

Memorandum

To: ACEP Council

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

Date: September 25, 2008

Subj: Action on 2005 Council Resolutions

The attached report summarizes the actions taken by the Board of Directors on the 41 resolutions adopted by the 2005 Council. Ten resolutions were referred to the Board. The Council also adopted two amendments to the Council Standing Rules, which did not require adoption by the Board.

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Action on 2005 Council Resolutions

Resolution 1 Commendation for Mark L. DeBard, MD, FACEP

Action: A framed resolution was prepared and presented to Dr. DeBard.

Resolution 2 Commendation for John A. Brennan, MD, FACEP

Action: A framed resolution was prepared and presented to Dr. Brennan.

Resolution 3 Commendation for J. Brian Hancock, MD, FACEP

Action: A framed resolution was prepared and presented to Dr. Hancock.

Resolution 4 In Memory of Ross S. Carol, MD, FACEP

Action: A framed resolution was prepared and presented to a representative for the family.

Resolution 5 In Memory of Donald G. Gregg, MD

Action: A framed resolution was prepared and presented to a representative for the family.

Resolution 6 In Memory of James E. Hayes, MD, FACEP

Action: A framed resolution was prepared and presented to a representative for the family.

Resolution 7 Compensation of ACEP Officers and Board of Directors (as amended)

RESOLVED, That the ACEP Bylaws Article XI – Committees, Section 7 – Compensation Committee be amended as follows:

ARTICLE XI – COMMITTEES Section 7 – Compensation Committee

~~Compensation for all College officers and shall be fixed by a Compensation Committee appointed by the president of the College. Members of the Board of Directors of the College other than officers may~~ **shall may** be compensated, the amount **and manner** of which shall be ~~fixed~~ **determined annually** by the Compensation Committee. ~~The~~ **This** committee shall be composed of **the chair of the Finance Committee plus four** ~~five~~ members of the College who are currently neither officers of the College nor members of the Board of Directors. ~~The chair of the Finance Committee shall be an ex officio member of the committee. The~~ **Compensation Committee chair, the Finance Committee chair,**

plus one other member plus two other members shall be presidential appointments and two one members shall be appointed by the speaker. ~~The chair and m~~Members of this committee shall be appointed to staggered terms of not less than two (2) years.

~~The R~~recommendations of this committee shall be submitted **annually** for review by the Board of Directors ~~as a whole and, if accepted, shall be reported to the Council at the next annual meeting.~~ The recommendations may be rejected by a three-quarters vote of the entire Board of Directors, in which event ~~it~~ **the Board** must ~~then fix~~ **determine the officer compensation or request that the committee reconsider.** In the event ~~that~~ the Board of Directors chooses to reject the recommendations of the Compensation Committee and ~~fix~~ **determine the** compensation, ~~any~~ **the proposed change in compensation must be** **shall not take effect unless** ratified by a majority vote of the Council **of councillors voting** at the next annual meeting. ~~In this circumstance, the proposed change in compensation shall not take effect until ratified by the Council.~~ **If the Council does not ratify the Board's proposed compensation and absent other superseding Council action, the Compensation Committee's recommendation will then take effect.**

Action: The Bylaws were updated. The committee's recommendations and the Board's action are reported annually to the Council.

Resolution 10 Filling Board Vacancies (as amended)

RESOLVED, That the ACEP Bylaws be amended as follows:

ARTICLE IX – BOARD OF DIRECTORS
Section 2 – Composition and Election

The Board shall consist of 12 elected directors, plus the president, president-elect, and immediate past president if any of these officers is serving following the conclusion of his or her elected term as director. In no instance may a member of the Board of Directors sit as a member of the Council.

~~At least 120 days prior to the annual meeting~~ The speaker shall select **annually** six members for the Board Nominating Committee, at least three of whom shall be from the Council and the remainder from the membership at large; the president shall appoint **annually** three Board members, one of whom, the president-elect, shall chair the committee. A member of the College cannot concurrently accept nomination to the Board of Directors and Council office. Election of directors shall be by majority vote of the councillors present and voting at the annual meeting of the Council.

The term of office of directors shall be three years and shall begin at the conclusion of the Board meeting following the annual meeting at which their elections occur and shall end at the conclusion of the Board meeting following the third succeeding annual meeting. ~~Vacancies on the Board of Directors other than those caused by a removal shall be filled by election at the next Council meeting.~~ No director may serve more than two consecutive three-year terms, ~~with the exception of the president, president-elect, and immediate past president as described in these Bylaws.~~ **The president, president-elect, and immediate past president by virtue of office may serve beyond the two consecutive three-year terms as unless specified elsewhere in these Bylaws.**

Section 5 – Vacancy

Any vacancy filled shall be for the remainder of the unexpired term.

~~Any~~ vacancy created by a ~~re-ea~~ removal shall be filled by a majority vote of the councillors present and voting at the Council meeting at which the ~~re-ea~~ removal occurs. Nominations for such vacancy shall be accepted from the floor of the Council.

Vacancies created other than by removal may be filled by a majority vote of the remaining Board if more than 90 days remain before the annual Council meeting. If there are more than three such concurrent vacancies, the Council shall elect directors to fill all vacancies via special election. If fewer than 90 days remain before the annual Council meeting, then the vacancies will not be filled until the annual Council meeting.

Action: The Bylaws were updated.

Resolution 11 Board Vacancy Replacement Procedure (as amended)

RESOLVED, That the ACEP College Manual be amended by adding the following sections:

Filling Board Vacancies Created by Other Than Removal

General Provisions

Nominations: A slate of one or more nominees for each vacant position will be developed by the Board Nominating Committee. ~~with special consideration given to unelected nominees from the most recent Board and Council Officer elections.~~

Eligibility: Eligibility for a vacancy election nomination shall be in accordance with Article IX, Section 2 of the Bylaws. Article IX, Section 2, Paragraph 3 of the Bylaws state, "No director may serve more than two consecutive three year terms." This limitation does not apply to a director elected under these circumstances since the remaining term would always be less than 3 years. It is up to the individual to decide if they wish to be considered as a candidate for this or subsequent Board elections.

Order of Elections: If there are multiple vacancies with varying lengths of unexpired terms, the longest term will be elected first, then followed in succession to the shortest term.

Term of Office: When elected by the Council, the replacement director's term will begin at the conclusion of the Board meeting following the annual meeting at which their election occurs or immediately upon election if elected at any other Council meeting. If elected by the Board, the term shall begin at the conclusion of the Board meeting at which their election occurs. In all instances the term shall be for the remainder of the unexpired term to which they have been elected.

~~**Suspension of the Rules:** The very nature of a Board vacancy indicates an unusual or even crisis situation. Therefore, these rules may be suspended by a two-thirds majority of those present and voting of the body holding the election when necessary to achieve the objective of this section.~~

Election by the Board of Directors (when applicable in accordance with the Bylaws):

When selecting nominees for election by the Board of Directors, the Board Nominating Committee will give special consideration to unelected nominees from the most recent Board and Council Officer elections. The election may occur at any Board meeting more than 90 days before the Annual meeting, ~~and~~ shall be by a majority vote of the remaining directors (i.e. total number of directors). ~~The Board and~~ shall consider each vacant position separately. Board members may choose to abstain from voting for any particular nominee. If a nominee fails to achieve a majority vote after being considered for all vacant positions, the nominee shall be removed from consideration and additional nominees from the Board Nominating Committee considered until all vacant position have been filled. No floor nominations are allowed.

Election by the Council (when applicable in accordance with the Bylaws):

The election will comply with the usual Council election process as closely as possible except as noted. A special meeting of the Council may be held in accordance with the Bylaws to elect replacement directors. If the election is at the annual Council meeting, the Council will hold ~~the special~~ **the vacancy** election following the regular elections and elect the replacement director from the remaining slate of nominees (including Speaker and Vice-Speaker nominees when applicable). ~~Floor nominations are allowed but only up to the point regular nominations are closed.~~

Action: The College Manual was updated.

Resolution 13 Election of Board Chair by the Board of Directors

RESOLVED, That the ACEP Bylaws be amended as noted:

ARTICLE X – OFFICERS/EXECUTIVE DIRECTOR

Section 1 – Number of Officers

The officers shall be president, president-elect, **chair**, vice president, and secretary-treasurer. The president-elect shall be elected by the Council from the membership of the Board of Directors excluding the president and immediate past-president. The **chair**, vice president, and secretary-treasurer shall be elected by the Board of Directors from its own membership.-The speaker and vice speaker of the Council shall be elected by the Council from its own membership or from the membership at large.

