

## Memorandum

**To:** 2019 Council

**From:** Dean Wilkerson, JD, MBA, CAE  
Executive Director & Council Secretary

**Date:** September 28, 2019

**Subj:** Action on 2017 Resolutions

The 2017 Council considered 62 resolutions: 39 were adopted, 5 were not adopted, 5 were withdrawn, 11 were referred to the Board of Directors, and 2 were referred to the Council Steering Committee.

The attached report summarizes the actions taken on the 2017 resolutions adopted by the Council and those that were referred to the Board and to the Council Steering Committee.

### HEADQUARTERS

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Post Office Box 619911  
Dallas, Texas 75261-9911

4950 W Royal Ln  
Irving, TX 75063-2524

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

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Dean Wilkerson, JD, MBA, CAE

## Action on 2017 Council Resolutions

### Resolution 1 Commendation for James M. Cusick, MD, FACEP

RESOLVED, That the American College of Emergency Physicians commends James M. Cusick, MD, FACEP, as a practicing emergency physician rendering excellent care to the patients we serve, for his leadership in the College as Council Vice Speaker and Council Speaker over the past four years, and for his lifetime of service and dedication to the specialty of Emergency Medicine.

*Action:* A framed resolution was presented to Dr. Cusick.

### Resolution 2 Commendation for Robert E. O'Connor, MD, MPH, FACEP

RESOLVED, That the American College of Emergency Physicians commends Robert E. O'Connor, MD, MPH, FACEP, for his service as an emergency physician, clinical investigator, educator, and leader in a life-long quest dedicated to the advancement of the specialty of Emergency Medicine.

*Action:* A framed resolution was presented to Dr. O'Connor.

### Resolution 3 Commendation for Gordon B. Wheeler

RESOLVED, That the American College of Emergency Physicians commends Gordon B. Wheeler for his service as Associate Executive Director of Public Affairs.

*Action:* A framed resolution was presented to Mr. Wheeler.

### Resolution 4 In Memory of Charles R. Bauer, MD, FACEP

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

RESOLVED, That the American College of Emergency Physicians extends to the family of Charles R. Bauer MD, FACEP, his friends, and his colleagues our condolences and gratitude for his tremendous service to his country, the specialty of emergency medicine, and to the patients and physicians of Texas and the United States.

*Action:* A framed resolution was prepared for Dr. Bauer's family.

### Resolution 5 In Memory of Diane Kay Bollman

RESOLVED, That ACEP and the Michigan College of Emergency Physicians hereby acknowledges the many contributions made by Diane Kay Bollman as one of the leaders in emergency medicine and the greater medical community; and be it further

RESOLVED, That ACEP and the Michigan College of Emergency Physicians extend to the family of Diane Kay Bollman, her friends, and her colleagues, our condolences along with our profound gratitude for her tremendous service to the specialty of emergency medicine, Michigan emergency physicians, and patients, who will never fully know her impact, across the United States and likely beyond.

*Action:* A framed resolution was prepared for Ms. Bollman's family.

### Resolution 6 In Memory of Aaron T. Daggy, MD, FACEP

RESOLVED, That the American College of Emergency Physicians remembers with gratitude and honors the many contributions made by Aaron T. Daggy, MD, FACEP, as one of the leaders in pre-hospital medicine, EMS and fire, and the greater medical community; and be it further

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

*Action:* A framed resolution was prepared for Dr. Daggy's family.

### **Resolution 7 In Memory of Geoffrey E. Renk, MD, PhD, FACEP**

RESOLVED, That the American College of Emergency Physicians remembers with gratitude and honors the many contributions made by Geoffrey Edmund Renk, MD, PhD, FACEP, as one of the leaders in emergency medicine and the greater medical community; and be it further

RESOLVED, That the American College of Emergency Physicians extends to his wife, Lisa Flaggman, his family, his friends, and his colleagues our condolences and gratitude for his tremendous service to the specialty of emergency medicine and to the patients and physicians of South Carolina and the United States.

*Action:* A framed resolution was prepared for Dr. Renk's family.

### **Resolution 8 In Memory of Salvatore Silvestri, MD**

RESOLVED, That the American College of Emergency Physicians remembers with gratitude and honors the contributions made by Sal Silvestri, MD, as a leader in emergency medicine and EMS; and be it further

RESOLVED, That the American College of Emergency Physicians extends to the family, friends, and colleagues of Sal Silvestri, MD, our deepest sympathy, our great sense of sadness and loss, and our gratitude for having been able to learn so much from a kind, gentle, caring leader in our emergency medicine world.

*Action:* A framed resolution was prepared for Dr. Silvestri's family.

### **Resolution 9 In Memory of Robert Wears, MD, FACEP**

RESOLVED, That the American College of Emergency Physicians remembers with gratitude and honors the many contributions made by Robert Wears, MD, FACEP, as one of the leaders in emergency medicine and a true pioneer of the specialty; and be it further

RESOLVED, That national ACEP and the Florida College of Emergency Physicians extends to his wife, Dianne Wears, his children and grandchildren, his friends, and his colleagues our condolences and gratitude for his tremendous service to the specialty of emergency medicine.

*Action:* A framed resolution was prepared for Dr. Wears' family.

### **Resolution 10 Chapter Bylaws Conformance Standards – Housekeeping Change – Bylaws Amendment**

RESOLVED, That the ACEP Bylaws Article VI – Chapters, Section 2 – Chapter Bylaws, paragraph 1, be amended to read:

A petition for the chartering of a chapter shall be accompanied by the proposed bylaws of the chapter. No charter shall be issued until such bylaws are approved by the Board of Directors of the College. Chartered chapters must ensure that their bylaws conform to the College Bylaws and ~~to the “Guidelines for Bylaws and Model Chapter Bylaws for Chapters of the American College of Emergency Physicians.”~~current approved chapter bylaws guidance documents. Proposed amendments to the bylaws of a chapter shall be submitted in a format and manner designated by the College not later than 30 days following the adoption of such proposed amendments by the chapter, pursuant to its bylaws and procedures. No proposed amendment shall have any force or effect until it has been approved by the Board of Directors of the College. A proposed amendment shall be considered approved if the Board of Directors or its designee fails to give written notice of any objection within 90 days of receipt as documented by the College.

*Action:* The Bylaws were updated.

### **Resolution 12 Seating of Past Chairs of the Board in the ACEP Council – Bylaws Amendment**

RESOLVED, That the ACEP Bylaws Article VIII – Council, Section 5 – Voting Rights, paragraph two, be amended to read:

“ACEP Past Presidents, ~~and ACEP~~ Past Speakers, and Past Chairs of the Board, if not certified as councillors or alternate councillors by a sponsoring body, may participate in the Council in a non-voting capacity. Members of the Board of Directors may address the Council on any matter under discussion but shall not have voting privileges in Council sessions.”

*Action:* The Bylaws were updated.

### **Resolution 13 Seating of Past Chairs of the Board in the ACEP Council – Council Standing Rules Amendment**

RESOLVED, That the “Debate” section, paragraph one, of the Council Standing Rules be amended to read:

“Councillors, members of the Board of Directors, past presidents, ~~and~~ past speakers, and past chairs of the Board wishing to debate should proceed to a designated microphone. As a courtesy, once recognized to speak, each

person should identify themselves, their affiliation (i.e., chapter, section, Board, past president, past speaker, **past chair**, etc.), and whether they are speaking “for” or “against” the motion;” and be it further

RESOLVED, That the “Nominations” section, paragraph one, of the Council Standing Rules be amended to read:

“A report from the Nominating Committee will be presented at the opening session of the Annual Council Meeting. The floor will then be open for additional nominations by any credentialed councillor, member of the Board of Directors, past president, ~~or~~ past speaker, **or past chair of the Board**, after which nominations will be closed and shall not be reopened;” and be it further

RESOLVED, That the “Past Presidents and Past Speakers Seating” section of the Council Standing Rules be amended to read:

“Past Presidents, ~~and~~ Past Speakers, **and Past Chairs of the Board** Seating”

“Past presidents, ~~and~~ past speakers, **and past chairs of the Board** of the College are invited to sit with their respective component body, must wear appropriate identification, and are granted full floor privileges except the right to vote unless otherwise eligible as a credentialed councillor.”

*Action:* The Council Standing Rules were updated.

