Election-Year Advocacy & Civic Engagement
Dos and Don’ts for Health Centers

Presented by:
NACHC Advocacy & Policy Teams

April 25, 2018
Agenda

• A look ahead: Midterm elections & the 116th Congress
• Advocacy legalese review
• Civic engagement at Health Centers
• Questions
“The only way to predict the future is to have power to shape the future.”

Eric Hoffer
Midterm elections and the 116th Congress
2018 Elections

• Special Elections (115th Congress)
  Currently Open
  ▪ 3 House (MI, OH, TX)
  ▪ 1 Senate (MS)

• Mid-Term Elections (Open/Total seats)
  ▪ House (435)
    ◦ Incumbent Republicans: 35/237
    ◦ Incumbent Democrats: 17/193
  ▪ Senate (33)
    ◦ Incumbent Republicans: 3/8
    ◦ Incumbent Democrats: 0/23
    ◦ Incumbent Independents: 0/2
2018 Elections

Roll Call’s 2018 Election Guide

House
2018 Elections

Roll Call’s 2018 Election Guide

Senate
Health Center Key Contact Program

Do you have a direct relationship with your Member(s) of Congress or their staff?

Do you consistently respond to calls to action with a phone call or personal email to these contacts?

Are you committed to delivering the Health Center message on behalf of your Health Center and the Program as a whole?

If you answered YES, you could be a Health Center Key Contact!

Email grassroots@nachc.org
Why advocacy?
Why Advocacy Has to Matter to Health Centers

Income Sources for Health Centers

- Medicaid/CHIP: 40%
- Federal: 330%
- Other grants/contracts: 13%
- Private 3rd Party Payors: 7%
- State: 7%
- Medicare: 6%
- Patient Self Pay: 6%
YES, and you should. More than 75% of a health center’s budget can be determined by federal, state and local governments’ decisions. However, there are limits to what health centers can do.

*If you take nothing else away from today’s presentation, remember: you cannot use ANY federal funds to lobby and you cannot participate in any partisan or political campaign activities.*
Breakdown of Activities

Advocacy

- Legislative Advocacy (Lobbying)
- Educational Advocacy
- Direct Lobbying
- Grassroots Lobbying
Educational Advocacy

• Meeting with, calling, emailing, general communications to legislators or decision makers to educate them about your Health Center or the impact of issues on the Health Center

• There is NO LIMIT on the amount of educational advocacy Health Centers may provide
Legislative Advocacy vs. Political Campaign Advocacy

• Legislative advocacy is allowed (within certain limits)

• Political campaign activity is **entirely prohibited**
Legislative Advocacy – “Lobbying”

Advocating the enactment or defeat of pending or proposed federal, state, or local legislation – even in concept.
Direct Lobbying vs. Grassroots Lobbying

**Direct Lobbying** – communicating with legislators (including staff)

**Grassroots Lobbying** – communicating with the general public in an effort to influence the vote of a legislative body
A 501(c)(3) organization (and its affiliates, directors, employees and agents acting on behalf of the organization) cannot engage in or conduct *any* political campaign activities:

- Making contributions to candidate or party
- Endorsing/promoting candidates
- Activities that favor/disadvantage candidates – appearances are important
- Publishing candidate statements

**Participation** can sometimes be viewed as intervention.
So, I can’t use my 330 grant for lobbying...

what CAN I use?
Why Advocacy Has to Matter to Health Centers

Income Sources for Health Centers

- Federal 330 21%
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- Medicare 6%
- Medicaid/CHIP 40%
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- Medicaid/CHIP 40%
- Federal 330 21%
Dollars you CAN use for lobbying

- Revenues unrelated to the grant-supported project (and not restricted by other payors);
- Unrestricted donations, and investment income;
- A health center's fees (self-pay) or premiums, (as identified by the 1996 amendments to Section 330 law);
- Third party reimbursements (including Medicaid and Medicare payments) and potentially state, local, and other operational funding.
Allowable Lobbying Limits

- Substantial part test & expenditure test
  - Expenditure test (IRC Section 501(h))
    - Clearer standard
    - Allows 501(c)(3) organizations to elect to have their allowable lobbying measured by amounts expended for lobbying
      - Funds may be spent within certain limits, up to $1 million a year
        - (e.g. 20% of first $500 thousand of “exempt purpose expenditures”)
      - No more than 25% of organization’s allowable lobbying expenses may be used for grassroots lobbying
    - Applies only if organization elects 501(h) treatment
  - In short, the “real” restrictions apply to federal grant dollars
What if I spend too much money or use the wrong funding sources?

• Violations may result in:
  • Revocation of the organization’s tax-exempt status
  • Imposition of an excise tax on the amount of money spent on the activity
  • Cost disallowance
What about voter registration?
YES, you can!

• **Register Voters**
  • Drives must be designed to educate the public about the importance of voting.
  • Activities **cannot be biased** for or against any candidate or party.
  • Nonprofits may target registration and turnout efforts to the areas or people they serve.

