



## American College of Preventive Medicine

### Policy Recommendation on Physician Gag Laws

#### Policy Recommendation:

The American College of Preventive Medicine (ACPM) advocates for policies that promote a patient-physician relationship that is based on open communication, which is important in the context of preventing firearm-related injuries and deaths. Therefore, ACPM opposes legislation that would prohibit physicians from discussing firearm ownership and safety with patients (Physician Gag Laws).

#### Key Issues:

- 1) Gun violence is a public health problem.
- 2) Safe gun storage reduces firearm-related injury and death.
- 3) Physician gag laws hinder the patient-physician relationship
- 4) Physician counseling on firearm safety increases adoption of firearm safety practices.

#### Supporting Evidence:

- 1) Gun violence is a public health problem.

Among industrialized nations, the United States has among the highest firearm-related deaths.<sup>1</sup> Of all injury deaths in the U.S. in 2014, firearms were involved in 16.8%, or more than 33,500 deaths including homicides, suicides, and unintentional deaths.<sup>2,3</sup> In 2015, unintentional injuries were the leading cause of deaths in the U.S. for individuals aged 1-44 years, accounting for 28.5% of deaths.<sup>4</sup> In addition, in 2014 there were more than 81,000 non-fatal firearm injuries.<sup>4</sup>

Children and adolescents are a population that have no legal voice in the decision that the adults in their lives make regarding gun ownership; however they are a demographic at significant risk of injury and death. In 2014, there were 13,576 children (under age 20) treated in emergency rooms for non-fatal firearm-related injuries.<sup>4</sup> Also in 2014, adolescents (age 15-19) were more than twice as likely to have non-fatal firearm-related injuries when compared to the general population.<sup>4</sup>

It is important to note the above trends in the context of depression and suicide rates. Between 2009 and 2012, 7.6% of individuals aged 12 and over in the United States had depression (moderate or severe depressive symptoms in any two-week period).<sup>5</sup> From 1999 to 2014, the age-adjusted suicide rate in the United States increased 24%.<sup>6</sup> In 2014, 55.4% of suicides committed by males involved firearms, which was the most frequent suicide method in this demographic.<sup>6</sup>

- 2) Safe gun storage reduces firearm-related injury and deaths.

Safe gun storage methods include unloading guns, locking guns (employing a firearm safety technology such as trigger locks and lock boxes), and storing ammunition separately. Such methods reduce unintentional injury and suicides among children and adolescents.<sup>7</sup> In states that impose criminal penalties on individuals who do not store their firearms properly, also known as Child Access Protection (CAP) laws, an 8.3% reduction in firearm suicides in children aged 14-17 years was found in a longitudinal study conducted from 1976 to 2001.<sup>8</sup> CAP laws, which have been enacted in 18 states and the District of Columbia, have also been associated with a 23% reduction in the incidence of unintentional firearm-related deaths among children younger than 15 years old.<sup>9</sup>

In addition, another safe gun storage method includes refraining from having the firearm inside of the house.

One study showed that for every time that a gun in the home was used for self-defense (e.g., against an intruder), there were 4 unintentional injuries, 7 criminal assaults or homicides, and 11 attempted/completed suicides.<sup>10</sup>

### 3) Physician Gag Laws hinder the patient-physician relationship

Physicians have generally been regarded in society as trusted professionals with whom patients can discuss sensitive issues regarding their personal lives and health. Without a patient's confidence, a physician would not have the opportunity to obtain details that are relevant for providing guidance or making important treatment decisions in the best interests of the patient. Evidence-based guidelines of care recommend that physicians have discussions with their patients regarding risk factors that may affect the health of the patient or his/her family.<sup>11</sup> For these reasons, physicians have an important role in decreasing firearm-related injuries and deaths.<sup>12,13</sup> As with other discussions about behaviors that affect health, physicians must also be able to document these conversations in the medical record without fear of liability or penalty.<sup>13</sup>

Prohibiting a physician from asking if a patient (or a patient's family member) owns a firearm results in a missed opportunity to provide counseling regarding firearm safety. The state of Florida attempted to do this in 2011 with key provisions in their Firearm Owners Privacy Act, which was overturned on February 16, 2017 by the U.S. Court of Appeals for the Eleventh Circuit in Atlanta.<sup>14, 15</sup> Eight health professional organizations and the American Bar Association had urged this court, via a joint statement in 2015, to uphold a lower court decision which had ruled the law unconstitutional on First Amendment grounds.<sup>16</sup> Although this is a victory for freedom of speech necessary for patient-physician relationships in Florida, similar laws still exist in the states of Minnesota, Missouri, and Montana.<sup>17</sup>

### 4) Physician counseling on firearm safety increases adoption of firearm safety practices.

A systematic review of studies regarding patient interventions between 1992 to 2014 identified 13 studies about healthcare provider interventions that were aimed at reducing firearm-related risks.<sup>18</sup> Of these studies, two were randomized controlled trials (RCTs) that showed that provider interventions increased patient use of firearm safety measures, including firearm cable locks and decreased high-risk practices such as weapons carriage.<sup>19, 20</sup> In another set of studies, these interventions included brief provider counseling about safe gun storage methods. In these studies, provider counseling was linked to increased use of safe gun storage methods among patients at family medicine and pediatric clinics.<sup>12, 21</sup> Overall, the systematic review found that physician counseling improves firearm storage practices.<sup>18</sup>

Maintaining a physician's First Amendment right to free speech in his/her confidential conversations with patients is ultimately in the best interests of public health. Such open communication would allow both parties to come to an agreement wherein the physician provides education aimed at preventing firearm-related injury/death and the patient retains his/her Second Amendment right to bear arms. Those concerned about the latter can be assured that physicians are bound by ethical and professional values that encompass the fundamental principles of respect for autonomy, beneficence, nonmaleficence, and justice.<sup>22</sup> The goal of these principles is to empower patients to make informed decisions about their care. These decisions, therefore, are not in need of legislative interference.

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