

Your Association At Work For You

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President

As leaders in organized medicine, we are often asked what our organization achieves on behalf of our members and why is it important to stay involved. Our relative success in addressing the workers compensation program in our state this past year is a case study on the importance of maintaining an active and vibrant state orthopaedic society. As orthopedists we do not have the luxury of fighting any easy battles. Annually, we square off against the most organized and well-funded special interests in Tallahassee; the likes of big business, insurance, and the trial bar. Given the complexities of our major issues and the competing interests in each, our medical specialty more than most others, demands an independent and effective representative organization. Our Executive Committee and membership as a whole, is working tirelessly to achieve such and we appreciate your continued support.

Around the summer of 2002, it was clear that the debate over reforming workers compensation in Florida was going to be volatile to say the least. Insurance premiums were escalating and in many cases unaffordable or unavailable for businesses. Injured workers were tired of the inability to secure timely and appropriate medical care. The insurance carriers bemoaned escalating losses and the litigious nature of the system. Physicians maintained that the system was too onerous, litigious, and reimbursement remained the lowest in the nation. All of the major players were primed and ready for the debate.

The Governor established a Select Task Force that was charged with traveling throughout the state to receive testimony from all the players mentioned above. From Pensacola to Miami, the Task Force heard the concerns from all the major players in the system. The FOS was there for every meeting. They furnished a final report to the Governor at the end of January 2003. Their final report was a dossier of potential reforms many of which would have benefited physicians greatly over the current system. The Task Force called for among other things, greater deference to physicians in their medical decision-making and dispute resolution, a decrease in hassles often associated with treating comp patients, and a fee schedule that would be set at 150% of Medicare for all procedures. We thought that this body of work would be the starting point of negotiations during the legislative session, but we were mistaken.

The FOS had prepared for this critical session in workers compensation by joining a coalition of specialty societies coordinated by the Florida Medical Association. This Coalition met by Conference Call at least every month from October 2002 through the end of session in May 2003. Dr. Mark Fahey, Dr. Michael Wasylik, and our director, Fraser Cobbe, represented the FOS on the coalition. The Executive Committee was kept abreast of all developments and announcements resonating from the Coalition.

The Committee was dedicated to forging a common front in the debate for all of medicine and as such retained an outside lobbyist to represent the Coalition through

resources provided by the individual specialty societies involved. Securing this lobbyist would turn out to be, unequivocally, the most important decision that the Committee would make. The Coalition platform was to increase reimbursement for physicians to ensure timely and appropriate access to care for injured workers and reduce the hassles inherent in the program. Even though the Governor's Task Force recommended a fee schedule of 150% of Medicare for all procedures across the board, the Coalition held steadfast on our long-standing position that 150% of Medicare for non-surgical codes and 200% of Medicare for surgical codes are what we consider reasonable, including the ability to negotiate higher fees with carriers when necessary.

When the legislative committee meetings commenced in February, we quickly learned that the Governor's Task Force report would be just one of numerous bills and proposals that would be submitted by any and all special interests with a dog in the hunt. The Governor held firm to his stance that whatever legislation emerged from the session, overall workers compensation insurance premiums had to be reduced by 15-20%. Even though numerous proposals were on the table from minor tweaks to a complete overhaul of the system, it became evident that this would be a leadership driven process. After several weeks of testimony in different committee's the leadership in both chambers really started to identify priorities and assign price tags to every aspect of the system.

Our task was enormous. How do we reduce hassles, increase physician reimbursement, and secure the statutory ability to negotiate while the Legislature is committed to achieving a 20% overall reduction in premiums. Dr. Mark Fahey and Fraser Cobbe provided key testimony to important Committee's throughout the process but we still faced a gigantic hurdle of paying for an increase in physician reimbursement without increasing system costs.

Opportunity presented itself when facts started to emerge that while the physician fee schedule in Florida was the lowest in the nation, our system was about average in terms of overall medical expenditures. There were numerous suggestions on how this could be possible including over utilization and attorney involvement. It also became clear that Florida's hospitals have been afforded above average reimbursement in the system compared to hospitals in other states. This was our chance. Our strategy was to figure out how to transfer some of the resources being consumed by the hospitals to physicians without unnecessarily burdening those institutions and negatively impacting our own members who operate outpatient surgical centers. We also had to be mindful of not substantially increasing overall medical costs in the system and provide incentives for potentially unethical or fraudulent medical operations from benefiting from increased reimbursement, while establishing a fee schedule that would hopefully bring quality physicians back into the program.

