

Undocumented Immigrants in Pediatric Oncology: An Exploration of Legal Issues, Challenges to Providing Care, and the Patient/Family Experience

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Basic Terms

- **NON-IMMIGRANT:** status given to people who enter the U.S. on a temporary basis and for a specific purpose, including tourism, business, temporary work, or study.
- **IMMIGRANT:** status given to people who intend to come live permanently in the U.S. for a variety of reasons.
- **LAWFUL PERMANENT RESIDENT (LPR):** Green Card Holders. Residents have most of the rights and privileges of citizens. Exceptions: can't vote, may lose their status, and always risk at risk of getting deported. Many might be able to naturalize after 3-5 years of being an LPR.
- **TEMPORARY PROTECTIVE STATUS:** eligible foreign born individuals, who are unable to return home safely due to conditions or circumstances preventing their country from adequately handling the return. No natural route to permanent residence (i.e., a green card).

Source: U.S. Citizenship and Immigration Services

Basic Terms (cont.)

- **NATURALIZATION:** the process by which U.S. citizenship is granted to a foreign citizen or national after he or she fulfills the requirements established by Congress in the Immigration and Nationality Act (INA).
- **VISA:** A U.S. visa allows the bearer to apply for entry to the U.S. in a certain classification, such as student, visitor or temporary worker. A visa does not grant the bearer the right to enter the United States. U.S. Customs and Border Protection immigration inspectors determine the admission, length of stay and conditions of stay at a port of entry.

Source: U.S. Citizenship and Immigration Services

Immigration Categories

CITIZENS	NON-CITIZENS	
<ul style="list-style-type: none"> • Birthright (born in the U.S. or territories) • Bloodline (born abroad to American parents) • Naturalization (apply after being a resident) 	<u>Immigrants</u> <ul style="list-style-type: none"> • LPR'S • Employment, diversity visas • Refugees • Asylees <u>Undocumented</u> <ul style="list-style-type: none"> • Entered without inspection and/or overstayed visa 	<u>Non-Immigrant</u> <ul style="list-style-type: none"> • Visitors, students, temporary-workers, foreign doctors <u>Other</u> <ul style="list-style-type: none"> • Temporary Protected Status • DACA

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How to Obtain a Visa

- Family Sponsorship
- Employment Based Visas and Other Forms
- Asylum
- As a Minor
- Crime Victim

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Family Sponsorship

- U.S. Citizens can sponsor:
 - Spouse or fiancé
 - Children (under 21) and adult sons and daughters
 - Parents
 - Siblings
- LPR's can sponsor:
 - Children (under 21)

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Asylum/Refugee

- Asylee vs Refugee: A refugee is a person who requests protection while still overseas, and then is given permission to enter the U.S. An asylee is a person who meets definition of a refugee but is already in the U.S.
- Basic elements of Refugee:



- Examples: gang violence/recruitment, forced prostitution, female genital mutilation, domestic violence

Source: Immigrant Justice Clinic

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Asylum/Refugee (cont)

- Have to apply for asylum within 1 year of arrival to U.S.
- Types of protection if an immigrant is in deportation proceedings:
 - Withholding of Removal
 - CAT

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Minors

- Unaccompanied Minors
 - Special considerations for UAC: exempt from 1-year filing requirement
 - Burden is on child to prove eligibility, but only a "reasonable possibility" of persecution
- Special Immigrant Juvenile Status (SIJS): designated for noncitizen children who have been neglected/abused/abandoned by one or both parents to obtain a green card
- Deferred Action for Childhood Arrivals (DACA): a form of prosecutorial discretion where the govt can deport you, but is choosing not to *at this time* but may at a later time. Have a work permit but cannot apply for a green card.
 - Eligibility: under 31yo as of 6/15/2012, came to the U.S. before 16yo, been in the U.S. since 2007 and are in school (or a GED or a diploma or served in the military)

Source: U.S. Citizenship and Immigration Services

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Crime Victim While Present in U.S.