Section 2 – Election of Officers

A Board Officer Nominating Committee shall consist of the president and Council officers and be chaired by the immediate past president and shall, after the election of the directors at the annual meeting, submit names from the members of the Board for positions of **chair**, vice president, and secretary-treasurer. Nominations from individual members of the Board are allowed at said meeting. The election shall be by a majority vote of the current members of the Board and shall be performed as described in these Bylaws. Current members are those directors elected and serving prior to the most recent election of directors, plus the newly installed president and immediate past president, if the regular term as Board member of either has expired.

The president-elect shall be elected by a majority vote of the councillors present and voting at the annual meeting. The speaker and vice speaker of the Council shall each be elected by a majority vote of the councillors present and voting at the annual meeting every other year. The speaker shall appoint a President-Elect Nominating Committee annually and a Council Officer Nominating Committee every other year to nominate candidates for said offices. Nominations will also be accepted from the floor of the Council.

NO CHANGES PROPOSED FOR SECTION 3 THROUGH SECTION 4
Section 5 — President

The president shall be a member of ~~and shall chair~~ the Board of Directors, and shall additionally hold ex-officio membership in all committees. The president's term of office shall begin at the conclusion of the first ensuing annual meeting of the Council following the meeting at which the election as president-elect occurred and shall end at the conclusion of the next annual meeting of the Council, or when a successor is seated.

Section 6 – Chair

The chair shall be a member of and shall chair the Board of Directors. Any director shall be eligible for election to the position of chair and shall be elected at the first Board of Directors meeting following the annual meeting of the Council. The chair's term of office shall begin at the conclusion of the meeting at which the election as chair occurs and shall end at the conclusion of the first Board of Directors meeting following the next annual meeting of the Council or when a successor is elected. No director may serve more than one term as chair.

Section ~~6~~ 7 – Vice President

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

Section ~~7~~ 8 – President-Elect

Any member of the Board of Directors excluding the president, president-elect, and immediate past-president shall be eligible for election to the position of president-elect by the Council. The president-elect shall be a member of the Board of Directors. ~~and shall preside at meetings of the Board of Directors in the absence of the president.~~ The president-elect's term of office shall begin at the conclusion of the meeting at which the election as president-elect occurs and shall end with succession to the office of president. The president-elect shall be elected by a majority vote of the councillors present and voting at the annual meeting of the Council. The president-elect shall succeed to the office of president at the conclusion of the first annual meeting following the meeting at which the election occurred.

THE REMAINING SECTIONS WILL BE RENUMBERED ACCORDINGLY

Action: The Bylaws were updated.

Resolution 14 Indemnification for ACEP's Directors, Officers, and Employees

RESOLVED, That the ACEP Bylaws be amended by addition of a new Article XV – Mandatory Indemnification to read as follows:

ARTICLE XV – MANDATORY INDEMNIFICATION
Section 1 – Policy of Indemnification and Advancement of Expenses

To the full extent permitted by the Texas Non-Profit Corporation Act, as amended from time to time, the College shall indemnify any Director, Officer or employee of the College against judgments, penalties (including excise and similar taxes), fines, settlements and reasonable expenses (including court costs and

attorneys' fees) actually incurred by any such person who was, is or is threatened to be made a named defendant or respondent in a proceeding because the person is or was a director, officer or employee of the College and shall advance to such person such reasonable expenses as are incurred by such person in connection therewith.

Section 2 – Definitions

For purposes of this Article XV:

1. “Director” means any person who is or was a director of the College and any person who, while a director of the College, is or was serving at the request of the College as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of the College or of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise.
2. “Officer” means any person who is or was an officer of the College and any person who, while an officer of the College, is or was serving at the request of the College as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of the College or of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise.
3. “Employee” means an individual:
 - a. Selected and engaged by ACEP;
 - b. To Whom wages are paid by ACEP;
 - c. Whom ACEP has the power to dismiss; and
 - d. Whose work conduct ACEP has the power or right to control.
4. “Proceeding” means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrativ, or investigative, any appeal in such action, suit, or proceeding, and any inquiry or investigation that could lead to such an action, suit, or proceeding.

Section 3 – Non-Exclusive; Continuation

The indemnification provided by this Article XV shall not be deemed exclusive of any other rights to which the person claiming indemnification may be entitled under any agreement or otherwise both as to any action in his or her official capacity and as to any action in another capacity while holding such office, and shall continue as to a person who shall have ceased to be a director, officer or employee of the College engaged in any other enterprise at the request of the College and shall inure to the benefit of the heirs, executors and administrators of such person.

Section 4 – Insurance or Other Arrangement

The College shall have the power to purchase and maintain insurance or another arrangement on behalf of any person who is or was a director, officer, employee or agent of the College, or who is or was or was serving at the request of the College as a director, officer, employee or agent or any other capacity in another corporation, or a partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in such capacity, arising out of such person's status as such, whether or not such person is indemnified against such liability by the provisions of this Article XV.

Section 5 – Exclusion of Certain Acts from Indemnification

Notwithstanding any other provision of this Article XV, no director, officer or employee shall be indemnified for any dishonest or fraudulent acts, willful violation of applicable law, or actions taken by such person when acting outside of the scope of such person's office or position with the College.

Action: The Bylaws were updated.

Resolution 15 Council Voting Privileges in a Special Election – Housekeeping Change

RESOLVED, That the ACEP Bylaws, Article VIII – Council, Section 3 – Meetings, be amended to read:

There shall be an annual meeting of the Council at such time and place as may be determined by the Board of Directors and Council officers, provided that the time and place of such meeting shall be announced not less than 40 nor more than 50 days prior to the meeting. Whenever the term "annual meeting" is used in these Bylaws it shall mean the annual meeting of the Council.

Special meetings of the Council may be called by an affirmative vote of two thirds of the entire Board of Directors, by the speaker with concurrence of a two-thirds vote of the entire Steering Committee, or by a petition of councillors comprised of signatures numbering one third of the number of councillors present at the previous annual meeting, as certified in the final report of the chair of the Tellers, Credentials, and Elections Committee, provided that the time and place of such meeting shall be announced not less than 40 nor more than 50 days prior to the meeting.

Voting by proxy shall be allowed only at special meetings of the Council. The proxy of any councillor can be revoked by that councillor at any time. The results of any vote that includes proxy ballots will have the same force as any other vote of the Council.

Councillors eligible to vote ~~by proxy~~ at a special meeting of the Council are those who were credentialed by the Tellers, Credentials, and Elections Committee at the previous annual meeting of the Council.

All members of the College shall be notified of all Council meetings by mail or official publication.

Action: The Bylaws were updated.

Resolution 16 President's Appointment of Committees – Housekeeping Change

RESOLVED, That Article XI - Committees, Section 1 – General Committees be amended to read:

The president shall annually appoint committees and task forces to address issues pertinent to the College as deemed advisable. The members thereof need not consist of members of the Board, nor shall it be necessary that the chair of a committee be a member of the Board.

The president shall appoint annually committees on Compensation, Bylaws, **and Finance.**, ~~and Nominating.~~

Action: The Bylaws were updated.

Resolution 17 Filling Non-Recall Vacancy in Office of President-Elect (as amended)

RESOLVED, That the following sections of the Bylaws be amended as noted:

ARTICLE X – OFFICERS/EXECUTIVE DIRECTOR

Section 4 – Vacancy

Vacancies in the offices of the Board of Directors and the Council occurring for reasons other than recall shall be filled in accordance with subsections 4.1 through 4.3.4. Vacancies occurring via recall shall be filled in accordance with subsections ~~4.4~~ 4.5 and ~~4.5~~ 4.6. Succession or election to fill any vacated office shall not count toward the term limit for that office.

Section 4.1 – President

In the event of a vacancy in the office of the president, the president-elect shall immediately succeed to the office of the president for the remainder of the unexpired term.

Section 4.2 – President-Elect

In the event of a vacancy in the office of the president-elect, the Board of Directors, speaker, and vice speaker may fill the vacancy by majority vote for the remainder of the unexpired term from among the members of the Board. At the next annual Council meeting, the Council will, by majority vote, either ratify the elected replacement to assume the office of president or, failing such ratification, the Council shall hold an election for the office of president or elect a new president from among the members of the Board. The Council will then elect a new president-elect.

THE REMAINING SECTIONS WERE RENUMBERED ACCORDINGLY

Action: The Bylaws were updated.

