2022 Council Resolution 19: Due Process and Interaction with ACEP - SECOND RESOLVED

Council Action: **AMENDED AND ADOPTED**

Board Action: **ADOPTED**

Status: **Ongoing**

SUBMITTED BY: Charles F Pattavina, MD, FACEP
Robert M McNamara, MD
Bradley A Dreifuss, MD, FACEP

Purpose:

1) adopt a new policy requiring any entity that wants to advertise, exhibit, or provide other sponsorship of any ACEP activity to remove all restrictions on or waivers of due process for emergency physicians; and 2) create a method for members to report incidents of denial of due process, review member-submitted contractual clauses or other methods of denying such that are of concern, and to investigate the matter allowing the entity an opportunity to respond or modify its policy prior to exclusion for violation of this policy.

Fiscal Impact:

Unbudgeted and unknown costs to create a method to report incidents of denial of due process, review member-submitted contractual clauses or other methods of denying due process, and investigate allegations. Costs could be considerable depending on the scope. Potential significant legal expenses to respond to lawsuits against ACEP for such actions. Should a plaintiff prevail in such litigation, they would be eligible for treble damages, cost of suit and attorney's fees. Potential significant reduction in advertising, exhibit and sponsorship revenue for all ACEP activities and programs.

WHEREAS, It has been demonstrated in the American College of Emergency Physicians ("ACEP") report to the Federal Trade Commission ("FTC") and U.S. Department of Justice ("DOJ") regarding mergers dated April 20, 2022 that, despite an ACEP policy in favor of due process, many ACEP members are denied due process as it pertains to their ability to see patients in the emergency department ("ED"); and

WHEREAS, The voluntary database created in response to the 2020 Resolutions on Due Process, intended to allow members to understand which entities offer due process, has been of no practical use to the members in this area; and

WHEREAS, The denial of due process is often achieved by requiring a physician, for example, by contractual agreement, to automatically give up their rights to a fair hearing outlined in the Medical Staff Bylaws when terminated by the entity holding the exclusive contract for emergency services at a relevant facility; and

WHEREAS, Hospital administrators can request or pressure the entity holding the exclusive contract for emergency services to terminate an emergency physician thus avoiding the existing Joint Commission and other hospital accrediting bodies' prohibitions on such administrative interference with the Medical Staff Bylaws and responsibilities, and

WHEREAS, Due process is considered a fundamental right that is essential to allow the physician to act in the best interest of the patient; and

WHEREAS, The literature, ACEP's member input in the aforementioned report to the FTC/DOJ, and recent

anecdotal examples during the pandemic confirm that emergency physicians can be terminated for speaking up regarding the quality of care and patient safety; and

WHEREAS, The FTC in 2004 (see 8/30/04 letter of Jeffery W. Brennan to Alvin Dunn, Esq.) stated in response to antitrust concerns raised by ACEP, that ACEP could respond to "behavior of market participants that it believes are detrimental to its members or the public;" and

WHEREAS, The denial of due process is detrimental to ACEP members and the public; therefore, be it

RESOLVED, That ACEP adopt this policy: "Any entity that wishes to advertise in ACEP vehicles, exhibit at its meetings, provide sponsorship, other support, or otherwise be associated with the ACEP, as of January 1, 2023, shall remove all contractual restrictions on or waivers of due process for emergency physicians. Physicians cannot be asked to waive this right as it can be detrimental to the quality and safety of patient care. The entities affected include but are not limited to physician group practices, hospitals and staffing companies."; and be it further

RESOLVED, That ACEP create a method for members to report incidents of denial of due process, review member-submitted contractual clauses or other methods of denying such that are of concern, and to investigate the matter allowing the entity an opportunity to respond or modify its policy prior to exclusion for violation of this policy.

