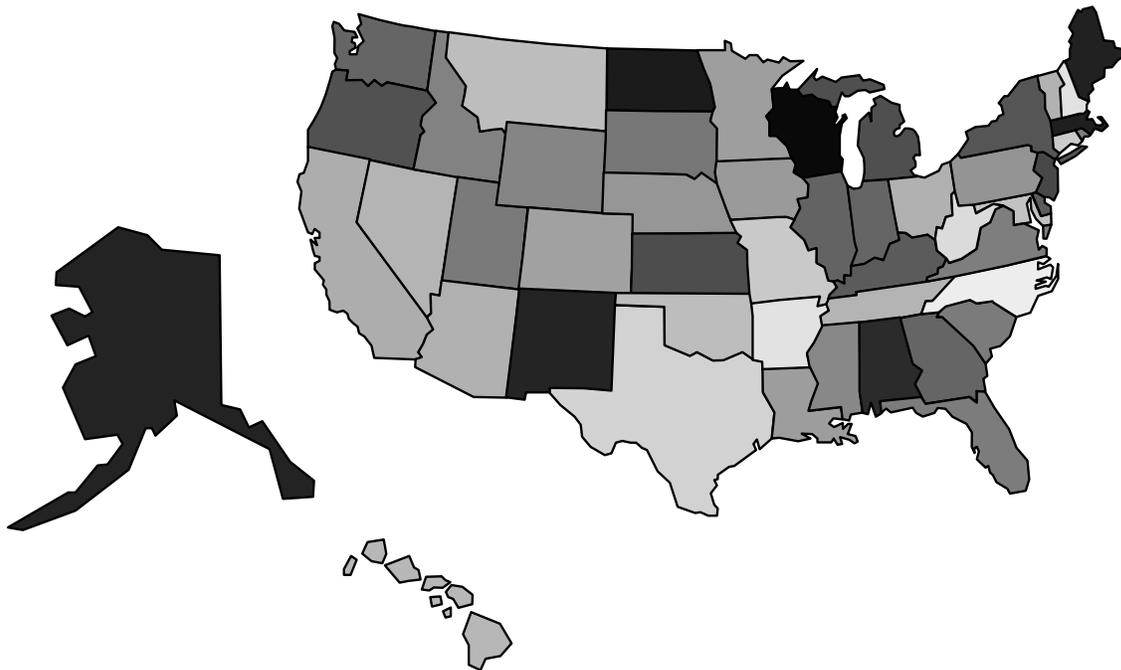


STATE LEGISLATIVE & REGULATORY AFFAIRS MANUAL



**Developed by the
Department of Socioeconomic &
State Society Affairs
American Academy of Orthopaedic Surgeons**



DEPARTMENT OF SOCIOECONOMIC AND STATE SOCIETY AFFAIRS

**Department Fax Number:
847/823-1309**

Robert C. Fine, JD
Department Director
Phone: 847/384-4322
E-mail: fine@aaos.org

Susan A. Koshy, JD, MPH
Manager - State Society & Legislative Affairs
Phone: 847/384-4332
E-mail: koshy@aaos.org

John J. (Jay) Fisher, Jr., JD
Legislative Analyst
Phone: 847/384-4336
E-mail: fisher@aaos.org

Joyce R. Knauss
Administrative Assistant
Phone: 847/384-4334
E-mail: knauss@aaos.org

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Introduction

Overview

State legislative and regulatory activities continue to play a major role in the daily practice of medicine for orthopaedic surgeons. The creation of legislation is an interactive process. Many different groups may want to influence the final scope of an individual bill, but only those who make their voices heard will actually be able to shape the legislation. For this reason, it is vitally important that orthopaedic surgeons participate in the legislative process from the initial creation of a bill to the final implementation of the statute's provisions.

Physicians have a unique opportunity to provide patient advocacy on issues of medical importance. The legislative programs of the AAOS are run by the American Association of Orthopaedic Surgeons, a 501(c)(6) organization formed in 1997 to engage in advocacy activities on behalf of patients and the orthopaedic profession. The Association is active at both the national and state level.

Chapter 1

An Overview of the Legislative Process

Most state governments mirror the make-up of the federal government with the three branches of government working together to create legislation. With the exception of Nebraska, all state legislatures consist of a House of Representatives (or House of Delegates or Assembly) and a Senate. Just as with the federal government, the representation of citizens in each legislative body is based upon the population of different districts within the state.

State legislatures can meet on schedules that are remarkably different. One state may have sessions that last most of a year while another state may meet for only a few months. Some of the smaller state legislatures only meet once a year or every other year. It's important to know when activity happens in your state -- when do the committees meet, when does the legislature take votes, what is the overall schedule. By keeping in touch with the committee chair's office and reading the newspapers, your state orthopaedic society will be aware of the committee schedule. Your state orthopaedic society can most effectively influence legislation if you participate in the process at the right time.

Leadership in the House and Senate

In the Senate, the leader is the president or the president pro tempore. In some states, where the lieutenant governor leads the Senate, the majority party will elect a president pro tempore that serves as the actual presiding officer in the Senate. In the House of Representatives (or Assembly), the speaker is the leader of the House. Both the House and Senate elect a majority leader and a minority leader that serve as the floor leaders and chief spokespersons for each party. The majority and minority leaders are determined by which party holds the most seats in each chamber.

Both the House and Senate function via a committee structure that carries out the day-to-day operations of the legislature. Committees decide which bills will move to the main floor for a full vote and which will "die" in committee. The committee chair is usually a person of great influence within the chamber.

The Importance of Committees

Committees are mandated to take on issues related to a specific subject such as public health, commerce or education. Depending upon the issue, your state or specialty society may work with the public health committee on a bill concerning increased access for patients to specialty care and the education committee on legislation to alter medical education in your state.

Committees have great power over the proposed legislation. The committee assignment of a bill is important in its ultimate success or failure. Some committees are more favorable destinations for the proposed bill. It is crucial that each state orthopaedic society learn as much as possible about the committee chairperson and the members of

the committee. The role of the orthopaedic surgeon in the committee process is as a patient advocate. Each contact with the committee members and their legislative aides should be to provide supporting information for the bill, to offer reasons that it may negatively affect the practice of medicine or to help define changes to the bill that will create a more positive outcome for orthopaedic surgeons and their patients.

In the end, committees can pass a bill out to the House or Senate floor for a vote, table the bill for future consideration or simply kill it. The outcome desired by your state or specialty society depends upon the content of the bill.

How a Bill Becomes a Law

Any member of the state legislature can introduce a bill. Once it is introduced, the legislation is assigned a number. Although the numbering system will vary from state to state, common notations include SB (senate bill), SR (senate resolution), HB (house bill), HR (house resolution) and AB (assembly bill).

After a number is assigned, the bill is sent to a committee for review. If the bill receives a favorable vote, it is sent to the floor or the House or Senate for a vote. A bill becomes a law after both the House and Senate pass it and the Governor signs it. Often the House and Senate will pass slightly different versions of the bill. The different bills are reconciled in a joint House/Senate conference committee. The reconciled bill is then sent to the Governor for his/her signature.

Chapter 2

The Importance of Regulatory Agencies

Regulatory agencies administer the laws passed by the legislature. These bureaucracies interpret and enforce legislative actions. Sometimes those interpretations are favorable to your state orthopaedic society and other times the interpretations can mitigate the impact of favorable legislation.

Regulatory agencies are more important than the legislature when it comes to the day-to-day effects of a specific law on the practice of orthopaedic medicine. Even if your state orthopaedic society loses a legislative battle, the regulatory process can help mitigate the effects on your practice. Many times the regulatory process can be used to control the damage an unfavorable law might cause by placing multiple restrictions on the implementation of the law.

Just as legislation will benefit from the medical expertise of orthopaedic surgeons, the implementation of those laws will benefit from the same medical expertise. Regulators may not completely understand the terminology that is commonly accepted within the medical community or they might define certain terms too narrowly. Many of the techniques discussed later in this document (such as coalitions, building relationships and testifying) to help influence legislation can also be used to influence regulatory agencies.

There are two significant opportunities for influencing proposed regulatory language:

- 1) During the drafting of the proposed regulation and**
- 2) When the proposed regulations are submitted for comment or public hearings.**

By establishing a working relationship with the appropriate regulatory agency in advance, your state orthopaedic society can have a significant impact on both.

Just as it is vitally important to monitor the activities of the legislature, it is critical to any government relations program to monitor the actions of regulatory agencies. Be certain to develop a comprehensive list of important regulatory agencies and task forces that have some influence over medical laws. Ask to be put on the mailing list of these agencies or task forces and monitor the information posted on their web sites. Also keep in touch with your state medical society as they may have additional information about which regulatory agencies and task forces are assigned to handle which laws. Your state orthopaedic society can use many of the techniques discussed in the following pages to monitor the activities of key regulatory agencies.

Attending regulatory agency meetings should be a priority for your state orthopaedic society. Some groups send their lobbyist or executive director to meetings. Others use a network of volunteer physicians. However your group chooses to be represented, it is important to develop relationships with the key members of the agency. The tips for

creating an effective lobbying voice, working with state elected officials and coalition building can also be used to influence important state regulatory agencies or task forces.

Unlike elected officials, regulatory staffs often work in jobs as a lifetime career. Regulators are usually very committed to the work of their agency. They are not subject to the votes of constituents, but rather they work to improve the general state of affairs for the citizens. Here are some tips to help your state orthopaedic society work with the bureaucrats at regulatory agencies:

- Try to understand the bureaucratic mind and its long-term needs
- Try to determine how your state orthopaedic society will get agency personnel to work with you -- keeping in mind that their goals and issues may be different than your society's
- Unlike elected officials who are in office for a set length of time, regulatory agency personnel are paid employees of the government. If the regulatory discussions are lengthy, your society may work with several different staff members. Remember to be patient with the process and staff.
- Regulatory agencies and their staff are generally conservative in their approach. Try not to be too futuristic in your state orthopaedic society's discussions. All of those futuristic ideas need to be implemented in a practical manner -- that's where the regulatory staff excels.

Chapter 3

The Role of the State Orthopaedic Society in the Legislative Process

Creating an effective legislative campaign is a time consuming and complicated task. Here are just a few of the issues that need to be thoroughly investigated when creating a successful legislative program:

1. *Define your end result.* Do you want to raise awareness of an issue? Support the passage of legislation? Change a definition within Medicaid? Has the state orthopaedic society come to a consensus on the issue? What you want to achieve must be the central focus of your campaign.

