American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Memorandum

To: Council Steering Committee

From: Dean Wilkerson, JD, MBA, CAE
Council Secretary

Date: September 3, 2012

Subj: Action on 2009 Resolutions

The attached report summarizes the actions taken by the Board of Directors on the 22 resolutions adopted by the 2009 Council. Two resolutions were referred to the Board of Directors. The Council also adopted two amendments to the Council Standing Rules, which did not require adoption by the Board.

The actions on resolutions are also included on the ACEP Web site.
http://www.acep.org/Content.aspx?id=32406

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American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Action on 2009 Council Resolutions

Resolution 1 Commendation for Linda L. Lawrence, MD, FACEP
Action: A framed resolution was presented to Dr. Lawrence.

Resolution 2 Commendation for Bruce A. MacLeod, MD, FACEP
Action: A framed resolution was presented to Dr. MacLeod.

Resolution 3 In Memory of Gerald A. Neri, MD, FACEP
Action: A framed resolution was prepared and sent to Dr. Neri's family.

Resolution 4 In Memory of Doulas A. Carmichael, MD, FACEP
Action: A framed resolution was prepared and sent to Dr. Carmichael's family.

Resolution 5 In Memory of William T. Haeck, MD, FACEP
Action: A framed resolution was prepared and sent to Dr. Haeck's family.

Resolution 6 In Memory of Karl G. Mangold, MD, FACEP
Action: A framed resolution was prepared and sent to Dr. Mangold's family.

Resolution 7 In Memory of Robert Petrilli, MD, FACEP
Action: A framed resolution was prepared and sent to Dr. Petrilli's family.

Resolution 8 Association of Academic Chairs in Emergency Medicine (AACEM) Councillor Allocation

RESOLVED, That the ACEP Bylaws Article VIII – Council, Section 1 – Composition of the Council, be amended to read:

"Each chartered chapter shall have a minimum of one councillor. There shall be allowed one additional councillor for each 100 members of the College in that chapter as shown by the membership rolls of the College on December 31 of the preceding year. However, a member holding memberships simultaneously in multiple chapters may be counted for purposes of councillor allotment in only one. The councillors shall be elected or appointed to two- or three-year terms by their respective chapters.

The Emergency Medicine Residents' Association (EMRA) shall be entitled to four councillors, each of whom shall be a candidate or active member of the College.

The Association of Academic Chairs in Emergency Medicine (AACEM) shall be entitled to one councillor, who shall be an active member of the College.

Each chartered section of membership shall be entitled to one councillor if the number of section dues-paying and complimentary candidate members meets the minimum number established by the Board of Directors for the charter of that section based on the membership rolls of the College on December 31 of the preceding year. A councillor may not serve simultaneously as a councillor from a chapter and a section.

Each component body, to include EMRA**, AACEM,** and each chapter and section, shall also elect or appoint alternate councillors who will be empowered to assume the rights and obligations of the sponsoring body's councillor at Council meetings at which such councillor is not available to participate.

Councillors shall be certified by their sponsoring body to the Council secretary on a date no less than 60 days before the annual meeting."

Action: The Bylaws were updated.

Resolution 9 Bylaws Housekeeping Changes

RESOLVED, That the ACEP Bylaws be amended to read as follows with the proviso that the changes become official on January 1, 2010, the effective date of the Texas Business Organizations Code: [The complete text of the extensive changes to the Bylaws have not been included in this report due to the length of the document.]

Action: The Bylaws were updated.

Resolution 13 Doctor of Naturopathy (as amended)

RESOLVED, That ACEP work with chapters and the American Medical Association to encourage the limitation of licensure of Doctors of Naturopathy to only the practice of naturopathy and oppose the licensure of Doctors of Naturopathy to conduct the independent practice of medicine or advertise themselves as medical doctors.

Action: Assigned to Chapter & State Relations to inform the chapters of this resolution. The AMA expressed similar concerns regarding this issue and has adopted policy opposing the licensure of naturopaths to practice medicine. A letter was sent from the ACEP president to the AMA president outlining ACEP's position and offering to work with the AMA. The AMA responded by sending a copy of their policy on this issue.

