



KPHA E-NEWS UPDATE

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Legislative Update



The legislature has gone home for a few weeks and before they did we had a terrific "Health Day at the Capitol" to bring health advocates together to visit with legislators and to let the media know that we believe a Healthy Kansas is important! Thanks to event organizers Sonja Armbruster and Kim Richter (and her class from KUMC), plus sponsors, Kansas Foundation for Medical Care, Association of Mental Health Centers of Kansas, and Unicare, everything went off without a hitch. We had healthy snacks and a healthy reception for

legislators and many of the public. Thanks to all of you who came and participated. Let me know if you are interested in being a part of next year's planning for the annual "Health Day at the Capitol" to kick off National Public Health Week.

Here are pictures from the event:





Below is the handout from Marvin Stottlemire who spoke at the Workshop:

Legal Aspects of Advocacy

Marvin Stottlemire, PhD, JD
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I. 501(c) (3) Organizations can lose tax exempt status for too much "lobbying."

A. What is lobbying?

B. How much is too much?

1. Substantial part test

2. Expenditure test.

II. Under state statutes lobbyist are required to register, and their activities are limited.

A. What is a lobbyist?

B. What limits on lobbying?

III. Unless designated to testify by their employer, State employees must do all advocacy on their own time, using their own resources and make clear that they are speaking only for themselves.

501(c) (3) Rules

Political and Lobbying Activities

(Adapted from IRS Publication 1828, *Tax Guide for Churches and Religious Organizations* - February 2004)

Political activities and legislative activities are two different things and are subject to two different sets of rules. The rules depend on the type of tax-exempt organization, the type of activity (political or legislative) at issue, the scope or amount of the activity conducted, and the consequences of exceeding the given set of limitations.

Lobbying Activity

In general, no organization may qualify for section 501(c)(3) status if a substantial part of its activities is attempting to influence legislation (commonly known as lobbying). A 501(c)(3) organization may engage in some lobbying, but too much lobbying activity risks loss of tax-exempt status.

Legislation includes action by Congress, any state legislature, any local council, or similar governing body, with respect to acts, bills, resolutions, or similar items (such as legislative confirmation of appointive office), or by the public in referendum, ballot initiative, constitutional amendment, or similar procedure. It does not include actions by executive, judicial, or administrative bodies.

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.

Organizations may, however, involve themselves in issues of public policy without the activity being considered as lobbying. For example, organizations may conduct educational meetings, prepare and distribute educational materials, or otherwise consider public policy issues in an educational manner without jeopardizing their tax-exempt status.

Measuring Lobbying Activity: Substantial Part Test

Whether an organization's attempts to influence legislation constitute a substantial part of its overall activities is determined on the basis of all the pertinent facts and circumstances in each case. The IRS considers a variety of factors, including the time devoted (by both compensated and volunteer workers) and the expenditures devoted by the organization to the activity, when determining whether the lobbying activity is substantial.

Under the substantial part test, an organization that conducts excessive lobbying activity in any taxable year may lose its tax-exempt status, resulting in all of its income being subject to tax. In addition, a religious organization is subject to an excise tax equal to five percent of its lobbying expenditures for the year in which it ceases to qualify for exemption.

Further, a tax equal to five percent of the lobbying expenditures for the year may be imposed against organization managers, jointly and severally, who agree to the making of such expenditures knowing that the expenditures would likely result in the loss of tax-exempt status.

Measuring Lobbying Activity: Expenditure Test

Organizations other than churches and private foundations may elect the expenditure test under section 501(h) as an alternative method for measuring lobbying activity. Under the expenditure test, the extent of an organization's lobbying activity will not jeopardize its tax-exempt status, provided its expenditures, related to such activity, do not normally exceed an amount specified in section 4911. This limit is generally based upon the size of the organization and may not exceed \$1,000,000.

Organizations electing to use the expenditure test must file [Form 5768](#), *Election/Revocation of Election by an Eligible IRC Section 501(c)(3) Organization to Make Expenditures to Influence Legislation*, at any time during the tax year for which it is to be effective. The election remains in effect for succeeding years unless it is revoked by the organization. Revocation of the election is effective beginning with the year following the year in which the revocation is filed.

