

Protecting Immigrant Community Members Accessing Health Care

Increased immigration enforcement by United States Immigration and Customs Enforcement (“ICE”) and United States Customs and Border Protection (“CBP”) agents has raised fear in our communities and can result in families not seeking medical care. As a healthcare and medical provider, there are things you can do to protect your patients and employees if ICE or CBP agents enter your facility.

PLANNING

Limit Access to Private Spaces and Prepare Your Staff

- **Post signs** in your parking lots, exterior areas, and inside the facility to make clear these areas are not open to the public.
- **Create physical barriers** between areas accessible to the public and areas for staff and patients and their families. For example, create interior waiting areas—after patients check in, patients and their caregivers can wait behind a wall or in an available office, rather than in an area open to the general public.



**THIS PAMPHLET
INCLUDES
INFORMATION ABOUT:**

PLANNING

Signage and physical barriers that enhance your rights, and your patients’ rights, to privacy

Protocols and training for staff to respond to immigration agents’ requests for information and presence in your facility

LEGAL BACKGROUND

Constitutional protections and rules that apply to law enforcement in health care spaces

Understanding warrants and subpoenas

ACLU
California

PROTECTING OUR COMMUNITY

Protocols for Staff Dealing with ICE or CBP within your Facility

Many of the best practices for responding to immigration enforcement in a health care setting involve adopting protocols in advance. Teach your staff and practice!

- **Designate particular staff** to engage with law enforcement officers, including ICE and CBP agents, and train those staff members to identify and review subpoenas and warrants.
- **Require all visitors** to check in with security or reception.
- **Require security and other staff** to identify persons who do not appear to be staff, patients, or caregivers/visitors and to escort them off the premises if they do not have permission to enter for legitimate health care business.
- Respond in a uniform fashion and in accordance with the organization's adopted internal protocol on what to do if immigration officials appear on the premises.

[Sample Policy Statement] "It is the policy of this health care facility to ensure that our patients and their families or caregivers are safe and protected when they use our facilities and services. This facility will take steps to the greatest extent possible under the law to protect our patients and their information. It is the policy of this facility not to allow agents or employees of U.S. Immigration and Customs Enforcement (ICE) or Customs and Border Protection (CBP) access to our facilities, records or information unless required to do so by law or a valid court order."

◀ Prepare a **policy statement** that can be printed for all staff to present if necessary

- If approached by a federal immigration agent, **instruct staff** to:
 - Ask to see identification and write down the name, contact information, badge number or other identifying information of any immigration official as well as the supervisor of the agents. If the agent refuses to provide documentation, staff should note that as well.
 - Inform immigration agents in public areas that they are in a "sensitive location," under ICE and CBP policy and ask them for the name of any supervisor that provided approval for their visit.
 - Immediately contact a supervisor and/or the designated person(s) to deal with law enforcement or immigration authorities.
 - Refuse to let immigration agents access non-public areas of your facilities unless they have a warrant signed by a judge granting them access to search for the listed items. Advise anyone nearby that they have the right to remain silent and do not have to answer questions, but do not direct anyone not to answer questions. Move clients and caregivers to a private location as appropriate under normal protocols. Do not assist or encourage anyone to escape or hide.

An administrative arrest warrant signed by an immigration official does NOT allow agents to enter non-public areas without consent. Review examples at the end of this pamphlet.

- Refuse to release any information or records without a judicial warrant and do not leave patient records out in the open.
- If immigration officials attempt to question staff members, the staff member should:
 - advise that they are not authorized to answer any questions without consulting with a supervisor and contact a supervisor;
 - ask if he or she is free to go, and if so, go on with his or her duties and inform a supervisor;
 - if detained, the staff member should say he or she wishes to consult with an attorney and should otherwise remain silent.
- Staff members that are not directly involved should stay a reasonable distance away, but may stay close enough to observe and take notes of what happens.
- Reception, security, and front desk staff can have a script prepared in advance to use with all law enforcement officers or agents:

First, can I get your name and see your identification please?

