

# State Government Relations

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James Madison, a signer of the constitution, once said that “self-interest is the engine of the government.” Those who conceived our system of government made it requisite that every group or citizen has the right to influence government decision makers. The framers guaranteed that activities often labeled as “lobbying” are protected as a constitutional right.

In many ways, the term *lobbying* is misunderstood [1]. Most can agree that it is in our interest to influence political outcomes. For many, the concept has negative connotations of handing out money for political favors. Lobbying, in fact, is the common statutory term for educating and informing lawmakers and agency staff members. It includes contacting, or urging others to contact, an official regarding an impending legislative or agency action.

In most cases, effective lobbying is based on honesty, accuracy, and credibility. In our system of government, special interest groups provide value to legislatures in the form of ideas, labor, technical expertise, political strength, and improved efficiency.

## RADIOLOGY AND STATE GOVERNMENT RELATIONS

RADPAC and the ACR Government Relations department are regarded as some of medicine’s most influential specialty organizations in Washington. Political activism is indeed embedded in the ACR’s mission statement.

Although we are well organized at the federal level, for many issues, politics is local. As a specialty, we rely on the efforts of the state chapters to monitor or initiate legisla-

tion that can migrate in thought or fact to the federal level.

There are a number of reasons to be vigilant at the state level. Often, state governments have unique interests. State politics may be very different than the federal counterpart. Similar to the Carrier Advisory Committee for Medicare, the state and federal legislative bodies do not operate in isolation from each other. Self-referral is a prime example of how legislative and regulatory activities at both the federal and state levels can have significant influence on each other.

Traditionally, some issues have been relegated to the states. Since the New Deal, the trend has been for more responsibility to be shifted to the states, especially on domestic matters. A popular example is the definition of marriage. Specifically in our industry, the regulation and licensing of medical practitioners is a state issue. For instance, the issue of radiology assistants (RAs) will be handled by individual states. However, with the recent change in Washington’s political climate, complicated by the credit crisis, that paradigm may be shifting toward more responsibility assumed by the federal government.

Nothing is safe when any legislature is in session. Radiology must be prepared to be both reactive and proactive in every legislative arena. Many regulations or legislative efforts that directly affect our specialty occur in the states. As a specialty, we need to be prepared at all levels of potential activity.

In addition, similar to the ACR and the American Medical Association, radiology frequently needs to own our advocacy to balance

those of the state medical societies. Although many interests are aligned, we gain advantage by having separate representation. Being informed and active is insurance that the state medical societies are attuned to the needs of radiologists, despite our minority positions.

Although the task of vigilance imposes challenges, it presents as many opportunities. The state legislatures present 50 opportunities to learn and be successful. Instead of one arena to test the waters of proactive legislation, there are many. Radiology organizations in one state can adapt or modify their strategy through networking or case studies of other efforts.

## STATE ACTIVISM

Levels of engagement for radiology vary considerably across the country. States such as Florida, California, Texas, Pennsylvania, Washington, New York, Connecticut, and others are well represented by strong organizations and dedicated lobbyists. Others are limited by resources, a lack of time, and an absence of will or volunteerism.

The most advanced radiology political system at the state level is probably in North Carolina. As Chris Ulrich, MD, explains, radiologists in the state have developed a network of political action committees (PACs) based on the different regions or practices across the state. A local board of directors is responsible for deciding how funds will be distributed from each PAC. Suggestions are given to and received from the state organization. In fact, North Carolina’s radiology PAC is better funded and arguably more influential than the state’s medical society. The

North Carolina Radiological Society frequently sponsors fund-raisers with other interest groups, such as other specialty societies or the hospital association. The society may also support local candidates early in their careers in anticipation that they will eventually be candidates for state leadership positions or move on to Washington. In politics, early friends are usually well remembered.

