



# Developing a Legislative Strategy

## *When (and How) to Get Involved*

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*There are many variables that determine a successful state legislative strategy. Some are process oriented, while others are organizational. All involve commitment and dedication on the part of an organization's leadership and members.*



### **Define, Prioritize & Categorize**

Defining and prioritizing the issues is the first and one of the most important steps in developing a legislative strategy. Many take this step for granted, but deciding exactly what the most important issues may be before the start of a legislative session is vital to determining what resources will be needed and will save time in the long run. An example is medical liability reform – while a hot issue in many states, it is important to define the reforms to be introduced as well as the individual "components" of each issue. Is a cap more important than alternative dispute resolution and is alternative dispute resolution more important than limiting attorney's fees? By prioritizing these elements, you are prepared for the inevitable negotiations that will occur during the legislative session.

After the issues have been defined and prioritized, they should be categorized into three lists: proactive, reactive, or opportunistic.

The terms "proactive" and "reactive" are fairly self-explanatory. Proactive issues are those important enough to take the initiative to introduce the legislation, or issues on which to be actively engaged. Reactive issues are often defensive in nature, and usually require a response. It is very important to try and identify defensive/reactive issues before they are introduced, so that you may start earlier and plan ahead. It's especially worthwhile to define reactive issues so you are not caught unaware. This will give you the time to formulate a response, rather than scrambling to come up with a message at the last minute.

You may be less familiar with "opportunistic issues". These are issues that you will have a position on, but may not warrant an allocation of very many advocacy resources. For example, an increase in a state's "sin tax" to pay for trauma funding may not be something that a society would specifically ask for (more likely to be proposed by a state committee on trauma), but is an issue on which it would have a position. Opportunistic issues may also be "piggy-backed" onto other legislation. Perhaps a state is considering an increase in the penalties for traffic violations -- you may be able to add an amendment to allocate some of the increased funds to hospitals and physicians for uncompensated emergency care. Again, defining these types of issues ahead of time will leave you with a better

#### **Proactive Issues**

Medical Liability Reform, Physician Reimbursement

#### **Reactive Issues**

Self-Referral, Scope of Practice, Physician Taxes

#### **Opportunistic Issues**

Prostate Cancer Screening & Awareness

understanding of the big picture.

It is important to note that a particular issue may not stay in the category in which it started. Last year's reactive issue may be this year's proactive issue, requiring a re-evaluation of the overall grassroots advocacy strategy.

## **Advocacy Resources**

After you have defined and categorized the issues it is easier to determine what resources you need (and when you need them.) The term "resources" is used to refer to anything that can be utilized in grassroots advocacy efforts. Resources can be "paper"(i.e. model legislation, talking points, studies, etc); "financial" (how much money will you need to print flyers, purchase ads, plan lobby days, etc); or even "people" (initiating letter writing campaigns, arranging witnesses for hearings, etc). It is a good idea to create a timeline of the legislative agenda so that you can better organize when you will need your resources. When creating your timeline check with your legislature's session calendar to determine deadlines for action on legislation.

## **Drafting appropriate language for the legislation**

If you decide that an issue is important enough that you would like to draft your own bill, first [check with AACU staff](#) to see if model legislation exists. Model legislation can serve as a useful starting point and save time and advocacy resources. Chances are that similar legislation may have been considered in other states providing an excellent template for drafting your own bill.

When developing a bill it is important that the language for it be written in the statutory format utilized by the state legislature. Either use a current statute as an example for style, or seek the assistance of AACU staff; a state lobbyist or legislator (who could serve as a potential sponsor); an attorney; or state medical society government relations staff person. In many states, a legislator will determine the basic intent of the bill, provide that information to a legislative information office in the state capitol, and that office will draft language while making sure the appropriate section of the state statute is amended.

## **Soliciting support and involvement by the state medical society**

The state medical society is often one of the most politically powerful health care organizations in a state. Determine if it has a policy for or against your issue. If it supports this legislation, find out what level of support can be expected by medical society lobbyists. Will they actively lobby on behalf of the bill, or will they focus on procedural support (such as submitting slips of support in committee hearings and letting legislators know they support the legislation only if asked)? Do they want to assist in passage of the legislation but are willing to let the state society take the lead in the effort, or will this be a priority issue for them on which to take the lead in advocacy activities?