Resolution 15 Emergency Medicine Workforce Solutions (as amended)

RESOLVED, That ACEP make it a priority to address the workforce shortage; and be it further

RESOLVED, That ACEP lobby appropriate governmental entities and work to remove any barriers to increasing the number of residency programs slots that are available in emergency medicine; and be it further

RESOLVED, That ACEP investigate broadening access to ACGME or AOA accredited emergency medicine residency programs to physicians who have previously trained in another specialty.

Action: Added to strategic plan initiatives for 2010-13. Assigned to Public Affairs to include in the legislative and regulatory priorities. Assigned to the Academic Affairs Committee to provide a recommendation to the Board regarding the third resolved.

ACEP officers discussed with the American Board of Emergency Medicine (ABEM) the possibility of ABEM changing its policy regarding credit for training in other medical specialties, such that individuals who have successfully completed another residency would be given 12 months of EM-residency credit, rather than the current 6 months of credit, toward eligibility for ABEM certification. ABEM is already exploring this issue.

The Academic Affairs Committee recommended that ACEP conduct a survey of the members who currently work in rural settings to assess their interest in accessing EM residency training (under both the current 6-month credit and the proposed 12-month ABEM credit policies) and whether they believe they would choose to work in a rural area following EM residency training. Additionally, the committee recommended that the Council of Residency Directors (CORD) survey its members regarding their interest in recruiting physicians to their residency programs who are boarded in other specialties and currently working in rural areas (under both the current 6-month credit and the proposed 12-month ABEM credit policies). The Academic Affairs Committee developed surveys for program directors and rural section members to determine interest in training physicians in other specialties and in seeking additional training in EM residency programs were developed.

In July 2010, ABEM announced changes to the "Policy on Credit for Training in Other Specialties" that included increasing the maximum amount of equivalent credit given for training in another specialty from 6 months to 12 months.

A follow-up to the Future of Emergency Medicine Workforce Summit was held January 26-27, 2011.

In October 2011, the Board approved dissemination of the survey results.

Resolution 17 Mandatory Seat Belts on School Buses (as amended)

RESOLVED, That ACEP endorse, support, and advocate that the National Highway Traffic Safety Administration mandate the provision and endorse the use of appropriate restraint devices on school buses.

Action: Assigned to Public Affairs to include in the legislative and regulatory priorities. Assigned to the Public Health & Injury Prevention Committee to determine if changes are needed to ACEP's policy, "School Bus Safety." In April 2010, the Board agreed with the committee's recommendation that no revisions were needed to the "School Bus" policy. The resolution was addressed through advocacy efforts in Washington, DC and ACEP's position was communicated to the National Highway Traffic Safety Administration through these efforts.

Resolution 19 Defining Boarding Time in the Nation's Emergency Departments (as amended)

RESOLVED, That ACEP adopt a policy statement which officially defines the "boarded patient" as one who remains in the ED after notification of the need to admit to inpatient service and ends when the patient leaves the department; and be it further

RESOLVED, That ACEP continue its involvement with national organizations developing measurements for patient through-put.

Action: Assigned to the Quality & Performance Committee. The Board approved the policy statement, "Definition of Boarded Patient" in January 2011. The policy was added to the Web site and included in the Policy Compendium. http://www.acep.org/Content.aspx?id=75791

Resolution 20 Development of Poison Centers (by substitution)

RESOLVED, That ACEP form a task force to investigate strategies to support poison centers that meet the needs of everyday citizens and health professionals using advances in information technology and with a stable long term funding plan. This task force shall be directed to consult with other key stakeholders that provide or benefit from poison center services.

Action: A task force was appointed and a report was submitted to the Board in June 2010. The Board approved distributing the report to the 2010 Council. The Board also approved assisting other stakeholders to: 1) advocate for a study of the role of poison centers and their services in the health care and public health systems, and investigate potential sources of funding for this study; 2) explore the development of model legislation, both federal and state, that addresses the funding for poison centers; 3) identify and work with stakeholders to advocate for and develop stable sources of funding for poison centers. In September 2010, the task force submitted a revised policy and an information paper concerning poison centers in the U.S. and their role in health care and public health systems to the Board. The information paper is available on the ACEP Web site. http://www.acep.org/Content.aspx?id=70370

The Board approved the revised policy statement, "Role of Poison Centers in Emergency Health Care, Preparedness, and Response." The policy was added to the Web site and included in the Policy Compendium. http://www.acep.org/Content.aspx?id=53474

Resolution 21 Opposition to Credentialing, Certification, or "Signing Off" Processes by Other Specialties for Core Skills Within the Scope of Practice of Emergency Medicine

RESOLVED, That ACEP, in cooperation with all established College liaisons and relationships with other medical specialty societies, the American Medical Association, the Alliance for Specialty Medicine, the Coalition for Patient-Centric Imaging, and other interested parties actively and fully opposes the imposition upon the specialty of Emergency Medicine of a requirement of any credentialing, certification, or "signing-off" process by other specialties for any core skill within the scope of practice of emergency medicine.

