26 March 2022

Dear Speaker & Councilors,

The Reference Committee carefully reviewed and considered the Resolutions referred to the Council and submits the following report:

Unanimous Consent Agenda:

Recommendation to Adopt:

22-01 Workplace Violence and Resident Safety in the Emergency Department
22-03 Amendment to EMRA's Family and Medical Leave Policy
22-06 Restrictive Covenants and Non-Competes
22-09 Corporate Practice of Medicine
22-11 Equitable Occupational Protection Measures for Emergency Medicine Trainees

Recommendation to Adopt as Amended:

22-02 State Medical Licensure Questions Regarding Mental Health
22-04 Funeral and Bereavement Leave for Medical Students and Physicians
22-07 Addressing Contradictions in EMRA Policy Compendium Related to NPPs, Supervision, and Telemedicine
22-12 Clarifying Residency Applicant Competitiveness through Transparent SLOEs

Recommendation to Refer to the EMRA Board:

22-05 Emergency Medicine Resident LGBTQIA+ Health Education
22-10 Support of Resident and Physician Unionization

Below you will find the text for each resolution as they stand in numerical order, including some suggested amendments provided by the time of this report's submission. Text in red or blue indicates proposed amendments as the resolution, whereas text in green was added by the Reference Committee itself. Most of the text in green was added at the recommendation of contributors after the Resolution Review. In addition, each resolution includes a discussion which seeks to summarize the discussion surrounding each resolution presented during the Resolution Review periods and the justification for subsequent recommendations.

We thank you for the opportunity to provide this report and welcome any inquiries.

Sincerely,
The Reference Committee

Jacob Altholz, MD, Chair
Evelyn Huang, MD
Kenneth Kim, MD
Vishnu Muppala, MD

22-01 Workplace Violence and Resident Safety in the Emergency Department

Recommendation: Adopt

Text:

RESOLVED, that EMRA

1. Rejects the notion that experiencing violence and harm as an emergency medicine professional is “part of the job.”
2. Advocates for protection of emergency medicine physicians-in-training through structural improvements to security and safety in EDs.
3. Supports training residents in conflict resolution, de-escalation, and self-defense
4. Partners with ACEP to identify educational and practical resources addressing workplace violence that may be disseminated to members.
5. Calls for research and dissemination of best practices for preventing and addressing workplace safety in response to violence in EDs.
6. Suggests that ACEP work with the AMA to advocate for a streamlined mechanism to report incidents within EDs to an appropriate centralized source, and to address liability issues that stem from these violent encounters.
7. Advocates for protected time off and, when appropriate, disability insurance programs to assist residents who face physical or emotional harm.
8. Supports a zero-tolerance policy with regard to violence from patients towards healthcare workers, including a process to safely treat or, if indicated, discharge patients who threaten or commit acts of violence toward ED staff.

Discussion: Testimony on this resolution was positive. Seven individuals, six representing programs and one representing themself, testified in favor of this resolution. There was concern from one individual representing the Medical Student Council regarding Resolution #6 and its possible implications on patient privacy, but it was countered that this resolution was directed at studying workplace violence rather than identifying individuals. There was no other negative testimony.

22-03 Amendment to EMRA’s Family and Medical Leave Policy

Recommendation: Adopt

Text:

RESOLVED, EMRA will amend Section V.VI. Family and Medical Leave Policy of the policy compendium as follows:

EMRA believes that emergency medicine residency programs should have a clear policy on family and medical leave, rights and responsibilities under the Family Medical Leave Act, and that programs provide this policy to residents and applicants, and that this

policy is made publicly available. EMRA also believes that programs should address coverage expectations and remuneration in their residency employment contracts.

EMRA believes leaves should be structured in as flexible a manner as possible to accommodate the unique needs of the resident in new parenting roles, or with family, health, (including short- or long-term illness and illness associated sequelae, such as mandatory quarantine periods), or wellness issues. To that end, leave time should be allowed to accrue from year to year or pulled from future years. Programs should also prioritize the protection of resident vacation time as separate from leave periods when possible.