Under the expenditure test, an organization that engages in excessive lobbying activity over a four-year period may lose its tax-exempt status, making all of its income for that period subject to tax. Should the organization exceed its lobbying expenditure dollar limit in a particular year, it must pay an excise tax equal to 25 percent of the excess.

Political Campaign Activity

Under the Internal Revenue Code, all section 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Contributions to political campaign funds or public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity. Violation of this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise tax.

Certain activities or expenditures may not be prohibited depending on the facts and circumstances. For example, certain voter education activities (including the presentation of public forums and the publication of voter education guides) conducted in a non-partisan manner do not constitute prohibited political campaign activity.

In addition, other activities intended to encourage people to participate in the electoral process, such as voter registration and get-out-the-vote drives, would not constitute prohibited political campaign activity if conducted in a non-partisan manner. On the other hand, voter education or registration activities with evidence of bias that: (a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring a candidate or group of candidates, will constitute prohibited participation or intervention.

Individual Activity by Organization Leaders

The political campaign activity prohibition is not intended to restrict free expression on political matters by leaders of organizations speaking for themselves, as individuals. Nor are leaders prohibited from speaking about important issues of public policy. However, for their organizations to remain tax-exempt under section 501(c)(3), leaders cannot make partisan comments in official organization publications or at official functions.

To avoid potential attribution of their comments outside of organization functions and publications, organization leaders who speak or write in their individual capacity are encouraged to clearly indicate that their comments are personal and not intended to represent the views of the organization.

Inviting a Candidate to Speak

Depending on the facts and circumstances, an organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status. Political candidates may be invited in their capacity as candidates, or individually (not as a candidate).

Speaking as a Candidate:

When a candidate is invited to speak at an organization event as a political candidate, the organization must take steps to ensure that:

- It provides an equal opportunity to the political candidates seeking the same office,
- It does not indicate any support of or opposition to the candidate (This should be stated explicitly when the candidate is introduced and in communications concerning the candidate's attendance.), and
- No political fundraising occurs.

Equal Opportunity to Participate:

In determining whether candidates are given an equal opportunity to participate, an organization should consider the nature of the event to which each candidate is invited, in addition to the manner of presentation.

For example, an organization that invites one candidate to speak at its well attended annual banquet, but invites the opposing candidate to speak at a sparsely attended general meeting, will likely be found to have violated the political campaign prohibition, even if the manner of presentation for both speakers is otherwise neutral.

Depending on the facts and circumstances, an organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status. Political candidates may be invited in their capacity as candidates, or individually (not as a candidate).

Public Forum:

Sometimes an organization invites several candidates to speak at a public forum. A public forum involving several candidates for public office may qualify as an exempt educational activity. However, if the forum is operated to show a bias for or against any candidate, then the forum would be a prohibited campaign activity, as it would be considered intervention or participation in a political campaign.

When an organization invites several candidates to speak at a forum, it should consider the following factors:

- Whether questions for the candidate are prepared and presented by an independent nonpartisan panel,
- Whether the topics discussed by the candidates cover a broad range of issues that the candidates would address if elected to the office sought and are of interest to the public,
- Whether each candidate is given an equal opportunity to present his or her views on the issues discussed,
- Whether the candidates are asked to agree or disagree with positions, agendas, platforms or statements of the organization, and
- Whether a moderator comments on the questions or otherwise implies approval or disapproval of the candidates.

Speaking as a Non-Candidate:

An organization may invite political candidates to speak in a non-candidate capacity. For instance, a political candidate may be a public figure because he or she: (a) currently holds, or formerly held, public office; (b) is considered an expert in a non-political field; or (c) is a celebrity or has led a distinguished military, legal, or public service career. When a candidate is invited to speak at an event in a non-candidate capacity, it is not necessary for the organization to provide equal access to all political candidates.

