

Contracting the Services of an Outside Lobbyist

Overview

State societies often are faced with a decision whether it is financially viable and/or necessary for the Society to hire or continue a contract with an outside lobbyist. This document is designed to guide you as to what factors the society should consider in making its decision.

Can the Society Afford the Cost of an Outside Firm?

This can be a significant cost to any state society. Obviously, a thorough review of the society's budget is in order. A decision as to the state's priorities needs to be discussed and determined.

For example, are there potential threats to the practice of RT because of other practitioners or are there potential opportunities to expand the venue where RTs may provide their services (e.g., smoking cessation or COPD/Asthma disease management under state Medicaid programs) that would require changing laws or regulations? These and other factors should be considered when assessing society priorities. Depending on the contract, lobbyists can be defensive, opposing threats to the profession or pro-active, seeking ways to insert RT into state laws or policies, or be contracted to do both.

What Does the Current Lobbying Contract Stipulate?

In other words, what are you paying them to do? Examples include monitoring legislation and regulations only; submitting written or verbal reports at the Society's Board meetings; making presentations at your state annual meeting; seeking possible avenues in other non-RT related legislation or regulations where RTs should submit comments or provide input; attending RT Licensure Board meetings; or actively lobbying legislatures or regulators on key RT issues.

A review of what a Society has contacted is a necessity. Can a Society revise the contract so that less is expected for less money? Are you getting what you've contracted for? Can you ask for them to do more for the same amount of payment?

How Often and For How Long is Your Legislature in Session?

In some states, TX and WY for example, the legislatures come into session every 2 years. These states will only address "substantive" issues every other year. States like NY and CA are in session all year long. In most states, the legislature is in a certain number of months and then gone the rest of the year. What services could or does your lobbyist provide when the legislature is out of session? Keep in mind state agencies never go out of session and regulations can emerge at any time of the year.

Can the Society Afford Not to Have a Lobbyist Under Contract?

Know that lobby firms are more often than not located in the State Capitol where the legislature and the state agencies are located. This gives them fast access to legislative hearings (often scheduled at a moment's notice), legislative staff and the legislators themselves. State agency

personnel -- from Licensure Board staff to Medicaid staff to Public Health agency staffs -- are also located in the State Capitol city.

Lobbyists, as with any other profession, specialize in not only knowing the laws and rules in their specialty (such as health) but they know the legislators and regulators who write or implement the rules in their area of expertise. This gives them access, and access is what is essential when making a case for, against, or requesting a change in a bill or policy. They also speak the language; that is, they know how to write a specific provision or spot a line that would negatively impact their clients.

Moreover, state lobbyists are well known to each other especially in their field of expertise. If lobby firms have clients on the opposite side of an issue, the fact that these individuals know each other opens up possible avenues of negotiation before an issue gets taken to the next level.

How Can AARC Assist States?

While the AARC has a legislative monitoring program Lexis-Nexis that tracks legislation and some regulations, be aware that what we receive in the monitoring reports are new bill introductions or amendments to bills going through the legislative process, or notification of proposed regulations. The AARC provides State Society leadership with regular updates on the bills and regulations but this review does not necessarily capture everything you need to know.

Lexis-Nexis **does not** provide information on hearings on a bill or if interested parties are meeting with legislators and staff on legislation (or regulations). In other words, AARC has no way to know when these “off line” events are taking place and therefore cannot alert the state societies about them and therefore states are vulnerable to being on the receiving end of negative consequences. Simply put, it’s not being at the table or even knowing that a table was being set.

There has been a growing effort for other occupations and professions to expand their scope of services, often at the cost of the respiratory therapy legal scope of practice. This is driven not only by certain health care practitioners but also by states. States agencies, aka governments, often support legislation that expands what other para-professionals might do. This is done in order to meet personnel shortages in other professions or most likely substitute para-professionals for more expensive personnel (e.g., a nurse aide rather than a nurse delivering State Medicaid services or a non-certified or regulated medication aide permitted to administer aerosol medications to nursing home patients).

Sleep personnel are being organized nationwide to gain licensure for polysomnography personnel. While AARC does not oppose state licensure for polysoms, we do insist that any legislation clearly exempt the respiratory therapist from any new law that would impose on the RT requirements to pay for additional training, additional testing and in some cases an additional license in order to keep providing the same services RTs currently provide under their own license. We have found that legislative provisions, whether intentional or not, are often included within proposed sleep licensure bills that would devalue the respiratory therapist’s scope of practice and require the RT to meet additional requirements. These types of provisions must be addressed and amended. We

have also found that in every state thus far where sleep legislation is or has been considered the sleep proponents have had a paid lobbyist on board.

EMTs and paramedics are making efforts to amend regulations, and in some cases laws, to remove the simple term “out of hospital” from their scope of practice. This would open the door for hospitals to employ these personnel anywhere in the hospital, and could and probably would impact the employment of RTs.

Minnesota is an example where a paid lobbyist not only spotted but successfully lobbied for changes. A bill created a new category of Paramedics, aka the Community Paramedic. Initially this bill was introduced with provisions that permitted this new cohort, the community paramedic, to provide a range of education services as well as new clinical services. There was a provision that would have legally permitted the community paramedic to specifically provide homebound patients suffering from chronic diseases such as COPD to receive monitoring, management and education services from them. Without the opposition from their lobbyist at the direction of the MSRC leadership, this bill would have passed without amendments.

While we are all deeply appreciative of the critical role paramedics perform when providing emergency care, should these practitioners, given their training and testing be permitted to manage COPD patients? The lobbyist for the MN Society brought these concerns forward to legislators and the provisions were amended.

How Active is Your State Society Leadership and Your Volunteers?

In lieu of an outside lobbyist, who will be stepping into that role? Societies must frankly assess how strong and active and involved the RTs are in the leadership of the society. State Societies are volunteer organizations with members who work under unrelenting pressure from their employers to do more. These RTs also have family and community roles and obligations.

When issues arise in the legislature or agencies, will the RTs have the time to devote to the issue? Are enough of the members of the Society’s Government or Legislative Affairs Committees located in or near the Capitol? Are their writing skills such that putting together testimony or briefing papers does not become an issue? Do they feel comfortable testifying at hearings or presenting the Society’s position at meetings that may not be as amicable as one would hope?

Summary

Can the Society afford the costs of an outside lobbyist? If so, how much can they afford to spend? What tasks do you want the lobbyist to provide to the Society? Most lobby firms can provide a range of services with a range of fees. In lieu of a paid lobbyist how committed are the RTs in the leadership to stepping in and taking over the key aspects of the roles that lobbyists can provide? These are some of the decisions State Societies need to make when deciding to hire a lobbyist.