Immigration Issues Impacting Patients & Providers in NC

September 2019
Today’s Presentation

As advocates for healthcare and immigrant families, we have an opportunity to fight **fear** with **facts**

*Protecting Immigrant Families*

**IMMIGRANT FAMILIES DESERVE TO LIVE WITH DIGNITY**

#PROTECTFAMILIES
Immigrants in the U.S.

40.8 MILLION IMMIGRANTS IN THE U.S.

- About $\frac{1}{2}$ are naturalized citizens, $\frac{1}{4}$ are lawfully present non-citizens, $\frac{1}{4}$ are undocumented.
- 51% have been in US longer than 15 years.
- 25% of all children in the US have at least one foreign born parent.
- 50% are Limited English Proficient (LEP) and speak English less than “very well”.

Legend:
- Latin America
- Asia
- Europe
- Africa
- Other
Common Immigration Statuses

- **Humanitarian Visas** - Asylees, Refugees, TPS, SIJS, VAWA, U Visa, T Visa
- **Non-immigrant Visas** – Students, Workers (no path to citizenship)
- **DACA** – Deferred Action for Childhood Arrivals (no path to citizenship)
- **Undocumented immigrants** – Individuals who lost permission to remain in the U.S., or entered the U.S. without permission
- **Lawful Permanent Residents** – green card holders
- **U.S. Citizens**
Shift in Federal Immigration Policies

1. Increasing enforcement
2. Removing legal protections
3. Reducing access to public benefits
Impact on Health

• Immigrant families, including those with lawful status, are experiencing resounding levels of fear and uncertainty.

• Increased fears are having significant negative effects on the health and well-being of children that have lifelong consequences.
  o Toxic Stress
  o Example from pediatrician in Durham

• Immigrant families have growing concerns about participating in public programs
  o Rampant misinformation
  o Example from Health Insurance Navigator in Charlotte
  o Mom’s waiting until 3rd trimester to seek care, returning breast pumps
Immigrant Access to Healthcare

- Noncitizens are significantly more likely than citizens to be uninsured
  - 23% of lawfully present immigrants and 45% of undocumented immigrants are uninsured compared to less than one in ten (8%) citizens
  - Children with at least one non-citizen parent are nearly twice as likely to be uninsured as those with citizen parents (7% vs. 4%)

- Recent changes in immigration policy are leading to increased fears that may lead to declines in coverage among immigrant families and their citizen children.
  - Most recent census data shows increase in uninsured rate for immigrants
  - 1 in 7 adults in immigrant families reported avoiding public benefit programs in 2018 (Urban Institute)

*Why? “It’s like trying to figure out which drop of water made you wet”*
WHAT YOU CAN DO

1. **Know your rights and your patients’ rights**

2. **Help patients understand their health coverage options**

3. **Document the harm and make your voice heard**
Immigration Enforcement in Healthcare Settings

• **What it looks like**
  - An arrest of an individual inside or outside of health space
  - Asking questions regarding immigration status of anyone in clinic
  - Hanging around parking lot

• **Sensitive Locations Policy:** Certain immigration enforcement action by immigration agents is discouraged at “sensitive locations”
  - Locations “at or near” – Places of worship; Health facilities, including hospitals and clinics; Schools, Funerals, weddings, and other public religious ceremonies; Public demonstrations (rallies, marches)
  - Currently just guidance from ICE & CBP – Legislation pending

• **Report violations!**
Provider’s Rights
When Encountering Immigration Agents

• Mark certain spaces as “Private: for patients & staff only”

• Determine who enters premises
  o If no warrant, you can refuse consent for them to enter private spaces
  o If there is a warrant, it should be a judicial warrant, have the name of the person they are looking for and your center’s address.

• Protect your patients’ health information
  o Information does not have to be released without a court document listing the type of records that you can release

• Don’t be intimidated!
  o Record interactions with ICE agents, ask questions, review the warrant, inform patients of right to remain silent, don’t consent to searches
Warrants

Judicial vs. Administrative

UNITED STATES DISTRICT COURT

Warrant of Removal/Deportation

To any officer of the United States Immigration and Naturalization Service:

[Redacted]

To any officer of the United States Immigration and Naturalization Service:

[Redacted]

United States v. [Redacted]

To any officer of the United States Immigration and Naturalization Service:

[Redacted]

To any officer of the United States Immigration and Naturalization Service:

[Redacted]
Patient’s Rights
When Encountering Immigration Agents

- Patient can **refuse to answer questions** until they have had a chance to consult with an attorney

- Patient can choose not to speak at all by saying “I want to remain silent”

- Patient can **decline to share information** about where they were born or how they entered the United States

- Patient can carry a **“know your rights” card** and provide it to immigration officers if stopped

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**KNOW YOUR RIGHTS!**
If you are stopped by immigration or the police:

- Hand this card to the officer, and remain silent.
- The card explains that you are exercising your right to refuse to answer any questions until you have talked with a lawyer.

