclusion, & Health Equity Section and selected ACEP committees to address specific challenges for the College.

ACEP's Diversity, Equity, & Inclusion Committee was appointed in July 2022 and has been assigned objectives to address health equity and advocacy, data collection and monitoring, organizational accountability, and education. The committee will work with the Diversity, Inclusion, & Health Equity Section to develop recommendations to address this resolution.

ACEP is a participating member of the All Emergency Medicine Organizations Task Force on Diversity, Equity and Inclusion (DEI), established by SAEM, with representatives from AACEM, AAEM, AAEM/RSA, ABEM, ACEP, ACOEP, CORD, EMRA, and RAMS. The Task Force assisted in the development the All EM DEI Vision Statement that was created and approved by the Board of Directors from each organization.

Resolution 47 Honoring Employment Contracts for Graduating Emergency Medicine Residents (as amended)

RESOLVED, That ACEP partner with the Emergency Medicine Residents' Association to encourage all employers to honor their employment contracts with graduating emergency medicine resident and fellow physicians.

Action: The Emergency Medicine Practice Committee revised the policy statement "Emergency Physician Contractual Relationships" and it was approved by the Board of Directors in April 2021. The revised policy statement added a sentence to the bullet concerning the honoring of contractual agreements stating that this also applies to honoring contracts prior to the initiation of employment or in cases of deferred/delayed employment, such as that of a graduating resident.

Resolution 49 Strangulation Policy Statement and Educational Resources (as substituted in lieu of Resolution 28 and Resolution 49)

RESOLVED, That the American College of Emergency Physicians (ACEP) acknowledges the hazard associated with air-choke holds, strangulation and carotid restraint; and be it further

RESOLVED, That ACEP educate its members and relevant stakeholders on the hazards and the recognition and appropriate management of patients who present to the emergency department with injuries associated with air-choke holds, strangulation, and carotid restraint maneuvers in various settings.

Action: The resolution was assigned to the Public Health & Injury Prevention Committee. The committee led a workgroup of members of from ACEPs Forensic Medicine Section, Tactical Emergency Medicine Section, the Pediatric Emergency Medicine Committee, and the EMS Committee. The workgroup developed a policy statement and an information paper. The Board of Directors approved the policy statement "Strangulation and Neck Compression" and reviewed the information paper "Considerations for the Management of Strangulation in the Emergency Department" in October 2021. The information paper was published by *JACEP Open* in April 2022 and is also available on the ACEP website.

Resolution 50 Support for Expedited Partner Therapy (as amended)

RESOLVED, That ACEP develop a ~~clinical~~ policy supporting the use of expedited partner therapy; and be it further

RESOLVED, That ACEP develop model legislation that removes legal obstacles to expedited partner therapy, promotes legal clarity where the laws are ambiguous, and provides legal protection for health care professionals that choose to prescribe expedited partner therapy; and be it further

RESOLVED, That ACEP work with state and local health departments and key stakeholders to develop expedited partner therapy protocols.

Action: The Clinical Policies Committee reviewed the current literature and, based on the limited amount of existing quantitative data and the number of existing guidelines on this topic, the committee recommended to the Board that a clinical policy not be developed at this time and existing educational materials on the topic be further disseminated. The Board approved the committee's recommendation in June 2021. The Board adopted a motion to amend the resolution by deletion of the word "clinical" from the first resolved and assigned an objective to the Public Health & Injury Prevention Committee for the 2021-22 committee year to develop a policy statement. The Board's action to amend the resolution was accepted by the Steering Committee at their October 22, 2021, meeting. The Public Health & Injury Prevention Committee developed the policy statement "Expedited Partner Therapy for Selected Sexually Transmitted Diseases" and it was approved by the Board in April 2022. The committee also developed an accompanying Policy Resource & Education Paper (PREP) as an adjunct to the policy statement.

The resolution was also assigned to the State Legislative/ Regulatory Committee to assess the need for and develop, as appropriate, model state legislation and other resources for chapters to work with state and local health departments. Currently, 45 states allow expedited partner therapy and it is prohibited only in South Carolina. The committee developed model state legislation that was approved by the Board of Directors in June 2023 and it was distributed to chapters.

Resolution 51 Telehealth Disaster Pilot and Educational Resources

RESOLVED, That ACEP create new policy that promotes federal, state, and private funding for pilot projects and studies to help provide care, once a disaster is officially declared by a state or federal agency, entity or official, to disaster victims and rescue workers using telehealth and other technology as tools and to study the effectiveness of using telehealth as a vehicle for the evaluation and treatment of disaster victims and patients; and be it further

RESOLVED, That ACEP create new policy that encourages federal, state, and private funding to develop and implement telehealth and other technology educational programs and training of first responders and disaster workers to become more familiar with such tools to improve access, evaluation of, and the care delivered to victims of natural and man-made disasters.

Action: The resolution was assigned to the ED Telehealth Task Force. Members of the Disaster Preparedness & Response Committee participated in discussions with the task force. The task force objectives were divided into five key subject areas: 1) Care Models; 2) Quality; 3) Legislative, Regulatory, Policies; 4) Reimbursement; and 5) Education. The task force's final report was submitted to the Board of Directors in October 2021. The Board filed the report and assigned subgroups of the Board to review each of the recommendations contained in the report and provide their analysis to the Board. The subgroup reports were reviewed by the Board at their January 2022 meeting. The Board approved supporting the majority of the recommendations, revised two of the recommendations, and referred the Reimbursement recommendations to the Reimbursement Committee and the Coding & Nomenclature Advisory Committee to provide further analysis and submit their recommendations to the Board on appropriate advocacy action regarding telehealth reimbursement. The Board reviewed the reimbursement recommendations in June 2022 and approved supporting 11 of the 14 reimbursement strategies.

The Telehealth Task Force also developed the draft policy statement "Disaster Telehealth." The Board referred the policy statement to the Disaster Preparedness & Response Committee to review and provide a recommendation to the Board.