Background:

This resolution requests ACEP to adopt a new policy requiring any entity that wants to advertise, exhibit, or provide other sponsorship of any ACEP activity to remove all restrictions on or waivers of due process for emergency physicians; and create a method for members to report incidents of denial of due process, review member-submitted contractual clauses or other methods of denying such that are of concern, and to investigate the matter allowing the entity an opportunity to respond or modify its policy prior to exclusion for violation of this policy.

There is not one universally accepted standard for what constitutes due process. If the resolution is adopted, a detailed definition will need to be developed and advertised to fully inform the membership and stakeholder organizations about the new obligations, and ultimately to determine compliance.

It should be noted that The Joint Commission (TJC) standard on due process is limited to a requirement that the hospital makes the practitioner aware of available due process for adverse privileging decisions. There are no TJC requirements related to due process specific to employment. Specifically, Section 10.01.01 of its Medical Staff Standards dictates that "There are mechanisms, including a fair hearing and appeal process, for addressing adverse decisions regarding reappointment, denial, reduction, suspension or revocation of privileges that may relate to quality of care, treatment, and services issues." Additionally, the Health Care Quality Improvement Act of 1986 includes a provision that members of a professional review body are not shielded from liability for their professional review actions if they do not ensure due process for the physician facing that action.

The first resolved of this resolution is almost the exact language of the last resolved of Referred Amended Resolution 44(20) Due Process in Emergency Medicine. In response to the 2020 referred resolution, ACEP Board members have been reaching out to members and offering their time and resources to better understand and guide ACEP's actions to fully address the intent of the referred resolution. Throughout the year, members of the Board spoke with numerous individuals who had been fired, taken off the schedule, transferred to other sites, or otherwise impacted by terms of their contracts. These conversations confirmed these actions were happening across all employment models, from large corporate groups to small democratic groups and academic groups. There were also situations where due process protections were in place with an employer and physicians still lost hospital privileges and were removed from the schedule at the request of the hospital CEO.

ACEP's General Counsel engaged Powers, Pyles, Sutter & Veville, P.C. (a legal firm with specialized expertise in healthcare and representation of nonprofit organizations) as outside counsel to review Referred Amended Resolution 44(20) and provide a third-party outside legal opinion on the anti-trust risk to ACEP to carry out the resolution as written. The opinion was presented to the Board of Directors in June 2021 with available case law and previous legal opinions shared on this matter. It was the recommendation of outside counsel that the findings of all four available legal opinions were consistent and clearly demonstrated a substantial risk to carrying out the resolution as written. However, suggestions were made by general and outside counsel that meet the intent of the resolution. Specifically, ACEP could seek to obtain non-competitive information from all emergency physician-employing entities who are exhibitors, advertisers, and sponsors of ACEP meetings and products with

the intent to increase transparency and demonstrate an employer's adherence to key ACEP policy statements.

ACEP leadership and staff developed contracting and employment resources on the ACEP website to assist members and develop requirements for increasing transparency among members and entities that employ emergency physicians regarding adherence to ACEP policy statements. There are dozens of pages of resources on the ACEP website dedicated to the topics of Employment Contracts and other practice and legal issues, as well as a growing set of resources from ACEP's Democratic Group Practice section. In an effort to better support all members as they face unprecedented challenges in hiring, ACEP staff embarked on a process to update, curate and develop educational and other assets into a complete set of resources designed to educate and empower physicians, at any point in their career, to more knowledgeably evaluate contract terms and pushback on unfair business practices, regardless of employment model or practice type. To supplement this, the Medical-Legal Committee developed a new contract resource, a checklist of "Key Considerations in an Emergency Medicine Employment Contract." The checklist is available on the EMRA website and the ACEP website in the Medical-Legal Resources. Additionally, for just $15 per year, all ACEP members currently have access to legal and financial support assistance through an affinity program with Mines & Associates, our wellness and counseling partner. This service includes a 30-minute in-person consultation for each individual legal matter, a 30-minute telephone consultation per financial matter, and 25% discount on select legal and financial services all with MINES network of legal and financial professionals. Under the category of Business Legal Services, this includes advice, consultation and representation regarding contracts, incorporation, partnerships, and other commercial activities.

