American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

2023 Annual ACEP Council Meeting

Reference Committee Reports

Sunday, October 8, 2023

ORDER OF DEBATE

Reference Committee A – Dr. Gray-Eurom Presiding

Reference Committee C – Dr. Costello Presiding

Reference Committee B – Dr. Gray-Eurom Presiding

DEFINITIONS OF AVAILABLE COUNCIL ACTIONS

For the ACEP Board of Directors to act in accordance with the wishes of the Council, the actions of the Council must be definitive. To avoid any misunderstanding, the officers have developed the following definitions for Council action:

ADOPT
Approve resolution exactly as submitted as recommendation implemented through the Board of Directors.

ADOPT AS AMENDED
Approve resolution with additions, deletions, and/or substitutions, as recommendation to be implemented through the Board of Directors.

NOT ADOPT (DEFEAT)
Defeat (or reject) the resolution in original or amended form.

REFER
Send resolution to the Board of Directors for consideration, perhaps by a committee, the Council Steering Committee, or the Bylaws Interpretation Committee.

2023 Council Meeting
Reference Committee Members

Reference Committee A – Governance, Membership, & Other Issues
Resolutions 15-26

Scott H. Pasichow, MD, FACEP (IL) – Chair
William D. Falco, MD, FACEP (WI)
Gregory Gafni-Pappas, DO, FACEP (MI)
Catherine Marco, MD, FACEP (PA)
Laura Oh, MD, FACEP (GA)
Stephen C. Viel, MD, FACEP (FL)

Maude Surprenant Hancock, CAE
Laura Lang, JD

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

2023 Council Meeting

Final Report of REFERENCE COMMITTEE A

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

Madam Speaker and Councillors:

Reference Committee A gave careful consideration to the several items referred to it and submits the following report:

Unanimous Consent Agenda

For adoption:

1. RESOLUTION 16(23) Council Quorum – Defining "Present" – Housekeeping Bylaws Amendment
2. RESOLUTION 22(23) Supporting 3-Year and 4-Year Emergency Medicine Residency Program Accreditation
3. RESOLUTION 24(23) Addressing the Growing Epidemic of Pediatric Cannabis Exposure

For adoption as amended or substituted:

4. AMENDED RESOLUTION 15(23) Additional Vice President Position on the ACEP Board of Directors
5. AMENDED RESOLUTION 19(23) Scientific Assembly Vendor Transparency
6. SUBSTITUTE RESOLUTION 20(23) Emergency Medicine Research Mentorship Network
7. SUBSTITUTE RESOLUTION 21(23) Mitigation of Competition for Procedures Between Emergency Medicine Resident Physicians and Other Learners
8. AMENDED RESOLUTION 61(23) ACEP Financial Decision Transparency

Not for adoption:

9. RESOLUTION 17(23) Establishing the Position and Succession of a Speaker-Elect for the Council
10. RESOLUTION 18(23) Referred Resolutions
11. RESOLUTION 25(23) Compassionate Access to Medical Cannabis Act – "Ryan's Law"
12. RESOLUTION 26(23) Decriminalization of All Illicit Drugs

For referral to the Board of Directors:

13. RESOLUTION 23(23) Opposing Sale-Leaseback Transactions by Health Systems
14. RESOLUTION 62(23) Cooperation Between National ACEP and State Chapters

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Recommended for Adoption

1. **RESOLUTION 16(23) Council Quorum – Defining "Present" – Housekeeping Bylaws Amendment**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 16(23) be adopted.

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

Article VIII - COUNCIL

Section 4 — Quorum

A majority of the number of councillors credentialed by the Tellers, Credentials, and Elections Committee

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

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

Summary of Testimony

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

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

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 22(23) be adopted.

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

Summary of Testimony

Testimony was primarily in favor of the resolution. Proponents noted that there is an absence of evidence supporting better outcomes from one training format over another, thus supporting the validity of both three and four-year emergency medicine residency programs. It was also noted that this was debated by the workforce task force and consensus on a single length of training could not be reached.

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

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 24(23) be adopted.

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

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

Summary of Testimony

Testimony was largely supportive of the resolution and referenced the importance of protecting children and others from accidental ingestion of cannabis and cannabis derived intoxicants. More than one individual offered testimony suggesting that ACEP work with other institutions or agencies to achieve the goals set forth in this resolution. Your Reference Committee agrees with this perspective and notes that the resolution, as worded, would support collaboration and did not feel that individual partners needed to be cited in policy to accomplish that goal.

Recommended for Adoption as Amended or Substituted

4. **AMENDED RESOLUTION 15(23) Additional Vice President Position on the ACEP Board of Directors**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 15(22) be adopted.

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

ARTICLE X – OFFICERS/EXECUTIVE DIRECTOR

Section 1 – Officers

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

Section 2- Election of Officers

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

Section 7 – Vice President**s**

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

ARTICLE XI – COMMITTEES

Section 2 – Executive Committee

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

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

RESOLVED, That the additional vice president position on the ACEP Board of Directors be implemented in a budget neutral manner.

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

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

ARTICLE X – OFFICERS/EXECUTIVE DIRECTOR

Section 1 – Officers

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

Section 2- Election of Officers

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

Section 7 – Vice President**s**

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

ARTICLE XI – COMMITTEES

Section 2 – Executive Committee

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

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

Summary of Testimony

The testimony regarding this resolution leaned predominantly in favor, contingent on the condition that the new Vice President position remains budget-neutral. Those in support of the resolution expressed confidence in the board's decision-making capabilities and believed it conveyed a significant message about ACEP's commitment to its members. Proponents stressed the importance of separating compensation and role creation, deeming them as distinct considerations. Opponents raised concerns about the financial implications of adding the new position, especially in a budget-constrained year, thus language requiring budget neutrality was added to the resolution in a way that did not impact the bylaws changes. As an alternative, one individual suggested exploring the idea of dividing the Secretary-Treasurer role into two separate positions rather than introducing a new Vice President position; however your Reference Committee felt that was out of scope for this particular resolution.

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5. **AMENDED RESOLUTION 19(23) Scientific Assembly Vendor Transparency**

RECOMMENDATION

Madam Speaker, your Reference Committee recommends that Amended Resolution 19(23) be adopted.

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

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

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

Summary of Testimony

Testimony was mixed. Transparency was valued by both those in support and in opposition. Opposition testimony focused on the likelihood of obtaining useful and representative contracts, as well as whether the exhibit hall was the proper forum for understanding the intricacies of contracts and contract negotiations. Concerns were also expressed that limiting access to ACEP's exhibit hall (a likely outcome of a requirement) could be determined by a court to be a violation of antitrust laws. The Reference Committee recommends an amendment to encourage rather than require. Individuals in support of the resolution focused on the desire to obtain useful information from employers, leaving your Reference Committee to suggest bringing a current contract, rather than a sample.

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6. **SUBSTITUTE RESOLUTION 20(23) Emergency Medicine Research Mentorship Network**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Substitute Resolution 20(23) be adopted.

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

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

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

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

RESOLVED, That ACEP foster collaborations with Society for Academic Emergency Medicine, Council of Residency Directors in Emergency Medicine, and Emergency Medicine Foundation, and other stakeholders to support robust research mentorship opportunities.