Resolution 53 In Memory of Lindsey J. Myers, MD

RESOLVED, That the American College of Emergency Physicians remembers with honor and gratitude the accomplishments and contributions of a gifted emergency physician Lindsey Jo Myers, MD and extends condolences and gratitude to her family and friends for her service to the specialty of emergency medicine and to patient care.

Action: A framed resolution was sent to the family of Dr. Myers.

Resolution 54 In Memory of Herbert Arnold ("Arn") Muller, MD, FACEP

RESOLVED, That the American College of Emergency Physicians cherishes the memory and expresses its appreciation for the professional accomplishments and personal influence of "Arn," a consummate gentleman and emergency medicine pioneer, and be it further

RESOLVED, That the American College of Emergency Physicians and the Pennsylvania College of Emergency Physicians extends to his wife Anne, daughters Janice and Sarah, and sons Carl "Gus," Peter, and Paul, and the extended Muller family gratitude for his tremendous service to public health and to the specialty of emergency medicine as one of its founding fathers.

Action: A framed resolution was sent to the family of Dr. Muller.

Resolution 55 In Memory of J. Ward Donovan, MD, FACEP, FACMT

RESOLVED, That the American College of Emergency Physicians cherishes the memory and legacy of J. Ward Donovan, MD, FACEP, FACMT, who 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 extends to his wife Joan, daughter Erin, son-in-law, Greg, and grandchildren, Seamus and Aoife, and to the extended Donovan family gratitude for his tremendous service to the specialty of emergency medicine and to his leadership, vision, and commitment in the development of emergency medicine and medical toxicology.

Action: A framed resolution was sent to the family of Dr. Donovan.

Resolution 56 In Memory of Craig Manifold, DO, FACEP, FAAEM, FAEMS

RESOLVED, That the American College of Emergency Physicians recognizes the scope, breadth, and lasting impact of the magnanimous life of Craig Manifold, DO, FACEP, FAAEM, FAEMS, on the State of Texas, the Texas College of Emergency Physicians, and the Government Services Chapter of ACEP; and be it further

RESOLVED, That the aforementioned groups acknowledge the substantial loss to the medical community and bereavement of his many colleagues and friends, but above all extend condolences to his beloved wife of 31 years, Denise L. Moore, and their precious children Hanna Moore Manifold Cappadonna, her husband, Barrett; Della Caroline Manifold-Stolle, and her husband, Steven; and his son, Caleb Andrew Manifold.

Action: A framed resolution was sent to the family of Dr. Manifold.

Resolution 57 In Memory of Douglas W. Lowery-North, MD, MSPH, FACEP

RESOLVED, That the American College of Emergency Physicians remembers with gratitude the many contributions made by Douglas W. Lowery-North, MD, FACEP, as one of the leaders in emergency medicine and the greater medical community; and be it further

RESOLVED, That the American College of Emergency Physicians extends to the family of Douglas W. Lowery-North, MD FACEP, his friends, and his colleagues our condolences and gratitude for his tremendous service to his country, the specialty of emergency medicine, and to the patients and physicians of California, Georgia, Oregon, and the United States.

Action: A framed resolution was sent to the family of Dr. Lowery-North.

Resolution 58 In Memory of Debra Sanders. Hawaii Chapter Executive

RESOLVED, That the American College of Emergency Physicians and the Hawaii Chapter recognizes Debra Sanders for her Aloha and her outstanding contributions to the chapter.

Action: A framed resolution was sent to the family of Ms. Sanders.

Resolutions Referred to the Board of Directors

Resolution 27 Attributing the Unqualified Term "Resident" to Physicians (as amended) – first resolved

RESOLVED, That ACEP reaffirm the gold standard for emergency medicine training is, and must remain, the completion of an ACGME accredited emergency medicine residency training program and board certification by ABEM or ABOEM; and be it further

Action: ACEP's policy statement "Emergency Medicine Training, Competency, and Professional Practice Principles

specifies that it is the "role and responsibility of ABEM and AOBEM to set and approve the training standards" for emergency physicians. ACEP's policy statement "The Role of the Legacy Emergency Physician in the 21st Century" emphasizes that "physicians who begin the practice of emergency medicine in the 21st century must have completed an accredited emergency medicine residency training program and be eligible for certification by ABEM or AOBEM." ACEP's policy statement "Guidelines Regarding the Role of Physician Assistants and Nurse Practitioners in the Emergency Department" states "the gold standard for care in an ED is that performed or supervised by a board-certified/board eligible emergency physician."

The Academic Affairs Committee developed the policy statement "Definition of Emergency Medicine Residency" and it was approved by the Board of Directors in June 2021.

Resolution 29 Billing and Collections Transparency in Emergency Medicine (as amended) – last three resolveds

RESOLVED, That ACEP adopt as policy that: "No member of ACEP will, directly or indirectly, deny another emergency physician the ability to receive detailed itemized billing and remittance information for medical services they provide."; and be it further

RESOLVED, That ACEP petition the appropriate state or federal legislative and regulatory bodies to establish the requirement that revenue cycle management entities, regardless of their ownership structure, will directly provide every emergency physician it bills or collects for with a detailed itemized statement of billing and remittances for medical services they provide on at least a monthly basis; and be it further

RESOLVED, That ACEP adopt this policy: "Any entity that wishes to advertise in ACEP vehicles, exhibit at its meetings, provide sponsorship, other support or otherwise be associated with ACEP will as of January 1, 2021, provide every emergency physician associated with that entity, at a minimum, a monthly statement with detailed information on what has been billed and collected in the physician's name. This information must be provided without the need for the physician to request it. Physicians cannot be asked to waive access to this information. The entities affected include but is not limited to revenue cycle management companies, physician groups, hospitals, and staffing companies."

Action: In January 2021, the Board of Directors assigned the following to address the three referred resolveds and the overall intent of this resolution.

Regarding the first referred resolved, the Board directed the Emergency Medicine Practice Committee to review and provide a recommendation regarding further action on the referred resolved statements from this resolution.