2. *Create a Leadership Team of state orthopaedic society members charged with planning and implementing the program.* This may be an existing group such as the Legislative Committee or the PAC Committee. If these committees don't exist within your state society, politically active members can create an effective leadership team. It is important to have a core group of orthopaedic surgeons to develop and implement successful strategies with defined roles for each person such as chairperson, legislative coordinator, vice chairperson, etc. Depending upon the expertise required, others might be added to the team such as a paid, professional lobbyist.

The role of each person should be defined and expectations should be set prior to the planning of any project. Typically the chairperson (typically known as legislative coordinator) will oversee all activities of the Leadership Team, act as the key spokesperson, and direct contact with elected officials and their staffs. Committee members will assist in the development of the legislative program, etc. The make-up of the committee should reflect the diversity of those practicing orthopaedic surgery. The roles may alter slightly depending upon the program and its goals.

Each Leadership Team should establish a process for determining state orthopaedic society positions on related legislation. Many refer to Robert's Rules of Order to develop operational rules and process. Once the Leadership Team has developed a position on important issues, the Board of Directors for the state orthopaedic society generally votes to support, monitor, oppose or take a "no position" on a bill.

3. *Develop a written advocacy plan.* A basic plan should include:

- A statement of purpose. This is the theme of the program. Such a theme can be helpful and assist you in promoting the advocacy program with the membership.
- Long- and short-term goals and objectives. These are items to achieve within a specific timeframe -- perhaps by the next legislative session or within two years. As short-term goals and objectives are achieved, be certain to review the long-term plan to see if you are on track or if anything needs to be revised.
- An overall political strategy. Begin by determining the legislation to be influenced and the desired outcome. Then use the desired outcome to create a series of activities to help achieve the end result.

- An overall legislative strategy to target key policy makers. Map out ways to connect with the important elected officials with key messages using a variety of resources from personal visits to testifying before the legislature.
- An inventory of political resources. Determine who has the best contacts to support the overall political strategy. Review the participants of the Key Contact Program (described in detail later in the chapter) to locate the best political resources.
- A communications strategy. The long- and short-term goals and objectives should include communications strategies designed to achieve results. The first step is to identify the audience your state or specialty orthopaedic society wants to target such as elected officials and health care consumers. By using the local media to spread the message, your state or specialty society will be able to contact local newspapers about writing a guest column, a letter to the editor or an op-ed column.

A written advocacy plan is an important step in creating agreement on the course of action to be followed. The plan should be revisited as necessary during the legislative campaign to reflect the activities of the campaign. The Leadership Team should be in agreement with the overall plan before any activities take place.

4. Organize a key contact program to include information about which state or specialty society members may have existing relationships with those contacts. These names need to be kept in a central location that can be accessed easily by all members of the Leadership Team and updated as necessary.

5. Determine who will act as an effective lobbying voice, whether it is a paid professional, registered lobbyist or a group of trained volunteers. This is perhaps the most essential element for getting your message out. It is important that whoever acts as the lobbying voice work closely with the Leadership Team, especially to provide feedback after each meeting.

6. Consider how to maintain the relationships with elected officials. It is vitally important to the long-term success of any advocacy program to build and maintain ongoing relationships with each of the key contacts. They need to be contacted with new information as often as is appropriate via short notes, personal visits and telephone calls.

7. Create a plan for how messages will be communicated. A comprehensive communications program that includes the strategies and tactics to achieve a successful result needs to be developed.

8. Review the coalition possibilities. A coalition of interested parties will add strength and credibility to the issue. Your state orthopaedic society's patient advocacy issues may be shared with other medical specialty societies, social services agencies and others. Try to support other appropriate groups as well.

9. *Develop a timeline to review the progress of the program.* Continually reassessing the program to determine what is working and what needs to be adjusted is vital. The end result is the most important part of the program. Sometimes it takes some mid-cycle adjustments to get there.

10. *Create a plan to influence the regulatory agency charged with overseeing the implementation of the law.* Similar to an advocacy plan, a plan to influence key regulatory agencies should work to affect the implementation of the law. Whether the bill that passed is what your state orthopaedic society wanted or not, the regulatory process has the ability to alter the original intention of a bill greatly. Working to influence the regulatory agency can be done simultaneously with a legislative campaign or it can be implemented immediately after a bill has passed. However your state orthopaedic society chooses to implement this portion of a campaign, it's important to remember that regulatory agency officials can be as important elected officials when it comes to the ways in which the final bill will affect the practice of orthopaedic medicine.

When participating in a legislative campaign, it is important to be both patient and persistent. Most changes in government take time. A long-term plan accompanied by solid short-term objectives will help you achieve your patient advocacy goals.

Chapter 4

Working with the State Medical Society

In most cases, the state medical society is a valuable resource for monitoring and influencing state legislation. It is important not to overlook your state medical society as a possible source of insight into the legislature, individual elected officials and other medical issues. The state medical society can also be a valuable ally on a wide range of topics.

Most state medical societies have extensive resources and have already laid the groundwork for a strong state legislative program. In some cases the state medical society may be a powerful ally when lobbying for a specific piece of legislation. In other cases, it may have the background information your state or specialty orthopaedic society needs to create a legislative plan. Be certain to establish contacts at the state medical society early during the planning process so that the bonds will be in place if needed later on.

There are a few specific actions that should be considered when working with your state medical society:

- Work to get state orthopaedic society members appointed to the state medical society legislative committee
- Invite the state medical society lobbyist or chair of the legislative relations committee to attend your state or specialty orthopaedic society meetings on a regular basis
- Contact the state medical society's lobbyist between formal meetings to stay informed about important state legislative activities
- Provide the state medical society with your state orthopaedic society's positions on key issues
- Submit resolutions on important issues to the state medical society
- Work with the state medical society legislative committee to determine its position on issues of importance to your state orthopaedic society. The state medical society may not always agree with your society. If the state medical society will not support your state orthopaedic society on a certain issue, try to work out a compromise where they will not oppose your society's position. Sometimes a neutral position on an issue will be the best solution.

Chapter 5

Monitoring Legislation

It is important to identify legislation that affects orthopaedic surgeons at the beginning of the legislative process. To do this effectively, your state society must work closely with key legislative aides and the AAOS office. The AAOS monitors state legislation on a weekly basis. You can receive a report by contacting the AAOS office.

Many other resources are available to make the monitoring process easier. Most states publish a daily record of legislative activities including committee meetings, hearings and other events. In other cases, your state medical society, the state chamber of commerce or organizations like the League of Women Voters can help you track important legislation. Don't forget to use your daily newspaper as another source of information. While many stories report on what already happened, a large number of those same stories will also list what is happening next regarding a particular issue.

You can ask your state legislators to put you on a mailing list to receive daily updates, announcements and press releases. Legislators can provide you with copies of bills, legislative reports, and advise you on legislative policy and actions. An occasional letter or phone call to your elected officials just to "check-in" will help remind them of issues important to orthopaedic surgeons and their patients.

Chapter 6

How to Create an Effective Lobbying Voice

While there is no substitute for personal contact with elected officials, especially by people from their home district, it may be wise to employ the services of a professional lobbyist for specific campaigns or an ongoing contract. Whether or not your state orthopaedic society should hire a lobbyist is dependent upon several factors:

- Does your state orthopaedic society have the money to pay a lobbyist?
- How much legislation affects orthopaedic surgeons?
- Does your state orthopaedic society have a legislative agenda that requires a lobbyist?
- Does the lobbyist have contacts with influential committee members?
- Has the lobbyist worked with important regulatory agencies in the past?
- Does the style of the lobbyist fit well with the goals of the state society?
- How much experience does he/she have in medical issues?
- What is the personal reputation and track record of this lobbyist?

If your state orthopaedic society decides to contract with a lobbyist, the agreement must outline specific responsibilities, as well as fees, costs and expense arrangements. Equally important is a clear chain of command for the lobbyist. Who the lobbyist reports to and can contact for direction is an important aspect of the relationship. In addition, it is often recommended that a lobbyist be hired for a full year at a flat fee (retainer) as lobbying is an important activity both when the legislature is in session and between sessions. Also a full year retainer will allow the state orthopaedic society to evaluate the lobbyist's effectiveness monitoring the activities of key regulatory agency meetings and hearings.

Choosing the right lobbyist for your state orthopaedic society can be a daunting task. It is important to have a very detailed job description before beginning the search. Here are some specific items to be developed:

- What are the issues facing the state society?
 - ◆ The state society leadership must set the agenda based upon long-term and short-term goals
- What is the level of representation necessary?
 - ◆ Based upon the issues, an annual retainer or a project fee can be discussed
- What is the scope of representation expected?
 - ◆ The place that results in the best outcome may be the legislature, the committees, the regulatory commission, task forces or other activities
- What are the non-legislative services required?
 - ◆ Some state societies may need assistance setting an agenda, filing required reports with state agencies or educating members

Finally each state orthopaedic society should determine how the lobbyist's activities would be evaluated. Goals and objectives should be agreed upon by the state society Leadership Team and the lobbyist at the beginning of the program. A successful program may not result in the passage of legislation. Some programs are successful because they raise awareness of issues and expand the influence of orthopaedic surgeons. Others defeat a bill that might harm the practice of medicine in your state.

As has been previously noted, sometimes the success or failure of a program doesn't happen in the legislature at all. A good lobbyist will help your state orthopaedic society monitor the legislature as well as key regulatory agencies. It is important to have a lobbying voice representing your society at meetings and hearings of key regulatory agencies. Your lobbyist should be able to help coordinate these activities.

Hiring a Professional Lobbyist

If your state orthopaedic society decides to hire a lobbyist, how do you know if you've found the right person? The Secretary of State's Office typically has a list of registered lobbyists. The list will provide information such as for which governments, companies and professional associations the lobbyists work and what issues they have handled. Other medical associations can also provide referrals to lobbyists that they have worked with either on specific projects or on a retainer. As you become familiar with the lobbyists in your state, you'll find a small number who are consistently considered the top lobbyists. These people often have a long list of impressive legislative successes that seem to predict future success. In most states there is also a second tier of highly-qualified lobbyists who have good reputations, but may not have the same high profile as the "star" lobbyists. It is worthwhile to search out and identify this group as they often will work harder on your issues and are sometimes less expensive.

