Whereas, The killing of Mr. George Floyd, while he was being restrained in police custody after being arrested for alleged theft, has resulted in widespread social activism, including but not limited to protest marches and demonstrations that have included participation by physicians in many areas of the United States; and

Whereas, The recent Supreme Court decision rendered in “Dobbs v. Jackson Women’s Health Organization” (“Dobbs”), which removed the constitutional protections regarding access to certain health care services (elective abortion of a pregnancy), has also been met with numerous public protests, which have included participation by physicians; and

Whereas, The New England Journal of Medicine published a perspective on August 24, 2022, reminding physicians, in the wake of Dobbs, of the appropriate role of professional participation in “civil disobedience” in light of this decision; and

Whereas, The right to speak freely and to petition the government for redress of grievances is enshrined in the First Amendment of the Constitution of the United States as part of the Bill of Rights; and

Whereas, There exists in the United States a long history of peaceful protest marches, many of which involved peaceful acts of civil disobedience while petitioning for grievances regarding issues such as the right to join a union, civil rights, and other causes; and

Whereas, Participation in events in which “civil disobedience” occurs often carries with such participation a significant risk for arrest by members of the police, because many of these marches have been met by forceful police responses, including the use of force disproportionate to any potential threat to public safety; and

Whereas, The police Police and Public Safety agencies have responded to some large protests by utilizing techniques such as “kettling,” in which police surround peaceful protesters in a manner that precludes their dispersal and results in an arrest of them all—a technique that has subsequently resulted in arrests of citizens who have been non-violently expressing their right to free speech; and

Whereas, Other circumstances may also ensue in which physicians are arrested during peaceful expressions of protest, in which they cannot credibly be accused of having
committed any crime of violence upon public safety personnel or others involved in or responding to such protests, and

Whereas, Some jurisdictions have escalated arrests for some non-violent acts of civil disobedience to potentially be charged as a “felony” offense, and

Whereas, Such arrests, whether alleged misdemeanors or alleged felonies, typically must be reported on credentialing or re-credentialing applications to state licensure boards, hospital organizations and insurers or governmental agencies that provide payment to physicians for their provision of health care goods and services, and

Whereas, Physicians who become arrested in circumstances such as described above may reasonably fear that such arrests (and their reporting) may complicate their re-credentialing with state licensure boards, hospital organizations and/or insurers or governmental agencies that provide payment to physicians for their provision of health care goods and services, and

Whereas, Such arrests are typically viewed by these credentialing organizations as unrelated to fitness to practice medicine, and

Whereas, Failure to report such arrests can result in sanctions related to the physician’s failure to meet the obligation to truthfully provide answers to the questions posed by the credentialing organization(s), therefore be it

RESOLVED, That our American Medical Association educate its membership that the Federation of State Medical Boards, the various state and territorial licensure boards of the United States, hospital and hospital system accrediting boards and organizations that provide payment to physicians for their provision of health care goods and services do typically require reporting of any arrests, but typically do not consider alleged misdemeanor or felony arrests incurred while exercising their First Amendment rights to be germane to the physician’s ability to safely and effectively practice medicine, so long as the physician did not initiate or perpetrate any act of violence (Directive to Take Action); and be it further

RESOLVED, That pleas of “nolo contendere” entered to resolve such arrests as described above must also not impede or impair a physician’s credentialing or re-credentialing, so long as the physician cannot credibly be accused to have initiated or perpetrated a violent act against another person (Directive to Take Action); and be it further

RESOLVED, That our AMA communicate to its members that the Association will not provide support to any of its members who appear to have initiated a violent action without prior physical provocation, or otherwise can credibly be accused to have initiated or implicitly sanctioned any action of “battery” (unauthorized touching) against members of police and other public safety organizations, such as occurred during the January 6, 2021 insurrection in the nation’s capital (Directive to Take Action).

Fiscal Note: Not yet determined
Received: TBD

RELEVANT AMA POLICY