

Memorandum

To: Council Steering Committee

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

Date: January 7, 2013

Subj: Actions on 2010 Resolutions

The attached report summarizes the actions taken by the Board of Directors on the 23 resolutions adopted by the 2010 Council. Six resolutions were referred to the Board of Directors. The Council also adopted two amendments to the Council Standing Rules, which did not require adoption by the Board.

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

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Action on 2010 Council Resolutions

Resolution 1 Commendation for Nicholas J. Jouriles, MD, FACEP

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

Resolution 2 In Memory of Carol S. Rivers, MD, FACEP

Action: A framed resolution was prepared and sent to the family of Dr. Rivers.

Resolution 3 In Memory of Gregory Dean Sides, MD, FACEP

Action: A framed resolution was prepared and sent to the family of Dr. Sides.

Resolution 4 Assistant Secretary-Treasurer

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

Section 1 – Officers

The officers of the Board of Directors shall be president, president-elect, chair, immediate past president, vice president, and secretary-treasurer. The officers of the Council shall be the speaker and vice speaker. The Board of Directors may appoint other officers as described in these Bylaws; and be it further

RESOLVED, That the ACEP Bylaws, Article X – Officers/Executive Director, be amended by addition of a new Section 14 – Assistant Secretary-Treasurer to read:

Section 14 – Assistant Secretary-Treasurer

Annually, the ACEP Board of Directors shall appoint an individual to serve as assistant secretary-treasurer. The assistant secretary-treasurer shall serve as an officer of the corporation without authority to act on behalf of the corporation, except (i) to execute and file required corporate and financial administrative and franchise type reports to state, local, and federal authorities, or (ii) pursuant to any authority granted in writing by the secretary-treasurer. All other duties of the secretary-treasurer are specifically omitted from this authority and are reserved for the duly elected secretary-treasurer. The assistant secretary-treasurer shall not be a member of the Board of Directors.

Action: The Bylaws were updated.

Resolution 5 Chapter Bylaws Amendments

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

A petition for the chartering of a chapter shall be accompanied by the proposed bylaws of the chapter, ~~which must be in conformity with the College Bylaws and should conform to the format of the “Model Chapter Bylaws.”~~ No charter shall be issued until such bylaws are approved by the Board of Directors of the College. Chartered chapters must ensure that their bylaws conform to the College Bylaws and to the “Guidelines for Bylaws and Model Chapter Bylaws for Chapters of the American College of Emergency Physicians.” Proposed amendments to the bylaws of a chapter shall be submitted in ~~writing to a format and manner designated by~~ the College by certified mail, return receipt requested, not later than 30 days following the adoption of such proposed amendments by the chapter, pursuant to its bylaws and procedures. No proposed amendment shall have any force or effect until it has been approved by the Board of Directors of the College. A proposed amendment shall be considered approved if the Board of Directors or its designee fails to give written notice of any objection within 90 days of receipt as documented by the College, ~~as shown on the certified mail return receipt~~. No chapter is permitted to act on behalf of, or to appear to third parties to be acting on behalf of, the College. In accepting or retaining a charter as a chapter of the College, the chapter and its members acknowledge the fact that the chapter is not an agent of the College notwithstanding that the College has the authority to establish rules governing actions of the chapter which may give the appearance of a principal-agent relationship.

Action: The Bylaws were updated.

Resolution 6 Component Bodies and Councillor's Term of Office

The extensive changes to the Bylaws have not been included in this report due to the length of the document. The Board was a cosponsor of the resolution and the changes to the Bylaws were adopted by the Council as submitted. Please contact Sonja Montgomery, CAE, to obtain a copy of the adopted resolution if desired. E-mail smontgomery@acep.org.

Action: The Bylaws were updated.

Resolution 7 Council of Emergency Medicine Residency Directors (CORD)

The extensive changes to the Bylaws have not been included in this report due to the length of the document. Please contact Sonja Montgomery, CAE, to obtain a copy of the adopted resolution if desired. E-mail smontgomery@acep.org.

