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THE NEWSLETTER OF THE AMERICAN ACADEMY OF EMERGENCY MEDICINE



## PRESIDENT'S MESSAGE

### Fairness and the AAEM Job Bank

Larry D. Weiss, MD JD FAAEM

In response to our members, and in reflection of our duty of fairness to our advertisers, we revised our job bank policies several times in recent years. The time has come to recognize the fact that "fairness" exists in many forms. Our Academy has long promoted the physician-owned democratic group as a model of fairness. However, this does not preclude us from designating other models of practice as "fair," particularly the fair employment arrangement.

Two years ago, the Academy adopted its current fairness policy. According to this policy, we grant our fairness designation to emergency departments or physician groups with a predefined partnership track, due process rights, the absence of post-contractual restrictive covenants, open books and a democratic decision-making process. While using this as a model, AAEM never claimed this was the only right way to practice emergency medicine. Indeed, we currently publish advertisements from contractors and employers who cannot meet our fairness designation.

I propose that we also develop a fair employer policy, recognizing those employers who respect the practice rights of their physician employees. I work for a very fair employer, the University of Maryland. Our workplace includes no infringements of our practice rights, we have many opportunities for educational enrichment, and we even make most decisions democratically.

I spent most of my career at another university where a single individual owned the professional corporation that held the contract to manage the emergency department. I never met a fairer person in my life. He treated us generously and consistently came to our support whenever necessary. He even allowed us to make every practice decision in a democratic manner. He strongly supported our state AAEM chapter.

Even though the Academy held up the democratically owned group as a model, we never excluded other groups from our activities. We revised our job bank policies several times in an effort to remain inclusive, while screening our potential advertisers for practices that we reasonably believed operated inconsistently with state corporate practice of medicine (CPOM) laws.

Applicable laws and ethical standards require us to deal fairly and evenly with all parties relating to the profession of emergency medicine. However, applicable laws do not require us to act in a complicit manner with entities we reasonably suspect of acting in a manner contrary to law. For example, if a state CPOM law prohibits lay corporations from owning medical practices, or prohibits lay corporations from controlling physicians, then we have no obligation to further such activities.

I hope in the near future that an AAEM task force can successfully describe the characteristics of a fair employer. I hope we will always continue job bank policies allowing us to publish advertisements of all positions (1) open to AAEM diplomates, (2) in emergency departments that do not violate the legal rights of emergency physicians, and (3) in emergency departments managed by entities that do not operate in violation of state CPOM laws. We must continue to carefully offer similar opportunities to all legitimate advertisers. Certainly, we may limit advertisements open to ABEM and AOBEM eligible and certified physicians because of the target audience of our publications.

While continuing to promote the democratically owned and operated group as our model, we may also recognize other forms of fair behavior. One does not violate any law by promoting fairness, but we must be careful not to exclude those who we simply designate as unfair.

Finally, I hope by the end of my term to further modify our job bank policies by incorporating many of our members' ideas, keeping the job bank open to all legal entities hiring ABEM/AOBEM eligible and certified physicians, while designating those positions meeting our fairness criteria. Perhaps an alternative designation of fairness could include employers who treat their employee physicians fairly while respecting their practice rights.

I look forward to any comments regarding these issues from our members. Please contact me at [lweiss@aaem.org](mailto:lweiss@aaem.org). We already incorporated ideas sent by our members to improve the job bank. I will try to personally answer every member who contributes to this effort by sending us your ideas.

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