ACEP's policy statement "Emergency Physician Contractual Relationships" includes the following provisions:

- ACEP supports the emergency physician receiving early notice of a problem with his or her performance and an opportunity to correct any perceived deficiency before disciplinary action or termination is contemplated.
- All entities contracting with or employing emergency physicians to provide clinical services, either indirectly or directly, should ensure an adequate and fair discovery process prior to deciding whether or not to terminate or restrict an emergency physician's contract or employment to provide clinical services.
- Emergency physicians employed or contracted should be informed of any provisions in the employment contract or the contracting vendor's contract with the hospital concerning termination of a physician's ability to practice at that site. This includes any knowledge by the contracting vendor of substantial risk of hospital contract instability.
- Emergency physician contracts should explicitly state the conditions and terms under which the physician's contract can be reassigned to another contracting vendor or hospital with the express consent of the individual contracting physician.
- The emergency physician should have the right to review the parts of the contracting entities' contract with the hospital that deal with the term and termination of the emergency physician contract.

The policy statement has an accompanying Policy Resource and Education Paper (PREP), which states in part: "The core issue behind language in emergency medicine contracts having to do with termination of the physician's ability to practice is that of due process. Due process refers to the right to have a fair hearing, including input from the affected physician, prior to any decision being made about termination of the ability to practice (specifically the loss of hospital medical staff privileges). The concept of due process is felt to support the independence of a physician in advocating for patients without undue influence from extrinsic forces and preserves the sanctity of the physician-patient relationship. These forces may include non-medical concerns, such as financial, marketing, or political interests."

Despite efforts to ensure physicians are accorded due process related to actions that may negatively impact their medical staff privileges, physicians are not always assured due process in actual practice. The aforementioned PREP notes that "frequently emergency physicians have been forced to waive due process rights." Hospitals may ask physicians to waive their due process rights as part of the employment agreement or award staffing contracts only to groups that require their physicians to waive their rights to due process.

ACEP's policy statement "Emergency Physician Rights and Responsibilities" addresses the due process issue, stating in part:

1. Emergency physicians should be provided access to timely quality and other performance metrics.
2. Emergency physicians are entitled to due process before any adverse final action with respect to employment or contract status, the effect of which would be the loss or limitation of medical staff privileges. Emergency physicians' medical and/or clinical staff privileges should not be reduced, terminated, or otherwise restricted except for grounds related to their competency, health status, limits

placed by professional practice boards or state law.

For several years, ACEP has informed, helped draft, and advocated for legislation to support due process for emergency physicians. In fact, due process protections were one of ACEP's three key issues at the 2022 Leadership & Advocacy Conference (LAC) in Washington, DC, with advocates going to Capitol Hill to promote the concept and urge reintroduction of the revised "ER Hero and Patient Safety Act," legislation previously introduced in the 116th Congress by Representative (now Senator) Roger Marshall, MD (R-KS) and Raul Ruiz, MD (D-CA). Due process protections remain a key federal legislative priority for the College, and ACEP continues working with legislators in both the House and Senate to secure bipartisan sponsors prior to introduction of the bill for the current 117th Congress. Additionally, ACEP has urged the Senate Health, Education, Labor, and Pensions (HELP) Committee to include Sen. Marshall's due process legislation in the committee's mental health package, given the relationship of due process rights to emergency physician job satisfaction and stress and burnout, and continues working to identify any opportunities to include this provision in a larger legislative package.

As part of the recent workforce initiative, ACEP leadership began meeting with the leadership of large employer groups to have open conversations about the state of the workforce and share feedback from our members. ACEP is sharing data on member perceptions of career satisfaction, which includes concerns about billing transparency, and encouraging groups to discuss these concerns with their physicians. As a direct result of one of these conversation, an employer group agreed to change a policy in order to adhere to ACEP's recommended standards.