- T-Visas
 - Designated for those who are or have been victims of human trafficking. Provides protections to those victims and allows them to remain in the U.S. to assist in an investigation or prosecution of human trafficking
 - Does not only refer to sex trafficking and minors can apply
 - Direct path to lawful permanent residency and citizenship
 - U-Visas
 - Designated for victims of certain crimes who have suffered mental or physical abuse and *have been* helpful, *are* helpful, or *will be* helpful to law enforcement in the investigation or prosecution of criminal activity.
 - Survivor must prove "substantial physical or mental abuse" (mental/psychological evaluations)
 - Direct path to lawful permanent residency and citizenship
- *T and U visas are not mutually exclusive

Source: U.S. Citizenship and Immigration Services

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Crime Victim While Present in U.S. (cont.)

- Violence Against Women Act (VAWA)
 - Designated for battered and abused spouses to obtain a green card without the cooperation of the U.S. citizen or permanent relative who is abusing them
 - Your spouse is a U.S. citizen or LPR and they battered/abused you or your child
 - Your parent or step-parent is a U.S. citizen or LPR and they battered/abused you (and you are unmarried and under 21)
 - Does not apply just to women! Applies to any person, regardless of gender identity or sexual orientation

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Immigration Policy Under the Trump Administration

- Executive Orders
 - Enhancing Public Safety in the Interior of the U.S.
 - Border Security and Immigration Enforcement Improvements (Border Wall)
 - Protecting the Nation from Foreign Terrorist Entry Into the U.S. ("Travel Ban")
- What has changed?
 - Enforcement Priorities - removal of undocumented immigrants who have criminal issues (convictions or charged with offense which can include unlawful entry), fraud (misrepresentation to ANY govt agency), and/or anyone with a final order of removal
 - DACA
 - TPS (El Salvador)

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Know Your Rights

Interacting with Law Enforcement

DO'S!

DON'TS!

- Local or State Police
 - May ask questions if they suspect you committed a crime
 - Might ask for your name and ID
 - May NOT ask about your immigration status
 - Do NOT give false name, ID or other information. Do NOT run!
 - Do ask if you are under arrest, being detained or are free to go. Do invoke your right to remain silent until you speak to an attorney
- ICE
 - Similar rules as local/state police
 - Do NOT open the door or give them permission to enter your home without a warrant. Do NOT sign anything.
 - Do invoke your right to remain silent until you speak to an attorney

Source: Federation for American Immigration Reform

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If ICE Comes to the Hospital

- Should NOT happen unless:
 - Sensitive Locations memo rescinded
 - ICE supervisor OK's it
 - National security justifies it
- Check your hospital's policy
- Train receptionists on how to respond
- Ask to see a warrant and make sure it was signed by a judge

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CASE PRESENTATION

- ❖ Adolescent with a diagnosis of Acute Lymphoblastic Leukemia
- ❖ Unaccompanied immigrant minor (UIM)
- ❖ Individual and family history of:
 - abuse
 - addiction
 - mental illness/trauma
 - domestic violence
 - poverty
 - racism
- ❖ Societal History:
 - civil war and genocide

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Definition

The terms **Unaccompanied minors, unaccompanied alien children, child migrants, child immigrants, unaccompanied migrant children, and juvenile immigrants** are often used interchangeably and refer to immigrants who are under the age of 18 and are not under the care of a parent or legal guardian. This includes children fleeing violence or unrest, seeking work, or who are victims of trafficking.

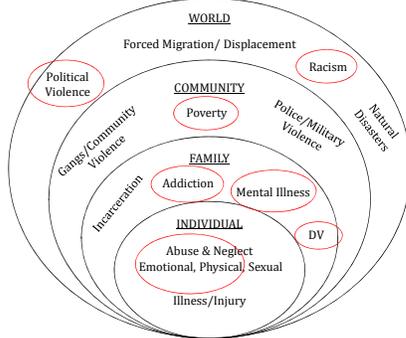
Source: Migration Policy Institute

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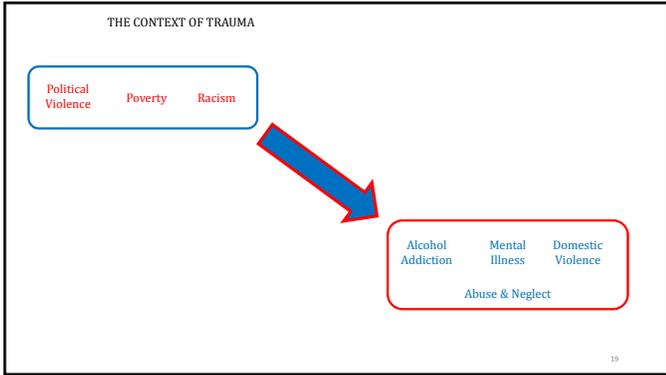


