

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 765

Short Title: No Firearms Questions During Medical Exams. (Public)

Sponsors: Senators Brock; and Daniel.

Referred to: Rules and Operations of the Senate.

April 20, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT HEALTH CARE PROVIDERS FROM QUESTIONING PATIENTS
3 ABOUT LAWFUL ACTIVITY RELATED TO FIREARMS AND AMMUNITION
4 WHEN PROVIDING HEALTH CARE TO PATIENTS AND TO AUTHORIZE THE
5 IMPOSITION OF A FINE ON HEALTH CARE PROVIDERS WHO ENGAGE IN THE
6 PROHIBITED CONDUCT.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new
9 Article to read:

10 "Article 11.

11 "Preserving Patients' Firearms Privacy.

12 "**§ 90-21.75. Findings and intent.**

13 (a) Findings. – The General Assembly makes all of the following findings:

14 (1) That individuals have a right under the United States Constitution and the
15 North Carolina Constitution to keep and bear arms, which arms include
16 firearms and their ammunition.

17 (2) That an individual's decision to exercise this right is a private matter.

18 (3) That lawfully possessed, stored, and used firearms and ammunition are not a
19 threat to the public health.

20 (4) That health care providers do not have any special expertise in the safe
21 storage or use of firearms and ammunition merely by virtue of their status as
22 health care providers. To the extent that health care providers have general
23 advice to impart concerning firearms and ammunition, they may do so
24 without knowing whether any particular patient actually possesses or uses
25 these items.

26 (5) That health care providers do not need to know whether a patient lawfully
27 possesses or uses firearms and ammunition unless the patient (i) specifically
28 exhibits symptoms of illness or injury that the health care provider could
29 reasonably attribute to the possession or use of firearms and ammunition or
30 (ii) has expressed a desire to harm self or others.

31 (6) That a patient should not be compelled to participate in a health care
32 provider's gathering of statistical or demographic information about the use,
33 storage, and possession of firearms and ammunition for research or other
34 purposes not directly related to the patient's own health.

35 (7) A patient's decisions about the lawful possession or use of firearms and
36 ammunition or about whether to disclose these decisions is not a proper basis



1 for a health care provider to determine who the health care provider will or
2 will not treat.

3 (8) Patients have been denied care based on the refusal to answer unwarranted
4 inquiries about constitutionally protected conduct related to firearms and
5 ammunition, and these denials result in increased health care costs and
6 delays in access to needed care.

7 (b) Intent. – It is the intention of the General Assembly to ensure that (i) every patient
8 may obtain health care free from discrimination based on, or unwarranted inquiry into,
9 constitutionally protected conduct involving firearms and ammunition and (ii) health care
10 providers may still obtain information about patient activities with respect to firearms and
11 ammunition when directly relevant to the patient's own health care.

12 **"§ 90-21.76. Definitions.**

13 The following definitions apply in this section:

14 (1) "Health care provider" means, without limitation, any person who, pursuant
15 to the provisions of Chapter 90 of the General Statutes, is licensed or is
16 otherwise registered or certified to engage in the practice of or otherwise
17 performs duties associated with any of the following: medicine, surgery,
18 dentistry, pharmacy, optometry, midwifery, osteopathy, podiatry,
19 chiropractic, radiology, nursing, physiotherapy, pathology, anesthesiology,
20 anesthesia, laboratory analysis, rendering assistance to a physician, dental
21 hygiene, psychiatry, psychology; or a hospital.

22 (2) "Minor" has the same meaning as in G.S. 90-21.6.

23 (3) "Patient" means a person under the care of or who seeks professional
24 services from a health care provider.

25 **"§ 90-21.77. Prohibited activities by health care providers.**

26 (a) Refusal to Treat or Accept Referral for Treatment. – Except as provided in
27 subsection (c) of this section, a health care provider may not refuse to treat or refuse to accept a
28 referral for treatment of a patient based on either of the following:

29 (1) Lawful ownership, possession, handling, storage, maintenance, or other legal
30 conduct involving firearms and ammunition by the patient or a member of
31 the patient's household.

32 (2) Refusal by the patient, or a minor patient's parent, legal guardian, or legal
33 custodian, to disclose information about lawful ownership, possession,
34 handling, storage, maintenance, or other legal conduct involving firearms
35 and ammunition by the patient, a minor patient's parent, legal guardian, or
36 legal custodian, or a member of the patient's household.

37 (b) Prohibited Questions About Firearms and Ammunition. – Except as provided in
38 subsection (c) of this section, when providing health care to a patient, a health care provider is
39 prohibited from questioning a patient, or a minor patient's parent, legal guardian, or legal
40 custodian, about lawful ownership, possession, handling, storage, maintenance, or other
41 conduct involving firearms and ammunition by the patient or a member of the patient's
42 household, unless the health care provider first informs the patient, or a minor patient's parent,
43 legal guardian, or legal custodian, of all of the following:

44 (1) That the health care provider would like to question the patient, or a minor
45 patient's parent, legal guardian, or legal custodian, about firearms and
46 ammunition.

47 (2) The purpose of the questions.

48 (3) That the patient, or a minor patient's parent, legal guardian, or legal
49 custodian, is not required to answer the questions.

50 (4) That failure to answer the questions will not result in the health care provider
51 refusing to treat the patient or terminating treatment for the patient.

1 (c) Exceptions. – Subsections (a) and (b) of this section do not apply under any of the
2 following circumstances:

3 (1) The health care provider reasonably believes the patient is in immediate
4 possession or control of a firearm and ammunition and poses an imminent
5 threat to the self or others with the firearm and ammunition.

6 (2) The patient, or a minor patient's parent, legal guardian, or legal custodian,
7 has brought a firearm and ammunition into an area where the firearm and
8 ammunition are prohibited.

9 (3) The patient, or a minor patient's parent, legal guardian, or legal custodian,
10 volunteers information about firearms and ammunition in the absence of any
11 question from the health care provider about firearms and ammunition.

12 (4) The health care provider reasonably and in good faith believes that
13 disclosure of the requested information is necessary to diagnose or treat a
14 specific illness or injury. For the purpose of this subdivision, a generalized
15 belief that firearms and ammunition are harmful to an individual's health or
16 safety does not qualify as a specific illness or injury.

17 **"§ 90-21.78. Fines.**

18 The health care provider's licensing board may impose a fine on any health care provider
19 that violates any provision of this Article. The fine shall not exceed two hundred fifty dollars
20 (\$250.00) for nonwillful violations and shall not exceed five hundred dollars (\$500.00) for
21 willful violations. Each intentional and willful violation of this Article constitutes a separate
22 violation and is subject to a separate fine.

23 **"§ 90-21.79. Disciplinary action.**

24 Violation of this Article is a ground for disciplinary action against the health care provider
25 by the health care provider's licensing board or other regulatory authority."

26 **SECTION 2.** This act becomes effective October 1, 2011.