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

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

RESOLVED, That ACEP's emergency medicine research mentorship program not be limited to either

virtually only or in-person only; and be it further

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

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

Summary of Testimony

Testimony supported mentorship and the intent of the resolution but was nearly unanimously opposed to the resolution based on the significant fiscal impact. Opponents pointed to potential duplication of efforts already undertaken by SAEM, CORD, and EMF, suggesting collaboration instead of parallel endeavors. They emphasized that the concern was not solely about cost but also about efficient resource allocation. SAEM spoke about their specific efforts and invited collaboration with interested stakeholders.

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

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Substitute Resolution 21(23) be adopted.

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

RESOLVED, That ACEP support residents' procedural education and experience, and that the presence of other learners and health care personnel must not negatively impact the residents' education and experience.

Summary of Testimony

Testimony was supportive of the goal of maintaining emergency medicine physician quality and preference of resident training over non-physician practitioners. Proponents strongly support the resolution as written, emphasizing the importance of demonstrating ACEP's support for residents' concerns and providing a valuable resource for emergency department and program directors. ABEM, CORD, and several residency program directors supported the resolution's intent but were concerned about the proposed language's impact upon hospital level advocacy on this issue. They expressed concerns about granting sole decision-making power to the residents and recommended that ACEP adopt a more moderate language to support collaborative decision making on procedure access while still prioritizing resident access to necessary procedures. Your Reference Committee settled upon this language as it closely reflects the current language in the ACGME program requirements.

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8. **AMENDED RESOLUTION 61(23) ACEP Financial Decision Transparency**

Madam Speaker, your Reference Committee recommends that Amended Resolution 61(23) be adopted.

RESOLVED, That ACEP suspend passing on credit processing fees pending an open comment period from member chapters; and be it further

RESOLVED, That ACEP provide a substantial notice period to chapters and/or sections before passing on costs to allow for budgeting.

~~RESOLVED, That ACEP allow for transparency to the membership on fees and how dues are utilized for chapters and sections by making this information available to members and reported by the treasurer to the Council.~~

RESOLVED, That ACEP evaluate mechanisms for improved communication between ACEP and chapter leaders and representatives to increase transparency to the membership regarding dues related fees.

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

RESOLVED, That ACEP suspend passing on credit processing fees pending an open comment period from member chapters; and be it further

RESOLVED, That ACEP provide a substantial notice period to chapters and/or sections before passing on costs to allow for budgeting; and be it further

RESOLVED, That ACEP allow for transparency to the membership on fees and how dues are utilized for chapters and sections by making this information available to members and reported by the treasurer to the Council.

Summary of Testimony

Testimony was strongly in favor of the resolution. Several chapters raised concerns regarding the lack of sufficient notice provided by ACEP to prepare for the financial impact. They stressed the importance of transparency, communication and allowing chapters the opportunity to be part of the conversation on issues that impact them financially. Referring to the board was suggested as an option and garnered some support due to the lack of background information; however, this was a minority of proffered testimony.

Recommended NOT for Adoption

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

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 17(23) not be adopted.

RESOLVED, That the ACEP Bylaws be amended to read:

ARTICLE VIII — COUNCIL

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

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

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

ARTICLE X — OFFICERS/EXECUTIVE DIRECTOR

Section 1 – Officers

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

Section 2 — Election of Officers

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

Section 4.2 — President-Elect

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

Section 4.4 — Council Officers

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

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

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

Section 4.6 — Vacancy by Removal of a Council Officer

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

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

Section 11 — Speaker

The term of office of the speaker of the Council shall be two years. The speaker shall attend meetings of the Board of Directors and may address any matter under discussion. The speaker shall preside at all meetings of the Council, except that the ~~vice speaker~~ **speaker-elect** may preside at the discretion of the speaker. The speaker shall prepare, or cause to be prepared, the agendas for the Council. The speaker may appoint committees of the Council and shall inform the councillors of the activities of the College. The speaker's term of office shall begin immediately

following the conclusion of the annual meeting at which the election **of a new speaker-elect has** occurred and shall conclude at such time as a successor takes office. The speaker shall not have the right to vote in the Council except in the event of a tie vote of the councillors. During the term of office, the speaker is ineligible to accept nomination to the Board of Directors of the College. No speaker may serve consecutive terms **except in fulfillment of a partial unexpired term.**

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

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

Summary of Testimony

Live testimony was mostly in opposition to the resolution. Those opposed voiced concerns about removing the Council's ability to elect the Speaker position and the increased difficulty of removing an officer (three-quarter vote) as opposed to simply not electing an officer (majority vote). Those in favor emphasized the importance of continuity, and cited constraints around the Vice Speaker's ability to carry some of their assigned duties from the time they declared their candidacy as speaker until the election which could be viewed as an impediment to both the candidate and to the Council. Your Reference Committee notes the only two activities from which Speaker candidates are prohibited from participating in are the Candidate Forum Subcommittee and the Nominating Committee. Council officers solely facilitate elections. The Tellers, Credentials, and Elections Committee runs the elections, thus this change would have no substantive impact on the election process at Council. Opponents emphasized that if the resolution was primarily driven by these limitations, they could be tackled and resolved separately.

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10. **RESOLUTION 18(23) Referred Resolutions**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 18(23) not be adopted.

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

Summary of Testimony

Live testimony was primarily in opposition to the resolution. Supporters noted the need to have an additional referral option that would allow the Council to request specific information from the Board while maintaining the Council's decision-making authority. They emphasized the importance of the Council retaining its autonomy and ability to direct the Board's actions, citing that other organizations follow this similar model. Opponents viewed the resolution as a solution in search of a problem, potentially adding unnecessary complexity to the Council's deliberations. The Board is attentive to the Council's input, and that every referred resolution is addressed by the Board and reported back to Council.

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11. **RESOLUTION 25(23) Compassionate Access to Medical Cannabis Act – "Ryan's Law"**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 25(23) not be adopted.

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

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

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

Summary of Testimony

Limited testimony was offered, though most was in opposition to the resolution. Opposing testimony included a lack of data supporting the use of marijuana for medical purposes and that the issue is one for the entire house of medicine and therefore better addressed by other entities. Testimony in support referenced the perceived benefits of medical marijuana use.

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12. **RESOLUTION 26(23) Decriminalization of All Illicit Drugs**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 26(23) not be adopted.

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

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

Summary of Testimony

Testimony was primarily in opposition noting a lack of evidence to support decriminalization as an effective tool in reducing illicit drug use and the rise in opioid and illicit drug use. Supportive testimony was limited but suggested that a substance use disorder should not be conflated with criminality and that criminalization might only exacerbate this medical condition.

Recommended for Referral to the Board of Directors

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

RECOMMENDATION

Madam Speaker, your Reference Committee recommends that Resolution 23(23) be referred to the Board of Directors.

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

Summary of Testimony

Testimony in favor of the resolution cited a need to understand the impacts of the corporatization of medicine and a desire for increased transparency and accountability. Testimony in opposition referenced the complicated nature of the resolution and a need for additional information. One individual noted concerns regarding potential antitrust

liability surrounding the discussions, requesting a review by legal counsel before moving forward. After consultation with ACEP's Office of the General Counsel, the Reference Committee determined that discussion of advocacy efforts by the College is acceptable and not an antitrust violation; however, any testimony must not include discussion of price-fixing, market allocation, or other anticompetitive practices. Since both pro, con, and neutral testimony cited a need for more information, your Reference Committee feels that referral to the Board would accomplish this ask.

