July 31, 2015: Restriction on Gun Counseling Continues in the Courts

In an unusual move, on July 28, 2015, a 3-judge panel of the US Court of Appeals for the 11th Circuit vacated its own earlier decision from July of last year, while still maintaining its position that a 2011 Florida law restricting physician counseling about safe storage of firearms passes constitutional muster, and does not violate the First Amendment rights of physicians and patients.

The Privacy of Firearms Owners Act, signed into law by Florida Governor Rick Scott in June 2011, restricts physicians, nurses, and medical staff from asking a patient and their families about firearms. Physicians accused of violating the law would be sent before the Florida Board of Medicine for disciplinary action.

The AAP is working with attorneys representing the Florida chapters of the American Academy of Pediatrics, the American Academy of Family Physicians, the American College of Physicians, and the individual physician plaintiffs, to seek further review of the decision before the full 11th Circuit. The injunction blocking enforcement of the law remains in effect until the 11th Circuit decides whether to rehear the case. If the court agrees to the rehearing, the injunction will remain in effect until a decision is issued.

Because of its proven value in preventing injury and death, the AAP continues to advise its members in Florida and throughout the United States to uphold the standard of medical practice and ask about the presence of guns in the environments of children, and counsel families in their care about the importance of storing guns safely.

The decision, if left standing, will cause Florida physicians to limit their own speech with respect to firearms safety and it will prevent patients and their families from receiving critical science-based information that protects themselves, their families, and others. Since the Florida legislation passed in 2011, at least 12 other states have introduced bills restricting physician counseling on firearm safety, but none have been enacted.

For consultation or technical assistance with this or other state advocacy issues, please contact the AAP Division of State Government Affairs at 1.800.433.9016, x7799 or stgov@aap.org.