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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
05/18/2011	.	
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The Committee on Judiciary (Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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



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13 knows that such information is not relevant to the patient's
14 medical care or safety, or the safety of others.

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

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

37 (4) A patient may decline to answer or provide any
38 information regarding ownership of a firearm by the patient or a
39 family member of the patient, or the presence of a firearm in
40 the domicile of the patient or a family member of the patient. A
41 patient's decision not to answer a question relating to the



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42 presence or ownership of a firearm does not alter existing law
43 regarding a physician's authorization to choose his or her
44 patients.

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

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

55 (7) An insurer issuing any type of insurance policy
56 pursuant to chapter 627, Florida Statutes, may not deny coverage
57 or increase any premium, or otherwise discriminate against any
58 insured or applicant for insurance, on the basis of or upon
59 reliance upon the lawful ownership or possession of a firearm or
60 ammunition or the lawful use or storage of a firearm or
61 ammunition. Nothing herein shall prevent an insurer from
62 considering the fair market value of firearms or ammunition in
63 the setting of premiums for scheduled personal property
64 coverage.

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

68 Section 2. Paragraph (b) of subsection (4) of section
69 381.026, Florida Statutes, is amended to read:

70 381.026 Florida Patient's Bill of Rights and



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71 Responsibilities.—

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

74 (b) *Information*.—

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

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

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

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

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

98 6. A patient has the right to express grievances to a
99 health care provider, a health care facility, or the appropriate



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100 state licensing agency regarding alleged violations of patients'
101 rights. A patient has the right to know the health care
102 provider's or health care facility's procedures for expressing a
103 grievance.

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

108 8. A health care provider or health care facility shall
109 respect a patient's right to privacy and should refrain from
110 making a written inquiry or asking questions concerning the
111 ownership of a firearm or ammunition by the patient or by a
112 family member of the patient, or the presence of a firearm in a
113 private home or other domicile of the patient or a family member
114 of the patient. Notwithstanding this provision, a health care
115 provider or health care facility that in good faith believes
116 that this information is relevant to the patient's medical care
117 or safety, or safety or others, may make such a verbal or
118 written inquiry.

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

127 10. A health care provider or health care facility may not
128 discriminate against a patient based solely upon the patient's



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129 exercise of the constitutional right to own and possess firearms
130 or ammunition.

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

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

137 456.072 Grounds for discipline; penalties; enforcement.—

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

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

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

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145 ===== T I T L E A M E N D M E N T =====

146 And the title is amended as follows:

147 Delete everything before the enacting clause
148 and insert:

149 A bill to be entitled

150 An act relating to the privacy of firearm owners;
151 creating s. 790.338, F.S.; providing that a licensed
152 medical care practitioner or health care facility may
153 not record information regarding firearm ownership in
154 a patient's medical record; providing an exception for
155 relevance of the information to the patient's medical
156 care or safety or the safety of others; providing that
157 unless the information is relevant to the patient's



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158 medical care or safety or the safety of others,
159 inquiries regarding firearm ownership or possession
160 should not be made by licensed health care
161 practitioners or health care facilities; providing an
162 exception for emergency medical technicians and
163 paramedics; providing that a patient may decline to
164 provide information regarding the ownership or
165 possession of firearms; clarifying that a physician's
166 authorization to choose his or her patients is not
167 altered by the act; prohibiting discrimination by
168 licensed health care practitioners or facilities based
169 solely upon a patient's firearm ownership or
170 possession; prohibiting harassment of a patient
171 regarding firearm ownership by a licensed health care
172 practitioner or facility during an examination;
173 prohibiting denial of insurance coverage, increased
174 premiums, or any other form of discrimination by
175 insurance companies issuing policies on the basis of
176 an insured's or applicant's ownership, possession, or
177 storage of firearms or ammunition; clarifying that an
178 insurer is not prohibited from considering the fair
179 market value of firearms or ammunition in setting
180 personal property coverage premiums; providing for
181 disciplinary action; amending s. 381.026, F.S.;
182 providing that unless the information is relevant to
183 the patient's medical care or safety, or the safety of
184 others, inquiries regarding firearm ownership or
185 possession should not be made by licensed health care
186 providers or health care facilities; providing that a



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187 patient may decline to provide information regarding
188 the ownership or possession of firearms; clarifying
189 that a physician's authorization to choose his or her
190 patients is not altered by the act; prohibiting
191 discrimination by licensed health care providers or
192 facilities based solely upon a patient's firearm
193 ownership or possession; prohibiting harassment of a
194 patient regarding firearm ownership during an
195 examination by a licensed health care provider or
196 facility; amending s. 456.072, F.S.; including the
197 violation of the provisions of s. 790.338, F.S., as
198 grounds for disciplinary action; providing an
199 effective date.