Once the decision has been made to hire a professional lobbyist and the top candidate is chosen, it is important to create a contract or letter of agreement that addresses:

- Length of contract
- Base fee
- Allowable expenses
- Fees for additional services
- Payment schedule
- Scope of work to be performed
- Conflicts of interest
- An "out" clause
- The principals who will handle the work
- Press contacts
- Confidentiality
- Reporting relationships and reporting requirements to the state or specialty orthopaedic society
- Filing requirements with the state

The state orthopaedic society also has responsibilities that will make the society/lobbyist relationship achieve its goals:

- Establish a clear reporting relationship
- Limit the number of people who contact the lobbyists office
- Understand your issues better than the lobbyist
- Keep the lobbyist informed of decisions and progress of activities

Managing a lobbyist is an important part of the success of the relationship. Just as with any employee, it is important to take certain steps to effectively manage the production of the lobbyist.

1. A lobbyist should be managed and evaluated in terms of the help he or she gives you in implementing your strategic plan of action.
2. Periodically review the strategic plan with the lobbyist to benchmark progress.
3. A regular reporting schedule should be established to inform the Leadership Team about the progress of the legislative campaign.
4. Use observations and third party comments to determine if the campaign is succeeding.
5. Evaluate whether the lobbyist has met your state orthopaedic society's goals and expectations on a regular basis.

Chapter 7

Coalition Building

There is a common saying that there is "strength in numbers." No where is this more important than in the legislative process. The democratic process ensures that the majority decides the outcome of elections. The same is true for legislation.

Many medical issues create natural coalitions with patient groups, other medical professionals and disease-related research association. The AAOS participates in numerous coalitions such as Access to Specialty Care. This group combines the resources of more than a dozen different specialty care medical societies to lobby for issues of combined interest to specialty care physicians.

There are some important issues to consider when creating a new coalition or joining an existing one:

- What resources must you commit from your state orthopaedic society? Not all coalition members have the same resources. What can you bring to the group?
- How will the coalition be administered? It's important to know how the business of the coalition will be conducted and who is responsible for what aspects of the program.
- How will communications be handled? Legislation can move quickly. It's important that clear lines of communications be established.
- Who will lead the coalition? Are you comfortable with the leadership currently in power? How much influence will you have with the leaders?
- What are the goals and objectives of the coalition? Does your state or specialty society support all of the goals and objectives or only a few?
- What is the plan to achieve the goals and objectives? Who will implement the plan? What is the reporting structure to review the plan and its achievements?
- How credible are the groups involved in the coalition? Strength in numbers loses its effectiveness if the groups involved lack credibility.
- Who will evaluate the continuing role your state or specialty society wants to play in the coalition? How often will the evaluations be conducted?

Chapter 8

Working with your State Elected Officials

With thousands of people in each district, how can you make sure that each state orthopaedic society member is heard as a representative of issues important to orthopaedic surgeons? One effective method is to develop a key contact program that connects individual state or specialty society members with their elected officials.

How to Develop Key Contacts

Whenever you are considering how your state orthopaedic society can influence the legislative process, the first step is to determine the key legislative contacts within the membership of your society. This is the basis of the Key Contact Program for your state or specialty orthopaedic society. A Key Contact Program is a grassroots network established to connect members of an organization, like the AAOS or state orthopaedic societies, and elected officials as a supplement or in lieu of a paid lobbyist. Once the link is established, members are asked to keep their elected officials informed of issues important to orthopaedic surgeons.

Each member should create a list that includes the elected officials from his/her registered voting address (i.e. Governor, Senator and Representative). In addition, each member should review the committee structures of the state's Senate and House of Representatives. If your members have a personal relationship with the chairperson and members of those committees related to important topics, he/she should add those names to his/her list of key decision-makers.

The goal of the Key Contact Program is to maximize the impact of the orthopaedic community on the legislative process. There are a number of bills introduced during each legislative session which affect orthopaedic surgeons and their patients. It is essential that orthopaedic surgeons take a pro-active approach in developing meaningful, effective relationships with their elected officials.

The role of the Key Contact is to:

1. Develop personal relationships of trust and respect with elected officials and their staff members
2. Establish a sound foundation for two-way communication
3. Inform the public officials and their staff about orthopaedic and health care issues that affect the community they serve
4. Keep the elected official and their staff informed on legislative or regulatory activities that affect the health care industry

To be effective, a Key Contact Program should do the following:

1. Be informed about the issue
2. Make sure all comments reflect the appropriate state or specialty orthopaedic society
3. Understand the legislative process
4. Know the legislators and their aides
5. Keep colleagues informed of the opinions of elected officials on orthopaedic surgery related topics
6. Report results of legislative contacts as soon as possible to your state or specialty orthopaedic society
7. Be persistent with the elected official, but don't be rude
8. Develop sound reasons to back up a position of specific legislation
9. Use more than one contact, when appropriate, to sell a position on specific legislation
10. Develop a relationship with the elected official's staff to ensure access when necessary

How do you establish a relationship with your elected officials that will help your state society with its legislative plan?

Step 1

Write a letter to your elected official introducing yourself as a constituent and orthopaedic surgeon. If you also have other titles or volunteer activities that are relevant, mention those as well. Briefly mention your interests in health care issues and offer to be a resource. Ask to be introduced to the legislative aide who handles health care issues like the ones you previously described.

Step 2

Get involved with the legislative activities sponsored by your state orthopaedic society or your state medical society. Use their established contacts and programs to improve your relationship with your elected officials.

Step 3

Invite your legislators to attend state orthopaedic society meetings or other appropriate gatherings. Provide the legislator with background information to insure that he/she has the information necessary to participate in the meeting. Try to provide a list of attendees and an agenda prior to the meeting. In most circumstances, an honorarium is neither necessary nor appropriate. Many state laws restrict such honorariums so be certain to check before crossing an ethical or legal boundary.

Step 4

Keep in contact with legislators and legislative aides throughout the session. Letters and telephone calls are most effective. Try to limit personal appointments to specific, important business discussions.

Step 5

Inform your state orthopaedic society of any feedback you receive from letters or telephone calls and important highlights from personal conversations. This will help your state orthopaedic society keep the Key Contact Program up-to-date.

Remember that the goal of a Key Contact Program is to personalize communications between orthopaedic surgeons and elected officials. A successful program will create meaningful two-way communication that helps achieve patient advocacy goals.

Important Considerations

*Public officials are honest, intelligent, hard working individuals who truly want to do what is best for the people they represent. Just as medicine is a profession, so is government.

*The system may not be perfect, but most elected officials and their staffs work very hard to improve the lives of their constituents. No matter how hard they try, public officials need guidance on specific issues such as health care issues.

*Recognize that public officials have many demands on their time and pressures from many different constituencies. Maintain communication with elected officials and staffs throughout the year, not just when you need something.

*Always provide clear, concise information. Give elected officials and their staffs fact sheets, background materials, surveys, etc. that support your position.

Chapter 9

Communicating With Elected Officials

Legislators like to hear from their constituents on a variety of issues. The main goal is to make your voice heard on issues relating to the practice of orthopaedic medicine, but you shouldn't limit your contact. Whenever an opportunity arises to contact your elected official with appropriate information, you should consider making the contact via the telephone, a letter or an email note. Work to make yourself a resource to the legislature on issues of importance throughout the legislative session. Try to become a resource to the elected officials before you need their assistance on an issue of importance to orthopaedic surgeons. In addition, be certain to keep an eye out for fundraising activities that take place throughout the year. Often you can make a big impact by attending a fundraising event.

Many people wonder how to initiate contact with their elected officials. Here are some ideas to consider:

- Make an appointment to meet with him/her in their district office
- Call the office to schedule an appointment to visit him/her when the legislature is in session at the state capitol
- Send a letter outlining your position, including supporting information
- Attend local press conferences on issues of importance to your state society
- Contact the key legislative aide to offer yourself as an expert on topics related to orthopaedic surgery

After you speak with your elected official, no matter how brief the conversation, be certain to follow-up with a thank you letter that recaps your conversation and the key points. Be certain to include your business card for easy reference.

Whether you are writing a letter, talking via a personal telephone call or arranging a personal visit, there are some basic dos and don'ts to help you best represent your orthopaedic state or specialty society:

DO

- Use the correct forms of address
- Be professional, courteous, positive, direct, clear, concise, factual, credible and specific
- Be very specific about what action you are requesting from your legislator on an issue
- Research the issue thoroughly prior to contacting the elected official
- Thank legislators for meeting with you in a letter that includes any follow-up information necessary
- Treat your legislator as you want to be treated

DON'T

- Give inaccurate information or purposely lie
- Cover more than one subject in a contact
- Fail to give the legislator a one-page fact sheet on the topic
- Send form letters
- Contact members of the House of Representatives if the vote is in the Senate and visa versa
- Press for an answer on your first visit -- the legislator may need additional information
- Waste the legislator's or his/her aide's time

Writing a Letter to your Elected Officials

Everyone has written letters to family and friends, but how does one write an effective letter to influence legislation? Communicating your position on a specific piece of legislation is often a difficult task. Here are some tips for creating effective communications with your legislators:

- Limit each letter to one subject at a time
- Keep the letter brief and to the point
- Identify the legislation at issue with the bill number and title
- Do your homework on the topic
- Describe how the proposed legislation will affect your practice and patients
- Request action on the part of your legislator, but do not make demands or threats
- Never send a form letter. If you receive a form letter, use it as a guide for your --- personal communication
- Contact the legislator at the appropriate time in the process. After the vote is cast, the letter is too late
- Request a response from your legislator to determine his/her state position on the issue
- End your letter by restating key messages
- Send a follow-up letter after the legislator's response to agree with or refute key facts

There are also a number of things that will not increase the effectiveness of a letter:

- Don't write on a post card
- Don't begin by saying "as a citizen and a taxpayer"
- Don't apologize for taking their time -- they want to hear from constituents on important issues
- Don't be rude or threatening
- Don't send carbon copy letters to several legislators -- make each an individual effort

There is a protocol to follow when addressing a letter. Using the correct salutation will improve the credibility of your letter.

