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The Boston Medical Center Immigrant Task Force: An Alternative to Teaching Immigration Law to Health Care Providers

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COMMENTARY

The Boston Medical Center Immigrant Task Force: An Alternative to Teaching Immigration Law to Health Care Providers

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Abstract: As healthcare providers engage in the politics of reforming and humanizing our immigration and asylum "system" it is critical that they are able to refer their patients whose health is directly impacted by our immigration laws and policies to experts who can help them navigate the system and obtain the healthcare they need.

The landscape of immigration law and policy in the United States (US) has shifted through the decades and is set to shift again in a Biden administration. However, since January 2017, immigration policy has been starkly and steadily reshaped in a rapid-fire fashion, unprecedented by historical reference, and with indifference to the health and safety of immigrants and their families. The Trump administration has promulgated more than 400 executive actions on immigration, spanning everything from border and interior enforcement to refugee resettlement and the asylum system, Deferred Action for Childhood Arrivals (DACA) and the asylum courts, among many others.[1]

The COVID-19 pandemic has been used to further accelerate the administration's restrictive and punitive immigration agenda, with the primary goal of deterring migrants from crossing our borders under the guise of public health. The net result of these policies on our immigrant communities is a toxic environment of fear, pain, and stress. With the Trump administration's empowering of Immigration and Customs Enforcement (ICE), raids, arrests, and detentions have risen sharply. ICE director Thomas Homan, in a 2017 House Appropriations Committee meeting, said that "... if you're in this country illegally, and you committed a crime by entering this country, you should be uncomfortable, you should look over your shoulder, and you need to be worried ..."[2]

Several of the Trump administration immigration policies, including termination of Temporary Protected Status (TPS), the "Zero-Tolerance" Policy directing forced separation of children from their parents, the Migrant Protection Protocol (MPP), Third Country Agreements, Title 42, and Public Charge deserve comment, understanding that they represent only a few examples of the complex web of legal policies that undermine the health of migrants.[3]

The complexity of immigration law, and its relentless pursuit of immigrants under the Trump administration, has deterred many immigrants from seeking health care they need and are eligible to obtain.[4] Nonetheless, as La Charite and colleagues document, very

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few healthcare providers know enough about immigration law and enforcement to be a helpful source of information on this subject.[5] A few more examples of acts against the interests of immigrants suggests that health care providers cannot realistically take on this task. TPS is a humanitarian program that allows foreign nationals to remain in the US if conditions in their country pose a danger to personal safety due to ongoing armed conflict or humanitarian disaster. In November 2017, TPS was terminated for Haitians, in January 2018, it was terminated for El Salvadorans, and then for Nicaragua, Sudan, Honduras, and Nepal. Many families who came to the US under TPS have established roots and have US citizen children. They are now fearful of deportation and family separation. Hopefully the Biden administration will reverse these decisions.

In May 2018, former Attorney General Sessions announced the "Zero Tolerance Policy" that prosecuted parents who crossed into the US illegally with children. Border agents forcibly separated children from their parents at the Mexican border to deter other parents from attempting to come to the US with their children. From October 2017 through May 2018, at least 2700 children were separated from their parents. Although the policy was ended after public outcry, reuniting families has been difficult. As of October 2020, it was reported that 545 migrant children have yet to be reunited with their parents, but the number is likely much larger. This policy has caused irreparable harm in the process. It has resulted in state-sponsored child abuse that can rise to the level of torture.[6]

In December 2018, the "Migrant Protection Protocols" (MPP) — often referred to as the "Remain in Mexico" program — was established. Under MPP, individuals who arrive at the southern border and request asylum are given notices to appear in immigration court and then are sent back to Mexico to wait for their court hearing. The decision to send a person or family back under MPP is discretionary and is made by individual CBP officers or Border Patrol agents and almost always puts the asylum-seeker at significant risk of harm. According to Human Rights First, through January 21, 2020, there were more than 816 publicly documented cases of rape, kidnapping, assault, and other crimes committed against individuals sent back under MPP.[7] Multiple people, including at least one child, have died. The conditions are inhuman: makeshift encampments, unsanitary conditions, scarce food and potable water, limited medical care, and exposure to the elements. Families have also been separated under this policy.

