



Notes from the Field

JANUARY 2018

ITUP Regional Workgroups Tell the Story

Immigrant Communities in California Under the Cloud of Immigration Enforcement

A man in his forties arrived at the emergency room of a Los Angeles hospital, along with an elderly man who was weak and experiencing physical distress. The young man shared with hospital staff that his companion was a client on his tour bus. The old man was admitted to the emergency department and diagnosed with advanced sepsis. As the young man waited in the emergency room lobby, unable to be in the treating area because hospital staff believed him to be a non-family member, a nurse noticed that he was extremely upset, even tearful. She questioned him further until he finally revealed that the old man was his father and both men were undocumented. Fearing the possibility of deportation, they had delayed seeking medical treatment. The two men were reunited at the bedside just moments before the old man passed away. (Shared by a participant at the June 2017 Insure the Uninsured Project [ITUP] Los Angeles Health Care Collaborative.)

In 2017, ITUP hosted annual workgroups throughout California, 10 regional workgroups and two collaboratives in Los Angeles. During these convenings, ITUP provided timely updates on federal and state health reform and heard from attendees about the coverage gains around the state, as well as the challenges looming from potential federal rollbacks of essential health programs.

ITUP also recognized the current challenges around California in addressing the health care needs of immigrant communities given the increasingly hostile political climate and stepped up federal immigration enforcement. ITUP engaged workgroup attendees, including health care providers and immigrant rights advocates, who described the work in communities to overcome the barriers that discourage immigrants from seeking health and social services.

Workgroup participants discussed increased federal immigration enforcement activity creating heightened fear and stress among immigrants, but also emphasized the resilience and strength of immigrant families. Undocumented individuals and other immigrant attendees demonstrated this fortitude by sharing compelling firsthand experiences, including the impacts of the persistent threat of deportation.

This report includes background on the legal complexities at the intersection of immigration policy and health access, including the recent shift in federal immigration enforcement policies, and highlights key themes from the workgroup discussions.

DEFINITIONS

ITUP uses the following definitions in this report:

Deferred Action for Childhood Arrivals. A federal policy allowing temporary relief from deportation for undocumented immigrants who arrived in the United States (US) as children and meet certain criteria.

Lawful Permanent Resident (LPR). A non-citizen granted authorization to live and work in the US on a permanent basis.

Public charge. “Public charge is a legal concept that underlies the requirement that immigrants seeking to enter the US or to obtain a green card must show that, based on all their circumstances, they are not likely to rely on the government for subsistence in the future.”¹ Immigrants in several categories are not subject to a public charge determination, such as refugees, asylees, and survivors of trafficking or domestic violence. Immigrants who already have legal status, including LPRs, are not subject to this requirement.

Permanently Residing Under Color of Law (PRUCOL). PRUCOL is a public benefits eligibility category under which certain undocumented immigrants known to federal authorities can apply for Medicaid in some states. In California, and various other states, individuals that meet the conditions for PRUCOL status are eligible for state-funded, full-scope Medicaid (Medi-Cal in California). Most undocumented immigrants are ineligible for full-scope Medicaid. PRUCOL is *not* an immigration status.

Sensitive locations. Since October 2011, US Immigration and Customs Enforcement (ICE) policy states that immigration enforcement actions, such as ICE searches, interviews, arrests, and surveillance, must be avoided in sensitive locations, unless exigent circumstances exist (requiring an emergency response to immediate danger or threat of harm) or other officers have prior approval from certain officials within the enforcement agencies.² Sensitive locations include health facilities, schools, places of worship, and political demonstrations.

Public Opinion on Immigration in California and the United States

As workgroup participants made clear, most Californians believe immigrant communities, including undocumented individuals, make the state stronger. In addition, public opinion in California reflects support for undocumented immigrants. Many health care stakeholders around the state remain committed to ensuring the immigrant community has access to the health and support services needed to ensure their health and well-being.

Attitudes in California toward undocumented immigrants reflect a growing trend nationally. A 2016 Gallup survey asked participants about the role of the US government in dealing with “illegal immigration” and found that 45 percent of Americans saw the government’s role as halting the flow of “illegal” immigrants, while 51 percent want the government to address immigrants in the US without authorization.³ The same poll found a majority of Americans (84 percent) favored a pathway to legalization for undocumented immigrants.