House of Representatives

The Honorable (*First and Last Name*)
(*State*) House of Representatives
State Capitol
(*City, State, Zip Code*)

Dear Representative (*Last Name*)

Senate

The Honorable (*First and Last Name*)
(*State*) Senate
State Capitol
(*City, State, Zip Code*)

Dear Senate (*Last Name*)

Governor

The Honorable (*First and Last Name*)
Office of the Governor
State of (*State*)
(*City, State, Zip Code*)

Dear Governor (*Last Name*)

Administration

The Honorable (*First and Last Name*)
Secretary of (*Department/Agency*)
State of (*State*)
(*City, State, Zip Code*)

Dear Secretary (*Last Name*)

The Importance of Personal Visits

Meeting with an elected official is an effective way to convey a message about a specific legislative issue. Below are some suggestions to consider when planning a visit.

- Make an appointment by contacting the appointment secretary/scheduler. Explain your purpose and whom you represent. If the elected official is not available, ask to meet with the legislative aide handling the issue.
- Plan your visit carefully. Be clear about what you want to achieve during the limited time available for a visit.

- Be prompt and patient. It is not uncommon for a representative to be late or to have the meeting interrupted due to the member's crowded schedule. Be flexible when the opportunity presents itself.
- Know the issue and the facts behind the issue. Take the time to learn about the legislator's constituency, positions on related issues and both sides of the issue. It is helpful to bring brochures and fact sheets to support your position.
- Relate the issue to the people of his/her district. Elected officials want to represent the best interests of their districts. Wherever possible, demonstrate the connection between your topic and their constituents.
- Follow-up the meeting with a thank you letter that restates your key points. Send any additional supporting materials that might be helpful.

The Importance of Testifying

Your participation in the legislative process may lead to an invitation to testify before a committee on issues related to orthopaedic surgery. Many committees accept requests to testify. As soon as your state society determines that committee hearings will be held on an appropriate issue, be certain to contact the committee chair to request the opportunity to testify. If your members know elected officials on the committee, make certain they contact them to request the opportunity to testify.

As soon as your state society confirms a date and time for the testimony, the real work begins. Here are some hints to help you prepare:

- Study the legislation being considered
- Be certain you understand (and can address) both the pros and cons of the legislation
- Identify where each member of the committee stands on the topic
- Use the resources of the AAOS for samples of previous testimony, current policy statements and supporting materials
- Review your testimony with state medical society staff to avoid conflicts
- Make sure your testimony reflects your role as a patient advocate
- Be prepared to answer both friendly and unfriendly questions in response to your testimony
- Work with other interest groups whenever possible to add support to your testimony
- Try to visit with members of the committee (both for and against the legislation) to determine important issues to be addressed during your testimony
- Find out the rules for testifying. Committees typically have limits on how long the testimony can last, the number of copies needed for official records and other procedures

Writing testimony can be an overwhelming experience. The words will become part of the official record of the legislature. What is said will affect legislation concerning orthopaedic surgery for many years to come. Here's how to write your testimony:

- Include a brief summary of your statement at the beginning of the full text
- Identify yourself by name and title. Then explain your background and how you are affiliated with your state orthopaedic society
- Never attempt to conceal a legitimate self-interest in a topic related to the practice of medicine. You should openly represent your interest in the topic
- Start your testimony by thanking the committee for the opportunity to present the views of your state orthopaedic society
- Bring additional copies of your testimony for the audience, media or committee members
- Use your experience as a medical doctor to illustrate how the proposed legislation will affect your patients, practice, hospital and community
- Remember to avoid questions that do not relate to the practice of medicine
- Do not guess at the answers to questions. If you don't know, simply ask if you can research the answer and respond to the committee at a later date. Be certain to follow-up
- Remember that even if only a few committee members actually appear during the testimony, the legislative aides that are present will pass along the testimony
- If you are unable to testify in person, find out if you can file a written testimony
- Call the elected official's office to schedule an appointment to visit him/her when the legislature is in session at the state capitol

The Importance of Legislative Aides

In many cases, your key contact may not be your elected official, but his/her top legislative aide. These people have the direct ear of the senator or representative and are often better informed on the topic than the elected official.

Remember that every contact with a legislative aide has the same impact (in some cases more impact) as a contact with the elected official. Your guidelines for contact are the same as those for elected officials as listed below.

Chapter 10

Media Relations

The media can be a powerful ally with your state society's patient advocacy program. The local media should be contacted via letter or telephone call whenever individual members begin to participate in a new legislative campaign. Be certain to update your personal and state society media contacts regularly as new advances are made in the campaign. Legislative campaigns typically fall under the category of hard news, not breaking news.

Whenever a relevant article is published in a newspaper or magazine, each state society member should consider sending it to his/her legislative contacts with a personal note as part of the Key Contact initiative. The elected official or legislative aide may not have seen the article and it is important for them to note that your members are actively involved in the issue.

The Importance of Letters to the Editor and Opinion Editorials

Another effective media relations tool for a legislative campaign is the letter to the editor. Newspapers regularly publish letters expressing the opinions of their readers on a wide variety of topics. The key here is to provide your information in a brief and concise letter. Most letters to the editor pages have numerous letters each day and will use only a few paragraphs per submission. A well-written letter to the editor can be as effective as a regular article in spreading your message.

Also, consider contacting your local newspapers for their guidelines on opinion editorials (op-eds). These pieces are typically longer than letters to the editor, requiring more depth and research. Op-eds often represent a specific topic of local interest that has recently been in the news. You can use the op-ed to counter or support a newspaper editorial, state a position on a topic or offer a community service.

Appendix

**Samples of Materials
to Help Your State Orthopaedic Society Implement
a State/Legislative Regulatory Affairs Program**

Sample Key Contact Program

*Be certain to adapt the information in this form to reflect the workings of your state orthopaedic society.

If you are interested in becoming part of the legislative key contact program, please complete this form and return it to (state or specialty society). By becoming part of a key contact program, you will assist the orthopaedic community in improving the depth and quality of our legislative activities. You are encouraged to reproduce this survey and distribute it to other orthopaedic surgeons in your community.

Please return this form to:

Organization
Address
City, State, Zip Code
Telephone Fax

_____ I am interest in becoming a key contact.

Please print clearly

Your Name _____

Office Address _____

City _____ State _____ Zip Code _____

Office Phone _____ Office Fax _____

Home Address _____

Home Phone _____ Home Fax _____

Email Address _____

If you already have a personal relationship with a state legislator, please indicate the names of those legislators and government officials. They do not have to be your elected representatives. Your relationship with key government officials from areas or states other than where you reside can also be of benefit to the orthopaedic community.

I have a personal relationship with the following state legislator or government official:

Name _____

State _____

Nature of relationship (college roommate, neighbor, patient, etc.)

Thank you for your assistance.

Sample Letter

Here's one example of a letter that you can adapt to represent the views of your state orthopaedic society.

Paragraph 1

I'm writing to urge you to support/oppose (bill number). (OR...I'm writing to express my concern about....) Immediately identify the subject about which you are writing and the bill number of the legislation, if you know it. Briefly state your concern.

Paragraph 2

I am a lifelong resident of CITY. It is important to let your state legislator know you are writing as a constituent. Your letter carries more weight if you live, work or do business in the lawmaker's district.

Paragraph 3, 4, 5

I urge you to support/oppose (bill number) because.... (OR...The reason I'm very concerned about this issue is....) Clearly and briefly explain your concerns. If you're writing about a specific bill, explain the reasons you support or oppose the bill. Illustrate the issues with stories about you, your family, your medical practice, your patients, your community or your region. Offer to give more information about the subject and the basis of your views.

Closing

Repeat the key messages and the outcome you are seeking. Also, ask for a response from the elected official. Always thank the legislator for his/her time.

Do's and Don'ts of Communication with your Legislators

Do's	Don'ts
<p>Thank legislators for meeting with you and for their support or consideration even if they are against you. You may need their vote in the future on another matter</p> <p>Be professional, courteous, positive, direct, clear, concise, factual, credible and specific.</p> <p>Do your homework.</p> <p>Always follow up with information you have promised.</p> <p>Be sensitive to partisan politics but always try to come across as non-partisan.</p> <p>Follow up with a visit or telephone call to a legislator with a letter, thanking him/her for what you heard them say they would do.</p> <p>Use correct forms of address.</p> <p>Type your fact sheets, letters, and testimony. Be sure they include how you can be reached.</p> <p>Try to establish a relationship of mutual trust with your legislator.</p> <p>Be very specific about action you need from your legislator on an issue (e.g. vote "yes" next Tuesday on HB1).</p> <p>Remember to get results – not credit.</p> <p>Present a united front. Work out compromises privately.</p> <p>Treat your legislator as a friend, and an intelligent citizen.</p>	<p>Don't go public on an issue until you've touched base with all interested parties.</p> <p>Don't make decisions on your bill without first consulting the bill's sponsors (the legislators "carrying" it.)</p> <p>Don't give inaccurate information or purposely lie.</p> <p>Don't threaten, or be rude to, a legislator and/or his/her aide.</p> <p>Don't make moral judgment based on a vote or an issue.</p> <p>Don't ask the public to support or oppose candidates based on their position on an issue.</p> <p>Don't waste a legislator's or aide's time.</p> <p>Don't begin saying, "As a citizen and taxpayer..."</p> <p>Don't say, "I hope this gets by your secretary."</p> <p>Don't send form letters or computer/word processed letters.</p> <p>Don't write members of the House when the vote is in the Senate, and vice versa.</p> <p>Don't ignore your legislator, and then contact one from another district for help with your issue.</p> <p>Don't publicly or privately complain about your legislator or a member of his staff. Never start or carry rumors.</p>

<p>Attend legislative hearings, committee meetings, budget mark-up sessions and floor votes on your bill.</p> <p>Establish a reputation for reliability and credibility.</p> <p>Be reasonable, and realize that everyone thinks their issue is the most important one being considered.</p> <p>Show your legislator how your legislative platform will help him/her when you can.</p> <p>Pass along anything nice you may have heard about him/her, but don't over do it. Get down to business quickly.</p> <p>Treat your legislator as your would like to be treated. Use common sense.</p>	<p>Don't hold grudges or give up.</p> <p>Don't be argumentative or abrasive.</p> <p>Don't interrupt him/her when he/she is obviously busy.</p> <p>Don't cover more than one subject in a contact.</p> <p>Don't write a letter longer than one page.</p> <p>Don't fail to give the legislator the one-page fact sheet when writing or visiting.</p> <p>Don't press for an answer on your first visit.</p> <p>Don't blame legislators for all the things that go wrong in government.</p> <p>Don't be offended if he/she forgets your name or who you are, even if it is just five minutes after your visit.</p>
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TIPS ON TESTIFYING

- **Keep it simple**
- **Watch jargon**
- **Use a real life story if at all possible.**
- **Mention if you are a constituent of one of the members of the committee**
- **Remember that a hearing can hurt your side more often than it can help**
- **Provide a written statement but don't read it**
- **Attend prior hearings to see how the hearing process goes for that particular committee**
- **Try to confine remarks to the irrefutable facts (not unsubstantiated examples)**
- **Cite support from others**
- **Brainstorm with others to identify possible difficult questions and how to answer them**
- **Remember your mission and don't get sidetracked. Address one issue at a time**
- **Tell the legislator specifically what you want**
- **It's not personal unless you make it so**
- **Use visual aides (maybe)**
- **Even if no one is listening, keep going**
- **Remember to practice saying, "I don't know, but I will bet back with you"**

10 STEPS FOR A SUCCESSFUL LEGISLATIVE SESSION

BETWEEN NOW AND JANUARY:

1. **Know your members.** Poll your members to see what issues are important to them and in what priority order and identify any legislators they know.
2. **Have a planning session** to identify your resources and develop a plan of action to use those resources to further your legislative priorities.
3. **Appoint a legislative committee** to give them authority to take positions on your society's behalf during the session consistent with the membership's views.
4. **Develop background materials** supporting your position on your issues for use by your members and for use with legislators and other interested parties. In developing these position papers, include not only issues you support but those you believe you may oppose. Remember to keep legislative handouts to one page.
5. **Look for coalition partners** to work with you on your issues. Do not overlook white hat issues. Coalitions build relationships that can benefit your society.

