2024 Council Resolution 25: Boarding – Follow the Money

Council Action: **ADOPTED**

Board Action: **ADOPTED**

Status: **In Progress**

SUBMITTED BY: New Mexico Chapter ACEP
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Exploring Retirement Section

Purpose:

Collaborate with relevant stakeholders including the AMA, hospital associations, nursing associations, patient groups, and others to propose legislation that would adequately fund health care from the ED to hospital discharge and chronic care facility placement if necessary for all patients admitted to observation and inpatient status from the ED.

Fiscal Impact:

Budgeted committee and staff resources for ongoing federal and state advocacy initiatives.

WHEREAS, President George W. Bush said in 2007, “I mean, people have access to health care in America. After all, you just go to an emergency room.”; and

WHEREAS, There have been 69 billion ACEP resolutions about boarding over the last several decades and the problem has only gotten worse; and

WHEREAS, The adverse outcomes of boarding have been documented ad nauseam; and

WHEREAS, Boarding has forced the development of new subspecialties of emergency medicine including Hallway Medicine, Waiting Room Medicine, and Tent/Parking Lot Medicine that patients are forced to endure; and

WHEREAS, When they say it is not about the money, it is always about the money; and

WHEREAS, It is, at best, partially effective, in our capitalist system, to force businesses to engage in nonprofitable lines of work through regulation, legislation, bureaucracy begging, pleading, and accusations; and

WHEREAS, When admitting sick patients to the hospital from all economic strata is profitable (economically viable?), this business line will be pursued fervently, and many of our problems with boarding will be ameliorated; therefore be it

RESOLVED, That ACEP collaborate with relevant stakeholders including the AMA, hospital associations, nursing associations, patient groups, and others to propose legislation that would adequately fund health care from the emergency department to hospital discharge and chronic care facility placement if necessary for all patients admitted to observation and inpatient status from the emergency department.

Background:

The resolution calls for ACEP to collaborate with relevant stakeholders including the AMA, hospital associations,

nursing associations, patient groups, and others to propose legislation that would adequately fund health care from the emergency department to hospital discharge and chronic care facility placement if necessary for all patients admitted to observation and inpatient status from the ED.

The resolution aims to address the foundational economic incentives that have led to the current emergency department boarding crisis. Emergency department boarding is a scenario where patients are kept in the ED for extended periods of time because of a lack of available inpatient beds or space in other facilities where they could be transferred. Shortages of physicians, nurses, and other health care providers across the health care continuum have significantly contributed to the growing issue of boarding.

Recent reports, including a May 2024 report issued by the American Hospital Association, suggest that hospitals and health systems throughout the country are facing dire financial outlooks, despite the stabilization of operating costs and margins as the COVID-19 pandemic subsided. The AHA report states that increasing demand for higher acuity care, persistent workforce shortages, supply chain issues for drugs and supplies, and high levels of inflation, are contributing to growing costs while reimbursement rates from government payers and bad commercial insurer practices are exacerbating the financial distress facing hospitals. As the resolution notes, given our current system of health care financing, regulatory and legislative environments, and growing administrative and bureaucratic burdens, hospitals and health systems are required to provide nonprofitable lines of business and are thus incentivized to pursue lines of business that are profitable, often at the expense of efficiencies or most appropriate care for patients.

Empirical studies have shown boarding contributes to worse patient outcomes and increased mortality related to downstream delays of treatment for both high- and low-acuity patients. In addition to disrupting the ED workflow and creating operational inefficiencies, it often also creates additional dangers, such as ambulance diversion, increased adverse events, preventable medical errors, more walkouts by patients, lower patient satisfaction, violent episodes in the ED, and higher overall health costs. This problem is only worsening as ED volumes return to normal levels after a substantial drop in visits during the early stages of the COVID-19 pandemic. Boarding and ED crowding are not caused by ED operational issues or inefficiency; rather, they stem from misaligned economic drivers and broader health system dysfunction.

