

## ICE Visits Q&A for Healthcare Employers, Hospitals, and Clinics

U.S. Immigration and Customs Enforcement (ICE) is the primary agency for immigration enforcement. Historically, ICE has focused on investigations within industries known to employ large numbers of undocumented workers and arrested unauthorized workers and/or audited I-9 files. ICE has historically maintained a policy limiting enforcement at certain “sensitive” or “protected” locations. As such, ICE enforcement at hospitals has been rare. On January 21, 2025, DHS rescinded this policy, meaning increased enforcement at hospitals is expected. The purpose of this Q&A is to help prepare healthcare employers and hospitals for the event they must interact with ICE.

### Q: What are the reasons for worksite visits?

A: The government could visit a worksite for different reasons, such as random selection through FDNS audits, I-9 audits, complaints or tips, extensions or changes of status requests, and/or employer obligations. These types of visits are directed more towards the employer, whereas ICE enforcement is directed more towards the patients as it could include arresting patients and seeking to obtain records or other patient information, including protected health information (PHI). It is possible that ICE may want to take more than one action in a given visit.

### Q: How should we prepare for an ICE visit at the hospital?

A: As best practice, you should have policies and practices on interactions with law enforcement. If you do have such a policy or practice, you should align them so that there is a unified approach. When dealing with ICE or other law enforcement agencies, the best practice is to:

- **Designate Points of Contact.**
  - Designate one individual as the “Hospital Liaison”, such as in-house counsel, as the encounter may require review of legal documents. Alternatively, designate a senior on-site administrator, or someone who has direct access to legal counsel.
  - Ensure all staff have the name and contact information for the Hospital Liaison.
  - Designate a “backup” Hospital Liaison.
- **Know Your Workforce.** The “Hospital Liaison” should understand your employee makeup and their immigration statuses; be knowledgeable about the hospital’s rights and responsibilities with respect to immigration enforcement activities and any changes to government policy. The Liaison should also be familiar with public and non-public areas of the hospital.

- **Organize Documents.** Keep organized and accessible records, including corporate documentation, visa petitions, STEM OPT training plans, LCAs, payroll records, and I-9 records.
- **Ensure Employee Awareness.** Inform employees of potential visits and their rights. Employees should confirm job title, duties, and salary, refer investigators to the designated representative, and avoid extraneous information.
- **Reinforce Facility Readiness.** Ensure compliance with OSHA standards and display required notices.

### Q: What should we do if ICE or a federal agent arrives at our workplace?

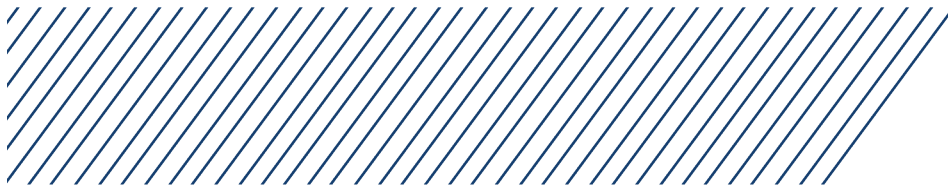
A: Remain professional and calm, as federal agents are trained to gather information, sometimes using persuasion or intimidation.

If you are not the Hospital Liaison, inform the agent of your workplace’s protocol for handling law enforcement requests and direct them to the Hospital Liaison. You may tell the agent that the hospital has a protocol for dealing with law enforcement requests and that you are not authorized to provide them with information or access to non-public areas of the facility. Politely ask to reschedule if the Hospital Liaison is not accessible at the time.

The Hospital Liaison should ask for the agent’s identification and business card and guide them to a private office or room away from public areas. This does not grant the agent consent to access the facility but allows for a private discussion about their purpose and whether they have any legal documents.

### Q: What should we ask the agent for?

A: You should ask the agent for identification and a business card. Verify that the agent is actually an ICE agent (they wear uniforms). Once verified, ask the agent if he or she has a subpoena or a warrant, if any. You should then ask the agent to wait while you have the document reviewed by an attorney (if you are not one). The hospital has a right to review any document that the agent says gives him or her the right to access non-public areas or hospital information.



**Q: How do subpoenas and warrants differ from each other?**

A: Subpoenas are generally used to obtain records or information or to compel someone to appear in court on a future date. Warrants are generally used to obtain immediate access to the premises and people, usually for activities like arrests, searches, and seizures.

Both types of court orders can either be signed by a government official (administrative subpoena or warrant) or a judge or magistrate (judicial subpoena or warrant).

An administrative subpoena or warrant does not require compliance.

A judicial subpoena or warrant requires compliance. If you are not presented a judicial warrant, you can decline to provide ICE with whatever it requests, whether it is access to non-public areas of the hospital or records/information.

**Q: Do we have to cooperate?**

A: This depends on which document the agent has presented to you, if any. A judicial warrant is the ONLY warrant that gives an ICE agent the right to enter non-public areas of a hospital. For this reason, it is important to be familiar with the public versus non-public areas of your hospital AND to designate areas as such.

Again, if you are not presented a judicial warrant, you can decline to provide ICE with whatever it requests, whether it is access to non-public areas of the hospital or records/information.

**Q: What is a “non-public” area of the hospital?**

A: Public areas of a hospital include lobbies, waiting areas, and any other places that are open to the public. Non-public areas of a hospital include anything not open to the public, such as treatment rooms, inpatient units, offices, etc.

**Q: What if an ICE agent says a patient needs to be arrested to avoid imminent harm or risk?**

A: An agent may say something to that effect (remember, the agent is trying to induce you to cooperate). Depending on the circumstances, the hospital may decide to cooperate with ICE. But remember, without a judicial warrant, cooperation is not required.

**Q: What if an ICE agent shows me a deportation order or arrest warrant for a patient?**

A: If the agent seeks to arrest someone, they may have a warrant or other document pertaining to that person. But the only document that will give an ICE agent the right to immediately enter a non-public area of a hospital is a warrant that has been signed by a judge specifically naming the location where the agent is permitted to enter to arrest the person.

**Q: What will ICE do if the hospital refuses to cooperate?**

A: ICE may decide to achieve its objective in another way that does not involve the hospital or ICE may go to a court, seek a judicial warrant, and return to the hospital.

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Please [contact](#) Garfinkel Immigration Law Firm for further guidance or assistance with worksite visits.

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*This Q&A is intended for informational purposes only and does not constitute legal advice.*