Resolution 18 Assumption of the Office of President – Housekeeping Change

RESOLVED, That Article X – Officers/Executive Director, Section 7 – President-Elect, of the Bylaws be amended to read:

ARTICLE X – OFFICERS/EXECUTIVE DIRECTOR
Section 7 – President-Elect

Any member of the Board of Directors excluding the president, president-elect, and immediate past-president shall be eligible for election to the position of president-elect by the Council. The president-elect shall be a member of the Board of Directors and shall preside at meetings of the Board of Directors in the absence of the president. The president-elect's term of office shall begin at the conclusion of the meeting at which the election as president-elect occurs and shall end with succession to the office of president. The president-elect shall be elected by a majority vote of the councillors present and voting at the annual meeting of the Council. The president-elect shall succeed to the office of president at the conclusion of the first annual meeting following the meeting at which the election occurred. **ensuing annual meeting of the Council following the meeting at which the election as president-elect occurred and shall end at the conclusion of the next annual meeting of the Council, or when a successor is seated.**

Action: The Bylaws were updated.

Resolution 19 Number of Officers – Housekeeping Change (as amended)

RESOLVED, That the ACEP Bylaws, Article X, Officers/Executive Director, Section 1 – Number of Officers be amended to read:

The officers **of the Board of Directors** shall be president, president-elect, **immediate past president**, vice president, and secretary-treasurer. **The officers of the Council shall be the speaker and vice speaker.** ~~The president elect shall be elected by the Council from the membership of the Board of Directors excluding the president, president elect, and immediate past president. The vice president and secretary treasurer shall be elected by the Board of Directors from its own membership. The speaker and vice speaker of the Council shall be elected by the Council from its own membership or from the membership at large.~~

Action: The Bylaws were updated.

Resolution 20 Outgoing Past President to Remain a Voting Board Member Until Conclusion of Post-Council Board Meeting

RESOLVED, That the ACEP Bylaws be amended as follows:

ARTICLE IX — BOARD OF DIRECTORS
Section 2 — Composition and Election

The Board shall consist of 12 elected directors, plus the president, president-elect, and immediate past president if any of these officers is serving following the conclusion of his or her elected term as director. **The outgoing past president shall also remain a member of the Board of Directors until the conclusion of the Board meeting immediately following the annual meeting of the Council.** In no instance may a member of the Board of Directors sit as a member of the Council.

At least 120 days prior to the annual meeting the speaker shall select six members for the Board Nominating Committee, at least three of whom shall be from the Council and the remainder from the membership at large; the president shall appoint three Board members, one of whom, the president-elect, shall chair the committee. A member of the College cannot concurrently accept nomination to the Board of Directors and Council office. Election of directors shall be by majority vote of the councillors present and voting at the annual meeting of the Council.

The term of office of directors shall be three years and shall begin at the conclusion of the Board meeting following the annual meeting at which their elections occur and shall end at the conclusion of the Board meeting following the third succeeding annual meeting. Vacancies on the Board of Directors other than those caused by a removal shall be filled by election at the next Council meeting. No director may serve more than two consecutive

three-year terms, with the exception of the president, president-elect, immediate past president, and outgoing past president as described in these Bylaws.

ARTICLE X — OFFICERS/EXECUTIVE DIRECTOR

Section 1 — Number of Officers

The officers shall be president, president-elect, vice president, ~~and~~ secretary-treasurer, **and immediate past president**. The president-elect shall be elected by the Council from the membership of the Board of Directors excluding the president and immediate past-president. The vice president and secretary-treasurer shall be elected by the Board of Directors from its own membership. The speaker and vice speaker of the Council shall be elected by the Council from its own membership or from the membership at large.

Section 2 — Election of Officers

A Board Officer Nominating Committee shall consist of the president and Council officers and be chaired by the immediate past president and shall, after the election of the directors at the annual meeting, submit names from the members of the Board for positions of vice president and secretary-treasurer. Nominations from individual members of the Board are allowed at said meeting. The election shall be by a majority vote of the current members of the Board and shall be performed as described in these Bylaws. Current members are those directors elected and serving prior to the most recent election of directors, plus the newly installed president and immediate past president, if the regular term as Board member of either has expired. **The outgoing past president shall also remain a member of the Board of Directors until the conclusion of the Board meeting immediately following the annual meeting of the Council.**

The president-elect shall be elected by a majority vote of the councillors present and voting at the annual meeting. The speaker and vice speaker of the Council shall each be elected by a majority vote of the councillors present and voting at the annual meeting every other year. The speaker shall appoint a President-Elect Nominating Committee annually and a Council Officer Nominating Committee every other year to nominate candidates for said offices. Nominations will also be accepted from the floor of the Council.

NO CHANGES WERE PROPOSED FOR SECTIONS 3-8

Section 9 — Immediate Past President

The immediate past president shall remain a member of the Board of Directors for a period of one year following the term as president, or until such time as the regular term as a Board member shall expire, whichever is longer. The term of the immediate past president shall commence at the conclusion of the second annual meeting of the Council following the meeting at which the election of president-elect occurred and shall end at the conclusion of the third annual meeting following the election. **The outgoing past president shall also remain a member of the Board of Directors until the conclusion of the Board meeting immediately following the annual meeting of the Council.**

Action: The Bylaws were updated.

Resolution 21 Council Voting Rights (as amended)

RESOLVED, That the ACEP Bylaws Article VIII – Council, Section 5 – Voting Rights be amended as follows:

Each sponsoring body shall deposit with the secretary of the Council a certificate certifying its councillor(s) and alternate(s). The certificate must be signed by the president or secretary of a chapter, the chair of a section, or the president or secretary of the Emergency Medicine Residents' Association (EMRA). No councillor or alternate shall be seated who is not a member of the College. ~~If a certified councillor or alternate of a chapter, EMRA, or section is not present at a meeting of the Council, a member of that sponsoring body who is present may be seated as a councillor pro tem by a two-thirds~~
~~vote of the Council.~~ **College members not specified in the sponsoring body's certificate may be certified and credentialed at the annual meeting in accordance with the Council Standing Rules.**

Members of the Board of Directors may address the Council on any matter under discussion but shall not have voting privileges in Council sessions.

Whenever the term “present” is used in these Bylaws with respect to councillor voting, it shall mean credentialed as certified by the chair of the Tellers, Credentials and Elections Committee.

Action: The Bylaws were updated.

Resolution 24 Fellowship and Its Implications

RESOLVED, That a task force be established by the president and the Board of Directors to study the political, economic, and personal implications of opening ACEP fellowship eligibility to all active members of the College, and that a report be presented to the president and the Board of Directors and College membership by April 1, 2006.

Action: A task force was appointed; however, the report was not ready by April 1. The task force submitted an interim report to the Board in June 2006 and requested an extension until January 2007 to submit a final report. The final report was accepted by the Board in January 2007 and it was distributed to the 2007 Council.

Resolution 25 Combining Life and Retired Membership Categories (as amended)

RESOLVED, That the ACEP Bylaws be amended as follows to combine Life and Retired categories of membership into one category called “Life Members” “Emeritus”:

ARTICLE IV – MEMBERSHIP Section 2.4 – Life Members Emeritus

Any person who has: **1) ~~had continuous~~ held** active, inactive, or international membership in the College for a minimum of 15 years and who has attained the age of sixty (60) ~~may on application to the Board of Directors be classified as a life member. Likewise, any person who has had;~~ **or 2) held active, inactive, or international membership in the College for a minimum of 10 ~~continuous~~ years and who has attained the age of seventy (70); or 3) held membership in the College for a minimum of 20 years and who has attained the age of 55 and who is retired from medical practice; or 4) who is becomes permanently disabled,** may on application to **and approval** by the Board of Directors be classified as an emeritus life member. ~~Life members shall not be required to pay registration fees to the annual Scientific Assembly.~~

~~Section 2.7 – Retired Members~~

~~Any member who has retired from medical practice, has reached the age of 55, and has had membership in the College for at least 20 years, or members who are permanently disabled, may upon application to the Board of Directors, be elected to retired membership. Retired membership shall not affect fellowship status. Retired membership does not qualify toward tenure requirements for life membership. The Board of Directors may make exceptions under unusual circumstances.~~

Action: The Bylaws were updated. Scientific Assembly registration fees for Life Members designated after 2005 were established.

Resolution 26 Honorary Membership

RESOLVED, That the ACEP Bylaws be amended as follows:

ARTICLE IV – MEMBERSHIP Section 2.3 – Honorary Membership

Persons of distinction who have rendered outstanding service to the College or to the **specialty of emergency medicine** ~~medical profession, or distinguished members of the College who have retired from practice,~~ may be elected to honorary membership. Honorary members **are considered lifelong members of the College and** shall not be required to pay any dues ~~or registration fees to the Scientific Assembly.~~

Candidates for honorary membership cannot be currently eligible for other categories of College membership. Constituent chapters may propose candidates for honorary membership to the College.

