Education, Advocacy, and Lobbying

Advocacy/Lobbying: The Active Role of a Health Professional
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Two Central Realities
» Need to advocate for public health
  Shrinking budgets for health departments
  Need for greater visibility
  Role of policy change in improving health at population level

» Limitations on lobbying
  Recipients of federal funds (direct and subgrantees)
  Potential restrictions on activities of government employees in their official capacity
  Requirements for nonprofits to maintain tax-exempt status

Working with Policymakers
» Many public health goals require the support of policymakers
  Changing public policies
  Improving systems
  Altering the built environment
  Policymakers are able to make more informed decisions when public health professionals participate in the free flow of information

Working with Policymakers
» Advocacy is the promotion of an issue or cause through education, outreach, and organizing
» Public health leaders may support change through advocacy, but must be aware of when advocacy becomes lobbying
» The distinction is not always clear
» Seek to understand and comply with:
  Laws
  Employer rules
  Grant/contract restrictions

Factors in Lobbying Restrictions
» Nature of employer
» Your role within agency
» Acting in official capacity?
» Nature of the message or activity
» Recipient of the message
» Source of funding for your time (including preparation time)
Nature of Employer
» Government
» Nonprofit Organization

Source of Funding
» Federal Government
» State Government
» Local Government
» Tribal Government
» Private Foundation

The Current Context (Federal)
» 2012 HHS Appropriations Act, Section 503
In general, prohibits use of ACA funds (including CTG) for
- calls to action on proposed/pending laws
- federal, state, and local level legislative actions
- regulatory/administrative actions
  some exceptions apply

Nature of Proposed Message/Activity?
» If the activity is to be carried out by a government entity, is it within that entity’s authority?
» Is it consistent with the purpose of the funds?
» Does it involve taking sides on pending/proposed legislative or executive activity?
» Can it be characterized as a call to action?
» If so, is there a way to stop short of a call to action and leave the audience free to form an independent opinion or conclusion?

Official Capacity?
» During normal work hours, paid time?
» Using office facilities, equipment (phone, computer, cell phone), supplies?
» Identified according to your title/position?
  Possible disclaimer “for identification purposes only.”
» Representing agency views, or your own personal views?

North Dakota: Who Is a Lobbyist? (But Stay Tuned)
» North Dakota Century Code Chapter 54-05.1
A lobbyist is any person who, directly or indirectly,
  a. Attempts to secure the passage, amendment, or defeat of any legislation by the legislative assembly, or the approval or veto of any legislation by the governor
  b. Attempts to influence decisions made by the legislative management or by an interim committee of the legislative management.
North Dakota: Who Is Not a Lobbyist?
» A legislator
» A private citizen appearing on his or her own behalf
» An employee, officer, board member, volunteer, or agent of the state or its political subdivisions whether elected or appointed and whether or not compensated, who is acting in his or her official capacity
» A person invited to testify for the purpose of providing information (invitation must be from certain persons)
» An individual presenting testimony on behalf of a trade or professional organization or a business or industry, if introduced to the committee by the registered lobbyist

North Dakota: Requirements of Lobbyists
» Register
» Pay fee
» Wear a badge
» Report expenditures
» May give gifts to legislators or invite them to functions. BUT must supply the legislator with the cost, if requested, and allow the legislator to pay his or her own share.
» Federal requirements may also apply

North Dakota: Unlawful Influence by Lobbyists
» It is unlawful for a lobbyist or other person to:
» Directly or indirectly give or agree to give any money, property, or valuable thing to a person on condition of the passage or defeat of a bill
» Directly or indirectly receive or agree to receive any money, property, or valuable thing to a person on condition of the passage or defeat of a bill
» Attempt to influence a legislator without first making his or her real and true interest in the measure known to the legislator

Section 503: Seek Guidance
» If you have a federal funding source, the issues may be legally complex
» Does Section 503 apply to your federal funding source?
» Can you manage and document use of non-federal funding sources?
» Become familiar with general CDC guidance
» Consult your project officer at CDC
» Consult legal counsel in your agency or the Office of General Counsel at CDC

Section 503: Activities Unlikely to be Considered Lobbying
» Normal and recognized communications in an executive-legislative relationship at the state or local level
» Working with your own state or local government’s legislative body on policy approaches to health issues, as part of normal executive-legislative relationships
» Educating the public on health behaviors and choices
» Research on policy alternatives and their impact
» Working with other executive branch agencies on policy approaches and implementation

* Based on July, 2012 CDC Guidance to CDC Grantees

Section 503: Activities Unlikely to be Considered Lobbying
» Educating the public on health issues and their public health consequences
» Educating the public on the evidence associated with potential policy solutions to health issues
» Compiling and communicating the results of research on health issues and policy approaches
» Conducting educational campaigns
» Upon formal, written request, providing technical assistance to public officials

* Based on July, 2012 CDC Guidance to CDC Grantees
Concerns for Nonprofit Organizations
- The Internal Revenue Code limits the ability of nonprofit organizations to lobby, but it is not an absolute bar.
- Make sure the organization has adequate mechanisms to track lobbying activities.
- Consider the 501(h) election.
- Consult legal counsel.
- Review and comply with contract obligations based on funding from government and private sources.

Impermissible Lobbying May Have Serious Consequences
- It may not be an allowable cost under a grant.
- It may affect tax exempt status of a nonprofit.
- It may affect your employment status.

Tips on Lobbying Restrictions
- Impermissible lobbying may have serious negative consequences, but education and advocacy are basic tools of public health.
- Consider both North Dakota law and federal law, if relevant.
- Talk to your supervisor or board in advance regarding situations that may be controversial.
- Consult an attorney, the grant contract, or the contract administrator about legal questions.
- Remember that trade associations may not face the same restrictions on lobbying.
- Building coalitions and consensus remain keys.

Advocacy Skills: An Overview
- Prepare
- Communicate
- Mobilize
- Connect

Personal Qualities of Effective Advocates
- Knowledgeable
- Good listener
- Friendly
- Open-minded
- Tenacious
- Integrity
- Know themselves

Sample Situations
- Submitting comments to the Food and Drug Administration related to tobacco control rules, for example, menthol cigarettes.
- Join campaign for healthier beverages in local hospitals and clinics.
- Attend/testify at county commissioner's hearing.
- Write a letter to the editor.
- Raw milk—explain how a requirement to report cow share contracts might assist in performing public health functions.
Acknowledgements/ Additional Resources

Antи-Lobbying Restrictions for CDC Grantees (July 2012) at

ChangeLab Solutions, “Complying with Anti-Lobbying Rules: What Federal Grantees Need to Know” (July 9, 2012 webinar, and associated resources including hypothetical situations), at
http://changelabsolutions.org/publications/webinar-complying-anti-lobbying-rules

American Public Health Association (APHA) Capacity Building Assistance, 3-Part webinar series from 2011 on “The Power of Policy” at
http://www.apha.org/programs/cba/webinars/

Alliance for Justice, http://www.afj.org (for nonprofits)

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