Whereas, In some states, physicians may face criminal penalties for providing medical
treatments that are the standard of care according to multiple professional organizations; and

Whereas, The failure to provide standard of care when requested by a patient and agreed to by
the physician violates professional legal obligations as well as primary principles of medical
ethics including beneficence, non-maleficence and patient autonomy; and

Whereas, Being precluded from providing quality care due to fear of legal prosecution creates
moral injury to the physician who would otherwise offer that care; and

Whereas, Some state laws are putting physicians in the untenable position wherein withholding
appropriate care that results in harm to a patient puts physicians at risk for civil liability, while
providing that care may expose them to state criminal sanctions; and

Whereas, The AMA Code of Ethics states that “In some cases, the law mandates conduct that
is ethically unacceptable. When physicians believe a law violates ethical values or is unjust,
they should work to change the law. In exceptional circumstances of unjust laws, ethical
responsibilities should supersede legal duties.”; and

Whereas, Recent commentary has encouraged professional civil disobedience reflecting “a
professional group’s deciding together, after frank and rational debate, to support disobedience
of an unjust law [which] might eventually reinforce social cohesion, elevate trust in the
profession, and help communities avoid tragic errors.”\(^1\); and

Whereas, The US Supreme Court overturned Roe v Wade in June 2022, and now each state’s
legislature will decide if and when its citizens will have legal access to abortion care and if and
when its physicians will be criminalized for providing what is considered to be the standard of
care by multiple health-related organizations. This extraordinary change in the medico-legal
landscape requires reevaluation of health profession codes of ethics related to clinician
conscience. These codes must now be expanded to address affirmative protection for
“conscientious provision” in hostile environments on par with protection of conscientious
refusal\(^2\); therefore be it

RESOLVED, That our American Medical Association Task Force developed under HOD Policy
G-605.009, “Establishing A Task Force to Preserve the Patient-Physician Relationship When
Evidence-Based, Appropriate Care Is Banned or Restricted,” provide policy and strategies to
support physicians individually and through their medical organizations when they are required
by medical and ethical standards of care to act against state and federal laws (Directive to Take
Action); and be it further
RESOLVED, That our AMA work to provide support, including legal support through the AMA Litigation Center, as may be appropriate, to physicians that are targeted for practicing in accordance with accepted standards of medical care and medical ethics in the face of legal constraint or any other disciplinary action; and be it further

RESOLVED, That our AMA advocate for affirmative protections for “conscientious provision” of care in accordance with accepted standards of medical care and medical ethics in hostile environments on par with protection of “conscientious objection.” (Directive to Take Action)

Fiscal Note: Not yet determined

Received: 09/30/22

2. Ryan, I et al., Why the Post-Roe Era Requires Protecting Conscientious Provision as We Protect Conscientious Refusal in Health Care, AMA Journal of Ethics®, September 2022, Volume 24, Number 9: E906-912

RELEVANT AMA POLICY

Establishing A Task Force to Preserve the Patient-Physician Relationship When Evidence-Based, Appropriate Care Is Banned or Restricted G-605.009
1. Our AMA will convene a task force of appropriate AMA councils and interested state and medical specialty societies, in conjunction with the AMA Center for Health Equity, and in consultation with relevant organizations, practices, government bodies, and impacted communities for the purpose of preserving the patient-physician relationship.
2. This task force, which will serve at the direction of our AMA Board of Trustees, will inform the Board to help guide organized medicine’s response to bans and restrictions on abortion, prepare for widespread criminalization of other evidence-based care, implement relevant AMA policies, and identify and create implementation-focused practice and advocacy resources on issues including but not limited to:
   a. Health equity impact, including monitoring and evaluating the consequences of abortion bans and restrictions for public health and the physician workforce and including making actionable recommendations to mitigate harm, with a focus on the disproportionate impact on under-resourced, marginalized, and minoritized communities;
   b. Practice management, including developing recommendations and educational materials for addressing reimbursement, uncompensated care, interstate licensure, and provision of care, including telehealth and care provided across state lines;
   c. Training, including collaborating with interested medical schools, residency and fellowship programs, academic centers, and clinicians to mitigate radically diminished training opportunities;
   d. Privacy protections, including best practice support for maintaining medical records privacy and confidentiality, including under HIPAA, for strengthening physician, patient, and clinic security measures, and countering law enforcement reporting requirements;
   e. Patient triage and care coordination, including identifying and publicizing resources for physicians and patients to connect with referrals, practical support, and legal assistance;
   f. Coordinating implementation of pertinent AMA policies, including any actions to protect against civil, criminal, and professional liability and retaliation, including criminalizing and penalizing physicians for referring patients to the care they need; and
   g. Anticipation and preparation, including assessing information and resource gaps and creating a blueprint for preventing or mitigating bans on other appropriate health care, such as gender affirming care, contraceptive care, sterilization, infertility care, and management of ectopic pregnancy and spontaneous pregnancy loss and pregnancy complications.

Citation: Res. 621, A-22