Like many professional associations, ACEP provides venues for competitors to communicate with its members such as exhibiting at meetings, sponsoring events, and advertising in publications. While some court decisions allow associations to offer or deny access to these venues on arbitrary grounds, there is also case law holding that a denial of essential means of competition may be made the basis for antitrust challenges against associations. Since ACEP is the oldest and largest association of emergency physicians and its *Scientific Assembly* is the largest emergency medicine meeting in the world, excluding certain competitors from these venues could have a significant, adverse impact on those competitors' ability to compete and could result in antitrust litigation filed against ACEP.

ACEP's "Antitrust" policy statement states: "The College is not organized to and may not play any role in the competitive decisions of its member or their employees, nor in any way restrict competition among members or potential members. Rather it serves as a forum for a free and open discussion of diverse opinions without in any way attempting to encourage or sanction any particular business practice." The policy further specifies:

- There will be no discussions discouraging or withholding patronage or services from, or encouraging exclusive dealing with any health care provider or group of health care providers…
- There will be no discussions about restricting, limiting, prohibiting, or sanctioning advertising or solicitation that is not false, misleading, deceptive, or directly competitive with College products or services.
- There will be no discussions about discouraging entry into or competition in any segment of the health care market.
- There will be no discussions about whether the practices of any member, actual or potential competitor, or other person are unethical or anti-competitive, unless the discussions or complaints follow the prescribed due process provisions of the College's Bylaws.

As referenced in the Whereas statement, in 2004, ACEP sought and received an Advisory Opinion from the Federal Trade Commission (FTC) regarding issues raised in two Council resolutions referred to the Board in 2003. The resolutions were 17(03) Certificate of Compliance and 18(03) Intention to Bid for a Group Contract. Resolution 17(03) desired to require emergency medicine staffing groups to sign a certificate and comply with its terms as a prerequisite for their participation as an exhibitor or sponsor of any College activity. One of the terms included was that groups must confirm that "with the provision period not to exceed one year, our physician group provides our emergency physicians access to predefined due process." Other provisions of the certificate included certification that groups provide their physicians a predefined and reasonable pathway to full partnership, that they do not impose post-contractual restrictive covenants, and that the group is wholly owned by practicing physicians. While the FTC Advisory Opinion noted that ACEP could respond to "behavior of market participants that it believes are detrimental to its members or the public," it raised a number of potential antitrust concerns about actions contemplated by both resolutions. Regarding Resolution 17(03), the Advisory Opinion stated that "an agreement among ACEP members to affiliate only with entities that adopted all of the business practices listed in the proposed Resolution would be highly suspect." It also stated that "agreements among ACEP members not to do business except on the terms contained in the Resolution, or a direct ACEP prohibition of its members' accepting employment on non-conforming terms, would raise serious antitrust concerns." The

Advisory Opinion also stated that “ACEP may not unreasonably restrict competition among its members in order to force all contractual relationships between emergency physicians and holders of contracts to provide emergency services to hospitals into its preferred model.”

Approximately 19% of all corporate support ACEP received in FY 2021-22 was derived from physician groups, staffing companies, and hospitals/clinics. Combined, they contributed $541,000 in advertising, exhibits, and all other sponsorship of ACEP programs and activities. Further, ACEP uses advertising to promote employment opportunities, affinity partnerships, member benefits and resources in various channels, including our job board www.emcareers.org, our monthly publication *ACEP Now*, digital advertising in our e-newsletters and more. Prohibiting these types of agreements would eliminate funding used to offset the cost of key member benefits, including the *Annals of Emergency Medicine*, *ACEP Now,* and member counseling services and limit member access to employment opportunities and resources.

