American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

2016 Council Meeting

Report of REFERENCE COMMITTEE B

Presented by: Nathaniel R. Schlicher, MD, JD, MBA, FACEP, Chair

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Mr. Speaker and Councillors:

Reference Committee B gave careful consideration to the several items referred to it and submits the following report:

(1) Unanimous Consent Agenda

For adoption:

- **RESOLUTION 9(16): Accreditation Standards for Freestanding Emergency Centers**
- **RESOLUTION 11(16): CMS Recognition of Independently Licensed Freestanding Emergency Centers**
- **AMENDED RESOLUTION 12(16): Collaboration with Non-Medical Entities on Quality and Standards**
- **AMENDED RESOLUTION 13(16): Crowding Kills**
- **AMENDED RESOLUTION 14(16): Development & Application of Dashboard Quality Clinical Data Related to the Management of Behavioral Health Patients in EDs**
- **AMENDED RESOLUTION 15(16): Enactment of Narrow Networks Requirements**
- **AMENDED RESOLUTION 16(16): Freestanding Emergency Centers as a Care Model for Maintaining Access to Emergency Care in Underserved and Rural Areas of the U.S.**
- **AMENDED RESOLUTION 16(16): Development & Application of Dashboard Quality Clinical Data Related to the Management of Behavioral Health Patients Boarding in EDs**
- **AMENDED RESOLUTION 17(16): Insurance Collection of Beneficiary Deductibles**
- **RESOLUTION 19(16): Health Care Financing Taskforce**
- **RESOLUTION 20(16): Support & Advocacy for 24/7 Hyperbaric Medicine Availability**

For referral:

- **RESOLUTION 10(16): Criminal Justice Reform – National Decriminalization of Possession of Small Amounts of Marijuana for Personal Use**

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(2) RESOLUTION 9(16): Accreditation Standards for Freestanding Emergency Centers

RECOMMENDATION:

Mr. Speaker, your Reference Committee recommends that Resolution 9(16) be adopted.

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

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

Testimony

Testimony was heard suggesting that adoption of this resolution is needed to protect the interest of the integrity of emergency medicine as freestanding emergency centers continue to proliferate. Entities outside emergency medicine have shown interest in establishing accreditation standards. Opponents expressed concerns about

ACEP expanding its scope into becoming an accrediting organization. In response, it was argued that emergency medicine needs to take on this role or it will be done by others outside the specialty.

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(3) RESOLUTION 10(16): Criminal Justice Reform – National Decriminalization of Possession of Small Amounts of Marijuana for Personal Use

RECOMMENDATION:

Mr. Speaker, your Reference Committee recommends that Resolution 10(16) be referred to the Board of Directors

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

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

Testimony

Testimony noted the change from past resolutions related to this issue, in that this resolution calls for decriminalization as opposed to legalization of marijuana. However, that did not change concerns of some speakers that ACEP should not support decriminalization, even if not inviting legalization of marijuana. At the same time, physician groups such as ACEP will continue to be drawn into issues considered to be more social, rather than medical issues, and the Board may want to consider these types of issues in future strategic planning.

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(4) RESOLUTION 11(16): CMS Recognition of Independently Licensed Freestanding Emergency Centers

RECOMMENDATION:

Mr. Speaker, your Reference Committee recommends that Resolution 11(16) be adopted.

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

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

Testimony

Testimony revealed that physician owned freestanding emergency centers often see Medicare patients but cannot be paid for them when not affiliated with a hospital. CMS recognition and payment for services would enable centers to be established in non-affluent areas.

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(5) AMENDED RESOLUTION 12(16): Collaboration with Non-Medical Entities on Quality and Standards

RECOMMENDATION:

Mr. Speaker, your Reference Committee recommends that Amended Resolution 12(16) be adopted.

RESOLVED, That the American College of Emergency Physicians, ~~in order to promote high quality, safe, and efficient emergency medical care, clinical and non-clinical,~~ reach out and build coalitions with non-medical organizations involved in developing **non-clinical** quality standards ~~to achieve objective and meaningful advances in quality in the eyes of our patients, institutions, and payers; and be it further~~ **that include an evaluation of the cost of providing the highest level quality of care.**

~~RESOLVED, That the American College of Emergency Physicians, in conjunction with non-medical organizations involved in developing quality standards, define the costs of providing the highest levels of quality care, to quality/safety reflects reimbursement and reimbursement reflects quality/safety.~~

Testimony

Testimony reflected an interest in engaging with non-medical organizations that develop quality standards that can affect hospital-based practice and equipment, but there were concerns about the need to define the costs of providing the highest levels of quality care.

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(6) AMENDED RESOLUTION 13(16): Crowding Kills

RECOMMENDATION:

Mr. Speaker, your Reference Committee recommends that Amended Resolution 13(16) be adopted.

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

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

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

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

Testimony

Testimony contended that the federal government has been slow to react to this issue, and it is important for emergency physicians to provide solutions with results that can be measured.

