



December 10, 2025

Bahaa Wanly
President
Legacy Emanuel Medical Center
501 N Graham St,
Portland, OR 97227

Re: Ongoing ICE Presence in LEMC

Dear President Wanly:

I. Introduction

We are writing to raise concerns over Legacy Emanuel Medical Center's (LEMC) compliance with State and Federal law and Legacy's own policies. These concerns center on the Legacy's potential failure to comply with basic tenets of patient confidentiality, patient autonomy over medical decisions, and the Oregon Nurse Practices Act. ONA has received reports that these failures have arisen repeatedly during the course of care for patients who are also interacting with Immigration and Customs Enforcement (ICE) officers. Specifically, it appears that LEMC may be failing to adhere to its HIPAA obligations and its own policies. Despite Legacy's policies largely reflecting appropriate compliance with statutory obligations, there is a growing gap between Legacy's written policies and the actual practices nurses are witnessing. As a result, ONA bargaining unit members and their patients are being placed at risk. We are asking that you begin compliance with Legacy policy immediately, as outlined at the conclusion of this letter, and to meet with ONA representatives as soon as possible to confirm and monitor the implementation of those compliant practices.

II. HIPAA Prevents Disclosure of Protected Health Information with Certain Narrow Exceptions

At the most basic level, Legacy appears to agree that it is obligated to comply with HIPAA and not to disclose its patients protected health information (PHI) except as specifically allowed under that statute and administrative rule. "A covered entity or business associate may not use or disclose protected health information, except as permitted or required by this subpart or by subpart C of part 160 of this subchapter." § 164.502.

Disclosure for law enforcement purposes is allowed as provided in § 164.512. ("A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.") That regulation provides that covered entities may

disclose protected health information to law enforcement officials for law enforcement purposes under the following six circumstances, and subject to specified conditions: (1) as required by law (including court orders, court-ordered warrants, subpoenas) and administrative requests; (2) to identify or locate a suspect, fugitive, material witness, or missing person; (3) in response to a law enforcement official's request for information about a victim or suspected victim of a crime; (4) to alert law enforcement of a person's death, if the covered entity suspects that criminal activity caused the death; (5) when a covered entity believes that protected health information is evidence of a crime that occurred on its premises; and (6) by a covered health care provider in a medical emergency not occurring on its premises, when necessary to inform law enforcement about the commission and nature of a crime, the location of the crime or crime victims, and the perpetrator of the crime.

In addition, to the extent that an individual is in custody of ICE officers, disclosure of specific PHI is allowed under the following limited circumstances:

5) Correctional institutions and other law enforcement custodial situations—(i) Permitted disclosures. A covered entity may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual protected health information about such inmate or individual, if the correctional institution or such law enforcement official represents that such protected health information is necessary for:

- (A) The provision of health care to such individuals;
- (B) The health and safety of such individual or other inmates;
- (C) The health and safety of the officers or employees of or others at the correctional institution;
- (D) The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another;
- (E) Law enforcement on the premises of the correctional institution; or
- (F) The administration and maintenance of the safety, security, and good order of the correctional institution.

45 CFR § 164.512

Thus, the only relevant authority that would allow disclosure of PHI for detainees in this context is if there is a valid judicial warrant for arrest or if the individual is in custody and the information is identified as necessary for one or more of the specific purposes outlined in the regulation. As a result, we believe Legacy understands that absent other exceptions being applicable, an employee of Legacy should not disclose PHI to law enforcement except under these circumstances. We also agree with Legacy that front line staff should not be placed in the position of having to evaluate whether a specific request satisfies any of these exceptions to the broad prohibition on PHI disclosure. This is the job of management. We demand that managers fill this gap at once.

III. LEMC Management Practice Does Not Comply with LEMC Policy or Federal Law

On paper, Legacy's policies generally track HIPAA, (Emergency Medical Treatment Act (EMTALA)), and basic constitutional protections. Legacy's policies – specifically the "Communication Regarding Law Enforcement and Immigration Enforcement" memo, the "ICE Questions & Answers" document dated October 7, 2025, the "Law Enforcement – Standard Process for Security Officers," and Policy 700.27 ("Release of Information to Law Enforcement") all contain appropriate statements about continued HIPAA protections, the division between public and non-public areas, the limited circumstances under which PHI may be shared, and the role of Security and leadership as the primary liaisons with law enforcement.