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14. **RESOLUTION 62(23) Cooperation between National ACEP and State Chapters**

RECOMMENDATION

Madam Speaker, your Reference Committee recommends that Resolution 62(23) be referred to the Board of Directors.

RESOLVED, That ACEP staff revise the membership payment process to allow members to voluntarily pay for any credit card fees that are permitted to be passed on to the member and then require each state chapter to pay for any fees not paid.

Summary of Testimony

Testimony in favor of the resolution supported the desire to allow members to choose to help offset the costs associated with credit card payments. The ACEP Executive Director offered testimony indicating that ACEP staff had researched the feasibility of such an option, but that various state laws made this of questionable legality, and if legal, complicated to implement. Those in opposition suggested that this was a matter that should be referred to the Board for the opportunity to investigate the feasibility.

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

2023 Council Meeting
Reference Committee Members

Reference Committee C – Emergency Medicine Practice

Resolutions 43-55

Dan Freess, MD, FACEP (CT) – Chair
Angela P. Cornelius, MD, FACEP (TX)
Joshua R. Frank, MD, FACEP (WA)
Patrick B. Hinfey, MD, FACEP (NJ)
Jeffrey F. Linzer, Sr., MD, FACEP (GA)
Jennifer L. Savino, DO, FACEP (PA)

Jonathan Fisher, MD, FACEP
Travis Schulz, MLS, AHIP

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

2023 Council Meeting

Final Report of REFERENCE COMMITTEE C

Presented by: Daniel Freess, MD, FACEP, Chair

Madam Speaker and Councillors:

Reference Committee C gave careful consideration to the several items referred to it and submits the following report:

Unanimous Consent Agenda

For adoption:

1. RESOLUTION 43(23) Adopt Terminology "Unsupervised Practice of Medicine"
2. RESOLUTION 54(23) Opposition to The Joint Commission Credentialing Requirements for Individual Emergency Conditions

For adoption as amended or substituted:

3. AMENDED RESOLUTION 44(23) Clinical Policy – Emergency Physicians' Role in the Medication & Procedural Management of Early Pregnancy Loss
4. AMENDED RESOLUTION 45(23) Emergency Physicians' Role in the Medication and Procedural Management of Early Pregnancy Loss
5. SUBSTITUTE RESOLUTION 46(23) ~~Consensus with ACOG~~ **Policy Statement** on the Care of Pregnant Individuals with Substance Use Disorder
6. AMENDED RESOLUTION 47(23) Clarification of and Taking a Position Against Use of Excited Delirium Syndrome
7. AMENDED RESOLUTION 48(23) Medical Malpractice Certificate of Merit
8. AMENDED RESOLUTION 49(23) Patients Leaving the ED Prior to Completion of Care Against Medical Advice
9. AMENDED RESOLUTION 50(23) Metric Shaming
10. AMENDED RESOLUTION 51(23) Quality Measures and Patient ~~Satisfaction~~ **Experience** Scores
11. AMENDED RESOLUTION 53(23) Treating Physician Determines Patient Stability
12. AMENDED RESOLUTION 55(23) Uncompensated Required Training

Not for adoption:

13. RESOLUTION 52(23) Summit and New Tools for Transforming Acute Care

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Recommended for Adoption

1. **RESOLUTION 43(23) Adopt Terminology "Unsupervised Practice of Medicine"**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 43(23) be adopted.

RESOLVED, That ACEP adopt terminology to refer to the independent practice of medicine by non-physicians as "Unsupervised Practice of Medicine" and continue promotion of the gold standard ideals to have on-site supervision of non-physician practitioners.

Summary of Testimony

Asynchronous testimony was exclusively in support. Testimony praised the resolution for providing

clarification that the independent practice of medicine by non-physicians is "unsupervised practice of medicine" and the phrase "unsupervised practice of medicine" accurately describes the reality of the practice environment. There was no additional live testimony for or against this resolution.

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2. **RESOLUTION 54(23) Opposition to The Joint Commission Credentialing Requirements for Individual Emergency Conditions**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 54(23) be adopted.

RESOLVED, That ACEP engage with The Joint Commission to oppose credentialing policies that require new language or changes to delineation of clinical privileges for the diagnosis and treatment of individual emergency conditions.

Summary of Testimony

Asynchronous and live testimony was almost universally in support of the resolution. Although testimony was in support, it was noted that ACEP has engaged with this issue for quite some time with limited success, much of it being at the national level. Testimony suggested the need to expand ACEP's approach to include focusing on hospital credentialing committees, create educational resources, and talking points to assist physicians in lobbying hospital administrators to use board certifications such as ABEM to validate training, core competencies, and scope of care.

Recommended for Adoption as Amended or Substituted

3. **AMENDED RESOLUTION 44(23) Clinical Policy – Emergency Physicians' Role in the Medication & Procedural Management of Early Pregnancy Loss**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 44(23) be adopted.

RESOLVED, That the Board of Directors direct the Clinical Policies Committee to issue a recommendation on the following clinical question: For patients experiencing early pregnancy loss, is medication management initiated **in the emergency department by an emergency physician** safe~~,~~ **and** effective~~, and patient-centered~~ compared to expectant management?; and be it further

RESOLVED, That the Board of Directors direct the Clinical Policies Committee to issue a recommendation on the following clinical question: For patients experiencing early pregnancy loss, is procedural management **in the emergency department by an emergency physician** safe~~,~~ **and** effective~~, and patient-centered~~ compared to expectant management?

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

RESOLVED, That the Board of Directors direct the Clinical Policies Committee to issue a recommendation on the following clinical question: For patients experiencing early pregnancy loss, is medication management safe and effective, and patient-centered compared to expectant management?; and be it further

RESOLVED, That the Board of Directors direct the Clinical Policies Committee to issue a recommendation on the following clinical question: For patients experiencing early pregnancy loss, is procedural management safe, effective, and patient-centered compared to expectant management?

Summary of Testimony

Asynchronous testimony was almost exclusively in support of the resolution. Testimony in support highlighted the need for better information on the proactive management of early pregnancy loss. Members of the Clinical Policies Committee supported the intent of the resolution but pointed out that the critical questions as written would not produce clear recommendations because of the lack of comparative literature on the listed outcomes. Further testimony recommended that the resolution be withdrawn and combined with resolution #45 since both resolutions seek to achieve the same goals. In addition, amendments were requested to make the resolveds specific to emergency medicine. Finally, the aspect of a treatment being "patient centered" was eliminated as this is subjective and not something that the Clinical Policies Committee would comment upon. During live testimony, the authors of the resolution were in support of the amended language. The amendments also received support from the American Association of Women Emergency Physicians, the Emergency Medicine Residents' Association, and New York chapter. There was testimony from numerous speakers stating that emergency medicine is continually evolving, and the management of early pregnancy loss is becoming a routine part of some members' daily practice. The College should provide evidence-based resources for members who need guidance on the management of early pregnancy loss. Those opposed to the resolution raised concerns that fulfilling the requests of the resolution would inadvertently create an implied mandate that emergency physicians must provide this service. Concern was also raised that, while sometimes management of early pregnancy loss is emergent, many times this type of care is not something that needs to be provided in the emergency department. There was also a concern about the commitment of scarce College resources and the Clinical Policies Committee for something with limited scope. There was also a discussion about the difference between medication and procedural management.