**To: Immigration or Other Officer**
Right now I am choosing to exercise my legal rights.

- I will remain silent, and I refuse to answer your questions.
- If I am detained, I have the right to contact an attorney immediately.
- I refuse to sign anything without advice from an attorney.

Thank you.
Privacy of Personal Information In Medical Records

• **Under HIPAA, personal identifying information is protected**
  - Specific exceptions allow medical providers to disclose medical records without a patient’s consent for judicial and administrative proceedings and for law enforcement activities.

• **We do NOT recommend** –
  - Having any documents or records in public view
  - Asking questions about immigration status in public spaces
  - Collecting or recording any information containing a social security number, immigration status or national origin
WHAT YOU CAN DO

1. Know your rights and your patient’s rights

2. Help patients understand their health coverage options

3. Document the harm and make your voice heard
Health Coverage Eligibility in NC

- Lawfully present individuals with income below 400% of the poverty line are *likely to qualify for some type of subsidized health coverage* (Note: DACA recipients are not counted as “lawfully present” for this purpose)

- In NC, lawfully present pregnant women and children may qualify for Medicaid/CHIP without a waiting period

- Even if income is below the poverty line, immigrants may still qualify for Marketplace subsidies

- Social Security # not required for Medicaid/CHIP and ACA Marketplace applications
**Health Coverage
Addressing Common Concerns**

- Receipt of health coverage by a child **will NOT be held against them or their parents** in future immigration proceedings.

- Parents who are ineligible for Medicaid or Marketplace coverage based on their immigration status can still apply for their eligible children. *Note: Income of ineligible family members may still be counted.*

- Guidance from HHS and ICE exists to encourage mixed-status families to apply for health coverage:
  - DSS should not make inquiries into citizenship, immigration status and social security numbers of non-applicants.
  - Marketplace information will NOT be used to pursue immigration enforcement.
Health Coverage
Public Charge Concerns

• The “public charge test” is used by immigration officials to decide whether a person can enter the U.S. or get a green card (LPR status).

• The government is changing how it makes public charge decisions. Immigration officials will look more closely at factors like health, age, income, skills (including English language skills), and use of more public programs. Changes are scheduled to take effect 10/15.

• Families should still be encouraged to enroll in programs they qualify for
  o Marketplace coverage and CHIP are not included in public charge determination
  o Medicaid for children under 21 and pregnant women is not included in public charge determination
  o Most humanitarian immigrants are not subject to a public charge determination
  o Public charge does not apply to green card holders when they apply for citizenship
Example

• Mary entered the United States in 2008 without documentation. She was the victim of a robbery two years ago and was just approved for a U visa. She has one child who is a U.S. Citizen and is 3 years old. Her income is $10,000 per year.

• Because Mary is not pregnant, she will not qualify for Medicaid in NC. However, she can qualify for Marketplace Coverage with financial assistance (even though income below 100 FPL). Her son will qualify for Medicaid.

• Applying for and receiving health assistance will NOT be held against Mary and her son.
WHAT YOU CAN DO

1. Know your rights and your patient’s rights

2. Help patients understand their health coverage options

3. Stay informed and speak up
The Protecting Immigrant Families Campaign: Why We Came Together
The PIF Campaign – Join us!

Created in 2017 and Co-Chaired by:

CLASP
Policy Solutions That Work For Low-Income People

National Immigration Law Center

in partnership with 400+ Active Member Organizations

www.protectingimmigrantfamilies.org

Campaign Priorities

• Combat and document the chilling effect of Trump’s anti-immigrant agenda
• Empower immigrants and their families to make informed and accurate decisions
• Block and/or delay public charge proposed changes and other related harmful policies from taking effect
• Build power and support for our affirmative vision
Resources

For advocates and providers

• National Immigration Law Center (NILC) Health Toolkit:
  https://healthtoolkit.nilc.org/login  (must register for access)
• Fact Sheet: The Department of Homeland Security’s “Sensitive Locations” Policies
• Fact Sheet: Public Charge

For community members

• Pamphlet: Immigrant Access to Health & Nutrition programs in NC
  o  English  &  Spanish
• Flyer: “You have rights: Protect your health!”
  o  English, Spanish, Arabic, Chinese, French, Hindi, Korean, Vietnamese