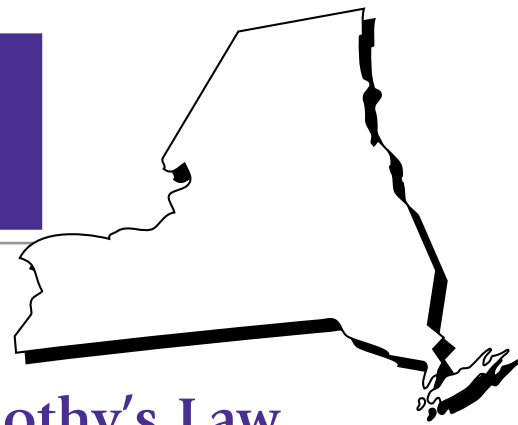


THE BULLETIN

NEW YORK STATE PSYCHIATRIC ASSOCIATION

Fall 2006, Vol. 49, #3 • Bringing New York State Psychiatrists Together



President's Message: Once Again the APA is Asked to "Confront" a Political Issue

By Deborah Cross, M.D.

This November, the APA Assembly will be asked to consider an Action Paper that has raised concerns about APA involvement in "political" issues. An Action Paper has been submitted calling upon the APA Board of Trustees to issue a "public statement" opposing the attempt to boycott individuals and institutions that do not publicly dissociate themselves from Israel's policies toward Palestinians.



Deborah Cross, M.D.

For those of you not familiar with the issue let me give some background. On May 29, 2006, Great Britain's largest academic union, the National Association of Teachers in Further and Higher Education voted to approve a resolution calling on its members to consider the appropriateness of a boycott of individuals and institutions that do not publicly dissociate themselves from Israel's policies toward Palestinians.

As you can imagine, a fierce debate quickly ensued in which many other organizations and individuals expressed opposition to this position. This boycott would, as I understand it, mean that any individual or institution, including those in the U.S., who did not publicly disavow Israel's political positions, would face the possibility of being "boycotted".

From time to time, there have been discussions, often quite heated, as to whether, when and on what topics the APA should weigh in on numerous "hot" topics of the moment. The first I remember (though I am quite sure this has been going on for much longer) was in the early 1990s when, at Business Meeting after Business Meeting at the Annual Meetings, some APA members would stand up and deplore the fact that the APA in its formal support for women's reproductive rights was "for abortion."

Since then, through the years, other topics on which the APA, and the Assembly have

struggled to decide whether to issue a Policy Statement include: capital punishment for patients with mental illness, right of gay couples to civil marriage, using jails to hold civilly committed patients pending availability of a hospital bed, opposing pharmacists' ability to refuse to fill prescriptions by citing moral or religious beliefs, psychiatrists' participation in inter-

rogation of enemy prisoners, and now most recently (to be discussed at the November Assembly) whether the APA should develop a Position Statement against the boycotting of scientists, academics and researchers based upon a political test.

I'll get back to this specific issue later in the column but for now I would like to talk about the more general issue of whether our APA should formally endorse positions which address social and political issues.

Our APA currently is the world's largest organization representing psychiatrists. We have members from around the world. In that large membership it would be naïve to believe that all members share the same belief system. However, as members we have endorsed, by our membership, the belief that by being a member we can accomplish certain things; for our patients, our profession and ourselves as psychiatrists. With that in mind, several years ago, an APA Strategic Task Force reworked the APA Mission, Values and Goals.

Many provisions in the Mission, Values and Goals are relevant to the issue raised by the Action Paper to be considered this November -

- APA Mission includes promoting "psychiatric education and research."
- APA Values include "collegial support; respect for diverse views and pluralism"

[See **President** on page 2]

Healthy Minds

Airs Sundays at 11:30 am; Rebroadcasts Sundays at 7:30 am

One in ten Americans experience some disability from a diagnosable mental illness in the course of any given year - but for many families, the fear and shame associated with a diagnosis often leads to suffering without hope. *Healthy Minds* aims to remove the stigma that can prevent patients and their families from seeking help for mental disorders. Each half-hour episode humanizes a particular mental health condition through inspiring personal stories, with leading researchers and experts from institutions such as Columbia University, Rockefeller University and the Cold Spring Harbor Laboratory providing the latest information about diagnosis and treatment. Episodes will cover a wide range of topics, including anxiety, stress, insomnia, chemical dependency, post-traumatic stress disorder (PTSD), attention deficit disorder, Alzheimer's Disease and schizophrenia, to bring the general public a better understanding of disorders that can affect anyone, at any age.

In the premiere episode, news veteran Mike Wallace and his wife Mary discuss how they dealt with his depression and reveal for the first time intimate details about his suicide attempt and ultimate recovery. Series guests also include Nobel Prize winning author and lecturer Eric Kandel and broadcast journalist Jane Pauley, who shares her personal struggle with bipolar disorder.



Jane Pauley and Jeffrey Borenstein, M.D.