If the medical society does not have a position, or opposes the issue, it may be useful to introduce a resolution at the medical society's annual House of Delegates directing the medical society to support the issue. Typically, any delegate to this meeting is permitted to introduce a

resolution (as are county medical societies), and names of surgeons who are serving as delegates should be available from the county or state medical society.

## **Coalition Building**

When advocating for a particular position, it is important to identify potential supporters and opponents. The supporters might be willing to participate in a formal coalition, and the opponents will certainly do what they can, including building a coalition of their own, to defeat your efforts.

One very important player in health care in any state is the state medical society. Surgeons can have a special relationship with their state medical society by virtue of their shared interests, and even if the state medical society is opposed to your efforts, it is a good idea to keep the lines of communication open. Should a coalition be developed, be sure to include the state medical society as well as other physician organizations, such as county medical societies and state specialty societies.

Take the time to look beyond the traditional potential supporters. Where health care issues are concerned, there are non-physician organizations that will be interested in supporting your position. Consumer groups, unions, disease-specific associations, church groups, chambers of commerce/business groups, AARP chapters, hospital associations and so on could be approached to request their support and participation in a coalition.

## **Selecting a sponsor for the legislation**

A bill cannot be introduced without a legislative sponsor. Most health care bills end up assigned to a health care or insurance committee, so it is often a good idea to ask the chair of that committee to be a sponsor, with other members of the committee to be cosponsors. Numerous cosponsors can help show support for the bill at the outset and help its eventual passage, as does co-sponsorship by legislative leadership.

### **Coalition Building: A Case Study**

An example of development of a successful coalition can be seen in Wisconsin. During the Spring of 2000, the Wisconsin Medical Society (WMS) found out that the Chairman of the Assembly Health Committee would be introducing a comprehensive patient safety bill to address the issue of medical errors in the state (this issue became a concern to the Assemblyman due to the release of the Institute of Medicine's report *To Err is Human* in late 1999). The WMS knew the Assemblyman was not well versed in the complexities of this issue, and arranged to meet with him and his staff to talk about the issue. Due to these discussions, the Assemblyman realized the need for greater study, and acceded to the request by the WMS that it be given six months to proactively address the issue of patient safety and medical errors.

As a result, the Wisconsin Patient Safety Forum was formed, with over 50 organizations participating. A smaller work group (which was formally incorporated as the Wisconsin Patient Safety Institute) was established that met on a monthly basis to investigate, discuss and come to consensus on recommendations to improve patient safety. Members of the work group included:

AARP  
Employer Health Care Alliance Cooperative  
Medical College of Wisconsin  
National Patient Safety Foundation  
Pharmacy Society of Wisconsin  
Rural Wisconsin Health Cooperative  
State Medical Society of Wisconsin  
WEA Trust  
Wisconsin Association of Health Plans  
Wisconsin Health & Hospital Association  
Wisconsin Manufacturers & Commerce  
Wisconsin Nurses Association

As a result of the efforts of this coalition, 10 patient safety recommendations were developed pertaining to prescription errors and distributed to all affected parties. The Chairman of the Assembly Health Committee did not introduce legislation, and the Wisconsin Patient Safety Institute has raised over \$300,000 from its constituent members to continue to function as an independent entity and address other issues relating to patient safety and medical errors.

It can also be helpful to look for sponsors in "unexpected" people (not your usual allies). This is particularly helpful when you are working on a piece of compromise legislation. For example: a legislator who is normally supportive of insurance companies would be a good choice to champion insurance reforms.

## **Working with the leadership of the legislative body to determine support**

In virtually every state, legislation first has to go through a rules committee (or equivalent) composed of the legislative leadership or their representatives and controlled by the majority party, which is responsible for assigning bills to hearing committees. If the leadership doesn't want a bill to pass, it will not get out of the rules committee. As such, gaining support of legislative leadership is a critical factor in a successful advocacy strategy. Special consideration may be given, however, to the chairman of a committee who happens to be a sponsor of the legislation, or if a member of the rules committee is a sponsor.