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THE CONTEXT OF TRAUMA



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Mental Health

- Higher rates of mental health problems.
Anxiety, depression, conduct problems and PTSD (Derluyn & Broekaert, 2008)
- Attachment Issues.
Prior separations, in many cases prolonged, can lead to disruptions in forming secure attachments with parents and other caregivers (Suárez-Orozco, Bang, & Kim, 2010)
- Ongoing Stressors Post-migration:
Detention, immigration proceedings and social context. (Fazel, Reed, Panter-Brick & Stein, 2012)

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Bej

15 year-old "Latino" (Maya - K'iché) male.

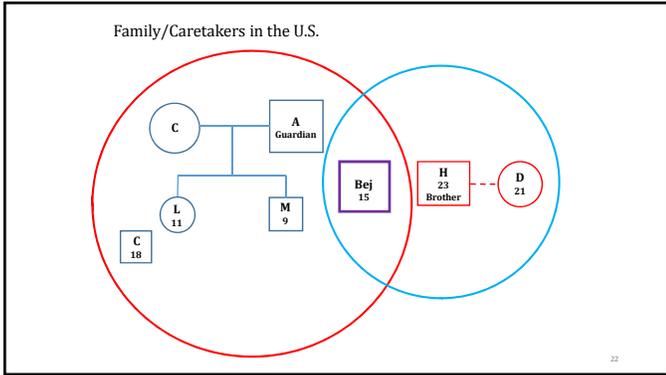
First language: K'iché, (Spanish second language).

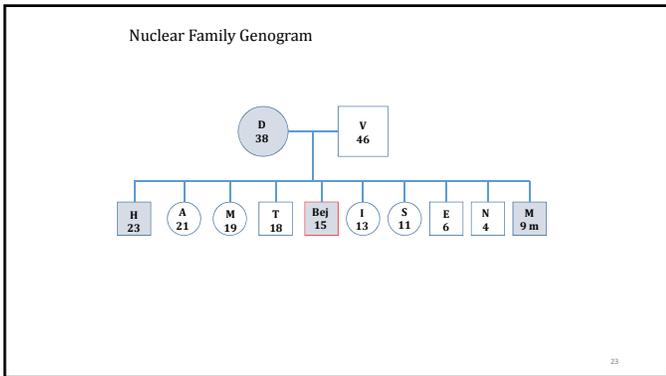
Living with guardian in U.S. for 6 months at time of diagnosis.

Attending school: 10th Grade

Active Immigration process. (SIJ) Special Immigrant Juvenile (Abuse, Abandonment or Neglect)

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Bej

September: Admitted and Diagnosed with T-ALL . Initially managed in ICU with high WBC and tumor lysis.

Presentation: Guarded, quiet, compliant, limited information seeking.
 Psychosocial Goals: trust, relationship, assessment.

October: Episode of acute hypertension, tachycardia, mental status changes, and vision changes, requiring brief ICU stay. Imagining negative.

November: Discharged home to the care of his brother and sister-in-law.

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Bej

November 9: Radiation Planning and first outpatient visit.

Bej's mother and infant brother travelling from Guatemala to U.S.

Continues weekly outpatient visits

Family/caretakers: Involved and focused on meds, symptoms and day-to-day care.

Bej: compliant, but found to be underreporting nausea and struggling emotionally with same.

December: Mother and infant sibling arrive in Boston.

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Journey of Migration

October 2015 leaves home in K'iché, Guatemala.

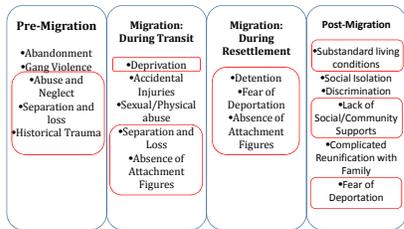
December 2015 Crosses Mexico-U.S. border.