Regarding the second referred resolved statement, the Board directed ACEP Advocacy & Practice Affairs staff to investigate possible legislative or collaborative approaches to address billing and collections transparency.

Regarding the third referred resolved, the Board also directed ACEP's General Counsel to develop a legal position regarding the extent to which ACEP or other entities have the legal authority to enforce these policies, particularly as it pertains to taking punitive action against its members and/or customers.

Recognizing the importance and complexity of this issue for all ACEP members, Board leaders were actively involved throughout the year, talking to members, offering their time and resources to better understand and guide ACEP's actions to fully address the intent of this referred resolution.

Related to the first referred resolved statement, the Emergency Medicine Practice Committee recommended and the Board approved numerous updates to two ACEP policies, "Emergency Physician Rights and Responsibilities" and "Emergency Physician Contractual Relationships" to include numerous changes specific to the approved resolved in resolution 29(20). Subsequently, an objective was assigned to the Medical-Legal Committee to provide a primer and explanation of unionization and collective bargaining to determine if there are additional options for emergency physicians to require groups to have detailed itemized billing and remittance information for medical services they provide.

Regarding the second referred resolved statement, ACEP's Advocacy & Practice Affairs staff contacted both Majority and Minority congressional staff to discuss potential legislative or other approaches to address billing and collections transparency. Broadly, while there was some interest from congressional staff in the overarching concept of transparency, the most common concerns raised were questions about the role of the federal government in this matter and a reluctance about stepping into contract issues between two private entities. Several congressional staff members noted that federal pushes for increased transparency are typically motivated by the direct patient/consumer impact.

Additionally, Board members met with the original authors of the resolution to discuss the intent of the second resolved and to brainstorm options. There were questions about what federal mechanisms could be used for implementation and enforcement, with conditions of participation (COPs), labor law, and FTC. Several staff noted that this option could be further explored, but we should anticipate there will likely be substantial pushback from the hospital community.

Separate from these Congressional discussions, ACEP Advocacy & Practice Affairs staff and General Counsel investigated whether the False Claims Act (31 U.S.C. §§ 3729–3733), or FCA, could provide a lever for physicians to secure reporting of what has been billed and collected in their name. While the FCA provides mechanisms for penalty (including a private right of action for whistleblowers) if incorrect or fraudulent billing is suspected in Medicare, Medicaid, and other federal programs, there is no specific legal requirement around billing transparency under the law. The False Claims Act only applies when a person "knowingly presents, or causes to be presented, a false or fraudulent claim for

payment or approval" or "knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent". Under the law, "knowingly" means that "a person, with respect to information (i) has actual knowledge of the information; (ii) acts in deliberate ignorance of the truth or falsity of the information; or (iii) acts in reckless disregard of the truth or falsity of the information;" and "require no proof of specific intent to defraud."

Subsequently, ACEP engaged outside counsel to advise on whether securing regular reporting of billing in a physician's name could inadvertently subject that physician to potential liability under the False Claims Act, since provision of this information could now leave them considered to be "knowing." ACEP developed a primer on the False Claims Act to help empower emergency physicians to better understand their rights under federal law and empowers them to gain access to Medicare billings made in their name. The primer is organized by employment type/payment arrangement.

Regarding the third referred resolved statement, ACEP's General Counsel engaged Powers, Pyles, Sutter & Veville, P.C., a legal firm with specialized expertise in healthcare and representation of nonprofit organizations, as outside counsel to review the resolution and provide a third-party outside legal opinion on the anti-trust risk to ACEP to implement the referred resolution as written. It should be noted that this assignment occurred with a similar assignment for responding to Referred Amended Resolution 44(20). At its June 2021 meeting, outside counsel presented the Board of Directors with available case law and previous legal opinions shared on this matter. It was the recommendation of outside counsel that the findings of all four available legal opinions were consistent and clearly demonstrated that there was substantial risk to implementing the resolution as written. However, suggestions were made by general and outside counsel that meet the intent of the resolution. Specifically, ACEP could seek to obtain non-competitive information from all emergency physician-employing entities, including exhibitors, advertisers, and sponsors of ACEP meetings and products, with the intent to increase transparency and encourage all employers adhere to key ACEP policy statements related to employer best practices.

Following the Board presentation, the Board and staff developed an employer profile survey meant to serve as an accountability mechanism to increase pressure on all employer groups and set a higher bar of expectations for any entities employing emergency physicians, including exhibitors, advertisers, and sponsors of ACEP meetings and products, asking them to provide information about their organizations. The survey asked employers to provide details on group governance structure, billing practices, ownership model, size, funding, and more. It also included an attestation that the entities affirm their adherence to ACEP policy statements as they pertain to the emergency physicians in their group, including "Emergency Physician Rights and Responsibilities" and "Emergency Physician Contractual Relationships," which specifically mention due process and transparency in billing. Several iterations of the draft questionnaire were discussed with ACEP members, including the original authors of the resolution.

The employer survey was distributed in September 2021, in advance of ACEP21. Each employer participating in ACEP's annual conference was asked to complete the survey and made aware that their answers would be available to all ACEP members in an ongoing fashion. An existing searchable employer database was enhanced to accommodate the survey data and it remains available on the ACEP website, protected behind the member log in. For the initial launch, employer profiles were promoted at ACEP21 using QR codes in the onsite program for employer exhibitors, on meter boards, and on tabletop signs for each booth and Job Fair table. These codes allowed members to quickly access information about all employer groups. The information, or lack thereof, provided members the information on potential employers and their practices and transparency. If no data exists, an opportunity existing to request the employer provide it. Additionally, promotion of the survey responses was included in the ACEP21 mobile app and promotion also occurred via *EM Today, Weekend Review*, social media, ACEP.org and a From the College note in *ACEP Now.*

Following ACEP21, ACEP leaders met with several large staffing groups to ask that they complete the employer profile survey. The staff conducted outreach to employers throughout the year in pursuit of employer information that could be provided to members. Several email campaigns were conducted, and phone outreach took place during the spring of 2022 requesting employer groups provide the information and embrace ACEP policies regarding best practices. In August 2022, ACEP distributed the survey to employers attending ACEP22.

