



KNOW YOUR RIGHTS IN HOSPITALS

On Jan. 20, 2025, DHS issued a directive rescinding the protected areas policy that had previously provided relative safety from immigration enforcement in certain places providing essential services or activities. This included areas such as schools, places of worship and religious study, domestic violence shelters, places where disaster or emergency relief is being provided, and many more locations.

Rights of Immigrants

- Right to remain silent (Fifth Amendment)
 - Do not tell the officer your country of nationality.
 - Talk to a local advocate about whether you must produce identification.
- Reasonable expectation of privacy (Fourth Amendment)
 - ICE must have a judicial warrant or specific consent of a person to enter non-public areas.
- Right to refuse a search.
- Right to speak to an attorney.
- Right to refuse to sign documents.

**Please note that one must actively state that they are exercising these rights to ensure they are preserved (even if immigration enforcement does not adhere to them).*

Rights Specific to Medical Settings

- The Health Insurance Portability and Accountability Act of 1996 (HIPAA) has privacy laws that restrict covered entities from disclosing a patient's health information (PHI).
 - [The Network for Public Health Law](#) states that disclosing immigration status or country of origin alone would constitute PHI if used in combination with other information such as the patient's name or address.
- There are both civil and criminal penalties for HIPAA violations and can also result in professional discipline or licensing consequences.
- The [Fourth Amendment](#).
 - Individuals are free from illegal searches or seizures.
 - Reasonableness of the search dependent on expectation of privacy in the areas searched.
 - It is likely that a doctor's office or examination room has a reasonable expectation of privacy since it is not a public space; waiting areas or lobbies at a health center open to everyone will not have the same protections.
- The right to remain silent applies if an agent questions an immigrant in a health care facility.
- Immigrants do not have to consent to disclose their information.

Best Practices for Health Care Facilities

- Establish a written policy designating public and private areas, how to respond to immigration enforcement, and how immigrant patients are protected.
- Ensure the signage clearly shows public versus private areas.
- Designate specific staff to talk to ICE. Ensure all staff are trained to contact that person if ICE shows up and to tell ICE that they are not authorized to provide them with information or access to non-public areas.
- If the designated representative finds that the document is not signed by a judge or a magistrate, clearly state that the medical provider does not give immigration officers permission to enter private areas without a judicial warrant, which they do not have.
- The medical provider who receives a court order, warrant, subpoena, or summons should verify that it is valid by checking that the document was (1) signed by a judge or magistrate judge, (2) includes the date, (3) the address of the specific premises to be searched (for a search warrant), and (4) describes the specific items, information, or person being sought.

Protecting Information

- The medical provider may (and probably should) seek legal counsel before releasing the records.
- The medical provider should redact any portions of the document not covered by the specific request.
- Avoid collecting immigration status information ([Florida](#) and [Texas](#) have laws that require such collection, but there are ways to mitigate the harmful effects as stated in a [CLINIC explainer](#)).
- Ensure that information on immigrant patients is not left in "plain view" in public spaces as immigration enforcement is allowed to look at what is out.
- Have someone pay attention to what the enforcement agent(s) is doing to ensure they comply and stay within the parameters of the judicial warrant and do not try to exceed it. It is important to write down everything that is witnessed.
- Educate the community to understand how you protect their information.
- Know relevant state policies.