Detained by U.S. Border Patrol.

February 2016 arrives in Massachusetts.

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Exposure To Traumatic Stressors



Peréz Foster, 2001

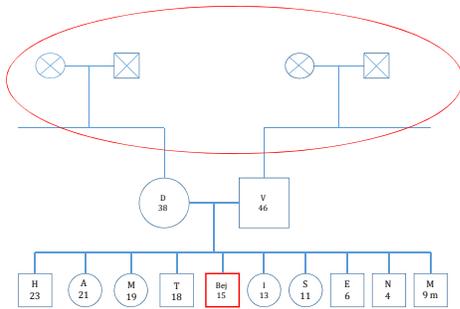
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The Guatemalan Civil War

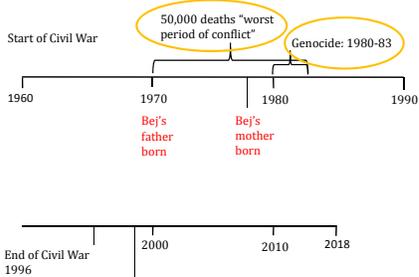
The Guatemalan Civil War ran from 1960 to 1996. It was fought between the government of Guatemala and various leftist rebel groups supported chiefly by ethnic Maya indigenous people and Ladino peasants, who together make up the rural poor. The government forces of Guatemala have been condemned for committing genocide against the Maya population of Guatemala during the civil war and for widespread human rights violations against civilians.

Source: Wikipedia

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1999 UN report concludes: 200,000 killed and 1,000,000 displaced. Security forces responsible for 93% of atrocities including 626 massacres in Mayan villages.

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Density of Massacres registered by Commission for Historical Clarification



Forensic Architecture - Goldsmiths, University of London

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Two sisters watch the exhumation of their mother and four small siblings. photo by Jonathan Moller

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Mental Health Needs of UIM

Screening
 Grief, loss, depression, suicide risk.
 Exposure to violence and other trauma prior to and during migration.
 Symptoms of trauma

Trust
 Demonstrate interest in the minors current situation and well-being
 Help predict what will happen (treatment schedule, side-effects, etc.)
 Establish clear predictable routines.
 Follow through with promises and provide explanations when things change.
 Demonstrate warmth and respect.
 Consider the minors behavior in the context of their historical and current situation.
 Use active listening and avoid making judgments of the stories being shared.

Cultural awareness and language skills

Clinical Interventions and Approach

Draw on interventions for populations with related challenges: refugee families, accompanied immigrant youth and adoptive families.

- Evidence-based trauma-focused therapy (e.g., Trauma Focused CBT)
- Family therapy
- Art and expressive therapy
- Collaboration with School and Community providers

Clinical Interventions and Approach

- Address concrete needs and problems of day-to-day life: housing, food, physical, emotional and legal safety.
- Seek understanding of patient and family's priorities and views regarding disease, treatment, trauma, and symptoms.
- Use patient and family's socio-cultural lens to help make meaning (of experiences, feelings and behaviors, etc.) and guide decision making.

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Clinical Interventions and Approach

- Practice good self-care
Seek support and consultation to address: vicarious trauma, counter transference issues, etc.
- Advocate
Schools, community providers, legal and immigration systems.
- Identify and celebrate strengths and resiliency.
- Use the relationships formed with providers and caretakers, during cancer treatment, as a basis for addressing, repairing and healing losses and trauma.

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Thank you.

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- "Children Do Not Migrate—They Flee": Striking Photos From Poverty-Ravaged Guatemala." Mother Jones, Feb. 2015.

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"Of all the forms of inequality, injustice in health care is the most shocking and inhuman."