ACEP's commitment to transparency and employer accountability will continue as this pilot program gains traction. ACEP will continue to push for greater transparency among employers and work to ensure members have the necessary tools to make informed decisions about their employment options.

As affirmed in ACEP's strategic plan, the Board and leadership are dedicated to ensuring that ACEP fights for the rights of all emergency physicians across all landscapes and levels, supported by ACEP policy and advocacy efforts and as intended by this referred resolution.

Resolution 36 Telehealth (as substituted)

RESOLVED, That ACEP support legislation to ~~make the CMS waivers that were allowed during the COVID-19 declared emergency related to telehealth permanent, i.e.,~~ allow patients to be at any location, allow emergency medicine physicians or other clinicians that are supervised by emergency medicine physicians, to be at any location, same or different than the patient, allow waiving of cost sharing, allow coding using any code that reflects the service provided; and be it further,

RESOLVED, That ACEP support legislation mandating all payers to allow patients to select the physician of their choice, whether employed, within the health insurer's network, or outside of insurer's network, without restriction, to provide telehealth services for acute unscheduled care to any or all their insured patients; and be it further

~~RESOLVED, That ACEP support legislation requiring all payers to pay parity to physician and non-physician health providers for telehealth services as would be paid for in-person services for appropriate or equivalent care; and be it further~~

~~RESOLVED, That ACEP support penalties to insurers for intentional actions, rules or policy that limit, restrict, delay, deny or prevent access to necessary acute unscheduled care or services from the physician or non-physician provider of the patient's choice in an appropriate time period as determined by physicians in that region, or national determined standard or in the payment to the practitioner for the care or services provided.~~

RESOLVED, That ACEP advance the responsible implementation of telehealth practice consistent with policies and guidelines previously developed by ACEP, the American Medical Association, and specialty-specific best practices as well as ongoing assessment of patient outcomes, physician-patient relationship, and cost; and be it further

RESOLVED, That ACEP, in collaboration with other medical organizations, advocate for state and federal legislation that supports Medicaid, Medicare, and private payer reimbursement and coverage parity for live video physician telehealth visits as well as fair reimbursement of ancillary telehealth services such as remote patient monitoring, eConsults, and store and forward technology; and be it further

RESOLVED, That ACEP oppose restrictions to telehealth care unless those restrictions are consistent with established best practices, confidentiality, or patient safety protections.

Action: The resolution was assigned to the ED Telehealth Task Force. The task force was not instructed to focus solely on the referred resolveds and instead developed numerous objectives divided into five key subject areas: 1) Care Models; 2) Quality; 3) Legislative, Regulatory, Policies; 4) Reimbursement; and 5) Education. The task force's final report was submitted to the Board of Directors in October 2021. The Board filed the report and assigned subgroups of the Board to review each of the recommendations contained in the report and provide their analysis to the Board. The subgroup reports were reviewed by the Board at their January 2022 meeting. The Board approved supporting the majority of the recommendations, revised two of the recommendations, and referred the Reimbursement recommendations to the Reimbursement Committee and the Coding & Nomenclature Advisory Committee to provide further analysis and submit their recommendations to the Board on appropriate advocacy action regarding telehealth reimbursement. The Board reviewed the reimbursement recommendations in June 2022 and approved supporting 11 of the 14 reimbursement strategies. The Board believes that the task force work satisfies the intent of this referred resolution.

Resolution 44 Due Process in Emergency Medicine (as amended)

RESOLVED, That ACEP adopt this policy; "No member of ACEP will, directly or indirectly, deny another emergency physician the right to due process regarding their medical staff privileges and ability to see patients in an emergency department. No member of ACEP will hold a management position with any entity that denies an emergency physician of this right."; and be it further

RESOLVED, That ACEP modify the existing policy statement "Emergency Physician Rights and Responsibilities" through deletion and substitution as follows: "6. Emergency physicians ~~should be accorded~~ **are entitled to** due process before any adverse final action with respect to employment or contract status, the effect of which would be the loss or limitation of medical staff privileges. Emergency physicians' medical and/or clinical staff privileges should not be reduced, terminated, or otherwise restricted except for grounds related to their competency, health status, limits placed by professional practice boards or state law. 7. Emergency physicians who practice pursuant to an exclusive contract arrangement should not be required to waive their individual medical staff due process rights as a condition of practice opportunity or privileges."; and be it further

RESOLVED, That ACEP adopt this policy: "Any entity that wishes to advertise in ACEP vehicles, exhibit at its meetings, provide sponsorship, other support or otherwise be associated with the ACEP will as of January 1, 2021 shall remove all restrictions on due process for emergency physicians. Physicians cannot be asked to waive this right as it can be detrimental to the quality and safety of patient care. The entities affected include but is not limited to physician groups, hospitals, and staffing companies."

Action: In January 2021, the Board directed the Emergency Medicine Practice Committee and the Medical-Legal Committee, with support from ACEP's General Counsel, to review and provide a recommendation regarding further action on the resolution. A suggestion was made to consider developing best practices and/or policy resources for contracts and employment rights, including due process. Further, the Board directed ACEP General Counsel to develop a legal opinion on the extent to which ACEP can enforce member, corporate support, or exhibit policies based on such employment rights criteria; it should be noted that this assignment occurred together with a similar assignment for responding to referred resolveds in resolution 29(20).

Recognizing the importance and complexity of this issue for all ACEP members, Board leaders were actively involved throughout the year, talking to members, offering their time and resources to better understand and guide ACEP's actions to fully address the intent of this referred resolution. Members of the Board spoke with numerous individuals who had been fired, taken off the schedule, transferred to other sites, or otherwise impacted by terms of their contracts. It became clear that this was happening across all employment models and not just large corporate groups. It also became evident that even with due process protections with their employer, physicians were losing their hospital privileges and being taken off the schedule if the hospital CEO wanted them removed.