AFTER YOUR SESSION STARTS:

1. **Keep up with legislation** affecting your society. Use one of the reporting services if possible to track important legislation.
2. **Designate a legislative representative** that can act as a contact for the State Medical Association and other groups.
3. **Look for friends** when legislation is considered that is harmful to your society. Make sure your allies are aware of harmful bills and the effect on your practice.
4. **Keep your membership informed.** That is the best way to get your members more involved in your legislative efforts. Use conference calls and faxes to update everyone.
5. **Help others.** Look for other issues to support including white hat issues. The friendships you form will come in handy later. As the saying goes, you should make your friends before you need them.

Finding, Hiring, Managing & Letting Go of Contract Lobbyists

As associations become more active in promoting state legislation, many retain a contract lobbyist to manage their legislative efforts? The following practical guidelines serve to assist associations in hiring, managing, and evaluating contract lobbyists.

I. FINDING AND SELECTING A LOBBYIST

Determine Your Legislative Goals and Objectives

This is perhaps the most important step in selecting a lobbyist. Defining your goals and objectives should be part of an overall legislative planning process. It is a process that identifies your strengths and opportunities as well as your limitations and the threats to your members by others. This process will tell you whether you need to pass legislation and /or kill legislation, what resources you have internally, and whether you need help from the outside.

Determine Whether Your Association Needs a Contract Lobbyist and for what for purpose

There are several reasons to consider retaining a lobbyist. Among them are:

- *Time:* Do the staff or members of the association have the time and flexibility to manage the legislative process without hiring a lobbyist? Managing legislation requires being in the state capital on a regular basis while the legislature is in session. Hearings may be called at short notice. Appointment schedules cannot always be rearranged in order to attend hearings.
- *Presence:* A lobbyist can meet the need for a consistent presence in the capitol. Often, action on a bill can happen at an unscheduled time. Debate can arise when another bill is being discussed. Legislators are hard to track down. A good lobbyist will be in the state capitol for most legislative session days giving your bill a presence and protecting it from unscheduled action. Leaders in many associations feel it is critical to have a lobbyist located in the capital city.
- *Knowledge of the Process:* A major part of a lobbyist's job is to know the rules of the legislature, the critical deadlines, and committee structure. If your association's legislative chair or staff is not familiar with these, you can easily

run into trouble advancing your bill. A lobbyist will keep you on the right track.

- *Contacts:* Lobbyists know members of the legislature and their relative strengths and weaknesses. Unless you are familiar with a number of legislators, your association may need a lobbyist to provide these critical contacts.

Characteristics of a Good Lobbyist

Like other professionals, different lobbyists meet different needs and bring different skills to your issues. Some lobbyists specialize in trouble shooting. Others excel at technical regulatory issues. Some are very supportive of grassroots campaigns; other prefer more targeted communications. Some have high level political connections; others know certain committees well.

- *Your Association's Needs and Resources:* Before your association begins looking for a lobbyist, take stock of your association's needs and resources. Different organizations need different services from a lobbyist. Associations with an executive staff, may only need a lobbyist to manage the bill process. Another association may want a person or firm who can help with some of the grassroots and communications activities necessary to a successful campaign.

Your state association should determine which services will be needed and look for firms to meet these needs. A law firm may be less likely to provide communications support than a general public affairs firm. A single practitioner may not be able to give enough time to the organizational needs of a campaign that a group practice could handle.

You will also need to consider costs. The more services you will need, the more the lobbyist may cost. Some lobbyists are more expensive than others, especially former legislators and those with political connections to the leadership.

Lobbyists also have different personalities. Some like to manage the lobbying effort with little guidance; others are more collaborative in their approach. Decide which type of lobbyist will work well with your legislative chairperson and association leadership and staff.

- *Common Characteristics:* There are some common characteristics among good lobbyists. Your lobbyist should be an experienced professional who understands the issues you are facing. Your lobbyist should know the members of the key committees to which your bill may be sent. Your lobbyist should have no conflict of interest with your issues. Your lobbyist should have good written and oral communications skills and a track record of success.

Your lobbyist should be well respected. As one state association legislative chair said, "Their stock and trade is their word and integrity."

Your lobbyist should also have a flawless record of complying with all state lobbying laws.

- *Connections:* In addition, you may want a lobbyist who has a good working relationship with your allies.
- *Partisan Role:* Most lobbyists maintain good connections in both political parties. Lobbyists who are overly connected with one party or another may have trouble managing a bill which needs bi-partisan support.

With so many aspects to monitor, you may want to develop a checklist to use in the initial lobbyist selection process. *A sample checklist is attached.*

Finding Potential Lobbyists

Finding potential lobbyists can be fairly easy. The Secretary of State's Office or Ethics Commission in your state maintains a list of registered lobbyists. The list will indicate for whom the lobbyists work and what issues they have handled. *Lawyers who lobby are listed in Martindale-Hubble, a directory of lawyers.* Other associations can also provide names and information about lobbyists. In addition, there are consultants in many states who can help you identify and screen potential candidates.

Hiring a lobbyist is much like hiring other professionals: the best references come from clients. Ask others who have a legislative program for suggested lobbyists, but in doing so make sure you tell them the skills which will fit your needs.

One word of caution, although it can be useful to check a lobbyist's references with a legislator, asking a legislator which lobbyist to hire is usually not a good idea. Most legislators owe a few favors to lobbyists. As a consequence, the recommendations they give you may not fit your needs; however, rejecting those recommendations may have a downside for your future efforts.

As you become more familiar with the lobbyists in your state, you will find that there are a select number that are identified as the top lobbyists. They have attained this distinction usually by reputation and past performance. In preparing your list of potential lobby candidates you should certainly consider these individuals. However, in most states there is a second tier of lobbyists - - - those near the top but not quite there. It is worthwhile to search out and identify this group. They are often not quite as busy as the top lobbyists and they are still

working hard on establishing their reputation. Consequently, they often will work harder on your issues and sometimes at less expense.

Selecting a Lobbyist

A legislative campaign on a single issue may take two to four years. A comprehensive agenda will take longer. As a result, you may be working with your lobbyist for several years in order to meet your legislative goals. Make the decision as to which lobbyist will represent you carefully. Since your lobbyist will represent your interests to other people, you should ensure that he or she will reflect well on your state association, as well as advance your goals.

Like any other professional service, you will never know as much about the legislative process as your lobbyist. That's why you are hiring him or her. Although you should be involved in all major decisions related to your legislation, you will not be able to micro-manage the process any more than a patient can manage his own case. Therefore, the single most important step in managing a lobbyist is the selection of the lobbyist.

It is often advisable to begin to identify a lobbyist well before the legislative session begins. Because of potential conflicts of interest, you will have a larger selection of lobbyists if you begin the search process early. More importantly, your lobbyist can and will want to help you develop your strategy in the pre-session months.

If you are trying to pass legislation, at a minimum hire the lobbyist before you file the bill or identify and recruit a sponsor. These decisions have a great impact on the legislative strategy. Decisions made without the help of the lobbyist in these areas could severely limit your chances of passing your bill. Many organizations hire a lobbyist a full year before a legislative session to help lay the ground work for the campaign.

Once your association has identified potential candidates to be your lobbyist, the next step is to interview them. Prior to the interview you will have researched some of the questions on the checklist. You will also have been able to review written material about the firm. The interview is best done by a small group. Discuss in the group the skills and services you are looking for in advance of the meetings. Interview only those lobbyists who would be suitable for your needs.

Use the interview not just to collect objective facts, but to gauge how this lobbyist approaches a new issue, how he or she communicates and how comfortable you feel with the person. Make sure you have a good rapport and a sense of confidence. You will have to rely on this person's judgment when there is no time for a second opinion. Get those second opinions at the interview stage and select a partner with whom you and the leaders of the association feel comfortable.

You might also determine in the interview how familiar the lobbyist is with your issues. Although it is helpful to have a lobbyist who has some knowledge of your issues, what you and the association needs most is someone who knows legislators and the legislative process. Spend your time in the interview probing the lobbyist's knowledge of that arena.

Ask the candidate for references and be sure to contact references prior to making a final decision. Focus particularly on the working relationship other clients were able to establish with the lobbyist, his or her accessibility, and his or her effectiveness. Many association leaders stress the need to talk to others in selecting a lobbyist.

As part of your research, you may wish to review the lobbying reports filed with the Secretary of State or Ethics Commission for potential lobbyists. These public records provide information regarding clients and issues, types of expenditures, and, in many states, fees paid to the lobbyist. (These reports are also a good source of information on the activities of your opponents, as will be discussed later in the assessment section.) If you find other clients on the list who were not given as references, you may wish to call them as well.

One lobbyist suggests running a computer search in the state papers to see if the potential lobbyist has been involved in any controversial or even questionable activities.

II. HIRING AND MANAGING A LOBBYIST

Once your association has located a lobbyist you are ready to negotiate the scope of work and fees and to determine how you will manage the process.

