

LABOR-MANAGEMENT CHECKLIST

FOR INSTILLING TRUST WITH WORKERS AND PATIENTS AND FOR IMPLEMENTING THE CALIFORNIA ATTORNEY GENERAL'S MODEL POLICIES TO ASSIST HEALTHCARE FACILITIES

Introduction

More than 1 in 4 Californians – 10+ million people – are immigrants, making the state one of the most thriving, culturally-rich states in the country. Federal policies and enforcement practices under the first Trump administration led many immigrant families in California to feel deterred from using healthcare facilities because of fear that doing so would provoke immigration enforcement actions or other negative immigration consequences. **Those fears are renewed again under a second Trump administration.**

The state passed the California Values Act (SB 54) in 2017 to “limit assistance with immigration enforcement to the fullest extent possible consistent with federal and state law” at several kinds of public institutions, including healthcare facilities. On Dec. 4, 2024, the California Attorney General published revised guidelines to assist healthcare facilities in compliance with state and federal laws and to provide model policies for responding to immigration enforcement requests.

Protecting the Healthcare Workforce

- Recognize the critical role of every worker in maintaining a fully staffed workforce and commit to safeguarding employees to prevent disruptions caused by immigration-related issues.
- Develop and implement policies to prevent and actively oppose immigration enforcement actions on hospital or workplace grounds that are inconsistent with the U.S. Constitution, federal, and state laws.
- Do not discipline, put on leave, or fire any employee solely based on a Social Security “no-match” letter.
- Notify affected employees within 72 hours of receipt of I-9 audit notices.
- Provide employees with time off to address immigration status issues and guarantee return rights to their positions upon resolving immigration matters.

Establishing Trust with Patients

- Develop and publicly post signs and policies in languages commonly spoken in the local community.
- Assure patients that information will not be released for immigration enforcement purposes, except as required by law or court order.
- Inform patients of their privacy and constitutional rights, including the right to remain silent.

Protecting Patient Information

- Implement a policy that protects patient information so it is only disclosed when required by law.
- Train all staff and relevant volunteers to properly protect patient information.
- Designate a healthcare facility administrator to handle immigration issues and ensure privacy policies are followed.

Protecting Patient Information (continued)

- Establish a process for handling information requests by telephone, such as requiring a call-back process through publicly listed agency phone numbers and requiring staff and volunteers to immediately contact the healthcare facility administrator designated to handle immigration issues.
- Establish a process to respond to requests by immigration enforcement officers that includes determining and documenting:
 - The specific agency the request is from, including photocopying the officer's badge or card;
 - Documenting whether the requester has law enforcement power and if a document labeled "subpoena," "warrant," or "summons" has been issued by a court or judicial officer, and whether the request is narrowly tailored as required by HIPAA.
 - Documenting the specific types of protected health information the requester seeks and the reason for it, including any legal authority claimed; and
 - Any action taken in response to a request, including information that supported the decision to disclose or withhold patient information.

Keeping Healthcare Facilities Safe & Secure

- Establish a policy that no visitor—including immigration enforcement officers—shall enter or remain on facility grounds without having registered with the facility's designee unless they have a contractual or legal right to do so.
- Post signs at the entrances of the facility to notify outsiders of the requirements for registration.
- Establish and train staff to a policy that requires personnel to report entry by immigration enforcement officers to the designated healthcare facility administrator (including subpoenas, warrants, or court orders).
- Establish and train staff to a policy that staff take the following steps in response to an officer present at the healthcare facility for immigration enforcement purposes:
 1. Advise the officer that before proceeding with a request, staff must notify and receive direction from the designated administrator.
 2. Ask to see and note the officer's name and badge number and ask for the name and telephone number of the officer's supervisor.
 3. Ask the officer to explain the purpose of the visit and note the response, including copying any documents claiming to authorize facility access.
 4. Decline to answer questions posed and direct the officer to speak to the designated administrator.
 5. State that the facility does not consent to the officer's entry or search of the facility.
 6. Document the officer's actions in detail, but without interfering with the officer's movements, even if they appear to be acting improperly. Staff should submit an incident report immediately following the event.

CA AG Quick Reference Guide for Healthcare Facility Personnel

What Should You Do if an Immigration Enforcement Officer Comes to Your Healthcare Facility?

1. As soon as possible, notify the designated healthcare facility administrator (the person tasked with responding to immigration enforcement actions at the healthcare facility) of any request (including subpoenas, petitions, complaints, warrants, or court orders) by an immigration enforcement officer to access a healthcare facility or a patient, or any request for the review of healthcare facility documents.
2. Advise the officer that before proceeding with his or her request, you must first notify and receive direction from a designated healthcare facility administrator.
3. Ask to see, and make a copy of or note, the officer's credentials (name and badge number). Also ask for and copy or note the telephone number of the officer's supervisor.
4. Ask the officer to explain the purpose of the officer's visit, and note the response.
5. Ask the officer to produce any documentation that authorizes healthcare facility access.
6. Make copies of all documents provided by the officer.
7. Decline to answer questions posed by the officer and direct him or her to speak to the designated healthcare facility administrator.
8. State that the healthcare facility does not consent to entry of the healthcare facilities or portions thereof.
9. Without expressing consent, respond according to the requirements of the documentation. If the officer has:
 - An ICE administrative "warrant": Immediate compliance is not required. Inform the officer that the healthcare facility cannot respond to the warrant until after it has been reviewed by a designated administrator. Provide a copy of the warrant to the designated administrator as soon as possible.
 - A federal judicial warrant (either a search-and-seizure warrant or an arrest warrant): Prompt compliance usually is required, but where feasible, consult with legal counsel before responding.
 - A subpoena for the production of documents or other evidence: Immediate compliance is not required. Inform the officer that the healthcare facility cannot respond to the subpoena until after it has been reviewed by a designated administrator. Give your copy of the subpoena to the designated administrator or legal counsel as soon as possible.
 - A notice to appear: This document is not directed at the healthcare facility. There is no obligation to deliver this document or facilitate service to the person named in the document. If you get a copy of the document, give it to your designated healthcare facility administrator as soon as possible.
10. Document the officer's actions in as much detail as possible after he or she enters healthcare facility premises, but without interfering with the officer's movements.
11. If the officer orders staff to provide immediate access to facilities, comply with the officer's order and also immediately contact a designated administrator. Do not attempt to physically interfere with the officer, even if the officer appears to be acting without consent or appears to be exceeding the purported authority given by a warrant or other document. If an officer enters the premises without authority, healthcare facility personnel shall simply document the officer's actions while at the facility.
12. Healthcare facility staff should document the officer's actions while in [healthcare facility] premises in as much detail as possible, but without interfering with the officer's movements.
13. Healthcare facility staff should complete an incident report that includes the information gathered as described above and the officer's statements and actions.