Action: The Bylaws were updated.

Resolution 10 Official ACEP Publications as Member Benefits

RESOLVED, That the ACEP Bylaws Article IV – Membership be amended by addition of a new Section 7 – Official Publications to read:

Section 7 – Official Publications

Each member shall receive *Annals of Emergency Medicine* and *ACEP News* as official publications of the College as a benefit of membership.

Action: The Bylaws were updated.

Resolution 11 Procedures for Addressing Charges of Ethical Violations and Other Misconduct

The extensive changes to the College Manual have not been included in this report due to the length of the document. The Board was a cosponsor of the resolution and the changes to the College Manual were adopted by the Council as submitted. Please contact Sonja Montgomery, CAE, to obtain a copy of the adopted resolution if desired. E-mail smontgomery@acep.org.

Action: The College Manual was updated.

Resolution 14 Advocacy to Ban Distracted Drivers (as amended)

RESOLVED, That ACEP actively promote public education and support legislative efforts such as primary enforcement laws that control, ban, or otherwise limit use of two way communication devices and other distracters while operating a motor vehicle; and be it further

RESOLVED, That ACEP promote crash data collection for cell phone/electronic equipment distraction.

Action: Assigned to the Public Affairs staff to develop a plan to promote public education and include in advocacy initiatives. Assigned to Chapter & State Relations staff to track state legislative activity and disseminate public education materials as available. Assigned to the AMA Section Council on Emergency Medicine for action.

The AMA Section Council on Emergency Medicine recommended that no action be taken to the AMA regarding this resolution because AMA policy on the issue is comprehensive. Given health care reform and other competing priorities, the Section Council was confident that collecting crash data relating to cell phone/electronic equipment use would not be a priority of the AMA. Since this resolution did not direct specific actions with the AMA, and the Section Council recommended that ACEP explore other avenues to address this issue.

ACEP's state legislative tracking system was utilized to help identify state legislative efforts to limit or ban the use of electronic communication devices by some or all drivers. Information on legislation identified through the tracking system was provided in the state-specific weekly reports sent to the 29 chapters participating in this service. Information on all state laws regarding texting and driving, along with talking points related to the issue, were distributed to all chapters.

The Board approved the revised policy statement, "Addressing the Public Safety Dangers Associated with Impaired or Distracted Driving" in October 2011, <http://www.acep.org/Content.aspx?id=82619>. The policy includes the U.S. Department of Transportation's definition of distracted driving.

ACEP has a long history of promoting injury prevention through public education such as the American Medicine Chest Challenge (a campaign to educate people about how and why to get rid of unused and expired drugs), Seconds Save Lives (what to do in an emergency), motor cycle and seat belt campaigns and others. The Public Affairs staff reviewed the U.S. Department of Transportation's Distracted Driving campaign and the results of two Distracted Driving Summits.

Resolution 15 Advocacy Education in Residency (as amended)

RESOLVED, That ACEP will work with EMRA, CORD, and other appropriate entities to continue the development and promotion of resources that assist in the creation and delivery of advocacy education to emergency medicine residents; and be it further

RESOLVED, That ACEP promote all emergency medicine residency programs to integrate formal education in health care systems and advocacy training as official components of their residency curricula; and be it further

RESOLVED, That ACEP continue to support and broadly define advocacy in the Model of the Clinical Practice of Emergency Medicine.

Action: Assigned to the Academic Affairs Committee. The committee identified several strategies to pursue:

- use EMRA's advocacy Web site as a resource clearinghouse;
- survey chapters on legislative days for residents (survey questions submitted for inclusion in chapter survey; **chapters** will be asked to include slides of their legislative days for review)
 - an article on the importance of advocacy will be submitted to the *Annals of Emergency Medicine's* "Resident Perspective;"
 - ACEP and EMRA requested expansion of advocacy issues during the *Model* revision meeting at the Society for Academic Emergency Medicine (SAEM) meeting in June 2011 and at the EM organizations' meeting at SAEM; and
- the Federal Government Affairs Committee chair assigned members of the committee to review EMRA's advocacy Web page and recommend revisions.