The series is hosted by Dr. Jeffrey Borenstein, CEO and Medical Director of Holliswood Hospital and Chair for the Section on Psychiatry at the New York Academy of Medicine.

As Dr. Borenstein explains, "Everyone is touched by psychiatric conditions, either themselves or a loved one. Our goal is to share cutting edge information from experts along with personal experiences from people who have overcome psychiatric conditions. I want people to know that with help, there is hope."

"*Healthy Minds* reflects a core mission of public television, providing access to information that directly impacts the lives of families in the communities we serve," said WLIW President and General Manager Terrel Cass. "We hope this series will serve as a

[See **Healthy Minds** on page 3]

Senate Passes Timothy's Law

By Rachel A. Fernbach, Esq.

In a landmark vote, the New York State Senate passed the mental health mandate bill known as Timothy's Law by a vote of 55-0 during a special session held on September 15, 2006. If enacted into law, this bill will for the first time require that New York health care insurance policies and HMO health contracts include benefits for the treatment of mental illness. The bill is named for Timothy O'Clair, a 12-year-old Schenectady boy who took his own life in 2001. The O'Clair family's health insurance plan provided only limited mental health coverage, and as a result, Timothy did not receive the care and treatment he needed.

"Mental illness can result in tragedy if it is not properly treated.

However, many families do not have access to the proper treatment," said Senate Majority Leader Joseph L. Bruno (R-Brunswick), an advocate of the bill. "This legislation would provide parity in coverage and help people get the treatment they need."

State Senator Thomas Libous (R-Binghamton), the prime-sponsor of the bill, said "I'm very pleased that we've been able to work together to craft this bill that we're passing today in remembrance of Timothy, and to help other individuals affected by mental illness. Not only is this legislation providing access to mental health coverage, but it also has built in safeguards to protect small businesses and their employees."

State Senator Nicholas Spano (R-Yonkers), a longtime supporter of mental health parity, declared on the floor of the Senate, "This is the most significant bill we have done this

year."

Michael J. Critelli, Chairman and CEO of Pitney Bowes Inc. and an advocate for increased availability of mental health care and treatment said, "Depression is a critical issue that impacts us all. Like the concentric circles that emanate from dropping a stone into a still body of water, untreated depression has a ripple effect on the health and productivity of the individual, the workplace and their family. The total health of the employee suffers as a result of the direct impact of the illness and the way in which it compromises their compliance in the treatment of other existing conditions. The total productivity of the workforce suffers as a

result of the increased absenteeism, loss of focus, impaired decision making, and disrupted interpersonal skills that accompany untreated depression. Families suffer as they seek to support their loved one with a disease for which many do

State Senator Nicholas Spano (R-Yonkers), a longtime supporter of mental health parity, declared on the floor of the Senate, "This is the most significant bill we have done this year."

not seek treatment because of the stigma attached and barriers to affordable care."

Tom O'Clair, Timothy's father, said, referring to the bill, "It's a wonderful testament to what the Legislature can accomplish when they work together and a heartfelt tribute to Timothy. I thank the Senate and look forward to the Assembly's return so they can pass it as well."

The Assembly is expected to pass Timothy's Law when it convenes briefly following the November elections. After passage by both houses, the bill will be sent to Governor Pataki's office; however, the Governor has not yet indicated whether he will sign the

[See **Timothy's Law** on page 2]

Albany Report

By Richard J. Gallo

IOWA, NEW HAMPSHIRE AND THE CALCULUS OF TIMOTHY'S LAW

Hopefully, you have already read in this issue, Rachel Fernbach's excellent article on the historic passage of Timothy's Law by the New York State Senate on September 15, 2006. If so, you know the precedent setting scope of the bill and the Assembly's commitment to pass it when they return to Albany, which is expected sometime between the November elections and the end of the year.

Although there has been talk of the Assembly not reconvening until 2007 with a new Governor in office, it's hard to imagine either house letting the recommendations (due December 1) of the Commission on Health Care Facilities in the 21st Century become the law of the land without affording their members the opportunity to speak for or against recommendations which could dramatically affect health care resources in their districts. Hence, we believe the Assembly (and the Senate) will reconvene before year's end and that the Assembly will pass Timothy's Law in the process. Therefore, the Timothy's Law Campaign (TLC) now has its sights focused on the outgoing Governor, who, in turn, has his sights set on Iowa, New Hampshire and South Carolina.

Under normal circumstances, if legislation strongly supported by NYSPA passed both houses, this column would be petitioning its readers to write, call, wire, or email the Governor urging him to sign the bill. And everyone interested in this bill becoming law should do so -- right after they recruit a colleague, family member or friend, who lives in an early presidential primary state, to communicate their support for Timothy's Law to Governor Pataki's operatives in those

states (for more information about the Governor's out-of state activities and supporters, visit: <http://www.freedompac.com>). Currently, all of the TLC coalition partners that have national affiliates, including NYSPA, are working with those organizations to bring the Timothy's Law Campaign directly to the Pataki campaign.