The COVID-19 pandemic has been used to further accelerate the administration's restrictive and punitive immigration agenda, with the primary goal of deterring migrants from crossing our borders in the guise of public health. The net result of these policies on our immigrant communities is a toxic environment of fear, pain, and stress. With the Trump administration's empowering of Immigration and Customs Enforcement (ICE), raids, arrests, and detentions have risen sharply. ICE director Thomas Homan, in a 2017 House Appropriations Committee meeting, said that "... if you're in this country illegally, and you committed a crime by entering this country, you should be uncomfortable, you should look over your shoulder, and you need to be worried ..."

Asylum seeking has effectively been prohibited at the southern border. On July 16, 2019, the Trump administration announced a bar on seeking asylum for any individuals (including children) who enter the United States at the "southern land border" after transiting through another country after leaving their home and who fail to establish that they applied for and were denied a grant of asylum in a third country en route to the US. This severely impacts asylum seekers from the Northern Triangle, many of whom are torture survivors.

Title 42 is short-hand for the public health power given to the Surgeon General, to quarantine foreign nationals who pose a public health risk. This authority has been punitively invoked, and arbitrarily, under the guise of COVID-19, radically expanded to close the border to asylum seekers. According to US Customs and Border Protection, there have been almost 200,000

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people expelled from the United States from March to September 2020 under Title 42. These expulsions were all without the customary asylum screenings that ensure the United States isn't violating domestic and international law. This order operates outside of the normal immigration process, eliminating refugee protection obligations, and has no public health or legal merit. Use of this authority to exclude unaccompanied minors from seeking asylum was struck down by a US District Court judge in mid-November.

Another policy that has directly impacted health care access to immigrants is expansion of the existing public charge rule, finalized in February 2020. Public charge is a US government designation for someone who is considered or is likely to become primarily dependent on government-funded benefits. Immigrants considered a "public charge" may be prevented from adjusting their legal status to lawful permanent resident or US citizen, and even denied admission into the US. Historically, non-cash benefits were excluded from the original determination; however, the new rule includes programs such as Medicaid, Supplemental Nutritional Assistance Program (SNAP), and public housing. Immigrant patients have reported avoiding necessary medical services or other critical social services for fear that it may prevent their ability to adjust their status.

La Charite and colleagues report that in their survey of healthcare professionals only about 25%, considered their workplace prepared to respond to an enforcement action.[8] Most respondents (70%) recommended staff training. We support staff training, but in this area, which as these examples illustrate, is extremely complex and rapidly changing, we have adopted a different approach in our Medical Center and recommend that other institutions consider it as well: the formation of an Immigrant Task Force which can act as a catalyst both to provide relevant information to patients and providers, and develop institutional policies in areas directly affecting immigrants.

The BMC Immigrant Task Force

Immigration law and policies may have profound health consequences for our patients or their family members still living under the threat of persecution or harm, although we expect the Biden Administration to change most of them. It is not realistic to expect health professionals to keep up with the rapid pace of evolving immigration law, nor to understand how the nuanced laws and policies impact their individual patients. Health professionals are not trained as immigration attorneys or licensed to give legal advice, nor should they be. Immigration, however, is a social determinant of health and should be incorporated into health screeners, with clinicians being able to identify the need for referral to immigration services.

Box 1

The Objectives of the Immigrant Task Force

1. Ensure that there are health care professionals who have the skills and knowledge to address the special needs of immigrant populations in each major unit/department of the hospital.
2. Develop a hospital wide expertise addressing the psychosocial, legal, and ethical issues faced by employees as they care for immigrant patients. The Task Force will monitor for, and educate on, changing legal rules and regulations, so that BMC staff are providing health care with accordance with legal and regulatory mandates.
3. Develop a BMC wide intranet educational website which all employees can use as a source of important information about immigrant health, including lists of resources outside the hospital such as legal, financial, and psychological for referral services as appropriate.
4. Develop and implement educational programs for all employees on immigrant health.
5. Collaborate with other New England hospitals so to share best practices expertise and programming.
6. Collaborate with special community-based agencies which specialize in immigrant health such as MIRA (Massachusetts Immigrant and Refugee Advocacy Coalition), those in the religious community and legal advocacy and support.
7. Evaluate the impact of this Task Force with Quality Assurance methodology, using stories, clinical experiences and other data while maintaining patient confidentiality.
8. Develop subcommittees to address particular issues.
9. Keep hospital administration up to date with progress of the Task Force.
10. Develop patient materials and outreach plans to assure that immigrant patients are appraised of their ability to access services at Boston Medical Center.

