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129 A - POLICY FOR RESPONDING TO IMMIGRATION ENFORCEMENT ISSUES

POLICY STATEMENT:

Contra Costa Health (CCH) is committed to everyone in need of and who are eligible for our services, regardless of immigration status.

The purpose of this policy is to provide guidance to CCH staff when responding to immigration enforcement activities. This includes guidance in monitoring and receiving visitors, addressing immigration officer presence at CCH facilities, notifying minor patients’ parents or guardians of immigration enforcement actions, and information sharing.

Unless required by state or federal law, CCH staff shall not allow any person to access the nonpublic areas of a CCH facility for immigration enforcement, unless the person has a valid judicial warrant or court order that specifically grants access to the nonpublic areas of the facility.

This policy applies to all CCH operated facilities including Contra Costa Regional Medical Center, Health Centers, Behavioral Health Clinics, including substance use treatment programs, Public Health Clinics, Homeless emergency and medical respite shelters and permanent supportive housing programs. This policy applies to all employees, medical staff, clinical residents, contractors, and volunteers.

CCH has onsite administrators at each facility to manage potential immigration enforcement issues. The role of these administrators is to ensure staff members and contractors are appropriately dealing with immigration enforcement inquiries and requests and are complying with internal procedures. Onsite administrators in need of guidance may contact the Chief Equity Officer in the Office of the Director at Gilbert.Salinas@cchealth.org. All CCH reception and frontline staff should have the name and contact information for their direct supervisor, who is available for each shift, and the contact information for the Sheriff’s Office. (See Attachment A for-contact info for the Sheriff.)

Although U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) are the federal agencies with primary responsibility for federal immigration enforcement, there are instances in which other agencies may also attempt to enforce immigration laws. **While the policy references immigration officers, the policy pertains to any law enforcement officer or agency attempting to enforce immigration laws.** While immigration officers typically wear uniforms, staff should be aware that an immigration officer may also appear in civilian clothing.

GUIDELINES:

Monitoring and Receiving Visitors at CCH Facilities

Immigration officers may enter public areas of CCH facilities without a warrant or consent and

may question any person present (with that person's consent). CCH staff should not interfere with immigration officer activity in a public area of a facility, though CCH staff should alert their on-site administrator and direct supervisor and if the direct supervisor is not available contact the onsite administrator of the presence of immigration officers in the facility and document the activity if feasible. This documentation may be in the form of an email addressed to the direct supervisor. Healthcare facilities must also maintain clear internal procedures for monitoring visitors, recording who enters the facility, and ensuring that access to different areas are properly managed.

No visitor, including immigration enforcement officers, shall enter or remain in non-public areas of a CCH facility without having registered with the facility, in accordance with the facility's rules and regulations regarding visitors. Non-public areas include treatment rooms, clinical spaces, private consultation areas, and any other locations where patients receive care. Such areas must be clearly designated through mapping, signage, key-entry systems, written policy, or a combination of these methods. If there are no exigent circumstances necessitating immediate action (such as urgent national security or public safety threat), and if the visitor does not possess a judicial warrant or court order that provides a basis for the visit, the visitor must provide the following information to the direct supervisor:

- Name, address, occupation.
- Age, if less than 21 years.
- Purpose in entering the healthcare facility.
- Proof of identity.

(The direct supervisor should attempt to obtain this information even if the visitor or officer presents a court order.)

Frontline and reception area staff should neither confirm nor deny the presence of a patient to an immigration officer, should refer the officer to their on-site administrator and direct supervisor, and proceed as set forth in Section (A). CCH staff shall report entry by immigration enforcement officers to their direct supervisor, as would be required for any unexpected or unscheduled outside visitor coming into the facility.

Responding to Immigration Law Enforcement Presence at CCH Facilities

CCH staff shall immediately notify their direct supervisor of any request (including subpoenas, complaints, warrants, or court orders) by an immigration enforcement officer to access a non-public area of a CCH facility or a patient, including to obtain information about a patient or a patient's family, or any request for the review of CCH documents. Please notify the Sheriff's office onsite security representative also.

