



Blast from the Past

Andy Walker, MD FAAEM
Editor, *Common Sense*
AAEM Board Member

As we continue to celebrate 20 years of *Common Sense*, this installment of "Blast from the Past" features highlights from Volume 2 Issue 3 and from Volume 3 Issue 1. ■

EMERGENCY MEDICINE: THE LIVING LAW—San Francisco Jan 27-29. Register now or at the meeting. [See UPCOMING CONFERENCES, page 2.]



when minutes count

COMMON SENSE

WHY DOES ACEP MEMBERSHIP COST SO MUCH?

Scott Plantz, MD FAAEM

ACEP refuses to take a stand on issues that are important for the future of our speciality, such as limiting future voting membership to boarded or residency trained emergency physicians, non-compete clauses, due process, or fee-splitting. It would seem taking a firm stand on these issues would be logical for an organization dedicated to the future of emergency medicine. So why don't they take a stand?

When something just doesn't quite make logical sense, I have always been told to look for the dollar sign. ACEP is a very large and expensive organization to operate. In 1993, annual membership dues generated \$5,955,759 dollars. Unfortunately, in the same year, compensation to officers, salaries, pension plan contributions, employee benefits, and payroll taxes cost the organization \$6,203,474. Colin Rorrie's salary and benefits alone were over

\$350,000. To cover the cost of their employee benefits, ACEP generated another \$6,702,477 dollars through service revenue, such as charges for courses, books, conferences, etc. This is why even though many speakers donate their time for lectures, the course, and the ACEP category I credit, still costs you a large amount of money.

Given such large costs, ACEP must be very careful not to propose any policy that might jeopardize membership. As a result, it is small wonder it is difficult to get ACEP to take a stand on issues which might aggravate a few large companies that encourage their "independent contractors" to maintain ACEP membership or establish policy that restricts voting membership to individuals that have actually trained or are boarded in the speciality.

LAST CHANCE FOR ACEP?

Scott H. Plantz, MD FAAEM

At times we are criticized for being critical of ACEP. Why don't we work within the college? Why not change from within? Reality is that many members of AAEM have made several attempts to reform ACEP. The 1995 ACEP Scientific Assembly brings yet another chance for reform.

For those of you who are still loyal ACEP followers, I invite your participation in support of the following resolutions:

RESOLUTION ONE — That ACEP board members shall be required to disclose, and publish annually in ACEP News, any personal business investments in emergency medicine related companies.

RESOLUTION TWO — That ACEP's top ten executives shall not have any financial arrangement and /or direct affiliation with any corporate or private organization that financially profits from the field of emergency medicine.

RESOLUTION THREE — That ACEP NEMPAC officers shall be required to report and publish annually the ACEP News any business investments in emergency medicine related companies.

RESOLUTION FOUR — That a separate educational track should be established during the Annual Management Academy conference, with speakers from democratic groups and other institutions dedicated to educate emergency physicians in how to obtain, establish, and operate democratic groups.

RESOLUTION FIVE — That the ACEP board seek legal council to incorporate the principles of the Noerr-Pennington Doctrine into the ACEP anti-trust policy.

RESOLUTION SIX — That ACEP News shall be directed to publish an article providing a full discussion of the issues and opinions of both parties of the Coastal Inc. v. Schwartz lawsuit,

CONTINUED ON NEXT PAGE

and that both parties be allowed to include in the article the address of donation funds privately established for the litigation of this case.

RESOLUTION SEVEN — That ACEP should fund a study of its members to determine what type of practice environment they would prefer, and that if members prefer democratic groups, ACEP should provide a strong educational effort, including sponsored books, conferences, and lectures on how to establish local democratic groups.

RESOLUTION EIGHT — That the lobbying efforts of ACEP should be directed toward federal and state legislation which would ban peer-review exclusion clauses and due process exclusion clauses from emergency physicians contracts.

RESOLUTION NINE — That the lobbying efforts of ACEP should be directed toward federal and state legislation, which would ban the sale of emergency department contracts.

