



Establishing Sanctuary Hospitals: Protecting the Right to Access Health Care

Physicians for Human Rights Fact Sheet

Introduction

With increasing frequency, Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) are conducting immigration enforcement activities in and near hospitals, interfering with the right of noncitizens to equal access to medical services. In a number of instances documented by Physicians for Human Rights (PHR), the presence of ICE and CBP officials in medical facilities diminishes the quality of patient care by disrupting treatment or recovery and by compromising patient confidentiality. As a result, many noncitizens fear possible interactions with immigration officials in medical facilities and are refusing to seek medical attention, putting themselves and others at greater health risk.

PHR has long advocated for the autonomous protection of medical facilities, and these instances of encroachment by ICE and CBP are an injustice to both medical professionals and their patients. Hospitals and medical facilities should be safe spaces where the well-being of patients is the main priority.

How Immigration Agents Interfere with Medical Treatment

- ICE officials removed a patient awaiting a neurological appointment from her hospital wheelchair and shackled her.
 - CBP stopped an ambulance containing a 10-year-old Cerebral Palsy patient in need of emergency surgery, then maintained custody throughout her procedure until discharge, when she was transferred to a detention center instead of into the care of her family.
 - CBP agents have searched vehicles, including ambulances, in hospital parking lots.
 - ICE & CBP have detained individuals who visited ill relatives or attempted to help loved ones seek medical attention, often leaving their loved ones to fend for themselves.
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Enforcement in Hospitals Violates Law and Policy

- On paper, ICE & CBP have a policy that treats medical care facilities as “sensitive locations,” where enforcement operations should be limited. Sensitive locations include, but are not limited to, medical treatment and health facilities, such as hospitals, doctors’ offices, accredited health clinics, and emergent or urgent care facilities.
- “Enforcement operations” incorporate apprehensions, arrests, interviews, searches, and surveillance for immigration purposes.
- How are enforcement operations restricted?

At the Border

- Greater latitude in “immediate vicinity” of the border (within 100-mile border zone.)
- Includes searches at points of entry and activities relative to a certainty that an individual just crossed the border.
- Agents required to exercise sound judgment and common sense when taking enforcement actions in border zone.

Elsewhere in the United States

- No enforcement operations absent: exigent circumstances (involving national security, terrorism, public safety, imminent risk of death or violence, or imminent risk of destruction of evidence pertaining to a criminal case)
- Prior approval from designated supervisor.
- Other law enforcement led agents to sensitive location.

Enforcement in Hospitals Violates Law and Policy

continued

- The “sensitive locations” policy is applied unevenly throughout the U.S.
- Officers, especially CBP, frequently seem to violate the policy.
- Other relevant laws and policies:
 - International Covenant on Economic, Social, and Cultural Rights Article 12(1) established the right of everyone to health and to access medical treatment.
 - Fourth Amendment – protects against unreasonable searches and seizures based on a reasonable expectation of privacy; requires a warrant for searches / arrests in private places.
 - Fourteenth Amendment – the Equal Protection Clause provides for equal protection of the law without discrimination.
 - Medical Ethics standards – mandate medical record confidentiality for immigrant patients and establish duty not to discriminate.

What You Can Do

Since medical facilities are now more likely to have encounters with ICE or CBP, staff should take steps to establish their facility as a “sanctuary” location, where immigrants can still seek medical attention without an enhanced risk of immigration consequences.

- Develop policies to safeguard immigrant rights:
 - All persons are welcome, irrespective of immigration status
 - Do not record immigration status on medical records
 - Do not disclose patient information protected by HIPAA without patient’s consent
 - Ensure patients of these policies to make them feel safe to seek medical services
- Educate staff on immigration issues, applicable laws, and ICE’s sensitive locations policy
- Prepare facility for ICE or CBP interaction
 - Designate staff members who will be the only people authorized to speak to immigration or law enforcement agents
 - Prepare said staff members to request a warrant from agents and to determine if one presented is valid
 - Create an alert system to inform staff of the presence of immigration officials
 - Develop a plan for responding to requests from ICE or CBP
- Report suspected violations by ICE or CBP to:
 - ICE Enforcement and Removal Operations via the Detention Reporting and Information Line at (888) 251-4024 or ERO.INFO@ice.dhs.gov
 - ICE Office of Diversity & Civil Rights, Civil Liberties Division, at (202) 732-0092 or ICE.Civil.Liberties@ice.dhs.gov

For More Information

- U.S. Immigration and Customs Enforcement, FAQ on Sensitive Locations and Courthouse Arrests, available at: <https://www.ice.gov/ero/enforcement/sensitive-loc> (last updated Jan. 31, 2018).
- Breanne L. Grace et al, The Violence of Uncertainty- Undermining Immigrant and Refugee Health, 10 N. Engl. J. Med. 379, 904 (Sep. 6, 2018) https://sc.edu/study/colleges_schools/socialwork/documents/bre_grace_new_england_journal_of_medicine_090618.pdf.
- Saadi, A., et al, Making the Case for Sanctuary Hospitals, JAMA Network, (Dec. 5, 2017) available at: <https://jamanetwork.com/journals/jama/article-abstract/2658246?redirect=true>.
- Jeff Sconyers & Tyler Tate, How Should Clinicians Treat Patients Who Might be Undocumented, 13 Am. Med. Ass’n. J. of Ethics 3, 229 (Mar. 2016).



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For more than 30 years, Physicians for Human Rights (PHR) has used science and the uniquely credible voices of medical professionals to document and call attention to severe human rights violations around the world. PHR, which shared the 1997 Nobel Peace Prize for its work to end the scourge of landmines, uses its investigations and expertise to advocate for persecuted health workers and facilities under attack, prevent torture, document mass atrocities, and hold those who violate human rights accountable.