

# Advocacy and Lobbying

## *Walking the Line*



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# Objectives

By the end of this session, you will be able to:

- Define advocacy and lobbying
- Describe what a prevention professional's ethical obligation is regarding advocacy 
- Distinguish among actions that are advocacy or specifically lobbying
- List advocacy guidelines for actions that promote wellness and prevent substance misuse and related behavioral health problems

# Let's Start with Some Basic Definitions



# First, a Question: Have You Ever...

- Discussed a prevention issue in public?
- Provided information on a prevention issue?
- Responded to a public official's request for information or data?
- Explained prevention-related laws or policies?
- Created prevention-related fact sheets?

**These are all examples of advocacy.**

# So What Is Advocacy Exactly?



# A Broad Definition of Advocacy

Any action that...

- ✓ speaks in favor of,
- ✓ recommends,
- ✓ argues for a cause,
- ✓ supports or defends, or  
pleads on behalf of others.

# In the Most General Terms, Advocacy Includes...

- ✓ **public education,**
- ✓ regulatory work or litigation,
- ✓ administrative work,
- ✓ **lobbying,**
- ✓ nonpartisan voter registration and education,
- ✓ ...and more.

**In Prevention, Our Advocacy Work Is Limited to Public Education.**



# In Prevention, Our **Advocacy Work Is Education.**

We can and should:

- ✓ Share and explain national and local data on the topic
- ✓ Describe current research related to the issue at hand
- ✓ Share information on legislation and policies from other states and their outcomes
- ✓ Offer testimonials
- ✓ Describe evidence-based prevention activities related to the issue
- ✓ Describe the outcomes of existing legislation on the population affected



# Our Obligation to Advocate

“According to their consciences, prevention professionals should be proactive on public policy and legislative issues.

The public welfare and the individual’s right to services and personal wellness should guide the efforts of prevention professionals to educate the general public and policy makers.”

(Prevention Code of Ethics, 2003)



# Check-In: True or False?

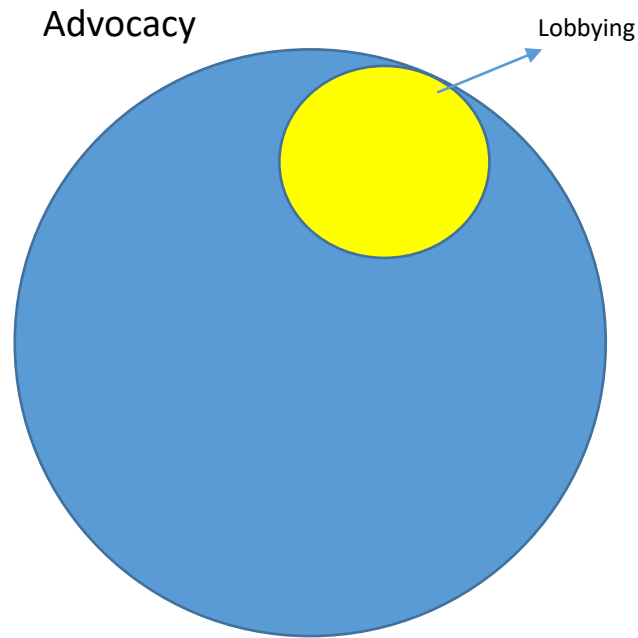
- The Prevention Code of Ethics tells prevention professionals that they should be advocates on public policy issues.
  - True, It is our ethical responsibility to advocate for policies, programs and practices that supports the well-being of individuals, families and communities. However, the advocacy of organizations fully funded by the federal government is limited by law to education.
- In general, advocacy can be more than education.
  - True, advocacy can include other actions besides education.
- Sharing data and information is a permitted form of advocacy.
  - True. Sharing data and information is considered education.

Then, What Is Lobbying?



# The Problem Is....

While all lobbying is advocacy, not all advocacy is lobbying.



Tax-exempt status is contingent upon: "... no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h))..."

(uscode/text/26/4911

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# Lobbying Is...

- Communicating with **decision makers** (elected officials and their staff or voters on ballot measures), about **existing or potential legislation**, and **urging a vote for or against**.
- IRS Code 501©3 states: “An organization will be regarded as attempting to **influence legislation** if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of **proposing, supporting, or opposing** legislation, or if the organization advocates the adoption or rejection of legislation.”

So Why the Confusion?

# The Elements of Lobbying

A communication to the public...  
that reflects a viewpoint....  
on specific legislation.



# What Is This I Hear About Direct and Indirect Lobbying?

- **Direct Lobbying:** Any attempt to influence legislation through communication with any member of a legislative body or any government official or employee who may participate in the formulation of legislation and referring to specific legislation and reflect a view on such legislation.
- **Indirect Lobbying:** Those “grassroots lobbying communications” that try to influence legislation through attempts to affect the opinions of the general public. Like direct lobbying, the communication must refer to specific legislation and reflect a view on such legislation. It must also “encourage the recipients” of the communication to take action with respect to such legislation.