Some examples of 2008 legislative events at the state level are as follows:

- Maryland's anti-self referral law has been the gold standard. During the past few years, the Maryland Radiological Society has responded to a series of challenges to the constitutionality of the ban. Arguments were heard by the Court of Appeals in September 2008. A decision is anticipated in the next few months.
- In Arizona, a self-referral ban was introduced into the state senate. In cooperation with the state medical society, the bill was modified to address overutilization. Ultimately, it failed because of cardiology-sponsored lobbying. An RA bill based on ACR model legislation was successfully passed into law.
- The California Radiological Society recently won a victory in ushering through a bill that limits arbitration on lease arrangements for high-tech imaging.
- Texas has been embroiled in the self-referral debate for several years. As a continuation of its self-referral efforts, the Texas Radiological Society has formed the Coalition for Ethical Imaging.
- In Washington, the state chapter is leveraging interest by a representative to move the self-referral agenda forward.
- Twenty-three states now recognize RAs. Most recently, New Jersey was able to get RA recognition through regulation. The

states that currently have RA recognition are Arizona, Arkansas, Colorado, Florida, Kentucky, Illinois, Iowa, Maryland, Massachusetts, Minnesota, Mississippi, Montana, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Washington, West Virginia, and Wyoming (Eugenia Seher Krimer, ACR State Government Relations, personal communication).

### FORMULA FOR SUCCESS

Clearly, as a specialty society, it is in our collective interest to encourage grassroots efforts. Consider the enhancement of our political influence if we had a coordinated system of political networks in each state.

At a minimum, each state should have a legislative monitoring system in place. The ACR's State Government Relations bureau is a valuable resource for information, guidance, and networking with other states.

The next level is forming a legislative committee responsible for state-specific activity. The committee should be constituted by motivated members representing both geographic and practice diversification.

An important strategy for every state is to get representation in the state medical society's legislative committee or PAC. Radiology needs to be heard wherever our issues are discussed.

For those states looking to be proactive, a state PAC is an important resource. Individual states have their specific requirements for compliance. In most cases, it is the state's office of the secretary of state that governs the filing and activities of state PACs. A list of the Web sites of state offices of the secretary of state can be found at <http://usgovinfo.about.com/blstateelection.htm>.

Coordinating facility visits and sponsoring fund-raisers are other opportunities for individuals and practices to get involved.

### THE ART OF POLITICS

Similar to medicine, lobbying is both an art and a science. For those who are motivated to get involved, an introduction to the idiosyncrasies of politics is helpful. Being aware of some fundamentals can help avoid pitfalls and improve the quality of representation [2,3]:

- Most state legislators have other jobs. In many cases, they are only part-time lawmakers. The average state general session is less than 120 days. Because the time and opportunity to deliberate are short, we cannot rely on just good science or public policy to necessarily prevail. A good set of political facts is often necessary.
- Most politicians have the best of intentions. In most cases, however, their intentions are to stay in office. Therefore, many politicians listen most to those special interests that have been influential in their election efforts.
- Lawmakers frequently do not thoroughly read all the bills coming before them. The sheer number, along with the variety and detail, makes it impractical to process each piece of legislation. They often rely on lobbyists and special interest groups for information.
- Legislators want to avoid political mistakes that may give challengers a platform to win support. Unless there is consensus, broad-based support, or lobbying from very influential groups, most lawmakers will be very cautious about introducing controversial legislation. In fact, it is easier to kill legislation than to get it passed. Legislators will want to know who will line up for or against their legislation. However, once they introduce a bill, they frequently will "own it" and wield their influence to get it passed.