Martin Luther King, Jr., 1966

- Where to find accurate information
- Health insurance options
- Challenges regarding self-pay patients
- Collaborative partners
- Opportunities for social workers to make a difference

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Websites regarding immigration

- Department of Immigration (USCIS – United States Citizenship and Immigration Services) www.uscis.gov
- U.S. Customs and Border Control www.cbp.gov
- Immigration and Customs Enforcement (ICE) <https://www.ice.gov>
 - <https://www.ice.gov/parental-interest-faq>
 - <https://www.ice.gov/ero/enforcement/sensitive-loc>
- United Nations High Commissioner for Refugees (UNHCR) <http://www.unhcr.org/en-us/child-and-youth-protection.html>
- National Immigration Law Center (NILC) <https://www.nilc.org/issues/health-care>
 - Has printable handouts on rights & key issues including access to healthcare
 - <https://www.nilc.org/wp-content/uploads/2015/11/med-services-for-immis-in-states.pdf>

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Health insurance options for immigrants

- Lawfully present immigrants may qualify for Medicaid and CHIP, but are subject to certain restrictions (e.g., many time LPRs/green card holders must wait for 5 years before enrolling.)
- Lawfully present immigrants can purchase coverage through the Affordable Care Act (ACA) marketplace.
- Undocumented immigrants are not eligible for Medicare, MCD, CHIP, or the ACA, but they can receive emergency MCD. Some states have state-funded health program that provide coverage to some groups of immigrants regardless of immigration status. Even immigrants with "lawfully present" status under DACA are not always eligible for MCD, CHIP, or the ACA.
- <https://www.medicaid.gov/medicaid/outreach-and-enrollment/downloads/overview-of-eligibility-for-non-citizens-in-medicaid-and-chip.pdf>
- Service availability and healthcare coverage varies widely among and within states

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Healthcare options for the uninsured

- Emergency rooms and acute hospitalizations
- EMTALA (Emergency Medical Treatment and Active Labor Act of 1986) requires hospitals to provide necessary treatment, but does not require the federal government to reimburse hospitals for the costs of this care.
 - Some states can get reimbursement for these visits from emergency Medicaid.

"Charity care"

Federally Qualified Health Centers (FQHCs)

- Community-based healthcare providers funded by the HRSA, must meet stringent criteria to receive this funding
- Offer comprehensive medical care to vulnerable populations regardless of ability to pay, insurance status, or immigration status
- <https://www.hrsa.gov/opa/eligibility-and-registration/health-centers/fqhc/index.html>

Migrant Health Centers

- Map of providers <http://www.migrantclinic.org/community/health-centers.html>
- These are a type of FQHC that is only allowed to serve migrant and seasonal farm workers and their families
- *Interesting information on pesticide exposure and increased cancer risk for migrant workers*

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Working with patients who are self-pay

- Learn your medical center's policy re: financial assistance for self-pay patients.
- Identify the decision-makers in your medical center re: treatment of self-pay patients, and maintain a dialogue with them about this vulnerable population.
- Identify hospices and other community health providers who can partner with you to provide care to this population. (e.g., can palliative care help when a patient wants to return to his/her homeland for EOL care?)
- We cannot discriminate based on legally protected categories (e.g., race, national origin, religion, etc.). However, state laws vary on which categories are considered to be legally protected. Learn what is required and compare it to your medical center's policies.
 - Ask "What am I required to do? What am I permitted to do? What am I prohibited from doing?"
 - Can a medical professional choose to see a patient and not bill for it?
 - Do we have a legal or ethical obligation to treat this patient? If we choose to treat him/her upon presentation, is there a point at which we can ethically stop treating, or stop offering aggressive treatment options based on ability to pay?

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Collaborate with healthcare professionals

- Educate your teams about laws & policies (federal, state, medical center). Advocate continuously for equitable medical care
- Educate your teams about the unique psychosocial stressors that these families face, and the impact that they have on patients' health (as well as adherence, decision-making, mental health, trust in authorities & institutions, availability of support network, hesitancy to seek health care, etc.). Proactively address barriers and quality of life related to treatment.
- Make available a fact sheet about reporting requirements and ensure your teams understand who is required to report legal status and when it is a breach of HIPAA.
- Kaiser Family Foundation - www.kff.org - articles and reports on national health
 - <https://www.kff.org/disparities-policy/fact-sheet/health-coverage-of-immigrants/>
 - <https://www.kff.org/disparities-policy/issue-brief/living-in-an-immigrant-family-in-america-how-fear-and-toxic-stress-are-affecting-daily-life-well-being-hierarchy>

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Collaborate with embassies and consulates

An **embassy** is a permanent diplomatic mission (read: a delegation of diplomats) led by an ambassador. The term is often also used for the physical building they occupy, but that's more correctly termed a chancery. A **consulate** is a government delegation led by a consul. In a sense, a consulate is a representative of the embassy in locales outside of the capital city, and it deals with individual persons and businesses.

