

Memorandum

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Dean Wilkerson, JD, MBA, CAE

To: ACEP Council

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

Date: September 11, 2006

Subj: Action on 2003 Resolutions

This report summarizes the actions taken by the Board of Directors on the 18 resolutions adopted by the 2003 Council. Two resolutions were referred to the Board. The Council also adopted two amendments to the Council Standing Rules. These amendments did not require adoption by the Board.

Resolution 1 Fellow Reapplication

RESOLVED, That the ACEP Bylaws, Article V – Fellowship, Section 1 – Fellow Status, be amended to read:

“Fellows of the College shall be active, life, honorary, or international members for three continuous years immediately prior to election and shall both be currently certified in emergency medicine by the American Board of Emergency Medicine, the American Osteopathic Board of Emergency Medicine, or in pediatric emergency medicine by the American Board of Pediatrics, and be and remain current members of the College. In addition, the following requirements demonstrating evidence of high professional standing must be met by candidates sometime during their professional career prior to application. ~~or reapplication.~~”; and be it further

RESOLVED, That in addition, the following paragraph in this Section will be amended to read:

~~“All current Fellows will retain their title until such time as they are required to be recertified in emergency medicine. Once members are recertified, they must provide evidence of their recertification and reapply for Fellow status providing evidence they meet the current criteria or have attained eligibility for Life Fellow status. Fellows or former~~
Fellows having demonstrated by application that they meet the criteria for Fellow status will retain their Fellow status as long as they maintain certification in emergency medicine by the American Board of Emergency Medicine, the American Osteopathic Board of Emergency Medicine, or in pediatric emergency medicine by the American Board of Pediatrics, and be and remain current members of the College.”

Action: The Bylaws were updated.

Resolution 2 Council Officer Terms

RESOLVED, That the last sentence of Article X – Officers/Executive Director, Section 10 – Speaker, of the Bylaws be amended to read: “No speaker may serve ~~more than two~~ consecutive terms.”; and be it further

RESOLVED, That the last sentence of Article X – Officers/Executive Director, Section 11 – Vice Speaker, of the Bylaws be amended to read: “No vice speaker may serve ~~more than two~~ consecutive terms.”

Action: The Bylaws were updated.

Resolution 4 ACEP Fellows with Disability

RESOLVED, That the Bylaws of the American College of Emergency Physicians be amended as follows:

ARTICLE V – FELLOWSHIP

Section 1 – Fellow Status

Fellows of the College shall be active, life, honorary, or international members for three continuous years immediately prior to election and shall both be currently certified in emergency medicine by the American Board of Emergency Medicine, the American Osteopathic Board of Emergency Medicine, or in pediatric emergency medicine by the American Board of Pediatrics, and be and remain current members of the College. **Current Fellows who develop a disability precluding recertification will be deemed to maintain the certification criteria.** In addition, the following requirements demonstrating evidence of high professional standing must be met by candidates sometime during their professional career prior to application or re-application.

1. At least three years of active involvement in emergency medicine as the physician's chief professional activity, exclusive of training, and;
2. Satisfaction of at least three of the following individual criteria during their professional career:
 - A. active involvement, beyond holding membership, in voluntary health organizations, organized medical societies, or voluntary community health planning activities or service as an elected or appointed public official;
 - B. active involvement in hospital affairs, such as medical staff committees, as attested by the emergency department director or chief of staff;
 - C. active involvement in the formal teaching of emergency medicine to physicians, nurses, medical students, out-of-hospital care personnel, or the public;
 - D. active involvement in emergency medicine administration or departmental affairs;
 - E. active involvement in an emergency medical services system;
 - F. research in emergency medicine;
 - G. active involvement in ACEP chapter activities as attested by the chapter president or chapter executive director;
 - H. member of a national ACEP committee, the ACEP Council, or national Board of Directors;
 - I. examiner for, director of, or involvement in test development and/or administration for the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine;
 - J. reviewer for or editor or listed author of a published scientific article or reference material in the field of emergency medicine in a recognized journal or book.

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

All current Fellows will retain their title until such time as they are required to be recertified in emergency medicine by the American Board of Emergency Medicine (ABEM) or the American Osteopathic Board of Emergency Medicine (AOBEM) or in pediatric emergency medicine by the American Board of Pediatrics (ABP). Once members are recertified they must provide evidence of their recertification and reapply for Fellow status providing evidence they meet the current criteria or have attained eligibility for Life Fellow status. **Current Fellows, who develop a disability precluding recertification in**

emergency medicine, may retain their title of Fellow by providing evidence of that disability to the College.

