American College of Emergency Physicians®

ADVANCING EMERGENCY CARE

# Memorandum

**To:** 2019 Council

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

**Date:** September 27, 2019

**Subj:** Action on 2016 Resolutions

The 2016 Council considered 31 resolutions: 24 were adopted, 2 were not adopted, and 5 were referred to the Board of Directors.

The attached report summarizes the actions taken on the 2016 resolutions adopted by the Council and those that were referred to the Board.


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American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

# Action on 2016 Council Resolutions

**Resolution 1 Commendation for Michael J. Gerardi, MD, FACEP**

RESOLVED, That the American College of Emergency Physicians commends Michael J. Gerardi, MD, FACEP, for his exemplary service, leadership, and commitment to the College, the specialty of emergency medicine, and to the patients we serve.

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

**Resolution 2 In Memory of Kenneth L. DeHart, MD, FACEP**

RESOLVED, That the American College of Emergency Physicians remembers with gratitude and honors the many contributions made by Kenneth L. DeHart, 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 Kenneth L. DeHart, 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 South Carolina and the United States.

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

**Resolution 4 Legacy Fellows – Housekeeping Change – Bylaws Amendment**

RESOLVED, That the ACEP Bylaws Article V – ACEP Fellows, Section 2 – Fellow Status, be amended to read:

> "Fellows shall be authorized to use the letters FACEP in conjunction with professional activities. **Members previously designated as ACEP Fellows under any prior criteria shall retain Fellow status.** Maintenance of Fellow status requires continued membership in the College. Fees, procedures for election, and reasons for termination of Fellows shall be determined by the Board of Directors.

*Action:* The Bylaws were updated.

**Resolution 6 Assuring Safe and Effective Care for Patients by Senior/Late Career Physicians (as amended)**

RESOLVED, That the ACEP Board of Directors create a task force to study issues specific to Senior/Late Career Emergency Physicians. The task force shall make recommendations regarding identified issues to the Board, which shall deliver an update on this matter to the 2017 ACEP Council.

*Action:* The American Board of Emergency Medicine conducted a substantial review of cognitive skill and physician age and used data from their ConCert exam. An ACEP/ABEM Task Force on the Aging Physician was appointed and their final report was accepted by the ACEP Board of Directors at their October 26, 2017 meeting.

**Resolution 7 Diversity in Emergency Medicine Leadership (as amended)**

RESOLVED, That the ACEP Board of Directors work in a coordinated effort with the component bodies of the Council to develop strategies to increase diversity within the Council and its leadership and report back to the Council on effective means of implementation.

*Action*: The resolution was addressed through the work of the Diversity & Inclusion Task Force, the Leadership Development Advisory Group (LDAG), the Leadership Diversity Task Force (LDTF), and the National/Chapter Relations Committee. The majority of ACEP's 26 committees were assigned objectives in the 2016-17 committee year to address diversity and inclusion. In January 2018, the Council Steering Committee approved changes to the Candidate Campaign Rules recommended by the LDTF and in May 2018 agreed to cosponsor two resolutions for the 2018 Council: 1) Codifying the LDAG in the Council Standing Rules, and 2) Nominating Committee Revision to Promote Diversity. The Board of Directors also agreed to cosponsor the resolutions. In May 2018, the Board of Directors approved two recommendations from the LDTF: 1) collecting demographic data, including the proportion

of underrepresented populations within ACEP's overall membership and leadership (including the Board of Directors, Council, sections, and committees) and including, but not limited to, domains such as gender, race, ethnicity, sexual orientation, and age; and 2) reviewing diversity data every three years and presenting the findings to the ACEP Council to determine whether efforts have been effective in promoting increased diversity within ACEP leadership and to inform future initiatives to increase diversity. The Board of Directors accepted the final report from the Diversity & Inclusion Task Force in September 2018 and the final report of the Leadership Diversity Task Force in January 2019. The Diversity, Inclusion, & Health Equity Section continues to work on the strategies developed by the Diversity & Inclusion Task Force.

**Resolution 9 Accreditation Standards for Freestanding Emergency Centers**

RESOLVED, That ACEP explore the possibility of setting ACEP-endorsed minimum accreditation standards for freestanding emergency centers; and be it further

RESOLVED, That ACEP explore the feasibility of ACEP serving as an accrediting (not licensing) entity for freestanding emergency centers, where they are allowed by state law.

*Action*: A task force was appointed with representation from the Freestanding Emergency Centers Section. A report with the following recommendations was provided to the Board in May 2018: 1) Develop an obtainable standard for FECs aspiring to achieve ACEP Accreditation. 2) Establish protocols for FECs obtaining ACEP Accreditation related to staffing, laboratory and imaging services, documentation, quality improvement (QI), billing practicing, EMS integration, public education, signage, and ethics. 3) Establish a national set of standards for FECs that could be referred to as a unified national resource for legislators, insurers, and physicians. 4) Create standards for ACEP Accreditation that will be beneficial to patients, emergency physicians, and ACEP. The Board accepted the task force report for information. The Board requested additional information about The Joint Commission's accreditation of FECs. At their September 28, 2018, meeting the Board directed the task force to explore models and develop a business plan. In April 2019, the Board approved partnering with the Center of Improvement in Healthcare Quality (CIHQ) to provide accreditation services for FECs. The contracts have been signed and the application process for FEC accreditation will begin soon.

