

1 A bill to be entitled
 2 An act relating to medical privacy concerning
 3 firearms; amending s. 790.338, F.S.; deleting
 4 provisions relating to patient firearm ownership
 5 recordkeeping, inquiry, and harassment by health care
 6 practitioners and facilities; amending s. 381.026,
 7 F.S.; conforming provisions in the Florida Patient's
 8 Bill of Rights and Responsibilities to changes made by
 9 the act; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Section 790.338, Florida Statutes, is amended
 14 to read:

15 790.338 Medical privacy concerning firearms;
 16 discrimination ~~prohibitions~~; penalties; ~~exceptions~~.—

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

23 ~~(2) A health care practitioner licensed under chapter 456~~
 24 ~~or a health care facility licensed under chapter 395 shall~~
 25 ~~respect a patient's right to privacy and should refrain from~~

26 | ~~making a written inquiry or asking questions concerning the~~
27 | ~~ownership of a firearm or ammunition by the patient or by a~~
28 | ~~family member of the patient, or the presence of a firearm in a~~
29 | ~~private home or other domicile of the patient or a family member~~
30 | ~~of the patient. Notwithstanding this provision, a health care~~
31 | ~~practitioner or health care facility that in good faith believes~~
32 | ~~that this information is relevant to the patient's medical care~~
33 | ~~or safety, or the safety of others, may make such a verbal or~~
34 | ~~written inquiry.~~

35 | (1)~~(3)~~ Any emergency medical technician or paramedic
36 | acting under the supervision of an emergency medical services
37 | medical director under chapter 401 may make an inquiry
38 | concerning the possession or presence of a firearm if he or she,
39 | in good faith, believes that information regarding the
40 | possession of a firearm by the patient or the presence of a
41 | firearm in the home or domicile of a patient or a patient's
42 | family member is necessary to treat a patient during the course
43 | and scope of a medical emergency or that the presence or
44 | possession of a firearm would pose an imminent danger or threat
45 | to the patient or others.

46 | (2)~~(4)~~ A patient may decline to answer or provide any
47 | information regarding ownership of a firearm by the patient or a
48 | family member of the patient, or the presence of a firearm in
49 | the domicile of the patient or a family member of the patient. A
50 | patient's decision not to answer a question relating to the

51 presence or ownership of a firearm does not alter existing law
52 regarding a physician's authorization to choose his or her
53 patients.

54 (3)~~(5)~~ A health care practitioner licensed under chapter
55 456 or a health care facility licensed under chapter 395 may not
56 discriminate against a patient based solely upon the patient's
57 exercise of the constitutional right to own and possess firearms
58 or ammunition.

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

64 (4)~~(7)~~ An insurer issuing any type of insurance policy
65 pursuant to chapter 627 may not deny coverage, increase any
66 premium, or otherwise discriminate against any insured or
67 applicant for insurance on the basis of or upon reliance upon
68 the lawful ownership or possession of a firearm or ammunition or
69 the lawful use or storage of a firearm or ammunition. Nothing
70 herein shall prevent an insurer from considering the fair market
71 value of firearms or ammunition in the setting of premiums for
72 scheduled personal property coverage.

73 (5)~~(8)~~ Violations of ~~the provisions of~~ subsections (1) and
74 (2) ~~(1)-(4)~~ constitute grounds for disciplinary action under ss.
75 456.072(2) and 395.1055.

76 Section 2. Paragraph (b) of subsection (4) of section
 77 381.026, Florida Statutes, is amended to read:

78 381.026 Florida Patient's Bill of Rights and
 79 Responsibilities.—

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

82 (b) Information.—

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

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

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

99 4. A patient has the right to refuse any treatment based
 100 on information required by this paragraph, except as otherwise

101 provided by law. The responsible provider shall document any
102 such refusal.

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

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

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

116 ~~8. A health care provider or health care facility shall~~
117 ~~respect a patient's right to privacy and should refrain from~~
118 ~~making a written inquiry or asking questions concerning the~~
119 ~~ownership of a firearm or ammunition by the patient or by a~~
120 ~~family member of the patient, or the presence of a firearm in a~~
121 ~~private home or other domicile of the patient or a family member~~
122 ~~of the patient. Notwithstanding this provision, a health care~~
123 ~~provider or health care facility that in good faith believes~~
124 ~~that this information is relevant to the patient's medical care~~
125 ~~or safety, or safety of others, may make such a verbal or~~

HB 6039

2019

126 ~~written inquiry.~~

127 8.9. A patient may decline to answer or provide any
128 information regarding ownership of a firearm by the patient or a
129 family member of the patient, or the presence of a firearm in
130 the domicile of the patient or a family member of the patient. A
131 patient's decision not to answer a question relating to the
132 presence or ownership of a firearm does not alter existing law
133 regarding a physician's authorization to choose his or her
134 patients.

135 9.10. A health care provider or health care facility may
136 not discriminate against a patient based solely upon the
137 patient's exercise of the constitutional right to own and
138 possess firearms or ammunition.

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

143 Section 3. This act shall take effect upon becoming a law.