Specific to the second referred resolved statement, the policy statement "Emergency Physician Rights and Responsibilities" that was revised by the Emergency Medicine Practice Committee and approved by the Board of Directors in April 2021, included the revision as directed, replacing "should be accorded due process" with "are entitled to due process." The policy statement has an accompanying Policy Resource and Education Paper (PREP), which states in part: "The core issue behind language in emergency medicine contracts having to do with termination of the physician's ability to practice is that of due process. Due process refers to the right to have a fair hearing, including input from the affected physician, prior to any decision being made about termination of the ability to practice (specifically the loss of hospital medical staff privileges). The concept of due process is felt to support the independence of a physician in advocating for patients without undue influence from extrinsic forces and preserves the sanctity of the physician-patient relationship. These forces may include non-medical concerns, such as financial, marketing, or political interests."

ACEP leadership and staff developed contracting and employment resources on the ACEP website to assist members and develop an accountability mechansim for increasing transparency among members and entities that employ emergency physicians regarding adherence to ACEP policy statements. There are dozens of pages of resources on the ACEP website dedicated to the topics of Employment Contracts and other practice and legal issues, as well as a growing set of resources from ACEP's Democratic Group Practice section. In an effort to better support all members as they face unprecedented challenges in hiring, ACEP staff embarked on a process to update, curate and develop educational and other assets into a complete set of resources designed to educate and empower physicians, at any point in their career, to more knowledgeably evaluate contract terms and pushback on unfair business practices, regardless of employment model or practice type. To supplement this, the Medical-Legal Committee developed a new contract resource, a checklist of "Key Considerations in an Emergency Medicine Employment Contract." The checklist is available on the EMRA website and the ACEP website in the Medical-Legal Resources. Additionally, for just $15 per year, all ACEP members currently have access to legal and financial support assistance through an affinity program with Mines & Associates, our wellness and counseling partner. This service includes a 30-minute in-person consultation for each individual legal matter, a 30-minute telephone consultation per financial matter, and 25% discount on select legal and financial services all with Mines & Associates network of legal and financial professionals. Under the category of Business Legal Services, this includes advice, consultation and representation regarding contracts, incorporation, partnerships, and other commercial activities.

For several years, ACEP has informed, helped draft, and advocated for legislation to support due process for emergency physicians. In fact, due process protections were one of ACEP's three key issues at the 2022 Leadership & Advocacy Conference (LAC) in Washington, DC, with advocates going to Capitol Hill to promote the concept and urge reintroduction of the revised "ER Hero and Patient Safety Act," legislation previously introduced in the 116th Congress by Representative (now Senator) Roger Marshall, MD (R-KS) and Raul Ruiz, MD (D-CA). Due process protections remain a key federal legislative priority for the College, and ACEP continues working with legislators in both the House and Senate to secure bipartisan sponsors prior to introduction of the bill for the current 117th Congress. Additionally, ACEP has urged the Senate Health, Education, Labor, and Pensions (HELP) Committee to include Sen. Marshall's due process legislation in the committee's mental health package, given the relationship of due process rights to emergency physician job satisfaction and stress and burnout, and continues working to identify any opportunities to include this provision in a larger legislative package.

As part of the recent workforce initiative, ACEP leadership has started meeting with the leadership of large employer groups to have open conversations about the state of the workforce and share feedback from our members. ACEP is sharing data on member perceptions of career satisfaction, which includes concerns about billing transparency, and encouraging groups to discuss these concerns with their physicians.

ACEP's General Counsel engaged Powers, Pyles, Sutter & Veville, P.C., a legal firm with specialized expertise in healthcare and representation of nonprofit organizations, as outside counsel to review the resolution and provide a third-party outside legal opinion on the anti-trust risk to ACEP to carry out the resolution as written. At its June 2021 meeting, outside counsel presented the Board of Directors with available case law and previous legal opinions shared on this matter. It was the recommendation of outside counsel that the findings of all 4 available legal opinions were consistent and clearly demonstrated that there was substantial risk to carrying out the resolution as written. However, suggestions were made by general and outside counsel that meet the intent of the resolution. Specifically, ACEP could seek to obtain non-competitive information from all emergency physician-employing entities, including exhibitors, advertisers, and sponsors of ACEP meetings and products, with the intent to increase transparency and encourage all employers adhere to key ACEP policy statements related to employer best practices.

Following the Board presentation, the Board and staff developed an employer profile survey meant to serve as an

accountability mechanism to increase pressure on all employer groups and set a higher bar of expectations for any entities employing emergency physicians, including exhibitors, advertisers, and sponsors of ACEP meetings and products, asking them to provide information about their organizations. The survey asked employers to provide details on group governance structure, billing practices, ownership model, size, funding, and more. It also included an attestation that the entities affirm their adherence to ACEP policy statements as they pertain to the emergency physicians in their group, including "Emergency Physician Rights and Responsibilities" and "Emergency Physician Contractual Relationships," which specifically mention due process and transparency in billing. Several iterations of the draft questionnaire were discussed with ACEP members, including the original authors of the resolution.

The employer survey was distributed in September 2021, in advance of ACEP21. Each employer participating in ACEP's annual conference was asked to complete the survey and made aware that their answers would be available to all ACEP members in an ongoing fashion. An existing searchable employer database was enhanced to accommodate the survey data and it remains available on the ACEP website, protected behind the member log in. For the initial launch, employer profiles were promoted at ACEP21 using QR codes in the onsite program for employer exhibitors, on meter boards, and on tabletop signs for each booth and Job Fair table. These codes allowed members to quickly access information about all employer groups. The information, or lack thereof, provided members the information on potential employers and their practices and transparency. If no data exists, an opportunity existing to request the employer provide it. Additionally, promotion of the survey responses was included in the ACEP21 mobile app and promotion also occurred via *EM Today, Weekend Review*, social media, ACEP.org and a From the College note in *ACEP Now.*

Following ACEP21, ACEP leaders met with several large staffing groups to ask that they complete the employer profile survey. The staff conducted outreach to employers throughout the year in pursuit of employer information that could be provided to members. Several email campaigns were conducted, and phone outreach took place during the spring of 2022 requesting employer groups provide the information and embrace ACEP policies regarding best practices. In August 2022, ACEP distributed the survey to employers attending ACEP22.