- Embassy Pages <https://www.embassypages.com> - provides contact information, websites, and other info for all types of diplomatic and consular representations
- <https://mx.usembassy.gov/visas>

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Collaborative legal partners

- National Immigration Law Center; has printable handouts on rights & key issues including access to healthcare
 - <https://www.nilc.org/issues/health-care>
 - <https://www.nilc.org/issues/health-care/medical-assistance-grant-requirements/>
 - <https://www.nilc.org/issues/health-care/health-coverage-map/>
- American Immigration Lawyers Association <http://aila.org>
- National Cancer Legal Services Network (not exclusive to immigration)
 - <http://www.ncnl.org/ncnl-network>
 - <http://www.ncnl.org/members-directory>, map of CLS offices
- Medical Legal Partnerships
 - Legal Health (New York) <https://legalhealth.org>
 - Many hospitals have MLP programs <http://medical-legalpartnership.org/>
- Catholic Charities <https://catholiccharitiesusa.org/>; 160+ agencies across the USA. Many provide low-cost immigration counseling and support to families and individuals who are eligible for immigration benefits and cannot afford private assistance.
- Contact a local law school to ask about pro-bono assistance

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Beware of immigration scams

- www.uscis.gov/avoidscams
- By law, the only people who may give you legal advice or represent you before USCIS are:
 - Attorneys
 - Non-attorney representatives who are accredited by the Board of Immigration Appeals (BIA)
- "Notarios" are not necessarily attorneys - in the USA, the term refers to notary publics.
- Notify the Federal Trade Commission at www.ftc.gov/complaint, your state attorney general's office, or your state bar association if you are the victim of an immigration scam.
- Do not pay for blank USCIS forms. Always keep your original documents. Do not ever sign blank forms or forms that you do not understand.

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Opportunities for social workers to make a difference

- Reinforce resiliency!
- Acknowledge that these families have unique strengths, challenges, and stressors. Provide education & support to reduce stress, anxiety, and confusion.
- Complete thorough assessments and be cognizant of the likelihood of family trauma history.
- Assist teams with understanding patients' context of trauma (individual, societal, and historical) and how it impacts their thoughts, feelings, and decisions about health and treatment.
- Consider using trauma-focused therapies, and broadening the scope of therapeutic support beyond the cancer experience.
- Review your medical center's policies and protocols to ensure maximum dignity and protection of the rights of patients & families.

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Opportunities for social workers to make a difference, continued

- Establish collegial relationships with local immigration lawyers, congressmen & congresswomen, consulates, MLP providers, etc.
- Maintain conversations with your administration and ethics department about the ethical obligation to provide excellent care to all patients.
- Familiarize yourself with local resources available for undocumented immigrants, both minors and adults so that you can share them with patients.
- Advocate on a state & federal level for justice and equitable healthcare.
- Assist with letters for families so that they can be together whenever possible.

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Medical letters for immigrant families

- Most often requested for:
 - Extended stay in USA (visa extension for patient or family member)
 - Travel to USA to visit or help (visa request for family member)
 - Avoid deportation in order to stay to help patient (deferred action)
- Temporary humanitarian visas may be granted but there are logistical challenges in travel and they are often approved only for a few days or weeks
- Focus on medical information rather than politics or legal advocacy
- Give letters to families whenever possible
- Send letters to consulates or embassies or attorneys if appropriate

Consult your legal department

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Food for thought for pediatric oncology social workers:

- Do we document in the medical record the conversations we have about their legal status as it pertains to their views & as it pertains to their views decisions about their health?
- Are patients being passively denied treatment due to inability to pay?
- Consider the emotional impact (e.g., guilt, helplessness, anger at not being allowed to help) on medical providers who are told that they cannot fully treat their patients.
- Consider the institutional ramifications of the financial burden of indefinitely treating patients who cannot pay.
- Core values of social work (NASW Code of Ethics) are: service; social justice; dignity and worth of the person; importance of human relationships; integrity; and competence.

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Questions?

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