However, the organization must ensure that:

- The individual speaks only in a non-candidate capacity,
- Neither the individual nor any representative of the organization makes any mention of his or her candidacy or the election, and
- No campaign activity occurs in connection with the candidate's attendance.

In addition, the organization should clearly indicate the capacity in which the candidate is appearing and should not mention the individual's political candidacy or the upcoming election in the communications announcing the candidate's attendance at the event.

Voter's Guides

Organizations undertake voter education activities by distributing voter guides. Voter guides, generally, are distributed during an election campaign and provide information on how all candidates stand on various issues. These guides may be distributed with the purpose of educating voters; however, they may not be used to attempt to favor or oppose candidates for public elected office.

Type of Tax-Exempt Organization

The rules discussed in this article apply only to 501(c)(3) organizations. In addition to these restrictions, [private foundations](#) are subject to excise taxes on expenditures for political and lobbying activities.

Selected Kansas Statutes

46-225. "Lobbying" defined; exceptions; employment of legislator as a lobbyist prohibited.

(a) "Lobbying" means: (1) Promoting or opposing in any manner action or nonaction by the legislature on any legislative matter or the adoption or nonadoption of any rule and regulation by any state agency; or

(2) entertaining any state officer or employee or giving any gift, honorarium or payment to a state officer or employee in an aggregate value of \$ 40 or more within any calendar year, if at any time during such year the person supplying the entertainment, gifts, honoraria or payments has a financial interest in any contract with, or action, proceeding or other matter before the state agency in which such state officer or employee serves, or if such person is the representative of a person having such a financial interest.

(c) "Lobbying" does not include any expenditure from amounts appropriated by the legislature for official hospitality.

(d) "Lobbying" does not include representation of a claimant on a claim filed by the claimant under K.S.A. 46-907 and 46-912 to 46-919, inclusive, and amendments thereto in proceedings before the joint committee on special claims against the state.

(e) "Lobbying" does not include bona fide personal or business entertaining.

(f) No legislator may be hired as a lobbyist to represent anyone before any state agency.

46-232. Lobbying by state officer or employee; prohibited acts; exception.

No state officer or employee shall engage in lobbying his own state agency, if he accepts compensation specifically attributable to such lobbying, other than that provided for the performance of his official duties. Nothing in this section shall prohibit a state officer or employee from lobbying without compensation other than that which he is entitled to receive for performance of his official duties.

46-271. Lobbying restrictions; gifts or contributions; hospitality; exceptions.

No lobbyist shall offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service having an aggregate value of \$ 40 or more in any calendar year to any state officer or employee or candidate for state office with a major purpose of influencing such officer or employee in the performance of official duties or prospective official duties. Hospitality in the form of recreation, food and beverages are presumed not to be given to influence a state officer or employee or candidate for state office in the performance of official duties, except when a particular course of official action is to be followed as a condition thereon.

Except when a particular course of official action is to be followed as a condition thereon, this section shall not apply to (1) any contribution reported in compliance with the campaign finance act as amended, or (2)

a commercially reasonable loan or other commercial transaction in the ordinary course of business. [Back to top](#)

Honeybee Alert!

TO: Public Health Officials and First Responders

FROM: William Scott, Manager, Plant Protection and Weed Control

SUBJECT: Africanized Honeybee

DATE: March 29, 2006

Africanized honey bees, also known as killer bees in some circles, have been migrating north from Brazil for nearly 50 years. Recent reports from Oklahoma confirm they are near our southern border and may move into Kansas this year.

This insect has the potential to move several hundred miles in one year by natural migration, possibly even further as a hitchhiker during commercial bee movement.

Our goal is to alert you of this pest, since you could be among the first to encounter it. We also want to provide you basic information about this insect via the enclosed fact sheet.

Training opportunities for dealing with incidents involving Africanized honeybees will be made available at a later date. In the meantime, I encourage you to discuss this pest with your counterpart in either Oklahoma or Texas to learn how they protect themselves when called to respond to a situation involving bees.

The Kansas Department of Agriculture is working with a number of groups and public agencies to inform the public about dealing with Africanized honeybees. We will do our best to mitigate the impact of these bees, but we recognize we will have to learn to live with them as other states have.