A. Interaction Protocol

CCH staff shall take the following steps in response to an officer present at a CCH facility for immigration enforcement purposes:

1. Always remain calm and professional.
2. Advise the officer that before proceeding with the officer's request, CCH staff must first notify and receive directions from their direct supervisor.
3. Immediately contact their on-site administrator and direct supervisor for assistance. Decline to answer questions and wait for their direct supervisor or the onsite manager to arrive. Staff should provide their name and title to the officer if requested.
4. If possible, the direct supervisor should handle all steps that follow. If the direct supervisor at the site is not available, staff should contact the onsite manager.
5. Verify that the officer is an immigration officer (or another federal officer). Ask to see, and make a copy of or note, the officer's credentials (name, agency, and badge number).

- Also ask for and copy or note the name and telephone number of the officer's supervisor.
6. Ask the officer to explain the purpose of the officer's visit and note the response.
 7. Ask the officer to produce any documentation that authorizes CCH facility access.
 8. Make copies of all documents provided by the officer. The direct supervisor may ask another staff member to copy the information. The direct supervisor should assess the document and the circumstances, and consult with the County Counsel's Office as needed.
 9. If the circumstances warrant, advise the officer that the facility is not obstructing the officer's progress.
 10. State that CCH does not consent to entry to non-public areas of the facility. For law enforcement to access a private/restricted area within the facility, a valid judicial warrant is required absent exigent circumstances or consent. If an officer is in a public area or designated waiting room, the officer may remain in the area during normal clinic and hospital business hours.
 11. Without expressing consent, respond according to the requirements of the officer's documentation. See Section (B), below, regarding documentation categories and the appropriate response. Ask the officer to wait while the documents are reviewed.
 12. Document the officer's actions in as much detail as possible without interfering with the officer's movements.
 13. If the officer orders staff to provide immediate access to a non-public area of the facility, CCH staff should comply with the officer's order. CCH staff should 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. **CCH staff may say, "I do not consent and am not authorized to grant consent to any non-public area of the facility. You are required to wait in a designated waiting area or outside of the building (if no waiting area is available.) I will contact the appropriate hospital official. But because I have no other choice at this time, I will not interfere with your order".** If an officer enters a non-public area without authority, CCH personnel shall document the officer's actions.
 14. If the officer enters a non-public area of the facility, the direct supervisor should always accompany the officer while the officer is in the non-public area. If feasible, the direct supervisor should record the activities of the officer. The officer should be directed away from patients and confidential areas.
 15. If an immigration officer removes a patient or another individual, the direct supervisor may ask the officer where the individual is being taken and -must request information related to continuity of care if the removed person is a patient.
 16. If an immigration officer seizes records or other items, the direct supervisor should document which items are taken and request that the officer provide a receipt.
 17. The direct supervisor should complete an incident report that includes the information gathered as described above and the officer's statements and actions.

B. Documentation Categories and Response Protocol

An immigration officer may present any of the following documents:

1. A **federal judicial warrant** (either a search-and-seizure warrant or an arrest warrant; see Exhibits A.1 and A.2): A judicial warrant is issued by a "U.S. District Judge" or "U.S. Magistrate Judge" from "U.S. District Court". A judicial warrant is a court order that authorizes the search of property, seizure of property, or arrest based on probable cause.

A judicial warrant should specify an address, time for execution, the place or person to be searched for, and any items to be seized, all described with specificity. The warrant must be signed by a judge or magistrate judge to be valid. Prompt compliance usually is required, but where feasible, the on-site administrator and direct supervisor should notify

and consult with the County Counsel's Office before responding.

If the officer has a valid judicial warrant, the on-site administrator and direct supervisor should pay close attention and verbally object if officers go beyond the scope of their authority to search or seize objects as specified in the warrant (e.g., if the warrant allows a search of the emergency room, officers may not use the warrant to search private patient examination rooms). If possible, this verbal objection should be witnessed by at least one other staff member. The objection should be documented in writing and acknowledged by the staff members. If the officer orders staff to provide immediate access to a non-public area of the facility, CCH staff should comply with the officer's order. CCH staff should 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.

2. An **ICE administrative "warrant"** (see Exhibits B.1 and B.2): An administrative warrant is issued by the "Department of Homeland Security", an "Immigration Judge", or an "Immigration Officer".

If the direct supervisor has not yet arrived, inform the officer that CCH cannot respond to the warrant until it has been reviewed by the on-site administrator direct supervisor. Provide a copy of the warrant to the direct supervisor as soon as possible. Staff should not give ICE any information or allow ICE to enter any non-public areas of the facility. If ICE requests or attempts to access a non-public area, Staff should verbally deny ICE access to any non-public area of the facility and if possible, have this denial witnessed by at least one other staff member. The denial should be documented in writing and acknowledged by the staff members. If the officer orders staff to provide immediate access to a non-public area of the facility, CCH staff should comply with the officer's order. CCH staff should 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.