Section 4 – Voting & Holding Office

Active, life, and retired members shall be entitled to vote and hold office, except as otherwise noted. Inactive, **honorary**, and international members shall not be entitled to vote or hold office **except as otherwise noted**. Candidate members may be entitled to vote and hold office at the chapter level according to chapter bylaws. At the national level, candidate members shall not be entitled to vote or hold office, except when designated as councillor or alternate councillor from their chapter or section or the Emergency Medicine Residents' Association. Candidate members when appointed to national committees shall be entitled to vote on committee business. Rights for honorary members **designated prior to 2006** shall be determined by the rights in their previous class of membership, if any, before being elected to honorary membership.

Action: The Bylaws and the Awards brochure were updated. Scientific Assembly registration fees for Honorary Members designated after 2005 were established.

Resolution 27 Active Membership Eligibility (same as Resolution 28)

RESOLVED, That the following section of the Bylaws be amended as noted:

ARTICLE IV – MEMBERSHIP Section 2.1- Active Members

The active members of the College shall be physicians who devote a significant portion of their medical endeavors to emergency medicine. All active members must meet one of the following criteria:
1) Satisfactory completion of an emergency medicine residency program accredited by the Accreditation Council on Graduate Medical Education (ACGME). 2) Satisfactory completion of an emergency medicine subspecialty training program accredited by ACGME. 3) Satisfactory completion of an emergency medicine residency training program accredited by the American Osteopathic Association(AOA). 4) Satisfactory completion of an emergency medicine residency program approved by an ACEP-recognized accrediting body in a foreign country. 5) Certification by an emergency medicine certifying body recognized by ACEP. or 6) **Eligible Eligibility for** Active or International membership in the College at any time prior to close of business December 31, 1999. They must be licensed in the state, province, territory or foreign country in which they practice, or be serving in a governmental medical assignment. They shall fulfill such postgraduate education requirements as may be prescribed by the Board of Directors.

Action: The Bylaws were updated. A membership recruitment campaign was implemented.

Resolution 32 Code of Ethics for Emergency Physicians

RESOLVED, That the American College of Emergency Physicians “Code of Ethics for Emergency Physicians” be amended to read:

B. THE EMERGENCY PHYSICIAN-PATIENT RELATIONSHIP

3. Fairness:

Emergency physicians should act fairly toward all persons who rely on the ED for unscheduled episodic care. They should respect and seek to understand people from many cultures and from diverse socioeconomic groups. In the United States emergency physicians provide necessary emergency care to all patients, regardless of ability to pay. Emergency physicians also should strive to avoid having patient finances govern access to appropriate inpatient or follow-up medical care. Provision of emergency medical treatment should not be based on gender, age, race, socioeconomic status, **sexual orientation, real or perceived gender identity**, or cultural background. No patient should ever be abused, demeaned, or given substandard care.

Action: The policy statement was updated, added to the Web site, and included in the Policy Compendium.

Resolution 35 Health Courts

RESOLVED, That the American College of Emergency Physicians endorse the need for comprehensive litigation reform and support the concept of health courts as an alternative to the current process.

Action: The resolution is a policy statement. It was added to the Web site and included in the Policy Compendium.

The State Legislative/Regulatory Committee was given an objective to identify and analyze state proposals related to the establishment of health courts and/or other new approaches to reform the medical liability system. The committee reviewed a variety of proposals related to health courts, administrative liability systems, no-fault liability systems, and early disclosure and compensation models. Although there appears to be little impetus for alternative liability approaches within the states, the committee consulted with the Medical-Legal Committee about the advisability of ACEP formally supporting the AMA's model health court legislation. A recommendation to the Board is forthcoming.

Resolution 37 Rural Emergency Medicine Workforce (as amended)

RESOLVED, That ACEP advocate for the inclusion of emergency medicine in the National Health Service Corps scholarship program; and be it further

RESOLVED, That ACEP explore and advocate for various incentives, such as loan forgiveness programs, for emergency medicine residency-trained physicians to practice in rural or underserved areas; and be it further

RESOLVED, That ACEP explore funding sources for conducting a new emergency physician workforce study; and be it further

RESOLVED, That ACEP work in cooperation with other emergency medicine organizations and interested parties to encourage the development and promotion of rural emergency medicine clerkships/rotations at medical schools and residency programs to increase resident education in the unique aspects of rural emergency medicine and opportunities to practice in these settings.

Action: Assigned to the Academic Affairs Committee, to the Public Affairs staff to communicate ACEP's position, and to Grants and Development staff to pursue potential funding. A letter was sent to the Council of Residency Directors, the Association of Academic Chairs of Emergency Medicine, and the Society for Academic Emergency Medicine requesting a joint effort to encourage the development and promotion of rural emergency medicine clerkships, which would include rotations at medical schools and residency programs to increase resident education in the unique aspect of rural emergency medicine. ACEP staff met with the National Health Service Corps (NHSC) director and his staff in September 2006 to ascertain if there is a demand for emergency physicians (EPs) in underserved areas. The NHSC has always focused on providing primary/outpatient care to underserved areas/populations. Under-service is characterized by Health Professions Shortage Area (HPSA) designations that are generated from physician/population ratios. The Public Health Act (PHA) is the controlling statute for HPSA designation and NHSC and explicitly identifies family medicine, Ob/GYN, and general pediatrics, internal medicine, and psychiatry as eligible physician specialties. This means that the law would have to be changed to add emergency medicine to the list of physicians eligible for scholarship and loan repayment. Less than 4,000 clinicians are currently supported by NHSC, which includes nurses, counselors, dentists, etc. While the American Hospital Association's (AHA) Small and Rural hospital section director said that members would welcome more board-certified emergency physicians, the NHSC physicians generally become employees of the Federally Qualified Health Clinics or set up private, office-based practices subsidized by the communities. In recent years, NHSC's annual budget has remained fairly stable at \$125M. The funds have been shifted to loan repayment while scholarship dollars have dwindled and are largely directed to racial and ethnic minorities. NHSC requires a minimum 2-year commitment, and many clinicians remain for five years in order to fully pay off their loans. The NHSC has also been increasingly successful at retaining up to 70 percent of its clinicians long-term, which is the overall goal of the program. Sections of the PHA are coming up for reauthorization next year, including the NHSC and HPSA designation criteria. DC staff will monitor the provisions of the PHA as they come up for reauthorization. To obtain more information/data on the need and demand for EPs in rural or underserved areas, committee members and ACEP staff are contacting other organizations such as ACEP's Rural Section, the Rural Appalachian organization, and the National Rural Health Association.

From the supply side, EMRA conducted a resident survey to obtain information on EM residents' interest in loan forgiveness programs and their willingness to work in rural and underserved areas.

The committee also explored other potential sources for loan forgiveness. The state of Kansas has an NHSC-like program that occasionally accepts EM residency graduates for loan repayment. Over 70 programs are operated by states and the subcommittee, along with state chapters, should assemble a list of these programs. While many states get matching dollars from the Federal government, some are totally state-funded and have more flexibility to choose which specialties to support. Another potential source for exploration is the Indian Health Services (IHS). An emergency physician employed by the IHS noted there are scholarships in the rural Indian areas that are coordinated by the Tribal Scholarship program. Based on a request from a physician in the IHS to work with the Council of

Emergency Medicine Residency Directors (CORD) on implementing rural EM rotations, CORD conducted a survey of EM program directors to obtain information and determine the level of interest in pursuing a joint effort. The IHS physician also conducted a similar study of IHS physicians.

The committee also recommended that ACEP's Rural Section develop a rural hospital needs analysis for EM residency trained graduates to practice in their emergency departments (EDs) as part of a loan forgiveness program. Results of this study could be used in ACEP's advocacy efforts for scholarships, incentives, and loan forgiveness programs. In discussions with federal agencies on loan forgiveness, emphasis is placed on the high medical debt EM residents assume.

Based on the 2003 rural EM summit recommendations, ACEP has been addressing the fourth resolve during its annual meetings with the Society for Academic Emergency Medicine (SAEM), CORD, and the Association for Academic Chairs of Emergency Medicine (AACEM). During these discussions, all three organizations emphasized the importance of reimbursement for residency programs before programs could consider implementing rural EM residency training. A letter was sent to the three organizations in September 2006 from the president providing an update on ACEP's continued efforts to address this resolution.