Action: ACEP's appropriate liaison representatives were informed of this resolution. Through the leadership of ACEPs representatives to the AMA House of Delegates, the AMA affirmed that each hospital medical staff should review and approve criteria for granting diagnostic imaging privileges based upon background and training and ensure that these criteria are in accordance with recommended training and education standards developed by each physician's respective specialty society. Further, the AMA recommends that volume indicators should be applied only to those treatments where outcomes have been shown by valid statistical methods to be significantly influenced by frequency of performance; and affirms that volume indicators should be used as the sole criteria for credentialing and reimbursement. The AMA "vigorously" opposes efforts by CMS to impose specific requirements for any specific area of medical practice that dictate credentialing, privileging, and continuing medical education requirements that are better left to hospital medical staffs and medical licensing boards.

ACEP's Emergency Ultrasound Section was assigned to review ACEP's related policy statements for potential revision.

Resolution 22 Patient Satisfaction Surveys (by substitution)

RESOLVED, That ACEP disseminate information to educate members about patient satisfaction surveys including how emergency physicians armed with more knowledge can assist hospital leaders with appropriate interpretation of the scores and gain leverage in having the hospital partner with the emergency physicians to create an environment conducive to patient satisfaction.

Action: Assigned to the Emergency Medicine Practice Committee. The Board approved the policy statement, "Patient Satisfaction Surveys," in September 2010. The policy was added to the Web site and included in the Policy Compendium. http://www.acep.org/Content.aspx?id=53476

Additionally, the information paper, "Patient Satisfaction Surveys" was developed and reviewed by the Board in June 2011 and was submitted to *Annals of Emergency Medicine* for publication consideration. During development of the information paper, members of the Emergency Medicine Practice Committee contacted Press Ganey to discuss patient satisfaction surveys for the ED. Press Ganey expressed interest in working with ACEP members on concerns identified during these discussions. In January 2012, the Board of Directors discussed the advisability of continuing to

work with Press Ganey on patient satisfaction surveys and supported holding focus groups in conjunction with ACEP's Leadership & Advocacy Conference (May 2012) and the Emergency Department Directors Academy (November 2012). Reports of the focus group sessions will be developed and provided to the Board.

Resolution 23 Reporting of Seizure Disorders to State Departments of Transportation (as amended)

RESOLVED, That ACEP adopt a position statement which states that the reporting of epileptic drivers to licensing authorities is unnecessary and counterproductive; and be it further

RESOLVED, That ACEP work with pertinent legislative bodies to support the enactment of permissive legislation, on both federal and state levels, which rescinds laws requiring reporting of seizures to appropriate state regulatory agencies and allows reporting at the discretion of the physician.

Action: The Board postponed action on this resolution to their January 2010 meeting to allow for information to be provided from several ACEP committees. The resolution was assigned to Emergency Medicine Practice Committee, Public Health & Injury Prevention Committee, and State Legislative & Regulatory Committee to provide a recommendation to the Board. In January 2010, the Board amended Amended Resolution 23(09) Reporting of Seizure Disorders to read:

> "RESOLVED, That ACEP adopt a position statement which states that the **mandatory** reporting of epileptic drivers to licensing authorities is unnecessary and counterproductive; and be it further
>
> RESOLVED, That ACEP **investigate** work**ing** with pertinent legislative bodies to support the enactment of permissive legislation, on both federal and state levels, which rescinds laws requiring reporting of seizures to appropriate state regulatory agencies and allows reporting at the discretion of the physician."

At their May 16, 2010, meeting the Steering Committee reviewed the Board's rationale for amending the resolution and there was consensus that the amendments made by the Board were non-substantive and did not change the basic intent of the resolution.