Fellows shall be authorized to use the letters FACEP in conjunction with professional activities. Fees, procedures for election, and reasons for termination of Fellows shall be determined by the Board of Directors.

Action: The Bylaws were updated.

Resolution 7 Commendation for Peter J. Jacoby, MD, FACEP

Action: A framed resolution was presented to Dr. Jacoby.

Resolution 8 Commendation for Charles F. Pattavina, MD, FACEP

Action: A framed resolution was presented to Dr. Pattavina.

Resolution 9 In Memory of Michael Venton Vance, MD, FACEP

Action: A framed resolution was given to the Arizona Chapter to present to Dr. Vance's family.

Resolution 10 Changing Payer Market

RESOLVED, That ACEP study what effect changes in the private payer market (caused by health care insurers' changes in coverage and payment policies) have on access to emergency medical services. These potential effects might include increases in premiums, co-payments, and deductibles incurred by insured individuals, as well as discounted fees to health care providers; and be it further

RESOLVED, That ACEP develop a strategy targeting the business community and insurers to address adverse effects of changes in the private payer market.

Action: Assigned to the Emergency Medicine Practice Committee, Reimbursement Committee, and Public Affairs staff to provide a recommendation to the Board regarding implementation. A subcommittee was formed to review relevant literature addressing payer-related problems and ED access. The committee prepared a report to the Board in June 2004. The Board asked for additional information to be included in the report and accepted the final report in August 2004. The report focused on the lack of evidence supporting a relationship between payer policies and ED access and the cost of conducting a credible survey. The report was distributed to the 2004 Council.

Resolution 11 The Changing Practice of Emergency Medicine

RESOLVED, That ACEP evaluate the degree to which changes in patient demographics will result in changes to emergency medicine practice, and report its findings at the 2004-05 Council meeting.

Action: Assigned to the Emergency Medicine Practice Committee. The committee divided the topics for the changing practice of emergency medicine into five areas including: demographics, workforce, liability, compensation, and emerging technologies. The Board accepted the committee's report in June 2004 and it was distributed to the 2004 Council.

Resolution 13 Helmet Laws

RESOLVED, That ACEP collaborate with NHTSA's Research and Data Collection Efforts Program on relevant issues of helmet use including morbidity, mortality, fiscal impact, and burden on healthcare systems, and provide individual chapters with this scientific database from both the state and national level; and be it further

RESOLVED, That ACEP actively continue to promote and endorse universal helmet laws for motorcycle riders by developing a task force and/or liaison to institute comprehensive efforts with NHTSA and other relevant federal agencies to provide for rider

education, political lobbying, and public information at both the federal and state levels; and be it further

RESOLVED, That ACEP actively support the development of federally legislated universal helmet laws for motorcycle riders.

Action: Assigned to the Trauma Care & Injury Control Committee, Federal Government Affairs Committee, and State Legislative/Regulatory Committee. In 2005 an amendment to the transportation bill to reinstate the Federal Universal Motorcycle Helmet Law was defeated on the floor of the Senate. ACEP's media and advocacy efforts continue to communicate support for helmet laws and assistance is also provided to chapters seeking to change state laws.

Resolution 14 HIV Testing

RESOLVED, That ACEP support rapid HIV testing of patients in instances where health care providers have had an occupational blood/body fluid exposure so as to guide treatment of exposed providers; and be it further

RESOLVED, That ACEP revise its policy, "Bloodborne Infections in Emergency Medicine," to reflect this position; and be it further

RESOLVED, That ACEP advocate for state and/or federal legislation that permits confidential testing of source patients.

Action: Assigned to the Public Health Committee. A revised policy, "Bloodborne Infections in Emergency Medicine," was adopted by the Board in April 2004. The resolution was also assigned to the Federal Government Affairs Committee, State Legislative/Regulatory Committee, Chapter and State Relations staff, and Public Affairs staff for advocacy efforts. The State Legislative/Regulatory Committee developed model state legislation, which was distributed to the chapters.

Resolution 15 Granting Clinical Privileges

RESOLVED, That the American College of Emergency Physicians revise the current policy, "Physician Credentialing and Delineation of Clinical Privileges in Emergency Medicine," to reflect that the emergency physician medical director or chief of emergency medicine acting in a manner consistent with the hospital credentialing process, should be responsible for assessing and making recommendations to the hospital's credentialing body related to the qualifications of the emergency department's physicians with respect to the clinical privileges granted to that physician.

Action: Assigned to the Emergency Medicine Practice Committee. In June 2004, the Board adopted the revised policy "Emergency Department Planning and Resource Guidelines" and the revised policy "Physician Credentialing and Delineation of Clinical Privileges." These policies reference the role of the medical director in the credentialing process.