Boston Medical Center (BMC) is the largest safety net hospital in New England and serves a large immigrant population, which includes refugees and asylum seekers. BMC has numerous clinical programs which address the specific needs of immigrant and refugee patients across multiple departments, including Primary Care, Psychiatry, Ob-Gyn, and Pediatrics. We have recently created an Immigrant and Refugee Health Center to serve as an umbrella program to streamline BMC's existing hospital wide immigrant health services. The BMC Immigrant Task Force has approximately 100 volunteer members, from across many departments in the hospital and holds quarterly meetings.

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The Task Force was created in direct response to the harmful and cruel immigration policies implemented by the Trump administration.immediately after the initial "travel ban" (also known as the "Muslim ban") executive orders were issued in January 2017. We recognized that these policies could increase psychosocial stress and deter patients from accessing health care because of fears related to immigration, including fears of deportation and detention. In addition, patients could avoid participating in important state and federal programs such as Medicaid, CHIP, WIC, and SNAP, which has been demonstrated nationally. The mission of the Task Force is to identify and respond to challenges in the rapidly changing immigration policy landscape that impacted health delivery and well-being of our immigrant patient population. Specific objectives are contained in Box 1.

The Task Force had the strong backing of the hospital's CEO and recruited members from a wide variety of departments and services [(including Medical Departments (physicians, nurses, social workers, case managers, patient navigators, mental health specialists), Patient Financial Services, Patient Advocacy, Public Safety, Legal, Government Affairs, and Administration]. The Task Force serves as the central source for patient information, staff education, and data collection on the effects of immigration policy on the health and wellness of our immigrant population. The Task Force has developed educational materials, networked with community agencies and hospitals, and worked to ensure that the psychosocial needs of patients and staff were met. Our program has hosted "Know Your Rights" presentations for both patients and employees to provide tools for navigating specific situations, enhance empowerment, and relieve anxiety. For example, these trainings addressed questions such as "what do I do if an ICE officer approached me in a public area, or knocked on my door?"

The Task Force has developed guidelines and provided training for professionals on how to document relevant facts in the medical record without revealing a patient's immigration status, (in the remote possibility of broad subpoenas). We have worked with Public Safety to develop a protocol for employees on how to respond to ICE presence on hospital property or to a request for information about patients. Our pediatric colleagues have created and disseminated a comprehensive tool for families facing separation via deportation or detention. We created welcoming signage for the institution, reassuring patients that we will provide care no matter the immigration status. We informed and guided change of the patient identification policy so that a government issued photo ID is not required to receive care. The Task Force worked with Human Resources to create a benefit for immigrant employees to have the I-693 (green card medical exam) completed through the hospital by our civil surgeons, and an Immigration Resource Guide for BMC Employees was published.[8] Most recently, the Task Force recruited staff members to provide targeted messaging on the COVID-19 vaccine to immigrant communities.

Our General Internal Medicine clinic has embedded a legal navigator into clinical services. This was accomplished by hosting an AmeriCorps member whose role was to help patients navigate the complex immigration system through triage and referrals to community immigration legal programs, and by advocating for them during their interactions with the immigration legal process. Examples of types of assistance or information provided includes: asylum applications, public charge determinations, concerns about deportation and detention, family reunification, medical deferred action, medical reports for adjusting status (green card examinations), and disability waivers, among others. The navigator provides services to approximately 300 patients each year.[10]

Health care professionals caring for immigrant patients should recognize that immigration status is a critical social determinant of health. However, understanding the details of how evolving immigration policy impacts individual patients is beyond the scope of most health care professionals' expertise. The critical point is not that they understand how immigration law works, but that they are able to readily access someone at the health care facility who does and who can help them and their patient navigate the system. We recommend that hospitals and health care facilities create an infrastructure and services that will meet patients' immigration needs, such as imbedded legal services, and immigration resources for easy access by both patients and staff.

The end of the Trump administration and its anti-immigrant policies will not end the need to provide both accurate legal information and health care to immigrants. It will be years, if ever, until all hurtful anti-immigrant and anti-healthcare programs are ended, and immigrants will continue to be fearful of ICE and deportation. During what we may call the Biden transition, a hospital entity like the BMC Immigrant Task Force will continue to be needed to support both immigrants and health care professionals.

Note
The authors have no conflicts of interest to declare.

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