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4. **AMENDED RESOLUTION 45(23) Emergency Physicians' Role in the Medication and Procedural Management of Early Pregnancy Loss**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 45(23) be adopted.

RESOLVED, That ACEP~~, ABEM, CORD~~ ~~and~~ **work** with other relevant stakeholders~~, to form a task force~~ to determine the best approaches for preparing emergency medicine trainees ~~for~~ **in** the management of early pregnancy loss~~,~~**.** ~~including prescribing medication management (utilizing ACOG best practice approaches), and to provide or support provision of manual uterine aspiration procedural management, such that future emergency physicians will be able respond to early pregnancy loss emergencies in care settings where immediate obstetrical services may not be available~~; and be it further

RESOLVED, That ACEP recognize the importance of the emergency physician's role in stabilizing and treating patients experiencing early pregnancy loss, inclusive of the potential for medication and procedural management, especially in low-resource settings, hospitals without Labor and Delivery, or where there are no obstetrical services available; and be it further

RESOLVED, That ACEP develop a policy statement acknowledging the emergency physician's role in the management of emergency medicine patients presenting with early pregnancy loss and encourage and support physicians working in low-resource settings, hospitals without Labor and Delivery, or where there are insufficient obstetrical services available to further their education on first-trimester miscarriage management.

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

RESOLVED, That ACEP, ABEM, CORD and other relevant stakeholders, form a task force to determine the best approaches for preparing emergency medicine trainees for the management of early pregnancy loss, including prescribing medication management (utilizing ACOG best practice approaches), and to provide or support provision of manual uterine aspiration procedural management, such that future emergency physicians will be able respond to early pregnancy loss emergencies in care settings where immediate obstetrical services may not be available; and be it further

RESOLVED, That ACEP recognize the importance of the emergency physician's role in stabilizing and treating patients experiencing early pregnancy loss, inclusive of the potential for medication and procedural management, especially in low-resource settings, hospitals without Labor and Delivery, or where there are no obstetrical services available; and be it further

RESOLVED, That ACEP develop a policy statement acknowledging the emergency physician's role in the management of emergency medicine patients presenting with early pregnancy loss and encourage and support physicians working in low-resource settings, hospitals without Labor and Delivery, or where there are insufficient obstetrical services available to further their education on first-trimester miscarriage management.

Summary of Testimony

Asynchronous testimony was largely in support of the resolution. Testimony in support highlighted the need for better information on the proactive management of early pregnancy loss. Two amendments were recommended to the first resolved. The first amendment is to clarify that ACEP cannot make the decision for ABEM or CORD to participate. The second amendment is to allow for the flexibility in how the resolved will be accomplished and to determine which specific procedures will be explored. Further testimony recommended that the resolution be combined with resolution 44(23) since they both seek to achieve the same goals. Live testimony was largely in support. Proponents of the resolution emphasized the need for training in residency to bridge the gaps largely not covered in medical education. Those against the resolution felt that this resolution would create a mandate that emergency physicians must provide this service. Others expressed that, while the management of early pregnancy loss may be emergent, many times this may not be something that needs to be done in the emergency department.

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5. **SUBSTITUTE RESOLUTION 46(23) ~~Consensus with ACOG~~ Policy Statement on the Care of Pregnant Individuals with Substance Use Disorder**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Substitute Resolution 46(23) be adopted.

RESOLVED, That ACEP create a policy statement on the care of pregnant individuals with substance use disorder, based upon the concepts of the "American College of Obstetricians & Gynecologists Committee Opinion on the Substance Abuse Reporting and Pregnancy: The Role of the Obstetrician-Gynecologist."

~~RESOLVED, That ACEP endorse the American College of Obstetricians & Gynecologists Committee Opinion on the Substance Abuse Reporting and Pregnancy: The Role of the Obstetrician-Gynecologist; and be it further~~

~~RESOLVED, That ACEP issue a publicly available policy statement: "Drug enforcement policies that deter women from seeking prenatal care are contrary to the welfare of the mother and the fetus. In states with legislation that punishes women for substance abuse during pregnancy, ACEP advocates for the retraction of such policies."~~

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

RESOLVED, That ACEP endorse the American College of Obstetricians & Gynecologists Committee Opinion on the Substance Abuse Reporting and Pregnancy: The Role of the Obstetrician-Gynecologist; and be it further

RESOLVED, That ACEP issue a publicly available policy statement: "Drug enforcement policies that deter women from seeking prenatal care are contrary to the welfare of the mother and the fetus. In states with legislation that punishes women for substance abuse during pregnancy, ACEP advocates for the retraction of such policies."

Summary of Testimony

Asynchronous testimony was generally in support. The consensus of the testimony was that emergency departments should play no role in or support state mandates that require the testing or reporting of pregnant people with suspected Substance Use Disorder. Further testimony highlighted ACEP's unique position and ability to challenge and end mandates in states that have them. An amendment was proposed to combine both resolveds into the single resolved for ownership and clarity. This would encourage ACEP to advocate for retraction of policies that punish women for substance abuse during pregnancy which could deter women from seeking prenatal care. During live testimony the authors spoke in support of the amended language. The Emergency Medicine Residents' Association, the American Association of Women Emergency Physicians, and the ACEP Pain Management and Addiction Medicine Section were in support of this resolution as amended. It was noted that there is an opioid crisis and a gap in treatment and services that disproportionately impacts pregnant women who are often excluded from other services because they are pregnant.

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6. **AMENDED RESOLUTION 47(23) Clarification of and Taking a Position Against Use of Excited Delirium Syndrome**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 47(23) be adopted.

RESOLVED, That ACEP develop a statement to clarify that the 2009 White Paper Report on Excited Delirium is no longer current with the College's position based on new science and understanding of the entity; and be it further

RESOLVED, That ACEP clarify its position in writing, that the 2009 white paper is inaccurate and outdated, and that while the ACEP Board of Directors had previously approved the 2009 White Paper Report on Excited Delirium, it has withdrawn such approval; and be it further

~~RESOLVED, That ACEP and its sections either remove or update content and/or literature on its website that relies on the outdated information regarding "excited delirium" or conditions with a similar definition as that described in the 2009 White Paper Report on Excited Delirium; and be it further~~

RESOLVED, That ACEP disseminate their position that they no longer endorse or approve the 2009 White Paper on Excited Delirium among the wider medical and public health community, law enforcement organizations, and ACEP members acting as expert witnesses testifying in relevant civil or criminal litigation; and be it further

RESOLVED, That future ACEP work on the evaluation and management of in-hospital and out-of-hospital behavioral emergencies should utilize not only experts in emergency medical services, neurology, emergency psychiatry, and health equity, but must also consider the perspectives of community and advocacy leaders.