### **Resolution 18 ACEP Wellness Center Services**

RESOLVED, That ACEP explore alternative funding opportunities (e.g., use of personal insurance reimbursement and/or sponsorship by third parties) to restore the traditional (and possibly expanded) services available at the Annual Conference Wellness Center; and be it further

RESOLVED, That ACEP explore ways to better promote available resources for the wellness center at the Annual Conference and in general throughout the year.

*Action:* Assigned to the Well-Being Committee, Corporate Development staff, and Member Communications & Marketing staff. Several changes were made for the 2018 Wellness Center and publicized on the ACEP website and other ACEP communications:

- Reinstated blood draws for 2018 and increased the fee to cover the cost.
- Reviewed the burnout survey and added online capability or iPad on site.
- Moved the pet therapy booth next to the wellness pod.
- Individual tasked with a hand clicker, scanner, wall-based scanned (how to incentivize attendees to scan their own badge on a wall) have giveaways of wellness t-shirt etc. to incentivize people to scan in be counted as a visitor.
- Wellness Center backdrop with hashtag to encourage group photos.
- Increase the speaker volume and add TED talk signage.
- Allow freelance drawing instead of an artist’s mural.
- Additional signage to promote the Story Booth.
- Additional seating, background music, and charging stations.
- Promoted the Wellness Center on social media.
- Provided fun photo opportunities.
- Distributed buttons, t-shirts, and a water bottle with the wellness logo or #Wellness.
- Asked Wellness Champions to announce speakers.

In April 2019, the Board reviewed the results of the lab services offered in the Wellness Center during *ACEP18*. Only 44 individuals took advantage of the lab services. The direct costs for offering lab services totaled \$26,320 resulting in a loss of \$17,520 to provide lab services. The Board approved discontinuing offering lab services in the wellness center at *ACEP19* and focus on other year-round wellness programs led by the Well-Being Committee and the Wellness Section.

### **Resolution 22 Funding of Emergency Medicine Training (as amended)**

RESOLVED, That ACEP work with the appropriate organizations to optimize GME funding for all formats of emergency medicine training.

*Action:* Assigned to the ACEP-SAEM GME Work Group and to the Public Affairs staff for federal advocacy initiatives. ACEP’s Legislative & Regulatory Priorities include: “Work with Members of Congress to increase the overall number of federally funded GME slots.

### **Resolution 23 Information Sharing, Regular ACEP/Chapter Contact, and Regional State/Chapter Relationships (as amended)**

RESOLVED, That ACEP work with state chapters to identify, develop, and implement processes that enhance the relationship, optimizing appropriate and timely information sharing; and be it further

RESOLVED, That individual Board members and an appropriate staff member participate in regular contact with state chapters and report back to the Council in 2018.

*Action:* Assigned to the National/Chapter Relations Committee and Chapter & State Relations staff. The following strategies were implemented:

1. Basecamp as a collaboration tool for sharing information and resources between chapter executives.
2. Regular communication from national to the chapters with information about Board meetings, communications from the president, and ACEP Leadership Updates.
3. Regular communication about national activities, programs, partnerships, opportunities, etc. to chapter executives and chapter presidents with encouragement to include relevant notifications in communications to chapter members as appropriate.
4. Continue holding bi-annual all-chapter audio conferences.
5. Continue providing funding for the Chapter Leader Visit Rotation Program (national ACEP provides funding for national leaders to visit up to 20 chapters each year).
6. Sent “Welcome” letters to newly installed/elected chapter presidents (with copy to the chapter executive director). The letter highlights the resources and support provided by national ACEP to chapters.
7. Held Chapter Leadership sessions at *LAC18* and *LAC19* for current or aspiring chapter leaders and provides strategies for effectiveness in their role. Topics included state advocacy, chapter finances, how to be an effective chapter leader, how to create an effective and diverse Board, and succession planning. Session leaders included national ACEP Board members and staff as well as chapter leaders and staff.
8. Launched the chapter engagED online community. Additional community groups can be created for many topic areas or groups, such as Chapter Officers (to discuss issues, share resources, ask questions) and Chapter Membership Chairs (to share best practices, challenges on membership recruitment, retention, and engagement).

These communication efforts are ongoing. Additionally, a Chapter Executives Leadership Summit was held at ACEP in November 2018 and another summit will be held in November 2019.

### **Resolution 25 Resolution Co-Sponsorship Memo**

RESOLVED, That the Council Steering Committee develop and promote a standardized format for a “co-sponsorship memo” that can be distributed through the Council listserv or other platform so that councillors may collaborate and further refine resolutions prior to submission.

*Action:* The Council Steering Committee discussed the resolution at their February 2018, meeting. The new engagED community platform was launched. This platform provides the means for collaboration and information sharing. Resolution topics and resolutions in development can be shared in this forum and cosponsors can be identified. A resolution preparation checklist” was also created. A Council Forum session was held at *LAC19* that focused on resolution development.

### **Resolution 26 Study of Locums Physicians Representation (as amended)**

RESOLVED, That the ACEP Board study the impact and potential membership benefit of a new chapter or section representing locums physicians and report back to the Council at the 2018 meeting.

*Action:* The Board approved formation of the section in February 2018. The Steering Committee discussed the resolution at their February 2018 meeting and interpreted that formation of the section met the intent of the resolution. Authors of the original resolution clarified that the intent of the resolution was to conduct a study because the section may not meet be sufficient to meet the needs of locums physicians. The Membership Committee was assigned an objective for 2018-19 to conduct the study.

The section met the minimum requirements for membership and was allocated a councillor for the 2019 Council meeting. The Membership Committee has completed the study and plans to submit their recommendation to the Board in October 2019.

### **Resolution 27 9-1-1 Number Access and Prearrival Instructions**

RESOLVED, That ACEP create a policy statement supporting 9-1-1 number access to a Public Safety Answering Points for 100% of the U.S. population at next generation 9-1-1 level; and be it further

RESOLVED, That ACEP create and advocate for broad recognition of a policy statement supporting every Public Safety Answering Point or EMS dispatch point be able to give appropriate medical prearrival instruction for bystander aid, including CPR and hemorrhage control, and include EMS physician involvement in their creation, implementation, and quality improvement activities; and be it further

RESOLVED, That ACEP work with appropriate stakeholders to inventory and summarize models for 9-1-1 and Public Safety Answering Point funding as a resource for areas in need of increased service levels; and be it further

RESOLVED, That ACEP work with appropriate stakeholders to engage in development of model legislation incorporating enduring funding streams for 9-1-1 call centers/Public Safety Answering Points incorporating key elements including: bringing systems to at least the next generation 9-1-1 level, providing medically appropriate prearrival instructions, and incorporating EMS physician involvement in quality oversight, response profiles, and prearrival instructions.

*Action:* Assigned to the EMS Committee with input from the State Legislative/Regulatory Committee and Chapter & State Relations staff.

In December 2017, ACEP was invited by the National Highway Traffic Safety Administration (NHTSA) to participate as a stakeholder in the Next Generation 911 (NG911) project. The primary author of this resolution was recommended to serve as ACEP's representative on the project.

The Board approved the policy statement "[Access to 9-1-1 Public Safety Centers, Emergency Medical Dispatch & Public Emergency Aid Training](#)" in June 2018.

### **Resolution 28 Coverage for Patient Home Medication While Under Observation Status (as amended)**

RESOLVED, That ACEP support the coverage of all administered medications for patients under observation status without having to apply for reimbursement; and be it further

RESOLVED, That ACEP support a goal that patient out-of-pocket expenses for observation be no greater than the cost to the patient for inpatient services.

*Action:* This resolution is a policy statement. Assigned to the Reimbursement Committee to review and determine if additional language was needed in the policy statement. Assigned to Public Affairs staff for federal advocacy initiatives.

The Board approved the policy statement "[Coverage for Patient Home Medication While Under Observation Status](#)" in June 2018. ACEP's Legislative & Regulatory Priorities include "Monitor CMS/OIG reports and public-understanding on use of observation units that are protocol driven."

### **Resolution 29 CPR Training (as amended)**

RESOLVED, That ACEP draft model state legislation and assist chapters in advocating for CPR training in schools; and be it further

RESOLVED, That ACEP work with other stakeholder organizations to advocate for legislation to support CPR training in schools; and be it further

RESOLVED, That ACEP work with other stakeholder organizations to advocate for increased CPR training for laypersons.

*Action:* Assigned to the State Legislative/Regulatory Committee and Chapter & State Relations staff with input from the EMS Committee. The committee collaborated with the EMS Committee and obtained material from outside resources to develop a toolkit of [resources](#) that are available on the ACEP website.

