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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2205 Session of  
2015

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INTRODUCED BY METCALFE, KNOWLES, M. K. KELLER, CAUSER, MILLARD,  
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BARRAR AND GABLER, JULY 1, 2016

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, JULY 1, 2016

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AN ACT

1 Providing for the Pennsylvania Firearm Owners Privacy Act, for  
2 firearm information privacy and for rights of patients.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Pennsylvania  
7 Firearm Owners Privacy Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Department." The Department of Health of the Commonwealth.

13 "Emergency medical services provider." As defined in 35  
14 Pa.C.S. § 8103 (relating to definitions).

15 "Health care facility." As defined in section 402 of the act  
16 of March 20, 2002 (P.L.154, No.13), known as the Medical Care  
17 Availability and Reduction of Error (Mcare) Act.

1 "Health care practitioner." As defined in section 103 of the  
2 act of July 19, 1979 (P.L.130, No.48), known as the Health Care  
3 Facilities Act.

4 "License." A health care practitioner license issued by the  
5 Department of State or a health care facility license issued by  
6 the Department of Health.

7 Section 3. Firearm information privacy.

8 (a) General rule.--A health care practitioner or a health  
9 care facility may not intentionally enter any information  
10 concerning firearm ownership disclosed by a patient into the  
11 patient's medical record if the practitioner knows that the  
12 information is not relevant to the patient's medical care or  
13 safety or the safety of others.

14 (b) Prohibited inquiry.--A health care practitioner or a  
15 health care facility shall not inquire, whether verbally or in  
16 writing, about the following:

17 (1) the ownership of a firearm or ammunition by the  
18 patient or a family member of the patient; or

19 (2) the presence of a firearm in a private home or other  
20 domicile of the patient or a family member of the patient.

21 (c) Exception.--Notwithstanding subsection (b), a health  
22 care practitioner or health care facility may make a verbal or  
23 written inquiry into the ownership or presence of firearms and  
24 ammunition if the practitioner or facility, in good faith,  
25 believes that the information is relevant to the patient's  
26 medical care or safety, or the safety of others.

27 (d) Permitted inquiry.--An emergency medical services  
28 provider may make an inquiry concerning the possession or  
29 presence of a firearm if the provider, in good faith, believes  
30 that information regarding the possession of a firearm by the

1 patient or the presence of a firearm in the home of domicile of  
2 a patient or a patient's family member is necessary to treat a  
3 patient during the course and scope of a medical emergency and  
4 that the presence or possession of a firearm would pose an  
5 imminent danger or threat to the patient or others.

6 (e) Right to decline to answer.--A patient may decline to  
7 answer or provide any information regarding the ownership of a  
8 firearm by the patient or a family member of the patient, or the  
9 presence of a firearm in the domicile of the patient or a family  
10 member of the patient, the declination of which shall not alter  
11 existing law regarding a health care practitioner's  
12 authorization to select which patients to treat.

13 (f) Prohibition against discrimination.--A health care  
14 practitioner or a health care facility may not discriminate  
15 against a patient based solely upon the patient's exercise of  
16 the constitutional right to own and possess firearms or  
17 ammunition.

18 (g) Prohibition against harassment.--A health care  
19 practitioner or a health care facility shall respect a patient's  
20 legal right to own or possess a firearm and shall refrain from  
21 unnecessarily harassing a patient about firearm or ammunition  
22 ownership.

23 (h) Health insurer.--An insurer issuing any type of  
24 insurance policy shall not deny coverage, increase a premium or  
25 otherwise discriminate against an insured or applicant for  
26 insurance on the individual's lawful ownership or possession of  
27 a firearm or ammunition or the lawful use or storage of a  
28 firearm or ammunition. Nothing in this subsection shall prevent  
29 an insurer from considering the fair market value of firearms or  
30 ammunition in setting premiums for scheduled personal property

1 coverage.

2 (i) Penalty.--The appropriate board or the department may  
3 refuse, revoke or suspend the license of a health care  
4 practitioner or health care facility for a violation of  
5 subsections (a), (b), (c), (d), (e) and (f).

6 Section 4. Rights of patients.

7 (a) Summary of rights.--The department shall publish on its  
8 publicly accessible Internet website a summary of the rights of  
9 patients under section 3, in any format the health care provider  
10 or health care facility chooses.

11 (b) Complaints.--A health care provider and health care  
12 facility, if requested, shall inform patients of the address and  
13 telephone number of each State agency responsible for responding  
14 to patient complaints about a health care provider or health  
15 care facility's alleged noncompliance with this act.

16 (c) Procedure for providing information on patient rights.--  
17 A health care facility shall adopt policies and procedures to  
18 ensure that patients are provided the opportunity during the  
19 course of admission to receive information regarding their  
20 rights contained in section 3 and how to file complaints with  
21 the facility and appropriate State agencies.

22 (d) Penalties.--The following shall apply:

23 (1) An administrative fine may be imposed by the  
24 department when a health care facility fails to make  
25 available to patients a summary of their rights contained  
26 under section 3 of this act.

27 (2) The first, unintentional violation by a health care  
28 facility shall be subject to corrective action and shall not  
29 be subject to an administrative fine.

30 (e) Fines.--The following shall apply:

1 (1) The department may levy the following fines against  
2 a health care facility:

3 (i) not more than \$5,000 for an unintentional  
4 violation; and

5 (ii) not more than \$25,000 for an intentional  
6 violation, with each intentional violation constituting a  
7 separate violation subject to a separate fine.

8 (2) The appropriate regulatory board or, if no board  
9 exists, the department may impose an administrative fine  
10 against a health care practitioner for failing to make  
11 available to patients a summary of their rights under section  
12 3. A health care provider's first unintentional violation  
13 shall be subject to corrective action and shall not be  
14 subject to an administrative fine. The appropriate licensing  
15 board or the department may levy the following fines:

16 (i) not more than \$100 for an unintentional  
17 violation; and

18 (ii) not more than \$500 for an intentional  
19 violation, with each intentional violation constituting a  
20 separate violation subject to a separate fine.

21 (f) Determination of fine.--In determining the amount of  
22 fine to be levied under subsection (e), the following factors  
23 shall be considered:

24 (1) The scope and severity of the violation, including  
25 the number of patients found not to have received notice of  
26 patient rights, and whether the failure to provide notice to  
27 patients was willful.

28 (2) Actions taken by the health care provider or health  
29 care facility to correct violations or to remedy complaints.

30 (3) Any previous violations of this act by the health

- 1 care provider or health care facility.
- 2 Section 5. Effective date.
- 3 This act shall take effect immediately.