

CHAPTER 2011-112

Committee Substitute for Committee Substitute for House Bill No. 155

An act relating to the privacy of firearm owners; creating s. 790.338, F.S.; providing that a licensed medical care practitioner or health care facility may not record information regarding firearm ownership in a patient's medical record; providing an exception for relevance of the information to the patient's medical care or safety or the safety of others; providing that unless the information is relevant to the patient's medical care or safety or the safety of others, inquiries regarding firearm ownership or possession should not be made by licensed health care practitioners or health care facilities; providing an exception for emergency medical technicians and paramedics; providing that a patient may decline to provide information regarding the ownership or possession of firearms; clarifying that a physician's authority to choose his or her patients is not altered by the act; prohibiting discrimination by licensed health care practitioners or facilities based solely upon a patient's firearm ownership or possession; prohibiting harassment of a patient regarding firearm ownership by a licensed health care practitioner or facility during an examination; prohibiting denial of insurance coverage, increased premiums, or any other form of discrimination by insurance companies issuing policies on the basis of an insured's or applicant's ownership, possession, or storage of firearms or ammunition; clarifying that an insurer is not prohibited from considering the fair market value of firearms or ammunition in setting personal property coverage premiums; providing for disciplinary action; amending s. 381.026, F.S.; providing that unless the information is relevant to the patient's medical care or safety, or the safety of others, inquiries regarding firearm ownership or possession should not be made by licensed health care providers or health care facilities; providing that a patient may decline to provide information regarding the ownership or possession of firearms; clarifying that a physician's authority to choose his or her patients is not altered by the act; prohibiting discrimination by licensed health care providers or health care facilities based solely upon a patient's firearm ownership or possession; prohibiting harassment of a patient regarding firearm ownership during an examination by a licensed health care provider or health care facility; amending s. 456.072, F.S.; including the violation of the provisions of s. 790.338, F.S., as grounds for disciplinary action; providing an effective date.

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

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

790.338 Medical privacy concerning firearms; prohibitions; penalties, exceptions.—

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

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

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

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

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

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

(7) An insurer issuing any type of insurance policy pursuant to chapter 627 may not deny coverage, increase any premium, or otherwise discriminate against any insured or applicant for insurance on the basis of or upon reliance upon the lawful ownership or possession of a firearm or ammunition or the lawful use or storage of a firearm or ammunition. Nothing herein shall prevent an insurer from considering the fair market value of firearms or

ammunition in the setting of premiums for scheduled personal property coverage.

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

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

381.026 Florida Patient’s Bill of Rights and Responsibilities.—

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

(b) Information.—

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

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

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

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

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

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

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

8. A health care provider or health care facility shall respect a patient’s right to privacy and should refrain from making a written inquiry or asking

questions concerning the ownership of a firearm or ammunition by the patient or by a family member of the patient, or the presence of a firearm in a private home or other domicile of the patient or a family member of the patient. Notwithstanding this provision, a health care provider or health care facility that in good faith believes that this information is relevant to the patient’s medical care or safety, or safety or others, may make such a verbal or written inquiry.

9. A patient may decline to answer or provide any information regarding ownership of a firearm by the patient or a family member of the patient, or the presence of a firearm in the domicile of the patient or a family member of the patient. A patient’s decision not to answer a question relating to the presence or ownership of a firearm does not alter existing law regarding a physician’s authorization to choose his or her patients.

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

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

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

456.072 Grounds for discipline; penalties; enforcement.—

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

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

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

Approved by the Governor June 2, 2011.

Filed in Office Secretary of State June 2, 2011.