

California Lawmakers Seek Protections for Patients in ICE Custody

Two bills seek to prevent immigration officers from isolating patients from their loved ones and interfering with their ability to get legal help.

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California lawmakers alarmed by the treatment of people brought to hospitals by federal immigration agents want to strengthen protections for detained patients receiving care at medical facilities, including by making it easier for their families and attorneys to find them.

Two bills moving through the state Senate seek to prevent immigration enforcement officers from isolating patients from their loved ones and interfering with their ability to get legal help. Analyses for both bills cite [reporting by KFF Health News](#) that found family members and attorneys have faced extreme difficulty locating and supporting patients hospitalized while in immigration custody.

KFF Health News found that some hospitals have facilitated patient isolation through what are known as blackout policies, which can include registering people under pseudonyms, withholding their names from the hospital directory, and preventing staff from contacting patients' relatives to let them know their location and condition.

A bill by Democratic state Sen. Caroline Menjivar of the San Fernando Valley, [SB 915](#), would largely prohibit the use of blackout policies for patients in immigration custody and ensure they retain the right to have their families and others notified of their whereabouts and condition. Blackout policies would be allowed when the health care provider determines the patient is a credible risk to themselves or others and the risk is documented in the patient's medical record. Patients would also be allowed to receive visitors.

It seeks to address reports of Immigration and Customs Enforcement agents [guarding patients](#) in their hospital rooms while they undergo medical exams or talk with doctors, interfering with medical decisions, and pushing for patients to be discharged prematurely to detention facilities ill-equipped to provide follow-up care.

"These are actions that have no place in health care, and it is a clear violation of the patients' rights," Menjivar said.

Under Menjivar's proposal, agents would not be allowed into the rooms of patients they bring in for care unless they can show legal authorization to be there. If agents remain in the room, staff would be required to ask them to leave during medical exams and patient care discussions. If agents refuse, health care facility staff would need to document it.

[SB 1323](#), authored by state Sen. Susan Rubio, a Democrat from the San Gabriel Valley, would require health care providers to inform staff and relevant volunteers to respond when patients want their families to know where they are, and to post a notice at facility entrances with information about visitation and access policies. The law already says patients can agree to have loved ones notified they're in the hospital, and Rubio's bill seeks to make sure staff and others know they can do that for patients in immigration custody.

The federal Department of Homeland Security, which oversees immigration enforcement, did not respond to a request for comment.

Both bills were passed by the Senate Health and Judiciary committees along party lines and will be heard next by the Senate Appropriations Committee.

More than 20 immigrant rights advocates and health care workers voiced support for strengthened protections for patients at a hearing last week.

"This state must do everything in its power to protect against these abuses and ensure detainees have the right to contact their loved ones when they are hospitalized and in critical conditions," said Hector Pereyra, political manager with the Inland Coalition for Immigrant Justice.

However, representatives from the California Hospital Association and California Medical Association told lawmakers last week they had concerns that directing health care workers to document agents' badge numbers and ask them to leave patients' rooms could create conflict and pose a safety risk.

"While we understand that this is an important issue, we want to ensure the bill strikes the right balance and does not create conflicting or unclear obligations for hospitals and their staff and clinicians, particularly in real-time interactions with federal officers," said Vanessa Gonzalez, a vice president of state advocacy for the hospital association.

KFF Health News reported that one man, 43-year-old Julio César Peña, was held at a hospital in Victorville for almost two weeks before his attorney and family found out where he was. Peña, who had terminal kidney disease, was shackled to his hospital bed, guarded by immigration agents, and told he wasn't allowed to disclose his location, according to his wife. He then suffered a seizure that left him intubated and unconscious, but no one notified his family. Peña died Feb. 25, less than two months after he was released to go home.

Advocates for immigrants and health care workers, as well as lawmakers, fear similar incidents are happening around the state.

Menjivar said her bill “seeks to close the gap between existing law and practice by empowering health care provider entities with the tools to uphold the privacy, health, and visitation rights of a patient brought in under immigration custody.”

SB 915 would prohibit hospitals and clinics from allowing immigration officers to make medical decisions for the patient or provide interpretation. Health care facilities would be required to document and verify, “to the extent possible,” the identities of immigration officers; provide patients access to communication tools; and inform patients of their rights. They would also need to complete discharge planning that includes attempts to coordinate with any receiving facility, such as a detention center, to ensure patients receive follow-up care.

The bills come on the heels of [legislation passed last year](#) that sought to limit immigration enforcement at health care facilities, including by prohibiting medical establishments from allowing federal agents without a valid search warrant or court order into private areas. However, that bill did not address situations in which patients are already in immigration custody.

“ICE has instilled fear in our hospitals and has kept us from doing our job,” said SatKartar Khalsa, an emergency medicine resident at a safety net hospital in San Francisco who has treated detained patients and testified in support of SB 915. “This has all led to worse care for our patients and has added another layer of fear among health care workers.”

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