**Resolution 11 CMS Recognition of Independently Licensed Freestanding Emergency Centers**

RESOLVED, That ACEP lobby to MedPAC and CMS that all licensed emergency centers, regardless of being hospital based or independent, be subject to the same regulations and payment for the technical component of care provided; and be it further

RESOLVED, That ACEP suggest the AMA lobby MedPAC and CMS that all licensed emergency centers, regardless of being hospital based or independent, be subject to the same regulations and payment for the technical component of care provided.

*Action*: Assigned the first resolved to Public Affairs staff to include in advocacy and regulatory initiatives. Assigned the second resolved to the AMA Section Council on Emergency Medicine.

ACEP staff discussed this issue with MedPAC's Executive Director and with the director of CMS' outpatient payment program. Both individuals reiterated the methods CMS uses to collect cost data as the basis for adjusting Medicare reimbursements. This same approach was used several years ago, which resulted in Type A and Type B emergency department designations based on 24/7 emergency department versus less than 24/7 availability for reductions in the "technical" (facility payments in the Outpatient Prospective Payment System) for Type B facilities.

In October 2017, the AMA Section Council on Emergency Medicine recommended to the Board of Directors that no further action be taken on the resolution at this time. The Board did not adopt the recommendation and discussed the resolution at their December 2017 retreat. On December 14, 2017, ACEP sent a letter to the Chairman of the Commerce, Justice, and Science Subcomittee 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 115th 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.

ACEP's Legislative & Regulatory Priorities for the First Session of the 116th Congress also included these initiatives.

**Resolution 13 ED Boarding and Overcrowding is a Public Health Emergency (as amended)**

RESOLVED, That ACEP request that the Secretary of the Department of Health and Human Services (HHS) under section 319 of the Public Health Service (PHS) Act determines that emergency department boarding and hallway care is an immediate threat to the public health and public safety; and be it further

RESOLVED, That ACEP work with the United States Department of Health and Human Services, the United States Public Health Service, The Joint Commission, and other appropriate stakeholders to determine the next action steps to be taken to reduce emergency department crowding and boarding with a report back to the ACEP Council at the Council's next scheduled meeting; and be it further

RESOLVED, That ACEP publicly promote the following as sustainable solutions to hospital crowding which have the highest impact on patient safety, hospital capacity, ICU availability, and costs:

1. Smoothing of elective admissions as a mechanism for sustained improvement in hospital capacity.
2. Early discharge strategies (e.g., 11:00 am discharges, scheduled discharges, staggered discharges) as a mechanism for sustained improvement in hospital capacity.
3. Enhanced weekend discharges as a mechanism for sustained improvement in hospital capacity.
4. The requirement for a genuine institutional solution to boarding when there is no hospital capacity, which must include both providing additional staff as needed AND redistributing the majority of ED boarders to other areas of the hospital.
5. The concept of a true 24/7 hospital.

*Action*: Assigned first resolved to Public Affairs staff to include in advocacy initiatives and the third resolved to the Public Relations Committee to develop messaging.

ACEP continues to work with HHS and the appropriate committees of jurisdiction to identify emergency department boarding solutions, which include a variety of options. This issue was addressed specifically in comment letters responding to the 2018 proposed Medicare Physician Fee Schedule and the 2018 proposed Outpatient Prospective Payment System rules. ACEP met again with The Joint Commission in June 2017 and with other stakeholders to address and eliminate boarding in the ED.

Regarding the second resolved, in June 2016, the Board reviewed the updated information paper, "Emergency Department Crowding High-Impact Solutions" The Emergency Medicine Practice Committee and representatives from the Emergency Nurses Association, the Society of Emergency Medicine Physician Assistants, and the American College of Osteopathic Emergency Physicians collaborated on the revisions. ACEP has continued to hold meetings with The Joint Commission and other organizations about boarding.

The Public Relations Committee updated ACEP's crowding and boarding messaging to include the solutions proposed in the resolution. Boarding solutions were promoted to news media organizations, including WLOS-TV in Ashville, NC, which received ACEP's journalism award, an Emmy, and an Edward R. Murrow award.

ACEP sponsored the first Hospital Flow Conference in Boston, MA in May 2017.The conference focused on improving hospital efficiency, capacity, and flow and provided participants with the knowledge and tools needed to eliminate ED boarding, improve hospital capacity, enhance patient safety, shorten length of stay, and improve patient and staff satisfaction. The processes discussed do not add cost or staff, are associated with significant and sometimes dramatic savings to the institution and focus on a small number of practically proven key processes that can dramatically improve overall hospital capacity. The conference provided an introduction to these processes, followed by workshops to discuss the practical details, both procedural and political, in implementing institutional change. The faculty included individuals who have had firsthand experience in implementing these processes at their own institutions. A second Hospital Flow Conference was held July 25, 2018 and was cosponsored by the American Hospital Association. Crowding and boarding resources are available on ACEP's web site.

**Resolution 14 Development & Application of Dashboard Quality Clinical Data Related to the Management of Behavioral Health Patients in EDs (as amended)**

RESOLVED, That the ACEP promote the development and application of throughput quality data measures and dashboard reporting for behavioral health patients in EDs; and be it further

RESOLVED, That ACEP endorse integration of a dashboard for reporting and tracking of behavioral health patients boarding in EDs in electronic health record systems as a means for linking to broader priority systems, for communicating the impact of boarded behavioral health patients, and to further collaborate with all appropriate health care and government stakeholders.