Ref: <https://nonprofitquarterly.org/advocacy-lobbying-501c3-charitable/>



# What Is Meant by...

- **COMMUNICATION?** A conversation (in person or by phone), letter, email, fax, or other creative mechanism to convey a message.
- **LEGISLATOR?** A member of a legislative body or their staff as well as executive branch officials who participate in the formulation of legislation (such as the governor or mayor when vetoing a bill or an agency secretary when helping the legislature write a bill).

*Members of administrative bodies, however, such as school boards, sewer and water districts, housing authorities, zoning boards, and other special purposes bodies, whether elected or appointed, are not considered legislators.*

[Ref: What-is-Lobbying-Under-the-501h-Election-4.20.21.pdf \(bolderadvocacy.org\)](#)

# Indirect Lobbying Always Includes a “Call to Action.”

- Asking an audience to contact a legislator, and...
- Identifying the legislator as being the audience’s representative, and...
- Providing contact information for the legislator, and...
- Providing a vehicle for contacting the legislator, and...
- Identifying the legislator’s position on the legislation or their position on the voting committee, and...
- Reflecting a position on the legislation.

# Check-in: True or False?

- Lobbying and advocacy are different actions.
  - Actually, this is technically false. Lobbying is a type of advocacy.
- Direct lobbying occurs when we ask constituents to take a position on pending legislation.
  - True. When we ask constituents to take a position on pending legislation, this is indirect lobbying.
- The federal government limits funded non-profit agencies' advocacy actions to the education of legislators and the general public.
  - True. However, education can include sharing data, research and the outcomes of similar legislation in other states.

# Lobbying: Staying on the Safe Side



# So Why Can't Prevention Professionals Lobby?

It's a legal issue, not an ethical issue.

Legal and ethical are not the same.

It becomes an ethical issue when we violate a legal contract that prohibits lobbying.



So Prevention Professionals Can NEVER  
Lobby?



# We Don't Lose Our Civil Rights When We Become Prevention Professionals.

We can always lobby as PRIVATE CITIZENS...

✓ From home



✓ Using our own equipment



✓ On our own time





# So When Are Our Actions NOT Lobbying?

- When we take a position on legislation as private citizens
- When we speak on work time funded by monies not state or federal or otherwise prohibited by a funder
- When our organization provides information ( e.g. nonpartisan analysis, study, or research) to educate members of the public on the issue
- When our organization educates and informs the general public but doesn't include reference to specific legislation with a call for a specific action
- When prior to any developing or existing legislation, our organization creates a position paper on a topic and distributes it to the public.

# And More...

- When representing our organization, we are asked in writing by a legislative body to respond to an issue being considered. Then we may advocate a point of view *if the request specifically asks for opinions or recommendations to be given to the entire legislative body.*
- When identifying actions that could adversely affect our organization's existence, powers, duties, tax-exempt status or its contributions without mentioning pending legislation.
- When we tell an elected official how existing legislation has benefited our constituents
- When we provide educational talking points to our coalition or other community members without mentioning any pending legislation or legislative solutions.

# Check-in: True or False?

- The mandate against lobbying is a legal issue.
  - True. It is a condition of a program federally funded.
- I can take a position on legislation if I speak or write my legislator as a private citizen from home on my personal computer on my own time.
  - True. In this case I am acting individually as a citizen and not a representative of my organization that receives federal funds.
- I can offer my opinion on legislation whenever I am asked in writing by a legislative body to provide testimony at a legislative hearing.
  - True. This is within the directives of the Federal Code.
- Providing information on a topic to advocacy groups or legislators is lobbying.
  - False. Providing information is advocacy that is permitted. It becomes lobbying if I cite specific legislation and take a position on it in my official capacity as a recipient of state or federal funds.



# Let's Look at Other Situations...

Imagine That a Good Samaritan Overdose Prevention  
Bill Is Pending in the Legislature...

# Is It Lobbying?



Your state is considering enacting a Good Samaritan Overdose Prevention Act. As part of your work, you want to support the passage of this legislation.

**Action 1:** Identifying yourself as a prevention professional, you contact elected officials or their staff, and encourage them to support the legislation.

This is considered lobbying. An organization will be regarded as attempting to influence legislation if you, as an employee, contact elected officials or staff of a legislative body for the purpose of proposing, supporting, or opposing legislation.

# Is It Lobbying?



Your state is considering enacting a Good Samaritan Overdose Prevention Act . As part of your work, you want to support the passage of this legislation.

**Action 2:** At local events, you educate the public citing data about how Good Samaritan laws in other states have reduced overdose deaths, but you don't take or recommend a position.

