

1 HB516
2 127804-1
3 By Representatives Hammon, Hurst, Canfield, Vance, Boothe,
4 Lee, Buttram, Williams (J), Harper, Newton (C), Clouse, Baker,
5 Williams (P), Poole, Davis, Bridges, Laird, Galliher,
6 McClendon, Millican, Wallace, Beech, Oden, Thomas, Greeson,
7 Moore (B), Mask, Jones, Chesteen, Faust, Collins, Johnson (K),
8 Nordgren, Greer, Long, Baughn, Roberts, Johnson (R), Wood,
9 McClurkin, Sanderford, Weaver, McCutcheon, Johnson (W),
10 Treadaway, Tuggle, Williams (D), Patterson, Burdine, Barton
11 and Fincher
12 RFD: Public Safety and Homeland Security
13 First Read: 14-APR-11

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8 SYNOPSIS: Under existing law, a health care provider
9 is not precluded from conditioning medical
10 treatment upon a patient's willingness to disclose
11 personal information regarding the ownership or
12 possession of a firearm, recording information
13 regarding firearm ownership in medical records, or
14 disclosing information related to firearms.

15 This bill would create civil penalties for
16 certain health care providers who condition medical
17 treatment upon a patient's willingness or refusal
18 to disclose information regarding the ownership or
19 possession of firearms.

20 This bill would create civil penalties for
21 certain health care providers to enter information
22 concerning firearms into any medical record or
23 otherwise disclose this information to any source,
24 whether intentionally, inadvertently, or
25 accidentally.

26 This bill would also provide limited
27 exceptions from the prohibitions in the bill in the

1 course of emergency treatment, including mental
2 health emergencies.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To provide that inquiries by physicians or other
9 medical personnel concerning the ownership of a firearm by a
10 patient or the family of a patient or the presence of a
11 firearm in a private home violates the privacy of the patient
12 or the patient's family members; to prohibit conditioning the
13 receipt of medical treatment or care upon a person's
14 willingness or refusal to disclose information regarding
15 firearm ownership; to prohibit the entry of certain
16 information related to firearm ownership into medical records
17 or disclosure of this information by specified persons; and to
18 create civil penalties and exceptions.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. (a) For the purposes of this act, the
21 following words shall have the following meanings:

22 (1) BOARD. The State Board of Medical Examiners, the
23 Alabama Board of Dental Examiners, or the Alabama Board of
24 Nursing.

25 (2) DENTAL PRACTITIONER. Any person licensed to
26 practice dentistry in this state, including professional
27 dental corporations, associations, and partnerships.

1 (3) FIREARM. A weapon from which a shot is
2 discharged by gunpowder.

3 (4) LICENSED CERTIFIED SOCIAL WORKER. A person
4 engaged in the private, independent practice of social work as
5 described in Section 34-30-3, Code of Alabama 1975.

6 (5) MEDICAL PRACTITIONER. Any person licensed to
7 practice medicine or osteopathy in this state, including
8 medical professional corporations, associations, and
9 partnerships.

10 (6) NURSE. A person practicing professional or
11 practical nursing as described in Section 34-21-1(3), Code of
12 Alabama 1975, or an advanced practice nurse as defined in
13 Section 34-21-81(3), Code of Alabama 1975.

14 (7) PATIENT. A person who consults or is examined or
15 interviewed by a medical practitioner, dental practitioner,
16 psychotherapist, licensed certified social worker, or school
17 counselor.

18 (8) PSYCHOTHERAPIST. A person licensed to practice
19 medicine in this state, while regularly engaged in the
20 diagnosis or treatment of mental or emotional conditions,
21 including alcohol or drug addiction or a person licensed as a
22 psychologist under the laws of this state, while similarly
23 engaged.

24 (b) A verbal or written inquiry by a medical
25 practitioner, a dental practitioner, or nurse regarding the
26 ownership of a firearm by a patient or the family of a patient
27 or the presence of a firearm in a private home or other

1 domicile of a patient or the family of a patient violates the
2 privacy of the patient or the patient's family members,
3 respectively.

4 (c) A medical practitioner, dental practitioner, or
5 nurse may not condition receipt of medical treatment or
6 medical care on a patient's willingness or refusal to disclose
7 information related to the ownership of a firearm or the
8 presence of a firearm in the home or other domicile of the
9 patient.

10 (d) A medical practitioner, dental practitioner, or
11 nurse may not intentionally, accidentally, or inadvertently
12 enter any disclosed information concerning firearms into any
13 record, whether written or electronic, or disclose such
14 information to any other person or entity.

15 (e) (1) A person who violates any provision of this
16 act shall be subject to civil penalties. A board shall impose
17 the following civil penalties for violations:

18 a. A fine of two hundred fifty dollars (\$250) for
19 the first violation.

20 b. A fine of five hundred dollars (\$500) for the
21 second violation.

22 c. A fine of one thousand dollars (\$1,000) for the
23 third violation.

24 d. A fine of one thousand dollars (\$1,500) for the
25 fourth violation, and at the discretion of the board, a
26 suspension of the person's professional license.

1 (2) A person may appeal the assessment of a civil
2 penalty by requesting a hearing that shall be held in
3 accordance with the Alabama Administrative Procedure Act.
4 Judicial review of a final action of the board shall be
5 pursuant to Section 41-22-20, Code of Alabama 1975.

6 (3) All civil penalties collected pursuant to this
7 act shall be continuously appropriated to the boards and used
8 to implement and administer this act.

9 (4) If a civil penalty imposed by the board is not
10 paid, the board, the Attorney General, or the district
11 attorney of jurisdiction may file an action to collect the
12 civil penalty in a court of competent jurisdiction in the
13 county in which the violation occurred. The person subject to
14 the civil penalty shall be responsible to pay all costs
15 associated with the collection of the civil penalty.

16 (5) Notwithstanding any other provision of this act:

17 a. A psychotherapist, a school counselor, or a
18 licensed certified social worker may make a reasonably
19 necessary inquiry regarding firearms if the person making the
20 inquiry in good faith believes that the possession or control
21 of a firearm or ammunition by the patient would pose an
22 imminent threat to the patient or others.

23 b. A medical practitioner, dental practitioner, or
24 nurse may make an inquiry reasonably necessary for the
25 treatment of a patient during the course and scope of a
26 medical emergency, which specifically includes, but is not
27 limited to, a mental health or psychotic episode where the

1 patient's conduct or symptoms reasonably indicate that the
2 patient has the capacity of causing harm to himself, herself,
3 or others.

4 (6) Notwithstanding the provisions in subdivision
5 (3), a patient's response to any inquiry permissible under
6 this act shall be private and may not be disclosed to any
7 third party who is not participating in the treatment of the
8 patient other than a peace officer conducting an active
9 investigation involving the patient or the events giving rise
10 to a medical emergency. This subdivision does not apply to a
11 person's general belief that firearms or ammunition are
12 harmful to health or safety.

13 (f) Medical records created on or before the
14 effective date of this act are not a violation of this act.
15 Such records, when transferred to another medical
16 practitioner, dental practitioner, nurse, or other health care
17 provider, are not subject to the prohibitions or penalties of
18 this act.

19 Section 2. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.