

By the Committees on Health Regulation; and Criminal Justice;
and Senator Evers

588-03219-11

2011432c2

1 A bill to be entitled
2 An act relating to the privacy of firearm owners;
3 creating s. 790.338, F.S.; providing that a licensed
4 medical care provider or health care facility may not
5 record information regarding firearm ownership in a
6 patient's medical record; providing an exception for
7 relevance of the information to the patient's medical
8 care or safety; providing that unless the information
9 is relevant to the patient's medical care or safety,
10 inquiries regarding firearm ownership or possession
11 should not be made by licensed health care providers
12 or health care facilities; providing that a patient
13 may decline to provide information regarding the
14 ownership or possession of firearms; clarifying that a
15 physician's authorization to choose his or her
16 patients is not altered by the act; prohibiting
17 discrimination by licensed health care providers or
18 facilities based solely upon a patient's firearm
19 ownership or possession; prohibiting harassment of a
20 patient regarding firearm ownership by a licensed
21 health care provider or facility during an
22 examination; providing for disciplinary action;
23 amending s. 381.026, F.S.; providing that unless the
24 information is relevant to the patient's medical care
25 or safety, inquiries regarding firearm ownership or
26 possession should not be made by licensed health care
27 providers or health care facilities; providing that a
28 patient may decline to provide information regarding
29 the ownership or possession of firearms; clarifying

588-03219-11

2011432c2

30 that a physician's authorization to choose his or her
31 patients is not altered by the act; prohibiting
32 discrimination by licensed health care providers or
33 facilities based solely upon a patient's firearm
34 ownership or possession; prohibiting harassment of a
35 patient regarding firearm ownership during an
36 examination by a licensed health care provider or
37 facility; amending s. 456.072, F.S.; including the
38 violation of the provisions of s. 790.338, F.S., as
39 grounds for disciplinary action; prohibiting denial of
40 insurance coverage, increased premiums, or any other
41 form of discrimination by insurance companies issuing
42 policies pursuant to ch. 627, F.S., on the basis of an
43 insured's or applicant's ownership, possession, or
44 storage of firearms or ammunition; providing an
45 effective date.

46
47 Be It Enacted by the Legislature of the State of Florida:

48
49 Section 1. Section 790.338, Florida Statutes, is created to
50 read:

51 790.338 Medical privacy concerning firearms; prohibitions;
52 penalties, exceptions.-

53 (1) A health care provider licensed under chapter 456 or a
54 health care facility licensed under chapter 395 may not
55 intentionally enter any disclosed information concerning firearm
56 ownership into the patient's medical record if the provider
57 knows that such information is not relevant to the patient's
58 medical care or safety.

588-03219-11

2011432c2

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

70 (3) A patient may decline to answer or provide any
71 information regarding ownership of a firearm by the patient or a
72 family member of the patient, or the presence of a firearm in
73 the domicile of the patient or a family member of the patient. A
74 patient's decision not to answer a question relating to the
75 presence or ownership of a firearm does not alter existing law
76 regarding a physician's authorization to choose his or her
77 patients.

78 (4) A health care provider licensed under chapter 456 or a
79 health care facility licensed under chapter 395 may not
80 discriminate against a patient based solely upon the patient's
81 exercise of the constitutional right to own and possess firearms
82 or ammunition.

83 (5) A health care provider licensed under chapter 456 or a
84 health care facility licensed under chapter 395 shall respect a
85 patient's legal right to own or possess a firearm and should
86 refrain from unnecessarily harassing a patient about firearm
87 ownership during an examination.

588-03219-11

2011432c2

88 (6) Violations of the provisions of subsections (1)-(4)
89 constitute grounds for disciplinary action under ss. 456.072(2)
90 and 395.1055.

91 Section 2. Paragraph (b) of subsection (4) of section
92 381.026, Florida Statutes, is amended to read:

93 381.026 Florida Patient's Bill of Rights and
94 Responsibilities.—

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

97 (b) *Information.*—

98 1. A patient has the right to know the name, function, and
99 qualifications of each health care provider who is providing
100 medical services to the patient. A patient may request such
101 information from his or her responsible provider or the health
102 care facility in which he or she is receiving medical services.

103 2. A patient in a health care facility has the right to
104 know what patient support services are available in the
105 facility.

106 3. A patient has the right to be given by his or her health
107 care provider information concerning diagnosis, planned course
108 of treatment, alternatives, risks, and prognosis, unless it is
109 medically inadvisable or impossible to give this information to
110 the patient, in which case the information must be given to the
111 patient's guardian or a person designated as the patient's
112 representative. A patient has the right to refuse this
113 information.

114 4. A patient has the right to refuse any treatment based on
115 information required by this paragraph, except as otherwise
116 provided by law. The responsible provider shall document any

588-03219-11

2011432c2

117 such refusal.

118 5. A patient in a health care facility has the right to
119 know what facility rules and regulations apply to patient
120 conduct.

121 6. A patient has the right to express grievances to a
122 health care provider, a health care facility, or the appropriate
123 state licensing agency regarding alleged violations of patients'
124 rights. A patient has the right to know the health care
125 provider's or health care facility's procedures for expressing a
126 grievance.

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

131 8. A health care provider or health care facility shall
132 respect a patient's right to privacy and should refrain from
133 making a written inquiry or asking questions concerning the
134 ownership of a firearm or ammunition by the patient or by a
135 family member of the patient, or the presence of a firearm in a
136 private home or other domicile of the patient or a family member
137 of the patient. Notwithstanding this provision, a health care
138 provider or health care facility that in good faith believes
139 that this information is relevant to the patient's medical care
140 or safety may make such a verbal or written inquiry.

141 9. A patient may decline to answer or provide any
142 information regarding ownership of a firearm by the patient or a
143 family member of the patient, or the presence of a firearm in
144 the domicile of the patient or a family member of the patient. A
145 patient's decision not to answer a question relating to the

588-03219-11

2011432c2

146 presence or ownership of a firearm does not alter existing law
147 regarding a physician's authorization to choose his or her
148 patients.

149 10. A health care provider or health care facility may not
150 discriminate against a patient based solely upon the patient's
151 exercise of the constitutional right to own and possess firearms
152 or ammunition.

153 11. A health care provider or health care facility shall
154 respect a patient's legal right to own or possess a firearm and
155 should refrain from unnecessarily harassing a patient about
156 firearm ownership during an examination.

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

159 456.072 Grounds for discipline; penalties; enforcement.—

160 (1) The following acts shall constitute grounds for which
161 the disciplinary actions specified in subsection (2) may be
162 taken:

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

164 Section 4. An insurer issuing any type of insurance policy
165 pursuant to chapter 627, Florida Statutes, may not deny coverage
166 or increase any premium, or otherwise discriminate against any
167 insured or applicant for insurance, on the basis of or upon
168 reliance upon the lawful ownership or possession of a firearm or
169 ammunition or the lawful use or storage of a firearm or
170 ammunition.

171 Section 5. This act shall take effect upon becoming a law.