However, Legacy has failed to provide clear lines of authority and decision making relating to evaluation of specific PHI disclosures. As a result, nurses across Legacy facilities are reporting day-to-day practices that depart sharply from those written commitments, confusion and differing standards for different law enforcement agencies, and ultimately the placing of nurses at risk of breaching statutory protections because of Legacy's unwillingness to clearly identify when disclosure of PHI to law enforcement is allowed. These practices place patients and nurses at risk, both clinically and legally, and create a climate of fear and moral distress.

Underlying all of these concerns from our members is the distinct desire to appropriately treat their patients and comply with their obligations to those patients under State and Federal law. Below, we outline specific areas where Legacy's practice appears to conflict with its own policies and with governing law, along with concrete examples from nurse reports. We then identify steps we expect Legacy leadership to take to bring practice into compliance with both the law and policy.

A. Patients In Custody Are Still Governed by HIPAA

LEMC Policy 700.27 properly treats patients in custody (suspects, fugitives, material witnesses, detainees) as patients whose PHI remains protected, with limited, clearly defined circumstances in which PHI may be disclosed to law enforcement and an explicit "minimum necessary" standard. The system-wide communication regarding law enforcement states explicitly that HIPAA continues to apply despite changes in federal enforcement policy.

However, nurses report being told by management, in substance, that "detainees do not maintain the same HIPAA rights as other patients." As a result, we have received reports that ICE officers are being allowed to:

- Remain at the bedside at all times, including during sensitive exams, mental- health assessments, and bathroom use.
- Refuse to step away even when nurses or providers request privacy for clinically appropriate reasons.

- Observe and overhear all clinical discussions, regardless of content or sensitivity.

Most troubling, it has been reported that Legacy managers' direction to nurses has been: "You can ask ICE to step back or leave the room, but if they refuse, do not question them further." The result is that there is a significant risk that detainee patients do not speak candidly, shut down when speaking in front of agents, and thereby withhold critical information about their symptoms, history, and mental health. This lack of communication may seriously compromise care.

HIPAA does not contain any kind of "detainee exception" to HIPAA compliance. Nor do Legacy's policies. The constant presence of officers at the bedside and in bathrooms does not constitute a valid authorization to access or overhear any and all PHI. Legacy's own Standard Process document acknowledges the need to use reasonable safeguards around what is in plain view and plain hearing, and Policy 700.27 requires attention to "minimum necessary" disclosure and documentation. What it does not address is what a health care worker is expected to do in terms of continued delivery of care in the face of clear breaches of these standards by law enforcement.

As a result, the current practice:

- Undermines HIPAA's reasonable safeguards requirement;
- Violates the spirit, and arguably the letter, of Policy 700.27; and
- Places nurses in an untenable position, caught between their legal/professional obligations and instructions not to challenge law enforcement behavior, even if it is plainly interfering with care.

B. Legacy Has No Standard Process for Identifying Whether ICE Agents Have Legal Authority to Access PHI

While we recognize that there are circumstances where health care workers may disclose PHI to law enforcement, those circumstances must be appropriately documented. This is the only means of ensuring that patient protections are in place and that Legacy is not violating Federal law. At a minimum, there is no clear decision-making process and documentation standard for the following:

1. Confirmation by a manager that a patient is subject to a judicial warrant or is in custody of law enforcement.
2. Placing of that determination and documentation in the patient medical record;
3. Documentation of Law Enforcement requests for information that are consistent with the scope of allowable PHI releases;
4. Documentation of specific PHI releases that are made in response the law enforcement requests.

As a result of what can only be described as a failure to abide by the some of the most basic health care practices relating to release of confidential information, Legacy's haphazard practices are placing nurses, patients, providers and Legacy itself at legal risk. The concerns we are raising arise from, or are compounded by, the failure to abide by these standards.