In June 2022, ACEP presented to the AMA resolution 219, Due Process and Independent Contractors. This resolution resolved that our American Medical Association 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. Thanks to strong advocacy by the AMA Section Council on Emergency Medicine and ACEP's leadership, this directive to take action was approved by the AMA House of Delegates (D-405.975) and ensures that the entire House of Medicine and the AMA's significant resources will now be fighting to ensure due process protections for us at both the federal and state level.

As affirmed in ACEP's strategic plan, the Board and leadership are dedicated to ensuring that ACEP fights for the rights of all emergency physicians across all landscapes and levels, supported by ACEP policy and advocacy efforts and in satisfying the intent of this referred resolution.

Resolution 45 Emergency Licensing and Protection in Disasters (as amended)

RESOLVED, That ACEP create new or reaffirm policy that supports that all states and U.S. territories waive standard licensing requirements including fees for emergency physicians to provide their services, whether in person or not, in any state or territory once a disaster has been declared by a state or federal entity, agency or official ~~and afterwards until services related to the disaster are no longer needed~~ **limited to the duration of the declaration of the state of emergency, including any extensions, within the state where the patient is located**, so long as emergency physician holds a license in good standing in any U.S. state or territory, does not charge for his/her services and practices within his/her area of knowledge and expertise **with limited exceptions such as gross negligence, misconduct and providing care while intoxicated**; and be it further

RESOLVED, That ACEP create new policy that supports legislation protecting any/all emergency physicians who provide their services, in person or otherwise, at no charge during disasters ~~and their aftermath~~, and granting these emergency physicians immunity and holding them harmless for any services **(with limited exceptions such as gross negligence, misconduct and providing care while intoxicated)**, that they provide to patients during disasters and aftermath so long as the emergency physician(s) practices within his/their area of knowledge or expertise.

Action: The resolution was assigned to the Disaster Preparedness & Response Committee to review and provide a recommendation to the Board regarding further action on the resolution. The committee recommended taking no further action on the resolution for the following reasons:

1. Concern that the resolution lacks integration with existing laws and the intent of the volunteer registries and the Medical Reserve Corps (MRC) that have processes in place for credentialing of providers and sometimes legal protection. The committee is supportive of a policy that recognizes the two federal /state programs and supports expansion of easy licensing and legal protections. ACEP should also consider including other medical specialties that are needed in disaster response.

2. The resolution does not meet the needs of ACEP members and society and it is lacking coordination with current methods to provide the support, verification, etc. While the general statement does not reinvent the wheel, it does a disservice to other specialties and to systems currently in place to make it easier for volunteers to respond safely with appropriate credentials, verification, etc.
3. Not every emergency physician is suited or trained to respond to a disaster and additional training and mentoring are needed beyond residency courses.
4. ACEP should encourage members to volunteer and pre-register at the state level instead of creating a new bureaucracy.

Additionally, ACEP has multiple policy statements that address the intent of the resolution:

- ACEP's policy statement "Support for National Disaster Medical System and Other Response Teams" supports the National Disaster Medical System (NDMS) and encourages further development and funding of the program. ACEP also supports members who participate in the Disaster Medical Assistance Teams (DMAT), Urban Search and Rescue (USAR teams), or other federal or state-sponsored medical teams.
- ACEP's policy statement "Disaster Medical Response" supports a national credentialing mechanism and up-to-date database of available physicians and medical volunteers who could be deployed as needed in the face of a national emergency. A policy and program must be in place to provide these responders with workers' compensation and medical liability protection when deploying to a disaster at the request of the federal or state government.
- ACEP's policy statement "Good Samaritan Protection" supports good samaritan protection legislation designed to reduce liability exposure. ACEP also supports the extension of existing good samaritan legislation to provide protection from liability for emergency physicians who respond to emergencies outside the emergency department, including but not limited to in-hospital and out-of-hospital emergencies, mass casualty incidents, and other disasters.
- ACEP's policy statement "Health Care System Surge Capacity Recognition, Preparedness, and Response" includes the following excerpt: Legislation should be enacted where necessary to mitigate provider liability issues during crisis situations.
- ACEP's policy statement "Hospital Disaster Physician Privileging" includes language that The Joint Commission (TJC) has put forth standards (TJC Standard EM.02.02.13) to address Hospital Disaster Physician Privileging. During disasters, the hospital may grant disaster privileges to volunteer licensed independent practitioners (LIP).
- ACEP's policy statement "Unsolicited Medical Personnel Volunteering at Disaster Scenes" is a joint statement with the National Association of EMS Physicians that encourages "members to become affiliated with pre-established disaster response organizations. This includes becoming pre-registered as disaster response personnel through the Emergency System for Advance Registration of Volunteer Health Professionals (ESAR-VHP), which is present in every state and provides for license verification, personnel notification, and rostering of response teams."

The Board discussed the committee's recommendation at their October 22, 2021, meeting and directed the committee to consider additional work that can be done to address the resolution, such as considering whether the "Disaster Medical Response" policy statement and/or the "Good Samaritan Protection" policy statement should be revised to include the expanded liability protection (gross negligence) suggested in the resolution; adding a link to the Disaster Medicine Section website directing members to where they can volunteer or pre-register to serve in case of a disaster; and adding information to the ACEP website regarding the interstate medical licensure compact (https://www.imlcc.org/) to increase awareness of this option for licensing in additional states. The committee developed a primer for disaster deployments describing subjects such as liability in disaster response and Good Samaritan protection as applied from state to state. Volunteer information and links from existing ACEP web resources and additional resources for both national and international opportunities were identified and are available on the ACEP website.