Closer to home, several of us from the Timothy's Law Campaign have been meeting with key Pataki Administration officials whose recommendations will play a major role in the Governor's decision to sign or veto the bill. All good meetings with all the right questions asked and answered. However, considering the number of years it took to get to this point and the obstacles which had to be overcome in the process, no one expects a slam-dunk when it comes to getting the Governor to sign the bill -- but a versatile center, who also happens to be a delegate to the Iowa Caucuses or a New Hampshire Republican Committee Member, couldn't hurt.

VETOES SPOIL OTHER LEGISLATIVE VICTORIES FOR MENTAL HEALTH ADVOCATES

In late August, amidst scores of vetoes penned by the Governor, three bills long-favored by the mental health community and broadly supported by both Houses of the Legislature, were also vetoed:

- A3926/S2207 -- banning the use of solitary confinement for prisoners with psychiatric disabilities -- the "SHU" bill;
- A2895/S3653 -- creating a waiting list for people with mental health needs seeking housing; and

[See **Albany** on page 2]

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Information for Contributors

The Bulletin welcomes articles and letters that NYSPA members will find timely, relevant, and compelling. Articles should be between 750 and 1500 words (three to five double-spaced manuscript pages) and letters no more than 750 words. All submissions must be made electronically, preferably by email to the editor. All authors are encouraged to also provide a photograph of themselves which will be printed alongside their article.

Information for Advertisers

The Bulletin welcomes advertisements from both NYSPA members and commercial enterprises. Total circulation averages 5,500 copies per issue. *The Bulletin* is received by members of the American Psychiatric Association who belong to a district branch in New York State. *The Bulletin* is also sent to the leadership of other district branches across the United States and to New York State legislators, medical libraries, and science writers. *The Bulletin* is published quarterly. Both classified advertisements and display advertisements are available. Please contact the editor for current rates and media requirements. NYSPA members receive a discount of 50% off the basic classified ad rate.

The opinions expressed in the articles or letters are the sole responsibility of the individual authors, and may not necessarily represent the views of NYSPA, its members, or its officers.

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FROM THE EDITOR'S DESK... By Jeffrey Borenstein, M.D.

This edition of the Bulletin reports on a number of significant legislative successes. The New York State Senate passed Timothy's Law, which requires the inclusion of benefits for the treatment of mental illness. In addition, the New York State budget includes funds to provide for Medicaid reimbursement for outpatient treatment for patients covered by both Medicare and Medicaid. Both of these important legislative accomplishments are



Jeffrey Borenstein, M.D.

the result of NYSPA advocacy for our patients and our profession. We include in this issue a list of the 2006 Contributors to the New York State Psychiatric Political Action Committee, Inc.

We also have reports about Medicare Part D as well as the CMS mandate that all providers must enroll in Electronic Funds Transfer and have a National Provider Identifier. The

President's Message looks at how the APA approaches controversial political issues. The Area II Trustee Report provides an update on a number of national APA issues.

We report on *Healthy Minds*, the public television series, which airs on WLIW 21, which I am proud to host. The goal of the series is to give the audience a better understanding of psychiatric disorders and remove the stigma that can prevent patients and their families from seeking help. Finally, I am pleased to welcome Rachel Fernbach, Esq., as the new Assistant Editor of the Bulletin. ■

President's Message continued from page 1

within the field and the association; and respect for other health professionals."

- APA Goals include: to improve research into all aspects of mental illness, including causes, prevention and treatment of psychiatric disorders; to improve psychiatric education and training; to foster collaboration among all who are concerned with medical, psychological, sociocultural and legal aspects of mental health and illness.

These APA mission, values and goals help to guide and inform discussion about whether and when the APA should take a position about a social or political issue. With these as our guide we can more accurately judge if the issue lies within our purview as psychiatrists and members of the APA.

The APA Mission, Values and Goals clearly call for collaboration with others in the field of psychiatry and treatment of mental illness, the promotion of psychiatric education and research, and improving research into mental illness. The specter of boycotting individual scientists, academics and researchers around the world based on whether they embrace or disavow a particular political policy of a specific country; thereby impeding the free exchange of scientific information, seems to be diametrically opposed to our APA goals. Our field, as well as other medical fields, depends upon the ability of practitioners and researchers to freely exchange scientific ideas and discoveries. This boycott is not being proposed because the individual academics, researchers and scientists are engag-

ing in immoral, illegal or abhorrent behavior themselves, but simply because they are not taking a particular political stand.

However the debate comes out in the Assembly in November, I believe that our profession and our members need to always look at the social and political world in which we live and address issues as they arise which impact on our patients, our profession and the goals and values which we as an organization have adopted.

I encourage all of you to let your views be known in regard to this issue—as well as anything else regarding APA and NYSPA. My email is

deborahcross@usa.net and as the Representative from Area II/New York State to the Assembly I need to hear from you. ■

Albany Report continued from page 1

- A9593/S8261 -- improving mental health services to diverse populations throughout New York State.