This area is not open to the public. It is a sensitive area with vulnerable patients and we do not allow law enforcement activities here without a valid, judicial warrant.

[For immigration authorities only:] This is a sensitive location under ICE and CBP policy. Do you have prior supervisory approval to be here? Can I please see a copy of that approval?

[If they claim to have a warrant:] I'm going to call my [supervisor/manager/our general counsel] to review this warrant and accompany you on your search. Please give me just a minute to call them. [Direct agents to designated place to wait, apart from others]

[If no warrant:] Okay then, I'm going to have to ask you to leave. This facility does not consent to your being here/questioning our patients/conducting a search.

.....
 < Prepare a **script** to respond to immigration officials

- Include role play scenarios in your trainings to help staff become comfortable asserting their rights with law enforcement agents. Repeat trainings regularly, to build staff knowledge and confidence.

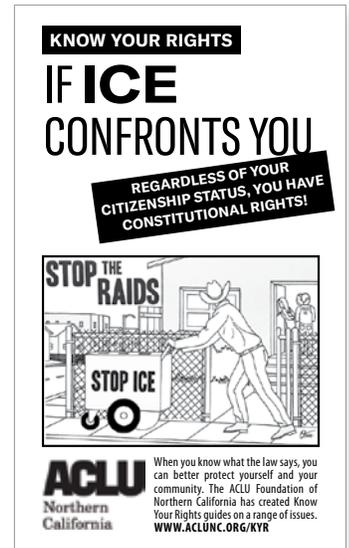
Special issues for supervisors and other staff designated to deal with immigration authorities:

- If possible, contact legal counsel to review any search or arrest warrant.
- To be valid, any search warrant must (a) signed by a judge or magistrate; (b) describe the health care facility building as the place to be searched; (c) have the correct date and have been issued within the past 14 days. Searches may not exceed the scope of the items authorized to be searched for in the warrant.
- During a search subject to a valid warrant, the designated person should accompany the immigration agents during the search and verbally object if the search goes beyond what is described in the warrant (e.g. goes into a part of the facility not listed on the warrant's location for search) and tell the agents that it goes beyond the warrant's scope.
- Any request for records should be referred to a designated person who is specially trained to review and respond to records requests. Staff should not respond to requests for records without consulting with the facility's legal department or executive director. Most administrative subpoenas for records issued by immigration authorities are not enforceable without a court order, despite having language that appears to be compulsory.

LEGAL BACKGROUND: KNOW YOUR RIGHTS

- ICE and CBP cannot search or enter non-public areas without a valid warrant signed by a judge, unless they have the property owner's consent or there are emergency circumstances.
- ICE and CBP cannot search or seize records or documents unless they have a valid search warrant signed by a judge. Inspect the search warrant to see if it identifies the places and items that ICE and CBP can search, and that it is signed by a judge.
- Many administrative subpoenas are not enforceable without a court order and should be reviewed by an attorney.
- ICE and CBP may enter areas open to the general public.
- According to ICE and CBP policy, agents should not conduct immigration enforcement actions in "sensitive locations," including health centers, without prior approval (in writing for CBP) or in emergency situations.

Help your patients learn their rights by hanging posters and placing **Know-Your-Rights** materials in waiting areas. ✓



◀ **The U.S. Constitution, State Law, and Federal Policies** limit immigration enforcement in important ways

An example of an **arrest warrant**. This document only permits an arrest of the indicated person, not entry into or a search of private property. ✓

U.S. DEPARTMENT OF HOMELAND SECURITY **Warrant for Arrest of Alien**

IMPORTANT: An arrest warrant only permits an arrest of the indicated person, NOT a search of any of private property. If an officer attempts to search your house with only an arrest warrant, you may refuse

File No. _____

Date: _____

This warrant is only valid to arrest the person indicated here

To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations

I have determined that there is probable cause to believe that _____ is removable from the United States. This determination is based upon:

- the execution of a charging document to initiate removal proceedings against the subject;
- the pendency of ongoing removal proceedings against the subject;
- the failure to establish admissibility subsequent to deferred inspection;
- biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

YOU ARE COMMANDED to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.

