**Employee Guidance Template**

**Will [ENTITY NAME] work with federal immigration officers to apprehend and remove individuals from [ENTITY NAME]?**

No. The jurisdiction to enforce federal immigration laws rests with the federal government and not with [ENTITY NAME] or [ENTITY NAME] employees. [ENTITY NAME] is devoted to providing a safe and secure environment and quality care to every member of our community, regardless of their immigration status. [ENTITY NAME] will not divert resources from this mission in order to assist with the enforcement of federal immigration laws.

**Can federal immigration enforcement officers enter [ENTITY NAME] premises?**

Federal immigration enforcement officers are free to enter areas of [ENTITY NAME] that are open to the general public. [ENTITY NAME] does not have the authority to prohibit federal immigration officers from entering areas of [ENTITY NAME] that are open to the public to enforce immigration laws.

However, federal immigration officers have to present a judicial warrant in order to enter “limited access areas” without consent. Public access is limited in limited access areas because of privacy concerns, operational needs or safety considerations. Spaces in which access is physically restricted, such as by key card, locked doors or monitored entryways, fall into this category. Limited access spaces also include some that may normally be left unlocked during the workday, including, for example, administrative or staff offices, hospital inpatient rooms, clinic exam rooms, maintenance areas, and storage facilities.

[ENTITY NAME] employees are not required to affirmatively assist federal immigration authorities or grant permission to enter limited access space when officers do not have a judicial warrant to enter, and it is appropriate to seek guidance from [LEGAL DEPARTMENT] to understand your duties in particular circumstances. However, federal law prohibits you from hiding evidence, concealing or hiding individuals who are the subjects of law enforcement activity, or interfering with an arrest. Further, you should not put yourself in physical danger

If a federal immigration enforcement officer seeks to enter a limited access area in your workplace, such as patient rooms, treatment areas or closed wards, contact the [SENIOR OFFICIAL/ADMINISTRATOR ON CALL] to whom you would ordinarily direct surveyors appearing for unannounced inspections. You should also contact [LEGAL DEPARTMENT] to advise you and to review any warrants or subpoenas and determine whether entry is permitted or required. Ask the officer for their name, identification number and agency affiliation; inform the officer that you are not obstructing their process but need to consult with your [SENIOR OFFICIAL/ADMINISTRATOR ON CALL] and contact [LEGAL DEPARTMENT (NAME/CONTACT INFO)] for assistance.

**What federal immigration enforcement officers might seek access to [ENTITY NAME], and what authority do they have?**

The immigration officers who seek to apprehend, detain, and deport individuals that are unlawfully present in the United States are most often officers of U.S. Immigration and Customs Enforcement (ICE), who are part of the agency’s Enforcement and Removal Operations (ERO). U.S. Customs and Border Protection (CBP) officers could also seek to apprehend and remove individuals. These ICE and CBP officers work for the Department of Homeland Security (DHS) and they are typically acting on civil, not criminal, authority. The warrants these officers carry to apprehend individuals are generally administrative warrants that do not authorize officers to enter limited access areas of the facility without consent.

In some cases, ICE and CBP officers may be exercising criminal enforcement powers or may work with criminal law enforcement officers who may present a criminal arrest or search warrant that gives them greater authority to enter areas of [ENTITY NAME] that are not open to the general public. Execution of judicial warrants does not require consent.

**Will federal immigration enforcement agencies target [ENTITY NAME]?**

We do not know whether federal immigration enforcement agencies will conduct enforcement activities at [ENTITY NAME]. Under the Obama administration, the Department of Homeland Security (DHS) issued memos to ICE and CBP officers providing that arrests, interviews, searches and surveillance should not generally focus on “sensitive locations,” including hospitals and other health care facilities. A DHS “Q&A” dated February 21, 2017 indicates that the “sensitive locations” guidance memos remain in effect. However, these memos could be withdrawn or immigration enforcement officers could fail to follow them. Even while they are in effect, they do not provide a guarantee that ICE and CBP will never take these disfavored actions at [ENTITY NAME]. In fact, the sensitive locations guidance is subject to explicit exceptions for enforcement actions involving national security or terrorism matters, or involving the immediate arrest or pursuit of a “dangerous felon, terrorist subject, or [others who] present an imminent danger to public safety.”

**What should I do if a federal immigration enforcement officer presents me with a warrant?**

If you are presented with a warrant by a federal immigration enforcement officer seeking to enter limited access areas of [ENTITY NAME] property, take steps to ensure that the immigration enforcement officers have authority to enter the property before admitting them. As noted above, civil and administrative warrants do not authorize entry without consent, but a criminal search or arrest warrant may authorize entry without consent. Because it can be difficult to distinguish among different kinds of warrants, ask the officer for their name, identification number and agency affiliation; ask for a copy of the warrant or subpoena presented, inform the officer that you are not obstructing their process but need to consult with your [SENIOR OFFICIAL/ADMINISTRATOR ON CALL] and contact [LEGAL DEPARTMENT (NAME/CONTACT INFO)] for assistance.

**What should I do if a federal officer asks me for or gives me a subpoena for personally identifiable private information or records about a patient?**

Personal and personally identifiable information in [ENTITY NAME] records, and those records themselves, are protected by a wide variety of privacy laws, including the Health Insurance Privacy and Accountability Act [HIPAA]. In addition, under the Social Security Act, information an individual provides for the purposes of applying for health coverage programs like Medicaid and CHP+ may *only* be used for the purposes of determining eligibility and may not be used for immigration enforcement purposes.

As a [ENTITY NAME] employee, you are required to maintain the confidentiality of personal and personally identifiable information, and records containing such information. [ENTITY NAME] generally requires federal immigration enforcement officers and other law enforcement officers to produce a valid subpoena authorizing the disclosure of patient records that contain personal or personally identifiable information. Federal officers generally have no greater access to [ENTITY NAME] records than any member of the public unless they have a valid judicial subpoena.

If you receive a request for personal or personally identifiable information or records containing such information, or if a federal immigration enforcement officer gives you a warrant or subpoena seeking such records or information, you should take steps to ensure that you have authority to provide access to the specified records or information. Ask the officer for their name, identification number and agency affiliation; ask for a copy of any warrant or subpoena presented, inform the officer that you are not obstructing their process but need to consult with your [SENIOR OFFICIAL/ADMINISTRATOR ON CALL] and contact [LEGAL DEPARTMENT (NAME/CONTACT INFO)] for assistance.

The law generally requires disclosure to federal immigration enforcement officials if they produce a judicial warrant or subpoena authorizing the disclosure of patient records containing protected health information. HIPAA permits disclosures that are required by other laws. HIPAA also permits, but does not require, disclosure in other circumstances — e.g., where the law enforcement official is seeking a fugitive or person suspected of committing a crime, where the health care facility suspects that a crime has been committed on the premises, and other circumstances. (Different rules may apply to a subpoena or judicial warrant for psychotherapy notes or records.) Contact the [SENIOR OFFICIAL/ADMINISTRATOR ON CALL] to whom employees ordinarily would direct surveyors appearing for unannounced inspections if any law enforcement official requests access to patient records. As noted above, ask the officer for their name, identification number and agency affiliation; ask for a copy of any warrant or subpoena; inform the officer that you are not obstructing their process but need to consult with your [SENIOR OFFICIAL/ADMINISTRATOR ON CALL] and contact [LEGAL DEPARTMENT (NAME/CONTACT INFO)] for assistance.