EMRA supports implementation of backup systems to ensure appropriate Emergency Department staffing when residents require leave. Extensions of residency training period may be disruptive to the early career of new physicians and thus should be minimized when possible. Residents and program leadership should work together to maximize the well-being of residents balancing the accrual of leave with consecutive clinical periods. Accordingly, EMRA should support residency programs establishing their own minimum required time off per clinical year.

EMRA believes that programs should develop a comprehensive policy regarding coverage for a resident on leave. This policy should detail how a resident on leave makes up for missed clinical time in a non-punitive manner. It should also include specifics of how coverage will be provided. Options to provide this coverage should include the possibility of staffing sources other than residents. If a resident provides coverage, such activity should be voluntary and not compromise their education. Residents providing coverage should be compensated in a fair and equitable manner.

EMRA believes parental leave should be offered to emergency medicine residents, fellows and attendings. ~~that a~~Access to ~~maternity/paternity~~ parental leave should be equal for men and women with newly born or adopted children and be a minimum of 6 weeks in alignment with existing guidelines. EMRA further believes that individuals taking ~~maternity and paternity~~ parental leave should be paid for the totality of these leaves. EMRA should work with local, state, and federal policymakers to advocate for paid parental leave for physicians, physicians-in-training, and all persons

Discussion: Testimony for this resolution was positive. Individuals representing a program, the Medical Student Council, and an individual spoke in support of this resolution. One person did suggest a change to make this policy applicable to everyone instead of just “emergency medicine residents, fellows, and attendings” by removing that specification entirely. This comment did not raise abundant discussion and, in addition, removal would make a vague policy with uncertain limitations. One person did also suggest that six weeks may be too prescriptive. Based on lack of testimony supportive of this view and testimony supportive of the original six week minimum, the reference committee believes that having this specific allotment of time was the opinion of most present.

22-06 Restrictive Covenants and Non-Competes

Recommendation: Adopt

Text:

RESOLVED, that EMRA opposes restrictive covenants upon emergency physicians which prevent them from working clinically at any location or facility for any period of time, regardless of geographical or temporal proximity to a prior place of employment, while supporting reasonable non-disclosure and non-solicitation agreements.

Discussion:
Testimony on this resolution was overwhelmingly positive. Two people testified in favor of this resolution as written on behalf of their programs. There was no negative testimony.

The Reference Committee did feel there was some confusion during the Public Hearing as to whether this resolution focused on all emergency physicians (including residents) or specifically those, such as fellows and attendings, who would be signing independent employment contracts. While most restrictive covenants are present only in contracts signed by BC/BE EM physicians (fellows and attendings) and not those signed by residents, in order to allow EMRA to oppose this harmful practice if it is seen in resident contracts in the future, the Reference Committee felt that passing language as written would allow EMRA that flexibility in the future.

22-09 Corporate Practice of Medicine

Recommendation: Adopt

Text:

RESOLVED, EMRA believes that the practice of caring for patients and training of emergency physicians must be free from interference from any non-clinical persons or entities including corporations; and be it further

RESOLVED, EMRA believes that corporate investors in emergency medicine practice and training create conflicts of interest and incentives that infringe upon physician and patient well-being. While all business models in emergency medicine have a profit motive, profit incentives are more powerful when outside stakeholders are invested; and be it further

RESOLVED, EMRA advocates for the fair employment, treatment, and contracting of emergency physicians as defined by a fair employment policy to be maintained by EMRA.

Discussion: During the Resolution Review numerous testimonies expressed support for the resolution as written including at least four residency programs and the representative from the EMRA Medical Student Council. There were no objections or concerns raised, nor any voiced opinions against supporting this resolution. Thus the recommendation of the Reference Committee is to Adopt.

22-11 Equitable Occupational Protection Measures for Emergency Medicine Trainees

Recommendation: Adopt

Text:

RESOLVED, that EMRA will support the protection of medical trainees including residents, fellows, and medical students from occupational exposure including but not limited to open, timely, and free access to relevant PPE, vaccinations, and any other protections from occupational exposures, both routine and public health emergency-related, facilitated by their training institutions; and be it further

RESOLVED, that EMRA, in a situation of scarcity of such protective measures, will support the prioritization of and early allocation to all medical trainees, particularly those practicing in high-risk clinical environments.