RESOLUTION TEN — That all candidates for the board of directors and principle council officers shall submit a full disclosure statement specifying their employment as well as any financial interests in any organization affiliated with the medical and business aspects of emergency medicine and this disclosure shall be published to the membership prior to election.

RESOLUTION ELEVEN — That ACEP create a task force in association with AAEM and AEP to establish suggested guidelines for businesses involved in the practice of managing emergency physicians.

RESOLUTION TWELVE — That ACEP add a fourth category to the Conflict of Interest Disclosure Certificate:

Describe any positions of personal or family material financial interest in any outside concern, which financially profits from the clinical practice of emergency medicine (i.e., ownership or decisions making position in a contact management company, billing company, sole proprietorship, book company, medical supply company, malpractice insurance company, etc.)

RESOLUTION THIRTEEN — That ACEP bylaws, ARTICLE II — PURPOSES AND FUNCTIONS OF COLLEGE, Section 2 — Purposes and Objectives, be amended by the addition of number 14, which will read, "To promote fair and equitable practice environments necessary to allow emergency physicians to deliver the highest quality of patient care. Such a practice environment does not favor the use of restrictive covenants."

RESOLUTION FOURTEEN — That the lobbying efforts of ACEP should be directed toward federal and state legislation, which would ban the non-compete clause from emergency physician contracts.

RESOLUTION FIFTEEN — That the ACEP bylaws, ARTICLE II — PURPOSES AND FUNCTIONS OF COLLEGE, Section 2 — Purposes and Objectives, be amended by the addition of number 15, which will read, "To promote fair and equitable practice environments necessary to allow emergency physicians to deliver the highest quality of patients care. Such a practice environment include the right of due process."



WHY DOES ACEP MEMBERSHIP COST SO MUCH – PART 2

Scott Plantz, MD FAAEM

In the last edition of *Common Sense*, I mentioned that Dr. Colin Rorrie's salary plus benefits was over \$350,000. I was in error, according to Colin Rorrie, Ph.D., speaking at the September ACEP Scientific Assembly; his annual salary is only **\$240,000**.

In writing the article, I based the \$350,000 figure on the 1993 ACEP tax return. It stated Dr. Rorrie's compensation was \$270,625.67. Since most companies' non-taxable benefits generally are an additional 30% of the base salary, I estimated his salary plus benefits at over \$350,000. I stand corrected and apologize. Apparently, his salary plus benefits in 1993 totaled only \$270,625.67. Interestingly, AAEM has recently obtained a copy of the 1995 ACEP tax return, which shows an annual salary including benefits of \$319,594.00. This raises two questions:

First, why is it so much? Few individuals with Ph.D.s in education receive salaries over \$270,000. Other than a few contract holding

chairmen, I know of few managers of large emergency departments that are paid this well. These individuals are responsible for a similar number of employees and their decisions effect 40,000 to 100,000 people, far greater than the 17,000 members of ACEP. Many chairmen have MDs, Ph.D.s, and MBAs.

Second, why was it so difficult to verify this information with ACEP? A letter to Dr. Rorrie resulted in a referral to Dr. Aghababian. A call and letter to Dr. Aghababian resulted in a long awaited "I'll get back to you." As a law student, I found Texas statutory law suggested that nonprofit organizations are obligated to release executive salaries. ACEP's attorney found a loophole. The bylaws of ACEP revealed the "books of account" are open to member inspection. This too was found not be include Dr. Rorrie's salary. Out of frustration, my attorney threatened to sue. Dr. Rorrie responded with the ACEP News article titled "ACEP Staff

CONTINUED ON NEXT PAGE

Salary Structure.” At no point would ACEP officially release Dr. Rorrie’s salary plus benefits. Finally, several letters to the IRS by one of our members revealed Dr. Rorrie’s salary to be \$270,625.67 in 1993.

Although I apologize for incorrectly stating Dr. Rorrie’s salary, perhaps the most intriguing question is why did I have to go

through such extreme measures to find it? Most likely, ACEP’s books are probably protected in the same manner as the average dictator, whose books are open ... until you ask to see them! “independent contractors” to maintain ACEP membership or establish policy that restricts voting membership to individuals that have actually trained or are boarded in the specialty.