ACEP has been working on a study of ED boarding with the Emergency Department Benchmarking Alliance (EDBA). Preliminary results of this 2022 EDBA performance measures survey "…found a significant deterioration in patient processing due to inpatient boarding." ACEP issued a report in 2016, developed by the Emergency Medicine Practice Committee, "Emergency Department Crowding: High Impact Solutions." The report was developed to identify and disseminate proven ways to decrease input, as well as novel approaches to increase throughput and increase output. This document is available on ACEP's resource page, "Crowding & Boarding," along with links to other relevant information papers, policy statements, resources regarding state approaches, and others.

Overall, addressing boarding and crowding have been longstanding priorities of the College There is active policy development, committee work, liaison work, and media outreach that is ongoing on this issue. Federal legislative and regulatory advocacy efforts continue as well. ACEP federal advocacy has focused on raising awareness of the ED boarding crisis and developing both legislative and regulatory solutions to help ease this multifactorial challenge. In November 2022, ACEP led a coalition letter to President Biden, laying out the ED boarding crisis as a public health emergency and asking the Administration to establish an ED Boarding Task Force. Then, in May 2023, ACEP developed and helped secure signatories during the 2023 Leadership and Advocacy Conference (LAC) for a bipartisan "Dear Colleague" letter led by Representatives Debbie Dingell (D-MI) and Brian Fitzpatrick (R-PA), along with 42 other Representatives, urging U.S. Department of Health and Human Services Secretary Xavier Becerra to convene a stakeholder task force to address the boarding crisis and develop and implement immediate and long-term solutions.

As part of this continued initiative, in September 2023, ACEP organized and led a summit of stakeholders across health care to discuss the factors contributing to the boarding crisis and strategies to pursue collaborative solutions. Participating medical societies, state and federal government leaders, hospital, nursing home, and patient group representatives came to the ACEP DC office for a candid and crucial conversation, including the Agency for Healthcare Research and Quality (AHRQ), the American Hospital Association, American Nurses Association, America's Essential Hospitals, among others. A full report of the Summit's proceedings was published on October 20, 2023. ACEP has reached out to both CMS and The Joint Commission to determine what federal action can be taken to address the issue. And in December 2023, Secretary Becerra responded to the Dingell-Fitzpatrick Dear Colleague letter and announced the convening of stakeholders through AHRQ to address ED boarding. ACEP has worked closely with AHRQ since this announcement to help inform the AHRQ Directors' Roundtable and its continued efforts on the topic.

Additionally, the Centers for Medicare and Medicaid Services (CMS) finalized the adoption of the Age-Friendly Hospital Measure as part of the Hospital IQR Program. The measure, developed by ACEP in partnership with the American College of Surgeons (ACS) and Institute for Healthcare Improvement, seeks to enhance care for older patients by focusing on key areas like medication management and frailty screening. This measure aims to redefine how hospital systems approach geriatric care, calling for hospitals to have protocols in place to move older patients out of the emergency department within eight hours of arrival or three hours of the decision to admit. ACEP encouraged CMS to include attestations to reduce boarding in the emergency department and screen for risk factors related to social determinants of health, among others. The inclusion of the measure in the hospital IQR program gives hospitals a financial incentive to address boarding in geriatric populations.

In July 2024, ACEP leadership and staff met with CMS asking them to potentially modify the Emergency Services Condition of Participation (CoP) as a lever to help address boarding. There is a recent precedence for this, as in the Calendar Year 2025 Outpatient Prospective Payment System (OPPS) proposed rule, CMS proposes to revise the Emergency Services CoP related to emergency readiness for hospitals and CAHs that provide emergency services and create a new CoP for obstetrical services.

Addressing boarding and crowding have also been key priorities for federal advocacy during the 118th Congress. ACEP helped develop and supports the bipartisan Improving Mental Health Access from the Emergency Department Act (S.1346), which creates a grant program aimed at assisting emergency departments and communities in implementing innovative strategies to ensure continuity of care for patients who have presented with acute mental health conditions.