Other advocacy activities have also been initiated by ACEP. In June 2006, ACEP sent a letter to the Centers for Medicare and Medicaid Services (CMS) in response to its proposed changes to the hospital inpatient prospective payment system. In the letter ACEP outlined the financial challenges of having residencies provide rural training experiences. ACEP has continued to advocate for federal funding of rural hospital EM rotations. ACEP may consider approaching Senators responsible for several rural health initiatives (critical access hospitals, physician rural bonus payments, and rural criteria for graduate medical education [GME] redistribution). DC staff talked with other specialty groups to determine the level of support ACEP might receive for payment to teaching hospitals for the rural rotations.

Funding for a new workforce study was included in the FY 07-08 budget. The study will sample rural hospitals with the intent to determine who is staffing in those areas. The study is expected to be completed by October 2008 and an article will be submitted to *Annals of Emergency Medicine*. Official release of the data will not occur until publication in *Annals*.

A resolution has been submitted to the 2008 Council to appoint another Rural Workforce Task Force.

Resolution 38 Proper Payment Under Assignment of Benefits

RESOLVED, That the American College of Emergency Physicians develop a policy that when a patient authorizes payment directly to the provider, that a payer shall directly reimburse the provider for care rendered; and be it further

RESOLVED, That the American College of Emergency Physicians advocate for legislation and regulation to ensure that when authorized by the patient, a payer directly reimburses the provider for care rendered.

Action: Assigned to the Reimbursement Committee for development of the policy statement and to Public Affairs staff to communicate ACEP's position. A revised policy statement was approved by the Board in April 2006. It was added to the ACEP Web site and included in the Policy Compendium.

Resolution 41 Non-Discrimination (by substitution)

RESOLVED, That the American College of Emergency Physicians opposes all forms of discrimination against patients on the basis of gender, race, age, creed, color, national or ethnic origin, religion, disability, or sexual orientation (i.e., lesbian, gay, bisexual, or transgender); and be it further

RESOLVED, That the American College of Emergency Physicians opposes employment discrimination in emergency medicine on the basis of gender, race, age, creed, color, national or ethnic origin, religion, sexual orientation (i.e., lesbian, gay, bisexual, or transgender), or physical or mental impairment that does not pose a threat to the quality of patient care.

Action: The resolution is a policy statement. It was added to the Web site and included in the Policy Compendium.

Resolution 42 Emergency Medicine Research Funding

RESOLVED, That ACEP shall endeavor to increase available funding for emergency medicine research through federal agencies such as the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Centers for Disease Control and Prevention, particularly within the Acute Care Agenda.

Action: ACEP's Public Affairs staff continue to lobby for increased funding. In response to the research related issues contained in the Institute of Medicine Report on Future of Emergency Medicine, ACEP and SAEM created an NIH Task Force in FY 06-07. The task force met with NIH Director Elias Zerhouni, MD, in January 2007. Task force members also met with other NIH agencies such as the Center for Scientific Review (CSR). The task force submitted recommendations for a strategic plan to the National Center for Research Resources, a roadmap for medical research to the Office of Portfolio Analysis and Strategic Initiatives (OPASI), and recently a request for information (RFI), "Soliciting Input on Current Needs in Emergency Medicine Research," from the NIH Task Force on Research in the Emergency Setting. The task force was created to facilitate the coordination of emergency care research across the NIH and continues to work collaboratively on responses to NIH requests regarding emergency care research.

Resolution 43 ACEP Strategic Role in County, State, and American Medical Societies

RESOLVED, That ACEP develop and implement strategies to facilitate member integration into county and state medical associations and the American Medical Association with the goal of facilitating and articulating emergency medicine's long term strategies within these organizations.

Action: Assigned to the AMA Section Council on Emergency Medicine to continue their leadership initiative and to the National/Chapter Relations Committee. ACEP continues to increase the number of members in AMA leadership positions. ACEP has 4 delegates (and 4 alternate delegates) to the AMA House of Delegates, one delegate in the Young Physicians Section, one delegate in the Medical Student Section, and EMRA appoints an individual to represent the resident perspective in the Resident and Fellow Section. In 2007, six ACEP members served on AMA Reference Committees.

The AMA Section Council members have cultivated strong working relationships with the leaders of other medical specialty societies, state medical societies and the AMA. ACEP leaders and staff participate in the Hospital-Based Specialties Alliance Caucus at the AMA's Interim and Annual meetings. The ACEP president and president-elect attend the annual and interim meetings of the AMA. Their attendance has proven to be excellent opportunities for ACEP leaders to meet with leaders of other medical associations.

As a result of the Leadership Initiative of the AMA Section Council on Emergency Medicine, several ACEP members have served in AMA leadership positions. In addition to ACEP's delegates and alternates to the AMA, ACEP members are gaining influence and now have "seats at the table," which include:

- Kendall S. Allred – AMA Board of Trustees – Medical Student Representative
- Deirdre Anglin, MD – AMA National Advisory Council on Violence and Abuse
- Nancy J. Auer, MD, FACEP – AMA Reference Committee F and AMA National Disaster Life Support Executive Committee
- Bruce Auerbach, MD, FACEP – AMA Physician Consortium for Performance Improvement
- Michael D. Bishop, MD, FACEP – AMA/Specialty Society RVS Update Committee (RUC)
- Ashley Booth, MD, FACEP – Florida Alternate Delegate to AMA House of Delegates
- Keith Borg, MD, PhD, FACEP – ACEP YPS Alternate Delegate to AMA House of Delegates
- Michael L. Carius, MD, FACEP – CT Alternate Delegate to AMA House of Delegates
- Melissa Costello, MD, FACEP – AL YPS Delegate to AMA House of Delegates
- Erik Eiting, MD – AMA Resident and Fellow Section Delegate
- Kenneth L. DeHart, MD, FACEP – CPT Advisory Committee
- Hillary Fairbrother, MD – Resident Position, AMA Council on Ethical and Judicial Affairs
- Diana Fite, MD, FACEP – TX Delegate to AMA House of Delegates
- Marilyn Heine, MD, FACEP – AMPAC Board and PA Delegate to AMA House of Delegates
- Jolie C. Holschen, MD, FACEP – Chair, Women Physicians Congress and ACEP YPS Delegate to AMA House of Delegates
- Gary R. Katz, MD, MBA, FACEP – Immediate Past Chair, AMA Young Physicians Section
- Adam Levine, MD – AMA House of Delegates, Resident and Fellow Section
- Edwin Lopez, MD – EMRA Delegate to AMA Resident and Fellow Section
- Susan Nedza, MD, FACEP – AMA Vice President Quality and Patient Safety
- Kusum Punjabi, MD – Member At Large, AMA Resident and Fellow Section Governing Council
- Megan Quintana – Medical Student Section Alternate Delegate to AMA House of Delegates
- Lynne Richardson, MD, FACEP – AMA Federation Task Force on Disparities in Healthcare
- Cameron Roberts – ACEP Medical Student Section Delegate to AMA House of Delegates
- Samantha L. Rosman, MD – AMA Board of Trustees Resident Representative and

- Chair, AMA Voice of the Uninsured Initiative
- Michael Ross, MD, FACEP – AMA appointment to Centers for Medicaid/Medicare Services (CMS) Advisory Panel on Ambulatory Payment Classification Groups
- Michael Sexton, MD, FACEP – AMA Council on Legislation
- Stephen Sherick, MD – AMA Resident and Fellow Section Vice Chair
- Jonathan E. Siff, MD, FACEP – AMA appointment to Centers for Medicaid/Medicare Services (CMS) Practicing Physicians Advisory Council (PPAC)
- Steven J. Stack, MD, FACEP – AMA Board of Trustees –Young Physician Position and Chair, Health Information Technology Advisory Group
- Richard L. Stennes, MD, FACEP – AMA Compensation Committee
- Bruce L. Storms, MD, FACEP – OK Delegate to AMA House of Delegates and Heartland of America
- Jennifer Wiler, MD, MBA – Vice-Chair, AMA Women Physicians Congress
- Neil Winston, MD, FACEP – AMPAC Board

The AMA Section Council on Emergency Medicine continues to aggressively represent the interests of emergency physicians in the AMA House of Delegates and to serve as a strong conduit of information and expertise between ACEP and AMA. ACEP communications continue to encourage members to seek leadership positions within county and state medical associations.