The Public Health & Injury Prevention Committee developed the policy statement, "Physician Reporting of Potentially Impaired Drivers," that was approved by the Board in April 2011. The policy was added to the Web site and included in the Policy Compendium. http://www.acep.org/Content.aspx?id=78585

In response to the second resolved, the policy statement was distributed to the chapters with summaries of specific state laws on physician requirements to report drivers who suffer seizures and a 2010 report from the AMA entitled "Physician's Guide to Assessing and Counseling Older Drivers," which included information on state licensing and reporting laws and laws pertaining to immunity for physicians who report impaired drivers.

Resolution 24 In Memory of Sheldon Jacobson, MD, FACEP

Action: A framed resolution was prepared and sent to Dr. Jacobson's family.

Resolution 25 In Memory of Fred G. Osborn, MD, FACEP

Action: A framed resolution was prepared and sent to Dr. Osborn's family.

Resolution 26 Renewal of Section 1011 of the Medicare Modernization Act of 2003 (as amended)

RESOLVED, That ACEP advocate and support federal legislation to extend "Federal Reimbursement of Emergency Health Services Furnished to Undocumented Aliens" (Section 1011 of the Medicare Modernization Act); and be it further

RESOLVED, That ACEP work with the American Medical Association to advocate and support extending "Federal Reimbursement of Emergency Health Services Furnished to Undocumented Aliens"; and be it further

RESOLVED, That ACEP seek legislation to facilitate payment to emergency physicians for patients who are treated and discharged and to include reimbursement for EMTALA obligated services provided by physician extenders such as physician assistants and nurse practitioners.

Action: Assigned to Public Affairs to include in the legislative and regulatory priorities and to discuss with the AMA Washington office. Also assigned to the Federal Government Affairs Committee. The AMA Section Council on Emergency Medicine discussed the resolution and observed that, although the AMA was aware of the initiative, given the priorities of health system reform and SGR repeal, it was unlikely that significant resources would be devoted to this matter. ACEP advocated throughout health reform for the inclusion of a modified version of Section 1011 in the Senate bill. On several occasions ACEP was advised that the Majority Leader's office and others were interested in including such a provision in any final bill. Because the bill did not go through the usual legislative procedure

(i.e., there was no conference between the House and Senate) and because Congress relied on a complex parliamentary procedure, the final bills did not include Section 1011.

This issue is an ongoing challenge and is one of ACEP's legislative priorities. Discussions with Hill staff are continuing, but no legislative action has occurred to date.

Council Standing Rules Resolutions

Standing Rules Resolutions do not require adoption by the Board of Directors.

Resolution 11 Announcements

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

Announcements

Proposed announcements to the Council must be submitted in writing~~, signed~~ by the author~~; and presented~~ to the Council secretary**, or to the speaker**. The speaker will have sole discretion as to the propriety of announcements. Announcements of general interest to members of the Council, at the discretion of the speaker, may be made from the podium. Only announcements germane to the business of the Council or the College will be permitted.

Action: The Council Standing Rules were updated.

Resolution 12 Election Procedures

RESOLVED, That the Election Procedures section of the Council Standing Rules could be amended to read:

Election Procedures

Elections of the president-elect, Board of Directors, and Council officers shall be by a majority vote of councillors voting. Voting shall be by written or electronic ballot. There shall be no write-in voting.

When voting electronically, the names of all candidates for a particular office will be projected at the same time. Thirty (30) seconds will be allowed for each ballot. Councillors may change votes only during the allotted time. The computer will accept the last vote or group of votes selected before voting is closed. When voting with paper ballots, the chair of the Tellers, Credentials and Elections Committee will determine the best procedure for the election process.

Councillors must vote for the number of candidates equal to the number of available positions for each ballot. A councillor's individual ballot shall be considered invalid if there are greater or fewer votes on the ballot than is required. The total number of valid and invalid votes will be used for purposes of determining the denominator for a majority of those voting.

The total valid votes for each candidate will be tallied and candidates who receive a majority of ~~those voting~~ **votes cast** shall be elected. **If more candidates receive a majority vote than the number of positions available, the candidates with the highest number of votes will be elected.** When one or more vacancies still exist, elected candidates and their respective positions are removed and all non-elected candidates remain on the ballot for the subsequent vote. If no candidate is elected on any ballot, then the candidate who received the lowest number* of valid votes on the inconclusive ballot will be removed from all subsequent ballots. This procedure will be repeated until a candidate receives the required majority vote* for each open position.