ACEP has taken an active role in supporting and sponsoring layperson CPR training through partnering with the Texas College of Emergency Physicians for the Texas Two-Step Hands-Only CPR training. In 2017, 6,500 were trained across the state. During EMS Week 2017, ACEP partnered with the International Association of Fire Chiefs (IAFC) and American Medical Response (AMR) to sponsor the World CPR Challenge where more than 68,000 bystanders were trained nationwide.

In June 2018, the Board approved ACEP pursuing development of a program for laypersons to stop bleeding and render CPR. A business plan was developed and in June 2019, the Board approved the "[Until Help Arrives](#)" program. This program is designed for ACEP members to offer resources to their home communities. The campaign has broad appeal and presents an opportunity to partner with a variety of other healthcare provider groups on its training delivery. ACEP is also reaching out to other medical partners, emergency medicine organizations, the EMS community, and other medical associations to create partnerships for course delivery.

[EMS Week 2019](#) featured the Stop the Bleed/CPR Challenge. In January 2019, ACEP was invited by the National Academies of Sciences, Engineering, and Medicine participate as a stakeholder in their development of a Stop the Bleed Action Collaborative. They plan to organize the action collaborative under the existing National Academies'

Forum on Medical and Public Health Preparedness for Disasters and Emergencies of which ACEP has been a member for several years.

### **Resolution 30 Demonstrating the Value of Emergency Medicine to Policy Makers and the Public (as amended)**

RESOLVED, That a repository of public relations materials demonstrating the value of emergency medicine, including printed, video, and other information including emergency medicine economic research be assembled on the ACEP web site and such materials would be accessible to all members of ACEP who wish to reach specific target markets; and be it further

RESOLVED, That specific public relations materials regarding the value of emergency medicine be developed for legislators, which would include printed material and materials in various electronic formats; and be it further

RESOLVED, That the ACEP Board of Directors provide a report to the 2018 Council on the development and distribution of public relations materials demonstrating the value of emergency medicine to policy makers and the public.

**Action:** Assigned to the Public Relations Committee and Public Relations staff. The Board of Directors approved funding of up to \$100,000 in October 2017 to fund a study on the value and cost effectiveness of emergency care.

A [repository of materials](#) was developed demonstrating the value of emergency medicine and is available on the ACEP website. Additionally:

- Developed a new fact sheet about the value of emergency medicine.
- As part of promoting ACEP's 50<sup>th</sup> anniversary, filmed and posted dozens of one-minute videos of members telling their stories about the value of emergency medicine.
- Developed and promoted a public opinion poll about the value of emergency medicine. The poll results found high trust and high satisfaction for emergency care.
- Continued to promote the Saving Millions campaign to policymakers and the general public. Campaign tools included web and print advertising in Washington, DC, policymaker publications and included a link to ACEP's website [www.SavingMillions.org](http://www.SavingMillions.org).
- As insurance company giant Anthem Blue Cross Blue Shield began implementing a policy that devalued emergency care and denied coverage for patients, ACEP conducted its Fair Coverage campaign. Three viral videos were released in 2018 pushing back and promoting messages about the need to protect emergency care and emergency patients. ACEP promoted the videos through the news media and through Facebook ads, generating more than 600,000 views.
- Conducted a marketing campaign in 2018 to the general public to promote the value of emergency medicine and to promote emergency physicians as experts and as leaders in finding solutions to the opioid crisis. The campaign tools included a press release, a flyer, website and web banner ads on Facebook, generating results that exceeded estimates with a click-through rate of 3.15%, which is four times Facebook's benchmark for health care campaigns. The ad campaign generated more than 20,000 click-throughs to ACEP's Faircoverage.org site.
- Promoted ACEP's consumer website, which promotes the value of emergency medicine to the general public. ACEP refreshes and promotes content on this site, and at least monthly develops and distributes a press release about a consumer health and safety topic, such as flu, hot cars and carbon monoxide poisoning. These statements promote emergency physicians as medical experts and help create a white-hat environment in which ACEP can advocate.
- ACEP's external Twitter feed, @EmergencyDocs, has grown to more than 15,000 followers and includes policymakers and national health policy reporters. Relevant news stories that promote the value of emergency medicine (such as life-saving stories) are tweeted every day.

The Value of Emergency Medicine study was completed in August 2019. The results of the study are pending publication.

### **Resolution 31 Development and Study of Supervised Injection Facilities (as amended)**

RESOLVED, That ACEP join their partner organization, the American Medical Association, in supporting the development and study of pilot facilities where people who use intravenous drugs can inject self-provided drugs under medical supervision and endorse Supervised Injection Facilities for their feasibility, effectiveness, and legal aspects as a potential public health intervention in areas and communities heavily impacted by IV drug use.

**Action:** Assigned to the Public Health & Injury Prevention Committee. The committee developed the information paper "After the Emergency Department Visit: The Role of Harm Reduction Programs in Mitigating the Harms Associated with Injection Drug Use." It was reviewed by the Board in June 2019 and will soon be available on the ACEP website.

### **Resolution 32 Essential Medicines (as amended)**

RESOLVED, That ACEP collaborate with other medical organizations to speak with a unified voice to government agencies and elected officials as to the urgent need for resolution of the on-going crisis of lack of access to emergency drugs; and be it further

RESOLVED, That the ACEP Board of Directors make developing and promoting federal legislation to ensure adequate drug supply of critical medications a priority for ACEP's legislative agenda;

**Action:** Assigned to the Federal Government Affairs Committee to include in ACEP's legislative priorities and to Public Affairs staff to include in federal advocacy initiatives. This issue was included in the Legislative and Regulatory Priorities for the Second Session of the 115th Congress and for the First Session of the 116<sup>th</sup> Congress.

ACEP staff developed and led a successful effort to urge the FDA to convene a Drug Shortages Task Force to identify the root causes of drug shortages. ACEP drafted a bipartisan congressional sign-on letter, and secured lead Congressional sponsors for it of Reps. Brett Guthrie (R-KY) and Mike Doyle (D-PA) in the House, and Sens. Bill Cassidy (R-LA) and Chris Murphy (D-CT), that garnered 107 and 31 signatories, respectively. ACEP arranged to have members advocate for the letter as part of the 2018 Legislative & Advocacy Conference and through the 911 Network. These efforts were supplemented by ACEP staff and several other physician specialties affected by drug shortages that ACEP contacted to strengthen its efforts. The letter was successful in that just several weeks later, FDA Commissioner Gottlieb announced the creation of a new Drug Shortages Task Force to identify and address the root causes of drug shortages. His statement used verbatim language from the ACEP-led Congressional letter in describing the task force and its charge. ACEP staff maintained direct contact with the FDA's lead staff of the task force to ensure ACEP was represented in this effort. Details about [ACEP's efforts](#) are available on ACEP's website.

On September 20, 2018, ACEP President Paul Kivela, MD, MBA, FACEP, participated in a drug shortage summit hosted by the American Society of Anesthesiologists, the American Hospital Association, and the American Society of Health-System Pharmacies. The summit focused on the national security aspect of drug shortages and ways to improve the resilience of the nation's health care infrastructure. Many of the speakers were federal employees representing HHS, ASPR, FDA, CDC, and the Defense Logistics Agency (DLA) who engaged the attendees in discussions on how their programs could work better to facilitate patient care, improve transparency and communications, and more effectively utilize the supply chain capacity.

ACEP's Legislative & Regulatory Priorities for the First Session of the 116<sup>th</sup> Congress include: "Work with Congress to enact recommendations of the FDA Drug Shortage Task Force" and "Work with the FDA to reduce drug shortages and opioid abuse." On January 10, 2019, ACEP submitted an [official response](#) to the Drug Shortages Task Force that was convened by the FDA. On September 16, 2019, Reps. Brett Guthrie (R-KY) and Eliot Engel (D-NY), along with 92 other bi-partisan lawmakers, sent a [letter](#) to Acting FDA Commissioner Dr. Ned Sharpless urging the agency to prioritize the release of the interagency Drug Shortages Task Force report. ACEP and other interested parties have participated in ongoing discussions with the FDA, but we have been awaiting the release of the report.

