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CS/CS/HB 155

2011 Legislature

1 A bill to be entitled
2 An act relating to the privacy of firearm owners; creating
3 s. 790.338, F.S.; providing that a licensed medical care
4 practitioner or health care facility may not record
5 information regarding firearm ownership in a patient's
6 medical record; providing an exception for relevance of
7 the information to the patient's medical care or safety or
8 the safety of others; providing that unless the
9 information is relevant to the patient's medical care or
10 safety or the safety of others, inquiries regarding
11 firearm ownership or possession should not be made by
12 licensed health care practitioners or health care
13 facilities; providing an exception for emergency medical
14 technicians and paramedics; providing that a patient may
15 decline to provide information regarding the ownership or
16 possession of firearms; clarifying that a physician's
17 authority to choose his or her patients is not altered by
18 the act; prohibiting discrimination by licensed health
19 care practitioners or facilities based solely upon a
20 patient's firearm ownership or possession; prohibiting
21 harassment of a patient regarding firearm ownership by a
22 licensed health care practitioner or facility during an
23 examination; prohibiting denial of insurance coverage,
24 increased premiums, or any other form of discrimination by
25 insurance companies issuing policies on the basis of an
26 insured's or applicant's ownership, possession, or storage
27 of firearms or ammunition; clarifying that an insurer is
28 not prohibited from considering the fair market value of

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 | firearms or ammunition in setting personal property
30 | coverage premiums; providing for disciplinary action;
31 | amending s. 381.026, F.S.; providing that unless the
32 | information is relevant to the patient's medical care or
33 | safety, or the safety of others, inquiries regarding
34 | firearm ownership or possession should not be made by
35 | licensed health care providers or health care facilities;
36 | providing that a patient may decline to provide
37 | information regarding the ownership or possession of
38 | firearms; clarifying that a physician's authority to
39 | choose his or her patients is not altered by the act;
40 | prohibiting discrimination by licensed health care
41 | providers or health care facilities based solely upon a
42 | patient's firearm ownership or possession; prohibiting
43 | harassment of a patient regarding firearm ownership during
44 | an examination by a licensed health care provider or
45 | health care facility; amending s. 456.072, F.S.; including
46 | the violation of the provisions of s. 790.338, F.S., as
47 | grounds for disciplinary action; providing an effective
48 | date.

49 |
50 | Be It Enacted by the Legislature of the State of Florida:

51 |
52 | Section 1. Section 790.338, Florida Statutes, is created
53 | to read:

54 | 790.338 Medical privacy concerning firearms; prohibitions;
55 | penalties, exceptions.-

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56 (1) A health care practitioner licensed under chapter 456
 57 or a health care facility licensed under chapter 395 may not
 58 intentionally enter any disclosed information concerning firearm
 59 ownership into the patient's medical record if the practitioner
 60 knows that such information is not relevant to the patient's
 61 medical care or safety, or the safety of others.

62 (2) A health care practitioner licensed under chapter 456
 63 or a health care facility licensed under chapter 395 shall
 64 respect a patient's right to privacy and should refrain from
 65 making a written inquiry or asking questions concerning the
 66 ownership of a firearm or ammunition by the patient or by a
 67 family member of the patient, or the presence of a firearm in a
 68 private home or other domicile of the patient or a family member
 69 of the patient. Notwithstanding this provision, a health care
 70 practitioner or health care facility that in good faith believes
 71 that this information is relevant to the patient's medical care
 72 or safety, or the safety of others, may make such a verbal or
 73 written inquiry.

74 (3) Any emergency medical technician or paramedic acting
 75 under the supervision of an emergency medical services medical
 76 director under chapter 401 may make an inquiry concerning the
 77 possession or presence of a firearm if he or she, in good faith,
 78 believes that information regarding the possession of a firearm
 79 by the patient or the presence of a firearm in the home or
 80 domicile of a patient or a patient's family member is necessary
 81 to treat a patient during the course and scope of a medical
 82 emergency or that the presence or possession of a firearm would
 83 pose an imminent danger or threat to the patient or others.

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84 (4) A patient may decline to answer or provide any
85 information regarding ownership of a firearm by the patient or a
86 family member of the patient, or the presence of a firearm in
87 the domicile of the patient or a family member of the patient. A
88 patient's decision not to answer a question relating to the
89 presence or ownership of a firearm does not alter existing law
90 regarding a physician's authorization to choose his or her
91 patients.

