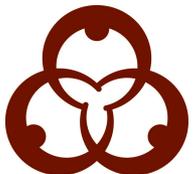


KNOW YOUR RIGHTS: IMMIGRATION AND HEALTH CARE MARCH 27TH, 2017

Heather Skrabak
Associate Director of Policy and Advocacy
Association of Asian Pacific Community Health
Organizations

Megan Essaheb
Associate Director of Immigration and Immigrant
Rights
Asian Americans Advancing Justice

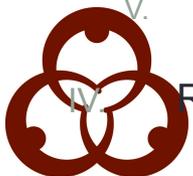
Elizabeth Oseguera
Senior Policy Analyst
CaliforniaHealth+ Advocates



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Agenda

- I. Overview of Recent Immigration Policy Changes
 - I. Campaign Promises
 - II. Administrative
- II. Know Your Rights: Patients
- III. Know Your Rights: Clinics
 - I. Sensitive Location
 - II. Private Space Designation
 - III. ICE and CBP Encounters
 - IV. Warrants
 - V. Making a Plan



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IV. Resources

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IMMIGRATION POLICY CHANGES



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Campaign Promises

- DACA would remain safe
- So-called “Criminals*” would be target of enforcement
- Specifically began campaign with border wall promise
- Campaign featured heavily a “Muslim Ban”
- Sanctuary Cities** would be ineligible for federal funds
 - *Intentionally misleading and stigmatizing term for persons with any sort of conviction. The lack of clarity as to who was considered “criminal” is also compounded by Obama administration enforcement issues. Many times we’ve seen that persons with very minor infractions are labeled as “criminal” to allow for them to be considered priority for enforcement. This is compounded by the disproportionate impact the criminal justice system has on persons without access to private counsel, in-language information or a strong safety net.
 - ** Difficult to determine what qualifies as “sanctuary city”, but generally those with policies in place to deprioritize federal immigration enforcement over state and local enforcement needs. Some cities have resolutions, official or unofficial policies, etc.



Administrative Changes

- Executive Orders:
 - “Enhancing Public Safety in the Interior of the United States”
 - Taking \$\$ from Sanctuary Cities
 - Funding more immigration officers
 - Starts office for victims of crimes by immigrants
 - “Border Security and Immigration Enforcement Improvement”
 - Funding for border wall between the U.S. and Mexico
 - Funding more Border Patrol agents
 - “Protecting the Nation From Foreign Terrorist Entry Into the United States” (Paused in February & Reissued in March)
 - 90 day suspension of immigrants from six Muslim-majority countries (Libya, Syria, Iran, Sudan, Yemen, and Somalia)
 - Stops all refugee entry for 120 days and lowers overall number



Administrative Changes

- U.S. Immigrations and Customs Enforcement (ICE)
 - Emboldening: Arresting Dreamer Dany Vargas leaving protest
 - Going after DACA: Daniel Ramirez Medina in Seattle
 - Going after those w minor criminal records: Jeanette Vizguerra
 - More ICE funding



KNOW YOUR RIGHTS: PATIENTS



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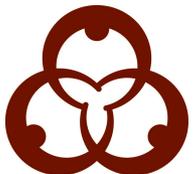
The Bill of Rights

- The Bill of Rights in the US Constitution applies to all persons on US soil (think 4th, 5th, 6th Amendments)
 - There are some exceptions related to when a person is considered “outside the country” or have never been admitted even if they are physically in the US (eg. at airports and borders)
- Deportation proceedings and immigrant detention is considered civil law, so immigrants are not entitled to a free attorney but they are entitled to an attorney if they want one
- Depending on the person’s status, manner of entry and time in the country they are entitled to various amounts of due process before being removed



Stops & Arrests

- Immigrants should carry a know your rights card and the number for an attorney or legal services organization (they could also call a friend/family member and should have a number memorized)
- Immigrants over 18 with valid documents are required to carry (eg. green card or other visa) those documents with them (keep copies with a friend or family member)
- Law enforcement officers (ICE, CPB, police, FBI, etc.) aren't supposed to stop a person without "reasonable suspicion" that they are in violation of the law



KYR: Stops & Arrests

- When immigrants are stopped or detained, they have the following rights:
 - For stops: ask ***“Am I free to go?”***
 - The Right to an Attorney (this is best right to invoke): ***“I want to speak to a lawyer before I answer your questions.”***
 - To remain silent (some states require that they give their name or name and address)
 - To refuse consent to be searched or have your property searched (house, apartment, car). Police may pat people down for weapons without consent and look for things in plain view.



KYR cont'd

- Law enforcement officers shouldn't be entering someone's home or private premises without permission or a warrant.
- If stopped driving, show driver's license, registration and proof of insurance.
- People should never lie about their citizenship status or provide false documents. If asked about status, people should ask whether they are free to leave and if detained, they should ask to speak to an attorney.
- Immigrants should never sign anything without speaking to a lawyer.



