

# **Florida Society of Oral and Maxillofacial Surgeons -- Governmental Representation**

## **I. The Legislative Process**

The legislative calendar is a year-round, continual cycle of developing issues, legislative committee meetings and budget development. Almost immediately following each Regular Session, the legislative calendar begins anew, typically in June, with legislators and legislative staff formulating the foundations for the next Session. Since Florida's Legislative Sessions convene for only 60 consecutive days (March – May), the pre-Session work represents a significant portion of the work toward ultimate adoption of legislation.

### **Interim Committees and Projects**

Following the close of each Regular Session, Senate and House legislative leadership immediately regroup to determine the issues that will be pursued in each body during the next Session. Legislative committees are tasked with researching these issues through assignment by the President of the Senate and Speaker of the House of Representatives. These "interim projects" are concluded in the fall with a report on the project findings and professional staff recommendations for legislative action. Interim project reports often lay the groundwork for important bills in the coming Session and typically carry great weight as the work product of an entire committee. We review and monitor the development of all interim projects, identify those that impact or might impact our clients, and engage the committee chairmen, members and professional staff to ensure that our clients' positions are appropriately advanced as these projects proceed.

Legislative committees typically begin meeting in the fall to receive interim project reports, consider staff recommendations for legislative action, and review and vote on legislation. Throughout the fall months, interim committee meetings occur every other week until January, when meetings begin occurring almost continuously until Session starts in March. Throughout the interim committee process, legislation is continuously filed and bills are vetted, long before Session actually begins. We monitor the committee calendars, scrutinize the agendas, identify issues affecting our clients, develop client positions and materials, lobby committee members one-on-one and present our clients' positions at committee hearings – just as we do during the Regular Session.

### **Legislation and Amendments**

Approximately 3,000 bills are filed for each Session, of which several hundred typically seek to manipulate the business community for the benefit of one group over others. As bills are filed, we review each one to attempt to determine the impact on the FSOMS member practices. In order to make this determination, we research statutory

changes being proposed as well as the rules that may be affected by such changes. This includes legal research to determine the potential ramifications of the proposed changes as well as political research to determine the interest groups(s) that are proposing the change, all of which is essential to understanding the intended effects of the legislation.

In addition to the thousands of bills filed every Session, there are also thousands of amendments to these bills which are filed and adopted, many of which have the same or greater degree of impact on policies and regulations as do the bills themselves. We employ the same approach to analyzing the countless amendments as we do to freestanding bills during the course of interim committee meetings and throughout the Session.

### **Drafting and Filing Legislation**

If needed, we prepare legislation, as well as amendments, which includes conceiving, researching laws, drafting language and ultimately finding bill sponsors. Of the nearly 3,000 bills filed each Session, only about 12-percent are passed and become law, indicating that getting legislation filed is only the first step in a lengthy process of enacting laws. Once Senate and House sponsors have agreed to file legislation, we begin working with the Legislature's professional bill drafting staff to ensure the legislation is appropriately crafted and prepared for filing.

After the bills are filed, Senate and House leadership review the bills and refer them to committees for hearings through a process called referencing. We work with Senate and House leadership during the referencing process to ensure that the proposed effect of the legislation is understood and that the bills are referred to the most appropriate committees. Each body typically refers bills to three to five committees for review.

Committees begin hearing bills as early as October in a typical year. Due to the limited timeframe of Session, the majority of bills have made their way through a few committee stops before Session even convenes.

### **Lobbying**

We serve as the front-line representatives of FSOMS interfacing with industry groups, such as the health insurers and HMOs (such as Capital Health Plan, Health First, Cigna, AvMed, Health Options, UnitedHealthcare, Aetna, Neighborhood Health Partnership, Humana, Florida Health Care Plans, Vista, and Coventry), as well as the Florida Dental Association, the Florida Medical Association, the Florida Nurses Association, the Florida Dental Hygiene Association, the Florida Health Care Association, the Florida Justice Association (trial lawyers), the Florida Hospital Association, individual hospitals, business associations, physician groups, patient advocates.

These groups or corporations typically employ in-house corporate and government affairs personnel, in-house and outside counsel as well as independent lobbyists to provide legislative, agency, Governor's Office and political campaign coverage. For example, the Florida Hospital Association employs five in-house government consultants in addition to utilizing 21 independent lobbyists (and legal counsel, as needed). We provide FSOMS with such year-round, comprehensive legislative representation as well as direct FSOMS's political program including candidate and polling evaluations, interviews, etc.