The second resolved would require ACEP to create and implement a means of investigating individual alleged offenses, responding to complaints of noncompliance, gathering evidence, and conducting fair and impartial hearings to provide due process to the accused entity. The College would also be required to impose a similar process to determine whether it should refuse or accept advertising, sponsorship, or offer to exhibit from an individual or group. It is possible that the filing of charges against a corporate entity and the potential sanction required by this process could be used as a tool by the company’s competitors to discredit or limit the effectiveness of their competition.

Taking enforcement action to deny an entity’s ability to exhibit, sponsor, or advertise with ACEP may create additional potential liability risk for ACEP. Excluding an entity from being able to advertise in or sponsor any ACEP activity could subject the College to a claim of restraint of trade or business defamation. Should a court decide that the procompetitive justifications for these actions do not justify the potential anti-competitive effects and therefore conclude that the actions violate Federal law (specifically the Sherman Act, 15 U.S.C. §§1,2) governmental sanctions may result in civil penalties of up to $100 million for businesses or $1 million for individuals, and criminal penalties of up to ten years. The government can also seek injunctive relief to stop an organization from engaging in a potentially unlawful activity. Should ACEP face a lawsuit from an entity that believes it has been unfairly excluded from a College activity, should they prevail, they may be eligible to recover treble damages (three times the amount of actual financial damages as proven by the plaintiff), costs of suit, as well as attorneys’ fees. Such challenges can be mitigated by developing and adhering to strict processes.

Stragegic Plan Reference:

Career Fulfillment – Members believe that ACEP confronts tough issues head on and feel supported in addressing their career frustrations and in finding avenues for greater career fulfillment.

Advocacy – Members believe that they can rely on ACEP to fight for emergency physicians across all landscapes and levels, including federal, state, and local

Prior Council Action:

Amended Resolution 44(20) Due Process in Emergency Medicine referred to the Board of Directors.

Resolution 45(13) Revision of “AMA Principles for Physician Employment” referred to the Board of Directors. The resolution called for ACEP to work to amend the AMA Principles for Physician Employment to state that no physician employment agreement should limit a physician’s right to due process as a member of the medical staff if terminated. The AMA Section Council on Emergency Medicine recommended that the AMA Organized Medical Staff Section (OMSS) review the information and potentially submit a resolution to the AMA Interim Meeting in November 2014. However, AMA staff reported that the AMA amended the Principles for Physician Employment in June 2014 to address the issue of automatic termination of staff privileges following termination of an employment agreement (sections 3e and 5f) based on a report from the OMSS Governing Council that outlined the rationale for the amended language.

Amended Resolution 30(11) Emergency Physician Contracts and Medical Staff Activities/Membership adopted. Directed ACEP to develop model language for emergency physician employment contracts addressing termination for any emergency physician subjected to adverse action related to involvement in quality/performance improvement, patient safety, or other medical staff activities, and specifying due process for physicians subjected to such adverse action.

Resolution 29(11) Due Process for Emergency Physicians adopted. Directed ACEP to review and update the policy statement “Emergency Physician Contractual Relationships” regarding due process and distribute the updated policy to the American Hospital Association, the American College of Health Care Executives and other entities.

Resolution 18(03) Intention to Bid for Group Contracts referred to the Board of Directors. The resolution called for ACEP to require member to abide by a policy regarding “Duty to Inform Other ACEP Members of Intention to Bid for Their ED Group Contract.”

Resolution 17(03) Certificate of Compliance referred to the Board of Directors. The resolution called for ACEP to require emergency physician staffing groups to comply with terms of a certificate as a prerequisite for being an exhibitor or sponsor for any ACEP activity. The certificate included multiple provisions that groups must attest to including “With the provisional period not to exceed one year, our physician group provides our emergency physicians access to predefined due process.”

Resolution 14(02) Emergency Physician Rights and Self-Disclosure not adopted. The resolution would have required any exhibitor, advertiser, grant provider, and sponsor who employs emergency physicians as medical care providers to disclose their level of compliance with College policies on compensation and contractual relationships.