- Political campaigns cost considerable money. Jessie Unruh, the former speaker of the California House of Representatives, once said that “money is the mother’s milk of politics.” However, money is just one form of contribution. Others include endorsements, attending fund-raisers, and contributing time to campaigns.
- We are the best advocates for our issues. Most politicians want to hear directly from their constituents. Our success relies on the effort and passion that we invest in the process.
- The best time to lobby is when you do not have a bill. We gain credibility by being a professional resource. The goal is to establish consistent engagement along with support. One option is to provide legislators with periodic updates on the health care industry.
- Although the legislative branch can pass laws and appropriate funds, implementation is relegated to the executive branch. The governors and executive agencies can have considerable influence through regulation, implementation, and enforcement. As a result, lobbying must not end at the doors of the legislature. Executive agencies tend to rely more on data and science. It is much more fact-driven than the legislative process. Therefore, lobbying efforts need to be tailored appropriately, depending on the context and target audience.

## HOW TO HIRE A LOBBYIST

For physicians, making time for lobbying can be a challenge. Despite the best intentions, legislative committee chairs may need to delegate the details of negotiating

through the political morass. The state physician chairman may not even be located in the same city as the legislature. For many reasons, it is often advisable for a state society to invest in hiring a dedicated lobbyist [4].

Besides word of mouth, a valuable source to find lobbying firms in your area is to look at last year’s reports available from the secretary of the senate’s office. These public records are a way to find lobbyists who are active with health care issues.

Once possible candidates are identified, arrange telephone interviews. Pare down the list by filtering through issues such as cost, experience, and availability. The firms should provide biographies, résumés, and client lists. Ask a firm for its records of successes and failures. Be sure to search out any current or future potential conflicts of interest.

The next step in the process is direct interviews. This is the logical opportunity to assess not only details of a firm and its staff but also subjective qualities such as personalities and presentation. Expect a candidate lobbyist to do most of the work, but be prepared to give a brief synopsis of your issues.

Request an overview of the resources available to a firm and a list of its clients. Be wary of lobbyists who have red flags in either their reputations or references. As per the Hippocratic oath, lobbying should “do no harm.”

Josh Cooper of the ACR’s Government Relations department recommends that a contract establish clear expectations. Outline with the lobbyist your goals, which may include monitoring bills, proactive participation as issues ripen, coalition building, and aggressive monitoring of key dates in both legislative and regulatory developments.

A contract should also outline your expectations for communication with your lobbyist. At minimum, the lobbyist should be able to provide you with weekly updates while the legislature is in session. Clarify who will be responsible to complete the necessary compliance regulations required in your state.

## CONCLUSION

Legislation and regulation can have profound effects on our practices. Radiology must be engaged with politics at all levels to ensure the well-being of the profession. It is not enough to be on the right side of the issues. Every state chapter should endeavor to develop a local political identity. There are successful state government relations models and resources to help chapters create their own. In synergy with the ACR’s presence in Washington, it is often the grassroots efforts that support and enhance our collective influence.

## REFERENCES

1. Guyer RL. How to influence state legislatures and regulatory agencies. Available at: <http://www.learn-to-lobby.com/Howto.pdf>. Accessed February 24, 2009.
2. Schierhorn C. AOA takes to the road to advance state-level advocacy: mobilizing for reform. The DO. November 2004. Available at: [http://www.lobbyschool.com/PLI\\_Ref.pdf](http://www.lobbyschool.com/PLI_Ref.pdf). Accessed February 24, 2009.
3. Ross K. It’s politics, then process, then policy: friendly political advice for physician executives from a rehabilitated medical lobbyist. Physician Executive. January-February 2004. Available at: [http://findarticles.com/p/articles/mi\\_m0843/is\\_ai\\_112801149](http://findarticles.com/p/articles/mi_m0843/is_ai_112801149). Accessed February 24, 2009.
4. American College of Radiology. Hiring and managing a contract lobbyist. Available at: [http://www.acr.org/Hidden/GR\\_Econ/FeaturedCategories/state/state\\_gr\\_resources/HiringandManagingContractLobbyistDoc3.aspx](http://www.acr.org/Hidden/GR_Econ/FeaturedCategories/state/state_gr_resources/HiringandManagingContractLobbyistDoc3.aspx).

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