An administrative warrant does not give officers the authority to enter private areas or seize records.

3. A **subpoena** for production of documents or other evidence (see Exhibits C.1 and C.2): This is a document requesting documents or evidence. Immediate compliance is not required. CCH staff should not provide documents on the spot and should not consent to an officer search. Inform the officer that CCH cannot respond to the subpoena until it has been reviewed by an area supervisor and legal counsel. Staff should handle the subpoena pursuant to existing subpoena protocols. Staff is not required to give ICE any information or allow ICE to enter any non-public areas of the facility. If ICE requests or attempts to access a non-public area, Staff should verbally deny ICE access to any non-public area of the facility and if possible, have this denial witnessed by at least one other staff member. The denial should be documented in writing and acknowledged by the staff members. The direct supervisor should contact the onsite Administrator and the Office of the County Counsel for assistance as soon as possible following receipt of the subpoena.
4. A **notice to appear** (see Exhibit D): This is a document notifying a person of removal proceedings. This document is not directed at CCH. CCH staff should not deliver or facilitate service of this document to the person named in the document. CCH staff should not provide access to non-public areas to search. CCH staff should not give ICE any information. If ICE requests or attempts to access a non-public area, Staff should verbally deny ICE access to any non-public area of the facility and if possible, have this denial witnessed by at least one other staff member. The denial should be documented in writing and acknowledged by the staff members. The direct supervisor should notify the

onsite administrator of any notice to appear.

5. A **court order**: Staff should provide the court order to their direct supervisor. If ICE requests or attempts to access a non-public area, Staff should verbally deny ICE access to any non-public area of the facility and if possible, have this denial witnessed by at least one other staff member. The denial should be documented in writing and acknowledged by the staff members. The direct supervisor should notify the onsite Administrator who will consult with the County Counsel's Office regarding handling of the order.

Staff should review the specifications of any court order to ensure that it grants access to the particular paces that the officer wishes to enter at the time of execution, or grants access to a specific person.

Responding to Immigration Enforcement Present Out in the Field

A. Interaction Protocol

1. **Handling when staff meet with a client in their home and immigration enforcement officers arrive at the client's home.**
 - During any interaction, staff should ensure that their actions are consistent with the purpose of the client visit and do not exceed the scope of their employment.
 - Staff should not hide a client or assist the client in evading an officer.
 - Staff should not engage with immigration officers. If an officer asks a question, the staff member may state, "I am not authorized to answer any questions."
 - Staff may leave if they choose to do so. Staff may also observe the interaction if they are not interfering with officers' actions and it is safe to do so. Staff should prioritize their personal safety.
 - If immigration officers ask staff to move or leave, staff should do so.
 - If the client is detained, staff may ask the immigration officers where the client is being taken.
 - When the interaction concludes, staff should report the incident to their direct supervisor.
2. **Handling when staff meet with a client in a public space, such as a coffee shop or park, and immigration officers approach the client.**
 - Staff should conduct themselves as noted above.
 - If the meeting is at a business location and staff of the business direct people leave, staff should exit the building.
3. **Handling when immigration officers are present at a community event at which staff are in attendance (like a health fair).**
 - If the event is at a county facility, staff should proceed as stated in this policy under **Responding to Immigration Law Enforcement Presence at CCH Facilities.**
 - Otherwise, staff should conduct themselves as noted above.
 - If event or facility staff direct people to leave, staff should leave the area.
4. **Handling when immigration officers approach a county vehicle in which staff is transporting a client.**
 - As with any interaction with law enforcement:

- If staff believe that law enforcement is attempting to pull them over, staff should pull over and stop in a safe place, turn off the vehicle, and put their hands on the steering wheel.
 - If the officer approaches the vehicle, staff may ask the officer which agency they work for.
 - If asked, staff should show their driver's license, registration, and proof of insurance to the officer (through a partially opened window).
 - If the officer asks to search for the vehicle, staff may refuse consent to search. However, if the officer states they have the authority to search, staff should state they are not consenting to a search but otherwise follow the officer's directions.
 - Staff may ask if they are free to leave.
- Otherwise, staff should conduct themselves as noted above.