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

RESOLVED, That ACEP clarify its position in writing, that the 2009 white paper is inaccurate and outdated, and that while the ACEP Board of Directors had previously approved the 2009 White Paper Report on Excited Delirium, it has withdrawn such approval; and be it further

RESOLVED, That ACEP and its sections either remove or update content and/or literature on its website that relies on the outdated information regarding "excited delirium" or conditions with a similar definition as that described in the 2009 White Paper Report on Excited Delirium; and be it further

RESOLVED, That ACEP disseminate their position that they no longer endorse or approve the 2009 White Paper on Excited Delirium among the wider medical and public health community, law enforcement organizations, and ACEP members acting as expert witnesses testifying in relevant civil or criminal litigation; and be it further

RESOLVED, That future ACEP work on the evaluation and management of in-hospital and out-of-hospital

behavioral emergencies should utilize not only experts in emergency medical services, neurology, emergency psychiatry, and health equity, but must also consider the perspectives of community and advocacy leaders.

Summary of Testimony

Asynchronous testimony was primarily in support of the resolution citing that the information presented in the 2009 white paper has been misrepresented. Opposition testimony pointed out that the issue lies not in the term "excited delirium" but how it is used by nonmedical professionals and mandating the restriction of the use of a term would set a bad precedent as to which words or terms can or cannot be used by emergency physicians. Further testimony opposed to the resolution pointed out that much of the work the resolution requests has already been completed. Other testimony requested the last resolved be amended to give the creators of future work the flexibility to consider incorporating feedback if it adds value to the work. Live testimony was mixed. There was acknowledgement that the authors of the 2009 white paper presented a summary of the best available information at the time. There was also acknowledgement that the science and understanding has evolved since the 2009 white paper was approved and distributed. Those supporting the resolution informed the Committee that the term has been misappropriated and used to justify the abuse of and violence against vulnerable individuals. In addition, the proponents of the resolution informed the Committee that the 2021 task force report states that it does not update or refute the 2009 white paper which implies ACEP still supports the position of the 2009 white paper. Opposition testimony informed the Committee that the resolution seeks to solve a problem not created by the 2009 white paper, and the 2021 task force report and subsequent actions by ACEP have fulfilled the requests of this resolution.

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7. **AMENDED RESOLUTION 48(23) Medical Malpractice Certificate of Merit**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 48(23) be adopted.

RESOLVED, That ACEP recommend**s** an affidavit of merit must be from ~~a doctor~~ **an emergency physician** who is board certified ~~and licensed~~ **per ACEP policy** in the same specialty of **emergency medicine, as well as licensed and currently practicing in the same state**.

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

RESOLVED, That ACEP recommend an affidavit of merit must be from a doctor who is board certified and licensed in the same specialty.

Summary of Testimony

Asynchronous and live testimony was exclusively in support. Testimony pointed out that many unnecessary lawsuits against physicians would be ended early if the physician providing an affidavit of merit was required to be currently licensed and practicing in the same state. The reviewing physicians should also be board certified in emergency medicine per ACEP policy. It was further noted that the way the original resolution was written, board-certified emergency physicians would be unable to write an affidavit of merit for physicians working in the emergency department who are board certified in other specialties.

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8. **AMENDED RESOLUTION 49(23) Patients Leaving the ED Prior to Completion of Care Against Medical Advice**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 49(23) be adopted.

RESOLVED, That ACEP create a document acknowledging that patients leaving the emergency department

prior to completion of care may not have received a complete evaluation, results of all ancillary testing including incidental findings, all indicated therapies, and all indicated consults; and be it further

RESOLVED, That ACEP ~~create a document acknowledging that physicians and hospitals/systems share a joint responsibility to notify patients who have left prior to the completion of care regarding testing requiring intervention that results after their departure and develop reasonable systems to help communicate these results~~ **work with relevant stakeholders such as the American Hospital Association to create a document or tool outlining responsibilities and systems of communication for the conveyance of information about testing and follow up of patients who leave the emergency department prior to the completion of care**; and be it further

RESOLVED, That ACEP create a document acknowledging that patients leaving the emergency department prior to completion of ~~care~~ **evaluation and treatment bear some responsibility for ongoing care and** may not have all medication recommendations and prescriptions, nor a complete list of discharge diagnoses, incidental findings requiring follow up, instructions, and referrals upon departure.

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

RESOLVED, That ACEP create a document acknowledging that patients leaving the emergency department prior to completion of care may not have received a complete evaluation, results of all ancillary testing including incidental findings, all indicated therapies, and all indicated consults; and be it further

RESOLVED, That ACEP create a document acknowledging that physicians and hospitals/systems share a joint responsibility to notify patients who have left prior to the completion of care regarding testing requiring intervention that results after their departure and develop reasonable systems to help communicate these results; and be it further

RESOLVED, That ACEP create a document acknowledging that patients leaving the emergency department prior to completion of care may not have all medication recommendations and prescriptions, nor a complete list of discharge diagnoses, incidental findings requiring follow up, instructions, and referrals upon departure.

Summary of Testimony

Asynchronous testimony was overwhelmingly in support of the first and third resolveds stating that the suggested document could be used for patient education and discussion with regulatory and legislative bodies as to what does and does not happen when a patient leaves the emergency department before their evaluation is complete. Testimony was nearly unanimous in opposing the second resolved citing that ACEP taking the position proposed may establish a legal precedent making an individual emergency physician whole or in part responsible for following up with patients who have chosen to leave prior to the completion of care. Live testimony was largely in support. An amendment was requested to add language that the patient bears some of the responsibility for leaving before the completion of evaluation and treatment. The lone opposition voice expressed concern that establishing a standard of care creates potential liability for the treating physician and hospital.

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9. **AMENDED RESOLUTION 50(23) Metric Shaming**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 50(23) be adopted.

RESOLVED, That ACEP develop practices and policies to prevent the ~~publishing~~ **public or external publication**, ~~transmitting~~ **transmission**, and/or ~~releasing~~ **release** of unblinded metric-related information about individual emergency physician performance to safeguard the welfare of our membership.

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

RESOLVED, That ACEP develop practices and policies to prevent the publishing, transmitting, and releasing

of unblinded metric-related information about individual emergency physician performance to safeguard the welfare of our membership.

Summary of Testimony

Asynchronous testimony was generally in support. Those in favor of the resolution highlighted that unblinded metric-related information can be useful to improve performance and reach goals when shared privately and internally within a physician group. Those opposed to the resolution pointed out that sharing unblinded metric-related information allows for transparency and increased face validity. Others agreed to support the resolution if an amendment was made to specifically discourage the sharing of unblinded metric-related information outside the physician group without the individual physician's or group's consent. Live testimony was more evenly split. Concern was raised that the resolution is overly broad.

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10. **AMENDED RESOLUTION 51(23) Quality Measures and Patient ~~Satisfaction~~ Experience Scores**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 51(23) be adopted.

RESOLVED, That ACEP advocate for alignment with current **ACEP** policy and previous recommendations that patient ~~satisfaction~~ **experience** surveys be extended to all **appropriate** categories of emergency department patients ~~for true~~ **to attempt to improve** validity; and be it further

RESOLVED, That ACEP oppose reimbursement metrics and employment decisions correlated with or dependent on patient ~~satisfaction~~ **experience** surveys ~~until external validity can be established and their effect on patient outcomes is known~~; and be it further

~~RESOLVED, That ACEP work with appropriate stakeholders to study the correlation (or lack of) between following Merit-based Incentive Payment System (MIPS) quality measures and patient satisfaction; and be it further~~

RESOLVED, That ACEP work with relevant stakeholders to decrease or eliminate the role of patient experience surveys in reimbursement decisions; and be it further

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

RESOLVED, That ACEP advocate for alignment with current policy and previous recommendations that patient satisfaction surveys be extended to all categories of emergency department patients for true validity; and be it further

RESOLVED, That ACEP oppose reimbursement metrics and employment decisions correlated with or dependent on patient satisfaction surveys until external validity can be established and their effect on patient outcomes is known; and be it further

RESOLVED, That ACEP work with appropriate stakeholders to study the correlation (or lack of) between following Merit-based Incentive Payment System (MIPS) quality measures and patient satisfaction.