All of these groups continually work to manipulate the laws for the benefit of their clients. They work tirelessly around the clock, developing and selling ideas to legislators that will gain them an advantage in the marketplace or otherwise and, generally, at the expense of others. These groups and their lobbyists begin promoting their goodwill towards legislators early in the summer by facilitating fundraisers and political events for candidates seeking public office. While currying favor with elected officials, they are building a network of support that can be tapped to push their proposals through the legislative process. As FSOMS lobbyists, we engage legislators and candidates in like fashion, while additionally providing a high degree of political analysis for all campaigns and coordinating FLOMSPAC and member support. We also maintain relationships with the various interest groups and work with them throughout the year to attempt to identify issues that could also benefit FSOMS's membership and be supported by the Society, while also identifying issues that may have negative consequences for the membership.

We also serve as the front-line representatives of the Society's interface with state agencies and the Governor's office regarding legislative matters. State agencies continually approach the Legislature to substantially change the laws affecting the practice of oral surgery. The Agency for Health Care Administration, the Department of Health, the Department of Insurance and other agencies work hand-in-hand with the support of the Governor's lobbyists to seek these changes. Unlike the agency rulemaking process, which is a structured and open process that agencies follow to adopt regulatory policies, the legislative process is extremely fast-paced and nearly impossible to follow unless constantly monitored on a continuous basis. We monitor the development of agencies' legislative proposals and work with key agency staff in an attempt to ensure that FSOMS is informed about agency proposals for regulatory changes that may affect members' businesses. We go through this same process with the Governor's office regarding recommendations to be presented to the Legislature by the Governor.

In addition to these outside political and governmental forces that influence the legislative process, every two years, new political influences from within the Legislature itself take control as new leaders of the Senate and House are installed. Once the transfer of power takes place, the new Senate President and House Speaker immediately begin the process of restructuring all of the legislative committees by appointing new chairs and vice-chairs as well as the general membership of all of the committees. This continual turnover in leadership poses its own issues in terms of lack of continuity of historical knowledge, which is only magnified by term limits. Elected officials have little time to

research the impact of how legislation affects the multitude of interest groups in this state. This constant legislative upheaval requires significant re-educating of FSOMS issues not only for the new leadership that forms around the President and Speaker, but also of new committees, which we facilitate in various ways – through one-on-one meetings with legislators, meetings with legislative staff, arranging fundraising events with FSOMS members through FLOMSPAC between Legislative Sessions, and engaging legislators during our annual Legislative Day.

The Florida Society of Oral and Maxillofacial Surgeons' Legislative Day is, and has been, the backbone of the Society's grassroots lobbying efforts for many years. Forming relationships with legislators during the legislative weekend is our number one reason for continuing with this annual tradition. Staff and member hours dedicated to this event are many, but your lobby team's work begins months prior, working through the scheduling details involved with legislators. We develop issue-specific materials for use in lobbying not only during the interim committee weeks and session, but also for FSOMS's Legislative Day. You cannot assign a value to the FSOMS weekend – it is the best program for grassroots involvement, but requires many hours of work.

In addition to maintaining relationships with legislators, industry groups, agency personnel, the Governor's Office and legislative staff, lobbying also requires maintaining a physical presence at the Capitol. Everyday during interim committee weeks and Session, we attend numerous committee meetings to monitor the progress of issues and provide input in the policymaking process on behalf of the Society. During committee hearings, it is commonplace for new issues to arise, be discussed and filed as amendments to legislation. Unless present at these meetings, new policies that affect the way health care is provided are adopted without input from affected groups. We regularly meet with legislative committee staff in an attempt to stay ahead of the curve concerning potential bills and amendments being developed in order to address issues before they become problems.

We also participate in the annual AAOMS State Advocates Forum, sharing Florida legislative experiences with our colleagues from across the country. Many times, Florida is the front-runner in facing legislative issues before the rest of the country. Conversely, we also benefit from other state societies' legislative experiences by learning about national trends in regulation before they are introduced in Florida.

Throughout the year, we maintain contact with the Executive Director and Board on legislative issues affecting FSOMS. During legislative committee weeks and throughout session, we provide updates on the status of legislative efforts, assist in the coordination of the FSOMS Legislative Weekend and Legislative Day at the Capitol, and provide an end-of-session wrap-up concerning the new laws that will affect FSOMS members.

## II. The Budget Process

As Florida has grappled with an economic recession over the past few years, the significance of the state's budget has come into even greater focus. The state budget is the single-most important piece of legislation each Session – and the Florida Constitution requires that a balanced budget be passed every Session. The development of the budget begins in the fall. Aside from the state-funded programs that are typically associated with the budget, such as Medicaid, education, transportation, corrections and public safety, the state budget has taken on a new role in the last few years as a vessel of substantive change for state laws and regulations.