Resolution 17 CMS Payment Model Pilot Projects (as amended)

RESOLVED, That ACEP continue to develop models for appropriate payment for patient care services provided by emergency physicians and when appropriate, engage CMS.

Action: Assigned to Public Affairs staff. ACEP continues to pursue fair reimbursement for patient care services. The issue was raised in the comment letter on the Outpatient Prospective Payment System proposed rule. Additionally, ACEP members and staff met with CMS officials to discuss reimbursement issues.

On December 13, 2011, ACEP members and staff met with the new Acting CMS Administrator Marilyn Tavenner. Several issues were raised during the meeting: payment issues in Washington State and other states' attempts to limit access to emergency care; ACEP's recommendation that CMS use the Fair Health database to reimburse out of network physicians; the upcoming study by ACEP on the value of emergency medicine; ACEP's recommendation to CMS to waive the three-day hospital stay rule; the Innovation Center challenge grants; and emergency medicine's role in transitions of care. Ms. Tavenner was responsive to many of these issues and committed to further discussion in the near future. ACEP's core objective is for CMS to require states to adhere to the prudent layperson standard. A meeting was also requested to further discuss the out-of-network issue with CMS staff.

Two meetings were held in spring 2012 with the CMS Director of Office of Consumer Information and Insurance Oversight to advocate for CMS use of the Fair Health database to establish verifiable rates for out-of-network payment and submitted draft guidelines for review in June 2012. CMS could possibly review the draft guidelines after the November elections.

The Affordable Care Act contains a provision (Sec. 1202) mandating that payment for primary care services to Medicaid enrollees in calendar years 2013 and 2014 be paid at Medicare rates. The statute limited payments to physicians with family care, internal medicine, or pediatric designations. The draft implementing rule included payment eligibility to over 40 subspecialties, including pediatric emergency medicine. Following submission of ACEP's comment letter, ACEP members and staff met with CMS and discussed the unintended consequences of the draft rule, including perverse incentives to hire non-emergency boarded physicians to receive higher payments for the next two years. We made the same arguments in our formal comment letter.

The Delivery System Reform Task Force is working with the Transition of Care Task Force and the Reimbursement Committee to identify members who are involved in Accountable Care Organizations with public (CMS) and/or private payers for purposes of educating members regarding the role of and payment to emergency physicians.

Resolution 26 Determining Medical Clearance for Psychiatric Patients in EDs (as amended)

RESOLVED, That ACEP meet with the American Psychiatric Association and other stakeholders to create a guideline for the medical stability of psychiatric patients that includes the conclusions from the 2006 ACEP *Clinical Policy: Clinical Issues in the Diagnosis and Management of the Adult Psychiatric Patient in the Emergency Department*.

Action: ACEP's 2006 clinical policy was developed with representation from the American Association for Emergency Psychiatry (AAEP). The Clinical Policies Committee was assigned an objective in 2011-12 to begin updating the clinical policy. AAEP will have representation on the development panel for the revised policy and the American Psychiatric Association will be invited to participate in the expert review process. The critical questions have been developed for the policy and literature searches and grading of the literature will occur in the 2012-13 committee year.

Resolution 28 Federation of State Medical Boards (as amended)

RESOLVED, That the American College of Emergency Physicians (ACEP) adopt policy that medical quality of care/standard of care should be determined using the input of physicians from the same or similar field of practice; and be it further

RESOLVED, That the ACEP work with the American Medical Association (AMA), the Federation of State Medical Boards (FSMB), and other appropriate parties, to implement existing model processes that provide minimum standards of due process, that includes, but not limited to, the right to appeal and overturn decisions not supported elsewhere by court action, and that these standards be communicated to the FSMB for use by member organizations for license holders and license applicants under their jurisdiction; and be it further

RESOLVED, That ACEP work to amend existing AMA HOD policies H-265.998, H-275.978 and other relevant AMA policies to include that a licensee or qualified applicant to be given (1) a minimum of 30 days to respond to inquiries, (2) the consideration of a prompt resolution within 30 days of response, (3) require that expert review must be of the same or similar specialty as the accused and the reports must be sworn, (4) eliminate the use of anonymous witnesses, and (5) provide exculpatory expert reports to the practitioner, should they exist: and be it further

RESOLVED, That ACEP's delegation to the American Medical Association forward this issue to the AMA for consideration at its next business meeting.