Summary of Testimony

Asynchronous testimony was exclusively in support. Testimony highlighted that the metrics from satisfaction surveys are biased and not scientifically or statistically valid, and often capture the patient's satisfaction with factors outside the control of an individual physician. An amendment was proposed to the second resolved and the addition of two resolveds directing ACEP to work to decrease or eliminate satisfaction surveys in reimbursement decisions and oppose the use of reimbursement metrics in employment decisions. Live testimony was split. Several changes were recommended that have been addressed in the updated resolves which clarify what patients would be surveyed. There

was testimony to remove the third resolved from the original resolution regarding MIPS quality measures and patient satisfaction. There was conflicting testimony and data about whether patient experience scores improved outcomes or create harm.

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11. **AMENDED RESOLUTION 53(23) Treating Physician Determines Patient Stability**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 53(23) be adopted.

RESOLVED, That ACEP enact policy that the treating emergency physician at the patient's bedside is best qualified to determine a patient's stability for transfer and their decision should not be overruled by a physician or a non-physician practitioner who has not personally evaluated the patient; and be it further

~~RESOLVED, That ACEP amend its "Code of Ethics for Emergency Physicians" policy statement to state that it is unethical for an emergency physician, who has not personally evaluated the patient, to coerce a treating emergency physician, to transfer a patient when the treating physician believes the patient is unstable for transfer and that a transfer may compromise a patient's safety; and be it further~~

~~RESOLVED, That ACEP amend its "Code of Ethics for Emergency Physicians" policy statement to state that it is unethical for an emergency physician, who has not personally evaluated the patient, to threaten a financial penalty for further treating the patient claiming treatment constitutes "post-stabilization care" when the treating emergency physician believes a transfer or discontinuation of care may compromise a patient's safety.~~

RESOLVED, That ACEP develop an additional policy statement that speaks to the implications of coercion or threats of financial penalties to the emergency physician who has not personally evaluated the patient to coerce or threaten financial penalties to force the treating emergency physician to transfer a patient when the treating physician believes that the patient is unstable and such a transfer may compromise patient safety.

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

RESOLVED, That ACEP enact policy that the treating emergency physician at the patient's bedside is best qualified to determine a patient's stability for transfer and their decision should not be overruled by a physician or a non-physician practitioner who has not personally evaluated the patient; and be it further

RESOLVED, That ACEP amend its "Code of Ethics for Emergency Physicians" policy statement to state that it is unethical for an emergency physician, who has not personally evaluated the patient, to coerce a treating emergency physician, to transfer a patient when the treating physician believes the patient is unstable for transfer and that a transfer may compromise a patient's safety; and be it further

RESOLVED, That ACEP amend its "Code of Ethics for Emergency Physicians" policy statement to state that it is unethical for an emergency physician, who has not personally evaluated the patient, to threaten a financial penalty for further treating the patient claiming treatment constitutes "post-stabilization care" when the treating emergency physician believes a transfer or discontinuation of care may compromise a patient's safety.

Summary of Testimony

Asynchronous testimony was generally in support of the resolution. All testimony agreed that the treating emergency physician is best able to assess a patient's clinical presentation and stability for transfer; however, there was discussion regarding the last two resolveds. The authors of the resolution pointed out that the "Code of Ethics for Emergency Physicians" is currently undergoing revision and provides an opportunity to address the issues featured in the resolution. Further testimony suggested that the last two resolveds could be combined to request that a new policy statement on ethics be created. Live testimony was exclusively in support of the resolution. Concern was expressed

that without this resolution, physicians at insurance companies would determine if the patient was stable for transfer rather than the physician at the bedside. Additional testimony suggested that current resources can be amended to accommodate the requests of this resolution rather than creating an entirely new policy statement.

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12. **AMENDED RESOLUTION 55(23) Uncompensated Required Training**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 55(23) be adopted.

RESOLVED, That ACEP convene a working group to evaluate fair **market** compensation for required training, ~~including~~ accurate estimates of the time to completion, **and** appropriate protected time ~~to allow~~ **allowances** for training without requiring completion during off hours; and be it further

RESOLVED, That ACEP explore opportunities to partner with other like-minded organizations to reduce unnecessary or redundant annual or onboarding training for physician employment.

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

RESOLVED, That ACEP convene a working group to evaluate supporting fair compensation for required training, including accurate estimates of the time to completion, time to completion is fairly compensated, and in employed physician compensation models, the appropriate time is protected to allow for training without requiring completion during off hours; and be it further

RESOLVED, That ACEP explore opportunities to partner with other like-minded organizations to reduce unnecessary or redundant annual or onboarding training for physician employment.

Summary of Testimony

Asynchronous testimony was exclusively in support. Testimony consistently highlighted the excessive demands from organizations for uncompensated time-consuming non-value-added training and the power a collective voice from ACEP may have on changing these practices. Live testimony was exclusively in support. An amendment was proposed that “fair compensation” be changed to “fair market compensation” to clarify and take ownership of the compensation request.

Recommended NOT for Adoption

13. **RESOLUTION 52(23) Summit and New Tools for Transforming Acute Care**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 52(23) not be adopted.

RESOLVED, That ACEP convene a task force focused on crafting new strategies, quality care, and performance metrics for creating new alternative care models; and be it further

RESOLVED, That ACEP report back to the 2024 Council meeting with a strategy for expanding and transforming acute care delivery in the community setting.

Summary of Testimony

Asynchronous testimony was mixed. Live testimony was strongly opposed. Testimony pointed out that the task force being requested has already been created and the barriers to implementation come from the Medicare &

Medicaid Innovation Center (CMMI), the Department of Health and Human Services (HHS), and the White House. Further testimony suggested that the resolveds be expanded to include addressing aspects of health equity in any Acute Unscheduled Care Model (AUCM) developed and that ACEP implement its already existing plan on alternative care models and focus on advocacy and coordination with other professional medical societies to lobby for an AUCM.

Madam Speaker, this concludes the final report of Reference Committee C. I would like to thank Angela P. Cornelius, MD, FACEP; Joshua R. Frank, MD, FACEP; Patrick Hinfey, MD, FACEP; Jeffrey F. Linzer, Sr., MD, FACEP; Jennifer L. Savino, DO, FACEP; Jonathan Fisher, MD, FACEP; and Travis Schulz, MLS, AHIP, for their excellent work in developing this final report.