The negotiations (shell game) began on how to shift these resources from the institutions to physicians. It is at this point that the true value of retaining our lobbyist became apparent. He spent countless hours in direct negotiations with the leadership of both chambers and the Governor's office in an attempt to craft language that would achieve our goals. While we remained steadfast in our position of what constitutes a reasonable

fee schedule, it was apparent that our requests for 150% and 200% of Medicare would be an overwhelming increase in overall medical costs to the system, an increase that would negatively impact premiums and could not possibly come directly from the hospitals alone. In the end, the leadership went as far as they felt they could go with physician reimbursement while remaining committed to their goal of reducing insurance premiums by 15-20%.

The final legislation provides that physician reimbursement cannot be below 110% of Medicare for non-surgical codes and 140% for surgical codes. The bill also maintains current reimbursement levels for those procedures that are already reimbursed in excess of the new statutory floor (110% & 140%). In addition, for the first time in several years, the workers compensation statutes clearly provide the ability for physicians to negotiate reimbursement with carriers. (A complete analysis on changes that impact physicians is included on the FOS website, www.fos-society.com.)

The negotiations between the chambers were tedious and at times contentious. The discussions over the physician fee schedule was just one of a multi-faceted wrestling match over numerous issues and aspects of the system, each with competing interests. As you will recall, they were unable to agree on a final piece of legislation during the regular session and had to wait until the final day of Special Session A until final passage of SB 50A was achieved.

Senate Bill 50A was signed into law by Governor Bush in July in a ceremony in Spring Hill. During the ceremony the Governor touted the benefits that the new legislation will bring the citizens and businesses of Florida. Confirmation that the Governor achieved his major priority of reducing premiums would be forthcoming at the end of July. NCCI, the actuaries that establish workers compensation insurance premiums in Florida, filed a proposed rate decrease of 14% with the Department of Financial Services. Certainly we all await the real cost of the new law on Florida's workers, businesses, and physicians as the details and application of the new language plays out.

I wanted to share this case study with you as an example of our organization in action, working for the past year on workers compensation reform on behalf of our members. While we certainly did not achieve all of our goals and a number of details remain to be ironed out (the application of the fee schedule and practice parameters) we strongly feel that we have taken a good first step in addressing the many medical and administrative failures of the workers compensation system. We do anticipate issues will arise with the new law that the FOS will have to address legislatively. We still have not established a reasonable fee schedule and a significant reduction in the hassles that are ever present in the system. However, we remain committed to duplicating this year's effort for the foreseeable future. Certainly without the FOS, orthopaedic surgeons would probably be bemoaning legislation that provided additional cuts in reimbursement and interference by competing interests in the program. This would not have been the first or last legislature to achieve its stated objectives of reducing premiums or expenses in a healthcare program by slashing physician reimbursement.

Given the reality that the legislature would be unable to increase the fee schedule to reasonable levels, the stated priority of your organization was to secure the ability to negotiate fees with carriers. Now we have achieved our top priority, it is inherent upon all of us to utilize this ability to demand compensation that is equitable for your professional services. The establishment of a reasonable fee schedule will only occur once the legislature realizes the true worth of the services that you provide Florida's injured workers.

As issues arise with the interpretation and administration of the new law, please make sure you bring these issues to the attention of our organization. This is your organization; make sure we are meeting your expectations.

The aforementioned case study illustrates the tortuous path necessary to evoke positive changes. Over the past years we have put multiple blocks in place to build a foundation to change the practice of orthopaedics in the State of Florida in a positive manner. The change to a full time executive director was a difficult decision that went against the grain, resulted in some negative but has added a solid block in which to build. The creation of FOPAC and its anticipated benefits on our legislative efforts should have positive results in the future. As always, we are continuing to develop avenues for our members to participate. The increased attention and focus of our organization on email communications and the FOS website will enable our members to participate effectively and efficiently.

The future practice of orthopaedics in Florida is dependent on the involvement of our members. The few active members will not be enough to sustain the status quo let alone seek meaningful reforms. The involvement of our members utilizing the foundation we have established is necessary if positive changes are to come to pass.

As we map out our future course in this stormy time for medicine in Florida, it is imperative that we heed this plea and that each member pledge to increase their involvement in FOS endeavors not only with financial support of being a member but with your time and talents. Pooling our resources will ensure steady progress toward our goals.