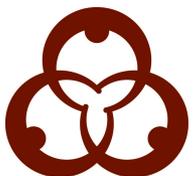
When Ice Comes to a Home

- If law enforcement officers come to a home, immigrants should keep the door closed, ask for a warrant and have them slip it under the door or hold it up to the window. It should say exactly who is to be arrested and what premises are allowed to be searched.
- Only a warrant signed by a **Federal or state judge** (it should have a court name at the top) allows officers to enter the premises without permission. ICE officers normally don't have these arrest warrants signed by judges, instead they have a deportation order with a person's name on it but that does not allow them to enter a private premises without permission.



Making a Plan

- Immigrants at risk of deportation (undocumented and LPRs with certain convictions) should be encouraged to **make a plan** with friends and family
 - What happens if a parent gets detained? Who picks up/takes care of children in the short term and long-term?
 - Make sure friends and family have your A number if you have one
 - Make sure someone knows where important documents are kept
 - Consider granting power of attorney to a trusted person for control of assets, eg. house, car, bank account
 - If you take medication, make sure someone knows where to find it and can bring it to you



KNOW YOUR RIGHTS: CLINICS

This information is not intended to constitute legal advice and should not be relied on in lieu of consultation with an immigration attorney



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Sensitive Location Designation

- U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) consider certain places to be considered “sensitive locations” and are advised to consult superiors, exigent circumstances or avoid doing enforcement activities in those places.
 - These include accredited **health clinics**, doctor’s offices, hospitals, and emergency or urgent care facilities
 - Also include places of worship, schools, religious or civil ceremonies or observances, and during public demonstrations
 - As designated in October 2011 for ICE (<http://bit.ly/2aTaTCZ>) and January 2013 for CBP (<http://bit.ly/2mTsaQc>); then clarified in FAQs available at (<http://bit.ly/2mOkk8j>)
 - Challenge: We are monitoring to make sure the administration doesn’t change these memos or clarification
 - However, it is clear the ICE and CBP are willing to arrest or monitor outside sensitive locations: Multiple men picked up outside church shelter in Alexandria, VA.



Private Space Designation

- From National Immigration Law Center:
 - “ICE’s ability to enforce the immigration law is limited by the protection against unreasonable search and seizure provided by the Fourth Amendment to the U.S. Constitution. Whether a search is reasonable under the Fourth Amendment depends on whether you have a reasonable expectation of privacy in the area to be searched. As a result, your patients may be more exposed in areas of your clinic that are open to the general public than in areas that are private.
 - Immigration agents may enter into a public area of your clinic, without a warrant or your consent, to question people they believe to be undocumented. In order to enter into a private area (not open to the general public), the agents must have a warrant or consent from an authorized person.”



Private Space Designation

- It may be helpful to solidify the waiting area as a private space
 - Establish a written internal policy identifying areas of the clinic as private and not open to the general public.
 - For example, the waiting room may be open only to patients and persons accompanying them, while the public must remain in areas outside the building.
 - Signage that says “Waiting room is for patients and persons accompanying them only” can also be posted.
- This type of designation would be useful to point to in the event of an ICE encounter



ICE and CBP Encounters

- It may be useful to designate one person to handle any encounters with law enforcement
 - Can also be per-shift; useful to be front desk/intake
- That person should be comfortable speaking to authorities and should get trained in how to verify a warrant
 - Can also train other staff on Know Your Rights info
- If enforcement attempt to enter a private area, the designated person should request a warrant. If it is indicated that they will return with a warrant, the designated person should be there at that time.
- Should also keep on-hand policies designating the clinic as “accredited health clinic” and “private waiting room”



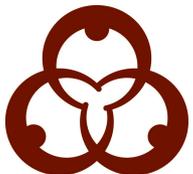
Warrants in Clinics

- When presented with a warrant, the designated law enforcement contacts should review the warrant for validity. A warrant is not valid unless it is signed by a judge and states the address of the specific premises to be searched. If the immigration agents have a valid warrant, they can enter into the private areas and question anyone present.
- Remind all patients and other persons present that they have the right not to answer any questions.
- Have staff role-play their responses to an immigration raid on the clinic, so they are prepared to respond confidently in a stressful situation.
- Be prepared to document all the facts about a raid, including any and all actions taken by ICE agents that may be unlawful, the names and badge numbers of ICE agents, and the names and dates of birth of detained immigrants.



Making a Plan

- Work with leadership internally to determine contacts with immigration rights groups, lawyers and local social justice groups.
 - Consider on the basis of “What is your first call after this happens?”
- Also consider your relationship with the media and if your health center is comfortable informing the media
- Post Know Your Rights information and posters in the waiting area – some in AANHPI languages are available to print off



Immigration Resources Available to Clinics

The information in this document is not meant to provide legal advice or to substitute for the guidance, counsel or advice of legal counsel on any matters particular to a specific primary care clinic.