Action: Assigned to the Medical-Legal Committee to develop a policy and assigned to the AMA Section Council on Emergency Medicine for action. The AMA Section Council on Emergency Medicine submitted a resolution to the AMA House of Delegates at the annual meeting in June 2011, which included AMA policy, with the title, "Due Process in Medical Licensure." The Section Council promoted the resolution in many venues during that meeting. The resolution received strong support from the House of Delegates and was referred to the AMA Board of Trustees for review of the issue of the impact of requiring that the standard of care in medical licensure be determined by sworn expert review by a physician of the same specialty.

The Medical-Legal Committee was assigned to continue this objective in the 2011-12 committee year. With input from ACEP's liaison representative, the FSMB developed a policy with these requirements. Since FSMB is intimately involved in medical licensure, this policy is perceived to be more effective than a stand-alone policy statement developed by ACEP. Several FSMB policies allude to seeking reviewers from a similar or the same specialty, however, very often it is difficult for the medical boards to find physicians to serve as reviewers, which can result in having physicians outside of a specialty assigned to review the case. Additionally, ACEP's expert witness policy requires that testimony be from the same or similar field of practice.

Resolution 29 Prescription Electronic Monitoring (as amended)

RESOLVED, That the American College of Emergency Physicians create a policy supporting the use of web-based prescription monitoring programs in every state; and be it further

RESOLVED, That utilization of prescription monitoring programs is at the practitioner's discretion for an individual patient rather than a requirement for every patient; and be it further

RESOLVED, That physicians not be required to submit information to prescription monitoring programs or to report potential prescribed medication abuse to the authorities, which may discourage a patient with a genuine medical complaint to seek care; and be it further

RESOLVED, That ACEP support the re-authorization of federal funding for the National All Schedules Prescription Electronic Reporting (NASPER) and adequate funding for intra-state linkages of databases, and access to these databases by practicing physicians.

Action: Assigned to the Emergency Medicine Practice Committee. Assigned to Public Affairs staff for federal advocacy initiatives and State Legislative/Regulatory Committee for state advocacy initiatives.

The Emergency Medicine Practice Committee prepared a policy statement, “Electronic Prescription Monitoring,” that was approved by the Board in October 2011. The policy was added to the Web site and included in the Policy Compendium <http://www.acep.org/Content.aspx?id=82648>

The State Legislative/Regulatory Committee developed a compendium of resources and a fact sheet on prescription drug monitoring programs to assist chapters in advocating for effective programs in their states. The material was provided as an information item to the Board of Directors and was then distributed to the chapters.

The Federal Government Affairs Committee identified the NASPER Reauthorization Act of 2011 (H.R. 866) on ACEP’s legislative and regulatory agenda. A bill was pending in the Health Subcommittee of the House Energy and Commerce Committee, but it was not addressed in the last legislative cycle. ACEP will pursue discussions with members who serve on the committee to develop legislation for reauthorization in the next session.

Resolution 30 Redundant Emergency Medicine Board Certification (as amended)

RESOLVED, That ACEP engage in a formal education program to assure state chapters are briefed regarding the efforts by non-ABEM and non-AOBEM entities to hold their members out as “board certified” in Emergency Medicine; and be it further

RESOLVED, That ACEP engage in both national and state lobbying efforts to educate the several licensing agencies that the only standard of obtaining Emergency Medicine board certification in the 21st century and beyond remains successful completion of specialty-specific residency training in an ACGME or AOA approved Emergency Medicine residency program followed by completion of the certifying examination offered exclusively by either ABEM or AOBEM.

