

Laws and policy for AAPPS grantees

Office of Policy, Planning, and External Relations

Overview of Webinar

- ❑ **Legal Considerations of STD Prevention Policy (Cramer)**
- ❑ **AAPPS Policy Activities (Elmore)**
- ❑ **Examples of Prohibited Lobbying Activities and Allowable Policy Activities (Poromon)**

CDC Definition of Policy

CDC defines “policy” as a law, regulation, procedure, administrative action, incentive, or voluntary practice of governments and other institutions

LEGAL CONSIDERATIONS OF STD PREVENTION POLICY

Overview of Legal Considerations of STD Prevention Policy

- ❑ **Legal basics in the United States**
 - Lawmaking authority at different levels of government
 - Different types of laws

- ❑ **Laws related to sexually transmitted disease prevention**

Legal Basics in the United States

- ❑ **Governmental Levels:** Federal, State and Local

- ❑ **Types:**
 - Codified
 - Constitution
 - Statutes
 - Regulations
 - Judicial
 - Trial → appellate → supreme

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Federal Lawmaking Authority

- In order for the federal government to pass a law, it must do so based on an *enumerated* power in the constitution:
 - To regulate interstate commerce¹
 - Tax and spend²
 - A few other very specific provisions (“coin Money,” “establish Post Offices,” and “raise and support Armies,” etc.)³

¹ U.S. Const., Art. I., §8, cl. 3.

² U.S. Const., Art. I., §8, cls. 1.

³ U.S. Const., Art. I., §8, cl. 5, 7, 12.

Federal Lawmaking Authority Example

- ❑ Congress intended to pass parts of the Affordable Care Act (ACA) based on its authority to regulate interstate commerce
 - The Supreme Court deemed this to be an invalid use of its interstate commerce authority

- ❑ The Supreme Court upheld the ACA on the basis of Congress's authority to tax and spend
 - Provisions are enforced via a fee, paid with your taxes

State Lawmaking Authority

- States have what is referred to as “police power”
 - The authority to regulate for the health, safety, and welfare of a state
 - Commonly referred to as “plenary” and is particularly broad for public health purposes

“Like other measures intended to enhance public health and community well-being, *governmental action designed to control the spread of disease falls within the scope of the State's police powers. Traditionally, the States have been allowed broad discretion in the formulation of measures designed to protect and promote public health.*” People of Illinois v. Adams, 149 Ill.2d 331 (1992) (citing Jacobson).

Local Lawmaking Authority

- ❑ Local governments generally have lawmaking authority, though this authority is given to it by its state
 - Local lawmaking authority is that portion of a state's police power it chooses to delegate to its local governments
- ❑ Significant variation in local power relative to state; important consideration if evaluating local laws

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Codified Law

❑ **Constitution**

- Supreme law of a jurisdiction
- Established through legislature (generally a super majority), or ballot referendum

❑ **Statutes**

- Laws passed by the legislature
- Must adhere to constitutional standards

❑ **Regulations**

- Rules passed by administrative agencies
- Must adhere to constitutional standards
- Same force of law as statutes

Judicial Law

❑ **Common law legal system**

- Great weight given to judicial precedent; judge acts as policymaker
- Builds up gradually over time as conflicts are resolved in court
- Application of analogous laws to novel cases facilitates flexibility
- The relevant “law” for a specific topic may not be “codified,” but may be set forth in judicial precedent

❑ **Three levels at both the state and federal level: trial, appellate, and supreme**

- Bound by decisions of higher courts

What is Law?



Laws Related to Sexually Transmitted Diseases

❑ Federal, state and local

❑ Types:

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Laws regarding STD prevention may be present at all levels and in all forms

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Our analysis was only of state statutes

STD Laws: Topics

- ❑ **We searched all 50 states and DC for statutes explicitly related to STDs**
- ❑ **The following themes emerged:**
 - Disease intervention specialist requirements
 - DIS requirements: <http://lawatlas.org/query?dataset=communicable-disease-intervention-protocol>
 - Reporting: <http://lawatlas.org/query?dataset=public-health-departments-and-state-patient-confidentiality-laws>
 - Mandatory testing
 - Mandatory treatment
 - Establishment of STD program
 - Establishment of STD clinic
 - Expedited partner therapy
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Thank you

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The findings and conclusions in this report are those of the authors and do not necessarily represent the official position of the Centers for Disease Control and Prevention, nor should any of the contents contained in this presentation be considered legal advice.



Policy for AAPPS grantees

National Center for HIV/AIDS, Viral Hepatitis, STD , and TB Prevention

Division of STD Prevention



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AAPPS Policy Activities - 1

Activity:

Monitor and evaluate impact of relevant policies

Suggested actions:

- ❑ **Identify policies proven to impact STD**
 - ID 1-3 policy issues that may impact jurisdiction
 - Set up process to monitor progress
 - Establish action plan for response

* We do not anticipate that every grantee will be able to conduct all three activities every year

AAPPS Policy Activities - 2

Activity:

Educate public, providers, and key stakeholders on the positive potential or proven impacts of policies on reducing STIs

Suggested actions:

Complete NCSD educating policymaker training by end of year 3 if have not already, which could include:

- Create a coalition to address a policy issue
- Develop at least one policy brief on a key issue
- Develop dissemination plan and disseminate the brief
- Identify 3-5 key stakeholders and a plan to educate them
- For additional information on the policymaker training contact NCSD: statepolicy@ncsddc.org

AAPPS Policy Activities - 3

Activity:

Work with external partners and other agencies within the executive branch of state or local governments to improve access and quality of STD prevention services through enhanced collaboration with primary care

Suggested actions:

Establish active targeted public/private partnerships with providers along different levels of STD care (in your jurisdiction) i.e. primary care, STD clinics, and expert STD providers