ACEP’S RESPONSE TO RESOLUTIONS

Scott Plantz, MD FAAEM

Robert McNamara, MD FAAEM

Key resolutions were passed by ACEP Scientific Assembly council after introduction and lobbying efforts by Dr. Robert McNamara and Dr. Scott Plantz. Of particular note are resolutions directing ACEP to promote state legislation to eliminate restrictive covenants and to promote peer review and due process for physicians. The Scientific Assembly rejected, however, fourteen resolutions including efforts to ban sale of emergency room contracts, eliminate ACEP’s leaders financial ties to corporations, which may represent conflict of interest, to disclose the salaries and benefits of its leaders, and to limit its active voting membership to board certified physicians.

Key Resolutions Passed:

1. That ACEP use its resources to develop and promote model state legislation to eliminate the use of restrictive covenants in emergency medicine.
2. That the ACEP board incorporates principles of the Noerr-Pennington Doctrine into the ACEP anti-trust policy in order to educate members as to what legal issues can be discussed.
3. That ACEP investigate legislation protecting and promoting peer review and due process for emergency physicians.
4. That ACEP amend its Conflict of Interest Certificate by addition of the following language:

Describe any positions of personal or family material financial interest in any outside concern, which financially profits from the clinical practice of emergency medicine (i.e., ownership or decisions making position in a contact management company, billing company, sole proprietorship, book company, medical supply company, malpractice insurance company, etc.)

5. That ACEP study its members to determine what type of practice environment they would prefer.
6. That ACEP News be directed to publish an article providing a full discussion of the issues and opinions of both parties of the Coastal Inc., vs. Schwartz lawsuit. (Still not done as of February 1996).

Key Resolutions Failed:

1. That the lobbying efforts of ACEP should be directed toward federal and state legislation, which would ban the sale of emergency department contract.
2. That ACEP limit its future active (voting) membership as of January 1, 1997, to those physicians certified by ABEM.
3. That ACEP’s top ten executive shall not have any financial arrangement and/or direct affiliation with any corporate or private

organization that financially profits from the field of emergency medicine.

4. That ACEP make public to the members the exact salary and benefits paid to the top ten staff including the executive director.
5. That ACEP board members shall be required to disclose and publish annually in the ACEP News, any personal business investments in emergency medicine related companies.
6. That all candidates for the board of directors and principal council officers shall submit a full disclosure statement specifying their employment as well as any financial interest in any organization affiliated with the medical and business aspects of emergency medicine and this disclosure shall be published to the membership prior to election.
7. That the ACEP bylaws, ARTICLE II — PURPOSES AND FUNCTIONS OF COLLEGE, Section 2 — Purposes and Objectives, be amended by the addition of number 12, which will read, “To promote fair and equitable practice environments necessary to allow emergency physicians to deliver the highest quality of patient care. Such a practice environment does not favor the use of restrictive covenants.”
8. That the ACEP bylaws, ARTICLE II — PURPOSES AND FUNCTIONS OF COLLEGE, Section 2 — Purposes and Objectives, be amended by the addition of number 15, which will read, “To promote fair and equitable practice environments necessary to allow emergency physicians to deliver the highest quality of patients care. Such a practice environment include the right of due process.”
9. That the president of ACEP shall be elected from the council rather than from the board of directors.
10. That the councilors shall be elected rather than appointed, from active, life, candidate, or honorary members.
11. That a separate educational track should be established during the Annual Management Academy conference with speakers from democratic groups and other institutions dedicated to educate emergency physicians in how to obtain, establish, and operate democratic groups.
12. That both parties be allowed to include in the article the address of the donation funds privately established for litigation of the Coastal Inc., v. Schwartz lawsuit.
13. That the ACEP state chapters have the opportunity to decide if members are required to also be members of national ACEP.
14. That ACEP create a task force in association with AAEM and AEP to establish guidelines for legislation involved in the practice of managing emergency physicians.