Action: Assigned to Chapter & State Relations staff to provide information to chapters and promote state lobbying efforts. Assigned to Public Affairs staff for federal advocacy initiatives.

Chapters were provided with information about state medical board proposals to grant board certification recognition to physicians certified by non-ABEM and non-AOBEM entities in several states throughout 2010. Chapters engaged in such efforts were provided with substantial assistance from ACEP and other chapters were encouraged to be vigilant about potential similar efforts in their states. Use of ACEP’s state legislative tracking service was expanded to regularly search state regulatory web sites to help identify any emerging state medical board activities related to this issue. No new board certification recognition initiatives have been identified in 2011.

The Federal Government Affairs Committee identified appropriations funding for several federal programs as priority items for ACEP’s legislative and regulatory agenda, which included support for initiatives that address workforce shortages and funding. Talking points, comment letters, and Hill and agency visits routinely stress residency-trained, board certified emergency physicians as the standard.

Resolution 31 Shared Responsibility (as amended)

RESOLVED, That ACEP partner with other medical organizations and interested parties to advocate for the patient or competent advocate as it relates to administrative and regulatory initiatives such as outcomes, hospital readmissions, and determination of quality care metrics by governmental and other payers and be it further,

RESOLVED that ACEP advocate within the AMA to develop and raise awareness about opportunities to advocate for enhanced patient responsibility for their own health and healthcare utilization.

Action: Assigned to the AMA Section Council on Emergency Medicine for action. The Section Council determined that the AMA has extensive policy on this topic and no gaps were identified that should be addressed at this time by an ACEP resolution to the AMA. It was observed that this topic is important and could be promoted by emergency physicians in AMA leadership positions as opportunities arise. The Council Steering Committee was informed of the Section Council’s determination in May 2011.

Resolution 32 Support for Reform of the Present System of Medical Liability (as amended)

RESOLVED, That the American College of Emergency Physicians endorses and promotes as policy that a fundamental transformation of the medical liability system is needed; and be it further

RESOLVED, That the American College of Emergency Physicians endorses and promotes the need for a medical liability system based on best practices that may include, after study, but are not limited to a baseline culture of safety, open, blame-free communication, rigorous patient safety improvement efforts, appropriate apologies without admissibility, and alternative dispute processes and use of the tort system only as a last resort.

Action: Assigned to the Medical-Legal Committee to review current policies for potential revisions, or to develop a new policy statement. The policy statements, “Malpractice Reform” and “Reform of Tort Law” were revised and incorporated into a single policy, “Reform of Tort Law.” The Board approved the policy in April 2011. The policy was added to the Web site and included in the Policy Compendium. <http://www.acep.org/Content.aspx?id=29666>

Resolution 33 Support of Subspecialty Certification and Fellowships in Undersea and Hyperbaric Medicine

RESOLVED, That ACEP supports ABEM subspecialty certification in Undersea and Hyperbaric Medicine for those physicians board certified in emergency medicine who meet the appropriate criteria; and be it further

RESOLVED, That ACEP supports the promotion and development of ACGME accredited fellowships in Undersea and Hyperbaric Medicine.

Action: ABEM was aware of the resolution at the time it was approved by the Council and the Board. ACEP’s support of subspecialty certification and fellowships in undersea and hyperbaric medicine was communicated to ABEM.

Resolution 34 Violence Prevention in the Emergency Department (as amended)

RESOLVED, That the American College of Emergency Physicians (ACEP) believes in maximum legal penalties for verbal threats, physical violence, or any other form of assault against healthcare workers working in the emergency department; and be it further

RESOLVED, That ACEP advocate for increased awareness of violence against healthcare workers in the emergency department and for increased safety measures in all emergency departments; and be it further

RESOLVED, That in an effort to establish a federal standard that mandates workplace violence protections in the emergency department setting, ACEP advocate for all states to sign into law that violence against healthcare workers in the ED have a maximum elevated category of offense and subsequently, maximum criminal penalty.