Discussion: All testimony on this resolution was positive. Five individuals representing four different programs and the Medical Student Council voiced their support of this resolution as written. Thus, we recommend Adopt.

22-02 State Medical Licensure Questions Regarding Mental Health

Recommendation: Adopt as Amended

Text:

~~**RESOLVED,** that EMRA advocate that institutions provide discounted mental health specialists and therapists; and~~

~~**RESOLVED,** that EMRA takes a stance against state medical licensure questions that act as a barrier to physicians seeking care; and~~

~~**RESOLVED,** that EMRA support removing any questions regarding mental health or only using questions that are regarding current impairment of the ability of the physician to perform their job professionally and ethically; and~~

~~**RESOLVED,** that EMRA encourage policymakers to advocate to remove or alter these questions from all state licensure applications.~~

RESOLVED, EMRA continues to support medical students and physicians with mental illness, and advocates for free or affordable mental health resources provided by their institutions, and be it further

RESOLVED, EMRA supports the removal of questions on medical licensure applications related only to mental health and not the ability to perform the professional and ethical duties of a physician, as these may act as a barrier to physicians and medical students seeking mental health care.

Discussion:
Testimony on the goals of this resolution was generally positive, however the amendment above was proposed by the EMRA Board of Directors in order to focus on changing culture, include medical students, and allow for flexibility in implementation. There were three others who testified in support of the resolution as amended, including the author who felt the amendments kept the goals of the resolution while allowing for better implementation. One testimony proposed to further the mission of the resolution by stipulating that EMRA advocate for free monthly mental health visits, though the same person later testified that the amendments seemed to align with this stipulation without limiting the flexibility of the EMRA Board to accomplish the goals of the resolution. There was no testimony opposing this resolution or the amendments above. The Reference Committee agrees with testimony that the amendments above crystallize the spirit of the resolution, and thus the resolution should be adopted as amended.

22-04 Funeral and Bereavement Leave for Medical Students and Physicians

Recommendation: Adopt as Amended

Text:

RESOLVED, That EMRA supports the following guidelines for, and encourages the implementation of, Funeral and Bereavement Leave for Medical Students and Physicians:

1. ~~EMRA urges medical schools, residency and fellowship training programs, medical specialty boards, the Accreditation Council for Graduate Medical Education, and medical group practices to incorporate and/or encourage development of funeral and bereavement leave policies as part of the physician's standard benefit agreement.~~ EMRA will advocate for funeral and bereavement leave to be included in standard benefits packages.
2. Recommended components of funeral and bereavement leave policies for medical students and physicians include:

a. policy and duration of leave for funeral and bereavement after loss of a loved one, and whether cases requiring extensive travel for funerals qualify for additional days of leave and, if so, how many days;
b. policy and duration of bereavement leave for an event impacting pregnancy or fertility including pregnancy loss, an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure, a failed adoption arrangement, a failed surrogacy arrangement, or an event that impacts pregnancy or fertility;
c. whether funeral and bereavement leave is paid or unpaid;
d. whether obligations and time must be made up; and
e. whether make-up time will be paid.

~~3. EMRA encourages medical schools, residency and fellowship programs, specialty boards, specialty societies, and medical group practices to incorporate into their bereavement leave policies a three-day minimum leave, with the understanding that no physician or medical student should be required to take minimum leave.~~

~~4. Medical students and physicians who are unable to work beyond the defined bereavement leave period because of physical or psychological stress, medical complications of pregnancy loss, or another related reason should refer to their institution's sick leave policy, family and medical leave policy, and other benefits on the same basis as other physicians who are temporarily unable to work for other reasons.~~

5. EMRA supports the concept of equal bereavement leave for pregnancy loss and other such events impacting fertility in a physician or their partner as a benefit for medical students and physicians regardless of gender or gender identity.
6. Staffing levels and scheduling are encouraged to be flexible enough to allow for coverage without creating intolerable increases in the workloads of other physicians, particularly those in residency programs.
7. These guidelines as above should be freely available online and in writing to all applicants to medical school, residency, or fellowship.