### **Resolution 34 Generic Injectable Drug Shortages (as amended)**

RESOLVED, That ACEP work with other medical specialties and patient advocacy groups to achieve consensus on the root cause of the shortage of generic injectable drugs and educate our members, the general medical community, and the public on this critical issue and how to solve it; and be it further

RESOLVED, That ACEP work with other medical specialties and patient advocacy groups to seek Congressional legislative repeal of the Group Purchasing Organizations' safe-harbor protection.

**Action:** Assigned to Public Affairs staff to pursue this initiative through appropriate channels, such as continued involvement with the National Coalition on Health Care (NCHC), which is an alliance of national health care, consumer, labor, and business groups. NCHC is currently engaged in drug shortages/pricing initiatives, including the Campaign for Sustainable Rx Pricing.

ACEP met and consulted with other medical specialties and discussed potential strategy. Additionally, ACEP broached the topic of the potential role of GPOs with some congressional staff, though congressional staff and members of Congress are reticent to make any specific assertions or take action without clear, compelling, and evidence-based research to support any legislative efforts. Early in 2018, ACEP became aware that a member of Congress was looking into possible legislation to repeal the safe harbor repeal but ultimately declined to do so. ACEP worked with congressional appropriators in an attempt to secure language in H.R. 6470, the FY2019 Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, to insert the following language into the committee's report:

"Shortages of critical drugs continue to impact the delivery of health care in the U.S. The committee requests that GAO build upon its existing examinations of the causes of drug shortages and specifically examine the role of group purchasing organizations (GPO) and their related safe harbor in shortages."

This language was shared with House Appropriations Committee Chairman Tom Cole (R-OK), but unfortunately

it was not included in the committee report accompanying the legislative text.

ACEP staff developed and led a successful effort to urge the FDA to convene a Drug Shortages Task Force to identify the root causes of drug shortages. ACEP drafted a bipartisan congressional sign-on letter, and secured lead Congressional sponsors for it of Reps. Brett Guthrie (R-KY) and Mike Doyle (D-PA) in the House, and Sens. Bill Cassidy (R-LA) and Chris Murphy (D-CT), that garnered 107 and 31 signatories, respectively. ACEP then arranged to have members advocate for the letter as part of the 2018 Legislative & Advocacy Conference and through the 911 Network; these efforts were supplemented both by ACEP staff as well as several other physician specialties affected by drug shortages that ACEP contacted to strengthen its efforts. The letter was successful in that just several weeks later, FDA Commissioner Gottlieb announced the creation of a new Drug Shortages Task Force to identify and address the root causes of drug shortages. His statement used verbatim language from the ACEP-led Congressional letter in describing the task force and its charge. ACEP staff maintained direct contact with the FDA's lead staff of the task force to ensure ACEP was represented in this effort. Details about [ACEP's efforts](#) are available on ACEP's website.

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ACEP's Legislative & Regulatory Priorities for the First Session of the 116<sup>th</sup> Congress include: "Work with Congress to enact recommendations of the FDA Drug Shortage Task Force" and "Work with the FDA to reduce drug shortages and opioid abuse." On January 10, 2019, ACEP submitted an [official response](#) to the Drug Shortages Task Force that was convened by the FDA. On September 16, 2019, Reps. Brett Guthrie (R-KY) and Eliot Engel (D-NY), along with 92 other bi-partisan lawmakers, sent a [letter](#) to Acting FDA Commissioner Dr. Ned Sharpless urging the agency to prioritize the release of the interagency Drug Shortages Task Force report. ACEP and other interested parties have participated in ongoing discussions with the FDA, but we have been awaiting the release of the report.

A similar resolution was submitted to the 2018 Council. Resolution 27(18) Generic Injectable Drug Shortages called for ACEP to prepare a press release calling for repeal of the group purchasing organization (GPO) safe harbor. It was referred to the Board of Directors. The Board will consider further action on this resolution at their October 24, 2019 meeting.

### **Resolution 36 Maternity and Paternity Leave (as amended)**

RESOLVED, That ACEP advocate for paid parental leave for emergency physicians; and be it further

RESOLVED, That ACEP develop an information paper on best practices regarding paid parental leave for emergency physicians; and be it further

RESOLVED, That ACEP's Board of Directors report their findings at the 2018 ACEP Council.

*Action:* Assigned to the Well-Being Committee. The committee revised the "[Family Leave of Absence](#)" policy statement to include the tenets of the resolution and it was approved by the Board in June 2019. The committee will continue to work on developing an information paper or Policy Resource & Education Paper (PREP) as an adjunct to the policy statement.

### **Resolution 39 ACEP Involvement in State Legislative Activities (as amended)**

RESOLVED, That ACEP develop policy that addresses ACEP involvement in state level regulatory and legislative agendas, including direct lobbying efforts, by in coordination with the state chapter and consistent with ACEP policy; and be it further

RESOLVED, That ACEP present a policy that addresses ACEP involvement in state level regulatory and legislative activities for consideration and comment at the 2018 Council meeting.

*Action:* Assigned to the State Legislative/Regulatory Committee. In May 2018, the Board approved the following policy: "If a conflict arises between a chapter and national ACEP regarding a state legislative issue, national ACEP leadership must consider whether the disagreement is a matter of strategy or a matter of policy. on issues of strategy, national should defer to the chapter, given the chapter's better understanding of local political dynamics. on issues of policy, national should intervene if the issue is material to the specialty or counter to existing ACEP policy. First, national ACEP should take action to find a position that is in the best interests of the specialty and the chapter by reaching out to the chapter leadership. if no compromise can be reached, then national ACEP may choose to take a position that differs from the chapter position and would become the official position of the specialty."

Additionally, the Board approved the following actions: 1) increase frequency and improve quality of

communication between chapters and the national ACEP Board and staff on important state legislative issues to help prevent disagreements from arising; 2) direct the State Legislative/Regulatory Committee and the National/Chapter Relations Committee to investigate alternate methods to convene representatives from a chapter or multiple chapters for consultation between Council meetings in the case of important state legislative issues requiring further urgent discussion.

#### **Resolution 40 Reimbursement for Emergency Services (as amended)**

RESOLVED, That the policy of many third party payers of denying payment for Emergency Medical Services is in opposition to the prudent layperson definition of an emergency and federal EMTALA laws; and be it further

RESOLVED, That ACEP work with third party payers to ensure access to and subsequent reimbursement for emergency medical care as defined by the prudent layperson definition of an emergency regardless of the initial presenting complaint, final diagnosis, or access to lower levels of care; and be it further

RESOLVED, That ACEP, in order to promote public health and patient safety, continue to uphold federal EMTALA laws by providing a medical screening examination and appropriate medical care to all patients who request emergency services and ACEP will advocate for subsequent reimbursement for such services; and be it further

RESOLVED, That ACEP continue to advocate for our patients to prevent any negative clinical or financial impact caused by the lack of reimbursement for emergency medical services; and be it further

RESOLVED, That ACEP partner with affected states and the American Medical Association to oppose this harmful policy and the denial of payment for emergency services.

**Action:** This resolution has been addressed through the work of the Reimbursement Committee, the ACEP/EDPMA Joint Task Force on Reimbursement Issues, and federal advocacy initiatives by ACEP's Public Affairs staff.

The AMA adopted a resolution in June 2017 that addresses these issues and also sent a letter to Anthem on June 29, 2017, asking Anthem to rescind the policy citing federal patient protections under PLP, forcing patients to make clinical judgment calls without proper training, and reducing the value of having health insurance coverage. ACEP sent a letter to the president and CEO of Anthem on August 1, 2017, regarding their announcement to deny coverage for ED care in several states. ACEP, and many [individual members](#), have participated in media interviews (Associated Press, Modern Healthcare, The New York Times, Time Magazine, ABC News, The Washington Post, and others) to bring national attention to Anthem's assault on the prudent layperson standard in the denial of payment for emergency services. In December 2017, ACEP issued press releases about Anthem's denial of payments in Ohio and New Hampshire. In late December 2017, ACEP met with representatives of Anthem to discuss their announced policy that ACEP contends are in violation of federal and state law protecting patients according to the prudent layperson standard. ACEP continues to meet with members of Congress to educate them about denial of payment for emergency services by several payers.