As reported in the last issue of the Bulletin, NYSPA strongly supported banning the practice of confining psychiatrically disabled inmates to special housing units (SHUs). However, the bill itself had a number of technical and programmatic deficiencies that were expected to be addressed through ongoing negotiations; when, at the end of session, the bill suddenly advanced to the Senate Floor and was passed unanimously. The Assembly had passed the bill earlier in the year.

In his Veto Message, the Governor stated that, while he shares the bill sponsors' commitment, "to ensuring that all inmates with serious mental illness receive necessary

mental health services in clinically appropriate environments ... the state has significantly expanded its prison mental health programs to identify and treat such individuals." The Governor also cited concerns expressed by the State Office of Mental Health that certain definitional provisions of the bill were so broad that they would include many inmates who do not suffer from a serious mental illness or who are not even mentally ill.

ELECTION SEASON

The statewide Senate and Assembly elections always bring some degree of uncertainty as to who we will be dealing with in the Legislature come January. One thing is certain though -- New York State will have a new Governor on January 1, 2007. Whether it is Governor Spitzer, as the polls would

indicate, or Governor Faso, the new Executive will face the daunting challenge of restoring a health care delivery system that has thus far defied recovery.

Notwithstanding Governor Pataki's commitment to making significant remedial changes to the current system before leaving office, the time remaining for him to do so seems woefully inadequate for the task at hand. Even with the promise of the recently announced \$1+ billion in federal health care assistance to the state, coupled with the upcoming findings and recommendations of the Commission on Health Care Facilities in the 21st Century, the political reality is that not much, if anything, will change in the state's health care delivery system before a new Governor takes office on January 1, 2007. ■

Timothy's Law continued from page 1

bill. When passed by the Assembly and if signed into law by the Governor, Timothy's Law will go into effect on January 1, 2007.

After the Senate vote, Richard Gallo, NYSPA Legislative Consultant, who has been a key member of the Timothy's Law Coalition, said "We applaud the sponsors and proponents of this bill for enabling this landmark step toward ending the disparity in New York State between health insurance coverage for physical illnesses and that of mental illnesses. Perhaps the single most important 'benefit' of Timothy's Law is not found in the bill's text but rather in the compassion and understanding that propels it -- for this bill is as much about eliminating the stigma of mental illness as it is about removing other barriers to treatment."

The Senate vote in mid-September was the result of an historic agreement reached in June between key legislators and senior staff in both houses after the official adjournment of the legislative session. Although prior versions of Timothy's Law have been passed by the Assembly in the past, this is the first time that the Senate has passed a mental health insurance mandate that has been agreed to by the Assembly. This accomplishment marks the culmination of years of grass-roots lobbying and public relations efforts by the Timothy's Law

Coalition and other advocates for mental health parity in New York.

If enacted, the law would require all group health plans in the state to provide coverage for at least 30 inpatient days of treatment and 20 outpatient days of treatment for all mental illnesses. Such coverage must be "at least equal to coverage provided for other health conditions" and deductibles and co-payments must be "consistent with those imposed on other benefits" in the plan.

For employers with 50 or fewer employees, New York State is responsible to cover the cost of the 30/20 basic benefit, a provision that is unprecedented in the United States. Although 33 other states have some form of mental health or substance abuse parity legislation on the books, if Timothy's Law is enacted, New York would be the only state to subsidize mental health coverage offered by small businesses in this way. The New York State Superintendent of Insurance is charged with developing a methodology to fully cover the cost of coverage.

Also, large employers only are required to provide, in addition to the 30/20 basic benefit, full coverage of the following biologically based mental illnesses: schizophrenia, psychotic disorders, major depression, bipolar disorder, delusional disorders, panic disorder, obsessive compulsive disorder, and

bulimia and anorexia. Insurance carriers and HMOs will be required to offer small businesses the option of purchasing the additional coverage for biologically-based illnesses at their own expense.

The bill passed by the Senate also includes coverage for children under age 18 who have one of the following diagnoses: attention deficit disorder, disruptive behavior disorder, or pervasive developmental disorder and where the illness is life-threatening, the symptoms of psychosis are significant, there is a serious risk of injury to persons or property, or there is a substantial risk that the child will need to be placed outside of the home.

The bill would not apply to ERISA plans, e.g. plans offered by large self-insured employers or union health plans, which are exempt from state coverage mandates under federal law. The bill also requires the New York State Insurance Department and the New York State Office of Mental Health to conduct a two-year study analyzing the effectiveness of mental health parity coverage as well as associated costs.

A copy of the bill (S.8482/A.12080) can be downloaded on the NYSPA website (go to www.nyspsych.org and click the Legislative Issues link on the left side of the home page). ■



Ann Sullivan, M.D.