The following members are currently serving as Chair, President, President-Elect, or Immediate Past President of a State Medical Association:

- Jorge A. Alsip, MD, FACEP – Alabama Medical Society
- Bruce S. Auerbach, MD, FACEP – Massachusetts Medical Society
- Mark N. Bair, MD, FACEP – Utah Medical Society
- Thomas J. Luetzow, MD, FACEP – Wisconsin Medical Society
- Cynthia A. Markus, MD, FACEP – Washington Medical Society
- Bruce A. MacLeod, MD, FACEP – Chair, Pennsylvania Medical Society
- Richard A. Schmitt, MD, FACEP – South Carolina Medical Society

The State Legislative/Regulatory Committee was given an objective in 2007-08 to identify ACEP members in leadership positions in state medical societies and develop a process to keep them informed of ACEP priorities and activities to promote emergency medicine advocacy within state medical societies. Through direct contact with chapter leaders and the annual state legislative survey, 145 members have been identified as being active in their state medical societies. These leaders were invited to participate on a conference call with ACEP President Dr. Linda Lawrence to learn about national ACEP initiatives and to share information and ideas on issues facing their state medical societies. About 35 members participated in the call and another call is planned for this year. An e-list was also created to facilitate additional communication and idea sharing.

Resolution 45 Availability of Hospital Diagnostic and Therapeutic Services (by substitution)

RESOLVED, That ACEP promote policies that endorse consistent 7-days a week availability of hospital diagnostic and therapeutic services in order to facilitate timely disposition of ED patients and minimize hospital crowding.

Action: The resolution is a policy statement. It was added to the Web site and included in the Policy Compendium.

Resolution 47 Contemporaneous Interpretation of CT Scans (by substitution)

RESOLVED, That when emergency physicians request urgent interpretation of CT scans, such interpretation be made contemporaneously by a health care facility credentialed residency-trained and/or board-certified radiologist, and both the written preliminary and final reports be documented in the patient's medical record.

Action: Assigned to the Emergency Medicine Practice Committee. The committee developed an information paper titled, "Radiologic Imaging and Teleradiology in the Emergency Department." Additionally, the committee revised the ACEP policy statement "Interpretation of Diagnostic Studies," renamed "Interpretation of Imaging Diagnostic Studies." The committee focused on timeliness of interpretation, qualifications of radiologists providing interpretations, and documentation along with references to current American College of Radiology policies on these topics. The paper was reviewed by the ACEP Board of Directors in June 2006 and the final paper was placed on the ACEP Web site. The policy was added to the Web site and included in the Policy Compendium.

Resolution 49 Emergency Psychiatric Transfers (by substitution)

RESOLVED, That ACEP support legislative efforts that grant the emergency physician authority to involuntarily hold and/or transfer psychiatric patients to an appropriate facility when medically indicated.

Action: Assigned to the State Legislative/Regulatory Committee to communicate ACEP’s position to chapters and to assist chapters with legislation in their states. The committee reviewed existing legislation and compiled resource material to assist chapters interested in pursuing legislation that would provide greater authority to emergency physicians to involuntarily hold and/or transfer psychiatric patients. The resource material was distributed to chapters. Contact ACEP’s Chapter and State Relations Department to obtain a copy of the document “State Legislative Options to Facilitate Emergency Involuntary Psychiatric Evaluation.” The document includes examples of existing state laws that address the key components central to this issue.

Resolution 51 Emergency Physician Autonomy in the Performance and Interpretation Diagnostic Imaging Studies

RESOLVED, That ACEP, in cooperation with all established College liaisons and relationships with other medical specialty societies, the American Medical Association, the Alliance for Specialty Medicine, Coalition for Patient-Centric Imaging, and other interested parties actively and fully opposes the acceptance by the United States Congress of the following Medicare Payment Advisory Commission (MedPAC) recommendations mandating federal standards for physicians performing and interpreting diagnostic imaging studies:

- “Congress should direct the Secretary [of Health and Human Services] to set standards for all providers who bill Medicare for performing diagnostic imaging studies. The Secretary should select private organizations to administer the standards, and
- “Congress should direct the Secretary to set standards for physicians who bill Medicare for interpreting diagnostic imaging studies. The Secretary should select private organizations to administer the standards;” and be it further

RESOLVED, That ACEP in cooperation with other medical specialty societies, the American Medical Association, the Alliance for Specialty Medicine, Coalition for Patient-Centered Imaging, and other interested parties reaffirm and promote appropriate training and education standards for all physicians who perform and interpret diagnostic imaging, regardless of medical specialty, which will not impede patient access to high quality diagnostic imaging services; and be it further

RESOLVED, That ACEP affirm AMA Resolution 228 (A-05) opposing the MedPAC recommendations as being without scientific merit and as potentially impeding patient access to high quality diagnostic imaging services; and be it further

RESOLVED, That ACEP affirm AMA Resolutions 228 (A-05) and 802 (A-00) stating that physician training and education standards remain the domain of each respective hospital in conjunction with each respective hospital’s medical director and that the privilege to perform and interpret diagnostic imaging services rests upon the physician’s background and skill as defined by each physician’s own specialty society, regardless of their medical specialty; and be it further

RESOLVED, That the ACEP Board of Directors report back to the ACEP Council at the 2006 Scientific Assembly Council Meeting on the results of this plan of action.

Action: Assigned to Public Affairs staff to communicate ACEP’s position. The AMA Section Council on Emergency Medicine communicated ACEP’s support of AMA Resolution 228 (A-05), which was adopted by the AMA in June 2005. The Emergency Medicine Practice Committee developed an information paper titled, “Radiologic Imaging and Teleradiology in the Emergency Department.” The Emergency Medicine Practice Committee also revised the ACEP policy statement “Interpretation of Diagnostic Studies,” renamed “Interpretation of Imaging Diagnostic Studies,” which was adopted by the Board in June 2006. The information paper and the revised policy are available on the ACEP Web site.

Resolution 52 EMS Communication Network (by substitution)

RESOLVED, That ACEP support the development and funding of reliable and flexible communication and enhanced data transfer networks specifically tailored to meet the needs of local and regional EMS systems.

Action: The resolution is a policy statement. It was added to the Web site and included in the Policy Compendium.

Resolution 53 Emergency Department Nurse Staffing Model (by substitution)

RESOLVED, That ACEP work with ENA and other appropriate organizations to develop and promote an emergency nurse staffing model that lawmakers and hospital administrators can reference.

Action: Assigned to the Emergency Medicine Practice Committee. The committee recommended to the Board in April 2006 that ACEP work with ENA to address the issues concerning the nurse staffing model developed by ENA. An ENA Work Group was formed to address further development and testing of the Staffing Guidelines. An ACEP representative is a member of the work group.

This project is still in progress by ENA. In February 2008, ENA sent a letter requesting that ACEP continue to participate in the project. ACEP's representative was reappointed and ENA expects the work to be completed by December 2009.

Resolution 54 Enhanced Communication of College Financial Information (by substitution)

RESOLVED, That ACEP enhance the accessibility to College financial policies, procedures, and reports through increased educational efforts to the Council and membership.

Action: Assigned to Finance, Internet Services, and Communication staff. The College's financial information is available on the Web site.

Resolution 55 Recognition of Group Participation in ACEP (by substitution)

RESOLVED, That the American College of Emergency Physicians recognize emergency departments and groups with 100% ACEP participation of eligible members.

Action: Assigned to Member Services staff to develop a recommendation to the Board. In January 2006 the Board approved implementation and promotion of a master dues billing and recognition program for emergency physician groups. The program has been well received and ACEP membership has increased because of this program.

Resolution 56 In Memory of Ralston Raymond (R²) Hannas, Jr., MD

Action: A framed resolution was prepared and presented to a representative for the family.

Resolution 57 In Memory of John G. Wiegenstein, MD

Action: A framed resolution was prepared and presented to a representative for the family.

Standing Rules Resolutions

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

Resolution 30 Standing Rules Housekeeping Changes (as amended)

Action: The Standing Rules were updated.

Resolution 31 Standing Rules Substantive Changes (as amended)

Action: The Standing Rules were updated.

Resolutions Referred to the Board of Directors

Resolution 8 Process of Determining Compensation of ACEP Officers and Board of Directors

RESOLVED, That the ACEP Board of Directors develop a formal policy for provision of information to the Compensation Committee and establish a process for the Compensation Committee to determine its recommendation based upon an objective work assignment methodology and not necessarily based on time commitment.

Action: Assigned to the Compensation Committee. The committee developed a revised process to prepare their recommendations regarding Board member and officer stipends.

Resolution 29 Membership Eligibility

RESOLVED, That the ACEP Bylaws Article IV – Membership, Section 1 – Eligibility, be amended to read:

ARTICLE IV – MEMBERSHIP

Section 1 – Eligibility

Membership in the College is contingent upon the applicant or member showing a significant interest in emergency medicine and being of good moral and professional character. Members agree to abide by the “Principles of Ethics for Emergency Physicians,” which are contained in the current “Code of Ethics for Emergency Physicians.” No person shall be denied membership because of sex, race, age, or political or religious beliefs, **sexual orientation, or real or perceived gender identity.**

Action: Assigned to the Membership Committee to provide a recommendation to the Board regarding further action on this resolution. The Membership Committee determined that the language was consistent with current College policy and recommended that the resolution be reviewed by the Bylaws Committee as to the appropriateness of the additional language and to ensure there were no conflicts with other sections of the Bylaws. The Bylaws Committee reviewed the language and concluded that no conflicts exist. In June 2007, the Board decided to resubmit the resolution as originally submitted in 2005. The resolution was adopted by the 2007 Council and the Bylaws were updated.