Discussion: Testimony for this resolution was generally positive. One individual noted that there may be an opportunity to build this resolution into the EMRA Family and Medical Leave policy, but was supportive of the resolution and few echoed the combination. Another individual proposed the changes reflected in the resolution above citing that they maintained the spirit of the resolution without being overly prescriptive in how the Board addresses these goals. There was no negative testimony.

22-07 Addressing Contradictions in EMRA Policy Compendium Related to NPPs, Supervision, and Telemedicine

Recommendation: Adopt as Amended

Text:

RESOLVED, EMRA believes that the gold standard of emergency care is real-time, on-site care provided, or supervised, by a board-certified/board-eligible (BC/BE) emergency physician. Where this is not possible, such as ~~certain frontier and extreme frontier rural emergency departments~~ CMS-designated Critical Access Hospitals (CAHs) and Rural Emergency Hospitals (REHs), we support real-time tele-supervision of non-physician providers (NPPs) by BC/BE emergency physicians. And further, be it

RESOLVED, EMRA amend Section IX.IV (Role of Non-Physician Providers in Emergency Medicine) of the EMRA Policy Compendium as follows:

XIV. Role of Non-Physician Providers in Emergency Medicine
EMRA believes that physician assistants and nurse practitioners are valued-members of the health care team who, under the ~~direct~~ supervision of ~~an onsite board-certified, residency trained emergency physician~~ board-certified/board-eligible emergency physician can provide care for patients seen in the emergency department.

EMRA believes that physician organizations should play an active role in determining the minimum acceptable standards for the education, licensing, and determination of scope of practice of non-physician providers to ensure that patients continue to receive high-quality, high value, evidence-based, patient-centered care in the emergency department.

Discussion: Testimony for this resolution was generally positive. An author offered a change in language to be consistent with CMS terminology at the beginning of the review. One individual noted that although his organization was in support there was concern that language may create an opening for excessive telemedicine supervision of NPPs, however no formal language was suggested and there did not continue to be discussion around this concern. There was no negative testimony.

22-12 Clarifying Residency Applicant Competitiveness through Transparent SLOEs

Recommendation: Adopt as Amended

Text:

RESOLVED, EMRA supports ~~the creation of~~ a standardized process for the disclosure of a subset of the Standardized Letter of Evaluation (SLOE) ~~rankings~~ to students so they can better assess their competitiveness.~~, and be it further~~

~~**RESOLVED,** EMRA believes students should have access to sections of their residency application that are critical to determining competitiveness and thus proper application strategy.~~

Discussion:
Testimony on the goal of this resolution to increase residency application transparency was generally positive, however the amendment above was proposed by the EMRA Board of Directors in order to specify the SLOE as the point of increased transparency.

Four individuals supported the resolution as amended including two of the authors, as well as one representative on behalf of their program, and an MSC member on behalf of the Medical Student Council. One author supported the resolution as written, while another individual supported the amended resolved clause 1 in addition to leaving resolved clause 2 as written. There was no negative testimony.

The Reference Committee felt that despite reservations by some individuals on limiting the scope of the resolution through the amendments above, given the generally supportive testimony regarding the amendments, the resolution should be adopted as amended.