C. Failure to Respect Public and Non-Public Area Requirements in Legacy Policy

As described above, under Federal Law and Legacy Policy "Law Enforcement – Standard Process" there is a clear distinction between public areas (main lobbies, public parking, etc.) and non-public areas (patient rooms, ED treatment areas, exam rooms, internal corridors, clinic lobbies and waiting rooms, spaces marked "employees only" or "private"). Officers should be excluded from non-public areas unless authorized by management in response to lawful exceptions as described above. While officers may see or hear some information in public areas, the hospital has a continuing duty to limit unnecessary exposure of PHI. Legacy cannot abide by its obligations to limit inadvertent disclosures of PHI while in no way limiting the number of ICE officers who are allowed in these areas.

We understand that the Legacy "ICE Q&A" document includes language to the effect that there is "no limit" on the number of officers that may accompany a patient, subject to a "risk assessment" by the enforcement agency. The lack of an articulated reasonable limit by Legacy places patients and nurses at risk.

According to reports we have received, there are ongoing instances of the following:

- Multiple ICE or other federal agents clustered in or around patient rooms and ED bays.
- Officers roaming halls and units, rather than remaining strictly with their detainee.
- An enforcement presence far more intense than that afforded to patients in PPB or sheriff's custody.

Legacy cannot simultaneously claim to follow HIPAA and Legacy's own non-public area designations, while allowing effectively unlimited, unregulated officer presence in clinical spaces. The "no limit" stance, especially when coupled with roaming agents:

- Magnifies the risk of incidental PHI exposure for other patients;
- Creates a climate of intimidation in clinical areas, affecting both patients and staff; and
- Is inconsistent with the more measured approach reportedly taken with local law-enforcement agencies.

Your written Standard Process gives Security and leadership responsibility for controlling law enforcement access. In practice, that control appears to have been ceded to ICE's "risk assessment," rather than grounded in Legacy's legal duties and policies.

We ask that leadership exercise is responsibility in these instances and to document those decisions as they are made.

D. Legacy's Action Threaten to Impair Patient Autonomy and Caregiver Clinical Decision Making

Legacy Policy 700.27 addresses information sharing, not treatment decision-making. Nowhere do Legacy policies state that ICE or any other agency becomes the medical decision-maker for a patient in custody. Legacy's communications rightfully emphasize that health and safety come first and that patients receive medically necessary care regardless of their status.

However, our members have reported that Legacy has not lived up to its own standards. For instance, nurses report:

- ICE officers have reportedly pressured nurses and physicians to skip assessments, tests, or monitoring in order to move patients out more quickly.
- Nurses have reported instances where physicians have recommended continued hospitalization, but ICE insisted on removing the patient, effectively forcing discharge over clinical advice.
- In some cases, nurses report that detainee patients have had little or no opportunity to participate meaningfully in these decisions; the officers simply announce, "We're going," and Legacy staff are left to accommodate.

Custody affects where a patient is; it does not transform law enforcement into a surrogate decision-maker. When ICE or other Law Enforcement agents insist that patients be removed over the objections of treating providers:

- There is potential EMTALA exposure, particularly in ED and unstable cases;
- There is a clear conflict with standard-of-care obligations and basic informed consent principles; and
- Legacy appears to be prioritizing law-enforcement convenience over its own commitment to "health and safety first."

At a minimum, nurses should be trained on the potential for ICE's insistence on discharges against medical advice, documentation practices, and if these events do occur, these cases should trigger automatic review by Risk Management and Compliance. Right now, nurses experience pressure from law enforcement without direction or support.

E. Potentially Unlawful PHI Disclosures

Once again, Legacy Policy 700.27 rightfully provides for:

- Differentiation between mandatory disclosures (e.g., specific reporting statutes) and permissive disclosures under HIPAA's law-enforcement exception;
- Requires use of specific forms and documentation when PHI is disclosed; and
- Contains the "minimum necessary" standard for access and disclosure that is reflected in HIPAA.

Legacy's communications reiterate that HIPAA protections continue to apply in the law-enforcement context.

