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.
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.”

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.

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

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.

- 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.
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.

<table>
<thead>
<tr>
<th>U.S. DEPARTMENT OF HOMELAND SECURITY</th>
<th>Warrant for Arrest of Alien</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No. __________________________</td>
<td>Date: ______________________</td>
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**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.

__________________________
(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 notice were read to him or her in the __________________________ language.

__________________________
Name and Signature of Officer

__________________________
Name or Number of Interpreter (if applicable)

Form I-200 (Rev. 09/18)

**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. This warrant is only valid to arrest the person indicated here.

**Must be signed by an immigration officer to be valid**
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.
An example of an immigration subpoena. This is not binding without a court order. You can decline to produce the requested records.

<table>
<thead>
<tr>
<th>1. To (Name, Address, City, State, Zip Code)</th>
<th>DEPARTMENT OF HOMELAND SECURITY</th>
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<tbody>
<tr>
<td>DEPARTMENT OF HOMELAND SECURITY</td>
<td>IMMIGRATION ENFORCEMENT SUBPOENA</td>
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<td>to Appear and/or Produce Records</td>
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<td>8 U.S.C. § 1225(d), 8 C.F.R. § 287.4</td>
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<td>Subpoena Number</td>
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<td>2. In Reference To</td>
<td>This section must specify a case or action</td>
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<td>(Title of Proceeding)</td>
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<tr>
<td>(File Number, if Applicable)</td>
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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 in 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.

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

3. (B) Date
   (C) Time 0900 ☑ a.m. ☐ p.m.

4. Records required to be produced for inspection

5. Authorized Official

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

<table>
<thead>
<tr>
<th>Signature</th>
<th>(Printed Name)</th>
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<tbody>
<tr>
<td></td>
<td>Supervisory Immigration Officer</td>
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<td>(Title)</td>
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DHS Form I-138 (6/09)

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