22-05 Emergency Medicine Resident LGBTQIA+ Health Education

Recommendation: Refer to the EMRA Board

Text:

RESOLVED, that EMRA:

1. Support implementation of LGBTQIA+ educational curricula geared towards improving aforementioned LGBTQIA+ disparities and health of LGBTQIA+ individuals who visit the emergency department for care in emergency medicine residency curricula. Implementation may include online modules, patient panels, lectures from diverse emergency medicine team members, or a combination of similar series.
2. Require that said curricular additions are implemented within a 5-year period from passing of this resolution as well as accepted by the ACGME as a graduation requirement.
3. Request the ACGME to acknowledge their recent revision of its Common Program Requirements that requires residents to demonstrate, as a competence, respect and responsiveness to diverse populations as it relates to LGBTQIA+ education

Discussion:
As originally written the policy was intended to bridge a perceived gap between health/educational disparities regarding the LGBTQIA+ population. This sort of policy, however, has not been implemented for other vulnerable groups with documented health disparities, prompting an amendment from the authors that took the focus of most of the conversation. The amendment itself advocated for a "Vulnerable Population Work Group" and for EMRA to help develop a curriculum around this topic. The amendment also re-framed the policy to be simply supportive of such education and ask for consideration from appropriate parties rather than be prescriptive to programs, which EMRA does not have the power to do.

Testimony regarding the amendment expressed support in spirit, noting the support for education of residents at large about these vulnerable populations. However, numerous concerns were raised, both by members within and outside of the EMRA Board of Directors, about the formation of a group initiated and led by residents who are not de facto experts in these fields. Reservations also arose for the creation of a standardized curriculum, citing the current bloat of "click-through" modules many institutions utilize which may undermine the purpose of the education in the first place. This reservation was particularly echoed since many institutions already have their own curriculum in place to serve this purpose.

There was a clear consensus of support for the goal of increasing education regarding the aforementioned vulnerable populations and health disparities, however significant questions arose around the specific implementation and logistics therein. To that end, the recommendation was made to refer the amended resolution to the board.

22-10 Support of Resident and Physician Unionization

Recommendation: Refer to the EMRA Board

Text:

RESOLVED, that EMRA work with CIR/SEIU and other relevant organizations to prepare materials containing information on the benefits of resident/fellow unionization and steps for residents/fellows to achieve unionization; and be it further

RESOLVED, that EMRA disseminate such materials to their membership through means including but not limited to their welcome packages, periodic newsletters, and other regular communications; and be it further

RESOLVED, that EMRA publicly support resident unionization efforts as a way to improve and maintain resident financial and mental health wellness; and be it further

RESOLVED, that EMRA propose resolution(s) to the ACEP council in support of physician unionization, particularly as a method to counter concerns raised by the 2021 EM Physician Workforce report.

Discussion:
This resolution in particular initiated copious discussion. While some supported the text as written, members of the EMRA Board of Directors (BoD) felt that initial statements suggesting a clear benefit to unionization were not thoroughly researched, indicating a lack of objective information on the matter that held up to rigorous academic scrutiny. Given this lack of objective information, many moved to strike Resolution 3 as it is currently written above. Reservations around the specifics of communication of compiled materials were also expressed, noting both that it initially only noted benefits, which was later amended, and that it was prescriptive in nature, also amended to remove the specifics of distribution in Resolution 2.

Both members of the BoD and individuals representing themselves expressed support for the spirit of educating members of EMRA about what is known and what is not known about unionization. Indeed members of the BoD, including the President of EMRA herself, expressed a commitment regardless of the fate of this policy to sincerely consider all options, noting it was clear that the membership of EMRA was eager to know more, but that there remained many questions.

Ultimately the Reference Committee was provided amendments from the original author as he indicated he would and which was expected by the Speaker and Vice-Speaker. This language, it should be noted, is not the same as interim suggested amendments that were made during the Resolution Review itself which originally struck Resolutions 3 and 4 while making edits to 1 and 2, as well as adding an amendment which tasked the BoD with pursuing this policy, effectively referring the policy outright. The amendments, though not recommended outright, sought to include downsides in the text of Resolution 1 (“benefits and downsides”) and remove specifications in Resolution 3 on how the materials would be disseminated.

Given that 1) the Board of Directors expressed significant reservations about publicly supporting a policy which lacked, in their minds, rigorously-identified benefit, as well as subsequent support for such a view from other individuals 2) the Board of Directors has expressed a commitment to take a look at the issue at large, 3) this idea of referral was not negatively viewed in subsequent testimony, it is recommended that the resolution be referred to the Board of Directors.