2023 Council Meeting
Reference Committee Members

Reference Committee B – Advocacy & Public Policy
Resolutions 27-42

Diana Nordlund, DO, JD, FACEP (MI) – Chair
Lisa M. Bundy, MD, FACEP (MS)
Puneet Gupta, MD, FACEP (CA)
Joshua S. da Silva, DO, FACEP (GS)
Torree M. McGowan, MD, FACEP (GS)
Michael Ruzek, DO, FACEP (NJ)

Erin Grossmann
Ryan McBride, MPP

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

2023 Council Meeting

Final Report of REFERENCE COMMITTEE B

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

Madam Speaker and Councillors:

Reference Committee B gave careful consideration to the several items referred to it and submits the following report:

Unanimous Consent Agenda

For adoption:

1. RESOLUTION 28(23) Facilitating EMTALA Interhospital Transfers
2. RESOLUTION 35(23) Declaring Firearm Violence a Public Health Crisis
3. RESOLUTION 36(23) Mandatory Waiting Period for Firearm Purchases
4. RESOLUTION 38(23) Advocating for Sufficient Reimbursement for Emergency Physicians in Critical Access Hospitals and Rural Emergency Hospitals

For adoption as amended:

5. AMENDED RESOLUTION 27(23) Addressing Interhospital Transfer Challenges for Rural EDs
6. AMENDED RESOLUTION 29(23) Addressing Pediatric Mental Health Boarding in Emergency Departments
7. AMENDED RESOLUTION 31(23) Combating Mental Health Stigma in Insurance Policies
8. AMENDED RESOLUTION 37(23) Support for Child-Protective Safety Firearm Safety and Storage Systems
9. AMENDED RESOLUTION 39(23) Medicaid Reimbursement for Emergency Services
10. AMENDED RESOLUTION 40(23) Support for Reimbursement of Geriatric ED Care Processes
11. AMENDED RESOLUTION 42(23) On-site Physician Staffing in Emergency Departments

Not for adoption:

12. RESOLUTION 30(23) Advocating for Increased Funding for EMS
13. RESOLUTION 32(23) Health Care Insurers Waive Network Considerations During Declarations of Emergency
14. RESOLUTION 33(23) Ban on Weapons Intended for Military or Law Enforcement Use
15. RESOLUTION 34(23) White Paper on Weapons Intended for Military or Law Enforcement Use

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Recommended for Adoption

1. **RESOLUTION 28(23) Facilitating EMTALA Interhospital Transfers**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 28(23) be adopted.

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

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

Summary of Testimony

Testimony was unanimously in support of the resolution. During asynchronous testimony, some comments suggested that the language in the second resolved could be strengthened to match the tone of the first resolved, such as changing "encourage" to "compel." Another noted that the creation of a dashboard of hospital subspecialty/service/bed availability, in addition to contact information, would be more effective. During live testimony, one commenter reinforced the need to use the word "compel" in the first resolved, noting that EMTALA is a mandate and that entities can be compelled to carry out certain actions.

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

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 35(23) be adopted.

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

Summary of Testimony

Testimony was largely in support of the resolution. During asynchronous testimony, several comments questioned how this resolution would be different than existing College policy and how it would change any work already being done by the College. Many in support noted that other physician groups have already made public statements declaring firearm violence a public health crisis. During live testimony, comments were largely in support of the resolution. Several commenters noted that other physician organizations have already declared firearm violence a public health crisis, and this would be consistent with those efforts. During both asynchronous and live testimony, several noted specific concerns with the estimated fiscal impact, noting that a simple statement by the College would not have any cost. The Board of Directors clarified that the projected potential costs are dependent on the scope of the work and potential campaigns associated with the resolution.

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3. **RESOLUTION 36(23) Mandatory Waiting Period for Firearm Purchases**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 36(23) be adopted.

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

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

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

Summary of Testimony

During asynchronous testimony, comments were mixed, but leaned in support of the resolution. Live testimony was largely in support of the resolution. Those in support of the resolution noted a growing body of evidence-based research supporting mandatory waiting periods for firearms purchases to reduce morbidity and mortality of firearm violence. Those opposed to the resolution expressed concerns that even if well-intentioned, mandatory waiting periods could harm law-abiding citizens while benefiting those who illegally obtain a firearm and that the resolution is divisive and the College should focus efforts on safety, training, and research. Another asked

whether or not there is clear evidence that waiting periods do in fact reduce morbidity and mortality, with one commenter noting they believe the issue is out of the College's purview.

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

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 38(23) be adopted.

RESOLVED, That ACEP advocate for sufficient reimbursement for emergency physician services in ~~c~~**C**ritical ~~a~~**A**ccess ~~h~~**H**ospitals and ~~r~~**R**ural ~~e~~**E**mergency ~~h~~**H**ospitals to ensure the availability of board certified emergency physicians who possess the necessary skills and expertise to provide high-quality care in these underserved areas, thereby recognizing the critical role of board certified emergency physicians in delivering high-quality emergency care, promoting patient safety, and supporting the sustainability of health care services in rural communities.

Summary of Testimony

Asynchronous testimony was unanimously in support of the resolution. During live testimony, nearly all were in support of the resolution. One commenter noted that while they supported the underlying resolution, they were concerned that the word "sufficient" was not clear enough, and may mean different things to emergency physicians and insurers or regulators. One commenter also suggested broadening the language to encompass any rural emergency department, as some rural emergency departments are not eligible for Critical Access Hospital or Rural Emergency Hospital designations.

Recommended for Adoption as Amended

5. **AMENDED RESOLUTION 27(23) Addressing Interhospital Transfer Challenges for Rural EDs**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 27(23) be adopted.

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

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

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

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

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

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

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

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

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

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

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

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

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

Summary of Testimony

Asynchronous testimony was almost unanimously in support, though some noted qualifications. One suggested that the resolution could be separated into multiple resolutions and there is a need for a clearer policy statement, noting the complexity of the underlying problem. Another noted concerns about the language "even when capacity is limited at the tertiary center…" in the second resolved, as capacity in most tertiary centers is already typically very limited. One commenter suggested amended language in the first resolved, as ACEP cannot "create" these centers but could "advocate for" them. During live testimony, several commenters, including the Board of Directors, raised concerns about the utility and cost of the task force described in the fifth resolved.

6. **AMENDED RESOLUTION 29(23) Addressing Pediatric Mental Health Boarding in Emergency Departments**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 29(23) be adopted.

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

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

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

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

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

Summary of Testimony

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

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7. **AMENDED RESOLUTION 31(23) Combating Mental Health Stigma in Insurance Policies**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 31(23) be adopted.

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

RESOLVED, That ACEP work with other organizations to promote equitable access to **life, health, disability, and/or professional liability (malpractice)** insurance for all emergency physicians~~, regardless of their mental health status~~.

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

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

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

Summary of Testimony

The vast majority of testimony was supportive of the resolution. During asynchronous testimony, some noted concerns that the resolution is too general and needs additional clarification. Several suggested a lack of clarity around the types of insurance policies the resolution seeks to address, as well as the definition of "equitable access." The suggested amended language reflects the Reference Committee's efforts to achieve the intent of the resolution. During live testimony, several comments echoed the concerns of the asynchronous testimony and suggested amended language to help clarify the types of insurance.

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8. **AMENDED RESOLUTION 37(23) Support for Child-Protective Safety Firearm Safety and Storage Systems**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 37(23) be adopted.