Please contact us at (785) 862-2180 if you have questions about Africanized honeybees. [Back to top](#)

Kansas NPHW Media Attention Attracts Information

Below is a letter received after the article about National Public Health Week appeared in a local paper:

Dear Ms. Schartz,

I recently became aware of your organization after reading an article in the Lawrence Journal-World regarding the general promotion of public transportation, bicycle paths, sidewalks, and more parks to increase the general health and well being of our children and communities in general. My partner and I would agree with you, and one can find many reasons from an anthropological perspective to support what

you are trying to do. Not the least of which is that the history of our species has resulted in the human race being adapted for a certain minimum level of physical activity out of doors. In many ways, our modern society is at odds with what it historically meant to be human - physiologically, psychologically, and socially.

I would like to offer my company's services if at any time the KPHA or its members would require some expert anthropological support for various projects or initiatives being undertaken. Human Inquiry (www.humaninquiry.com) is an anthropological consulting firm that, among other things, seeks to use anthropology (including ethnographic techniques) to help our clients integrate technology (from laptop computers to the built environment) with the relevant cultural and historical elements of the people using said technology.

As anthropologists, we think that taking into account local cultural and social factors, and the historical and contextual reasons for their development, is important for successful planning and design. We also take into account how evolution has shaped our cultures, psychologies, and physiologies and what that says about how humans interact with the various technologies they use and spaces they interact within.

I would refer you to our company's website to take a look at two of our projects involving analyses of the built environment to get a better idea of what we do. One involves the analysis of a community center in Albuquerque, NM, and the other an elementary school also in Albuquerque. On our website, click on the Projects, Articles, Books link at the left of the screen and follow the links from there.

If we can be of service in any way, please don't hesitate to contact me.

Sincerely,

Marcel J. Harmon, P.E., Ph.D.
Partner
Human Inquiry (www.humaninquiry.com)
2724 Meadow Dr
Lawrence, KS 66047 [Back to top](#)

Article on APHA Conference from Dr. Praveen



Here is the final article from our paper/poster winner last fall:
Praveen Pannala, MPH Epidemiologist Arthritis/ Community Health Intervention Programs
Office of Health Promotion

"Only the curious will learn and only the resolute will overcome the obstacles to learning. The quest quotient has always excited me more than the intelligence quotient" - Edmund S. Wilson (1895-1972)

The zeal to learn new things has shaped my actions and my career throughout my life. Born and brought up in the "City of Pearls", Hyderabad, India, attending medical school in "Pearl of Europe", Lviv, Ukraine, and public health school in "The Crescent City", New Orleans, LA, I have had ample opportunity to visit many cities, meet new people, and learn about national histories, traditions, cultures, diversities and all the more global integrity. I feel extremely delighted for having got the opportunity to visit Philadelphia the city of "Brotherly Love", to attend the American Public Health Conference in Philadelphia in December 2005. What was more exciting was to see over 11,000 public health professionals from around the world, with

more than 1,000 scientific presentations all under one roof. It was like visiting a gold mine of knowledge; of course it was a Herculean task of gathering as much information as possible within the duration of the conference. With so many scientific sessions, poster presentations, discussion groups, and ample amount of opportunity to learn state of the art techniques, the latest in public health research, network with experts and fellow public health workers across the country, the experience was ever cherishing. Makes you feel that you belong to the ever-growing diverse family of public health professionals and practitioners and the huge public health machinery.

One of my primary goals prior to my trip was to obtain information on issues regarding racial and health disparities, and up to date knowledge on public health surveillance systems. Following is a brief description of selected presentations on eliminating racial and health disparities and hospital discharge data surveillance system:

Racism and Health: Collecting evidence to address root causes of disparities by Camara Phyllis Jones, MD, MPH, PhD, Office of Minority Health and Health Disparities, Centers for Disease Control and Prevention:

What was interesting to note was how Dr. Jones defined "Race" as the "social interpretation of phenotype in a given place and time", and that it has been quantitatively measured on the "Reactions to Race" module of the Behavioral Risk Factor Surveillance System (BRFSS) by the question "How do other people classify you in this country?" Dr. Jones further explored the definition of "racism" as the "system of structuring opportunity and assigning value based on the social interpretations of phenotype ("race")". It was interesting to note her conclusions regarding going beyond quantitative evidence for identifying racism as a health and well being issue and investigating further through qualitative research, the mechanism of how it effects health care and how we can address this issue. She emphasized on examining "structures", "policies", "practices and norms" to address root causes of health disparities.