Action: Assigned to the Public Health & Injury Prevention Committee to review current policy “Protection from Physical Violence in the ED Environment” and determine if revisions are needed. Assigned to the State Legislative/Regulatory Committee to develop a plan to promote awareness of ED workplace violence and advocate for state laws with maximum penalties for violence against health care workers.

The Board approved the revised policy statement, “Protection from Physical Violence in the Emergency Department Environment,” in June 2011. The policy was added to the Web site and included in the Policy Compendium. <http://www.acep.org/Content.aspx?id=29654>

The State Legislative/Regulatory Committee compiled legislation and related advocacy materials and developed additional resources to assist chapters in successfully advocating for stricter penalties for assaulting health care workers.

Resolution 35 Change in Interpretation of ACS Criteria for Trauma Center Classification

RESOLVED, That ACEP engage the Verification Review Committee of the American College of Surgeons Committee on Trauma to discuss the change in interpretation of sections 7.6 and/or 7.15 of “Resources for Optimal Care of the Injured Patient” with the goal of allowing recent emergency medicine residency graduates with past ATLS certification who have not yet had time to complete the emergency medicine board certification process to be deemed as qualified to meet the standards of chapter 7; and be it further

RESOLVED, That ACEP also discuss with the Verification Review Committee of the American College of Surgeons the apparent incongruity caused by the application of the 7.15 deficiency (maintaining current ATLS certification for non-emergency medicine boarded emergency physicians) to emergency medicine trained physicians who are completing emergency medicine board certification when there is no apparent corresponding deficiency that would also be applied to general surgeons who are in the process of completing general surgery board certification.

Action: ACS-COT was made aware of the resolution at their annual meeting in November 2010 and clarification was requested. The resolution was also discussed with the ACS-COT leadership on a conference call held on September 1, 2011. ACS-COT responded that there was an error in interpretation from some site reviewers and they would work with the reviewers to correct the problem.

Council Standing Rules Resolutions

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

Resolution 12 Election Procedures (as amended)

RESOLVED, That the Council Standing Rules, “Election Procedures” section, be amended to read:

Election Procedures

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

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

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

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

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

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

Within 24 hours after the close of the annual Council meeting, the Chair of the Tellers, Credentials, and Elections Committee shall present to the Council Secretary a written report of the results of all elections. This report shall include the ~~vote totals for each candidate, the total number of valid and invalid votes for each candidate, and will verify the results of the election~~ number of credentialed councillors, the slate of candidates and the number of open positions for each round of voting, the number of valid and invalid ballots cast in each round of voting, the number needed to elect and the number of valid votes cast per candidate in each round of voting, and verification of the final results of the elections. This written report shall be considered a privileged and confidential document of the College. However, when there is a serious concern that the results of the election are not accurate, the Speaker has discretion to disclose the results to provide the Council an assurance that the elections ~~were~~ are valid. Individual candidates may request and receive ~~a report of their own total number of votes and the vote totals of the other candidates without attribution.~~

Action: The Council Standing Rules were updated.

Resolution 13 Late Resolutions

RESOLVED, That the "Resolutions" section of the Council Standing Rules regarding late resolutions be amended to read:

