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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2011	.	
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The Committee on Health Regulation (Altman) 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 provider 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 when the provider



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

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

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

34 (4) A health care provider licensed under chapter 456 or a
35 health care facility licensed under chapter 395 may not
36 discriminate against a patient based solely upon the patient's
37 exercise of the constitutional right to own and possess firearms
38 or ammunition.

39 (5) A health care provider licensed under chapter 456 or a
40 health care facility licensed under chapter 395 shall respect a
41 patient's legal right to own or possess a firearm and should



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42 refrain from unnecessarily harassing a patient about firearm
43 ownership during an examination.

44 (6) Violations of the provisions of subsections 1-4 of this
45 section shall constitute grounds for disciplinary action under
46 s. 456.072(2) and s. 395.1055.

47 Section 2. Paragraph (b) of subsection (4) of section
48 381.026, Florida Statutes is amended to read:

49 381.026 Florida Patient's Bill of Rights and
50 Responsibilities.—

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

53 (b) *Information.*—

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

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

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

70 4. A patient has the right to refuse any treatment based on



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71 information required by this paragraph, except as otherwise
72 provided by law. The responsible provider shall document any
73 such refusal.

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

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

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

87 8. A health care provider or health care facility shall
88 respect a patient's right to privacy and should refrain from
89 making a written inquiry or asking questions concerning the
90 ownership of a firearm or ammunition by the patient or by a
91 family member of the patient, or the presence of a firearm in a
92 private home or other domicile of the patient or a family member
93 of the patient. Notwithstanding this provision, a health care
94 provider or health care facility that in good faith believes
95 that this information is relevant to the patient's medical care
96 or safety may make such a verbal or written inquiry.

97 9. A patient may decline to answer or provide any
98 information regarding ownership of a firearm by the patient or a
99 family member of the patient, or the presence of a firearm in



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100 the domicile of the patient or a family member of the patient. A
101 patient's decision not to answer a question relating to the
102 presence or ownership of a firearm does not alter existing law
103 regarding a physician's authorization to choose his or her
104 patients.

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

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

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

115 456.072 Grounds for discipline; penalties; enforcement.—

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

119 (mm) Violating any of the provisions of s. 790.338, Florida
120 Statutes.

121 Section 4. Section 627.xxx, Florida Statutes, is created to
122 read:

123 No insurer issuing any type of insurance policy pursuant to
124 this chapter may deny coverage or increase any premium, or
125 otherwise discriminate against any insured or applicant for
126 insurance on the basis of, or upon reliance upon (i) the lawful
127 ownership or possession of a firearm or ammunition or (ii) the
128 lawful use or storage of a firearm or ammunition.



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129 Section 5. This act shall take effect upon becoming law.

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

132 And the title is amended as follows:

133 Delete everything before the enacting clause
134 and insert:

135 A bill to be entitled
136 An act relating to the privacy of firearm owners;
137 creating s. 790.338, F.S.; providing that a licensed
138 medical care provider or health care facility may not
139 record information regarding firearm ownership in a
140 patient's medical record; providing an exception for
141 relevance of the information to the patient's medical
142 care or safety; providing that unless the information
143 is relevant to the patient's medical care or safety,
144 inquiries regarding firearm ownership or possession
145 should not be made by licensed health care providers
146 or health care facilities; providing that a patient
147 may decline to provide information regarding the
148 ownership or possession of firearms; clarifying that a
149 physician's authorization to choose his or her
150 patients is not altered by this subsection;
151 prohibiting discrimination by licensed health care
152 providers or facilities based solely upon a patient's
153 firearm ownership or possession; prohibiting
154 harassment of a patient regarding firearm ownership by
155 a licensed health care provider or facility during an
156 examination; providing for disciplinary action;
157 amending s. 381.026, F.S.; providing that unless the



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158 information is relevant to the patient's medical care
159 or safety, inquiries regarding firearm ownership or
160 possession should not be made by licensed health care
161 providers or health care facilities; providing that a
162 patient may decline to provide information regarding
163 the ownership or possession of firearms; clarifying
164 that a physician's authorization to choose his or her
165 patients is not altered by this section; prohibiting
166 discrimination by licensed health care providers or
167 facilities based solely upon a patient's firearm
168 ownership or possession; prohibiting harassment of a
169 patient regarding firearm ownership during an
170 examination by a licensed health care provider or
171 facility; amending s. 456.072(1), F.S.; including the
172 violation of the provisions of s. 790.338, F.S. as
173 grounds for disciplinary action; creating an
174 undesignated section of the Florida Statutes;
175 prohibiting denial of insurance coverage, increased
176 premiums, or any other form of discrimination by
177 insurance companies issuing policies pursuant to ch.
178 627, F.S. on the basis of an insured's or applicant's
179 ownership, possession, or storage of firearms or
180 ammunition; providing an effective date.