Fees and Expenses

There are various fee arrangements made with lobbyists. Law firms may prefer hourly billing, but generally the best arrangement for the client and the lobbyist is a monthly, annual or session retainer.

Fees vary greatly by state. Retainers can run from \$10,000 to \$50,000 (or more!) a year depending upon the issue, the length of the legislative session, and the standard rates in the area. Generally, lobbyists in large states with long sessions (such as California or New York) command the highest fees. A review of the lobbying reports mentioned earlier may provide you with information on fees depending on the state law. Make sure you ask for an explanation as to what fees must be reported if you are using this source. Some states only require the fees for actual lobbying time to be reported, meaning the charges for research, strategy and communication are not included.

Although paying a lobbyist on an hourly basis may seem cost effective, it is almost always the most expensive option. Lobbying is not done in the office on a contained basis and hourly fees run up quickly. One exception to the rule against using an hourly fee might be the case of limited pre-session work in one year leading up to a retainer for the next year.

Paying on an hourly basis also puts the association in the position of guessing whether each individual action being undertaken is necessary. This doubt undermines the relationship your association needs to establish with the lobbyist.

If you enter a retainer arrangement, you will not need to second guess the lobbyist's individual steps, but rather can manage the overall progress to your goals.

It is extremely important when discussing fees to make your expectations as specific as possible so the lobbyist understands the extent of his services. With most lobbyists, especially when a retainer is used, the greatest concern is with properly estimating the amount of time your representation will involve. The more you can help clarify this, the easier it is to establish appropriate fees.

Furthermore, if you are using a retainer, but believe you may also need additional help outside the scope of the retainer you can negotiate a rate for these additional services at the same time you negotiate the retainer.

Please note that contingency lobbying fees, paid only if a certain goal is achieved, are illegal in most states. If this is true in your state, be careful in structuring payment. It is easier than you think to create an illegal compensation package.

Also make sure you know what expenses will be billed to you. Some firms charge only for extraordinary expenses such as overnight delivery or long distance calls. Others will charge for office expenses such as copying and fax. Make sure that you do not pay for travel expenses to the state capital if the lobbyist lives out of town. These costs can accrue quickly. On the other hand, you probably should expect to pay expenses if the lobbyist travels to one of your association meetings or on other association business.

Be clear with the lobbyist regarding your association's policy on entertainment. You may not want to pay for entertainment or only for an activity which you approve in advance. If you are willing to accept these expenses, be aware that a dinner with a legislator may be split (but not double billed) between several clients. This is an acceptable arrangement since the value of the relationship accrues to everyone, but make sure you understand your lobbyist's practices in advance.

You may be willing to pay for meals with legislators, assuming this is allowed by state law, but may not want to participate in sharing the costs for attendance at the numerous receptions held in the capital unless association members are in

attendance. Your lobbyist may suggest that your association host a reception or jointly host it with other allied groups. The board or legislative committee will want to review these issues before beginning the legislative campaign.

Once you have met with the candidates, ask potential lobbyists to give you a written proposal for service to your association, including his or her fees, expenses, and method of payment. This proposal is part of normal consulting services. It may take the form of a draft letter of agreement. Once you have the proposal, ask for clarification of any point you don't understand.

At this point you can begin negotiations on the fee and expenses. For example, the fee may be higher than expected because the lobbyist is assuming he or she will perform certain tasks which the association will undertake such as preparing testimony.

If you are hiring a firm with multiple lobbyists, make sure you know who will be doing the bulk of the work on your issues and document this commitment in writing in the letter of agreement. Also know who will be the alternate if the principal lobbyist is ill or unavailable for some reason.

Contract/ Letter of Agreement

Once you have reached an agreement, details should be confirmed in a written contract or engagement letter which sets forth the basic outline of the relationship. Such a letter usually addresses:

- length of the contract
- base fee
- allowable expenses
- fees for additional services
- payment schedule
- scope of work to be performed
- conflicts of interest
- an "out" clause
- the principals who will handle the work
- press contacts
- confidentiality
- reporting relationship and reporting requirements to association
- filing requirements with state

A sample of a formal agreement is attached. Many organizations use a much simpler agreement. Whichever you choose, the lobbyist you select will provide

draft agreement for your review and editing. In the draft the lobbyist can also, if requested, provide you with a description of the strategy he or she is recommending for the bill.

Reaching these agreements, especially defining the scope of work, is the second most important step after selection, in the management of a lobbyist.

Scope of work should include the following issues:

- *Issues covered under the agreement* Will your lobbyist only handle one specific issue or will he represent your interests on a broader range of issues that might affect your association? Sometimes the agreement may only ask the lobbyist to work on one issue, but to keep your association apprised of other developments leaving open to negotiations any work on those other issues. If this is the case, agree to the fee for action on the other issues at this point in the negotiations.
- *Your objective:* State clearly the goals your association has especially if you are hiring a lobbyist on a single issue. An objective might be to pass tanning parlor regulations which would protect the public from untrained and unlicensed operators. An objective should not be a bill number because these change often in a session as your language may be amended into another bill.
- *The type of work the lobbyist will be doing:* This again requires a review of your objectives and your association's own involvement in lobbying activity. In any event, much of the work the lobbyist does is automatic and cannot be captured in detail beyond general phrases such as "manage and lobby the bill through the process. This always includes selecting and recruiting sponsors, getting a bill filed, managing the committee assignment process, talking to legislators to gain support for the bills, advising the client as to which legislators to target, and watching the calendar deadlines.

There are other areas which may vary based on the client's needs and resources. Your understanding of what is included in "lobbying" and the lobbyist's may be different. It is worth asking some of the following specific questions during these negotiations. Some of the questions to consider are: will the lobbyist draft the bill? will the lobbyist attend all hearings on your bill? what will happen if he or she has a schedule conflict? will the lobbyist be testifying? will he or she prepare the testimony? will the lobbyist help your members prepare for testimony? Who will talk to the press?

Although this list may sound intimidating, remember that the lobbyist also has a reason to pass your legislation since his or her reputation is based in part on effectiveness. Reviewing these specific activities assures that you

both have a common understanding as to what the lobbyist will be doing and more importantly, what he or she is not going to do.

- *Communications:* How often will the lobbyist report to your association? To whom should these reports be made? How will they be made? Will the lobbyist draft calls to action? Will the lobbyist attend association meetings to speak or develop strategy?
- *Work beyond the session:* Does the retainer include working with the association between sessions to develop grassroots programs, align supporters, and or prepare the bill or amendments?
- *Reporting:* Who can authorize additional work or compromise language? One person should be assigned this task. These contacts must be able to be reached on short notice, particularly toward the end of the legislative session when most of the final action on bills takes place. The entire association must have confidence in their decisions.
- *Press contacts:* In all probability you will choose to handle all press contacts yourself, but please discuss these arrangements with the lobbyist so that he or she will know what to do with inquiries.

Your Obligations to the Lobbyist

As a client, you have obligations to the lobbyist as well.

- *Contact Person:* Be sure to establish a clear reporting relationship so that the lobbyist knows who can make decisions and who cannot. Ideally this should be one person, usually the president of the association or legislative chair with a back-up for emergencies. That contact person must be available on short notice for phone calls and should be free to come to the capital as needed.
- *Limit information calls:* Try to limit the number of people who call the lobbyist's office for information. Set up 800 numbers or other places where members can check on the status of the legislation. Lobbyists' offices are rarely equipped to handle a large volume of calls and answering them takes away from more critical work. The association should not expect its lobbyist to function as the secretary for the association.
- *Briefing on /issue:* You understand your issues better than the lobbyist ever will. Take time to provide him or her with a complete understanding of the issue, its supporters, and opponents, and the research available to document your position. Provide written materials if possible. Your association may wish to identify a resource person on the issue.

- *Communications:* The state association has an obligation to keep the lobbyist informed of decisions and the progress of activities. In return, if you or the legislative committee is unclear about a tactic or the current status, make sure you ask questions until you understand. Remember you are partners and the better you can make that partnership work the more likely you are to meet your objectives.

Remember that lobbyists are not miracle workers. They can execute a vital piece of your plan, but they need the grassroots support and expertise that the association can provide. Without these resources, even the best lobbyist will not succeed.

Managing a Lobbyist

Managing any professional who is an expert in an area in which you are a novice is always difficult. The relationship is essentially one of trust. For that reason the selection process and the contract negotiations are the essential building blocks of managing a lobbyist. If these are not completed carefully, your association will have set itself up for a difficult time managing the lobbyist.

But assuming you have made it through these initial steps, you are well positioned to direct the campaign and the lobbyist with confidence. And you *need to continue in this leadership role regardless of the faith you have in the lobbyist*. Lobbyists are professionals; they do not need to be micro-managed, but your association must maintain control of the campaign. After all, the issues they are handling are ultimately more important to you and the association than to the lobbyist.

Steps in managing a lobbyist:

- *Strategic Plan:* A lobbyist should be managed and evaluated in terms of the help he or she gives you in implementing your plan of action. It is important to agree with the lobbyist on a strategic approach before the contract is signed. Discuss options with the candidates and asking for their suggestions will begin this process. You need to finalize the plan once the lobbyist is hired. If you have developed a written strategic plan, once the contract is signed you should share these materials with the lobbyist and adjust the plan as necessary to reflect additional insight he or she brings to the process. For example, the lobbyist especially may have a more realistic assessment of target dates based on the legislative calendar.
- *Benchmarks:* Periodically through out the campaign, you should review the plan with the lobbyist, checking on your progress in implementing it. This review

should take place in person at least monthly. These meetings are not just spot checks, but serious evaluations of your chances. In these reviews watch for the legislative calendar deadlines. If you are not making the progress called for in your plan, ask specific questions as to why not and develop a plan for putting the issue back on track. Ask for alternatives such as, "What options do we have if we fail to get the bill out of committee?" Ask questions until you are satisfied.

One of the biggest problems state association leaders have mentioned is a disagreement with the lobbyist as to when to involve grassroots support for an issue. Some lobbyists like grassroots; some do not. If you believe a certain strategy will be most effective on your issue, you should discuss this approach in general with your lobbyist in the interview and planning phases. Sometimes the indications for one approach are very clear. At other times you must rely on professional judgment as to the best course of action. In making your decision make sure you know what developments to expect and what warning signs to watch for.