*Action*: Assigned to the Quality & Patient Safety Committee. In June 2017, the Board approved the committee's recommendation to develop a toolkit for reporting of behavioral health patients that can be implemented independently in Emergency Departments. The Clinical Emergency Department Registry (CEDR) currently has dashboard functionality and the ED throughput measures are included in the registry and reportable to CMS for the Quality Payment Program (QPP). CMS currently collects data on CMS OP-18c measure for arrival to ED departure time for psychiatric and mental health patients and CMS ED-2c measure for admit decision to ED departure time for psychiatric and mental health patients. The Quality Improvement & Patient Safety (QIPS) Section worked on an ACEP-funded grant "Best Practices for Reducing Behavioral Health Patient Length of Stay in the Emergency Department White Paper." The paper addresses issues pertinent to the length of stay of behavioral health patients in the ED and describe best practices to reduce length of stay. The toolkit is still in development. A literature review was conducted, references compiled, and the writing phase is underway.

**Resolution 15 Enactment of Narrow Networks Requirements (as amended)**

RESOLVED, That ACEP shall create a study of the impact of narrow networks laws and potential solutions that address balance billing issues without increasing the burden on the patient; and be it further

RESOLVED, That ACEP dedicate resources and support to ensure any proposed legislation regarding narrow networks protects fair payment for emergency medical care.

*Action*: Assigned to Public Affairs staff to discuss with ACEP's health policy consultants and to Chapter & State Relations staff for recommendations.

Two bills were introduced in Congress, the "End Surprise Billing Act" (H.R. 817/S. 284), which would limit how much an out-of-network hospital or provider could be reimbursed for their services to the in-network or participating provider rate and prohibit balance billing. ACEP opposed these bills.

The "Patient Freedom Act" (S. 191), was also introduced. It sought to limit reimbursement for emergency medical services for individuals with a Health Savings Account to the "cash price" for these services or 85% of the usual, customary, and reasonable (UCR) charge. ACEP worked to modify the language to the 85th percentile (not percent) of UCR.

In June 2017, the ACEP Board of Directors approved model legislation for payment of out-of-network services, which was prepared by the ACEP/EDMA Joint Task Force on Reimbursement. The model legislation includes a provision for payment directly to the provider. The model legislation was shared with chapters and is important for state legislatures that are considering out-of-network and balance billing legislation and look to emergency medicine for guidance.

The Public Relations Committee developed a "Fair Coverage" campaign about out-of-network issues, which counters health insurance industry statements about "surprise billing." The campaign focuses on coverage for emergency patients, not payment for physicians. Committee members participated in a "letters to the editor campaign" promoting ACEP's key fair coverage messages and participated as cast members of ACEP's parody Cigna video. The video served to promote ACEP's fair coverage campaign messages and generated more than 300,000 views on Facebook and YouTube and resulted in a meeting with Cigna. The messaging was tested with focus groups consisting of policymaker audiences.

Network adequacy and fair payment for out of network services was a constant emphasis of state advocacy in 2016-17. State legislation related to network adequacy was included in the legislative tracking reports provided to chapters. Staff also participated in meetings and communications with other hospital based specialties about proposals regarding network adequacy and the sufficiency of efforts by regulators to enforce existing laws.

The AMA adopted a resolution in June 2017 that addresses these issues and 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) 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 will discuss 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. The lawsuit is still pending.

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 16 Freestanding Emergency Centers as a Care Model for Maintaining Access to Emergency Care in Underserved and Rural Areas of the U.S. (as amended)**

RESOLVED, That ACEP develop a report or information paper analyzing the use of Freestanding Emergency Centers as an alternative care model to maintain access to emergency care in areas where Emergency Departments in Critical Access and Rural Hospitals that have closed or are in-the process of closing.

*Action*: In 2015, Sen. Chuck Grassley's (R-IA) office developed a paper outlining the unique challenges rural hospitals face and the need to protect emergency medical services in these rural communities. Based on the findings of the white paper, ACEP worked with Sens. Grassley, Amy Klobuchar (D-MN), and Cory Gardner (R-CO) to develop legislation (REACH Act) that would allow a Critical Access Hospital (CAH) to voluntarily convert to a new category of hospital, the Rural Emergency Hospital (REH), if it eliminated all inpatient services and maintained 24-hour emergency medical care, among other things. ACEP met with Senator Grassley's health legislative assistant and health policy fellow on January 10, 2017, to discuss ACEP's positions heading into ACA reform and the REACH Act. Senator Grassley re-introduced the bill, S. 1130, in the first session of the 115th Congress.

On December 14, 2017, ACEP sent a letter to the Chairman of the Commerce, Justice, and Science Subcomittee 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 115th 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.

ACEP's Legislative & Regulatory Priorities for the First Session of the 116th Congress also included these initiatives.

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 contains specific language to protect professional-side reimbursement by Medicare at full physician fee schedule amounts at all acuity levels and will also bring the facilities under federal EMTALA requirements.

**Resolution 18 Opposition to CMS Mandating Treatment Expectations (as amended)**

RESOLVED, That ACEP work with CMS regarding mandated reporting standards that may result in harm to patients without the recognition of evidence based care of individual patients; and be it further

RESOLVED, That ACEP actively communicate to members and hospitals the dangers that quality indicators could present harm to potential patients, and the importance of physician autonomy in treatment.