This is *not* considered lobbying since you are not directly contacting elected officials or staff of a legislative body for the purpose of proposing, supporting, or opposing legislation pending in your state, and you are NOT taking a position.

# Is It Lobbying?



Your state is considering enacting a Good Samaritan Overdose Prevention Act . As part of your work, you want to support the passage of this legislation.

**Action 3:** Your organization has posted on its website a general policy position advocating for a Good Samaritan policy prior to the time it has been introduced as a specific legislative proposal.

This is *not* considered lobbying since you are not directly contacting elected officials or staff of a legislative body for the purpose of proposing, supporting, or opposing specific legislation. Your policy position was developed prior to the drafting of any legislation on the topic.



# Is It Lobbying?



Your state is considering enacting a Good Samaritan Overdose Prevention Act. As part of your work, you want to support the passage of this legislation.

**Action 4:** Your coalition puts an ad in its newsletter encouraging its members to rally for the passage of this law.

This is considered lobbying. An organization will be regarded as attempting to influence legislation if it contacts elected officials or staff of a legislative body or if it encourages the public to contact legislators for the purpose of proposing, supporting, or opposing legislation

# Is It Lobbying?



Your state is considering enacting a Good Samaritan Overdose Prevention Act. As part of your work, you want to support the passage of this legislation.

**Action 5:** Your organization contacts a local or state agency about changing its policy toward persons using illegal drugs who as “Good Samaritans” provide Narcan to someone who is overdosing.

This is *not* considered lobbying since you are not directly contacting elected officials or staff of a legislative body for the purpose of proposing, supporting, or opposing specific legislation. You are advocating a change in policy, not passage of legislation.

# Is It Lobbying?



Your state is considering enacting a Good Samaritan Overdose Prevention Act . As part of your work, you want to support the passage of this legislation.

**Action 6:** The chair of a state legislative committee contacts you in writing at your agency and asks you to speak about the legislation. At the hearing, they ask your position as a prevention professional and you urge its passage.

This is *not* considered lobbying if the request is in writing from a legislative body, and you make your testimony available to all members of the committee.

# Is It Lobbying?



Your state is considering enacting a Good Samaritan Overdose Prevention Act. As part of your work, you want to support the passage of this legislation.

**Action 7:** Your federally funded coalition sends a letter to the bill's sponsors recommending amendments to the legislation.

This is considered lobbying. An organization will be regarded as attempting to influence legislation if your funded coalition contacts elected officials or staff of a legislative body for the purpose of proposing, supporting, or opposing legislation.

Some Final Thoughts...



# Remember...

- **Be Cautioned** against any and all lobbying in your official role
- **Be Responsible** for knowing funding and agency policies
- **Work** persistently **to Educate** decision-makers and the public
- **Exercise Your Right** as a private citizen to take a stand on important issues.

# Walk that Line!

## Safe Guidelines in Your Professional Role

- **Educate** about the issue and the potential impact of the legislation on people in the community
- **Use data** and fact sheets to make your case.
- **Cite the outcomes of similar legislation** in other states.
- **Restrict your lobbying to your personal time** speaking as a private citizen (own time, own equipment, own home).
- **Seek an expert opinion** when in doubt about what to do.





# Your Resources

- Locally
  - Your funder
  - Your state agency attorney
  - Your state nonprofit alliance
- Nationally
  - Alliance for Justice/Bolder Advocacy:
    - [advocacy@afj.org](mailto:advocacy@afj.org)
    - 866-NP-LOBBY
  - CADCA

# A Final Thought...

*“When you see something that is not right, not just, not fair, you have a moral obligation to say something. Our children and their children will ask us, ‘What did you do? What did you say?’ For some this may be hard. But we have a mission and mandate to be on the right side of history.”*

*Congressman John Lewis*



# References

- [Advocacy vs. Lobbying, https://nonprofitquarterly.org/advocacy-lobbying-501c3-charitable/](https://nonprofitquarterly.org/advocacy-lobbying-501c3-charitable/)
- *Mattison, A., Lobbying Basics,*  
<https://www.pacesconnection.com/resource/mattison-lobbying-basics-pdf>
- [Prevention Think Tank Ethical Code of Conduct, https://www.internationalcredentialing.org/Resources/Documents/Prevention%20Think%20Tank%20Code%20of%20Ethical%20Conduct.pdf](https://www.internationalcredentialing.org/Resources/Documents/Prevention%20Think%20Tank%20Code%20of%20Ethical%20Conduct.pdf)
- [What-is-Lobbying-Under-the-501h-Election-4.20.21.pdf \(bolderadvocacy.org\)](https://www.bolderadvocacy.org/what-is-lobbying-under-the-501h-election-4.20.21.pdf)
- 26 U.S. Code § 4911 - Tax on excess expenditures to influence legislation,  
<https://www.law.cornell.edu/uscode/text/26/4911>

