

ENROLLED  
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.