

Navigating Immigration Enforcement in the Emergency Department

NOTE: The information in this document is general guidance only and does not constitute legal advice. State laws and facility policies can vary greatly—**consult your hospital’s administration or general counsel for more specific guidance.**

Overview

In 2021, the director of the U.S. Immigration and Customs Enforcement (ICE) issued an [internal memo](#) directing ICE officers to generally avoid conducting enforcement activities (such as arrests, interviews, searches, and surveillance) at protected areas, including hospitals, churches, and schools. Housed under the Department of Homeland Security (DHS), ICE is the federal agency responsible for identifying and eliminating border, economic, transportation, and infrastructure security vulnerabilities. On January 20, 2025, this internal ICE policy [was rescinded by DHS](#). Therefore, ICE officers are no longer discouraged from conducting enforcement activities in these areas, and the change could potentially lead to increased enforcement activities in these settings.

What Does This Mean for You?

- Although ICE officers are no longer discouraged from conducting enforcement activities at protected areas including hospitals, how a hospital responds to ICE should be no different today than it was previously. Hospitals should ensure they have and follow policies and procedures for interacting with ICE officials.
- ICE officials may enter a public area of a health care facility without a warrant or the facility’s consent and may question any person present. Anyone questioned under these circumstances has a right to remain silent. To enter a private area (an area not open to the public) of a health care facility or ED, enforcement officers must have either a warrant or consent from an authorized hospital staff person.
- Health care providers have no affirmative legal obligation under federal law to inquire into or report to federal immigration authorities on a patient’s immigration status*. Federal health information privacy laws including HIPAA prohibit hospitals, physicians, and other health care providers from disclosing patient information to ICE officers unless:
 - The patient signs a legally compliant “authorization for the release of information” form.
 - The officer provides a valid subpoena, subpoena duces tecum, search warrant lawfully issued to ICE, or court order (for medical information requests).
 - The officer provides a valid judicial warrant signed by a United States District Court judge or magistrate (for physical access requests).
 - Another law (including state law) may require disclosure.
- If ICE officers present themselves:
 - Remain calm and composed. Call your hospital counsel or other designated authorized staff, with whom you have prepared for any such interactions.
 - The appropriate, trained person should be the only interface with ICE. The hospital should have at least several people trained to do this as you cannot predict when they will show up and who will be on premises that day.
 - Be polite, but be clear that you understand the law, the organization is compliant, and ask them if they have a warrant.
 - If they do not have a warrant, keep them in the public space. While the officers have a right to question any person present, anyone questioned has a right to remain silent.
 - Do not confirm nor deny the presence of a particular patient to the ICE officer.
 - Be mindful of what is in “plain view”, as officers have the right to look at anything that is in “plain view” in a public area. This can include papers or files visible from the visitors’ side of the reception desk, for example. Any speech that officers can overhear unassisted while in a public area is also considered to be in “plain view”—even if it comes from a private area.

**Texas and Florida currently require hospitals to ask patients about their immigration status so they can report to the state the aggregate amount of uncompensated care provided to undocumented patients. In both states, hospitals must inform patients that no matter how they respond to immigration-related questions, they will receive care. Providers’ obligation to provide care under EMTALA is not affected by a patient’s decision not to provide their status.*

Work with your hospital:

Because state and local laws as well as hospital policies can vary, ask your hospital administration for guidance on how to navigate encounters with ICE and other law enforcement officials. Some aspects the guidance could address include:

- Which areas of the ED are designated as private areas. Access to private areas should be limited to people who are receiving or providing care, or are a necessary accompanying family member. For example, your hospital may choose to have the waiting room be open to the public while individuals must be invited to enter private exam areas; or, the waiting room itself may be a designated private area that is open only to patients and those accompanying them.
- Identification of specific staff to act as authorized persons to whom enforcement officers can be directed to appropriately navigate these encounters in line with hospital policy and relevant state and federal law.
- Training for all staff such as on:
 - How to inform immigration or other law enforcement officers that only the designated authorized staff member(s) is authorized to review a warrant or to consent to their entry into private areas.
 - Declining to answer questions agents pose about a patient unless authorized to do so by the designated staff member.
 - Avoiding any action that could be interpreted as consent by an officer.
 - Being cautious of what is in “public view”.
- Whether to include, or avoid inclusion of, any information related to a patient’s immigration status in the medical record or encounter notes.

Other Resources

Emergency physicians and other ED staff often interact with law enforcement personnel beyond ICE for a variety of reasons. For more information on navigating such encounters, please see ACEP’s toolkit “[Law Enforcement Presence in the Emergency Department.](#)”