Resolution 48 Residency Program Expansion

RESOLVED, That ACEP engage the Accreditation Council for Graduate Medical Education and other relevant stakeholders to construct objective criteria for new residency accreditation that takes into account emergency medicine workforce needs, competitive advantages and disadvantages, geographical distribution of workforce, and expected shortages and/or excess of emergency physicians to adequately steward needs for newly accredited emergency medicine residency programs.

Action: In 2021, ACEP convened a multi-organization ACGME Emergency Medicine Requirements Workgroup was appointed to develop recommendations regarding the optimal training and skills needed to prepare medical students entering the field of emergency medicine for future practice in the field. Workgroup members represented the original organizations that agreed to participate in the Emergency Physician Workforce Study: ACEP, CORD, EMRA, SAEM,

AACEM, AAEM ACOEP, and RAMS. Representatives from each organization began holding meetings in June 2021 to discuss proposed program requirement changes for the RRC-EM for the ACGME to consider in 2022 and align with of the scheduled review and major revision of the EM program requirements according to ACGME timeline. The task force discussed procedural competency numbers, scholarly activity requirements, facility requirements (trauma designations, patient volumes, scaling size of residency programs), faculty requirements (fellowship training, single site affiliation, geographic proximity to residency program), and rotational requirements or electives (rural EM, telehealth, neurocritical care) to anticipate changing educational needs for the future. Individuals reviewed the available formal and gray literature on selected topics both within and beyond emergency medicine, as appropriate as selected by the group. The task force recommendations were compiled and submitted to the ACGME to consider when reviewing and developing the standards for emergency medicine. The consensus recommendations were also submitted to *Annals of Emergency Medicine* and *Academic Emergency Medicine* for publication consideration.

Resolution 52 The Corporate Practice of Medicine (as amended)

RESOLVED, That ACEP will prepare a comprehensive review of the legal and regulatory matters related to the corporate practice of medicine and fee splitting in each state and the results of this review will be compiled into a resource and announced to members as an available electronic download; and be it further

RESOLVED, That ACEP adopt as policy: "~~The~~ ACEP, in concert with its relevant component state chapter, in those states where there are existing prohibitions on the corporate practice of medicine, will provide assistance to physician owned groups who are threatened with contract loss to a corporate entity or to hospital employed physicians whose site will be taken over by a corporate entity by providing, upon request, a written review of the legality of the corporation obtaining the contract for emergency services."; and be it further

RESOLVED, That ACEP, in those states that are found to have existing prohibitions on the corporate practice of medicine, along with the relevant state chapter, will petition the appropriate authorities in that state to examine the corporate practice of emergency medicine if such is believed to occur within that state and ACEP will reach out to the state professional societies ~~of anesthesia and radiology~~ **as appropriate** in this effort and solicit the support of the state medical society; and be it further

RESOLVED, That ACEP will **work with the American Medical Association to** convene a meeting with representatives of physician professional associations representing specialties **and other stakeholders** affected by ~~private equity and other lay influence involvement to examine joint efforts to combat~~ the corporate ~~control~~ **practice** of medicine ~~by lay entities~~**, to ensure the autonomy of physician owned groups or hospital employed physicians contracting with corporately-owned management service organizations**.

Action: The Board and staff began extensive discussions on this referred resolution starting in April 2021. Discussions also included several ACEP state chapter leaders, as aspects of the suggested work would involve them. At the September 22, 2021, meeting, the Board of Directors approved several recommendations and actions to address the intent of this referred resolution.

Regarding the first referred resolved, it is consistently recognized by the AMA and legal professionals that the adoption and enforcement of corporate practice of medicine doctrine is not just a matter of statutory law, but as well a complex and living web of case law and attorney general or agency opinions. An internet search yields several different types of state-level comprehensive reviews, albeit, each limited in some way and nearly all cautioning about the complexities of this issue residing in of notoriously porous statutes and in a constant state of change. However, the American Health Law Association develops and sells a report, AHLA Corporate Practice of Medicine: A Fifty State Survey. It is designed to be a road map for determining which model a state follows and what sources to consult. The publication includes information on corporate practice restrictions and related issues such as fee splitting and the unlicensed practice of medicine. The cost of the current edition (664 pages softbound) of this document is $269 for non AHLA members.

Additionally, ACEP currently works with our chapters to summarize or curate resources via our Legislative Information Clearinghouse. This is currently being used to monitor such issues as crowding, liability reform, reimbursement issues, and many more. Matters of CPOM are not one of the issues currently tracked as a state legislative issue. Hence, the Board has directed the State Legislative/Regulatory Committee, with support from the Medical-Legal Committee and interested state chapters, to compile and make available to members a hyperlinked reference webpage on selected existing legal and regulatory resources related to the corporate practice of medicine and fee splitting in states. As part of this assignment, ACEP will purchase and make available a digital copy of the American Health Law Association (AHLA) Corporate Practice of Medicine: A Fifty State Survey, although the committees and chapters are not bound to exclusively use this resource. This webpage would reside within the State Legislative area of the ACEP website and be available to members only.

Regarding the second resolved, the Board recommended that ACEP Membership and Practice Affairs staff continue curating and expanding the promotion of educational and third-party assets for members needing contract and legal support related to various practice matters; this includes promotion of the affinity program with Mines & Associates that provides

ACEP members with access to legal and financial support assistance at a modest fee. This recommendation is consistent with suggestions made via testimony that, rather than by ACEP policy, this legal assistance could be offered in light of furthering member benefits. There are dozens of pages of resources on the ACEP website dedicated to the topic of Employment Contracts and other practice and legal issues, as well as a growing set of resources from ACEP's Democratic Group Practice Section. In an effort to better support all members as they face unprecedented challenges in hiring, ACEP Membership and Practice Affairs staff have embarked on a process to update, curate, and develop educational and other assets into a complete set of resources designed to educate and empower physicians, at any point in their career, to have more knowledge to evaluate contract terms and pushback on unfair business practices, regardless of employment model or practice type. Additionally, for the nominal fee of $15 per year, all ACEP members currently have access to legal and financial support assistance through an affinity program with Mines & Associates, our wellness and counseling partner. This service includes unlimited 30-minute in-person consultation for each individual legal matter, unlimited telephonic 30-minute consultation per financial matter, and 25% discount on select legal and financial services all with MINES network legal and financial professionals. Under the category of Business Legal Services, this includes advice, consultation and representation for contracts, incorporation, partnerships, and other commercial activities.