Resolution 34 Single-Payer Health Insurance

RESOLVED, That the American College of Emergency Physicians supports the adoption of a single payer health insurance program in the United States; and be it further

RESOLVED, That the American College of Emergency Physicians explore opportunities to partner with other like-minded organizations that favor the single-payer approach to providing health insurance to all Americans.

Action: Assigned to the Federal Government Affairs Committee to provide a recommendation to the Board regarding further action on this resolution. In January 2006, the Board endorsed a set of reform principles calling for universal healthcare coverage. Those principles do not specify a financing mechanism nor a specific approach, but serve instead as the basis for further work. In August 2007, the Board reaffirmed its support for the previously mentioned principles and agreed that no further action on the resolution was needed in light of the reform principles and other policies of ACEP. The Board further expressed the view that healthcare reform was and will continue to be a critical issue in the years to come and that further debate over the merits of various proposals to reform healthcare should be explored. The Michigan College of Emergency Physicians submitted another resolution on single-payer health insurance to the 2007 Council. The resolution was referred to the Board of Directors and assigned to the Federal Government Affairs Committee to again provide a recommendation to the Board of Directors.

In January 2008, the ACEP Board of Directors discussed ACEP’s position on health care reform. The Board reviewed the results of a survey of the Executive Committee, Federal Government Affairs Committee, and the State Legislative/Regulatory Committee on specific components of a health care reform proposal. The survey included questions that involve system reform as well as coverage issues. The survey was revised to include questions about liability reform, EMTALA, and health information technology. There was consensus from the Board that system reform and health care coverage are ACEP’s primary goals in the health care debate. The revised survey was distributed to the Council e-list and the responses were discussed by the Steering Committee in May 2008. Specifically regarding a single-payer system, 51.1% of the survey respondents were opposed, 44.5% indicated support, and 4.4% indicated no opinion. The information from the survey was used to assist the ACEP president and the Board of Directors in refining ACEP’s health care reform policy and assess national, state, and local reform initiatives.

The Michigan Chapter has submitted another resolution to the 2008 Council on single-payer health insurance.

Resolution 36 Medicare Requirement of Three-Night Hospital Stay (as amended)

RESOLVED, That ACEP work to amend Medicare legislation to eliminate the requirement of a three-night hospital stay as a prerequisite for coverage of skilled care facility placement; and be it further

RESOLVED, That ACEP engage other health care organizations and advocacy groups to persuade Congress of the advisability of this effort; ~~and be it further~~

~~RESOLVED, That ACEP work with CMS to create screening criteria for appropriate placement of Medicare patients in skilled care facilities directly from EDs; and be it further~~

~~RESOLVED, That ACEP work with CMS to remove any barriers to direct admission of appropriate Medicare patients to skilled care facilities from the ED; and be it further~~

~~RESOLVED, That ACEP develop a policy statement for the appropriate and timely placement of patients in skilled care facilities directly from emergency departments, or following short stay admissions.~~

Action: Assigned to the Federal Government Affairs Committee to provide a recommendation to the Board regarding further action on this resolution. CMS has maintained the three-day requirement in spite of soliciting comments in 2005 on whether to count time in the emergency department and/or observation toward the three days. In the final rule for 2006, CMS cited concerns that any administrative change could create opportunities for “gaming the system” and the Agency has not raised the issue of the three-day inpatient stay in subsequent regulations (2007 or 2008). The Federal Government Affairs Committee discussed options and staff spoke with AHCA and other nursing home and post acute care organizations that are looking for a sponsor to introduce legislation to eliminate the requirement. Staff also discussed with CMS about the feasibility of testing alternatives to the three-day stay requirement. A class-action suit was filed in federal court on behalf of Medicare beneficiaries who were denied payment for skilled nursing care because they had not met the three-day inpatient stay requirement, arguing that time spent in the emergency department or in observation should have counted. The court dismissed the suit in 2006, citing that it was up to Congress to change the statute. An amicus brief was filed in Federal Appeals Court, 2nd Circuit by the American Health Care Association (AHCA), et al in March 2007. CMS staff indicated in July 2007 that they are refraining from any new proposals pending a decision from the federal appeals court. In August 2007, the Board of Directors supported continuing efforts to rescind long-standing regulatory policy regarding the Medicare requirement of a three-day hospital stay and included the issue on ACEP’s legislative and regulatory priority list for the second year of the 110th Congressional session.

The Federal Government Affairs is still actively addressing this issue. A subcommittee was appointed and discussed options and strategies for partnering with the American Association of Retired Persons (AARP), nursing home organizations, etc. to press for a legislative change. CMS has not addressed the issue in the past three annual Medicare regulations for skilled nursing facilities because a legal challenge to the rules is still pending in Federal Appeals Court, 2nd Circuit. Arguments were heard in May 2008, but a decision has not yet been rendered. Until the court makes its ruling, it will continue to be difficult to garner legislative or regulatory interest in this part of the law. However, ACEP will continue to pursue this change with the next Administration and the 111th Congress.

On September 24, 2008, the Board of Directors approved a moderate commitment of resources to continue efforts with other stakeholders, e.g., AARP, nursing homes, and beneficiary groups, to advocate for a change in the Medicare 3-day stay law.

Resolution 39 Hospital Emergency Department Throughput Performance Measure

RESOLVED, That the American College of Emergency Physicians advocate that emergency physicians be held accountable only for those aspects of the emergency department throughput time over which they have direct control; and be it further

RESOLVED, That the American College of Emergency Physicians work with other stakeholders and the Centers for Medicare and Medicaid Services to develop an index of hospital emergency department throughput to serve as one of the performance measures for hospitals; and be it further

RESOLVED, That the American College of Emergency Physicians support a financial incentive for hospitals to comply with a performance measure of emergency department throughput; and be it further

RESOLVED, That the American College of Emergency Physicians advocate that any financial incentive to hospitals for improved emergency department throughput not detract from federally allocated funds for emergency physician payment.

Action: Assigned to the Federal Government Affairs Committee to provide a recommendation to the Board regarding further action on this resolution. In April 2006 the Board discussed quality measures being developed by the Quality and Performance Committee. The Board expressed support for developing a measure to require hospitals to report boarding of patients in the ED. In June 2006 the committee submitted a draft measure on Emergency Department Patient Throughput. After a lengthy discussion, the Board decided to develop a measure for door-to-disposition time for all patients within 6 hours. A workgroup was convened on July 17, 2006, to develop the revised measure. The measure was submitted to selected member reviewers and the Emergency Nurses Association for comment and meetings were held with JCAHO and other hospital associations to discuss the measure. The measure was submitted to entities involved in the development of quality measures, however they deferred any action on the measure because

of concerns that there was inadequate data to support the 6-hour measure and with the hospital's ability to collect the data. The Quality and Performance Committee continues to work on developing additional quality measures.

In 2007, a meeting was held with JCAHO to encourage enforcement of the rule against boarding and other groups have also contacted JCAHO. Additionally, ACEP is seeking a requirement that hospitals report to CMS the extent of boarding in EDs and the amount of time admitted patients are boarded, and for CMS to publicly report the data.

In the 109th Congress, ACEP got introduced and garnered broad sponsorship for the "Access to Emergency Medical Services Act" (S. 2750/H.R. 3875), which included provisions establishing a Bipartisan Commission on Access to Emergency Medical Services that would address among other things, the "Crowded conditions in such emergency departments and the practice of boarding patients who require admission, or have already been admitted, to a hospital for extended periods in such departments and in the areas adjacent to such departments." In the 110th Congress, the legislation was re-introduced and has gained more sponsors (S. 1003/H.R. 882).

Continued advocacy by the ACEP Board, the Quality and Performance Committee, and ACEP staff has yielded renewed interest at CMS, in Congress, and within consensus development groups and stakeholders, to find ways to address hospital ED throughput issues through the development of quality measures and legislation designed to relieve crowding.

