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BY FACSIMILE, FEDEX & EMAIL

Governor Rick Scott
State of Florida
The Capitol
400 S. Monroe Street
Tallahassee, Florida 32399-0001

Re: Request to Veto CS/CS/HB 155 – “Privacy of Firearm Owners”

Dear Governor Scott:

On behalf of the Florida Chapter of the American Academy of Pediatrics, Florida Chapter of the American Academy of Family Physicians, Florida Chapter of the American College of Physicians, and the members of each organization, I am writing to respectfully request that you veto CS/CS/HB 155. That legislation, which has been entitled “Privacy of Firearm Owners,” would amend or create Florida Statutes §§ 381.026, 395.1055, 790.338 and 456.072. These provisions, as modified by this legislation, would cause immediate and irreparable harm to the rights that our organizations, their members, and physicians’ patients have under the First Amendment of the Constitution of the United States. Accordingly, this legislation is unconstitutional, and we urge you to take whatever steps are necessary to ensure that it does not become law.

As recommended by our organizations and many other professional and national medical societies, healthcare professionals throughout the state of Florida routinely speak with patients about effective methods to minimize a variety of risks to their health and safety. In connection with exchanging information about household chemicals, swimming pools, bike helmets, and car safety seats (among other items), healthcare professionals also provide anticipatory guidance regarding the significant health risks posed by firearms in the household. Such guidance is especially important for teenagers who may be subjected to bullying, adults and the elderly who may suffer from depression or other mental illnesses, and families with young children. Indeed, in just a two month period in 2010, four Florida children died from injuries inflicted by guns that had not been stored in a safe manner.

Despite the critical importance of ensuring free and open exchange of information between a healthcare professional and his or her patient, CS/CS/HB 155 would significantly restrict the ability of health care professionals to talk to their patients about firearm safety. Specifically, if this legislation becomes law, it would bar healthcare professionals, in certain circumstances, from

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asking questions of their patients about gun safety and recording information from those conversations in patients' medical records. If healthcare professionals were to engage in such practices, they could be faced with harsh disciplinary sanctions, including fines and permanent revocation of their licenses to practice medicine. Such disciplinary proceedings have previously been reserved for accusations of egregious professional misconduct.

Moreover, the legislation, if it becomes law, would prohibit "unnecessar[y] harass[ment]" and "discrimination" on the basis of a patient's possession or ownership of a firearm. Yet, neither of those terms are defined, leaving their definitions to the eye of the beholder. As a result, the law would virtually guarantee that some healthcare professionals who are simply following established protocol by informing patients of the lethal risks of firearms will be brought before a disciplinary board if a patient categorically objects to any discussion or inquiry on the subject of household firearms. Consequently, beyond imposing express prohibitions on protected speech, the legislation is also so vague, and its sanctions are so severe, that healthcare professionals will be chilled from freely engaging in speech with their patients. In light of the statute's broad terms, healthcare professionals will reasonably assume that the law's provision will be construed broadly and they will self-censor their speech for fear of being subjected to disciplinary action.

In sum, if CS/CS/HB 155 becomes law, it will deprive healthcare professionals throughout the state of Florida of their rights under the First Amendment to freedom of speech. In violation of the U.S. Constitution, the law would also deprive patients of potentially life-saving information regarding safety measures they can take to protect their children, families and others from injury or death resulting from unsafe storage or handling of firearms. For these reasons, we intend to file a lawsuit against you and other state officials in the event that this legislation becomes law. In the interest of protecting meaningful and vital communication between a healthcare professional and patient, and in recognition of the principle that a state should not impose itself on such interactions, we respectfully request that you veto CS/CS/HB 155.

Thank you for your attention to this request.

Sincerely,



Bruce S. Manheim, Jr.

Douglas H. Hallward-Driemeier