Similarly, a 2017 survey found 85 percent of Californians agreed that undocumented immigrants living in the US should be allowed to stay legally (see Figure 1). A significant plurality of California residents continues to support a path to legalization for undocumented immigrants living in the US.⁴ California legislative leaders passed resolutions condemning increases in federal immigration enforcement activities and established legal funds to assist immigrants in protecting their rights. Support for all immigrants shaped California’s response to the shifting political landscape.

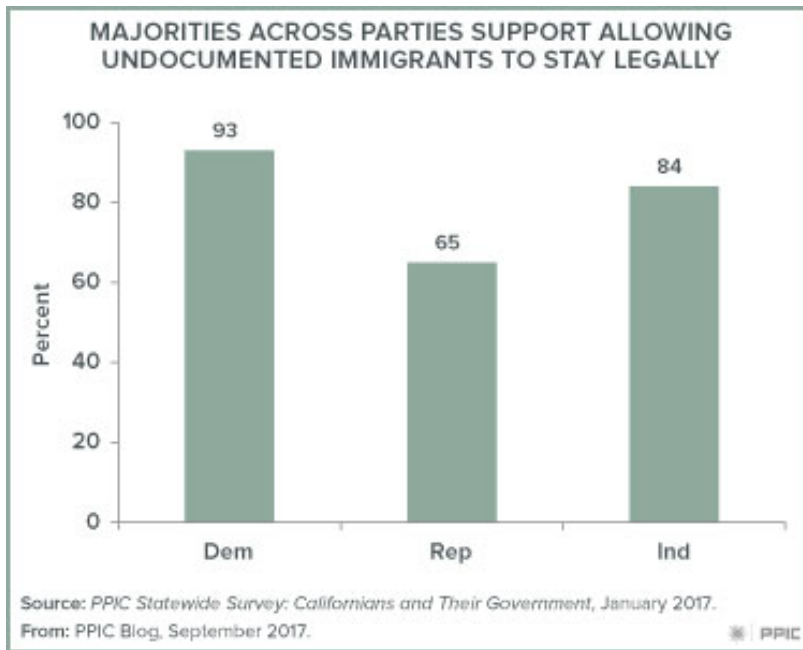


Figure 1

Intersection of Immigration Policy and Access to Health Care Services

States can create a favorable environment for immigrant communities by limiting or expanding eligibility for services based on immigration status. However, because the primary policymaking authority for immigration lies with the federal government, federal administrations heavily influence the political climate for immigrants. Federal administrations can promote national immigration policies with positive principles and values, such as favoring family reunification and promoting access to services, or adopt hostile policies toward immigrants, such as limiting access to federally funded programs.

Federal Immigration Policies and Health Care Access

State and local policies impacting immigrant access to care often respond directly to actions at the federal level to limit access. For example, because of federal limitations, certain immigrant groups can access health care programs jointly funded by state and federal partnerships, while other immigrant groups cannot. The 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) imposed federal limits on eligibility for some federally sponsored health programs for many *Lawful Permanent Residents* (LPRs). Most LPRs can access health insurance through their employer, the individual market, or government-sponsored programs such as Medicaid (Medi-Cal). However, many LPRs who secured legal status post-PRWORA must wait five years before becoming eligible for federally-funded Medicaid or State Children’s Health Insurance Program benefits. States can use state funds to provide these benefits to immigrants during the five-year waiting period.⁵

While the Affordable Care Act (ACA) successfully expanded health coverage for many uninsured Americans, the ACA prohibits undocumented individuals from purchasing coverage or receiving federal subsidies through state exchanges. The inability to participate in state exchanges extends to undocumented immigrants with unique status, such as Deferred Action for Childhood Arrivals (DACA) recipients. Those participating in the DACA program – which grants individuals a temporary work permit and Social Security number, and temporary protection from the threat of deportation – remain ineligible

for most federal health care programs, including federally-funded Medicaid. States can elect to use state funds to provide services to this population and other undocumented immigrants.