The AMA developed model legislation, "Patient Protections from Unanticipated Out-of-Network Care Act," that includes recommended language provided by ACEP. Physicians for Fair Coverage (PFC) has formally adopted a "skinny version" of the original AMA model with the network adequacy and assignment of benefits provisions removed. The majority of the remaining PFC model mirrors the AMA bill, except that the AMA bill would set out of network payment at the lesser of the physician's actual charge or the 80th percentile of an independent charge database, and the PFC model simply sets payment at the 80th percentile of a charge database. Arguments can be made in support of either approach, but the two model bills are largely complementary and attempt to drive a positive legislative resolution to this issue that is being fought out in state legislatures across the country. The PFC model bill was introduced in Kentucky and Oklahoma. The Board of Directors discussed the model legislation (AMA and PFC) at their February 7, 2018, meeting.

On January 16, 2018, ACEP and 11 other medical societies, sent a letter to Anthem stating concerns with several of their reimbursement policies (outpatient radiology, emergency denials, modifier-25). On July 17, 2018, ACEP and the Medical Association of Georgia filed suit against Anthem's Blue Cross Blue Shield of Georgia in federal court in an effort to compel the insurance giant to rescind its [controversial and dangerous emergency care policy that retroactively denies coverage for emergency patients](#). To read the lawsuit, click [here](#).

Following five years of meetings and attempts by ACEP staff to obtain an explanation from the United States Center for Consumer Information and Insurance Oversight (CCIIO) regarding the methodology used in the 2010 Interim Final Rule governing payments of out-of-network emergency services, ACEP filed suit on May 12, 2016, against the Departments of Health & Human Services, Labor, and Treasury ("the Departments") challenging the Greatest-of-Three ("GOT") regulation. On August 31, 2017, the U.S. District Court for the District of Columbia (the "Court") partially granted ACEP's Motion for Summary Judgment and denied the Government's Cross Motion for Summary Judgment, finding that the Departments failed to seriously respond to comments and proposed alternatives submitted by ACEP and others regarding perceived problems with the GOT regulation. On April 30, 2018, the Departments published in the *Federal Register* the "Clarification of Final Rules for Grandfathered Plans, Preexisting Condition Exclusions, Lifetime and Annual Limits, Rescissions, Dependent Coverage, Appeals, and Patient

Protections under the Affordable Care Act”. In this final regulation, the Departments declined to revise or rescind the rule, instead reaffirming it and rejecting ACEP’s proposal to use an independent database to set payment rates. On May 19, 2018, the Board of Directors approved dismissing the lawsuit based upon recommendation of legal counsel, noting that the suit was successful in providing the College with valuable information, such as the “NORC Report,” and sent a strong message that ACEP will fight on behalf of the rights of its members; however, the likelihood of ultimately prevailing was low and ACEP’s legal resources could be best utilized in other arenas. Based upon a Joint Stipulation of Dismissal filed with the Court on May 23, 2018, Judge Colleen Kollar-Kotelly signed the Order dismissing the case. In June 2018, the Board discussed legislative and regulatory strategies and next steps for pursuing the Greatest-of-Three methodology governing payments for out-of-network emergency services with CCIIO.

ACEP continues to work on this issue and assist chapters in their efforts. State public policy grants have been provided to several chapters to support efforts on out-of-network/balance billing legislation.

#### **Resolution 43 Expanding ACEP Policy on Workforce Diversity in Health Care Settings (as amended)**

RESOLVED, That ACEP expand its policy statement “Workforce Diversity in Health Care Settings” to help identify and promote inclusion of qualified individuals with additional diverse characteristics (including racial and ethnic diversity, as per existing policy) and amend it to read:

The American College of Emergency Physicians believes that:

- Hospitals and emergency physicians should work together to promote staffing of hospitals and their emergency departments with qualified individuals of diverse race, ethnicity, sex (including gender, gender identity, sexual orientation, pregnancy, marital status), nationality, religion, age, ability or disability, and other characteristics that do not otherwise preclude an individual emergency physician from providing equitable, competent patient care; and
- Attaining diversity with well-qualified physicians in emergency medicine that reflects our multicultural society is a desirable goal.

*Action:* The “[Workforce Diversity in Health Care Settings](#)” policy statement was revised in November 2017.

#### **Resolution 44 Guidelines for Opioid Prescribing in the ED**

RESOLVED, That ACEP encourage electronic medical record providers to incorporate easy-to-use Prescription Monitoring Programs functionality into their products; and be it further

RESOLVED, That ACEP strongly discourage mandates for screening all emergency department patients for opioid use; and be it further

RESOLVED, That ACEP promote development of national guidelines to assist emergency physicians in their practice of prescribing opioids for acute pain.

*Action:* Assigned to the Emergency Medicine Practice Committee to review ACEP’s current policy statements to determine if revisions are needed and review the current resources available to determine if additional resources are needed. ACEP’s clinical policy “Critical Issues in the Prescribing of Opioids for Adult Patients in the Emergency Department” is currently under review by the Clinical Policies Committee.

The Emergency Medicine Practice Committee reviewed the policy statement “[Ensuring Emergency Department Patient Access to Appropriate Pain Treatment](#).” The policy statement supports ACEP chapter autonomy to establish and coordinate evidence-based pain management guidelines that promote access to appropriate pain control with physician clinical judgement. The [EQUAL Network](#) has also developed guidelines in association with the EQUAL Opioid Management focus area.

On June 12, 2018, two bills were passed in the House of Representatives that were championed by ACEP:

- The Alternatives to Opioids (ALTO) in the Emergency Department Act ([H.R. 5197 – Pascrell/McKinley](#); S. 2516 – Booker/Capito)
  - Provides grants to help emergency departments and hospitals implement non-opioid, evidence-based pain management protocols, based on the successful and proven ALTO program developed at St. Joseph’s in Paterson, New Jersey.
  - In New Jersey, the ALTO program at St. Joseph’s Hospital saw opioid prescriptions drop by 82 percent over two years. These results were recently replicated at 10 hospitals in Colorado, where hospital systems noted a 36 percent drop in opioid prescriptions in the first six months of the program.
- The Preventing Overdoses While in Emergency Rooms (POWER) Act ([H.R. 5176 – McKinley/Doyle](#); S. 2610 – Capito/Murphy)
  - Provides grants to establish policies and procedures for initiating Medication-Assisted Treatment (MAT) in the emergency department, and to develop best practices to provide a “warm handoff” to appropriate

community resources and providers to keep patients engaged in treatment. MAT is a proven medical treatment that can relieve withdrawal symptoms and psychological cravings of opioid use disorder.

- Studies show success for this model – after one month, 78 percent of patients remained in addiction treatment programs with ED-initiated MAT, compared to 37 percent when given only a simple referral in the ED to treatment in the community.

On June 13, 2019, the House of Representatives approved a bipartisan amendment to provide \$10 million for the Alternatives to Opioids (ALTO) in the Emergency Department program that was authorized in the 2018 opioids bill, the *SUPPORT for Patients and Communities Act* (P.L. 115-271). The amendment was offered to the Fiscal Year 2020 Labor/Health and Human Services (L/HHS) appropriations bill. ACEP DC staff worked with Rep. Pascrell's office to ensure the amendment was made in order and passed successfully. ACEP submitted a letter of support from and Rep. Pascrell's office informed submitted ACEP's letter of support for the amendment into the Congressional Record.

The [Pain Management & Addiction Medicine Section](#) continues to develop resources on pain management and addiction medicine. ACEP has developed the [E-QUAL Network Opioid Initiative](#), which includes toolkits, webinar series, podcasts, and other resources. The Emergency Medicine Practice Committee and the Public Health & Injury Prevention Committees have developed [opioid resources](#) that are available on the ACEP website.

### **Resolution 49 Participation in ED Information Exchange and Prescription Drug Monitoring Systems**

RESOLVED, That the American College of Emergency Physicians collaborate with the Department of Veterans Affairs, Department of Defense, the Indian Health Services, and potentially legislatures to encourage and facilitate their participation in state prescription drug monitoring programs; and be it further

RESOLVED, That the American College of Emergency Physicians collaborate with the Department of Veterans Affairs, Department of Defense, the Indian Health Services, and potentially legislatures, to encourage and facilitate their participation, to the extent consistent with federal law, a system for real-time electronic exchange of patient information, including recent emergency department visits and hospital care plans for frequent users of emergency departments.

**Action:** Assigned to Public Affairs staff to work with the cited agencies and to Chapter & State Relations staff to support chapter advocacy efforts for adoption of EDIE programs and implementation of effective state prescription drug monitoring programs. ACEP's Legislative and Regulatory Priorities for the Second Session of the 115th Congress included "support funding for voluntary, interstate prescription drug monitoring programs" and "promote DoD, VA, and HIS prescription data sharing with state PDMPs."

