On-call Task Force Report for ACEP Board
January 2008

The Issue:

The Emergency Department on-call problem stems from a widespread shortage of medical specialists willing to provide consultative services and stabilizing care for emergency department patients - a root cause of ED crowding and a weak link in the emergency care chain-of-survival.

The Goal:

To recommend a comprehensive plan for Board consideration on strategies to provide adequate and appropriate on-call specialty capability to evaluate and stabilize patients with emergency medical conditions.

Supporting Principles:

- Emergency care is an essential public service. (ACEP Policy)
- ED on-call coverage is a shared ethical responsibility for hospitals, medical staffs, and public and private payers in the communities and regions they serve. (ACEP Policy)
- ED on-call services are essential resources for emergency preparedness and homeland security

Major Policy Areas:

1. Liability Reform

Current ACEP Policy/Initiatives: One of the seven major objectives of the College is commitment to meaningful medical/legal liability reform. With the shift in power to the democrats, our bills in the 110th Congress – Access to Emergency Medical Services Act (H.R. 882/S.1003) call for Congress to appoint a national commission to conduct a comprehensive examination of liability issues relating to the provision of emergency care.

EMTALA TAG recommendation: Asks HHS to support Congress' amending EMTALA legislation to provide liability protection for hospitals, physicians, and other licensed personnel providing care under the statute.

Other strategies for consideration:

- Advocate for national or state legislation to provide protections to emergency and on-call specialty physicians similar to those found in the Federal Tort Claims Act and/or sovereign immunity statutes that would remove current barriers to taking call.

- Support changes in the threshold for a malpractice suit that services provided by the on-call specialist be subject to a standard of recklessness rather than simple negligence for civil liability purposes.

- Support prohibitions against professional liability insurance exclusions for the provision of ED On-call services.

2. Compensation

Current ACEP Policy/Initiatives: One of the seven major objectives of the College is commitment to fair and equitable payment for physicians. H.R. 882/S.1003 contain provisions for a 10 percent payment add-on from Medicare for all emergency care provided by emergency or on-call physicians.

EMTALA TAG recommendation: Asks HHS to support legislation to amend EMTALA to include a funding mechanism.

Other strategies for consideration:

- Assess and compile successful compensation models such as: medical staff risks pools, on-call medical service organizations, hospital sponsorship of professional liability insurance and other local measures.

- At the completion of the current national multi-specialty practice cost survey, reassess feasibility of urging CMS to include uncompensated emergency care as a payment component under the Medicare physician fee schedule.

- Consider the feasibility of using tax incentives and charity care write-offs as a means to compensate physicians for providing un-reimbursed emergency services. (Rep. Bono's bill, H.R. 1233 would provide for bad debt tax deductions).

- Support state legislation that requires commercial payers to reimburse non-contracted ED on-call physicians at their prevailing charges for care provided to their enrollees.

- Consider working with major stakeholders including the AMA and AHA to develop a process or model to determine hospital fair-market value compensation for ED on-call standby coverage.

- Assess hospital organization interest in pursuing as allowable costs under Medicare Part A, the compensation paid to physicians for ED on-call coverage. (Not on AHA’s policy agenda).

3. Accountability and Hospital Privileging

EMTALA TAG recommendation: Asks HHS to enforce policy that if a hospital offers a service to the public, it should be available in the ED.

- Assess means to encourage physicians to maintain their full scope of specialty privileges for on-call backup purposes (e.g. core privileging and categorical credentialing methodologies).

4. Regionalization

Current ACEP Policy/Initiatives: Supports the IOM recommendation for regional demonstrations. Convened a post IOM Summit in March 2007 with ACS, AHA, and over a dozen other physician or nursing specialty groups to work together to support demonstrations. (Sen. Obama and Rep. Waxman introduced bills (S. 1873/H.R. 3173) that would create grant authority to test regionalization models for emergency care).

- Promote antitrust safe harbor strategies that would allow and incentivize hospitals and physicians to collaborate in regional and community ED on-call coverage.

- Encourage hospitals to participate in regional "real time" reporting of on-call specialists on a daily basis.

- Support regional demonstrations that incorporate a pay or play option where hospitals can either provide their fair share of on-call services or pay into a fund that distributes monies to those hospitals whose physicians take a disproportionate share of call in the region.

- Support creation of mechanisms that would categorize/rank hospitals according to their on-call capabilities.

5. Use of Technology

- Support expansion of coverage for appropriate consultative telemedicine services in the ED.

6. Workforce Planning

Current ACEP Policy/Initiatives: Designing an updated workforce survey of ED physicians in 2008. Work closely with the AAMC, ACS, and other physician groups to discuss physician workforce needs, including hospitalists and surgicalists. Support rescinding cap on Medicare GME support for resident training.

Other strategies for consideration:

- Work with the AAMC, AAHC AOA, AACOM, AMA to incorporate ED on-call coverage requirements as a factor in establishing specialty workforce targets and service commitments by all organizations involved in planning and developing our nation's future medical workforce.

- Collaborate with other medical specialty organizations to support achievement of workforce targets that would ameliorate the on-call shortage.

I am indebted to the efforts and advice and wisdom of the Task Force Members.
Michael Carius, MD, FACEP – Chair.

Jacek Franaszek, MD, FACEP
Marilyn Heine, MD
Loren Johnson, MD, FACEP
David Packo, MD, FACEP
Mark Pearlmutter, MD, FACEP
John Proctor, MD, FACEP
Matthew Rice, MD, FACEP
Myles Riner, MD, FACEP
Daniel Sullivan, MD, FACEP

Board Liaison: Kathleen Cowling, DO, FACEP
Staff Liaisons: Barbara Tomar and Margaret Montgomery, RN