The APA Board met in New York during the Institute for Psychiatric Services, October 8th and 9th. It was another busy meeting that covered our progress and struggles in key areas for our patients and our profession. Here are the highlights:

Advocacy

The scope of practice struggles continue, with a new challenge for psychologist prescribing in the Virgin Islands! Struggles continue in California, Hawaii and several other states, all requiring the hard work at the local and national level to limit the spread of this dangerous practice for our patients.

The APA continues to work closely with NAMI on key issues for our patients and their families: keeping the necessary dollars for our patients in the Medicaid program; reducing stigma; educating the public and fighting for parity. Dr. Ruiz has called for a NAMI- APA Summit in December, for representatives from both boards to meet and hopefully chart a mutual action plan for advocacy.

At the national level, advocacy in the legislative arena continues on key issues such as: electronic medical record privacy issues; the proposed Health Care Truth and Transparency Act that focuses on patient safety in distinguishing between physician and non-physician groups; mental health parity; and pay for performance initiatives, to mention a few! The APA is our critical voice in Washington!!

Membership

The results of this year's District Branch awards are in, and once again, several awards were made in NY addressing issues of recruitment, education and outreach: Bronx \$8,000; Queens \$16,250; West

Hudson \$ 12,950. Congratulations!!! The board will be reviewing the grant process and review it or other alternatives as a way to offer support to the district branches. Once again, the budget includes \$300,000 to the District Branches to support grants or other initiatives, as well as \$100,000 to support district. branch infrastructure and \$500,000 in direct advocacy funds to the DB's.

Membership in the APA continues to slowly grow thanks to all your efforts to enroll new members, and retain our valued current members! We now have 37,783 members in the APA family.

As the nationwide shortage of child psychiatrists continues, the board gave APA support to a pilot program that would train already board eligible pediatricians in adult and child psychiatry in a total of four instead of five years. This will now be further developed and presented to the training boards for review and hopefully approval.

To enable alumni from our many residency programs nationwide to socialize and reminisce at the annual meeting, APA is sponsoring for a small fee, only \$200 per program, a reception at the annual meeting. Make sure your program joins!!

Finally, the Institute for Psychiatric Services had a very successful meeting in New York City that had the highest attendance ever!!! This smaller but critical meeting for those in community and hospital based services provides a critical learning environment for our members and nonmember colleagues.

Special Projects

Access to psychiatric services is critical for patients, and typically a major focus in the effort to increase scope of practice for psychologists, etc. A board task force on improving access to psychiatric services is focusing on improving geographic access by: providing guidelines and assistance to members in developing telepsychiatry initiatives; providing members with easy access to locations and information on designated federal shortage areas and how to apply; and spreading the word on existing model programs that have increased services in targeted areas.

The aftermath of Katrina continues to

affect our members and our patients. The Office of Minority and National Affairs (OMNA) has been active in developing the All Healers Mental Health Alliance for Katrina victims. A telepsychiatry program has been developed with the Morehouse School of Medicine to increase access to services. A network of culturally competent providers has been made available to those providing services to the over 30,000 displaced victims in Houston. In these and other initiatives, the APA has continued to be active in the long-term work needed after this national disaster.

Medical students interested in psychiatry can join together in the new Psychiatry Student Interest Group Network (Psych SIGN)!! This medical student run organization was founded with the support of the APA to foster the "involvement, organization and implementation of psychiatry interest groups" in medical schools nationwide, and enable exchange of ideas, information and resources. Check it out at www.psychsign.org.

The APA has begun the crucial work on the development of the DSM V. The Steering Committee for the project is being chosen and carefully reviewed. The project will once again provide the cornerstone for diagnosis in psychiatry, and involves the dedicated participation of numerous psychiatrists throughout the country.

Finally, the board passed the Practice Guidelines for Obsessive Compulsive Disorders.

These guidelines represent the work of key experts in the field and have been thoroughly reviewed by psychiatrists throughout the association. The guidelines continue to be utilized as a benchmark for best practices in our profession.

Budget

The board approved the 2007 budget at 56.6 million, which is balanced and includes a small -\$ 400,000- projected surplus!!!! New initiatives include 100,000 for membership recruitment and retention, 265,000 for a comprehensive public affairs campaign that includes the Healthy Lives, *Healthy Minds* campaign, 25,000 to the AMA to support the data needed to lobby for appropriate Medicare fee sched-

ules for psychiatrists, and 10,000 additional direct funds to district branches.

We have also reached our initial target of 40% of our operating budget in reserves!!!!!! Being both fiscally conservative, and I believe fiscally sound, the board has now increased that target to be reached to a full one-year's operating budget. We are therefore continuing to put at least 600,000 a year directly into the reserves. This will provide a solid safety net to ensure the viability of our association!

The board also approved an increase in honoraria of 10,000 to four officers: President, President Elect, speaker and Speaker-Elect. All these positions travel extensively and donate considerable time and often loss of personal income in providing voluntary leadership to the organization. Such efforts are critical to the success of our association.