An ACEP-developed provision that requires the Department of Defense to share controlled substance prescribing information of TRICARE beneficiaries with State Prescription Drug Monitoring Programs was successfully passed into law as part of H.R.5515, the John S. McCain National Defense Authorization Act for Fiscal Year 2019. ACEP staff worked closely with Representative Mike Turner (D-OH) to develop this legislative effort and ensure its inclusion in the defense authorization bill. A month later, Rep. Turner and Rep. Seth Moulton (MA) sent a letter to the Secretary of Defense advancing this initiative. The "Sharing Health Information to Ensure Lifesaving Drug Safety" (SHIELDS) Act (2018 H.R. 5591) was introduced in April 2018 and passed into law in August 2018. In January 2019, Virginia became the first state to systematically integrate its PDMP with those of the DoD Medical Treatment Facilities.

ACEP's Legislative & Regulatory Priorities for the First Session of the 116<sup>th</sup> Congress include:"support funding for voluntary, interstate prescription drug monitoring programs" and "seek Indian Health Service submission of prescription records to state PDMPs." Unfortunately, there is no central authority that can mandate HIS action. Each tribe/nation makes their own determination and most tribes have very little resources.

In May 2019, ACEP met with IHS to discuss ways to work together to improve care for Native Americans. A two-year non-financial memorandum of understanding (MOU) was developed in September 2019 between ACEP and IHS to explore opportunities for collaboration in the following areas: emergency physician recruitment and retention; emergency physician resident training at IHS sites; provider training/knowledge transfer in key topic areas to be identified; clinical guidelines and best practices in key topic areas to be identified; technical assistance in key topic areas to be identified; collaboration with ACEP on IHS-related or American Indians/Alaska Natives-related topics as well as fellowship projects or rotations; practice-based research to improve quality; and achieving health equity for the American Indian/Alaska Native population.

### **Resolution 51 Retirement or Interruption of Clinical Emergency Medicine Practice**

RESOLVED, ACEP study and evaluate mechanisms to support practicing emergency physicians to help recognize potential physical and emotional limitations to clinical practice, to educate members about alternatives and opportunities for temporary interruption of active clinical practice to include mechanisms for reintegration back into clinical practice, and to support members considering career transitions including retirement; and be it further

RESOLVED, That ACEP actively engage in developing resources and communication of career transition

opportunities to members, including support for members who believe they are being restricted from practice for discriminatory reasons as outlined and regulated by established federal equal employment opportunity discrimination laws.

**Action:** Assigned to the Well-Being Committee to review ACEP's current resources, including the report developed by the ACEP/ABEM Aging Physician Task Force, and develop additional resources as needed, specifically to address interruption of clinical emergency medicine practice. Work is in progress and the committee will continue to work on this resolution in 2019-20.

### **Resolution 52 Support for Harm Reduction and Syringe Services Programs**

RESOLVED, That ACEP endorse Syringe Services Programs for those who use injection drugs; and be it further  
RESOLVED, That ACEP promote the access of Syringe Services Programs to people who inject drugs; and be it further

RESOLVED, That ACEP invest in educating its members on harm reduction techniques and the importance of Emergency Departments to partner with local Syringe Services Programs to advance the care of people who inject drugs.

**Action:** Assigned to the Public Health & Injury Prevention Committee. The committee developed the information paper "After the Emergency Department Visit: The Role of Harm Reduction Programs in Mitigating the Harms Associated with Injection Drug Use." It was reviewed by the Board in June 2019 and will soon be available on the ACEP website.

### **Resolution 55 Workplace Violence (as amended)**

RESOLVED, That ACEP move past policy creation and simple awareness campaigns with state and national regulatory agencies to develop actionable guidelines and measures (e.g., percent of events with legal outcome, paid post-trauma leave, use of de-escalation techniques, counseling provided), to ensure safety in the Emergency Department for patients and staff; and be it further

RESOLVED, That ACEP work with local, state, and federal bodies to provide for appropriate protections and enforcement of violations of Emergency Department patient and staff protections from violence in the workplace to provide safe and efficacious emergency care; and be it further

RESOLVED, That ACEP create model legislative and regulatory language that can be shared with state chapters and hospitals addressing workplace violence

**Action:** Assigned to the State Legislative/Regulatory Committee and to Public Affairs staff for federal advocacy initiatives. This issue was included in the Legislative and Regulatory Priorities for the Second Session of the 115th Congress and the First Session of the 116<sup>th</sup> Congress. The State Legislative/Regulatory Committee compiled information and resources to develop a toolkit for chapters.

In March 2019, ACEP sent a [letter of support](#) for [H.R. 1309](#): The Workplace Violence Prevention for Health Care and Social Service Workers Act, asking Congress to consider how EDs are staffed to ensure the important provisions of this legislation are implemented appropriately. ACEP's letter requested additional clarity of the legislation's wording to ensure any new federal requirements do not create any unintentional burdens for entities that do not control the health care workplace.

[Resources on workplace violence](#) are available on the ACEP website.

ACEP has partnered with ENA to launch a joint campaign, "No Silence on ED Violence," to combat violence in the emergency department. The campaign will launch at ENA's annual conference in September 2019 and at *ACEP19*. Elements of the campaign will include a standalone website with resources to help members address the problem in their hospitals and advocate for change at the hospital, state, and federal level. Advocacy resources will include materials to support state legislative efforts for chapters and a social media campaign that will seek to engage our joint membership in sharing their stories to help highlight the extent of the problem. A public relations campaign will launch in November 2019 to increase public and media awareness of the issue.

### **Resolution 56 In Memory of Robert E. Blake, MD, FACEP**

RESOLVED, That the American College of Emergency Physicians remembers with gratitude and honors the many contributions made by Robert Eugene Blake, MD, FACEP, as one of the leaders in the medical community; and be it further

RESOLVED, That the American College of Emergency Physicians extends to the family of Robert Eugene Blake, MD, FACEP, his friends, and his colleagues our condolences and gratitude for his tremendous service to the specialty of emergency medicine and to the patients and physicians of West Virginia and the United States.

*Action:* A framed resolution was prepared for Dr. Blake's family.

#### **Resolution 57 In Memory of James H. Creel, Jr., MD, FACEP**

RESOLVED, That the American College of Emergency Physicians fondly remembers and honors the many contributions of James H. Creel, Jr., MD, FACEP, one of the truest pioneers and leaders in emergency medicine and emergency medical services; and be it further

RESOLVED, That the American College of Emergency Physicians extends to the family of James H. Creel, Jr., MD, FACEP, his colleagues, friends, residents, staff, and students our heartfelt condolences and gratitude for his tremendous accomplishments, devotion, and service to the specialty of emergency medicine, the State of Tennessee, and the United States of America.

*Action:* A framed resolution was prepared for Dr. Creel's family.

#### **Resolution 58 In Memory of Paul Berger, Jr., MD, FACEP**

RESOLVED, That the American College of Emergency Physicians remembers with gratitude and honors the many contributions by Paul Berger, Jr, MD, FACEP, as one of the leaders in emergency medicine, EMS, and the greater medical community; and be it further

RESOLVED, That the American College of Emergency Physicians extends to his wife Lanie Berger, his son Paul Berger, III, DO, his friends, and his colleagues our deepest sympathy and our gratitude for having been able to learn so much from a kind, gentle, caring leader in emergency medicine and gratitude for his tremendous service to the specialty of emergency medicine and the State of Iowa.

*Action:* A framed resolution was prepared for Dr. Berger's family.

#### **Resolution 59 In Memory of William Wilkerson, Jr., MD, FACEP**

RESOLVED, That the American College of Emergency Physicians remembers with gratitude and honors the many contributions made by William Wilkerson, Jr, MD, FACEP, as one of the leaders in emergency medicine and the greater medical community; and be it further

RESOLVED, That the American College of Emergency Physicians extends to the family of William Wilkerson, Jr, MD, FACEP, his friends, and his colleagues our condolences and gratitude for his tremendous service to the specialty of emergency medicine and to the patients and physicians of Michigan and the United States.

*Action:* A framed resolution was prepared for Dr. Wilkerson's family.

#### **Resolution 60 Commendation for First Responders to 2017 Hurricanes**

RESOLVED, That ACEP recognizes all ACEP members, staff, and their families that were involved in the response to Hurricanes Harvey, Irma, and Maria and commends the significant commitment they have made to the ideals of emergency medicine and the service provided to the people in the States of Texas, Louisiana, and Florida and the territories of Puerto Rico and the United States Virgin Islands.

