

Final Committee Objectives 2024-25

Medical-Legal Committee

Chair: John C. Moorhead, MD, FACEP

Board Liaison: Diana B. Nordlund, DO, JD, FACEP

Staff Liaison: Laura Wooster, MPH

1. Participate in the review of new clinical policies and provide information on potential medical-legal issues.
2. Provide subject matter expertise to EMRA to identify and address the needs of emergency residents relative to medical-legal education (employment contracts, EMTALA, etc.)
3. Develop a policy statement to address the first resolved of Resolution 37(22) Enhance Patient Safety and Physician Wellness to support the protection of all participants in discussions of cases of potential medical error, whether Morbidity & Mortality Conferences (M&M), Root Cause Analysis (RCA), or any patient safety forum, from legal discovery.
4. Review ACEP's policy statement "[Anonymous Affidavits of Merit](#)" and determine if revisions should be made or whether a new policy statement should be developed in response to Amended Resolution 48(23) Medical Malpractice Certificate of Merit.

RESOLVED, That ACEP recommends an affidavit of merit must be from an emergency physician who is board certified per ACEP policy in the same specialty of emergency medicine, as well as licensed and currently practicing in the same state.

5. Create a policy statement and Policy Resource & Education Paper (PREP) or an information paper to clarify the real-time clinical application of HIPAA under the circumstances of requesting patient information over the phone for the purpose of direct patient care in the ED.

Note: PREPs and information papers must be submitted to the Board of Directors for a 30-day comment period prior to publication on the ACEP website or submission to ACEP's peer-reviewed journals (Annals of Emergency Medicine and JACEP Open). Author attributions must also include that the PREP or information paper was developed by the Medical-Legal Committee.

6. Work with the Emergency Medicine Practice Committee to provide a recommendation to the Board of Directors regarding the advisability of implementing Referred Amended Resolution 49(23) and on potential initiatives to address the resolution. (Emergency Medicine Practice is the lead committee.)

RESOLVED, That ACEP create a document acknowledging that patients leaving the emergency department prior to completion of care may not have received a complete evaluation, results of all ancillary testing including incidental findings, all indicated therapies, and all indicated consults; and be it further

RESOLVED, That ACEP work with relevant stakeholders such as the American Hospital Association to create a document or tool outlining responsibilities and systems of communication for the conveyance of information about testing and follow up of patients who leave the emergency department prior to the completion of care; and be it further

RESOLVED, That ACEP create a document acknowledging that patients leaving the emergency department prior to completion of evaluation and treatment bear responsibility for ongoing care and may not have all medication recommendations and prescriptions, nor a complete list of discharge diagnoses, incidental findings requiring follow up, instructions, and referrals upon departure.

7. Work with the State Legislative & Regulatory Committee to develop an information paper describing use of Communication and Resolution Programs (CRPs) and their impact on liability claims in states with and without traditional liability reforms. (Medical-Legal is the lead committee.)

Note: Information papers must be submitted to the Board of Directors for a 30-day comment period prior to submission to ACEP's peer-reviewed journals (Annals of Emergency Medicine and JACEP Open). Author attributions must also include that the information paper was developed by the Medical-Legal Committee.

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8. Develop a Policy Resource & Education Paper (PREP) as an adjunct to the policy statement “Understanding the Effects of Law Enforcement Presence in the Emergency Department.” Collaborate with the Diversity, Equity, & Inclusion Committee; Diversity, Inclusion, & Health Equity Section; and the Social Emergency Medicine Section. (Medical-Legal is the lead committee.)
9. Complete revisions to the “Use of Nurse Implemented Order Sets” policy statement and obtain input from the Emergency Medicine Practice Committee and the Ethics Committee.
10. Collaborate with the Federal Government Affairs Committee (lead committee) to develop the guidance or best practices to establish appropriate procedures to avoid EMTALA violations in response to Referred Amended Resolution 27(23) Addressing Interhospital Facility Transfer Challenges for Rural EDs:

RESOLVED, That ACEP work with state and federal agencies to advocate for state and regional transfer coordination centers to facilitate transfer of patients when normal transfer mechanisms are impaired by hospital and ED capacity problems; and be it further

RESOLVED, That ACEP advocate for state and federal requirements that tertiary centers have a regional process for rapidly accepting patients from hospitals when the patient needs an emergency intervention not available at the referring hospital; and be it further

RESOLVED, That ACEP advocate for regional dashboards with updated information on hospital specialty service availability including procedural interventions and other treatment modalities (e.g., ERCP, ECMO, dialysis, STEMI, interventional stroke, interventional PE, neurosurgery, acute oncologic disease); and be it further

RESOLVED, That ACEP support research to strengthen the evidence base regarding hospital transfer processes including delays, administrative burden on sending hospitals, and association with patient outcomes and experience.

11. Collaborate with the EMS Committee and the Emergency Medicine Practice Committee to develop a policy statement on the utilization of non-ambulance means for interfacility transport. (EMS is the lead committee).
12. Develop a policy statement to address Resolution 35(24) Sharing of Protected Health Information. [added February 2025]

RESOLVED, That ACEP provide guidance to members on legally and operationally sound practices for sharing of protected health information; and be it further

RESOLVED, That ACEP encourage hospital systems to improve the education of relevant employees regarding the legality and appropriateness of accessing and/or sharing protected health information with emergency physicians actively engaged in patient care.

13. Develop a policy statement as directed in Resolution 37(24) Reinforcing EMTALA in Pregnancy Related Emergency Medical Care. [added February 2025]

RESOLVED, That ACEP develop a policy statement that delineates:

- EMTALA applies to all emergency medical conditions and there should be no exceptions to EMTALA for any specific emergency medical condition or the evidence-based treatment that would be used to stabilize a patient.
- ACEP supports that the decision to provide any procedure in the course of patient care to satisfy EMTALA requirements, including, but not limited to, abortion care and/or pregnancy termination, be made between the patient and the emergency clinician, and that laws and regulations should not inhibit or obstruct the patient-physician relationship.
- ACEP reinforces the need for emergency physicians to be able to provide care at the standard required by medical best practices and that no procedure or treatment be removed from those treatment options in the care of emergency patients served under federal EMTALA protections.

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14. Collaborate with the Emergency Medicine Practice Committee and the Public Health Committee to address Substitute Resolution 56(24) Patient and Visitor Code of Conduct. (Public Health is the lead committee.) [added February 2025]

RESOLVED, That ACEP create and implement a concise, universal code of patient and visitor conduct for emergency departments, featuring prominently displayed signage that clearly defines acceptable behavior and states that non-medical aggression may result in immediate removal.