• *Late Resolutions*

Resolutions submitted after the 90-day submission deadline, but at least 24 hours prior to the beginning of the annual meeting are known as "late resolutions." These ~~L~~ate resolutions are considered by the Steering Committee at its meeting on the evening prior to the opening of the annual meeting. The Steering Committee is empowered to decide whether a late submission is justified due to events ~~giving rise to the resolution~~ that occurred after the filing deadline. An author of the late resolution shall be given an opportunity to inform the Steering Committee why the late submission was justified. If a majority of the Steering Committee votes to ~~waive the filing and transmittal requirements, the~~ accept a late resolution, ~~is it will be~~ presented to the Council at its opening session and assigned to a Reference Committee. If the Steering Committee votes unfavorably and rejects a late resolution, the reason for such action shall be reported to the Council at its opening session. ~~Disallowed late resolutions are not considered unless the Council, without debate and by a simple majority of councillors voting, overrides the Steering Committee's decision.~~ The Council does not consider rejected late resolutions. The Steering Committee's decision to reject a late resolution may be appealed to the Council. When a rejected late resolution is appealed, the Speaker will state the reason(s) for the ruling on the late resolution and without debate, the ruling may be overridden by a two-thirds vote.

Action: The Council Standing Rules were updated.

Resolutions Referred to the Board of Directors

Resolution 9 Life, Disabled, and Retired Members – Bylaws Amendment

The extensive proposed changes to the Bylaws have not been included in this report due to the length of the document.

Action: Assigned to the Membership Committee to prepare recommendations to the Board regarding action on this resolution. Assigned to the Bylaws Committee to work with the Membership Committee to develop Bylaws language based on the Board's decision and to determine if separate resolutions are needed on each issue.

A joint task force with the Membership Committee was assigned to develop objectives and suggested language for the referred resolution. The Bylaws Committee developed a resolution with some changes to the suggested language and submitted the resolution to the Board for review at its June 2011 meeting. At that time, the Board elected not to move forward with the resolution. An objective was assigned to the Membership Committee for the 2011-12 committee year to revise the membership classifications and to work with the Bylaws Committee as needed regarding any necessary changes to the Bylaws to submit to the 2012 Council. Both committees completed their assignments; however, the Board ultimately decided against forwarding the recommendation to the 2012 Council. The Membership Committee was given a similar objective for the 2012-13 committee year to specifically address the Life membership category regarding the age and length of membership when determining eligibility for Life membership and associated benefits for attaining Life membership.

Amended Resolution 19 Emergency Care at Non-VA Medical Facilities for United States Veterans

RESOLVED, That ACEP meet with the Department of Veterans Affairs and encourage their adoption of the Patient's Bill of Rights and prudent layperson standard; and be it further

RESOLVED, That ACEP encourages the Department of Veterans Affairs to stop the practice of retrospective analysis of emergency department visits to determine which claims to pay; and be it further

RESOLVED, That ACEP endorses, supports, and advocates during the meeting with the Department of Veteran Affairs to allow VA Health Care beneficiaries to be admitted to non-Department of Veterans Affairs hospitals and reimburses health care costs for provided care.

Action: Assigned to Public Affairs staff to provide a recommendation to the Board regarding action on this resolution. A report was provided to the Board in April 2011. All of the issues highlighted in the resolution have been addressed by statute and regulation, therefore, a meeting with the VA to discuss these issues is moot. It was determined that a mechanism could be created to allow members to report examples of non-compliance by the VA to its new policies since documentation would be needed to alert the VA to these types of problems. The Board determined that no further action was needed on the resolution. The Council Steering Committee was informed of the Board's decision in May 2011.

Resolution 21 Medicare-for-All Health Insurance (by substitution)

RESOLVED, That the ACEP Board appoint a task force to investigate alternative models of health care financing.

Action: Assigned to the Federal Government Affairs Committee to provide a recommendation to the Board regarding action on this resolution.

A similar resolution was submitted to the 2011 Council. Resolution 26(11) Single-Payer Universal Health Insurance was not adopted.

Following passage of the Affordable Care Act, ACEP identified priorities within it of critical interest to emergency medicine. The Board recognized that many changes in health financing and regulation were likely to continue. The Board also approved the establishment of the Emergency Medicine Action Fund and additional resources were allocated to analysis and working to affect the implementation of the Act.

A report was provided to the Board in April 2012 regarding policies and regulations that have been in process since enactment of the Affordable Care Act. ACEP has had the opportunity to submit comment letters on a wide range of issues and has had several meetings with department and agency officials over various provisions of the Act (accountable care organizations, the Physicians Quality Reporting System, information technology, workforce challenges etc.). The Board determined that no further action was needed on the resolution. The Council Steering Committee was informed of the Board's decision in May 2012.