Amended Resolution 14(01) Fair and Equitable EM Practice Environments adopted. Directed ACEP to continue to study the issue of contract management groups and determine what steps should be taken by ACEP to more strongly encourage a fair and equitable practice environment and to continue to promote the adoption of the principles outlined in the “Emergency Physician Rights and Responsibilities” policy statement by the various emergency medicine contract management groups, the American Hospital Association and other pertinent organizations.

Substitute Resolution 10(01) Commercial Sponsorships adopted. Directed the Board to continue initiatives to develop and implement policies on self-disclosure of compliance by sponsors, grant providers, advertisers, and exhibitors at ACEP meetings with ACEP physicians’ rights policies, including: “Emergency Physicians Rights and Responsibilities,” “Emergency Physician Contractual Relationships,” “Agreements Restricting the Practice of Emergency Medicine,” and “Compensation Arrangements for Emergency Physicians”

Amended Resolution 20(00) Due Process in Contracts Between Physicians and Hospitals, Health Systems, and Contract Groups adopted. Directed ACEP to endorse the right to have due process provisions in contracts between physicians and hospitals, health systems, health plans, and contract groups.

Resolution 59(95) Due Process for Emergency Physicians referred to the Board of Directors. The resolution called for the College to support, and incorporate into educational and advocacy efforts, promotion of the concepts of due process in all employment arrangements for emergency physicians, that any emergency physician being terminated has the right to receive the reasons for such termination and to formally respond to those reasons prior to the effective date of the termination.

Amended Resolution 54(94) Due Process adopted in lieu of resolutions 52(94) Due Process Exclusion Clause and 54(94) Due Process. The amended resolution directed the College to study the issue of peer review and due process exclusion clauses in emergency physician contracts.

Resolution 38(90) Due Process Rights of Hospital Based Physicians not adopted. The resolution called for ACEP to work with The Joint Commission on the Accreditation of Hospital Organizations (now The Joint Commission) to develop standards to protect due process rights of hospital-based physicians.

Prior Board Action:

June 2021, discussed with outside legal counsel the implications of Referred Amended Resolution 44(20) Due Process in Emergency Medicine.

April 2021, approved the revied policy statement “Emergency Physician Contractual Relationships;” revised and approved June 2018, October 2012, January 2006, March 1999, and August 1993 with the current title. Originally approved October 1984 titled “Contractual Relationships between Emergency Physicians and Hospitals.”

April 2021, approved the revised policy statement "Emergency Physician Rights and Responsibilities;" revised and approved October 2021, April 2008 and July 2001; originally approved September 2000

January 2021, directed the Emergency Medicine Practice Committee and the Medical-Legal Committee, with support from ACEP's General Counsel, to review and provide a recommendation regarding further action on the resolution.

July 2019, reviewed the updated information paper "Fairness Issues and Due Process Considerations in Various Emergency Physician Relationships;" revised June 1997, originally reviewed July 1996.

January 2019, reaffirmed the policy statement "Antitrust;" reaffirmed June 2013 and October 2007; revised and approved October 2001; originally approved June 1996 replacing a policy statement with the same title that was approved in April 1994.

September 2018, approved the policy statement "Due Process for Physician Medical Directors of Emergency Medical Services."

July 2018, reviewed the PREP "Emergency Physician Contractual Relationships" as an adjunct to the policy statement "Emergency Physician Contractual Relationships."

Resolution 29(11) Due Process for Emergency Physicians adopted.

Amended Resolution 30(11) Emergency Physician Contracts and Medical Staff Activities/Membership adopted.

September 2004, approved a report to the Council with a letter from the Federal Trade Commission regarding issues raised in Resolution 17(03) Certificate of Compliance and Resolution 18(03) Intention to Bid for Group Contract and agreed to take no further action on the resolutions.