Must be signed by an immigration officer to be valid

(Signature of Authorized Immigration Officer)

(Printed Name and Title of Authorized Immigration Officer)

Certificate of Service

I hereby certify that the Warrant for Arrest of Alien was served by me at _____
(Location)

on _____ on _____, and the contents of this
(Name of Alien) (Date of Service)

notice were read to him or her in the _____ language.
(Language)

Name and Signature of Officer

Name or Number of Interpreter (if applicable)

An example of a **search warrant**. To authorize law enforcement entry into private spaces and searches and seizures of papers and things, a search warrant must be issued by a court and signed by a judge or magistrate. ▼

UNITED STATES DISTRICT COURT

for the

In the Matter of the Search of
*(Briefly describe the property to be searched
or identify the person by name and address)*

)
)
) Case No.
)
)
)

To search the premises, officials must have a **search warrant**. If officials only have an arrest warrant, they do not have authority to search or enter your property

Make sure the warrant has your correct name and address

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the _____ District of _____
(Identify the person or describe the property to be searched and give its location):

Officers are typically only allowed to search the person or property described here, nothing more

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal *(Identify the person or describe the property to be seized):*

The search can only be executed at the time indicated here

YOU ARE COMMANDED to execute this warrant on or before _____ *(not to exceed 14 days)*
 in the daytime 6:00 a.m. to 10:00 p.m. at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to _____
(United States Magistrate Judge)

Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized *(check the appropriate box)*

for _____ days *(not to exceed 30)* until, the facts justifying, the later specific date of _____

Date and time issued: _____

Judge's signature

City and state: _____

Printed name and title

This warrant **MUST** be signed by a judge to be valid. If it is not signed, you are not required to permit a search

An example of an **immigration subpoena**. This is not binding without a court order. You can decline to produce the requested records. ✓

1. To (Name, Address, City, State, Zip Code) Make sure this lists your correct name and address before proceeding	DEPARTMENT OF HOMELAND SECURITY IMMIGRATION ENFORCEMENT SUBPOENA to Appear and/or Produce Records 8 U.S.C. § 1225(d), 8 C.F.R. § 287.4
Subpoena Number	
2. In Reference To This section must specify a case or action <hr/> <p style="text-align: center;">(Title of Proceeding) (File Number, if Applicable)</p>	

By the service of this subpoena upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

- (A) **APPEAR** before the U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), or U.S. Citizenship and Immigration Services (USCIS) Official named in Block 3 at the place, date, and time specified, to testify and give information relating to the matter indicated Block 2.
- (B) **PRODUCE** the records (books, papers, or other documents) indicated in Block 4, to the CBP, ICE, or USCIS Official named in Block 3 at the place, date, and time specified.

Misleading text. DHS needs a court order to enforce this subpoena

Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry relating to the enforcement of U.S. immigration laws. Failure to comply with this subpoena may subject you to an order of contempt by a federal District Court, as provided by 8 U.S.C. § 1225(d)(4)(B).

3. (A) CBP, ICE or USCIS Official before whom you are required to appear Name Title Immigration Officer Address USCIS 630 Sansome Street, Rm. 1220 San Francisco, California 94111 Telephone Number	(B) Date (C) Time 0900 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
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4. Records required to be produced for inspection This must request specific records and may not be a general request (e.g. "all employment records"). Review the scope of the request and only provide what is specifically asked for and nothing more

Must be signed by an immigration officer to be valid



If you have any questions regarding this subpoena, contact the CBP, ICE, or USCIS Official identified in Block 3.

5. Authorized Official

(Signature)
(Printed Name) Supervisory Immigration Officer
(Title)
(Date)