The implications for this are significant. Where legislative changes in the direction of state policies and regulations have historically been confined to the realm of legislators and committees proposing and passing bills, the nearly \$60 billion state budget has begun to include significant changes to the state's policies – some of which may have seemingly minimal impact to the state's finances.

Major policy decisions are now being included in the Legislature's only must-pass legislation--the budget--with less opportunity for interested groups to have an impact on the direction of these policy changes. From creating a statewide Medicaid Managed Care program, to implementing sweeping changes to the state's growth management laws, to creating and abolishing entire state agencies, to deregulating entire professions – the state's budget has become “the legislation” that every organization can no longer afford to ignore.

The budget process is extremely intricate and complex, which often results in policy changes that go unnoticed by many people. In Florida, the Legislature is responsible for creating and passing the state budget, while the Governor has final authority to approve or veto specific funding items.

In a typical year, state agencies submit their annual Legislative Budget Requests (LBRs) to the Governor and Legislature, typically in September, for the next state fiscal year, which runs from July 1<sup>st</sup> to June 30<sup>th</sup>. These LBRs are lengthy documents, providing detailed accounting of past, current and proposed spending, funding streams and justification for either increasing or decreasing funding levels. The Governor's staff review agency LBRs and use them as a basis to formulate the Governor's Recommended Budget, which is a document inclusive of all requests made by agencies under his control. The Governor's Recommended Budget is typically provided to the Legislature in the spring, which legislators take into consideration as they begin to formulate the state budget.

Following an economic report given by the state economists in March, the Legislature begins formulating the bills that represent the state budget. The Legislature is not bound to follow the recommendations made by the state agencies or the Governor. Each week during Session, the Senate and House separately hold multiple appropriations committee meetings concerning budget development. And, while the purpose of the state

budget is to appropriate the state's financial resources, this process always involves changes to laws necessary to implement the state's spending plan, which as previously mentioned, produces effects on businesses and professions as significant as stand-alone legislation.

The development of the state budget typically consumes 6-8 months of each year. From the very beginning of the process, we stay abreast of agencies' budget requests by reviewing each agency's LBR submissions, which are comprised of lengthy volumes of spreadsheets and background documentation, for issues such as proposed changes to licensing and regulations, fee increases, etc. When we identify specific funding or regulatory issues contained within agency requests, we then work with the Governor's Office to either support or attempt to abate the effects of such budget proposals. We also work very closely with the Chairmen and staff of the Senate and House appropriations committees following the submission of agency LBRs.

Nearly all proposals to change policies and regulations have financial implications, the fate of which ultimately must be addressed by the legislative appropriations committees. The appropriations committees hold several meetings every week during interim committee meetings as well as during Session. We attend all appropriations meetings relevant to FSOMS member practices in an attempt to assure that the Society is able to engage in any issues of substantive change that could affect the membership. As the Session wanes in its final weeks, Senate and House leadership form special joint appropriations committees, comprised of both Senators and Representatives, to attempt to address the differences between both bodies' spending plans. From this point forward, the appropriations pace picks up significantly with meetings occurring around the clock as the Senate and House work toward compromise. Our relationships with legislators and staff are crucial during this time as major policy and funding changes occur hourly.

### **III. The Political Process**

It is essential to maintain year-round contact with members of the Florida Senate and Florida House of Representatives. There are 40 members in the Senate, and 120 members in the House, all running for re-election beginning the day they take office. Add to the mix "term limits," or a new slate of legislators every 8 years, and the role of political advocacy is paramount to any association or society. It is our job to know these members, understand their districts, and, when available, provide campaign support. Over the years, FSOMS's campaign support (Jeb Bush, Mike Haridopolos, Durell Peaden, Bob Brooks) has assisted our lobbying efforts.

We serve FSOMS as the contact with candidates for statewide office and Senate and House campaigns, and engage in candidate evaluation, interviews, polling evaluations, etc., in making recommendations to FLOMSPAC and FSOMS leadership. We also arrange campaign fundraisers throughout the state and coordinate FSOMS member attendance and participation. We attend no less than 100 fundraisers each year in order to maintain an FSOMS presence with legislators. Our firm also maintains a PAC

and we provide our own monies to candidates which support our clients—to the tune of thousands of dollars per year.

### **Political Action Committee**

Long before FSOMS created a Political Action Committee (PAC), we helped create and manage Campaign 2000. Back in 1996, Campaign 2000 was created to provide political education regarding the practice of Oral and Maxillofacial Surgery for political candidates and elected officials. Campaign 2000 existed to garner support in the legislative arena by empowering the individual financing resources of the membership without all the rules and regulations of a PAC. Each year since 1996, we have directed FSOMS' donations to open-seat candidates and incumbents with a 95% winning election rate. Many of those legislators are now in Congress, members of the Florida Cabinet or have held or currently hold leadership positions in the Florida Legislature.