Governance

The Board considered two revisions to the by-laws that would increase Assembly member voting capacity on the Board, which currently includes the Speaker. The board approved that the Speaker - Elect also have a vote on the board. Since the Speaker Elect is already at all board meetings, it seemed to be appropriate, efficient, respectful and useful for him or her to have a voting voice on the Board. This will now go to the Assembly for approval. The second amendment to the bylaws would have added the immediate Past-President to the board with vote. While several board members, including myself voted for this change, many members felt that the immediate past speaker no longer represented the Assembly, and the vote would not truly be an additional voice for the Assembly. While the spirit of these changes is to increase Assembly input and authority, Roger Peele is always reminding us that almost 99 % of assembly actions that have been brought to the board over the years have been approved!!

Thanks once again for your interest in the APA and please feel free to contact me about any ideas or issues: sullivan@nychhc.org or 718-334-1141. ■

Healthy Minds continued from page 1

resource for families and healthcare providers to open lines of communication." This 13-part series continues WLIW's history

of productions exploring healthcare issues including The Other Drug Problem, Pharmacists: Unsung Heroes and

Healthcare: Healing the System. *Healthy Minds* is made possible in part by NARSAD, ValueOptions, New York Academy

of Medicine, The van Ameringen Foundation and by the New York State Office of Mental Health. ■

Healthy Minds Episode Descriptions

September 10 Mike Wallace on Depression

News veteran Mike Wallace and his wife Mary discuss how they dealt with his depression and reveal for the first time intimate details about his suicide attempt and ultimate recovery.

September 17 Depression

Uncover the latest in diagnosis and treatment of depression. Guests include Nobel Laureate Dr. Eric Kandel and Joshua Wolf Shenk, author of Lincoln's Depression.

September 24 Chemical Dependency

Research and scientific evidence debunk the long-held mistaken beliefs about drug abuse and addiction, showing that addiction is a chronic, relapsing, and treatable disease.

October 1 Schizophrenia

Explore the chronic condition of Schizophrenia with guests who share their struggle and experts on the forefront of research and treatment.

October 8 Adolescents and Antidepressants

Are we medicating our children appropriately? A close examination of diagnosis and treatment of mental health issues in adolescents.

October 15 Attention Deficit Hyperactivity Disorder (ADHD)

Experts bring us the latest in symptoms, causes and treatments of ADHD while parents and teachers talk about ways of coping and getting help.

October 22 Insomnia

Visit a sleep lab and find out what researchers are doing to uncover the mysteries surrounding sleep disor-

ders and speak with expert researchers about diagnosis and treatment.

November 5 Alzheimer's Disease

Cutting edge science brings us closer to unraveling the mystery of Alzheimer's disease while we learn about ways to support the caregivers coping with their loved one's illness. November is Alzheimer's Awareness Month.

November 12 Post-traumatic Stress Disorder, or PTSD

Post-Traumatic Stress Disorder can develop following the experience or witnessing of life-threatening events. Guests share their stories and experts talk about diagnosis and the latest in treatment.

November 19 Jane Pauley on Bipolar Disorder

Broadcast journalist Jane Pauley

shares her personal struggle with bipolar disorder.

December 24 Bipolar Disorder

An examination of bipolar disorder - also known as manic-depressive illness. Guests share their experiences and talk about treatments that allow people to lead full and productive lives.

December 31 Suicide Prevention

A closer look at suicide - the likely causes, its warning signs, trends in suicide rates and recent treatment advances.

January 7 Anxiety and Stress

Understand anxiety - from everyday stress and worry to full blown anxiety disorders that often occur along with other mental or physical illnesses. Effective therapies are available and research continues to uncover new information and treatments.

2006 Contributors to the New York State Psychiatric Political Action Committee, Inc.

As of October 9, 2006

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In late 2005, the Centers for Medicare and Medicaid Services (CMS) issued a final rule establishing a new electronic prescribing program in conjunction with Medicare Part D, the prescription drug benefit. "E-prescribing" is a method by which providers may transmit prescriptions directly to a patient's pharmacy via electronic means. The e-prescribing program is mandatory for Part D plan sponsors only. Health care providers may choose to participate in e-prescribing, but are not required to do so. Psychiatrists who do not participate in e-prescribing may continue to use paper prescriptions, paper-originated faxes and phone calls to send prescriptions to pharmacies or other dispensers. However, if a psychiatrist opts to send prescriptions electronically, the psychiatrist must utilize the specific electronic standards set forth in the final rule.

The e-prescribing regulation, which went into effect on January 1, 2006, defines e-prescribing as "the transmission, using electronic media, of prescription or prescription-related information between a prescriber, dispenser, pharmacy benefit manager, or health plan, either directly or through an intermediary, including an e-prescribing network." The rule defines prescription-related information as information "regarding eligibility for drug benefits, medication history or related

health or drug information for Part D eligible individuals."

Under the rule, Part D drug plans, but not Part D providers, are required to establish and maintain an e-prescribing drug program using specific data-interchange standards. For example, electronic transmission of prescriptions must utilize the National Council for Prescription Drug Programs SCRIPT Standard, while eligibility inquiries and responses must utilize the Accredited Standards Committee X12N Standard.