## **Lobby Days/A Day at the Capital**

Lobby Days are a great way to both create and leverage relationships. It's not necessary to have a lobby day only when you have issues on the table. Legislators want to see and hear from you year-round, and they appreciate receiving "thank you's" for a job well done.

Checking the state and local lobbying laws is a must before you begin to plan an event. Once you have established what you can and more importantly, CANNOT do, you may begin planning your event. Most lobby days include:

- Speakers: elected officials, (where allowed), and/or representatives from the College and chapters, state medical and specialty societies, and so on.
- Dinners and/or Receptions: These may be open events for the whole legislature or more structured invitation only events.
- Meetings with Legislators: These events will include times for the attendees to meet with their specific elected officials.

### **Helpful Hints:**

Do include a speaker who can address the "do's" and "don'ts" of advocacy that includes not only the legalities (what can you say, do, etc) but also the "how's" i.e. maintain eye contact, introduce yourself, how to follow up, etc.

Don't forget to prepare "leave-behinds" (handouts) and remember the AACU is available

## **Involving patients in the advocacy effort**

Patients can be a tremendous help in advocating for legislation since they are ultimately affected by its enactment. Legislators listen to their constituents, so encouraging patients to write their legislators or send postcards in support of the legislation can show the legislature it isn't just physicians who want the legislation passed. Preprinted post cards can be inexpensively produced and provided to all members of the AACU for use in their offices.

Due to confidentiality and privacy considerations, it is important to be sensitive to an individual patient's situation before approaching him or her to become active in this process. It is never a

good idea to pressure a patient to participate--rather, broach the subject as part of the visit, offer the availability of a postcard or sample letter at the front desk, and be gracious if the patient declines the opportunity. If you are uncomfortable discussing legislative issues with your patient(s) directly, a poster/brochure at the front desk is often effective and may encourage a patient to ask questions about the issue during their visit.

## **Preparing for committee hearings**

After a bill is assigned to a committee, it will be debated during a hearing. At that time, many other bills will also be heard, so testimony must be clear, concise and to the point. More extensive information can be submitted in written form during the hearing (or when testimony is presented), but the oral presentation should be short (unless the chairman is willing to allow a longer time). The AACU can help prepare talking points, testimony, background information, or even help brief you before the hearing.

It is important that all members of the legislative committee be contacted before the hearing with a formal letter of support and any informational materials (preferably, those that will be submitted during the hearing as part of the testimony). Urologists living in a committee member's district should be encouraged to call and write their legislator in support of the bill.

Don't forget when testifying that you are both the expert AND the constituent.

Be prepared to take questions from the committee; anticipate both friendly and unfriendly questions

Stand your ground, don't stray from your point, or allow yourself to become emotional

In some cases, a committee chair or committee member will request that an informational hearing be held on a particular piece of legislation (usually between legislative sessions or during a recess). No vote will be taken by the committee at that time, and often this type of hearing can last one hour or more, providing plenty of time for proponents and opponents to make their case. Planning for an informational hearing is more extensive as presenters of testimony can go into greater detail, and "experts" can be brought in to explain an issue or procedure. Such a hearing is an excellent opportunity to use colorful charts, graphs, and handouts.

## **Enlisting support of the Governor's office**

Contact with the health care staff in the Governor's office to inform them of the issue can lead to support from the Governor. That is especially helpful if the Governor's party is the majority party in the state legislature, and may be useful in getting the bill out of committee for action by the full House/Assembly or Senate.

## **Hiring a lobbyist**

While it is possible to be successful in passing legislation without one, having your own lobbyist can make a world of difference. This individual is well connected with legislators, understands the process inside and out, and is familiar with various legislative strategies. However, a lobbyist can be costly, so a clear budget must be in mind before the organization hires one. Also, determine whether the society's tax status permits the hiring of a lobbyist.