September 2003, approved the submission of the request for an FTC Advisory Opinion

Amended Resolution 14(01) Fair and Equitable EM Practice Environments adopted.

Substitute Resolution 10(01) Commercial Sponsorships adopted.

Amended Resolution 20(00) Due Process in Contracts Between Physicians and Hospitals, Health Systems, and Contract Groups adopted.

Amended Resolution 54(94) Due Process adopted.

Council Action:

Reference Committee A recommended that the first resolved not be adopted and the second resolved be adopted as amended.

RESOLVED, That ACEP adopt this policy: "Any entity that wishes to advertise in ACEP vehicles, exhibit at its meetings, provide sponsorship, other support, or otherwise be associated with the ACEP, as of January 1, 2023, shall remove all contractual restrictions on or waivers of due process for emergency physicians. Physicians cannot be asked to waive this right as it can be detrimental to the quality and safety of patient care. The entities affected include but are not limited to physician group practices, hospitals and staffing companies."; and be it further

RESOLVED, That ACEP create a method for members to report incidents of denial of due process, review member-submitted contractual clauses or other methods of denying such that are of concern~~, and to investigate the matter allowing the entity an opportunity to respond or modify its policy prior to exclusion for violation of this policy~~.

The Council defeated the first resolved and adopted the second resolved of Amended Resolution 19(22) on September 30, 2022.

Testimony:

Asynchronous testimony was mixed with the majority opposed. There was little additional live testimony. There was support for due process, but testimony expressed concern that the resolution was not feasible for the College or the best way to achieve the desired outcome. There was broad support for dividing the resolved clauses for consideration on their own. A recap was provided regarding previous legal opinions sought from multiple attorneys outside of ACEP regarding antitrust concerns related to the intent of the resolution. Testimony regarding the second resolved supported ACEP's role in collecting and collating information that could provide data to support advocacy efforts, but not investigating or being the arbiter of contract disputes. Based on the testimony received, the Reference Committee recommends that the first resolved not be adopted and the second resolved be adopted as amended.

Board Action:

The Board adopted the second resolved of Amended Resolution 19(22) on October 3, 2022.

References:

References

1. Weiss LD. AAEM White Paper on Due Process Rights for Physicians. J Emerg Med 2007; 33:439-40.
2. McNamara RM, Beier K, Blumstein H, Weiss LD, Wood J. A survey of emergency physicians regarding due process, financial pressures and the ability to advocate for patients. J Emerg Med 2013; 45: 111-116
3. ACEP comments to FTC/DOJ: https://www.acep.org/globalassets/acep-response-to-ftc-and-doj-rfi-on-merger-guidelines-04.20.22.pdf
4. Seattle Times article on Dr. Ming Lin https://www.seattletimes.com/seattle-news/health/er-doctor-who-criticized-bellingham-hospitals-coronavirus-protections-has-been-fired/

Implementation Action:

Assigned to legal staff to guide the appropriate development and implementation of this reporting mechanism for members.

There are a growing number of resources available on the ACEP website dedicated to the topics of employment contracts and other practice and legal issues, including a checklist to negotiate the best contract and an on-demand course on standard contract provisions. The site also includes a list of local attorneys available to review contracts and assist with other legal matters. In addition, ACEP partnered with Resolve, a well-established physician contract review service, in March 2023, to provide all ACEP members a 20% discount on contract review services, ranging in price from $499 to $1,999 based on the complexity of review required. Resolve also provides insight into compensation data and the competitiveness of other terms in the contract. The service was tested by two ACEP members needing contract review for their real-life employment agreements prior to finalizing the partnership and both members had positive feedback about their experiences.

Background Information Prepared by: Leslie Moore, JD
Jana Nelson
Laura Wooster, MPH
Mollie Pillman, MS, MBA, CAE

Reviewed by: Kelly Gray-Eurom, MD, MMM, FACEP
Melissa Wysong Costello, MD, FACEP
Susan E Sedory, MA, CAE