ACEP also supports:

- The bipartisan Helping Kids Cope Act (H.R. 2412), introduced by Representatives Lisa Blunt Rochester (D-DE) and Brian Fitzpatrick (R-PA) which would provide funding to support necessary staffing, capacity increases, and infrastructure adjustments needed to alleviate pediatric boarding; maintaining initiatives to allow more children to access care outside of emergency departments; and addressing gaps in the continuum of care for children.
- The Mental Health Infrastructure Improvement Act (H.R. 5804), introduced by Representatives Derek Kilmer (D-WA) and Don Bacon (R-NE). Helps expand mental health infrastructure by establishing a new loan and loan guarantee program to fund the construction or renovation of mental health or SUD treatment facilities that provide inpatient care, partial hospitalization, intensive outpatient, and/or crisis stabilization; sets aside at least 25% of the funding for pediatric-serving facilities; provides priority for facilities that are located in high-need, underserved, or rural areas, are able to provide integrated care for complex patients, and will provide multiple services along the continuum of care.
- The Providing Access to Treatment and Housing (PATH) Act (H.R. 4941) introduced by Representatives Adam Schiff (D-CA), Nancy Pelosi (D-CA), Yvette Clarke (D-NY), and others. Expands access to mental health and behavioral health services, including substance use disorder treatment, for individuals experiencing homelessness or housing insecurity. Establishes a $2 billion grant program to expand access to services, overdose prevention, workforce training, care coordination, housing programs, and training for non-health care professionals interacting with those experiencing homelessness or housing insecurity.

ACEP staff continue to discuss potential solutions with legislators in both chambers and inform additional legislative efforts in development, including legislation to help improve bed tracking and capacity management systems that is expected to be introduced in the near future. Additionally, ED boarding, ED crowding, and mental health have been the central themes of the face-to-face advocacy efforts by our members who attend the ACEP Annual Leadership and Advocacy Conference for the last several years.

Emergency Department Boarding and Crowding resources are available on the ACEP website, including Policy Solutions to Emergency Department Boarding. These policy solutions point to some of these financial drivers and potential ways to realign financial incentives, such as establishing reimbursement incentives for hospital systems to transfer patients outside of their system in limited cases of extreme boarding, tying additional financial incentive es and penalties to measures of crowding and boarding, developing incentives to enable skilled nursing facilities and long-term care facilities to expand capacity and accept patients from the ED outside of core business hours (as well as possible penalties for refusing patients without documentation of legitimate reasons for doing so), among others.

Stragegic Plan Reference:

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

Practice Innovation – Members work with ACEP to revolutionize the management of acute, unscheduled care.

Prior Council Action:

Amended Resolution 28(23) Facilitating EMTALA Interhospital Transfers adopted. Directed ACEP to work with the American Hospital Association and appropriate agencies to compel hospitals to make available to other hospitals transfer coordinator information, including contact numbers for accepting transfers, for each Medicare participating hospital bound by EMTALA and support state efforts to encourage state agencies to create and maintain a central list of transfer coordinator numbers for hospitals, including contact numbers for accepting transfers, for each Medicare participating hospital bound by EMTALA.

Amended Resolution 27(23) Addressing Interhospital Transfer Challenges for Rural EDs referred to the Board of Directors. Directed ACEP to 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 to report their activities publicly; advocate for state and federal requirements that tertiary centers have a regional process for rapidly accepting patients from rural hospitals when the patient needs an emergency intervention not available at the referring hospital; 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 in this region is defined as patient catchment areas rather than jurisdictional boundaries; and, support research to strengthen the evidence base regarding rural hospital transfer processes including delays, administrative burden on sending hospitals, and clinical association with patient outcomes and experience and include investigation of common challenges experienced by all small, non-networked hospitals.