Early in the Trump Administration, a leaked draft Executive Order (EO) signaled a potential change in federal rules related to *public charge*. In 1999, the Clinton Administration issued policy guidance defining public charge and included services that would be considered in a public charge determination.⁶ The policy guidance defined only a few health care services, such as long-term institutionalized care, as contributing to a public charge determination. The draft EO significantly expanded the type of public benefits, including Medicaid, that would be considered in a public charge determination. While the draft EO was not issued, ITUP workgroup participants emphasized that the leaked document contributed to the climate of uncertainty and fear that continues to impede immigrant communities from accessing services. (According to information from the Federal Office of Information and Regulatory Affairs, federal agencies are drafting new regulations on public charge for potential release in 2018.)⁷

California Policies in Support of Immigrants

California has historically utilized state funds to fill gaps in health coverage for immigrants and enacted policies more supportive of immigrants than the federal government and many other states. Prior to PRWORA, California provided full-scope Medi-Cal coverage to low-income LPRs, regardless of their date of entry, and maintained this coverage with state-only funds after PRWORA was enacted.⁸ In 2016, California also extended Medi-Cal eligibility to undocumented children and has considered multiple proposals to cover undocumented adults.

Some years ago, the federal government increased efforts to engage state and local law enforcement on immigration enforcement through a program called “S-Comm.” The S-Comm program allows ICE officials to act once an individual is booked into custody by state or local officials and identified as undocumented.⁹ Under S-Comm, individuals taken into custody, even those mistakenly accused of criminal activity or those cooperating with the police, can be detained and referred to federal immigration authorities and placed in deportation proceedings. Immigrant advocates and policymakers raised concerns that immigrants, including survivors of domestic violence, might be unwilling to risk separation from their families and deportation by cooperating with local law enforcement for any reason. In addition, there were concerns that S-Comm could seriously undercut community policing strategies.¹⁰ To address the concerns, California enacted the Trust Act, Assembly Bill 4 (Ammiano), Chapter 570, Statutes of 2013, limiting unreasonable and costly immigration “hold” requests in local jails. The Trust Act sought to alleviate deportation concerns among immigrant crime victims and witnesses.¹¹

With the belief that California is better served by an immigrant population that views local law enforcement as an ally and not an enemy, many California county laws and policies have established restrictions on the relationship between local authorities and ICE officials. With the changed political environment for immigrants, in October 2017, California leaders reaffirmed this position by enacting Senate Bill (SB) 54 (de León), Chapter 495, Statutes of 2017.

SB 54, also known as the California Value Act, builds on the Trust Act by declaring California a “sanctuary state” and promoting the safety and well-being of all Californians regardless of immigration status. The law places restrictions on collaboration between local police and sheriffs and federal immigration officials and restricts state and local funds from being used to investigate, detain, detect, or arrest

people for immigration enforcement purposes. Moreover, the California Value Act reinforces the idea of “safe spaces” (areas where all individuals should feel safe and secure), such as health care facilities, courthouses, and schools. The California Value Act requires the California Attorney General to publish model policies for state and county health care facilities, court houses, and public schools to enforce restrictions on immigration enforcement in these “safe zones.”

ITUP Regional Workgroups Tell the Story

Regional workgroup participants across the state confirmed that stories and news accounts about ICE raids and detention of immigrants have spread quickly through media outlets and the strong informal communication network among immigrants.

Workgroup attendees noted that indiscriminate immigration enforcement, including prioritizing virtually all unauthorized immigrants for deportation, in contrast to the previous administration which focused primarily on those with criminal histories, compromises a sense of safety for immigrants in workplaces, schools, and communities. Public comments about building a wall on the US/Mexico border, travel bans targeting predominantly Muslim countries, and the decision to phase out the DACA program have contributed to the climate of anxiety, fear, and distrust among immigrants.

Attendees pointed out that the uncertainty and threat of disruption for families also takes a toll on the health and mental health of affected families, especially young children, who may not fully understand the circumstances. Health and social service providers reported children who had difficulty sleeping and performing in school. Workgroup attendees shared compelling stories about interactions with immigrants in communities including the following:

A community worker was conducting a regularly scheduled home visit in the Fresno area with a patient struggling to manage their diabetes. The worker was well known to the family and always brought a small treat for the 4-year old girl who lived in the house. On this visit, after the session with the patient ended, the worker looked around for the child who she had not yet seen. The child's mother went to look for her and found the young girl making a neat pile of toys and favorite clothing items on the corner of her bed. The mother asked, “Mija, what are you doing?” The child responded, “I want to be ready when they come to take us away.”