Resolution 16 Accounts Receivable

RESOLVED, That ACEP gather information from entities that provide accounts receivable financing, disseminate the information to the ACEP membership, and provide a report to the 2004 Council.

Action: Assigned to the Emergency Medicine Practice Committee with input from the Reimbursement Committee. Due to the volatility of the lending market and events of the last few years (bankruptcy of National Century Financial Enterprises), it was determined that providing information about specific lending organizations would be of limited value. A report was developed that focused on the pros and cons of the options available for funding a new group. The Board accepted the report in June 2004 and it was distributed to the 2004 Council.

Resolution 19 Inactive Membership Eligibility

RESOLVED, That the Board of Directors amend the Guidelines for Inactive Membership Eligibility to include active duty military members deployed overseas for greater than 180 days as a result of war or other national security issues.

Action: Assigned to the Membership Committee. The guidelines were revised in November 2003.

Resolution 21 Commendation for Colin C. Rorrie, Jr., PhD, CAE

Action: A framed resolution was presented to Dr. Rorrie.

Resolution 22 Commendation for Rabbi David Applebaum, MD

Action: Two copies of the framed resolution were prepared for presentation to Dr. Applebaum's family and the hospital.

Resolution 24 "STOP Stroke" Legislation and Designation of Stroke Centers

RESOLVED, That ACEP monitor the progress of any federal stroke legislation and dedicate resources to make members of Congress aware that (1) standards of care in stroke treatment remain controversial; (2) the designation of stroke centers based on their ability/willingness to adhere to such standards of care may have many unintended negative consequences; and be it further

RESOLVED, That development of standards of care is the prerogative of the medical community and ACEP should monitor the introduction of any legislation that infringes on that right and responsibility.

Action: Assigned to the Federal Government Affairs Committee and Public Affairs staff to communicate ACEP's position and monitor legislation. S. 1064, Stroke Treatment and Ongoing Prevention Act of 2005, was introduced in the Senate in May, 2005. It is pending in the Senate Health, Education, Labor and Pension Committee.

Standing Rules Resolutions

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

Resolution 5(03) Voting Immediately

Councillors are out of order who move to "vote immediately" on a motion during or immediately following their presentation of testimony for or against that motion. The motion to "vote immediately" applies only to the immediately pending matter. Motions to "vote immediately on all pending matters" shall be considered out of order.

The opportunity for adequate testimony on both sides of the issue, for and against, must be presented before the motion to "vote immediately" is in order.

Action: The Standing Rules were updated.

Resolution 6(03) Election Procedures

Just prior to the elections, the floor will be sealed. Once the floor has been sealed, no councillor or alternate will be permitted to enter or exit the floor of the Council meeting.

Elections of the Board of Directors and Council Officers shall be by a majority vote of the councillors present and voting. Voting shall be by written or electronic ballot. A vote shall be voided if the number of invalid ballots is enough to alter the outcome (e.g., if adding the number of invalid ballots to the votes received by any candidate for the Board of Directors or Council office would change the outcome of the election, or if the total number of invalid ballots is greater than ten percent (10%) of the total number of councillors

credentialed and voting at the Council meeting). A ballot shall be considered invalid if there are greater or fewer votes on the ballot for candidates than the required number on a particular ballot. When one or more positions are filled and one or more vacancies exist all non-elected candidates remain on the ballot for a subsequent vote. All elected candidates and their slots are removed from subsequent ballots.

The complete list of candidates' names will be shown on the screen at the same time for every available position. Councillors will vote for one candidate. When voting for a group (e.g., Board of Directors), after the voting has closed for the first list displayed, the entire list of candidates will be shown again and councillors will vote for their second candidate. When voting for subsequent candidates, if a councillor votes for the same candidate more than once, the councillor's entire ballot will not count. If a councillor votes for fewer than the number of available positions, the councillor's entire ballot will not count. After the list has been voted for all available positions in a group, the total votes for each candidate will be tallied to determine whether a majority is achieved. There shall be no write in voting.

If no candidate is elected on any ballot, then the candidate who received the lowest number of votes on the inconclusive ballot will be deleted from all subsequent ballots. This procedure will be repeated until at least one candidate receives a majority vote and all positions are filled. If nominations have been closed with but a single candidate in cases of a single position being open or multiple candidates which equals the exact number of open positions, the speaker shall declare the candidate or candidate(s) elected to office.

Councillors will have 30 seconds to vote for each candidate and may change their votes only during the allotted time. The computer will accept the last vote a councillor makes before the voting is closed.

The chair of the Tellers, Credentials, and Elections Committee will make the final determination as to the validity of an overall vote.