*Action*: Assigned first resolved to Public Affairs staff to include in federal advocacy initiatives. Assigned second resolved to the Public Relations Committee to develop messaging.

A similar resolution was submitted to the AMA from ACEP members. It was referred to the Board of Trustees and adopted as policy.

**Development of Quality Measures with Appropriate Exclusions and Review Processes H-450.927**

1. Our AMA will advocate for quality measures, including those in the Hospital Inpatient Quality Reporting Program, to have appropriate exclusions to ensure patient and clinical differences are accounted for and do not interfere with clinical decision making, and for denominators of quality measures to be appropriately defined to ensure patients for whom the treatment may not be appropriate are adjusted for or excluded.
2. Our AMA will advocate for CMS to allow for any proposed quality measures to be reviewed by the appropriate medical specialty societies prior to adoption.

**Resolution 19 Health Care Financing Task Force (as amended)**

RESOLVED, That ACEP create a Health Care Financing Task Force as originally intended to study alternative health care financing models, including single-payer, that foster competition and preserve patient choice and that the task force report to the 2017 ACEP Council regarding its investigation.

*Action*: A task force was appointed in June 2017. The name was changed to "Single-Payer Task Force" to differentiate it from the previously appointed Health Care Financing Task Force that has focused on alternate payment models. The task force examined the essential elements of a health care system that should be funded by the US citizens through the federal government and potential supplemental health insurance plans to cover other benefits. The Board of Directors accepted the final report from the task force at their September 28, 2018, meeting and it was distributed to the Council. The 2018 Council Town Hall Meeting topic was "Single-Payer: Has the Time Finally Arrived?" The task force report served as a foundation for the discussion.

**Resolution 20 Support & Advocacy for 24/7 Hyperbaric Medicine Availability**

RESOLVED, That the American College of Emergency Physicians work with the Undersea & Hyperbaric Medical Society (UHMS) and the Divers Alert Network (DAN) to support and advocate for improved 24/7 emergency hyperbaric medicine availability across the United States to provide timely and appropriate treatment to patients in need.

*Action*: Assigned to Public Affairs staff to include in advocacy initiatives, in collaboration with UHMS and DAN.

ACEP supported a legislative effort to authorize the Department of Defense to provide hyperbaric oxygen therapy (HBOT) to service members with post-traumatic stress disorder (PTSD) or traumatic brain injuries (TBIs) as part of the FY 18 National Defense Authorization Act. The language was included in the House-approved version of the bill (H.R. 2810), but not its Senate counterpart. Based on projections by the Congressional Budget Office (CBO) of what it would cost to implement this treatment option at the roughly 50 military facilities that could house such equipment, the Department of Defense did not offer this service.

**Resolution 21 Best Practices for Harm Reduction Strategies**

RESOLVED, That ACEP develop guidelines for harm reduction strategies with health providers, local officials, and insurers for safely transitioning Substance Use Disorder patients to sustainable long-term treatment programs from the ED; and be it further

RESOLVED, That ACEP provide educational resources to ED providers for improving direct referral of Substance Use Disorder patients to treatment.

*Action*: Assigned to the Emergency Medicine Practice Committee and the Public Health Committee.

Both committees developed alcohol screening and brief intervention in the ED resources and opioid resources that are available on the ACEP Website. Other resources include the Sobering Centers and "Alcohol Screening in the ED" information papers. ACEP has multiple policy statements that address alcohol and substance abuse that are available on the ACEP Website..

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.

**Resolution 22 Court Ordered Forensic Evidence Collection in the ED**

RESOLVED, That ACEP study the moral and ethical responsibilities of emergency physicians within the context of court-ordered forensic collection of evidence in the context of patient refusal of consent, and if appropriate, develop policy to support emergency physicians' professional responsibilities when in conflict with court-ordered forensic collection of evidence and or medical treatment.

*Action*: Assigned to the Ethics Committee and the Medical-Legal Committee. The committees collaborated to revise the policy statement "Law Enforcement Information Gathering in the ED."

**Resolution 23 Medication Assisted Therapy for Patients with Substance Use Disorders in the ED (as amended)**

RESOLVED, That ACEP review the evidence on ED-initiated treatment of patients with substance use disorders to provide emergency physician education; and be it further

RESOLVED, That ACEP support, through reimbursement and practice regulation advocacy, the availability and access of novel induction programs from the Emergency Department.

*Action*: Assigned to the Emergency Medicine Practice Committee and the Public Health & Injury Prevention Committee. The Public Health & Injury Prevention Committee prepared an information paper on Medication Assisted Therapy.

The Emergency Medicine Practice Committee compiled resources on opioid counseling and reversal agents. The committee also compiled information on nine alternatives to opioids for use in the ED and developed a web-based application point-of-care tool.