A man in a northern rural community ran into a neighbor at the local hardware store and noticed that his friend seemed very upset. As they talked, the neighbor revealed that his five-year-old son had recently been experiencing persistent stomachaches. After the doctor could find no reason for the boy's pains, he asked if something was bothering the child. After some prompting, the young boy shared that one of his kindergarten classmates told him they could no longer be friends because he was a Mexican who was going to have to go back to Mexico with his parents.

Despite the chilling stories, immigrants and advocates pointed out that the current negative climate is not an entirely new experience. Immigrants over time have been faced with dramatic shifts in public sentiment and resulting painful policies many times. They are survivors.

Local Activities and Responses

Workgroup attendees highlighted efforts in communities around the state to engage and support immigrant families through education about their rights and ensuring they are aware of available local resources. Community agencies consistently share information and are strengthening partnerships and collaborations.

For example, immigrant rights groups are partnering with health care providers to improve knowledge and understanding about sensitive locations, including health care facilities, schools, and courthouses. In addition, community groups reported that they were implementing organizational policies designating as much of their facilities as possible as private/safe spaces to further strengthen protections for immigrant clients.

At the same time, regional workgroup participants continued to report alarming trends. At all regional workgroups, participants recounted incidences of families looking to disenroll from government programs, including Medi-Cal, in fear that the privacy of application information may not be protected or could lead to public charge determinations in the future. Enrollment agents often spend considerable time with families, sometimes in repeat visits, working to answer questions and provide assurances where possible. In addition, state and local partners are sharing valuable information about the privacy protections under the Health Insurance Portability and Accountability Act as well as other “know-your-rights” information. Sometimes the efforts are successful but in some cases clients insist on withdrawing from the programs.

Conclusion

Public opinion polls show that the majority of Californians support immigrants and do not agree with the shift in tone or approach at the federal level. Health care providers and community workers around the state demonstrate daily their commitment to serve and support immigrants in securing the services they need to preserve and improve their health and well-being. ITUP workgroup attendees emphasized the importance of ongoing collaborations between state leaders, health care stakeholders, community organizations, and legal advocates to most effectively meet the health and social needs of California immigrants.

Immigration Resources for Health Care Providers

CaliforniaHealth+ Advocates

Available at

http://capca.nationbuilder.com/immigrant_resources

CaliforniaHealth+ Advocates created various resources for community clinic and health center members and other health stakeholders, including:

I. Executive Order (EO) Summaries – Immigration

Summaries of recently signed immigration-related executive orders.

II. Protecting Immigrant Patients – Frequently Asked Questions (FAQs)

FAQs to help answer many of the questions health centers have around protecting immigrant patients and their personal health information from ICE.

III. Protecting Immigrant Patients – Know Your Rights

A one-page handout for patients explaining their rights to access health services. This document is available in various languages, including Spanish and Chinese.

IV. Preparing Health Centers for an ICE Raid

Resources to provide health centers with recommendations on how to prepare for a possible encounter with ICE agents. CaliforniaHealth+ Advocates also developed six sample policies and procedures to help clinics prepare themselves and patients for the possibility of an immigration raid.

National Immigration Law Center (NILC) Immigration

Available at <https://healthtoolkit.nilc.org>

NILC created an online Immigration Toolkit aimed at health care providers and advocates working in partnership with them. The Toolkit includes information about provider rights in the face of immigration enforcement, resources to help providers understand their patients’ rights, tips and suggestions for creating safe spaces for patients and staff, and sample materials that can be adapted for health care facilities.

NILC will update these materials on an ongoing basis and add additional resources as they become available. Their hope is that these materials will help providers create a safe space so that all patients are able to obtain the health care they need to live healthy and productive lives, without having to fear the possibility that obtaining such care will result in their deportation or that of their family members.

Organizations that follow the link above will be asked to register. Once registration is approved (within three business days), access to all the materials on the website, including links to outside materials, will be available to successful registrants.

Insure the Uninsured Project (ITUP) is an independent 501(c)(3) nonprofit organization and health policy institute that for more than two decades has offered expert analysis and facilitated convenings of California health leaders on emerging issues affecting health and health policy in the state. The mission of ITUP is to promote innovative and workable policy solutions that expand health care access and improve the health of Californians, through policy-focused research and broad-based stakeholder engagement.

For more information on this report, contact ITUP Executive Director, Deborah Kelch, at 916-226-3899.

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Notes

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- ⁷ Reginfo.gov, Office of Information and Regulatory Affairs, Office of Management and Budget, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201710&RIN=1615-AA22>
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