Health equity and social justice. The impact of eliminating racial inequities - by Adewale Troutman, MD, MA, MPH, Director, Fulton County Health Department of Health and Wellness:

Dr. Troutman gave some excellent examples from selected data, highlighting racial disparities in United States among racial and ethnic groups in health insurance coverage, homicide rate, hypertension rate, life expectancy, infant mortality, breast cancer incidence and mortality, mortality due to diabetes, incidence of prostate cancer and HIV/AIDS. The correlation between race and indicators of socioeconomic status (SES) and health was emphasized. Dr. Troutman further explored the need to adjust for SES through statistical analysis when looking at race and how prevailing measures were imperfect proxies, for example: within a socio-economic group there are multiple variations. Dr. Troutman pointed out that standard measures of SES have different meanings for different races, for example: purchasing power is different among races. It was pointed out that current SES analysis frequently does not capture effect of lifetime exposure to deprivation and lack of childhood prevention and its long-term effects.

Under medical care discussion persistence in huge variations in quality and quantity of care was emphasized, examples include: some racial groups are less likely to receive continuous care as they are more likely to receive care in hospital ER's and clinics, and they are more likely to receive inadequate information about care, instructions, medical information and information about presenting problem.

Dr. Troutman further quoted definition of racism as "An ideology of inferiority that is used to justify the unequal treatment of members of groups defined as inferior, by both individuals and social institutions" and levels of racism as "Personally Mediated", "Internalized", and "Institutionalized". Definitions of health, equity, justice, social justice, were explored and rights, human rights, right to health, international bill of

human rights were briefly reviewed.

Further Dr. Troutman described The Minnesota Model "A Call to Action: Advancing Health for All Through Social and Economic Change". Some of the facts presented were: people with higher income enjoy healthier longer life, disease and death rates are higher in populations that have a greater gap in income, people are healthiest when they feel safe, when they feel their job is secure, when they feel the work they do is important and valued. In addition, discrimination and racism play a crucial role in explaining health status and health disparities.

He explained the importance of policy development & public health leadership as a core public health function. He further explored the impact of short term and long-term solutions with respect to public health policies and how attention to short term solutions only will create a healthier underclass and will not create health equity because of lack of social justice. Dr. Troutman concluded his presentation by highlighting the direct relationship between poverty and health outcomes, disparities in health and their link with disparities in wealth, inseparable health equity and social justice, self manifestation of racism in health disparities, disproportionate share of uninsured, unemployed, undereducated, radical gaps in income and how these issues could be addressed by determining best practices for evidence based health policy, balancing between promoting and protecting human rights and promoting public health as a national policy.

In the first Place: A community approach to preventing health disparities- by Larry Cohen, MSW, Executive Director, Prevention Institute.

In his presentation Mr. Cohen emphasized that people of color, and of low-income experience the worst consequences and they disproportionately suffer from poor health and safety outcomes. He further explained that focus on quality of treatment and increased access had resulted from growing concern over health disparities but there is still a lot to do to prevent health problems from arising in the first place. Mr. Cohen stressed the critical role played by both the natural environment (air, water, soil) and the social, cultural and political "environment", on behavior and how they can be positively utilized to reduce the number of people who are in need of treatment.

He also pointed out that natural environment and environmental quality has its influence on health and they tend to be worse in minority and poor populations, for example: polluting sites are concentrated in areas where low - income and minority populations reside. He further noted that health outcomes are affected by behaviors, which in turn are directly and indirectly influenced by the social and community environments. He emphasized that by addressing behavior change alone does not take into account the larger environmental factors that can be detrimental for the educational message.