Comprehensive list of work ACEP has done regarding opioids and Medication Assisted Therapy:

- MAT Waiver training at *ACEP18, LAC19, and ACEP19.*
- The ACEP Emergency Quality (E-QUAL) Network is a CMS funded Support and Alignment Network of the Transforming Clinical Practice Initiative that recently launched the **E-QUAL Network Opioid Initiative**. The aim for this initiative includes helping EDs to implement treatment options to opioids for pain, improve opioid prescribing and adopt harm reduction strategies such as naloxone prescribing and MAT. More information can be found on the ACEP E-QUAL Opioid Initiative Website. Many education resources are available at no cost including presentations and webinars on topics such as:
  - Alternatives to Opioids
  - Safe Opioid Prescribing
  - Treating Patients with Opioid-Use Disorder (OUD) in the ED
  - Treating OUD in the ED: Cutting-Edge Care
  - Setting Up a Buprenorphine Program in the ED
- ACEP has developed a point of care, beside tool to support clinicians as they utilize alternate pain treatments, called the **MAP tool.**
- **Podcasts** on ACEP Frontline, hosted by Dr. Ryan Stanton, including:
  - Eric Ketcham, MD and Kathryn Hawk, MD – MAT 3-day Rule

- Dr. Ryan Stanton discusses the MAT 3-Rule for prescribing buprenorphine for the opioid use disorder patient. Recorded live at *LAC18*, ACEP experts Dr. Eric Ketcham and Dr. Kathryn Hawk talk about how helping the patient with opioid withdrawal symptoms, they are more likely to continue on a path to help and recovery.
- https://soundcloud.com/acep-frontline/eric-ketcham-md-and-kathryn-hawk-md-mat-3-rule
    - Medication Assisted Treatment EMPRN Survey Results
- Dr. Ryan Stanton discusses Medication Assisted Treatment as a for patients with opioid use disorder. ACEP experts Dr. Eric Ketcham and Dr. Kathryn Hawk share the results of a survey from the Emergency Medicine Practice Research Network (EMPRN) about current practices for patients with an addiction disorder.
- https://soundcloud.com/acep-frontline/eric-ketcham-md-and-kathryn-hawk-md-emprn-medication-assisted-treatment-survey-results
    - ALTO Update, LAC18
        - Dr. Ryan Stanton talks to Dr. Alexis LaPietra, DO, FACEP, and Dr. Mark Rosenberg, DO, FACEP, about being better stewards of opioids and the emergency departments role in the opioid crisis. They discuss innovations in pain management and how to safely and more effectively treat the patient without opioids. At St Joseph Regional Medical Center in NJ, they have seen an 82% reduction in the prescriptions of opioids using ALTO (Alternatives to Opioids). “Its real simple, if you’re not part of the solution, you’re part of the problem.”
        - https://soundcloud.com/acep-frontline/alexis-lapietra-do-facep-and-mark-rosenberg-do-facep-alto-update-lac18
- ACEP also has multiple **publications** in *Annals of Emergency Medicine* (which has more than 38,000 subscribers) and *ACEP Now* (which have 40,000 BPA audited subscribes) including:
    - Opportunities for Prevention and Intervention of Opioid Overdose in the Emergency Department.
    - Identification, Management, and Transition of Care for Patients With Opioid Use Disorder in the Emergency Department.
    - Sometimes Opioids Are Necessary
    - Buprenorphine Explained, And Opioid Addiction Treatment Tips
- ACEP has also developed and launched numerous **educational products**, including those providing free opportunities for Continuing Medical Education (CME), such as:
    - Opioid Wave I – Free CME
        - Introduction
        - Harm Reduction
        - Treating Opioid Use Disorder in the ED
    - Solving the Pharmacological Mystery of Buprenorphine - June 2018 (CME Now Article - FREE - 1.0 CME)
    - CME Now: Why Addiction is Not Just a “Tox” Problem (Article - FREE - 1.0 CME)

**Resolution 24 Mental Health Boarding Solutions (as amended)**

RESOLVED, That ACEP partner with stakeholders including the American Psychiatric Association, the Substance Abuse and Mental Health Services Administration, the National Alliance of Mental Illness, and other interested parties, to develop model practices focused on building bed capacity, enhancing alternatives, and reducing the length of stay for mental health patients in EDs; and be it further

RESOLVED, That ACEP develop and share these ED mental health best practices designed to reduce ED mental health visits, reduce ED mental health boarding, and improve the overall care of patients who board in our EDs; and be it further

RESOLVED, That ACEP work with the Agency for Healthcare Research and Quality and other appropriate stakeholders to develop community and hospital based benchmark performance metrics for ED mental health flow and psychiatric facilities acceptance of patients.

*Action*: This resolution is being addressed primarily through the work of the Coalition on Psychiatric Emergencies (managed by ACEP). The Coalition stemmed from a psychiatric emergency summit held in December 2014 comprised of multiple stakeholder groups from emergency medicine, emergency psychiatry, and patient advocacy to improve the treatment of psychiatric emergencies for patients and providers. The overarching goals of the Coalition are to bring awareness and recognition to the national challenges surrounding psychiatric emergencies and work collaboratively to address these problems and create change. There are four working groups (Education, Research,

Operations/Boarding, Advocacy) each with their own objectives and tasks. A repository of resources is available on the Emergency Medicine Foundation Website.

The Coalition sponsored a research consensus conference on December 7, 2016, with experts from around the country, on the evidence that rapid treatment of patients with acute mental health disorders leads to better patient outcomes. The goal of the conference was to address underlying questions related to time to treatment, and if early intervention can affect patient outcomes. Breakout sessions included: acute psychosis, depression and suicidality, substance use disorder and agitation in the elderly. Manuscripts are being developed and will be sent to peer reviewed publications for consideration.

The Coalition worked with ACEP's Emergency Medicine Practice Committee to develop the information paper, Practical Solutions to Boarding of Psychiatric Patients in the Emergency Department, on best practices for boarding patients with mental health disorders. A podcast was developed and is available on the ACEP website.