Reports and Records: In addition to these meetings, establish a regular reporting schedule. A weekly phone call at a time convenient for both the lobbyist and your liaison is generally sufficient to monitor activity. Lobbyists are hesitant to put everything in writing, but periodic written reports to your members or legislative committee is an appropriate request. You can ask a lobbyist, as part of the contract negotiations, to provide you with a list of contacts made on your behalf and even a time sheet of all activity undertaken for you. If you are paying on an hourly basis this is essential, but some clients will request such reports even under a retainer.

- *Observation:* Another method of monitoring a lobbyist's performance is an on-site review of his or her activities. A visit to the capital will afford you the opportunity to review the lobbyist's interaction with other lobbyists and legislators and his or her familiarity with your issue. Because the lobbyist will have other clients, please let him or her know in advance when you are coming to the capital.
- *Third party comments:* Another source of information as to how the lobbyist is performing is feedback from other people on the scene. Often, legislators and other lobbyists will provide unsolicited comments. These can be valuable if you can evaluate the source of the comments, but take these comments with a grain of salt, since there may be a hidden agenda behind the comments both good and bad. You can certainly ask your sponsors how the campaign is going and what else could be done to assist the legislative efforts. (But make sure you do not ask for a direct evaluation of the lobbyist which might undermine his position with the sponsors.) The more contact you develop in the capital, the more sources of information you will have.

- *Know the legislative scene:* You cannot evaluate your lobbyist's performance in a vacuum. You must develop an understanding of the climate of any legislative session to put your own observations and outside comments in context to properly evaluate a lobbyist. Reading the newspaper coverage of events in the capital or watching televised coverage of the state legislature will increase your understanding of the situation.

Also, be careful when you are part of a coalition. When numerous lobbyists are all lobbying the same issue, it is easier for a single lobbyist to "hide" and not do his job. In these situations, you need to redouble your efforts to ensure accountability.

- *Your judgment:* In the end, the evaluation of the lobbyist will depend upon your own common sense. You must trust it.

Legislative Rules/Calendars

The rules of a given legislature can be very confusing to those first involved in the process. The fact that the rules are confusing is one reason to retain a professional lobbyist. The process is complicated and the lobbyist will not be able to tell you all possibilities until they arise.

You can increase your understanding of the process by asking key questions. Asking general questions will often elicit the information needed. You can ask the lobbyist to tell you how much time you have to obtain your legislative objective this session. You can ask what you should watch for in the process and what signs will tell you whether you are doing well or badly. Ask what the "side effects" are. Keep asking questions until you feel comfortable with your knowledge of the process.

Rules: With each new step a bill takes, ask the lobbyist to explain the procedural rules and the options your opponents have to side track your bill (or vice versa). Then ask how to overcome (or use) these barriers.

Calendars: Often legislative leaders will set a calendar for the entire session. The calendar will not only include the days for committee hearings and session dates, but deadlines for action. These deadlines may specify the final date for bill action in committee or in the chamber of origin. Make sure your lobbyist reviews these critical calendar dates with you at the beginning of the session. If your bill has not received the required action as a deadline approaches, discuss with your lobbyist specific plans to meet the deadline.

Political Contributions

Political contributions are an integral part of the legislative process because most members of the legislature will be up for re-election every two or four years. Although state legislative campaigns are not usually as expensive as Congressional campaigns, the cost can still be high. Your state association should consider its position on campaign contributions. In some states, contributions can only be individual or political action committee gifts; but in half the states, corporate or organizational contributions are permitted.

If you plan to make corporate contributions, be sure that your association's tax status allows such contributions. In some cases, the association may establish a separate entity or a political action committee.

Often the association can be just as effective by bundling together individual contributions. Sometimes your lobbyist will ask the association to bring members to certain fund-raisers as a means of supporting a candidate and of introducing association members. Your association should discuss its willingness to respond to these requests with your lobbyist.

Compliance with Lobbyist Reporting Laws

You should obtain a copy of the lobbyist laws in your state and review them carefully. Some state laws require both the lobbyist and the group hiring the lobbyist to file reports. Become familiar with the obligations and make sure you and your lobbyist complies fully. Receive and maintain copies of all reports a lobbyist files on behalf of your association.

Some laws prohibit or limit the amount a lobbyist or his employer may spend on gifts and entertainment per legislator. Nearly all states require detailed reporting of these expenditures and may require reporting of other expenses and fees paid to lobbyists. If you have any questions regarding the restrictions or the report, the administrative agency will be pleased to speak with you and clarify the law.

III. EVALUATION/TERMINATION

Regardless of how well satisfied your association is with its lobbyist, you need to periodically evaluate his or her work and decide whether to continue the relationship. If you inherit a lobbyist who is not doing an effective job but has established a strong relationship with key members of your association, a formal evaluation may be the only practical way to terminate the lobbyist's services.

Evaluation

Many lobbyists will ask for a formal evaluation at the end of a contract period. Your association leadership may wish for the same and in general it is a good idea to prepare an evaluation even if you are recommending that the contract be continued.

This evaluation is best done at the end of the session while the events are fresh in your mind. It should be conducted by the person(s) who supervised the lobbyist's work, although comments should be sought from any members who were involved with the lobbyist.

Once the evaluation is complete it should be reviewed with the lobbyist before being given to any other members of the association.

The evaluation should be kept in association files in case the association is used as a reference.

Lobbyists can be evaluated on any of the following criteria:

- *Effectiveness*: Did you win or lose? Did you make significant progress? Are you well positioned?
- *Effort*: Did the lobbyist spend sufficient time on your issue? Was it a priority for him or her?
- *Quality*. Was the lobbyist's work of high quality? Was his advice sound? Were his predictions accurate? Did he head off problems?
- *Timelines*: Did the lobbyist manage the process so that you felt you had time to prepare (within the limits of the legislative process)?
- *Communication*: Could you reach the lobbyist easily? Did he or she return calls promptly? Were reports on time?
- *Skills*: Was your lobbyist strategic advice sound? Does he or she possess the necessary communication skills?
- *Knowledge*: Did the lobbyist learn your issue and was he or she able to answer questions about it? Was he able to identify key players? Does he know the legislative process?
- *Contacts*: Did the lobbyist have the right contacts to help you? Was he or she familiar with the committees? Was he or she able to influence leadership decisions of the bill? Were his or her contacts with allied groups helpful?

A sample evaluation form is attached.

Terminating the Relationship

Sometimes relationships with lobbyists end naturally. For example, If your bill passes and you are not planning further work, both you and the lobbyist will know that the contract is over for the moment.

However, even if your issue is unresolved, you may decide to discontinue with the campaign or may even want to change lobbyists for the next year. Make sure your contract specifies a beginning and ending date and also provides for mid-contract cancellation if necessary, such as on 30 days notice.

When a contract is up for renewal, if you are satisfied with your lobbyist's work, you should re-hire him or her because you have both invested in learning the process and issues and have established a working relationship. In addition, the lobbyist has become identified with your issue in the legislators' minds.

But professional relationships do not always work out as planned and a case may arise in which you are dissatisfied with your lobbyist. In those instances, meet with the lobbyist to discuss the problems. Be specific. If the problems cannot be resolved, it is your responsibility to terminate the relationship in a professional manner. If you plan to end the relationship, give the lobbyist plenty of warning and do not let him or her hear third hand that you are looking around.

LOBBYIST SELECTION CHECKLIST

1. Type of Firm

_____ sole practitioner _____ law firm _____ public affairs firm

_____ number of partners or professional staff

Other services available: _____ communications _____ public relations

_____ grassroots support _____ bill drafting

2. Current legislative clients/ amount of time each requires during session

Check for conflicts with clients including insurers, managed care organizations, family practitioners, business organizations like the chamber of commerce. Also make sure the lobbyist will have enough time to handle your issues if another client has a major legislative agenda.

3. Previous experience on your issues

4. Experience on other issues

5. Background

_____ former legislator _____ former legislative staff

_____ former regulatory agency position other _____

6. Personal skills

Verbal communications: _____excellent _____good _____weak

Written communications: _____excellent _____good _____weak

Knowledge of health care issues: _____excellent _____good _____weak

7. Office location

_____main office in state capital _____office in capital during session

_____office in another city; which _____

8. Accessibility

_____voice mail _____pager _____cell phone

9. Connections

Lobbyist seems to have dose connections to: ___Democrats ___Republicans

_____House _____Senate _____Leadership in _____

_____Committees (specify _____)

_____Governor _____Cabinet Members (specify _____)

10. Preferred payment structure

_____annual contract _____monthly retainer _____hourly

11. Expenses

Client pays expenses for: travel_____entertainment_____ fax_____

_____postage _____overnight delivery _____other (specify _____).

12. References

SAMPLE AGREEMENT

Professional Services Agreement

This agreement dated the _____ of _____, 19__, by and between, _____ with offices at _____ (the "Association"), and _____, with a place of business at _____ (the "Contractor"), pursuant to which Contractor will perform certain consulting services for the Association under the terms and conditions set out below.

Article I - Services

1.01. Contractor will perform such services as the following:

(a) General efforts to support, modify or oppose legislation or regulation that may be relevant to the Association and in particular the business of _____, such efforts to include appearing before governmental bodies, drafting and distributing petitions, and presenting evidence to governmental committees or other bodies.

(b) Reporting to the Association on governmental affairs activity and providing the Association with briefs, amendments, roll call votes, and other information or documents which may be distributed in connection with legislative, executive, judicial or regulatory proceedings.

(c) Constituency~development.

(d) Serving as a general resource for the benefit of the Association staff on matters relevant to the Association and in particular the business of _____

(e) Informing the Association of changes in federal, state, and local lobbying laws, including those relating to gifts and political regulations, with actual or potential impact upon the lobbying activities of the Association or _____

1.02. Contractor shall not begin work on any project until Contractor (a) discusses the specific requirements of the project with the Association and (b)

receives the Association's approval to begin work on the project. During the course of a project, Contractor shall give the Association progress reports, whether oral or written, as the Association may from time to time request. Contractor shall also present finished work product in a form and manner which is acceptable to the Association.

1.03. Throughout the term of this agreement, Contractor will be available at reasonable times to meet with Association representatives.

Article II - Warranties and Representations

2.01. With regard to Contractor's performance of any and all services and obligations under this agreement, Contractor makes the warranties and representation of this Article II.

2.02. Contractor will perform in a timely and professional manner and will not use any improper methods when urging consideration of any matter.