Mr. Cohen proposed approaches to improve the community environment, and the importance of focusing on both risk and resilience. He defined risk factors as "characteristics or circumstances that increase the risk that people within the community will experience poor health and safety outcomes" and resilience as "the ability to thrive, despite the presence of risk factors".

Mr. Cohen described the THRIVE toolkit which can help reduce health disparities and highlights resilience factors that support health and safety outcomes in communities. He mentioned that enhanced community resilience factors could have long-term positive effects on individuals and community health and they can also serve as interim benchmarks in meeting Healthy People 2010 goals.

Further research on the THRIVE tool from the preventive institute website at www.preventioninstitute.org revealed that THRIVE tool consists of 20 factors in 4 clusters: built environment, social capital, services and institutions, and structural factors and The THRIVE national expert panel identified ways by

which this tool can help close the health gap. They pointed to the importance of building on strengths in disenfranchised communities to reduce disparities by using resilience approach. Further, it is mentioned that in order to build science and practice base for communities of color there is a need to track resilience approach and associated data over time. The website enlists other ways the tool can help close the health gap which include: changing the way people think about health and safety, providing an evidence-based framework for change, building community capacity while building on community strengths, and fostering links to decision makers and other resources.

How states are collecting and using external-cause-of injury data (E codes): 2004 update to the 1997 report. Dr. Mevin A. Kohn, MD, MPH, Department of Human Services, Environmental and Occupational Epidemiology, Oregon Health Division.

Dr. Kohn reported the results of repeat survey to evaluate progress toward the collection and use of E codes in statewide morbidity data systems. American Public Health Association had previously done this survey in 1997. He described the data collection process, which was done by administering a web-based survey provided by the Council of State and Territorial Epidemiologists. The 1997 E-codes survey questions were completed by the 49 states and territorial injury prevention directors. The results showed that still lots of difficulties exist in the number and type of fields available for E-codes in these data systems across the states and the agencies in which these data systems are housed. Further note, study observed modest improvement in the availability and quality of E- coded hospitalization and emergency department data from 1997-2004. [Back to top](#)

Report on Abortions Available on the Web

The Center for Health and Environmental Statistics has issued the 2005 Preliminary Report on Abortions in Kansas. The report is available at the KDHE web site: <http://www.kdheks.gov/hci/absumm.html>

The report is available in PDF format in two parts: <http://www.kdheks.gov/hci/05itop1.pdf> is the link to the data summary while <http://www.kdheks.gov/hci/05itop2.pdf> is the link to the appendices.

The Center publishes the Kansas Health Statistics Report quarterly. Kansas Health Statistics Report is available by electronic subscription. Send name changes or additions to the e-mail subscription list to: [mailto: Kansas.Health.Statistics@kdhe.state.ks.us](mailto:Kansas.Health.Statistics@kdhe.state.ks.us). [Back to top](#)

Employment Opportunity

The Butler County Health Department and the South Central Metro Region is accepting applications for the following full-time grant funded position:

Program Coordinator II: Public Health Preparedness Specialist

Two years of Public Health experience in an agency setting is required. A Bachelor's Degree in Health Care Administration, Business or other sciences or a Registered Professional Nurse education is required. Must have a current valid Kansas Driver's license and a valid Kansas license as a Registered Professional

Nurse, if applicable. The person in this position will work 50% of time in the Butler County Health Department and 50% of time in the South Central Metro Region counties, Butler, Cowley, Harper, Harvey, Marion, Reno, Sedgwick and Sumner counties in South Central Kansas.

Wage: DOQ

Salary range - \$31,325 - \$42,182

Application forms and complete job description are available in Butler County Administration office located on the fourth floor of the Butler County Courthouse, 205 W. Central, El Dorado, KS. Applications can also be obtained online at www.bucoks.com. Applications accepted until April 14, 2006. This position requires a pre-employment drug screening. Butler County is an Equal Opportunity Employer. [Back to top](#)



Visit our site at <http://ks.train.org>.



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