- May include SOWs/ MOUs

EXAMPLES OF AAPPS POLICY ACTIVITIES

Monitor and Evaluate Impact of Relevant Policies

❑ North Carolina

- Evaluate and assess current administrative codes and their effect on STD screening
- Study and evaluate laws regarding free and confidential STD services

❑ Chicago

- Develop a policy work plan to address 1) monitoring and improving the quality of STD screening and treatment in primary care settings, and 2) monitoring and evaluating policies affecting ARGC and congenital syphilis

❑ California

- Track and analyze legislation that has been introduced by the state legislature for feasibility and impact on STDs
- Share analysis up through the appropriate state governmental channels

Educate Public, Providers and Key Stakeholders

□ Wyoming

- Present at Wyoming PHA conference about STD infections and complications, policies to support prevention, and screening and treatment recommendations
- Educate the Wyoming Department of Corrections about updated institutional procedures that reflect current STD protocol

□ Idaho

- Educate providers on most effective use of patient-delivered partner therapy
- Implement interventions aimed at improving provider knowledge of STD treatment and protocols

Work with External Partners and Other Agencies

□ Texas

- Work with Medicaid, large health plans, and the Preventive and Primary Care Unit of the Division for Family and Community Health Services to gain access to HIV/STD testing and treatment data from primary health care

□ Indiana

- Work with Health Care Education and Training, Inc. to improve access to quality STD clinical services in primary care settings by ensuring that community health centers and providers are educated on the CDC's screening recommendations and treatment guidelines

**EXAMPLES OF PROHIBITED
LOBBYING ACTIVITIES AND
ALLOWABLE POLICY ACTIVITIES**

Lobbying - Definition

To conduct activities aimed at influencing public officials and especially members of a legislative body on legislation (*Merriam-Webster*)

Lobbying Prohibitions

- ❑ Federal funds cannot be used to conduct lobbying at the grass roots, local, state, or federal levels
- ❑ States also have official definitions of lobbying and laws related to lobbying
- ❑ Please consult the National Conference of State Legislatures' website for information on your state:
<http://www.ncsl.org/research/ethics/50-state-chart-lobby-definitions.aspx>

Lobbying – not permitted with federal funding

- ❑ Lobby law makers for passage of EPT law**
- ❑ Pass legislation allowing EPT**
- ❑ Actively advocate for the passage of a bill by involving key stakeholders and lobbying legislators**

Educating *is* allowable

- ❑ **Educate law makers about the importance of public health STD programs**
- ❑ **Educate stakeholders about the importance of STD prevention and how EPT can play a role in effective prevention**
- ❑ **Work with partners to promote STD prevention**
- ❑ **Also grantees can enroll in the NCSD policymaker academy for invaluable training on how to educate policymakers effectively and safely:
statepolicy@ncsddc.org**

Thank you!

For policy-related questions or TA, please contact a member of the DSTDP Policy Team:

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POLITICAL ACTIVITY AND GOVERNMENTAL GRANTEEES

What **can** everyone funded by CDC* do?

- ✓ Educate the public on personal health behaviors and choices
- ✓ Research policy alternatives and their impacts
- ✓ Educational campaigns that give pros and cons of public policies, as long as these are balanced and avoid express calls to action about specific legislation
- ✓ Compile and communicate results of research on health issues and policy approaches that have successfully addressed them – must be a balanced view
- ✓ Upon formal, written request, provide public officials with technical advice concerning evidence of a program or policy effectiveness
- ✓ Educate the public about best practices or success stories across states or localities – must be a balanced view

*Including CDC employees and all grantees

What **can** everyone funded by CDC* do?...continued

- ✓ Identify and disseminate balanced objective evidence on options and alternatives for legislative or executive actions
 - no “calls to action” or point of view statements
- ✓ Compile and share policy best practices from jurisdictions
- ✓ Inform the public on potential policy solutions and their impact without a foregone conclusion
- ✓ Communicate with public about health issues and potential policy solutions
- ✓ Work with private sector organizations to achieve institutional changes that do not require gov't or executive action
- ✓ Communicate with the public about health risks and their consequences

What **can** everyone funded by CDC* do?...continued

- ✓ Collect and analyze data
- ✓ Publish and disseminate results of research and surveillance data
- ✓ Implement prevention strategies
- ✓ Conduct community outreach services
- ✓ Provide leadership and training
- ✓ Foster safe and healthful environments

*Including CDC employees and all grantees

What **can** state and local grantees do with CDC funds?

- ✓ Educate the public on personal health behaviors and choices, and on *potential policy solutions* to health issues
- ✓ Research policy alternatives and their impacts
- ✓ Work with other agencies within the executive branch of state or local government in support of policy approaches and implementation of policies
- ✓ Work with their own state or local government's legislative body on policy approaches to health issues, as part of normal executive-legislative relationships
- ✓ + all other activities non-government grantees can do

What **can't** everyone funded by CDC* do?...continued

- x Direct lobbying for or against a pending legislative or executive decision (including regulations, executive orders, or administrative actions)
- x Provide materials related to public policies require legislative or executive action made available to a narrow audience only
- x Encourage support or opposition of pending legislation or action
- x Advocacy to perpetuate or increase their own Federal funding
- x Develop/disseminate materials with all 3 of the following:
 - x Refer to specific legislation or order
 - x Reflect a point of view on legislation or order
 - x Contain an overt call to action

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What **can't** state and local grantees do with CDC funds?

- x Encourage support or opposition for a specific action proposed or pending before the U.S. federal government, the state government, or local government
- x Direct lobbying of the U.S. Congress
- x Direct lobbying of a state or local legislature, if not part of the normal executive-legislative relationships
- x Advocacy to perpetuate or increase their own funding from the Federal government