

Florida ‘gun gag’ law provisions struck down by appeals court

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The 11th U.S. Circuit Court of Appeals has struck down key portions of a Florida law that restricted the ability of physicians to communicate freely with their patients about firearms safety. In an en banc decision overturning an earlier three-judge panel ruling, the court ruled that Florida’s Firearms Owners’ Privacy Act infringes on the free speech rights of physicians.

“Florida may generally believe that doctors and medical professionals should not ask about, nor express views hostile to, firearms ownership, but it ‘may not burden the speech of others in order to tilt public debate in a preferred direction,’” Judge Adalberto Jordan wrote for the majority, quoting the words of a Supreme Court opinion in another case of speech rights in a medical context. Physicians, Judge Jordan added, must have the ability to communicate in a frank and open manner with patients.

Florida officials may appeal the decision to the U.S. Supreme Court.

In 2016, the AMA joined with the American Academy of Pediatrics and seven other medical specialty societies to file an amicus brief (AMA login required) asking for the full 11-judge panel to rehear the *Wollschlaeger v. Florida* case, which had been decided 2-1 in the state’s favor.

“The discussions physicians have with their patients do not threaten those patients’ right of gun ownership,” the brief says. “The Second Amendment protects citizens against governmental confiscation of their firearms. Physicians neither confiscate nor facilitate anyone else’s confiscation of firearms—nor is it likely that they could or would do so.”

Reacting to the court victory, AMA President Andrew W. Gurman, MD, stressed that the AMA’s objections to the Florida law centered on speech rights and the patient-physician relationship.

“This case has always been about the First Amendment right to free speech, not the Second Amendment right to own and possess firearms,” Dr. Gurman said. “The court found no evidence that any doctor has infringed on patients’ Second Amendment rights. Counseling patients we care for makes a difference in preventing gun-related injuries and deaths. The political interests of state



lawmakers do not justify infringing on the patient-physician relationship and stifling relevant medical discussions that are entitled to First Amendment protection.”

Long-standing AMA policy supports physicians consulting with patients about firearm safety and how to protect themselves and their families from gun-related accidents.