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(7) AMENDED RESOLUTION 14(16): Development & Application of Dashboard Quality Clinical Data Related to the Management of Behavioral Health Patients ~~Boarding~~ in EDs

RECOMMENDATION:

Mr. Speaker, your Reference Committee recommends that AMENDED RESOLUTION 14(16) be adopted.

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

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

Testimony

Testimony pointed to the great extent of this problem for emergency departments. Though dashboard reporting is complex, it is greatly needed. Testimony suggested including all behavioral health patients, not just boarded patients.

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(8) AMENDED RESOLUTION 15(16): Enactment of Narrow Networks Requirements

RECOMMENDATION:

Mr. Speaker, your Reference Committee recommends that Amended Resolution 15(16) be adopted.

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

RESOLVED, That ACEP dedicate resources and support to ensure any proposed legislation regarding narrow networks ~~does not affect~~ **protects** ~~a physician's~~ ~~ability to receive~~ **fair payment** for ~~providing~~ **emergency** medical care.

Testimony

Testimony reflected widely held concerns that ACEP needs to study the impact on access and payment as insurers continue to narrow the numbers and types of physicians in their networks, and the College needs to weigh in strongly on legislation regarding narrow networks.

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

RECOMMENDATION:

Mr. Speaker, your Reference Committee recommends that Amended Resolution 16(16) be adopted.

RESOLVED, That ACEP develop a report or information paper ~~supporting~~ **analyzing** the use of Freestanding Emergency Centers as an alternative care model ~~for the replacement of~~ **to maintain access to emergency care in areas where** Emergency Departments in Critical Access and Rural Hospitals that have closed, or are in ~~imminent risk of closure~~, ~~to maintain access to emergency care in the underserved and rural regions of the United States~~ **the process of closing.**

Testimony

Testimony supported the need to explore the use of freestanding emergency departments to rural areas lacking the availability of access to emergency care, particularly given the closures of rural critical care hospitals. It was noted that Congressional legislation has been filed supporting such development.

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(10) AMENDED RESOLUTION 17(16): Insurance Collection of Beneficiary Deductibles

RECOMMENDATION:

Mr. Speaker, your Reference Committee recommends that Amended Resolution 17(16) be adopted.

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

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

Testimony

Testimony strongly supported the resolution in pointing out that the insurance industry shouldn't place physicians in the middle of their contractual relationships with their enrollees.

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(11) AMENDED RESOLUTION 19(16): ~~Single Payer Health Insurance~~ Health Care Financing Task Force

RECOMMENDATION:

Mr. Speaker, your Reference Committee recommends that Amended Resolution 19(16) be adopted.

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

Testimony

The preponderance of testimony supported the Board appointing a Healthcare Financing Task Force that was directed by the 2014 Council meeting. In that vein, it was determined that the title of the Resolution should be changed.

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(12) RESOLUTION 20(16): Support & Advocacy for 24/7 Hyperbaric Medicine Availability

RECOMMENDATION:

Mr. Speaker, your Reference Committee recommends that Resolution 20(16) be adopted.

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

Testimony

Testimony supported working with other hyperbaric organizations, and particularly since this is an emergency medicine subspecialty. ACEP should advocate for issues related to access and quality of hyperbaric services. It was noted that this may not be feasible in some areas.

End of Consent Agenda

(13) AMENDED RESOLUTION 18(16): Opposition to CMS Mandating Treatment Expectations

RECOMMENDATION:

Mr. Speaker, your Reference Committee recommends that Amended Resolution 18(16) be adopted.

RESOLVED, That ACEP ~~oppose the overstep of~~ **work with** CMS **regarding** mandated reporting standards that ~~require~~ **may result in** ~~potential~~ harm to patients without the recognition of ~~appropriate physician assessment~~ ~~and~~ evidence based~~, goal directed~~ care of individual patients; and be it further

RESOLVED, That ACEP actively communicate to members and ~~the public~~ **hospitals** the dangers ~~of CMS overstep of physician responsibility to patients for~~ **that** quality indicators **could present harm to potential patients,** and ~~actively work to communicate to hospitals the need and options to recognize appropriate physician treatment while avoiding unnecessary harm to patients.~~ **the importance of physician autonomy in treatment.**

Testimony

Strongly worded testimony reflected concern about significant danger to patients of ill-designed and mandated use of specific measures for treatment of certain patient conditions. Testimony noted problems arise when federal requirements do not keep up with the treatment science. Though many members are involved in work groups assisting federal efforts to develop quality measures, everyone testifying believed strongly that ACEP should resist CMS dictating adherence to potentially dangerous standards.

Mr. Speaker, this concludes the report of Reference Committee B. I would like to thank Jordan GR Celeste, MD, FACEP; William B. Felegi, DO, FACEP; Heather A. Heaton, MD; Donald L. Lum, MD, FACEP; Tony B. Salazar, MD, FACEP; Harry Monroe; and Barbara Tomar, MHA, for their excellent work in developing these recommendations.