Amended Resolution 38(22) Focus on Emergency Department Patient Boarding as a Health Equity Issue adopted. Directed ACEP to use legislative venues and lobbying efforts, focus regulatory bodies to establish a reasonable matrix of standards including acceptable boarding times and handoff of clinical responsibility for boarding patients; publish best-practice action plans for hospitals to improve ED capacity; and define criteria to determine when an ED is considered over capacity and hospital action plans are triggered to activate

Amended Resolution 48(21) Financial Incentives to Reduce ED Crowding adopted. Directed the College to study financial and other incentives that might be used to reduce Boarding of admitted patients in the emergency department.

Amended Resolution 13(16) ED Crowding and Boarding is a Public Health Emergency adopted. Directed ACEP to work with the U.S. Department of Health and Human Services, the U.S. Public Health Service, The Joint Commission, and other appropriate stakeholders to determine action steps to reduce ED crowding and boarding.

Amended Resolution 42(15) Prolonged Emergency Department Boarding adopted. Directed ACEP to work with other organizations and stakeholders to develop multi-society policies that establish clear definitions for boarding and crowding and limit the number of hours and volume of boarders to allow for continued patient access and patient safety. Also directed that ACEP promote to other organizations and stakeholders known solutions to mitigate boarding and crowding, including but not limited to smoothing of elective admissions, increasing weekend discharges, discharge of patients before noon, full availability of ancillary services seven days a week, and implementation of a full-capacity protocol and promote legislation at the state and national level that limits and discourages the practice of emergency department boarding as a solution to hospital crowding.

Resolution 28(08) Nationwide ED Crowding Crisis not adopted. The resolution directed ACEP members to work with state medical associations and/or health departments to encourage hospitals and health care organizations to develop mechanisms to increase availability of inpatient beds. Salient provisions of this resolution were included in Substitute Resolution 25(08) State Department of Health Crowding Surveys.

Substitute Resolution 25(08) State Department of Health Crowding Surveys adopted. Directed ACEP to investigate options to collect data from individual hospitals throughout the states regarding boarding and crowding, encourage members to work with their state medical associations and/or state health departments to develop appropriate mechanisms to facilitate the availability of inpatient beds and use of inpatient hallways for admitted ED patients, identify and develop a speakers bureau of individuals who have successfully implemented high-impact, low-cost solutions to boarding and crowding.

Amended Resolution 27(07) Hospital Leadership Actions to Ameliorate Crowding adopted. Directed ACEP to develop a position paper on the systematic changes in hospital operations that are necessary to ameliorate crowding and treatment delays affecting ED and other hospital patients.

Amended Resolution 26(07) Hallway Beds adopted. The resolution directed ACEP to revise the policy statement "Boarding of Admitted and Intensive Care Patients in the ED," work with state and national organizations to promote the adoption of such policies, and to distribute information to the membership and other organizations related to patient safety outcomes caused by the boarding of admitted patients in the ED.

Resolution 39(05) Hospital Emergency Department Throughput Performance Measure referred to the Board of Directors. Called for ACEP to work with CMS and other stakeholders to develop measures of ED throughput that will reduce crowding by placing the burden on hospitals to manage their resources more effectively.

Substitute Resolution 18(04) Caring for Emergency Department 'Boarders' adopted. Directed ACEP to endorse the concept that overcrowding is a hospital-wide problem and the most effective care of admitted patients is provided in an inpatient unit, and in the event of emergency department boarding conditions, ACEP recommends that hospitals allocate staff so that staffing ratios are balanced throughout the hospital to avoid overburdening emergency department staff while maintaining patient safety.

Amended Resolution 33(01) ED Overcrowding: Support in Seeking Local Solutions adopted. Directed ACEP to develop a specific strategy to coordinate all activities related to emergency department and hospital crowding to support state efforts, analyze information and experiences to develop a resource tool to assist chapters in efforts to seek solutions to emergency department and hospital crowding at the local level.