The Clinical Policies Committee revised the Clinical Policy: Critical Issues in the Diagnosis and Management of the Adult Psychiatric Patient in the Emergency Department and it was approved by the Board in January 2017.

In June 2017, the Board approved the Quality & Patient Safety Committee's recommendation to develop a toolkit for reporting of behavioral health patients that can be implemented independently in Emergency Departments. The Clinical Emergency Department Registry (CEDR) currently has dashboard functionality and the ED throughput measures are included in the registry and reportable to CMS for the Quality Payment Program (QPP). CMS currently collects data on CMS OP-18c measure for arrival to ED departure time for psychiatric and mental health patients and CMS ED-2c measure for admit decision to ED departure time for psychiatric and mental health patients. The Quality Improvement & Patient Safety (QIPS) Section worked on an ACEP-funded grant titled "Best Practices for Reducing Behavioral Health Patient Length of Stay in the Emergency Department White Paper." The paper addresses issues pertinent to the length of stay of behavioral health patients in the ED and describe best practices to reduce length of stay. The section continues to work on developing the toolkit.

**Resolution 25 Military Medics Integration into Civilian EMS (as amended)**

RESOLVED, That the American College of Emergency Physicians, in order to promote high quality, safe, and efficient emergency medicine care, support current state and federal initiatives for accelerated training to allow transition of current military pre-hospital personnel to the civilian sector and which recognize the current level of training and experience of military medical specialist providers in our nation's service.

*Action*: Assigned to the EMS Committee to develop a policy statement and to Public Affairs and State Legislative staff to include in federal and state advocacy initiatives.

The EMS Committee worked with several members with past military experience as well as representatives from the Government Services Chapter to develop a draft policy statement. The committee also reviewed current projects underway that are supported by the National Association of State EMS Officials (NASEMSO), the National Association of EMS Educators (NAEMSE), the National Association of EMTs (NAEMT) and the National Registry of EMT's (NREMT) on military to civilian EMS transition to ensure ACEP's policy is consistent with these initiatives. The Board approved the policy statement "Support for Transition of Military Medics into Civilian EMS Careers" in June 2017. On September 28, 2018, The Board approved the policy statement "Military Considerations in Emergency Medical Services (EMS)" and rescinded two existing policy statements ("Military Emergency Medical Services" and "Support for Transition of Military Medics into Civilian EMS Careers") that were superseded by this new comprehensive policy statement.

**Resolution 26 Opposition of Exclusive Imaging Contracts Limiting Clinical Ultrasound Use and Billing by Emergency Physicians (as amended)**

RESOLVED, That ACEP supports users of emergency ultrasound with a statement declaring opposition to the use of exclusive imaging contracts to limit the use of emergency ultrasound by non-radiology specialists and the billing for such services; and be it further

RESOLVED, That ACEP continue to support emergency physicians working to develop and implement emergency ultrasound programs who face opposition in hospitals where radiologists or others hold exclusive imaging contracts.

*Action*: Assigned to the Emergency Medicine Practice Committee and the Emergency Ultrasound Section to develop a policy statement. The Board approved the policy statement " Advocacy for Emergency Department Ultrasound Privilege and Practice" in June 2017.

**Resolution 27 Pediatric Surgery Centers**

RESOLVED, That ACEP dispute the current Pediatric Surgery Center Guidelines and work with appropriate stakeholders to amend the guidelines; and be it further

RESOLVED, That ACEP reaffirm the Guidelines for the Care of Children in the Emergency Department as the standard for pediatric emergency care.

*Action*: Assigned to the Pediatric Emergency Medicine Committee. The committee was assigned objective in 2016-17 to work with the Pediatric Surgery Society to revise the guidelines.

ACEP discussed concerns with the leadership of the Pediatric Surgical Society and the American College of Surgeons (ACS) in March 2017. ACEP met with leaders of the American Academy of Pediatrics (AAP) during the 2017 ACEP Advanced Pediatric Emergency Medicine Assembly. AAP indicated they were not aware of the concerns prior to this meeting and agreed to review their processes on endorsement of documents and involve ACEP in future revisions of the Pediatric Surgery Center Guidelines. The ACEP Board had further discussions on this issue at their June 2017 meeting and a letter was sent to ACS on August 28, 2017. ACS responded on September 25, 2017, providing additional background about development of the Guidelines and agreed to include representation from ACEP in future revisions.

**Resolution 28 Reimbursement for Opioid Counseling**

RESOLVED, That ACEP develop a strategy to seek reimbursement for counseling on safe opiate use, reversal agent instruction, and drug abuse counseling for our patients; and be it further

RESOLVED, ACEP develop a toolkit and education for implementing safe opioid use, reversal agent instruction, and drug abuse counseling in our Emergency Departments.

*Action*: Assigned first resolved to the Coding & Nomenclature Committee. Assigned second resolved to the Emergency Medicine Practice Committee.

The Emergency Medicine Practice Committee compiled resources on opioid counseling and reversal agents.. The resources were reviewed by the Board in October 2017 and are available on the ACEP Website. The Coding & Nomenclature Advisory Committee developed a CPT code change proposal developed describing opioid counseling, including a discussion of risk and symptoms of overdose and the appropriate steps to discuss should one of these occur. The proposal was submitted to the CPT Editorial Panel for review at the September 2017 meeting. Unfortunately, the proposal was not adopted.