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

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

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

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

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

Summary of Testimony

Testimony on the resolution was mixed. The vast majority of asynchronous testimony was in support of the resolution and endorsed that efforts to promote harm reduction—especially for children—are well within the College's purview. One comment expressed concerns that "smart gun" technology is interesting, but unreliable and not ready for widespread use. One comment suggested revising the first resolved to support further research into "smart gun" technology rather than general support of the technology. Another suggested amended language in the first resolved to generalize "smart gun" technology, which is reflected in the proposed amended language as shown for the first resolved. During live testimony, those opposed to the resolution noted that "smart gun" technology is not backed by evidence-based research, and could hinder individuals during an emergency. Those in support of the resolution noted that technology is constantly evolving and that College policy should account for changes.

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9. **AMENDED RESOLUTION 39(23) Medicaid Reimbursement for Emergency Services**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 39(23) be adopted.

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

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

RESOLVED, That ACEP work with the AMA to assist states with model legislation and regulatory language to require that all publicly funded insurance plans be reimbursed at a minimum of 100% of the prevailing Medicare rate.

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

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

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

Summary of Testimony

During asynchronous testimony several noted concerns with the second resolved. Some noted concerns that as originally written, the second resolved could be interpreted to suggest that Medicare rates could be the ceiling for payers who would otherwise be willing to contract at above Medicare rates, and suggested amended language to clarify that the College would advocate for Medicaid programs to reimburse at rates equivalent to or above Medicare rates. During live testimony, comments were almost unanimously supportive, while one commenter noted similar concerns voiced during asynchronous testimony. The authors of the resolution offered an amendment to address these concerns, which is incorporated in this report.

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10. **AMENDED RESOLUTION 40(23) Support for Reimbursement of Geriatric ED Care Processes**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 40(23) be adopted.

RESOLVED, That ACEP advocate for and support the development of policies that will allow for appropriate reimbursement**, outside of the CPT and RUC processes,** for high-value ~~geriatric emergency department~~ **Geriatric Emergency Department Accreditation program-defined** care processes that have been shown to improve both health system focused and patient centered outcomes.

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

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

Summary of Testimony

Asynchronous testimony was unanimously in support. During live testimony, those in support noted that geriatric emergency care deserves greater focus. The author of the resolution reinforced that the resolution should promote the ongoing work of the College and reaffirm the College's commitment to older adults. One commenter noted the potential negative implications of advocating through the CPT or the RUC, and that the resolution should specify this work occur outside of these processes, which is incorporated in this report.

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11. **AMENDED RESOLUTION 42(23) On-site Physician Staffing in Emergency Departments**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 42(23) be adopted.

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

RESOLVED, That ACEP continue to promote that the gold standard for those physicians working in an emergency department is a board-certified/board-eligible emergency physician **certified by the American Board of Emergency Medicine, American Osteopathic Board of Emergency Medicine, or certified by the American Board of Pediatrics in pediatric emergency medicine.**

ORIGINAL RESOLUTION LANGUAGE AS SUBMITTED

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

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

Summary of Testimony

During asynchronous testimony, support was unanimous, though one comment expressed concerns that some rural emergency departments could shut down because it is not financially sustainable to staff with a physician. Live testimony was almost unanimously in support, with commenters reiterating the need to address scope of practice concerns while recognizing difficulties in staffing rural emergency departments. One commenter expressed concerns with how the resolution could inadvertently negatively affect emergency physicians working via telehealth. One commenter offered amended language to further clarify board certification, which is incorporated in this report.

Recommended NOT for Adoption

12. **RESOLUTION 30(23) Advocating for Increased Funding for EMS**

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 30(23) not be adopted.

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

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

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

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

Summary of Testimony

Both asynchronous and live testimony was mixed. During asynchronous testimony, most were either opposed to the resolution or supportive of the spirit of the resolution, but suggested the resolution is outside the scope of the College’s advocacy and that other organizations such as the National Association of EMS Physicians are more suited

to lead such an effort. Several suggested that the resolution be rewritten, pared down, or split into separate resolutions as each resolved is its own unique problem. During live testimony, many supported the underlying spirit of the resolution and the need to support EMS colleagues. However, some opposed expressed concerns that the College should prioritize addressing reimbursement issues for emergency physicians and not other professions, and several also expressed reservations that the last two resolved clauses were out of character with the overall intent of the resolution.

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

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 32(23) not be adopted.

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

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

Summary of Testimony

During asynchronous testimony, one comment noted support for the goals of the resolution, but suggested that there needs to be a mechanism to incentivize out-of-network hospitals to accept transfers and associated issues with appropriate compensation. Another suggested that the resolution be amended to have the AMA "also" work toward the goal of the second resolved, as opposed to "join ACEP" in seeking legislative or regulatory changes. However, during live testimony, the Board of Directors clarified that the No Surprises Act has changed the landscape regarding network status and that the resolution is therefore not necessary.

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

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 33(23) not be adopted.

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

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

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

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

Summary of Testimony

Both live and asynchronous testimony were mixed and vigorous. During asynchronous testimony, those in support of the resolution noted the College's role in preventing firearm injuries and that the resolution does not seek to ban all firearms, but only particular types of firearms. Those opposed to the resolution expressed concerns that the resolution is vague and overbroad, even if well-intended, and that terms such as "military grade" or "law enforcement use" are not commonly agreed-upon definitions and do not necessarily accurately describe capabilities of firearms. Some noted concerns that the resolution is a divisive topic and could alienate significant portions of the College membership. During live testimony, most were opposed to the resolution and echoed concerns about the divisiveness of the topic at a time when the College needs unity. One commenter noted that the resolution is about defining a term that is at the heart of a fundamental debate between organizations dedicated to this issue and would require the College to determine that definition. Those in support noted that this would complement the College's existing policy and ongoing efforts to prevent firearms injuries.

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

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Amended Resolution 34(23) not be adopted.

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

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

1. A comprehensive review of existing literature, studies, and research on the medical and public health impact of weapons intended for military or law enforcement use, including injury patterns, morbidity, mortality, and the unique challenges they present to emergency medical response and care.
2. Examination of the specific characteristics and features of weapons intended for military or law enforcement use that contribute to increased lethality and potential for mass casualties.
3. Assessment of the societal impact and psychological consequences associated with the use of weapons intended for military or law enforcement use in mass shootings and other acts of violence.
4. Evaluation of existing policies, legislative measures, and firearm regulations pertaining to weapons intended for military or law enforcement use at the federal and state levels and analysis of their effectiveness in preventing and mitigating firearm-related injuries and fatalities.
5. Consideration of potential interventions, strategies, and evidence-based approaches to reduce the risks and impact of weapons intended for military or law enforcement use on public health and safety, including but not limited to, firearm safety education, mental health services, and law enforcement initiatives; and be it further

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

RESOLVED, That upon completion of a white paper on the examination of weapons intended for military or law enforcement use, ACEP will disseminate it to members, policymakers, public health officials, medical

organizations, and other interested parties to promote awareness, education, and evidence-based decision-making on the topic of weapons intended for military or law enforcement use; and be it further

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

Summary of Testimony

During asynchronous testimony, similar concerns to those expressed regarding Resolution 33(23) were noted, including overbroad language and the divisiveness of the issue. One commenter added that this effort has already been fulfilled by the College and some suggested this work could stress limited College resources, especially when compared to other priorities. Another commented in support of the spirit of the resolution, but suggested that because this affects more than just emergency medicine, it would be more appropriate for the AMA to address. Those in support of the resolution noted that this would allow for a comprehensive and inclusive review of evidence. During live testimony, only the author spoke to the resolution.

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