In June 2012, the U.S. Supreme Court upheld the health care law. ACEP's legislative and regulatory priorities will continue to focus on provisions that impact emergency care.

A similar resolution was submitted to the 2012 Council regarding Single-Payer Universal Health Insurance.

Resolution 23 Reimbursement for Screening for Substance Abuse in the Emergency Department

RESOLVED, That ACEP request a change in reimbursement policy under Medicare and Medicaid to allow the inclusion of the time spent by health educators towards the time required for reimbursement of Screening, Brief Intervention, and Referral to Treatment (SBIRT) services.

Action: Assigned to Public Affairs staff to provide a recommendation to the Board regarding action on this resolution. A report was provided to the Board in April 2011. This is an issue for the AMA's Resource Utilization Update Committee (RUC) for its next 5-year review. Any changes in the "work" RVUs go to the RUC and data is usually gathered through practitioner surveys. Each year the RUC brings a certain number of codes at their own member societies' behest or in response to requests from CMS. CMS has the authority to accept, adjust values up or down, or reject RUC recommendations. If every group were able to go to CMS when they were dissatisfied with the value of their codes it would result in an ad hoc, and potentially inequitable, process. In spite of criticism of the RUC in recent years, this group remains integral to CMS process under the fee schedule. Changing value of this service would fall into the RUC's 5-year review, the next of which is 2012. Codes for that review have already been through a data gathering process, therefore, this code could not be included until 2017. This resolution requests ACEP to go to CMS and ask for the time "health educators" spend to be included in the billing codes for screening and brief intervention. Only physicians and independently licensed practitioners (NPs, etc.) can bill using the Medicare fee schedule, so an RN health educator, for example, would be a hospital employee and not allowed to bill independently. Hospitals that provide these services rely on a variety of employed staff and independent professionals to perform this service, including RNs and social workers. The Board determined that no further action was needed on the resolution. The Council Steering Committee was informed of the Board's decision in May 2011.

Resolution 25 Definition of an Emergency Physician (as amended)

RESOLVED, That ACEP defines an "emergency physician" as someone who has either completed ACGME or AOA residency training in Emergency Medicine or fellowship in Pediatric Emergency Medicine, or is ABEM or AOBEM certified in Emergency Medicine or Pediatric Emergency Medicine, or began practicing emergency medicine in the 20th century and therefore is eligible to be a member of the American College of Emergency Physicians.

Action: Assigned to the Membership Committee to provide a recommendation to the Board regarding action on this resolution, including the potential impact on international members. The committee provided options for the Board to consider. The Board approved the policy statement, "Definition of an Emergency Physician," in June 2011. The policy was added to the Web site and included in the Policy Compendium.

<http://www.acep.org/Content.aspx?id=80617>

Resolution 27 Emergency Department Staffing by Nurse Practitioners

RESOLVED, That the American College of Emergency Physicians study the independent practice of emergency medicine by nurse practitioners, including compiling information about their training and conducting a survey of which states and which hospitals permit the independent practice of emergency medicine by nurse practitioners and that a report of this study be made to the 2011 Council.

Action: Assigned to the Emergency Medicine Practice Committee to provide a recommendation to the Board regarding action on this resolution.

In June 2011, the committee recommended that ACEP not conduct a survey to determine the state of NP practice in emergency care. The Board approved the committee's recommendation to take no further action on this resolution. The Emergency Medicine Practice Committee was assigned an objective for the 2011-12 committee year to develop an information paper on the role of advanced practice practitioners in emergency medicine to include scope of practice issues and areas of collaboration with emergency physicians. The information paper, "Physician Assistants and Nurse Practitioners in Emergency Medicine," was reviewed by the ACEP Board in June 2012 and is posted on the ACEP Web site. <http://www.acep.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=86984>