

FLORIDA HOSPITALS MUST SOON REQUIRE PATIENTS TO DECLARE IMMIGRATION STATUS: WHAT HEALTHCARE EMPLOYERS NEED TO KNOW

Insights
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Florida's new immigration reform law has some high-profile requirements for employers, but a specific healthcare-related provision will require industry employers to change their practices related to immigration-related patient care. Starting July 1, any hospital in Florida that accepts Medicaid will need to ask each patient if they are U.S. citizens or otherwise in the country legally – or whether they are not lawfully present – and then report findings to the state. What do you need to know about this change in policy?

Basic New Requirements for Hospitals

New Florida laws require that most employers in Florida use E-Verify – the digital immigration verification tool – during their onboarding process starting July 1. [You can read more about this new requirement here](#). However, section 395.3027 has several other requirements for employers, including a healthcare-specific requirement that will require hospitals in the state to change their practices.

- Starting July 1, hospitals accepting Medicaid must include a provision on their admission or registration forms **asking the patient to answer whether they are a U.S. citizen or lawfully present in the country or not lawfully present**. Importantly, the inquiry must also be followed by a statement that the response will not affect patient care or result in a report to immigration authorities.
- Each hospital must **submit a quarterly report** to the state within 30 days after the end of each quarter reporting the number of hospital admissions or ER visits and the patient

Related People



Megan L. Janes

Partner

954.847.4717



Connie Yang

Partner

407.541.0854

responses to the question – or whether they declined to answer.

- While the Florida Agency for Health Care Administration (AHCA) has been granted authority by lawmakers to come up with detailed rules governing this process, including acceptable formats by which this information can be compiled and submitted, **the rules cannot require hospitals to disclose patient names** or any personal identifying information.

The agency will compile details from across the state and report these figures to the Governor and lawmakers on an annual basis. The report must also describe information relating to the costs of uncompensated care for those not lawfully present in the U.S. and those who declined to answer and the impact of uncompensated care on the cost or ability of hospitals to provide their services.

Is Your Facility a Hospital?

Under the new law, “hospitals” are those facilities regulated by the AHCA under Florida law and general licensure provisions. Generally, they offer a range of healthcare services with beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care. They also must make regularly available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment. If you are uncertain **whether your facility is considered to be one of the 323 hospitals in Florida as of March 2**, check with your Fisher Phillips lawyer.

Why Was This New Law Needed?

For those curious about the background of the new law, it is worth taking a quick moment to understand its history. The Governor issued **an Executive Order** last year which directed hospitals to report on the use of Medicaid or other governmental expenditures incurred for treating individuals not authorized to be in the United States.

In August 2022, the AHCA reported the results about the total costs beginning with Fiscal Year 2021. However, according to Florida Senate committee reports, the reported data may be considered incomplete. This appears to be because many healthcare facilities do not question patients

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about their immigration status and struggled to meet the data reporting requirement.

Under the new law taking effect this summer, however, hospitals will be required to take on this data collection requirement in an effort to gather the information originally sought by Executive Order.

What Should You Do?

Amid the other changes to Florida's immigrations laws as they relate to hiring employees, Florida hospital employers should consider offering education and training for staff about questions you may receive from patients who are asked to fill out the admission and registration forms. You should also prepare to address conversations about immigration policy in the workplace without running afoul of various employment laws.

More information is expected in the near future: the statute authorizes the AHCA to adopt rules specific to the format of the quarterly report and the format of the question that hospitals must include on their admission or registration forms, and also specifies that the rules may not require disclosure of patient names to the AHCA.

Conclusion

We will continue to monitor developments and provide additional guidance as warranted. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have any questions, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [Florida offices](#), our [Immigration Practice Group](#), or our [Healthcare Industry Team](#).