

When should I engage with my patients about firearms?

There are a variety of clinical scenarios in which it



may be useful to engage with patients about firearms. But these conversations are particularly important where there is a particular risk of gun-

related injury. These risk factors include if someone in the patient's household: is a young child, is a teenager, suffers from suicidal thoughts or depression, has a history of violence, or suffers from a condition that results in an altered mental state such as drug addiction or dementia.

How should I approach conversations with my patients about guns?

Your patients will have differing backgrounds and views when it comes to guns. Engaging in a conversation may be difficult, but we encourage you to take steps to have the discussion. Though the method of discussion will be factually and clinically specific, here are some general thoughts about how best to avoid a confrontational dialogue and provide clinically appropriate suggestions:

- Focus on health. As a health care expert, you are equipped to advise patients about the potential health impact of guns and collaboratively brainstorm ways to reduce risk.
- Provide context for the questions. For example, include questions about firearms in routine screening regarding household hazards for parents of toddlers and risk behavior for teens.
- Make sure the questions do not sound accusatory. For example, if a patient is struggling with suicidal thoughts, don't ask,

"Do you have a gun?" Instead, you could say, "Some of my patients have guns at home, and some gun owners with suicidal thoughts choose to make their guns less accessible. Are you interested in talking about that?"

- Consider starting with open-ended questions to avoid sounding judgmental (e.g., "Do you have any concerns about the accessibility of your gun?" instead of "Is your gun safely secured?").
- Meet patients where they are. Where there is a risk, see if you can brainstorm harm-reduction measures with the patient, as opposed to prescribing one specific solution. For example, rather than advising a patient to get rid of a gun, you could suggest that there are a number of different ways to make guns less accessible, ranging from selling/surrendering the gun, to disposing of ammunition, to temporarily storing the gun outside the home.

Relevant Massachusetts law

GL c. 19A, § 15
GL c. 19C, § 10
GL c. 119, § 51(A)
GL c. 123, § 36B

Relevant Federal law

45 C.F.R. 164.508
45 C.F.R. 164.512(c), (e), (f), (j)
45 C.F.R. 502(g)(3)

Health and Human Services has clarified that "the provider is presumed to have had a good faith belief when his or her belief is based upon the provider's actual knowledge (i.e., based on the provider's own interaction with the patient) or in reliance on a credible representation by a person with apparent knowledge or authority (i.e., based on a credible report from a family member of the patient or other person).

www.hhs.gov/sites/default/files/ocr/office/lettertonationhcop.pdf

Talking to Patients About Guns



Massachusetts Office
of the Attorney General



MASSACHUSETTS
MEDICAL SOCIETY

Talking to Patients About Guns

Firearm safety is a public health issue. As such, health care providers are uniquely situated to engage their patients and help prevent injury and death. Some providers may not approach this topic because of concerns about how to talk about guns and what to do when troubling information is gleaned from patients.

This document is designed to provide guidance for talking to patients about guns, and on implications of those discussions for patient privacy and reporting obligations. For specific advice to give patients regarding firearm safety, please see our accompanying handout, "Gun Safety and Your Health."

Are there any legal restrictions on my ability to talk to patients about guns or to record information about those conversations?



No. In Massachusetts there are no restrictions on a provider's ability to discuss gun safety or to record information about those conversations in the patient's record.

What protected health information *must* I report to law enforcement or to others outside of the provider-patient relationship?

Gunshot wounds

A physician or an administrator at his or her hospital must report all gunshot wounds to the state and local police. Providers should fill out the form provided by the Weapon-Related Injury Surveillance System (WRISS) or contact the State Police's Criminal Information Division and local police.

Abuse and neglect

Most health care providers are required to report any reasonable suspicion of child abuse and neglect, elder abuse, or abuse of a person with disabilities, including if such abuse or neglect involved a gun:

- Report suspected child abuse or neglect to Department of Children and Families.
- Report suspected elder abuse to the Department of Elder Affairs.
- Report suspected abuse of persons with disabilities to the Disabled Persons Protection Commission.

Warning or protecting potential victims

Licensed mental health care providers have a duty to warn or take steps to protect a patient's potential victim(s) if:

- The patient has communicated an explicit threat to kill or inflict serious bodily injury on a reasonably identified potential victim.
- The patient has a history of physical violence and the provider has reason to believe there is a clear and present danger that the patient will kill or inflict serious bodily injury on a reasonably identified potential victim.

In lieu of warning a patient's potential victim(s), a provider fulfills his or her duty by notifying law enforcement or initiating a voluntary or involuntary hospitalization — if these steps would be appropriate under the circumstances.

Court orders and subpoenas

Under state and federal law, providers must respond to court orders, grand jury subpoenas, and some administrative requests by law enforcement. This would most likely come up if a patient is a victim or suspect in a crime.



What protected health information *may* I report to law enforcement or others outside the provider-patient relationship?

Serious and imminent threats

If a health care provider has a good faith belief that information constitutes a serious and imminent threat (to the patient or another person), the Health Insurance Portability and Accountability Act (HIPAA) allows him or her to report that information to any person, including family members, who would be reasonably able to prevent or lessen the threat.

Crime on the premises

A provider may report information to law enforcement if he or she believes it constitutes evidence of criminal conduct that occurred on the premises of the health care facility.

Crime in an emergency setting

When responding to a medical emergency, a provider may alert law enforcement to the commission and nature of a crime, as well as its location, victims, and perpetrators.

Minors' records

In most cases, providers can share all protected health information with a minor's parent.

Patient authorized information

A provider may disclose information when a patient has signed a legally permissible written authorization for disclosure.