For years, numerous hours of research and planning went into this program and became the foundation for the Society's political base. No program, until FLOMSPAC, provided more direct contact with legislators year after year than Campaign 2000. The program, over time, raised \$250,000 and supported over 200 elected officials. As we transition to FLOMSPAC, the future has never looked brighter. The first year election results read as follows: 49 candidates, 95% winning rate and numerous one-on-one meetings during the check delivery process. Success does not just happen – it's earned with in-depth political research, a networked lobby team and a client interested in advocacy.

When campaign support is being evaluated for FLOMSPAC races, several factors are reviewed. Our checklist for each race focuses on electability, district performance numbers, campaign financials and health care positions. These factors are critical and followed in every race tracked by the GrayRobinson team. Set forth below is a description of each campaign factor:

**District Performance.** Every race is determined by the quality of the candidate and the legislative district performance. District performance numbers generally refer to registered voters – Democratic, Republican and Independent. A Democratic candidate will have a difficult time winning a seat that contains a majority of Republican registered voters. Voting habits is another factor of importance which is reviewed. Several North Florida regions are largely Democratic in registration, but vote Republican. These areas are largely rural and pro-gun areas as well as military base locations. One last factor that must be evaluated is the performance in Presidential election years. Certain voting habits and patterns occur which affect Florida races during Presidential elections. All of the above are evaluated for PetroPAC supported candidates.

**Campaign Financials.** Florida campaigns are very expensive: a Governor's race: \$15-\$20 million; Florida Senate: \$750,000-\$1 million; and

Florida House: \$250,000-\$500,000. The cost of TV, radio and print media is costly in Florida. Many great candidates never make it off the starting block due to lack of fundraising. With today's internet society, these campaign figures are available online for viewing by all and candidates who have trouble raising funds have difficulty winning elections. We monitor all 160 seats after each quarterly report is filed. We look for trends and identify which special interest groups are backing each candidate. It is easy to see who is the business candidate, or who is being supported by the other interests. We work closely with other associations and other professional and business PACs during each election cycle to assure that we have the most up-to-date information available.

**Health Care Positions.** Another key aspect of evaluating races for FLOMSPAC is candidates positions on health care matters. Do these future elected officials support National Health Care, are they pro-Managed Care, their positions on tort, etc.? These are critical decisions for FSOMS. A few bad election cycles and major health care policy can change direction – both good and bad. These positions are not easy to detect, but by using a system which relies on member interviews, coordination with FDA and campaign policy evaluations, general positions can be detected. The final and most important factor – local society grassroots involvement. All politics is local and our time in races in which FSOMS put forth that extra “local” effort resulted in the formation of a long-term relationship. The Durell Peadens and Denise Grimsleys don't just happen – they are established over time, election by election.

#### **IV. The Agency Process**

State agencies promulgate rules year-round that affect the businesses of FPMA members. The same interest groups that pursue changes in the legislative arena also actively engage in the agency rulemaking process. Similar to the legislative front, these groups dedicate an enormous amount of their resources to influence agencies and the Governor's Office to adopt policies that favor their specific point of view. Also, agencies have their own agendas regarding promulgation of new rules and regulations and then agendas are not usually business-friendly.

We closely monitor the activities (workshops, rule promulgation, rule hearings, declaratory statements, etc.) of the Department of Health, Agency for Health Care Administration, Department of Financial Services – Division of Insurance, Board of Medicine, Board of Nursing and Board of Dentistry, among others, in an attempt to assure that FSOMS is informed of agency actions and potential actions and advise on the most appropriate course for FSOMS. We also monitor the activities of the Florida Hospital Association, Florida Nurses Association, Florida Medical Association, Florida Dental Association, Florida Society of Plastic Surgeons, Florida Health Care Association and the Florida Insurance Council in an attempt to keep abreast of their activities which might affect the oral surgeons. If an agency proposes a rule – either on its own or at the

behest of one of these groups – we notify the Association and have the internal expertise and experience to represent the Association’s interest in all administrative areas.

Within the last couple of years, we identified a proposal under the Department of Health – Board of Nursing that would have precluded the administration of propofol by registered nurses. This issue, which was being pursued by the CRNAs and the anesthesiologists, was determined by the FSOMS Board to be potentially detrimental to the long-term practices of oral surgeons. We engaged on behalf of FSOMS and successfully defended the Society’s position of maintaining the rule in its current form. While this administrative action was outside the scope of our retainer, we were prepared to move seamlessly into this litigation, knowing the agency personnel as well as many of the advocates for the various parties.