92 (5) A health care practitioner licensed under chapter 456
93 or a health care facility licensed under chapter 395 may not
94 discriminate against a patient based solely upon the patient's
95 exercise of the constitutional right to own and possess firearms
96 or ammunition.

97 (6) A health care practitioner licensed under chapter 456
98 or a health care facility licensed under chapter 395 shall
99 respect a patient's legal right to own or possess a firearm and
100 should refrain from unnecessarily harassing a patient about
101 firearm ownership during an examination.

102 (7) An insurer issuing any type of insurance policy
103 pursuant to chapter 627 may not deny coverage, increase any
104 premium, or otherwise discriminate against any insured or
105 applicant for insurance on the basis of or upon reliance upon
106 the lawful ownership or possession of a firearm or ammunition or
107 the lawful use or storage of a firearm or ammunition. Nothing
108 herein shall prevent an insurer from considering the fair market
109 value of firearms or ammunition in the setting of premiums for
110 scheduled personal property coverage.

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111 (8) Violations of the provisions of subsections (1)-(4)
112 constitute grounds for disciplinary action under ss. 456.072(2)
113 and 395.1055.

114 Section 2. Paragraph (b) of subsection (4) of section
115 381.026, Florida Statutes, is amended to read:

116 381.026 Florida Patient's Bill of Rights and
117 Responsibilities.—

118 (4) RIGHTS OF PATIENTS.—Each health care facility or
119 provider shall observe the following standards:

120 (b) Information.—

121 1. A patient has the right to know the name, function, and
122 qualifications of each health care provider who is providing
123 medical services to the patient. A patient may request such
124 information from his or her responsible provider or the health
125 care facility in which he or she is receiving medical services.

126 2. A patient in a health care facility has the right to
127 know what patient support services are available in the
128 facility.

129 3. A patient has the right to be given by his or her
130 health care provider information concerning diagnosis, planned
131 course of treatment, alternatives, risks, and prognosis, unless
132 it is medically inadvisable or impossible to give this
133 information to the patient, in which case the information must
134 be given to the patient's guardian or a person designated as the
135 patient's representative. A patient has the right to refuse this
136 information.

137 4. A patient has the right to refuse any treatment based
138 on information required by this paragraph, except as otherwise

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139 provided by law. The responsible provider shall document any
140 such refusal.

141 5. A patient in a health care facility has the right to
142 know what facility rules and regulations apply to patient
143 conduct.

144 6. A patient has the right to express grievances to a
145 health care provider, a health care facility, or the appropriate
146 state licensing agency regarding alleged violations of patients'
147 rights. A patient has the right to know the health care
148 provider's or health care facility's procedures for expressing a
149 grievance.

150 7. A patient in a health care facility who does not speak
151 English has the right to be provided an interpreter when
152 receiving medical services if the facility has a person readily
153 available who can interpret on behalf of the patient.

154 8. A health care provider or health care facility shall
155 respect a patient's right to privacy and should refrain from
156 making a written inquiry or asking questions concerning the
157 ownership of a firearm or ammunition by the patient or by a
158 family member of the patient, or the presence of a firearm in a
159 private home or other domicile of the patient or a family member
160 of the patient. Notwithstanding this provision, a health care
161 provider or health care facility that in good faith believes
162 that this information is relevant to the patient's medical care
163 or safety, or safety or others, may make such a verbal or
164 written inquiry.

165 9. A patient may decline to answer or provide any
166 information regarding ownership of a firearm by the patient or a

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167 family member of the patient, or the presence of a firearm in
 168 the domicile of the patient or a family member of the patient. A
 169 patient's decision not to answer a question relating to the
 170 presence or ownership of a firearm does not alter existing law
 171 regarding a physician's authorization to choose his or her
 172 patients.

173 10. A health care provider or health care facility may not
 174 discriminate against a patient based solely upon the patient's
 175 exercise of the constitutional right to own and possess firearms
 176 or ammunition.

177 11. A health care provider or health care facility shall
 178 respect a patient's legal right to own or possess a firearm and
 179 should refrain from unnecessarily harassing a patient about
 180 firearm ownership during an examination.

181 Section 3. Subsection (mm) is added to subsection (1) of
 182 section 456.072, Florida Statutes, to read:

183 456.072 Grounds for discipline; penalties; enforcement.—

184 (1) The following acts shall constitute grounds for which
 185 the disciplinary actions specified in subsection (2) may be
 186 taken:

187 (mm) Violating any of the provisions of s. 790.338.

188 Section 4. This act shall take effect upon becoming a law.