**Resolution 29 The Opioid Epidemic – A Leadership Role for ACEP (as amended)**

RESOLVED, That ACEP advocates and supports the training and equipping of all first responders, including police, fire, and EMS personnel to use injectable and nasal spray Naloxone; and be it further

RESOLVED, That ACEP advocates and supports that appropriately trained pharmacists be able to dispense Naloxone without prescription; and be it further

RESOLVED, That ACEP develop a comprehensive policy on the prevention and treatment of the opioid use disorder epidemic including innovative treatments.

*Action*: Assigned to the Emergency Medicine Practice Committee (EMPC) to review current policies and resources and determine if revisions or additional resources were needed. The following resources and activities were identified:

- 2012 "Clinical Policy: Critical Issues in the Prescribing of Opioids for Adult Patients in the Emergency Department." The Clinical Policies Committee has started work on a revision to this policy that will be completed in 2020.
- "Naloxone Prescriptions by Emergency Physicians" policy statement approved October 2015.
- "Naloxone Access and Utilization for Suspected Opioid Overdoes" policy statement approved June 2016.
- "Optimizing the Treatment of Acute Pain in the Emergency Department" policy statement approved April 2017.
- ACEP Website Resources: see comments on Resolution 21 and 23.
- 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.
- State Legislative/Regulatory Committee 2016-17 objective expanding and updating previous work to "research and report on successful approaches to opioid prescribing legislation impacting EDs, with a focus on state mandates related to PDMP's, the use of clinical guidelines, programs with state agencies (e.g., "warm hand off" programs and expansion of local treatment programs) and the availability of naloxone." A panel discussion was held at the 2017 Leadership & Advocacy Conference that featured

creative responses led by ACEP members to the opioid crisis in Paterson, NJ and northwestern NM. The committee is developing a tool kit of legislative resources that will be available on ACEP's website.

- State legislative staff tracks legislation related to opioid prescribing, PDMP's, and the availability of naloxone, and provides that information to state chapters.

In April 2017, the Board approved the committee's recommendation to take no further action and concurred that the intent of the resolution was addressed.

**Resolution 31 Opposing the Development of Sublingual Sufentanil (as amended)**

RESOLVED, That ACEP actively oppose the FDA approval of sublingual formulations of synthetic fentanyl analogs, including sufentanil, via direct testimony or other means that the Board may find suitable.

*Action*: Assigned to the EMS Committee to obtain more information and provide a recommendation to the Board. The resolution was initiated because the pharmaceutical company contacted EMS providers and indicated that EMS supported the development. A letter was sent to the FDA in February 2017 opposing the use of sublingual fentanyl by EMS and in civilian emergency departments. ACEP leaders had multiple discussions with the pharmaceutical company that developed the drug to inform them of ACEP's concerns.

## Referred Resolutions

**Resolution 8 Opposition to Required High Stakes Secured Examination for Maintenance of Certification**

RESOLVED, That ACEP work with members, other interested organizations, and interested certifying bodies to develop reasonable, evidence based, cost-effective, and time sensitive methods to allow individual practitioners options to demonstrate or verify their content knowledge for continued practice in Emergency Medicine.

*Action*: The officers of ACEP and ABEM have met multiple times since the 2016 Council meeting to discuss these issues. ACEP relayed the growing discontent among some ACEP members with the Maintenance of Certification (MOC) process and particularly the high-stakes ConCert exam. ABEM explored alternative approaches to physician assessment. This exploration included detailed analyses of every pilot project in which other specialty boards are involved. ABEM informed ACEP that it participated in direct discussions and research consortia with other American Board of Medical Specialties (ABMS) specialty boards to understand the strengths and weaknesses of alternative forms of longitudinal assessment. Unfortunately, the pilots of other specialty boards are so new that outcomes or validity data are extremely limited. ABEM held a special Board meeting in September 2017 to explore modifications and options to the ConCert examination and held a national ConCert Summit October 2-3, 2017, that included representatives from every emergency medicine organization to explore modifications and options to the ConCert examination. ABEM wants to keep the ConCert examination as an option and decrease the anxiety, cost, and consequence of the ConCert examination as an assessment option for some diplomates. ACEP, along with dozens of other specialty societies and state medical societies met with ABMS and its certifying boards in early December 2017 to discuss concerns regarding both MOC and the high-stakes exams.

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 10 Criminal Justice Reform – National Decriminalization of Possession of Small Amounts of Marijuana for Personal Use**

RESOLVED, That ACEP adopt and support a national policy that the possession of small amounts of marijuana for personal use be decriminalized; and be it further

RESOLVED, That ACEP submit a resolution to the American Medical Association for national action on decriminalization of possession of small amounts of marijuana for personal use.

*Action*: Originally assigned to the Ethics Committee, Medical-Legal Committee, and the Public Health & Injury Prevention Committee to review and provide a recommendation to the Board regarding further action on the

resolution. The resolution was subsequently assigned to the Emergency Medicine Practice Committee since they were also assigned Referred Resolution 30(16) Treatment of Marijuana Intoxication in the ED. After extensive discussion, there was not a consensus on a recommendation to the Board. A two-question survey was developed and shared with the four committees identified to review this resolution. The questions asked were: 1) Should ACEP adopt a policy supporting decriminalization of marijuana? and 2) Should ACEP submit a resolution to the AMA in support of decriminalization? While approximately 67% of the respondents were opposed to ACEP adopting a policy in favor of decriminalization of marijuana, all but one of the comments were in opposition. Others commented they were in favor of decriminalization of position of small amounts of marijuana but did not believe it was an issue for ACEP to address. After review of the survey results and consideration of the comments, the Emergency Medicine Practice Committee recommended that no further action be taken on the resolution. The Board approved the committee's recommendation in June 2017.