Parental Notification of Immigration Law Enforcement Actions

CCH staff must receive consent from a minor patient's parent or guardian (provided the child is not legally regarded as their own personal representative of their medical records) before a minor patient can be interviewed or searched by any officer seeking to enforce civil immigration laws at a CCH facility, unless the officer presents a valid, effective warrant signed by a judge, or presents a valid, effective court order. (See Documentation Categories and Response.)

CCH staff shall immediately notify the minor patient's parent, guardian, or the foster parent and social worker of a dependent child if a law enforcement officer requests or gains access to a patient for immigration enforcement purposes, unless such access followed a judicial warrant that restricts the disclosure of the information to the parent or guardian.

In the absence of a parent or guardian, CCH staff shall not permit access to the minor by any immigration enforcement officer until the parent or guardian is present. The facility shall assign a staff member to accompany the minor until the parent or guardian arrives at the facility.

Requests for Patient/Client Information and Information Sharing

California and federal laws and regulations give all patients or clients, regardless of immigration status, the right to keep their medical records private in most circumstances. CCH Health Information Management (HIM) will not release information to third parties for immigration enforcement purposes, except as required by law or court order. Immigration status and place of birth information is protected medical information under state law.

CCH staff should limit collecting information about immigration status, citizenship, and national origin to only what is necessary and required by law. CCH staff should avoid including this information in medical and billing records, limit collection to the individual seeking care, not their family members, and promptly respond to requests to remove such information from medical records, as permitted by law.

In connection with any information request issued for immigration enforcement purposes, CCH HIM staff should document and verify the following information:

- The specific agency the requester is from.
- The form of the request (e.g., subpoena, court order, etc.).
- Whether the requester is a law enforcement agency.
- The specific types of protected health information the requester seeks.
- The reason the requester wants the information, including any legal authority claimed.
- Whether the request requires patient notification and if so, whether the requester provided proof of notification.

CCH staff who receive a document labeled "subpoena," "warrant", or "order", should contact

their direct supervisor to determine if the document has been issued by a court or judicial officer, and whether the request for PHI is narrowly tailored as required by HIPAA. Requests received by mail or by email should be directed to the direct supervisor for initial handling.

The direct supervisor should notify the Chief Equity Officer, who will consult with the County Counsel's Office to help determine when and to what extent CCH is required to comply with requests that seek immigration-related information or are for, or appear to be for, immigration enforcement purposes.

If CCH is required to make a disclosure of patient information to immigration enforcement authorities without the patient's authorization in compliance with a court order, subpoena, or judicial warrant, HIM should document the disclosure in compliance with all existing CCH policies and procedures for such disclosures. Such documentation should include information that supported the decision to disclose the information. Disclosures to law enforcement are subject to the accounting-of-disclosures requirement under the HIPAA Privacy Rule.

Additional Provisions

CCH staff should ensure that patients have access to information about their privacy rights and inform them that their healthcare information is protected by federal and state laws by providing patients with the Notice of Privacy Practices pursuant to current CCH policy.

CCH staff should be cognizant of information that is in open view of the public, such as files and computer screens. Even without a warrant, immigration officers may examine anything in plain view, including conversation in private areas that can be heard from public areas. CCH staff should lock their computer screens when not in use.

Only onsite administrators have the authority to validate court orders or warrants and permit immigration officer entry into non-public areas. If the officer orders staff to provide immediate access to a non-public area of the facility, CCH staff should comply with the officer's order. CCH staff should 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.

With patient consent, staff may contact the patient's emergency contact to provide updates regarding their medical condition.

All public-facing staff, direct supervisors, and onsite administrators should be familiar with the provisions of this policy. It is the responsibility of the onsite administrators to ensure that all public-facing staff, including temporary staff, have read this policy and have been provided with training.

CCH staff should not:

- Act as interpreters for immigration officers.
- Hide patients or escort patients or others out of the facility to avoid contact with immigration officers or otherwise assist a person in evading immigration officers.
- Provide any false or misleading information to immigration officers.
- Provide patients or others with legal advice.
- Obstruct or interfere with immigration officers.

RELATED LINKS:

[Attachment A](#): Judicial and Administrative Warrant Samples

APPROVALS:

Joint Conference Committee:

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Chief Equity Officer: Gilbert Salinas

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