2.03. Contractor will comply in full with all applicable federal, state and local laws and regulations, including those which govern gifts and contributions. Contractor shall immediately notify Association of any conduct on Contractor's *part which may be in violation of any laws or regulations which govern Contractor's performance hereunder.*

2.04. Contractor will comply with such Association policies of which the Association has given Contractor has given Contractor express notice. Contractor will immediately notify the Association of any conduct on Contractor's part which may be in violation of any corporate policies or procedure which govern contractor's performance hereunder.

2.05. Contractor has secured and will maintain all necessary licenses, certifications, or registrations which are required by law.

Article III - Registration and Reporting

3.01. Contractor is responsible for registering and filing all reports with federal, state, and local governments which may be required by law or regulation in connections with Contractor's activities on behalf of the Association. Such reports must be filed in an accurate and timely manner at contractors expense.

3.02. Contractor will forward copies of all registrations and reports to the Association immediate upon filing. Contractor will further provide all necessary information and assistance to the Association in a timely and accurate fashion to enable the association to comply with its filing and registration obligations.

Article IV - Fees and Expenses

4.01. In consideration of the services to be rendered hereunder by Contract, Association agrees to compensate Contractor at a fixed rate of _____ per month, not to exceed a total of _____ over the term of the agreement. This fee is not contingent upon the success of any undertaking hereunder except where and to the extent permitted by law and as may be specifically provided herein.

4.02. The Association will reimburse Contractor for all reasonable out-of-pocket expenses actually incurred by Contractor in the performance of the agreement. Expenditures for honoraria, gifts, political contributions or entertainment of government officials are not reimbursable expenses unless (a) Contractor requests and receives prior approval from the Association for the expenditures and (b) the expenditures are made in full compliance with all applicable laws and regulations.

4.03. All expenses of twenty-five dollars (\$25.00) or more must be submitted with receipts or comparable supporting documentation. All expenses in excess of five hundred dollars (\$500.00) require advance approval from the Association. Expenses for projects not specifically covered by this agreement must be approved in advance by the Association and billed separately. Failure to obtain Association approval or submit documentation in accordance with this paragraph will negate Contractor's rights to reimbursements.

Article V - Billing and Payment

5.01. Contractor will submit monthly statements of services rendered and expenses incurred. The Association will make payments within thirty (30) days of receipt of such statements.

5.02. By accepting payments under this agreement, Contractor certifies that Contractor (a) has complied with the terms and conditions of this agreement, including contractor's obligations to comply with all applicable laws, regulations, and Association policies and (b) has filed all reports and notices which may be required.

Article VI - Term and Termination

6.01. The terms of this agreement will commence on _____ and will continue until _____ unless earlier terminated as provided below.

6.02. The Association may terminate this agreement, with or without cause, on thirty (30) days written notice to Contractor at the address set forth above. Upon termination, the Association will have no liability of payment obligations to Contractor after the effective date of the notice of termination.

Article VI I - Records and Right to Audit

7.01. Contractor and contractor's employees and agents will maintain detailed and accurate books and records of account with respect to activities undertaken on behalf of the Association and will provide periodic activity reports as requested by the Association. Contractor will maintain all books and records of account in the manner and for the time period required by federal, state and local law.

7.02. The association and its agents shall have the right to audit during normal business hours Contractor's records pertaining to the performance of this agreement, regardless of the manner or form in which such records are maintained by Contractor. The Association may exercise its right to audit twice per year during the term of this agreement and once during the twelve (12) months following expiration or termination of the agreement. The Association may, without, penalty, withhold final payment for Contractor's services until such time as its reasonable request to audit Contractor's records is honored. The Association's audit rights shall be limited to an inspection of materials which are relevant to Contractor's services on behalf of the Association. The Association shall respect the confidentiality of any materials subject to audit and shall honor such procedures, designed to preserve confidentiality, as contractor may reasonably request.

7.03. The Association shall have the right to consult with Contractor regarding its policies and practices governing the retention and disposal of documents and records related to Contractor's performance of this agreement. The Association shall also have the right to request that Contractor modify its policies and practices to ensure their compatibility with the Association's policies and practices governing the retention and disposal of documents and records.

Articles VIII - Confidentiality

8_01 Contractor and Contractor's employees and agents will hold strictly confidential all information and materials provided by the Association to Contractor or created by Contractor in performing this agreement (the information"). Contractor will not use or disclose the information unless expressly authorized to do so in writing by the Association.

8.02 The information will remain the sole and exclusive property of the Association. To the extent that any of the tangible or intangible property produced by Contractor hereunder does not qualify as a "work for hire" under U.S. Copyright Act, Contractor irrevocably transfers, assigns and conveys the exclusive copyright ownership thereof to the Association.

8.03. Upon termination or expiration of the agreement but no later than thirty (30) days thereafter, contractor will return all copies of the information to the Company. The Contractor's obligation to maintain the confidentiality of the information will survive the termination if this agreement. These obligations will be in addition to and will in no way dilute any obligations of confidentiality which Contractor might otherwise owe to the Company by operation of law or professional standards.

Article IX - Third Party Contacts

9.01. If at any time Contractor is contacted by a third party including representatives of the news media, concerning Contractor's activities on behalf of the Association, contractor will (a) make no comment; (b) notify the Association of the third party contact; and (c) refer the third party to the Association.

9.02. The Contractor may respond to routine inquiries from members of the press, legislators or administrative officials concerning legislation or administrative rules which Contractor is lobbying for or against on the Association's behalf but will immediately notify Association or such responses and will provide the Association with copies of any documents or materials which Contractor submits in response to such inquires.

Article X - Indemnity

10.01. The Contractor will indemnify and hold harmless the Association, its affiliates and their officers, employees, directors and agents from all claims, liabilities, costs, and expenses, including reasonable attorney's fees, that arise from or may be attributable to errors, omissions or fault of contractor.

10.02. Contractor's obligations to indemnify and hold harmless will survive the termination of the agreement.

Article XI - Insurance (optional)

11.01. Contractor agrees to maintain, at Contractor's sole expense, during the term of agreement comprehensive general liability insurance from a carrier satisfactory to the Association, with aggregate limits of at least \$1,000,000, which insurance shall include a contractual liability endorsement covering Contractor's obligation under this agreement.

11.02. Contractor agrees to maintain during the term of this agreement workers' compensation insurance in amounts required by applicable law.

11.03. Contractor shall furnish to the Association true and correct copies of the certificates of insurance maintained in compliance with this Article prior to the commencement of this agreement, and annually thereafter, as evidence that such policies are in full force and effect. The certificates shall name the

Association as an additional insured, and shall contain a thirty (30) day prior notice of cancellation, termination, or material change in coverage provision.

Article XII - Independent Contractor

12.01. Contractor is an independent contractor and this agreement will not be construed to create an association, partnership, joint venture, relation of principal and agent or employer and employee between the Association and Contractor or any of Contractor's employees within the meaning of any federal, state, or local law.

12.02. Contractor will not enter into any agreement, oral or written, on behalf of the Association or otherwise obligate the Association without the Association's advance written approval.

Article XIII - Exclusivity

13.01. During the term of the agreement, and for three (3) months thereafter, Contractor will not, without the prior written consent of the Association, engage in lobbying, consulting or similar activities on behalf of any company, entity, or person which has interests which are adverse to the interests of the Association.

Article XIV - Miscellaneous

14.01. This agreement and all matters collateral hereto will be governed by the laws of the State of _____

14.02. If any provision of the agreement is held invalid or unenforceable, the remaining provisions will remain in effect.

14.03. This is a personal service contract and by not be assigned or transferred by Contractor.

14.04. A waiver by either party of any of the terms and conditions of the agreement in one or more instances will not constitute a waiver of terms and conditions.

14.05. Notices provided will be in writing and sent by certified mail, return receipt requested. Notices to Contractor will be sent to the address written above. Notices to the Association will be sent to:

Association
By: _____

Contractor
By: _____

Date: _____

Date: _____

SAMPLE' EVALUATION FORM
LOBBYIST EVALUATION FORM

NAME OF LOBBYIST

ADDRESS

CONTRACT PERIOD _____

SCOPE OF WORK

PART I

**The following scale is used in this part of the evaluation form:
1= EXCEEDED EXPECTATIONS 2= MET EXPECTATIONS 3= DID NOT MEET
EXPECTATIONS**

EFFECTIVENESS:

Did the legislative outcome meet your expectation? (circle one) 1 2 3
If your goals were not met, does your current position for future action meet your
expectation? (circle one) 1 2 3

EFFORT

Did the amount of time the lobbyist spent on the society's behalf meet your
expectations? (circle one) 1 2 3

Did the level of importance the lobbyist placed on the issue meet your
expectations? (circle one) 1 2 3

QUALITY

Did the quality of the work by the lobbyist meet your expectations?
(circle one) 1 2 3

Where did it fall short? _____

Did accuracy of the strategic advice given by the lobbyist meet your
expectations? (circle one) 1 2 3

Where did it fall short? _____

Did the accuracy of the lobbyist's assessment of the legislative situation meet your expectations? (circle one) 1 2 3

Where did it fall short? _____

TIMELINESS

Did the lobbyist's management of the timing of the events meet your expectations? (circle one) 1 2 3

Where did it fall short? _____

COMMUNICATIONS

Did the lobbyist's responses to your inquiries meet your expectations? (circle one) 1 2 3

Where did they fall short? _____

Did the regular reports meet your expectations? (circle one) 1 2 3

Where did they fall short? _____

Did the lobbyist's availability meet your expectations? (circle one) 1 2 3

Where did it fall short? _____

PART 11

The following scale is used in this part of the evaluation form:

1= SUPERIOR 2= GOOD 3= AVERAGE 4= POOR

SKILLS

Rate the lobbyists strategic planning skills: 1 2 3 4

Rate the lobbyist's verbal communications skills: 1 2 3 4

Rate the lobbyist's written communications skills: 1 2 3 4

KNOWLEDGE

Rate the lobbyist's knowledge of the legislative process: 1 2 3 4

Rate the lobbyist's knowledge of your issue: 1 2 3 4

Rate the lobbyist's knowledge of key players in the legislature: 1 2 3 4

CONTACTS

Rate the value of the lobbyist's contacts with key committee members? 1 2 3 4

Rate the value of the lobbyist's contacts with the leadership? 1 2 3 4

Rate the value of the lobbyist's contacts with allies? 1 2 3 4

OTHER COMMENTS

SHOULD THE CONTRACT BE CONTINUED? _____

REVIEWER(S)