**Resolution 12 Collaboration with Non-Medical Entities on Quality and Standards (as amended)**

RESOLVED, That the American College of Emergency Physicians reach out and build coalitions with non-medical organizations involved in developing non-clinical quality standards that include an evaluation of the cost of providing the highest level quality of care.

*Action*: Assigned to the Quality & Patient Safety Committee. In June 2017, the Board approved the committee's recommendation to support new and existing partnerships with non-medical organizations involved in developing quality standards including: 1) renewing membership in the National Quality Forum; 2) continue participation in Technical Expert Panels (TEP) that developing quality measures for CMS; and 3) conduct outreach and communications with international associations for emergency physicians, such as the Canadian Association of Emergency Physicians (CAEP) and other organizations within the International Federation of Emergency Medicine (IFEM), for international visibility and collaboration for ACEP.

**Resolution 17 Insurance Collection of Beneficiary Deductibles (as amended)**

RESOLVED, That ACEP add to its legislative agenda as a priority to advocate for health care insurance companies to be required to collect patients' deductibles for EMTALA-related care after the insurance company pays the physician; and be it further

RESOLVED, That ACEP submit a resolution to the American Medical Association House of Delegates that advocates for a national law requiring health care insurance companies to collect patient's deductibles after the insurance company pays the physician for EMTALA related care.

*Action*: Assigned to the Federal Government Affairs Committee to review and provide a recommendation to the Board regarding further action on the resolution. The committee did not support adding this issue to the legislative and regulatory priorities given the scope of work on initiatives related to the repeal and/or replacement of the Affordable Care Act. The Board approved the committee's recommendation at their October 26, 2017, meeting.

The AMA adopted a similar resolution in November 2016. The AMA Board of Trustees was directed to make a decision and provide a report at the June 2017 AMA Annual meeting. At their April 2017 meeting, the AMA Board of Trustees determined:

> Health Insurance Companies Should Collect Deductible From Patients After Full Payment to Physicians – The Board received a report in response to Resolution 805-I-16 which was referred for decision at the 2016 Interim Meeting of the House of Delegates. Resolution 805, sponsored by the Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont delegations, asks our AMA to "seek federal and state legislation that requires health insurers to reimburse physicians the full negotiated payment rate for services to enrollees in high deductible plans and that the health insurers collect any patient financial responsibility, including deductibles and co-insurance, directly from the patient."
>
> Those in support of Resolution 805-I-16 argued that such legislative action was necessary to address the potential increase in bad debt as a result of patient collections becoming more challenging due to the growth in high-deductible health plans. Conversely, others expressed concern over the unintended consequences to physician practices and the larger political challenges of successfully enacting such legislation.
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> In lieu of Resolution 805-I-16, the Board voted to approve that the AMA: 1. Reaffirm Policies H-165.849, "Update on HSAs, HRAs, and Other Consumer-Driven Health Care Plans," and D-190.974, "Administrative Simplification in the Physician Practice;" 2. Engage in a dialogue with health plan representatives (e.g., America's Health Insurance Plans, Blue Cross and Blue Shield

Association) about the increasing difficulty faced by physician practices in collecting co-payments and deductibles from patients enrolled in high-deductible health plans.

In June 2017, the ACEP Board of Directors approved model legislation for payment of out-of-network services, which was prepared by the ACEP/EDMA Joint Task Force on Reimbursement. The model legislation includes a provision for payment directly to the provider. The model legislation was shared with chapters and is important for state legislatures that are considering out-of-network and balance billing legislation and look to emergency medicine for guidance.

**Resolution 30 Treatment of Marijuana Intoxication in the ED**

RESOLVED, That ACEP investigate the scope of treatment of marijuana intoxication in the ED that has legal implications; and be it further

RESOLVED, That ACEP determines if there are state or federal laws that provide guidance to emergency physicians in the treatment of marijuana intoxication in the ED; and be it further

RESOLVED, That the Board of Directors assign an appropriate committee or task force to answer clinically relevant questions that address the need to care for ED patients with possible marijuana (or other drug) intoxication; and be it further

RESOLVED, That ACEP investigate how other medical specialties address the treatment of marijuana intoxication in other clinical settings; and be it further

RESOLVED, That ACEP provide the resources necessary to coordinate the treatment of marijuana intoxication in the ED.

*Action*: Assigned to the Emergency Medicine Practice Committee, the Public Health Committee, and the State Legislative/Regulatory Committee to review and provide a recommendation to the Board regarding further action on the resolution.

A thorough analysis was conducted and in June 2017, the Board approved the committee's recommendation to take no further action on the first, second, and fourth resolveds; assign the third resolved to the Toxicology Section or other body for additional work; and for the fifth resolved, educate ED providers to document diagnosis of marijuana intoxication and make subsequent efforts to correlate the diagnosis with concerning emergent presentations, including those in high-risk populations such as children, pregnant patients, and those with mental illness. When data is available, ACEP can then focus on determining the resources needed to coordinate treatment of marijuana intoxication.