*Action:* The resolution was read aloud at the Council Awards Luncheon and all first responders were thanked for their service.

#### **Resolution 61 In Memory of Michael G. Guttenberg, DO, FACEP**

RESOLVED, That the American College of Emergency Physicians remembers with gratitude the many contributions made by Michael G. Guttenberg, DO, FACEP, FACOEP, FAEMS, as one of the leaders in emergency medicine and the greater medical community; and be it further

RESOLVED, That the American College of Emergency Physicians extends to the family of Michael G. Guttenberg, DO, FACEP, FACOEP, FAEMS, his friends, and his colleagues our condolences and gratitude for his tremendous service to the specialty of emergency medicine and to the patients and physicians of New York State and the United States.

*Action:* A framed resolution was prepared for Dr. Guttenberg's family.

## **Referred Resolutions**

#### **Resolution 20 Campaign Financial Reform – to the Steering Committee (as amended)**

RESOLVED, That the Council Steering Committee create expenditure limitations to **allow younger encourage**

**additional** members to consider candidacy for leadership positions without the concern for financial means, ~~and be it further~~

~~RESOLVED, That the Candidate Campaign Rules be amended by adding: “Candidates will not attend annual chapter meetings unless officially invited, on the meeting’s agenda for a planned educational endeavor, and accept reimbursement of travel expenses in accordance with the chapter’s policies;” and be it further~~

~~RESOLVED, That the Council Steering Committee consider changes in the election process such as:~~

- ~~• requiring candidates to disclose financial expenditures on their candidacy;~~
- ~~• capping the monetary amount that can be used on all candidate-related expenditures, including travel, “coaches,” videos, etc.;~~
- ~~• prohibit ACEP residency and ACEP chapter visits for each candidate during the period of declared candidacy;~~
- ~~• restricting publication of non-scholarly work in non-peer reviewed journals such as ACEP Now and other Emergency Medicine open-subscription media; and~~
- ~~• restricting social media “public service announcements.”~~

*Action:* Assigned to the Council Steering Committee for discussion at the February 2018, meeting. The Steering Committee approved adding the following information to the Candidate Campaign Rules #13:

- a. Once the Nominating Committee announces the slate of candidates for the upcoming Council meeting, except for their home chapter, President-Elect, Board of Directors, Speaker, and Vice Speaker candidates should not travel to ACEP state chapter meetings until the conclusion of the elections. This includes, but is not limited to, educational meetings, chapter Board of Directors meetings, or chapter fund-raisers other than for the candidate’s home chapter. A written request for an exception may be made to the Council Speaker for candidates needing to visit state chapters for purposes other than campaigning such as legislative assistance, official ACEP business, or prior faculty commitments to education programs. In such instances, active campaigning is not permitted.
- b. After nominations are announced by the Nominating Committee, President-Elect, Board of Directors, Speaker, and Vice Speaker candidates may utilize video or audio conferencing methods to communicate with ACEP state chapters. The use of this technology will be monitored by the Council Steering Committee to ensure fair use.

### **Resolution 21 Creation of an Electronic Council Forum – to the Steering Committee**

RESOLVED, That the Board of Directors task the appropriate committees to create a year round forum for councillors to introduce, debate, and vote on resolutions; and be it further

RESOLVED, That the results of the votes in the electronic Council forum be nonbinding resolutions to offer ACEP leadership expeditious guidance on emergent issues; and be it further

RESOLVED, That the electronic Council forum product feature include a user experience that can be used during the annual Council meeting to receive and display proposed amendments in real time during discussion and voting.

*Action:* Assigned to the Council Steering Committee for discussion at the February 2018, meeting. There was consensus that the current process for conducting the annual Council meeting meets the Council's needs, but additional communication is needed to the Council about the features of the current Council meeting website that is used to distribute all Council meeting materials. The website has a “chat” feature to discuss resolutions in advance of the Council meeting, in addition to using the Council e-list (c-mail) for discussion purposes. The new engaged community platform was launched for the Council. This platform replaced the Council e-list and allows collaboration and information sharing.

### **Resolution 24 Maintenance of Competence for Practicing Emergency Physicians (as amended)**

RESOLVED, That ACEP study the needs, and cost-effective evidence-based requirements that would support practicing board-certified emergency physicians to legitimately demonstrate their ongoing competence and skills necessary for their own practice settings and develop appropriate minimum guidelines for appropriate “maintenance of competence” with minimum and legitimate barriers to continued practice, and present a report for consideration at the 2018 Council meeting.

*Action:* The Board of Directors continued to dialogue and collaborate with ABEM and ABMS and monitor their activities on this issue. ABEM held a Summit on October 2-3, 2017, to discuss modifications and alternatives to the ConCert exam. Representatives from ACEP attended the Summit.

An [article](#) appeared in the July 2018 issue of *ACEP Now* highlighting ABEMS’s efforts to create a new process for continuing certification by offering an alternative to the ConCert Examination. ABEM pursued several critical activities including redefining the purpose of continuing certification for ABEM and developing success metrics. All

diplomates were invited to complete a survey to confirm and further explore the information ABEM received during the calls with 25 state chapters in 2017. Additional surveys were used to refine the design. The ACEP Board of Directors continued to dialogue and collaborate with ABEM and ABMS and monitor their activities on this issue. ABEM updated the Council on their efforts at the 2017 and 2018 annual meetings. In December 2018, ABEM released the draft report “*Continuing Board Certification: Vision for the Future*” (developed by an independent commission) for comments by January 15, 2019. ACEP’s comments were provided to ABEM. “MyEMCert” is now in development and physicians with certification ending in 2022 or later can maintain certification using MyEMCert.

### **Resolution 33 Immigrant and Non-Citizen Access to Care**

RESOLVED, That ACEP develop model hospital policy language similar to the “Delivery of Care to Undocumented Persons” policy that physicians can access and present to their hospital systems for implementation; and be it further

RESOLVED, That ACEP make available online for public use, in multiple languages, a “Safe Zone” statement that notifies patients of an implemented hospital policy regarding immigrant and non-citizen access to care so that physicians can ensure the policy is communicated in the languages most relevant to their patient populations.

*Action:* Assigned to the Emergency Medicine Practice Committee to review and provide a recommendation to the Board regarding further action on the resolution.

The committee reviewed the current policy statement “[Delivery of Care to Undocumented Persons.](#)” Revisions were recommended to include reference to safe zones. The revised policy statement was approved by the Board in June 2018.

### **Resolution 35 Legislation Requiring Hyperbaric Medicine Facility Accreditation for Federal Payment**

RESOLVED, That ACEP work with the Undersea & Hyperbaric Medical Society and the ACEP Undersea & Hyperbaric Medicine Section to petition and advocate for CMS to require that hyperbaric facilities be accredited to receive federal payment.

*Action:* The Undersea & Hyperbaric Medicine Society drafted a letter to CMS outlining the rationale for requiring facility accreditation and requested ACEP to sign on to the letter. Leaders of ACEP’s Undersea and Hyperbaric Medicine Section reviewed and revised the letter and recommended ACEP’s endorsement. In February 2018, the Board of Directors approved sending the letter to CMS.

### **Resolution 38 Prescription Drug Pricing**

RESOLVED, That ACEP create a policy statement that:

- recognizes the threat that unaffordable prices of medications used to treat acute and chronic diseases poses to our patients and the challenges this imposes upon the emergency medical system;
- supports the negotiation of drug prices under Medicare Part D;
- supports the importation of prescription drugs; and
- supports value-based pharmaceutical pricing; and be it further

RESOLVED, That ACEP work with the American Medical Association and other stakeholders to support regulatory and legislative efforts to address these issues.

*Action:* Assigned to the Emergency Medicine Practice Committee to review and provide a recommendation to the Board regarding further action on the resolution.

ACEP is a member of the National Coalition on Health Care (NCHC), which is an alliance of national health care, consumer, labor, and business groups. NCHC is currently engaged in drug shortages/pricing initiatives, including the Campaign for Sustainable Rx Pricing.

ACEP’s Legislative and Regulatory Priorities for the Second Session of the 115th Congress and the First Session of the 116<sup>th</sup> Congress included “promote access to affordable medications for emergency patients and monitor legislative activities regarding excessive drug pricing” and “monitor efforts by the Administration to reduce prescription drug prices.