Amended Substitute Resolution 15(01) JCAHO Mandate for Inpatients adopted. The resolution called for ACEP to meet with appropriate regulatory agencies, including the AMA, JCAHO, and the American Hospital Association and other interested parties to establish monitoring criteria and standards that are consistent with ACEP's policy "Boarding of Admitted and Intensive Care Patients in the Emergency Department." The standard should address the prompt transfer of patients admitted to inpatient units as soon as the treating emergency physician makes such a decision.

Amended Resolution 50(88) Hospital Bed Availability and Methodology adopted. It called for ACEP to develop policies to ensure that emergency patients receive the highest priority in hospital admission systems.

Prior Board Action:

Amended Resolution 28(23) Facilitating EMTALA Interhospital Transfers adopted.

February 2023, approved the revised policy statement "Boarding of Admitted and Intensive Care Patients in the Emergency Department;" revised and approved June 2017, April 2011, April 2008, January 2007; originally approved October 2000.

January 2022, approved the revised policy statement, "Appropriate Interfacility Patient Transfer;" revised and approved January 2016 with current title; revised and approved February 2009, February 2002, June 1997, September 1992 titled, "Appropriate Inter-hospital Patient Transfer;" originally approved September 1989 as position statement "Principles of Appropriate Patient Transfer."

Amended Resolution 38(22) Focus on Emergency Department Patient Boarding as a Health Equity Issue adopted.

Resolution 48(21) Financial Incentives to Reduce ED Crowding adopted.

April 2019, approved the revised policy statement "Crowding;" revised and approved February 2013; originally approved January 2006.

Amended Resolution 13(16) ED Crowding and Boarding is a Public Health Emergency adopted.

June 2016, reviewed the updated information paper "Emergency Department Crowding High-Impact Solutions"

Amended Resolution 42(15) Prolonged Emergency Department Boarding adopted.

Substitute Resolution 25(08) State Department of Health Crowding Surveys adopted.

Amended Resolution 27(07) Hospital Leadership Actions to Ameliorate Crowding adopted.

Amended Resolution 26(07) Hallway Beds adopted.

April 2007, reviewed the information paper “Crowding and Surge Capacity Resources for EDs.”

October 2006, reviewed the information paper “Approaching Full Capacity in the Emergency Department.”

Substitute Resolution 18(04) Caring for Emergency Department ‘Boarders’ adopted

Amended Resolution 33(01) ED Overcrowding: Support in Seeking Local Solutions adopted.

Amended Substitute Resolution 15(01) JCAHO Mandate for Inpatients adopted.

Amended Resolution 50(88) Hospital Bed Availability and Methodology adopted.

Council Action:

Reference Committee B recommended that Resolution 25(24) be adopted.

The Council adopted Resolution 25(24) on September 28, 2024.

Testimony:

Asynchronous testimony was mixed, although overall there was support for the spirit of the resolution. One comment noted concerns that the language could be perceived as antagonistic, while another noted concerns about potential redundancy with current work being undertaken by the College. Live testimony was mixed. An amendment offered to add a resolved for legislation to be considered for differential reimbursement for Medicare and Medicaid patients transferred to an inpatient bed within four hours of an admit decision compared to those who are boarded in the ED for four hours or more. This proposed amendment was reviewed and while thought-provoking, is not germane to the original resolution and therefore would be out of order. Some testimony in opposition noted that the resolution lacked focus and was not serious enough to merit consideration. Others noted that the AMA Section Council on Emergency Medicine has already begun this work through the AMA, as passed through the AMA House of Delegates at the 2024 Annual Meeting, and an additional resolution may duplicate existing efforts.

Board Action:

The Board adopted Resolution 25(24) on October 2, 2024.

References:

Implementation Action:

Assigned to Advocacy & Practice Affairs staff to initiative discussions with relevant stakeholders, as directed in the resolution, to pursue proposing federal legislation.

The Emergency Medicine Policy Institute (EMPI) Board of Directors commissioned RAND to conduct a new study of emergency medicine to focus on the value of emergency care, evaluate impediments to ED resources and capacity, trends in emergency medicine reimbursement, and propose new innovative funding strategies for emergency care. The report is expected to be released in March 2025.

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