Once again, managerial practice appears to not live up to these obligations. Nurses report routine, informal disclosures of PHI in "hallway" interactions, officers approaching the nurses' station asking "Is [name] here?" and "What room are they in?", officer requests for discharge timing: "When are they leaving?" or "When will they be clear to go?" and most troubling, staff being told, explicitly or implicitly, to "just tell them" the information, without any 700.27 forms, supervisory review, or Legal/Compliance involvement.

It should go without saying that these practices fail to comply with HIPAA and your own policy. A patient's presence, location, and discharge timing are PHI. Treating these as casual, unregulated disclosures:

- Contradicts the structure and intent of Policy 700.27;
- Places nurses at heightened risk of HIPAA violations and discipline; and
- Undermines the hospital's ability to show compliance if and when a privacy complaint is filed.

If Legacy truly intends to follow Policy 700.27, then all law enforcement PHI requests, whether from ICE, U.S. Marshals, or local police, must be centralized through Security/House Supervision, documented, vetted for legal basis and notice given to the care team. The current practice (as opposed to the policy) delegates that function and responsibility to determine appropriateness of PHI disclosures to law enforcement to the bedside nurse. This is unacceptable.

F. Prevention of Nurse from Educating Patients About Their Federal Rights

Legacy's communication memo and ICE Q&A emphasize that staff should not provide legal advice and should route immigration-related questions through Social Work, Legal, or Compliance. Policy 700.27 governs PHI disclosures; the Standard Process

addresses officer movement and access.

None of these documents explicitly require staff to block all communication between patients in custody and their families or lawyers. None explicitly prohibit staff from sharing “Know Your Rights” information with each other as coworkers. No known policy would prevent a nurse from informing a patient about their right to make decisions relating to their own care. Nevertheless, we have received reports that:

- Nurses have been told that they may not give detainee patients “Know Your Rights” cards or similar materials.
- Nurses have been instructed that they may not call patient family members while the patient is in ICE custody, but may only call family after the patient leaves, and only if the patient requested it.
- At the same time, social workers and chaplains may not be consistently mobilized to support communication or referrals.

These blanket prohibitions go beyond the caution in your policies about avoiding legal advice and instead impair nurses as they exercise their nursing obligation to educate and advocate for patient care.

Under OAR 851-045-0060 and related standards, registered nurses have an ongoing duty to provide health teaching, to promote an environment conducive to safety, and to advocate for patients whose rights or access to care are at risk. These standards require nurses to communicate information that allows patients to make decisions about their own care, to identify threats to safety in the care environment, and to take action to address those threats and report them through appropriate channels. Directions that bar nurses from informing detained patients about basic choices—such as the ability to communicate with family, legal representatives, or community resources—are squarely at odds with those duties.

As a result, patients’ ability to make decisions over their own care or to contact counsel or family is chilled or blocked. Nurses are pressed into enforcing a communications blackout that your policies do not expressly require; and staff have no clear guidance on what is permissible when a patient asks basic questions about contacting loved ones or legal counsel.

G. Staff Intimidation

Nurses, especially nurses of color and immigrant nurses, report feeling unsafe and intimidated when ICE and other federal agents are present. Some describe carrying extra identification at work, avoiding eye contact with officers, or taking steps to minimize their own visibility on the unit.

Your Standard Process document makes Security and leadership responsible for managing law-enforcement behavior and presence. Yet officers appear to be setting the terms, and leadership rarely intervenes, leaving the nurse in the role of having to care for patients in the face of these policy breaches.

IV. Request for Immediate Compliance with Legacy Policy and Federal Law

We recognize that Legacy cannot control federal immigration policy. However, Legacy can control what happens inside its hospitals and how it implements its own policies. At minimum, we ask you to:

1. Implement a credential-verification logbook for ICE agents.

- When ICE personnel arrive, in addition to verifying credentials, Security should record the date, time, agent name, and badge number in a centralized log.
- This provides a transparent accountability mechanism to identify patterns of noncompliance, protect patients and staff, and support legal review if necessary, when expectations or procedures are not followed.

2. Enhance documentation requirements.

- Charting should include the circumstances of the arrest: who brought the patient in (including badge number), the stated reason for the visit, and observed behavior of the patient and agents in both the ED and inpatient settings. Documenting should include the conditions of arrest, use of force, and any harm experienced while in custody.
- It is unassailable that accurate and thorough clinical documentation builds a factual record, supports potential legal investigations, and ensures that patient safety concerns are formally noted.

