

CLASP

Policy solutions that work for low-income people

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Immigration Issues Impacting Patients & Providers in NC

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Today's Presentation

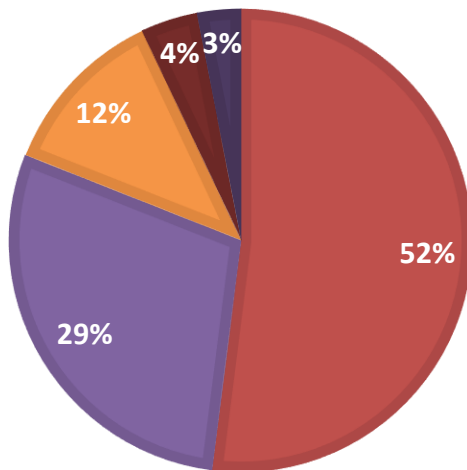
As advocates for healthcare and immigrant families, we have an opportunity to fight fear with facts



Immigrants in the U.S.

40.8 MILLION IMMIGRANTS IN THE U.S.

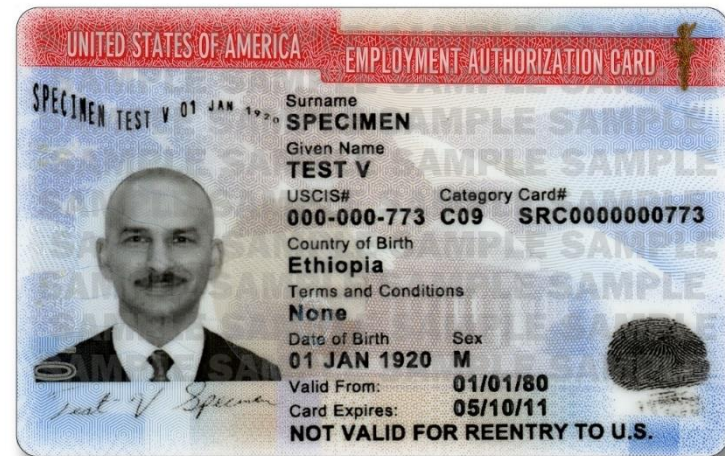
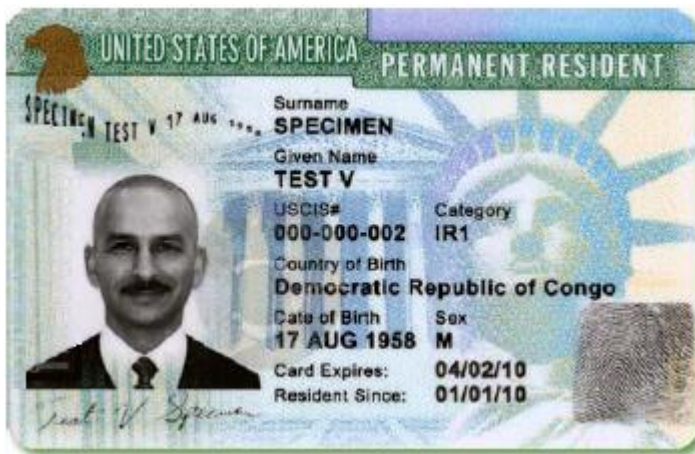
■ Latin America ■ Asia ■ Europe ■ Africa ■ Other



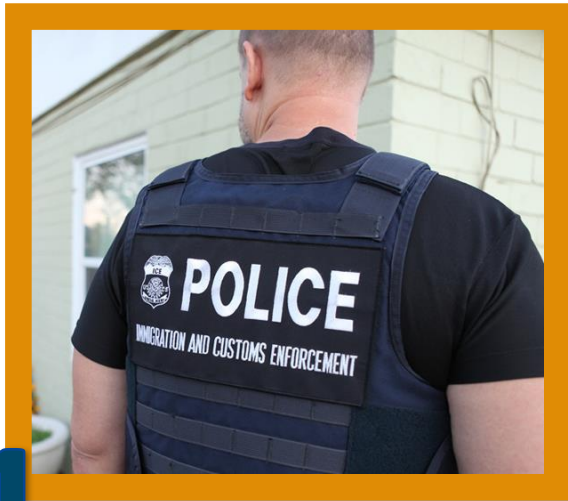
- About $\frac{1}{2}$ are naturalized citizens, $\frac{1}{4}$ are lawfully present non-citizens, $\frac{1}{4}$ are undocumented
- **51%** have been in US longer than 15 years
- **25%** of all children in the US have at least one foreign born parent
- **50%** are Limited English Proficient (LEP) and speak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

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.**
 - *Toxic Stress*
 - *Example from pediatrician in Durham*
- **Immigrant families have growing concerns about participating in public programs**
 - *Rampant misinformation*
 - *Example from Health Insurance Navigator in Charlotte*
 - *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**
 - If no warrant, you can refuse consent for them to enter private spaces
 - 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**
 - Information does not have to be released without a court document listing the type of records that you can release
- **Don't be intimidated!**
 - 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

AD-95 (Rev. 12/99) Search and Seizure Warrant

UNITED STATES DISTRICT COURT

for the
Eastern District of California

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

540 Oak Avenue
Davis, California 95615

Case No.

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

2:11-SW-0161 EFB

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the EASTERN District of CALIFORNIA
(Identify the person or describe the property to be searched and give its location):
SEE ATTACHMENT A, ATTACHED HERETO AND INCORPORATED BY REFERENCE

The person or property to be searched, described above, is believed to conceal (Identify the person or describe the property as he or she is):
SEE ATTACHMENT B, ATTACHED HERETO AND INCORPORATED BY REFERENCE

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property.

YOU ARE COMMANDED to execute this warrant on or before 5-9-2011
(not to exceed 14 days)

in the daytime 6:00 a.m. to 10 p.m. at any time in the day or night as I find reasonable cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to United States Magistrate Judge

(name)

I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box) for _____ days (not to exceed 30).

Until the facts justify, the later specific date of _____

Date and time issued: 4-25-2011
9:10:00 AM

City and state: SACRAMENTO, CALIFORNIA

Edmund F. Brennan
JUDGE'S SIGNATURE
EDMUND F. BRENNAN, U.S. MAGISTRATE JUDGE
Printed name and title

U.S. Department of Justice
Immigration and Naturalization Service

Warrant of Removal/Deportation

File No: _____

Date: _____

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

(Full name of alien)

who entered the United States at _____ on _____
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

- an Immigration Judge in exclusion, deportation, or removal proceedings
- a district director or a district director's designated official
- the Board of Immigration Appeals
- a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:
Section 241(a)(5) of the Immigration and Nationality Act(Act), as amended.

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of the appropriation. "Salaries and Expenses Immigration and Naturalization Service 2002," including the expense of an attendant if necessary.

(Signature of INS officer)

(Title of INS officer)

(Date and office location)

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

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**
 - Marketplace coverage and CHIP are not included in public charge determination
 - Medicaid for children under 21 and pregnant women is not included in public charge determination
 - Most humanitarian immigrants are not subject to a public charge determination
 - 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

CLASP

Policy Solutions That Work For Low-Income People



NATIONAL
IMMIGRATION
LAW CENTER



**PROTECTING
IMMIGRANT
FAMILIES**



The PIF Campaign – Join us!

Created in 2017 and
Co-Chaired by:

CLASP

Policy Solutions That Work For Low-Income People



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**
 - [English](#) & [Spanish](#)
- **Flyer: "You have rights: Protect your health!"**
 - [English](#), [Spanish](#), [Arabic](#), [Chinese](#), [French](#), [Hindi](#), [Korean](#), [Vietnamese](#)