The Emergency Medicine Practice Committee developed the policy statement “[Prescription Drug Pricing](#)” that was approved by the Board in June 2018.

### **Resolution 41 Reimbursement for Hepatitis C Virus Testing in the ED**

RESOLVED, That ACEP encourage the adoption of state laws that allow for reimbursement for HCV testing in settings beyond the primary care setting including the Emergency Department.

**Action:** Assigned to the Reimbursement Committee to review and provide a recommendation to the Board regarding further action on the resolution.

A Reimbursement Committee member, who is a former regional medical director for CMS, investigated the options ACEP could use to encourage reimbursement by payers for Hepatitis C testing in the ED. In June 2019, based on the analysis, the committee recommended to the Board that ACEP petition the Office of Coverage and Analysis Group at CMS to reconsider the addition of the ED as the place of service for Hepatitis C testing as a next step since state Medicaid plans largely follow precedence set by CMS. CMS defines coverage for Hepatitis C testing for Medicare beneficiaries in Decision Memo CAG-00436N as taking place in primary care settings. State Medicaid programs have largely followed suit with similar criteria for reimbursement. Furthermore, testing would need to be billed to the facility, not the professional or physician. Emergency physicians would also be required to follow up with results and provide counseling, which exceeds their scope of practice. Thus, it is imperative to seek CMS clarification of the addition of POS 23 (Hospital ED) for Hepatitis C testing before seeking individual state Medicaid program approval. The Board approved the committee's recommendation and a letter was sent on August 13, 2019, to the Office of Coverage and Analysis Group at CMS.

#### **Resolution 45 Group Contract Negotiation to End-of-Term Timeframes**

RESOLVED, That ACEP establish a recommendation for appropriate timeframes for initiation of contract renewal discussions and contract negotiation deadlines to end of coverage; and be it further

RESOLVED, That ACEP ~~oppose~~ **not support** sudden, abrupt changes in contract groups without time for adequate transition and training.

**Action:** Assigned to the Contracts Transitions Task Force. The task force developed the information paper "[Emergency Department Physician Group Staffing Contract Transition](#)." It is available on ACEP website in addition to other contract [resources](#).

#### **Resolution 46 Impact of Climate Change on Patient Health and Implications for Emergency Physicians**

RESOLVED, That ACEP research and develop a policy that addresses the impact of climate change on the health and well-being of our patients and utilize the policy statement to guide future research, training, advocacy preparedness, mitigation practices, and patient care.

**Action:** Assigned to the Public Health & Injury Prevention Committee to review and provide a recommendation to the Board regarding further action on the resolution. The Committee developed the policy statement "[Impact of Climate Change on Public Health and Implications for Emergency Medicine](#)" that was approved by the Board of Directors in June 2018.

#### **Resolution 47 Improving Patient Safety Through Transparency in Medical Malpractice Settlements**

RESOLVED, That ACEP develop a policy to reduce medical error and improve patient safety by assuring that pre-trial settlements of medical malpractice lawsuits against an emergency physician are anonymized and the learnings distributed to all members of the College and others as appropriate; actively support the elimination of non-disclosure clauses in pre-trial settlements of medical malpractice lawsuits; and report progress on this objective at the ACEP annual meeting in 2018.

**Action:** Assigned to the Medical-Legal Committee to review and provide a recommendation to the Board regarding further action on the resolution. In June 2018, the Board of Directors approved the committee's recommendation to not pursue the recommendations contained in the resolution at this time. An objective was assigned to the committee for 2018-19 to explore opportunities to use information from the National Practitioner Data Bank (NPDB) or related closed claims materials that might provide teachable information that may help reduce medical errors and improve patient safety.

In June 2019, the Board approved the committee's recommendation to not seek to access malpractice data from the NPDB directly but review any relevant aggregate data that may be made available. The committee believes that trying to access and review some portion of the 1.4 million records in the NPDB is a high-effort, low-yield exercise. As a membership association, the amount of access ACEP would have to the data would be limited by the NPDB and there would be no ability to drill into specifics of individual cases that would be needed to yield information that could be most helpful in identifying concerning trends. Much of the data that would be critical for this type of review and analysis, such as charts, are not included in the NPDB. It was also noted that much easier access to useful information on high-risk practices is already available through a plethora of published sources.

#### **Resolution 48 Non-Fatal Strangulation**

RESOLVED, That ACEP work with the Emergency Nurses Association, International Association of Forensic

Nurses, Training Institute on Strangulation Prevention, and other related organizations and stakeholders, to provide educational and clinical resources as well as in person and enduring educational programs for emergency providers on the evaluation, radiographic investigation, and management of non-fatal strangulation; and be it further

RESOLVED, That ACEP create a policy statement on the seriousness of non-fatal strangulation and develop a clinical practice guideline for the emergency department evaluation, treatment, and management of non-fatal strangulation.

*Action:* Assigned to the Clinical Policies Committee to review and provide a recommendation to the Board regarding further action on this resolution. The committee conducted an initial literature review and concluded there is not enough evidence to develop a clinical policy on the topic. In September 2018, the Board approved the committee's recommendation to take no further action to develop a clinical policy or policy statement and to disseminate existing educational materials on this topic.

### **Resolution 50 Promoting Clinical Effectiveness in Emergency Medicine**

RESOLVED, That ACEP create a Clinical Effectiveness Committee that is responsible for identifying, assessing, and promoting evidence-based, cost-effective emergency medicine practices.

*Action:* This resolution is addressed through ACEP's clinical policies process and E-QUAL Network.

Clinical policies are created by an expert panel that reviews and grades the literature and answer specific question regarding preferred practice guidelines. These reviews may cover effectiveness, but rarely consider cost as a variable.

Though not a formal cost effectiveness program, the [Emergency Quality Network \(E-QUAL\)](#) offers analysis and recommendations for cost effective treatment. E-QUAL offers learning collaboratives in four main areas: sepsis, avoidable imaging (low back pain, minor head injury, pulmonary embolism, and renal colic), low risk chest pain, and opioid management. The network offers a toolkit with best practices and sample guidelines, as well as access to benchmarking data. It provides free CME and meets the CMS Improvement Activity requirements of the CMS Quality Payment Program (MIPS). Any ACEP member may join the network at no cost.

### **Resolution 62 Freestanding Emergency Centers as a Care Model for Maintaining Access to Emergency Care in Underserved, Rural, and Federally Declared Disaster Areas of the United States (as amended)**

RESOLVED, That ACEP ~~lobby Congress to give~~ **advocate giving** CMS the authority to recognize independent Freestanding Emergency Centers as Medicare Certifiable locations of acute unscheduled healthcare in the United States in Federally Declared Disaster areas.

~~RESOLVED That ACEP lobby Congress to give CMS the authority to create Critical Access Emergency Center Designation where Critical Access Hospitals no longer exist due to catastrophic destruction from natural disasters or where Critical Access Hospitals cannot be feasibly maintained leaving areas of the Country without access to Emergency Medical care.~~

*Action:* Assigned to the Federal Government Affairs Committee to review and provide a recommendation regarding further action on this resolution.

The Board of Directors discussed this resolution at their December 2017 retreat. On December 14, 2017, ACEP sent a letter to the Chairman of the Commerce, Justice, and Science Subcommittee of the House Committee on Appropriations requesting support for the disaster supplemental appropriations bill to ensure freestanding emergency care facilities and their emergency physicians are eligible for any federal assistance appropriated to offset the ongoing losses associated with uncompensated care provided to Medicare beneficiaries affected by Hurricane Harvey. The letter provided specific language that could be inserted in the bill.

ACEP's Legislative & Regulatory Priorities for the Second Session of the 115<sup>th</sup> Congress and the First Session of the 116<sup>th</sup> Congress included:

- monitor legislative actions regarding oversight, licensing, and reimbursement for independent freestanding emergency centers;
- acknowledge the role of freestanding emergency centers and other health care delivery models as crucial to encourage coverage innovation;
- enact legislation allowing critical access hospitals to convert to rural emergency hospitals by eliminating inpatient services.

In August 2018, ACEP supported the Emergency Care Improvement Act that allows for independent freestanding EDs that meet criteria to bill Medicare for a certain amount of facility-side reimbursement, depending on geography and acuity. The legislation contained specific language to protect professional-side reimbursement by Medicare at full physician fee schedule amounts at all acuity levels and to bring the facilities under federal EMTALA requirements.