CaliforniaHealth+ Advocates: Immigration Resource Page

- Know Your Rights information in various languages, including:
 - Tagalog - Arabic
 - Chinese - Vietnamese
 - Mongolian - Korean
- Advocacy, including immigration talking points that can be used for with legislative members or the press
- Resources for DACA and DACA employers
- Summary of Signed and Leaked Executive Orders
- Website: http://capca.nationbuilder.com/immigrant_resources

Know Your Rights Handouts

- [Know Your Rights](#) (Arabic) (National Immigrant Law Center)
- [Know Your Rights](#) (Arabic) (United We Dream)
- [Know Your Rights](#) (Chinese) (Asian Health Services)
- [Know Your Rights](#) (Vietnamese) (Asian Health Services)
- [Know Your Rights](#) (Tagalog) (Asian Health Services)
- [Know Your Rights](#) (Korean) (Asian Health Services)
- [Know Your Rights](#) (Mongolian) (Asian Health Services)
- [Know Your Rights](#) (Spanish) (CaliforniaHealth+ Advocates)
- [Know Your Rights Red Wallet Card](#) (Immigrant Legal Resource Center)

Advocacy: Immigration Talking Points

- Suggestions when Drafting Talking Points:
 - State the facts and the impacts honestly, but try not to vilify any particular group or person.
 - Provide the health perspective, i.e. give the reason why we need people to stay healthy and how that benefits society.
- Sample Talking Points:

‘President Trump’s Executive Orders on immigration, and those in draft form, will negatively impact the health of our communities. In fact, because the administration is painting immigration policies with such broad strokes, we have already started seeing patients cancel their appointments and dis-enroll from programs for which they are legally eligible, putting their health and the health of their community at risk.’

NILC's Guidance: DACA Renewals and New Applications

- **If you do *not* currently have DACA** and are considering whether to apply for it for the first time, **NILC recommends** that you consult with an immigration attorney or a Board of Immigration Appeals–accredited representative before you apply.
- **If you *already* have DACA** and are considering whether to apply to *renew* it, immigration authorities already have the information on your original application, so **there is less risk in submitting the renewal application than in submitting a first-time application**. NILC recommends that you consult with an immigration attorney or a Board of Immigration Appeals–accredited representative before submitting a renewal application.
- Guidance Link: <https://www.nilc.org/issues/daca/daca-after-trump-q-and-a/>

DACA and Medi-Cal

- Full Scope Medi-Cal Includes
 - Emergency Care
 - Hospitalization
 - Preventive and Wellness Services
 - Mental Health, Behavioral Health, and Substance Use Disorder Services
- Those Who Qualify Include: DACA, those with Temporary Protected Status (TPS), Permanent Residents, Undocumented Children and Youth, Refugees & Asylees
- Who does NOT Qualify: Undocumented immigrants and visitor, tourist, and student visa holders
- Resource:
<http://www.iibayarea.org/wp-content/uploads/2015/03/How-To-Enroll-in-Medi-Cal-DACA-v1.pdf>

Executive Orders: Impact to Clinics and Patients

- Due to the primary care workforce shortage in California, health centers rely on qualified healthcare providers who are authorized to work in the country under the terms of a visa. Any changes to the visa process that slow candidates' ability to initiate care will be detrimental to the health of our patients and communities.
- Immigration raid fears have become so acute that clinics are already seeing an increase in behavioral health and mental health conditions (i.e. depression, anxiety, stress, etc.) developing in our patients.
- Since the administration is painting immigration policies with such broad strokes, we have already started seeing patients cancel their appointments and inquire about dis-enrolling from programs for which they are legally eligible, putting their health and the health of their community at risk.
- Advocate's Summary of Executive Order: https://d3n8a8pro7vhmx.cloudfront.net/capca/pages/62/attachments/original/1487113009/CPCA-Summary_of_Immigration_EOs_Final.pdf?1487113009

Information for Clinics: The Rights of Clinics, Clinic Staff and Their Patients

- Establish a written policy identifying areas of the clinic as private and not open to the general public.
- Provide posters, Know Your Rights cards and educational materials advising patients of their rights.
- Have patients fill out a caregiver authorization affidavit for minor children. (affidavit can be found in English or Spanish. More information on the affidavit process can be found here).
- Designate a specific person or persons as responsible for handling contacts with law enforcement officials.
- More information at:
https://d3n8a8pro7vhmx.cloudfront.net/capca/pages/62/attachments/original/1489193117/2017_03_10_Info_for_Clinics_in_the_Event_of_an_Immigration_ICE_raid_Final.pdf?1489193117

Upcoming AAPCHO Member Webinars

- At the upcoming National Association of Community Health Centers P&I Conference:
 - “Immigration Considerations for Health Centers” at 8:00 AM on Saturday April 1, with speakers from the National Immigration Law Center and Feldesman Tucker Leifer Fidell LLP
 - “Latest Developments in Payment Reform and PRAPARE”
 - April 20th, 3:30 pm ET
 - Methods in Advocacy Storytelling Webinar
 - April 25th, 4:30 pm ET



ANY QUESTIONS?

Heather Skrabak hskrabak@aapcho.org

Megan Essaheb messaheb@advancingjustice-aajc.org

Elizabeth Oseguera liz@healthplusadvocates.org