If a psychiatrist chooses to participate in e-prescribing, the psychiatrist must use computer hardware and software that can support the mandated e-prescribing data standards. It will likely be quite costly for a sole practitioner or small group practice to purchase and maintain the required equipment and software. As a result, it is anticipated that drug plans, hospitals and other employers may assist physicians in the use of e-prescribing by donating computer hardware, software and training services to participating providers.

However, donation of such items to prescribers could conflict with federal fraud and abuse laws prohibiting the receipt of non-monetary remuneration by health care entities who bill Medicare and Medicaid. To eliminate this potential

conflict, Congress included in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) a provision requiring the U.S. Department of Health and Human Services (HHS) to implement two new exceptions to the federal fraud and abuse prohibitions.

On August 6, 2006, in compliance with the MMA, CMS and the HHS Office of Inspector General (OIG) simultaneously issued final rules implementing new exceptions, or safe harbors, under the federal physician self-referral law and the federal anti-kickback law. The physician self-referral provisions, commonly referred to as the "Stark" law, generally prohibit physicians from referring patients for certain health services to an entity with which the physician, or an immediate family member of the physician, has a financial relationship. The anti-kickback law generally prohibits payments in any form made knowingly and willfully to induce or reward the referral of business reimbursable under any federal health care program. The two regulations are substantially similar, except that the Stark exceptions apply only to physicians, while the anti-kickback exceptions apply to other prescribing health care professionals as well. Both regulations go into effect on October 10, 2006.

Donation of E-Prescribing Technology

Under both the Stark law and the anti-kickback law, the donation of hardware, software and/or training services used in connection with an e-prescribing program will fall under a safe harbor as long as certain conditions are met. Donations to physicians must be by: (i) a hospital to physician on staff; (ii) a group practice to a physician who is a member of the group practice; or (iii) a Part D drug plan to a prescribing physician.

Under both laws, the e-prescribing technology and software must be necessary and used solely to receive and transmit electronic prescribing information. The donor is not permitted to limit or restrict the use of the items or services or the recipient's right to use the items for any patient. Donors may not determine eligibility of a recipient or the nature or amount of items to be made available according to the volume or value of referrals or other business generated between the parties. Conversely, the recipient is not permitted to make the receipt of items or the amount or nature of items a condition of doing business with the donor. Finally, the arrangement between the parties must be set forth in writing and the donor must not have actual knowledge or act in reckless disre-

[See **Medicare** on back page]

ADDITIONAL NYS MEDICAID REIMBURSEMENTS FOR PSYCHIATRISTS

Because of NYSPA advocacy, the 2006-2007 NYS budget included an extra \$2 million to provide psychiatrists with additional Medicaid reimbursement for outpatient treatment provided to patients covered by both Medicare and Medicaid. Under current law, Medicaid only pays 20% of the balance of the unpaid Medicare fee. For most outpatient psychiatric services, Medicare pays only 50% (not 80% as in the case of all other services) of the Medicare fee. Medicaid will then only pay 20% of the unpaid 50% balance of the Medicare fee or only an additional 10%. Thus, psychiatrists receive only 60% of the Medicare fee as payment in full. In the case of all other services paid at

80% by Medicare, Medicaid pays 20% of the unpaid balance or an additional 4% for a total payment of 84% of the Medicare fee.

For example, assuming a Medicare fee of \$100, Medicare will pay \$80 for most services and NYS Medicaid will pay an additional \$4 for a total payment of \$84. For outpatient psychiatric services, Medicare will only pay \$50 and Medicaid will pay an additional \$10 for a total payment of \$60. In our example, the \$2 million appropriation would provide an additional \$24 so that the total payment received for the outpatient psychiatric service would be \$84 - the same amount in total paid for all other services.

This \$2 million appropriated for the 2006-2007 fiscal year is intended to provide additional reimbursement for outpatient psychiatric services so that psychiatrists will receive 84% of the Medicare fee - the same total reimbursement received for all other physician services.

However, the additional reimbursement will not be paid when the claim is initially processed, but will be paid after the end of this fiscal year. NYS Medicaid will calculate the additional reimbursement due psychiatrists based upon the number of claims submitted during the fiscal year. Once the total liability is calculated, if the total amount due is \$2 million or less, each psychiatrist will be paid in full. However, if

the amount due is greater than \$2 million, then the \$2 million will be disbursed on a prorated basis because the budget only provided \$2 million for this enhancement. Therefore, psychiatrists are urged to submit Medicaid claims for outpatient services even though current payment from Medicaid is a small amount because if claims are not submitted on a timely basis psychiatrists will be unable to share in the \$2 million fund.

NYSPA is working to obtain full restoration paid on a current basis when claims are submitted for the 2007-2008 fiscal year and thereafter. For more information, contact the NYSPA Central Office. ■

NEW MEDICARE CHANGES EFFECTIVE JUNE 1, 2006

CMS has mandated that all Medicare providers must enroll in Electronic Funds Transfer (EFT) and must have a National Provider Identifier (NPI).