Upon completion of the voting and verification of votes for all candidates, the Tellers, Credentials, and Elections Committee chair will collect the election results and report those results to the speaker of the Council. In an election year for the speaker, the teller's chair will report the election results for the vice speaker and speaker positions. *See also Nominating Committees and Nominations.*

Action: The Standing Rules were updated.

Resolutions Referred to the Board of Directors

Resolution 17(03) Certificate of Compliance

RESOLVED, That ACEP will require emergency physician staffing groups to sign the following certificate and to comply with its terms as a prerequisite for their participation as an exhibitor or sponsor in any of the College activities and venues:
"I confirm/certify that all of the following are true:

(1) With the provisional period not to exceed one year, our physician group provides our emergency physicians access to predefined due process.

(2) Our physician group, or its controlling entity, has a predefined mechanism that regularly and automatically provides all our emergency physicians the detail of their own professional charges and collections. This information shall be automatically provided to the physician on a quarterly basis.

(3) Our physician group provides our emergency physicians: a) a predefined and reasonable pathway to full partnership that does not exceed three years, b) the review process and criteria used to grant full partnership, c) a predefined entry and exit policy, and d) the exact distribution of all shares held in the group. For the purpose of this certificate, a full partner is defined as an equal shareholder with equal voting status.

(4) Our physician group, or its controlling entity, has a predefined mechanism that regularly and automatically provides all full partners: a) the total charges and collections

for the group, and b) the distribution of all group income including all management and operational expenses including coding/billing/collecting, professional liability insurance, non-physician employee salaries, and physician administrative stipends. This information shall be automatically provided to the partners on a quarterly basis.

(5) Our physician group provides our emergency physicians with the details of our governance process including the method of electing leaders and new partners, appointing medical directors and administrators and revising the bylaws.

(6) Our physician group does not impose post contractual restrictive covenants (i.e., non-compete clauses).

(7) Our physician group, or its controlling entity, is wholly owned by practicing physicians.

(8) In order to ensure compliance by the group, all full partners in the group eligible for ACEP membership will maintain such membership. As ACEP members, they will be subject to its Bylaws including the code of ethics, and any available sanctions therein.

Physician groups in compliance with this ACEP certification statement may advertise their compliance and use it in their promotional materials. The physician group may advertise itself as ACEP-endorsed. Such groups will automatically qualify for the ACEP job advertisements or display booths at ACEP conferences.

All ACEP members are entitled to request and obtain a certified copy of this original certificate from ACEP. The failure of an emergency physician group to comply with their certificate may result in charges and sanctions.

Any changes in business practices that negate the above attestation will result in prompt notification to ACEP and discontinuation of participation in the ACEP promotional venues, such as Scientific Assembly booth, newsletter advertisements and other ACEP-sponsored promotional activities.

_____	Subscribed and sworn to before me on the
Name	day, month, and year set forth
_____	_____
Signature	Notary Public
_____	My Commission Expires _____
Title	

Date	

Location	

Action: See comments after Resolution 18(03).

Resolution 18(03) Intention to Bid

RESOLVED, That ACEP will require its members to abide by the following policy:

“Duty to Inform Other ACEP Members of Intention to Bid for Their ED Group Contract:”

“If a College member or his or her group enters into a negotiation that may affect the professional contract of another member of the College, he or she must notify affected College members once a response to a Request for Proposal (RFP) has been submitted; and

If an ACEP member is aware that his or her group is conducting such a negotiation, they are to notify the affected member(s) within one week of the filing of the RFP response; and

Since the College membership list is large and varies over time, this notification can be done anonymously by the College on behalf of the involved ACEP members; and

Notification of a bid-in-progress can be done by e-mail to ACEP, identifying the medical center and address where the affected ED is located; and

The College would then notify in less than one week all affected members who have listed the specific ED as their primary workplace in their membership application; and

Failure to notify ACEP is grounds for sanctions or removal from the College; and

Notification will only let affected members know that negotiations for their ED contract are ongoing; and

The College will not identify the group who made the bid or the physician(s) who filed this notification.”

Action: A request for an Advisory Opinion from the Federal Trade Commission (FTC) was filed with the FTC on October 10, 2003. Discussions were held between ACEP’s legal counsel, ACEP Board members and staff, and FTC representatives. Staff compiled information relating to the current status of emergency medicine practice in the United States and included academic and other articles related to physician staffing groups and the demographics of the provision of emergency medicine. An advisory opinion was issued by the FTC on August 30, 2004. The Board discussed the advisory opinion at their September 2004 meeting and a report was distributed to the 2004 Council.