3. Provide patients with patient education including preservation of their own medical decision making, “Know Your Rights” materials and access to social support resources such as immigration and legal resources.

- Current federal litigation alleges widespread violations of due process and restricted access to legal counsel among detained individuals, raising serious constitutional concerns, such as violations of the Sixth Amendment.
- Offering rights information and legal resources aligns with Legacy’s “Here for Good” initiative, supports ethical care, and exemplifies our long-term commitment to patient and community well-being.

4. Reaffirm in writing that patients in ICE or other custody are still protected by HIPAA and Policy 700.27, including the “minimum necessary” standard and

documentation requirements.

5. Adopt and enforce limits on officer presence in non-public areas.
 - Set reasonable limits on the number of officers at bedside and in clinical areas.
 - Prohibit roaming in non-public spaces except for specific, documented reasons.
 - Require officers, including ICE, to step out for sensitive exams and interviews when clinically appropriate, consistent with how Legacy treats other in-custody patients.
 - Centralize all law enforcement PHI requests through Security/House Supervisor and Policy 700.27 processes.
 - Bar informal PHI disclosures by bedside staff (“Is this person here?” “What room?” “When do they leave?”).
 - Require use of Policy 700.27 forms and documentation for all disclosures, with Legal/Compliance oversight.
7. Protect patient autonomy and clinical judgment.
 - Adopt a written policy requiring that any discharge or interruption of care at ICE’s insistence be documented as such and reviewed by Risk Management and Compliance.
 - Make explicit that law enforcement, including ICE, is never the default medical decision-maker.
8. Revisit restrictions on communication and “Know Your Rights” information.
 - Clarify that nurses may not provide legal advice, but that Legacy will not actively block nurses from assisting patients lawfully contacting counsel or family.
 - Affirm that nurses may share information with each other as coworkers, consistent with their rights under labor law.
 - Direct Social Work and Chaplaincy to take the lead on connecting detained patients with appropriate resources and family contact, within legal and safety constraints.
9. Convene a joint labor–management working group with ONA with regular meetings.
 - a. Include bedside nurses, providers, Security, Compliance, Legal, and leadership.
 - b. Task this group with revising the ICE Q&A and Standard Process documents, standardizing in-custody patient practices across agencies, and developing ongoing training that reflects both the law and nurses’ experience.
 - c. Update current those guidelines to reflect best practices used by exemplary institutions.

- We recommend aligning Legacy protocols with models (attached) both scenarios: (a) when ICE presents with a detainee, and (b) when ICE arrives seeking an individual (see below). These guidelines can be readily adapted to Legacy and will provide clear, step-by-step procedures for staff.
- Policies that provide specific, scenario-based guidance will increase staff confidence staff, reduce legal risk, improve HIPAA compliance, and better protects vulnerable patients and staff.
- We recommend stating medical decisions are made between the patient, or next of kin, and the healthcare team, while maintaining patients' rights to privacy.

10. Commit to no retaliation for nurses who report concerns or document law-enforcement interference.

- Issue explicit guidance that nurses who raise HIPAA, patient-safety, or ethical concerns about ICE encounters will not be subject to discipline or negative performance actions for doing so.
- Encourage nurses to use internal reporting mechanisms and to involve ONA.

IV. Conclusion

Legacy's written policies correctly recognize that your hospitals must remain places of healing, not enforcement, where HIPAA, patient autonomy, and basic human dignity continue to apply even when patients are in custody of law enforcement. We expect Legacy's practice, and our members' working conditions, to live up to those words.

We are asking you, as LEMC President, to acknowledge these gaps and to work with nurses, other frontline staff and their union to close them before a serious incident, lawsuit, or regulatory action forces the issue in a far more adversarial setting. We would welcome the opportunity to meet with you and your leadership team within the next 14 days to discuss these concerns. In the meantime, we will continue to collect and preserve nurse reports about ICE and law-enforcement interactions in Legacy facilities.

Sincerely,



Thomas Doyle
ONA General Counsel