This new requirement will be imposed on a rolling basis on -

- All providers who first enroll in the Medicare program
- All current Medicare providers who file any change in their Medicare provider status (e.g., change in office address, change in group status) with a Medicare carrier on or after June 1, 2006.

Essentially, any provider who files a CMS-855I (the Medicare form for initial enrollment or for reporting any changes in provider information) on or after June 1, 2006, must have secured an NPI and must provide the necessary information for EFT of Medicare reimbursement - direct deposit of Medicare reimbursement into the provider's bank account or the 855

form will be rejected.

Although the mandatory requirement for obtaining and using an NPI for Medicare and other third-party payers does not go into effect until May 23, 2007, CMS is mandating that providers secure an NPI if they file a Medicare enrollment application or change in Medicare provider information after June 1, 2006.

EFT of Medicare reimbursement is essentially identical to direct deposit of paychecks, Social Security payments and wire transfer of funds. The physician must provide a photocopy of a bank check (marked void) where the Medicare reimbursement will be deposited. The name of the bank account to which the Medicare carrier will remit the reimbursement must be the same name as shown on the Medicare enrollment application.

This requirement may cause difficulties in hospitals, clinics and other group settings

where the facility or group practice bills and collects all third party payments on behalf of physicians working in the facility. In these situations, these facilities or group practices may have to consider establishing a billing group with the Medicare carrier so that Medicare reimbursement can be elec-

tronically transferred to a single facility bank account.

(Note: Electronic transfer of funds does not constitute the electronic transmission of personal health information for purposes of HIPAA compliance.) ■

The following links can be used to download forms and/or additional information about Medicare enrollment and changes and the National Provider Identifier.

Medicare Enrollment Application - CMS-855I

<http://www.cms.hhs.gov/cmsforms/downloads/cms855i.pdf>

Apply on-line for a National Provider Identifier (NPI)

<https://nppes.cms.hhs.gov/NPPES/StaticForward.do?forward=static.npistart>

Download a form to mail an application for a National Provider Identifier (NPI)

<http://www.cms.hhs.gov/cmsforms/downloads/cms10114.pdf>

Frequently Asked Questions about the National Provider Identifier

[http://www.nyspsych.org/public/components/societytools/admin/viewNewnews.asp?newsjob=ArticleID&ArticleID=7324&ArticleName=Frequently Asked Questions](http://www.nyspsych.org/public/components/societytools/admin/viewNewnews.asp?newsjob=ArticleID&ArticleID=7324&ArticleName=Frequently%20Asked%20Questions)

About the National Provider Identifier

Medicare continued from page 5

gard or deliberate ignorance of the fact that the recipient has already received equivalent items or services from another donor.

Donation of Electronic Health Records Technology

Similarly, under both the Stark law and the anti-kickback law, the donation of electronic health records software and/or training services will also fall under a safe harbor if certain conditions are met. The technology and services will qualify if they are donated to a physician by: (i) an individual or entity that provides services covered by a federal health care program and submit claims to the federal health care program or provides certain other designated health services or (ii) a health plan.

In addition, donated electronic health records software must be "necessary and used predominantly to create, maintain, transmit or receive electronic health records" and must be "interoperable,"

meaning "able to communicate and exchange data accurately, effectively, securely, and consistently with different information technology systems, software applications, and networks."

Donors are not permitted to select recipients based on the volume or value of referrals or other business generated between the parties, and if the recipient is a physician, the physician must cover 15% of the donor's cost for the software or training. Finally, the electronic health records software must contain e-prescribing capability, either through an independent e-prescribing component or the ability to interface with the physician's existing e-prescribing system.

The new e-prescribing program and the attendant safe harbors for e-prescribing and electronic health records reflect movement by the federal government towards widespread adoption of computerization in the delivery of health care. The development of interoperable software will be expensive and it is unlikely that such software will be available in the near future. With this in mind, it is incumbent upon physicians, and especially psychiatrists, to familiarize themselves with the currently available technologies and the changes that are being proposed in the healthcare system. To assist members, NYSPA plans to prepare additional, more detailed guidance materials on e-prescribing and the new safe harbors, which will be made available on the NYSPA website this Fall. ■

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Eighth Annual Citywide Legislative Breakfast

on December 3, 2006 from 10:30 AM - 1:30 PM

at

The New York Academy of Medicine
1216 Fifth Avenue
(corner of 103rd Street)
New York, NY 10029

The Psychiatric Society of Westchester will be hosting its

20th Annual Legislative Brunch

on December 10, 2006 from 11:00 AM - 1:30 PM

at

The Crowne Plaza Hotel
66 Hale Avenue
White Plains, NY 10601

For further information regarding the Citywide Legislative Breakfast

or the

Psychiatric Society of Westchester Brunch

or to purchase tickets

contact your District Branch at the phone number below:

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