*NOTE: If at any time, the total number of invalid votes added to any candidate's total valid votes would change which candidate is elected or removed, then only those candidates not affected by this discrepancy will be elected. If open positions remain, a subsequent vote will be held to include all remaining candidates from that round of voting.

The chair of the Tellers, Credentials, and Elections Committee will make the final determination as to the validity of each ballot. Upon completion of the voting and verification of votes for all candidates, the Tellers, Credentials, and Elections Committee chair will report the results to the speaker.

Action: The Council Standing Rules were updated.

Resolutions Referred to the Board of Directors

Resolution 14 End of Life Services (as amended)

RESOLVED, That ACEP **work with other medical organizations and** the federal government to require that all acute care and convalescent hospitals either use an Ethics Committee or establish an End of Life Committee, consisting of physicians, nurses, medical ethicists, religious leaders, and lay people to determine when care is ~~futile~~ **judged to be nonbeneficial** ~~and therefore "medically unnecessary~~."~~; and be it further~~

~~RESOLVED, When the Ethics or End of Life Committee determines that care is futile and therefore medically unnecessary, "acute care" will be provided for seven days to allow the patient and their families to decide whether their loved one receives palliative care as a Medicare benefit or if they wish to pay for additional acute care from their personal financial resources; and be it further~~

~~RESOLVED, That ACEP refer this policy to the American Medical Association for adoption as AMA policy.~~

Action: Assigned to the Emergency Medicine Practice Committee and the Ethics Committee to provide a recommendation to the Board regarding action on this resolution. After review and deliberation, both committees recommended that the ACEP Board take no further action on the resolution for the following reasons:

- ACEP and the AMA have policies and resources that provide sound guidance on this issue.
- Establishing a multidisciplinary group to determine when medical treatment is non-beneficial may have the unintended consequence of increased use of medical resources at the end of life for nonmedical reasons.
- The determinations of such an end of life committee may create a complex patchwork of different standards and procedures hospital by hospital that can result in significant confusion for physicians and their patients.
- This solution focuses on process instead of effective communication with the patient and the patient's family.
- It is likely that the application of this policy to all acute care and convalescent hospitals is too broad.
- Complex legal issues exist regarding withdrawal of medical care pursuant to determinations by such a process.
- Given recent hyperbole in health care reform debates regarding "death panels," the success of a federal solution is unlikely and the expenditure of limited ACEP resources and political capital would be unproductive and irresponsible.
- ACEP can support further collaboration between Emergency Medicine and Palliative Medicine to improve care and reduce conflicts at the end of life.

The complexities of end of life decision-making and the responsible use of limited resources in end of life care is a matter of critical importance to emergency physicians. Existing ACEP and AMA policies provide practical guidance on ethical and clinical decision-making in this area. Publicizing and promoting these policies and resources and collaborating with the House of Medicine to address these issues within the framework of these policies are the most productive approaches to this issue.

In April 2010, the Board agreed with the committee's recommendation to take no further action on the resolution and to promote existing ACEP and AMA policy regarding end of life services.

Resolution 27 Night Shift Differential

RESOLVED, That the president of the American College of Emergency Physicians send a letter to the said union, both at the local and national levels, with copies to local and national newspapers explaining the above, and asking for a retraction of their campaign, and a public apology; and be it further

RESOLVED, That if no such apology and retraction are forthcoming, that the Board of Directors study how to obtain the support of unions and other groups influential in health policy in recognition of the need for night shift differentials for emergency physicians and report back to the Council.

Action: Assigned to the Reimbursement Committee to provide a recommendation to the Board regarding action on this resolution. The issue of reporting additional charges to an emergency department bill for services between 10:00 pm and 8:00 am has been somewhat controversial for many years. ACEP's CPT representatives were successful in having a code added to the CPT book that describes such services in a 24-hour facility, but few payers recognize and reimburse for this service. The ACEP Reimbursement Committee prepared educational material on the use of code 99053, with both an FAQ set and a templated appeal letter, both of which are available on the ACEP Web site. The dispute that occurred in Boston, which prompted this resolution, was not actually about reporting this service and appropriate rebuttals were offered in the local press at the time. It was believed that there would be no benefit from continuing to call attention to this practice in the press. The dispute was resolved around the time of the 2009 Council meeting. Supporting documents are available on the ACEP Web site should members require them in future disputes. In June 2010, the Board approved the committee's recommendation to take no further action on the resolution.