• **Educate Voters**
  • Educate the public on issues and encourage participation in the political process.
  • Educate all candidates and political parties on your issues.
  • Conduct or participate in a nonpartisan candidate forum. The forum must be open to all candidates, be run in a balanced way, and include a broad range of nonpartisan questions for the candidates.
  • Make presentations on your organization’s issue to platform committees, campaign staff, candidates, media, and the general public.

http://communityhealthvote.net
The NVRA has a provision to designate offices that provide “public assistance” as voter registration agencies. Public assistance agencies include any site where an individual may apply or receive an application for Medicaid, such as FQHCs. Under this law, FQHCs with State, city, or county employees as outstationed Medicaid eligibility workers are considered public assistance offices and must provide voter registration services. The FQHCs that use non-governmental employees as outstationed Medicaid eligibility workers (e.g., clinic staff, volunteers) may provide voter registration services.

PAL 96-17, Title: “Federally Qualified Health Centers Participation in Implementation of the National Voter Registration Act.”
Voter Registration Guidelines

Choosing a Target Group
• You **CAN** target historically disadvantaged populations
• You **CANNOT** target ideological groups: liberal, conservatives, etc.

Choosing a Geographic Area
• You **CAN** target an area because it has historically low voter turnout
• You **CANNOT** target an area because it has a close race
Voter Registration Guidelines

Get Out the Vote (GOTV)

- As with voter registration, your GOTV drives must be designed to educate the public about the importance of voting, cannot be biased for or against any candidate or party, and may be targeted to underrepresented communities or those the nonprofit serves.

- Work on behalf of a ballot measure. *Note that this counts towards your direct lobbying limits.*
Consumer Board Member & Patient Appreciation Day

• Friday, August 18
• Consider hosting a voter registration drive as part of your Health Center’s NHCW celebration! Empowering your patients to use their voice is just one way to show your appreciation.
National Voter Registration Day

Mark your calendar:
Tuesday, September 25
Civic engagement and voter registration resources

- www.nonprofitvote.org
- www.communityhealthvote.net
Our Senator voted to fix the Funding Cliff, and is running for re-election. We want to thank her for her past support, and encourage her to support us again this year. Can the health center make a contribution to her re-election campaign?

• No.

• Health Centers or anyone acting as a representative of a Health Center **may not** support or oppose candidates for elective office.

• Employees as private citizens, not using their title/role or funds of the Health Center, **may** participate in these activities as they wish.
Our Congressman is running for re-election. Can we (using the Health Center’s organizational social media accounts) like/friend/follow his campaign profile and accounts on social media?

• No.

• Affiliation (liking/friending/following) with candidates’ campaign profiles can be seen as implicit endorsement. Avoid interaction with campaign websites and social media profiles as the Health Center organization or a representative of the Health Center.

• Affiliation with current/sitting elected officials’ profiles on social media is permitted.
Our Health Center is hosting a candidate forum this summer. We invited all 10 individuals running for the open House seat, but only the Republican candidates confirmed/accepted. Do we have to cancel the event?

- No.

- By inviting all candidates from all political parties, you have exercised nonpartisanship, and have not violated any rules. You do not have to cancel the event.

- Make sure you have records/documentation of your invitations to all candidates in case someone asks or attempts to call attention to it.

- It’s also a best practice to post a statement of nonpartisanship somewhere on your website.
The Township Trustee who sits on our Board is up for re-election this year, and she recently put up signs on clinic property promoting both her candidacy and that of several County Council members. There have been several postings on the clinic's Facebook page suggesting that this is inappropriate/endangers our 501(c)(3) status. What should we do?

• Take the signs down immediately.

• Placing these signs on Health Center property counts as intervention in a political campaign and is NOT allowed.

• Here also, would post a statement of nonpartisanship somewhere on your website, and if someone presses the issue, it may be worth making a public statement (via your website) about what happened and what you’ve done to rectify it, as well as linking to the nonpartisan statement.
Remember:

• Always be nonpartisan
  • Nonpartisan is not bipartisan

• Timing is everything

• IRS looks at “facts and circumstances” of each case
  • Seemingly small things can have huge impact

• When in doubt, get advice beforehand!
• Elections matter to the future of health centers and the health of HC patients
• The populations least likely to vote are those CHCs serve
• Health centers have a trusted relationship with their patients
• Because **YOU CAN** make an impact!
  • Between 910,000-3mil votes were LOST due to registration problems in 2008; a modest improvement over the year 2000, when between 1.5-3mil votes were lost for the same reason.
Visit www.hcadvocacy.org/legalese for this information and more, including:

- Q&A on Health Center Lobbying
- Sample Health Center Policy on Lobbying and Political Campaign Activities
- Q&A on Voter Registration Activities
- Sample Health Center Statement of Nonpartisanship
- Info on legal risks in social media use by nonprofits
- Sample Health Center Policy on Social Media

Or email grassroots@nachc.org for help!
Save the date!

• National Health Center Week Kick-off Webinar
  Wednesday, 5/16 at 3:00PM ET
  RSVP at www.hcadvocacy.org/nhcw_2018

• Election-Year Advocacy Webinar: Part 2
  Wednesday, 9/19 at 3:00PM ET
  RSVP at www.hcadvocacy.org/electionadvo2

All events listed on www.hcadvocacy.org/events!
Questions?