Regarding the third referred resolved, the Board directed ACEP Chapter Relations staff to convene an interested working group of state chapter executives, chapter presidents, and councillors to conduct an informal needs assessment regarding the need to petition appropriate state authorities regarding matters of the corporate practice of medicine statutes in their state. This approach is in keeping with internal operating policy, "ACEP Involvement in State Legislative Activities," adopted by the Board in May 2018, which stipulates that "on issues of strategy, national should defer to the chapter, given the chapter's better understanding of local political dynamics." This approach also ensures that ACEP and its state chapter executives work together to better understand and cross-promote ACEP's offerings regarding direct legal support to members via our affinity program with Mines & Associates, as well as to understand ACEP's procedures for determining whether to pursue other legal remedies, e.g., filing lawsuits, amicus briefs. Pending the results of the needs assessment, ACEP could work with its chapters to sponsor a webinar or curate resources or toolkits that would guide chapters on a process for addressing CPOM either through direct advocacy or through their members.

Regarding the fourth referred resolved, in July 2021, ACEP's executive director discussed ACEP's concerns with the AMA's CEO regarding matters related to the corporate practice of medicine and interest in potentially collaborating with the AMA on an educational or needs assessment meeting. There was mutual interest in exploring this further, possibly through a virtual summit that could convene professional and state medical societies, as well research organizations. Like ACEP has experienced, many of these research efforts are limited by a lack of transparency around ownership models and/or the ability to link ownership data to claims-based or other government data base research, as well as published literature to study the CPOM landscape. At this time, ACEP and AMA staff continue working to develop this collaborative summit.

The Board also acknowledged that current ACEP policy supports a position of neutrality when it comes to contractual arrangements; specifically, the "Emergency Physician Contractual Relationships" policy statement states: "quality medical care is provided by emergency physicians organized under a wide variety of group configurations and with varying methods of compensation. ACEP does not endorse any single type of contractual arrangement between emergency physicians and the contracting vendor."

ACEP began a campaign in March 2022 to collect stories that would help inform the Federal Trade Commission's (FTC) efforts to update its health care merger guidelines by expanding its evaluations on the impact of mergers and acquisitions to assess labor conditions rather than just competition. Stories were submitted through the ACEP website and other communications promoting the campaign were launched. The stories were reviewed to identify common themes and statistics and were used to create ACEP's response to a recent FTC/DOJ request for information. ACEP President Dr. Gillian Schmitz and ACEP Executive Director, Sue Sedory, provided public comments in a listening session hosted by the FTC and DOJ on April 14, 2022, on the effects of mergers and acquisitions in the healthcare industry. In their comments, Dr. Schmitz and Ms. Sedory shared results from ACEP's story collection that showed numerous anti-competitive labor-related effects associated with mergers and acquisitions in emergency medicine including: reduced wages and/or non-cash benefits; infringement of due process rights; interference with physician autonomy to make independent medical decisions benefiting patients; inability to find a job or undue imposed restrictions on ability to switch jobs; and a shift to use of a less-skilled health care workforce jeopardizing patient care.

ACEP filed an amicus brief in the AAEMPG v. Envision case on March 25,2022, upholding the sanctity of a physician's duty to patients and the importance of allowing them to practice medicine without undue pressure from outside forces. Through this filing, ACEP is applying its might on behalf of our nearly 40,000 members in legal efforts to assert the physician's right to autonomy in medical decision-making. EMRA also filed a Declaration of Interest in support of the ACEP position.

The Board of Directors approved the ACEP Statement on Private Equity and Corporate Investment in Emergency Medicine on April 6, 2022, reaffirming ACEP's core beliefs and emphasizing the physician-patient relationship as the moral center of medicine that can never be compromised.

In June 2022, ACEP presented to the AMA resolution 219, Due Process and Independent Contractors. This resolution resolved that our American Medical Association 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. Thanks to strong advocacy by the AMA Section Council on Emergency Medicine and ACEP's leadership, this directive to take action was approved by the AMA House of Delegates (D-405.975) and ensures that the entire House of Medicine and the AMA's significant resources will now be fighting to ensure due process protections for us at both the federal and state level.

The Emergency Medicine Group Ownership Task Force developed a report to address the effects on individual physicians and ACEP advocacy efforts of the actions of private equity groups, insurance company ownership, hospital ownership, corporate non-physician ownership and management of emergency physician groups. The report was provided to the Council on September 23, 2022.

Additionally, 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, 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).
- Their 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. ACEP is still trying to work with PAI and Avelere to look at the OneKey data, but this further confirms the findings of the Emergency Medicine Group Ownership Task Force that data or datasets available to clearly define ownership structures currently operating in emergency medicine is lacking. It also supports the task force recommendation for ACEP to both develop standardized definitions of ownership models, particularly as they pertain differently to ownership of facilities employing physicians and the ownership of physician practices. Further, this also supports the second recommendation from the task force that "current available databases often do not understand the nuances of ownership type."

The 2022 Council adopted Amended Resolution 56(22) Policy Statement on the Corporate Practice of Medicine directing ACEP to develop a policy statement opposing the corporate practice of medicine. The Board of Directors adopted the policy statement "Corporate Practice of Medicine" in June 2023.

ACEP continues to be actively engaged in directly supporting its members and advocating on behalf of emergency medicine regarding the corporatization of medicine. Resources to protect physician autonomy are available on the ACEP website.