CMS, through contract with the Oklahoma QIO, is working with hospitals, ACEP, The Joint Commission, consumer groups, and other stakeholders to develop hospital-level quality measures around hospital ED wait times, overcrowding, boarding, and diversions. The measures are expected to proceed through the National Quality Forum (NQF) endorsement process this fall, in time for CMS implementation in 2008. ACEP is nominating several QPC members to serve on the NQF Steering Committee expected to consider the measures.

The measures in development include:

- Decision to Departure Time for Admitted Patients: Median time from decision to admit to time of departure from the emergency department for emergency department patients admitted to inpatient status.
- Patient Left Before Seen: Percentage of emergency department patients who received an initial assessment and left before the medical screening exam by the physician/PA/ANP
- Median Time to Pain Management: Median time from emergency department arrival to time of initial oral or parenteral pain medication administration for emergency department patients with a diagnosis of (long bone) fracture.
- Median Time to Chest X-Ray: Median time from initial chest x-ray order to time chest x-ray exam completed.
- Median Time to CT Scan Interpretation: Median time from initial CT scan order to time CT scan result is reported to emergency department staff.
- Median Time to CBC Result: Median time from initial complete blood count (CBC) order to time CBC result is reported to emergency department staff.
- Median Time to Electrolyte Result: Median time from initial electrolyte or basic metabolic profile (BMP) order to time electrolyte results or BMP is reported to emergency department staff.
- Median Time to Troponin Result: Median time from initial troponin order to time troponin result is reported to emergency department staff.

In August 2007, the Board affirmed that introduction of H.R. 3875 and subsequently H.R. 882/S. 1003 and the ongoing activities of the Quality and Performance Committee and federal agencies, constitute effective implementation of this resolution.

Resolution 40 Medical Staff Self-Governance and Independence

RESOLVED, That the American College of Emergency Physicians advocate for legislation and regulation to ensure that a hospital medical staff may function independently through self-governance, develop bylaws and credentialing mechanisms, and be represented, at its own expense, independent legal counsel; and be it further

RESOLVED, That the American College of Emergency Physicians advocate for the appropriate court to intervene in a dispute between a medical staff and a hospital governing board, when the medical staff is being prevented from exercising its rights, obligations, or responsibilities, after good faith effort by the medical staff and the hospital governing board fails to resolve the conflict.

Action: Assigned to the Emergency Medicine Practice Committee to provide a recommendation to the Board regarding further action on this resolution. A subcommittee researched the issue of self-governance and submitted their analysis and recommendations to the Board of Directors in June 2006. The Board approved the recommendation to provide resource information to members, monitor the issue, and defer any further action regarding this resolution..

Resolution 46 Primary PCI without Cardiac Surgery Backup

RESOLVED, That ACEP supports the use of primary percutaneous coronary intervention (PCI) without cardiac surgery backup for acute ST-elevation myocardial infarction and will create a clinical policy to this effect.

Action: Assigned to the Clinical Policies Committee to provide a recommendation to the Board regarding further action on this resolution. A recommendation was submitted to the Board in June 2006 that no further action be taken on this resolution and that the committee not be assigned an objective to develop a new clinical policy to support the use of primary percutaneous coronary intervention (PCI) without cardiac surgery backup for acute ST-elevation myocardial infarction. The Board approved the recommendation.

Resolution 48 BME Oversight of Out of State Egregious Medical Testimony (as amended)

RESOLVED, That ACEP should develop strategies and model legislative language to facilitate state oversight, specifically including the state Board of Medical Examiners, of ~~out-of-state~~ medical legal expert opinions for egregious medical expert testimony, to include requirements for out of state medical legal experts to obtain a ‘temporary’ or ‘restricted’ state BME license to qualify for in-state expert testimony; and be it further

RESOLVED, That ACEP should monitor state and national (including the Federation of State Medical Boards) efforts, reviews and sanctions by state BMEs of physicians providing egregious medical expert testimony, and report back to Council on an annual basis for the next four years.

Action: Assigned to the State Legislative/Regulatory Committee to provide a recommendation to the Board regarding further action on this resolution. Work on this resolution was combined with Resolution 25(04) “ACEP and Chapter Coordination Addressing Egregious Testimony” assigned to the Medical-Legal Committee, National/Chapter Relations Committee, and the State Legislative/Regulatory Committee. Members of the Medical-Legal Committee and the State Legislative/Regulatory Committee crafted model statutory language on expert witness testimony in medical liability cases. This legislation includes a provision that requires out-of-state expert witnesses to be deemed to have a temporary license to practice in the state solely for the purpose of providing expert testimony and is subject to the authority of the state medical board. Additionally the legislation requires any expert testifying against a board certified physicians to be board certified in the relevant specialty. The model language was distributed to ACEP chapters. The information required to include in a report changes rapidly and is predicated on state legislative actions each year.

Resolution 50 Regionalized Acute Care Services

RESOLVED, That ACEP study and develop guiding principles for effective regionalization of high intensity acute care services, based upon the existing state trauma systems, to include regional oversight, state wide registries available to health services researchers, financial support for physicians and hospitals willing to provide this care, absence of undue bureaucratic regulations on physicians, and appropriate level of regulation and integration within the existing state health care system; and be it further

RESOLVED, That ACEP evaluate state legislative proposals for new regionalization of services within the context of its guiding principles.

Action: Assigned to the State Legislative/Regulatory Committee to provide a recommendation to the Board regarding further action on this resolution. In June 2006, due to the complexity of this issue, the committee recommended that a task force consisting of members from various pertinent committees be formed to develop guiding principles for regionalization efforts. The recommendation coincided with the release of the Institute of Medicine Report (IOM) on the Future of Emergency Medicine, which included a recommendation in support of regionalization efforts. The Board deferred action on the committee’s recommendation pending its review and discussion of the Institute of Medicine (IOM) Report on the Future of Emergency Care, which included a recommendation that “Congress should establish a demonstration program, administered by the Health Resources and Services Administration, to promote regionalized, coordinated, and accountable emergency care systems throughout the country, and appropriate \$88 million over five years to this program.” In March 2007, ACEP convened a summit to discuss the IOM Report and identify at least one priority recommendation in each of the five key areas that would serve as the basis of a joint federal legislative/regulatory agenda. Summit participants agreed that this recommendation was one of those priorities.

An additional recommendation from the IOM Report stated that “hospitals, physician organizations, and public health agencies should collaborate to regionalize critical specialty care on-call services.” In developing a prioritized action plan to address many of the recommendations that came out of the IOM Report, the Board determined that it should monitor developments related to the recommendation calling for the creation of a regionalization demonstration project and should work with the American College of Surgeons and provide input into efforts to regionalize specialty care on-call services.

The State Legislative/Regulatory Committee was assigned an objective in FY 07-08 to track and compile state legislative developments related to regionalization of emergency care. The committee surveyed chapters and conducted independent research with state health officials to identify current state efforts to regionalize acute care services (with particular emphasis on efforts related to STEMI and stroke) and identified pre-hospital and hospital protocols and procedures utilized by the states.

Another resolution on Regionalized Acute Care Services was submitted to 2007 Council, which was referred to the Board and assigned to the State Legislative/Regulatory Committee. The committee recommended that the Board establish a task force of various College experts to develop guiding principles for regionalization programs. The task force was appointed in June 2008. The materials developed and reviewed by the committee were submitted to the new task force for assistance in moving forward on this project.

ACEP also supported federal legislation introduced in July 2007 by Senator Barack Obama and Representative Henry Waxman, entitled the “Improving Emergency Medical Care and Response Act of 2007” (S. 1873 and H.R. 3173). The legislation called for the development of four regional demonstration programs aimed at designing, implementing and evaluating a regionalized, accountable emergency care system.

Resolution 58 Disaster Medical Response

RESOLVED, That ACEP recommend to the Federal Emergency Management Agency (FEMA) that they establish, on an ongoing basis, a national credentialing mechanism and up-to-date database of available physicians to be deployed as needed in the face of a national emergency.

Action: Initially, the resolution was referred to the Disaster Section Steering Committee to provide a recommendation to the Board regarding further action on this resolution; however, it was determined that there are several projects at the federal level that address this issue: the Medical Reserve Corp and the Emergency System for Advanced Registration of Volunteer Health Professionals (ESAR-VHP). The ACEP Web site has an informational video on how physicians and others can volunteer for a number of disaster response agencies, including the Medical Reserve Corp and the ESAR-VHP, plus Disaster Medical Assistance Teams (DMAT). ACEP is also working with the HHS Assistant Secretary for Preparedness and Response (ASPR) as they start up their Emergency Care Coordinating Center (ECCC) and implement Homeland Security Presidential Directive 21 (HSPD 21).

In June 2006 the Board approved the policy statement, “Disaster Medical Response.” It was added to the Web site and included in the Policy Compendium.