President's Message
By Barry Perlman, M.D.

While he was Mayor of New York City, Ed Koch often asked New Yorkers, “How am I doing?” Now one year into my term as NYSPA president, it seems appropriate to ask, “How’s NYSPA doing?” From my vantage point the answer is that this past year has been an extraordinarily successful one for NYSPA including both long term projects realized and new initiatives undertaken. At the same time other doings have left me perplexed.

By now all our members, as well as APA members across the country, are aware of the passage of the Mental Health Professions Bill which was signed into law by Governor Pataki on December 9, 2002. In passage was a singular accomplishment and the culmination of years of work by NYSPA staff - our Government Relations Advocate, Richard Gallo, and our Executive Director and General Counsel, Seth Stein, along with special lobbyists working closely with the government relations staff of the Medical Society of the State of New York and with the financial support of the APA. The law included a clear prohibition on psychopharmacology prescribing and passed in New York soon after New Mexico passed legislation permitting limited psychologist prescribing. We hope that New York will be a beacon to other states grappling with this issue. In addition to the headline issue barring psychiatrists from prescribing, the Mental Health Professions Bill also included other protections by prohibiting non-licensed persons from holding themselves out as psychotherapists and requiring persons with serious mental illness in treatment with the four new mental health disciplines to be evaluated by a physician before treatment continues.

[See President’s on page 2]

NAMI Offers Support, Education and Advocacy
By Liz Lipton, M.A.

Michael J. Silverberg, Esq., President of NAMI-NYS and NAME-NYC Metro and J. David Seay, Esq., Executive Director of NAMI-NYS, spoke with The Bulletin’s Assistant Editor Liz Lipton, MA, about some of their advocacy efforts and how their associations can work with NYSPA on key issues.

NAMI-NYS, located in Albany, is a statewide organization with 58 affiliates and 1,400 members. Its mission is to support, education, and advocacy on behalf of persons with serious mental illness and their families. NAME-NYC Metro, with 1,400 members, is the largest New York State affiliate.

Mr. Silverberg, a volunteer with NAMI, gave a very interesting presentation at NYSPA’s Spring 2003 Area II Council Meeting. He is a senior litigation partner with the NYC law firm Phillips Nizer, LLP. Mr. Silverberg serves on the advisory boards of the New York City Visiting Nurse Service and the Department of Psychiatry at Columbia University College of Physicians and Surgeons. He also is a former consultant to the APA’s Scientific Program Committee.

He became an advocate because his son developed mental illness and epilepsy. Since his son’s death, Mr. Silverberg has continued advocating on behalf of individuals and families affected by mental illness.

Parity
LL: What is your strategy for increasing support of parity legislation?

MS: We have tried to persuade the legislators of every state and the federal government of the number of things: First of all, mental illness is a physical illness, and it is a major act of discriminating to cut out the people with mental illness from legitimate insurance coverage. Second, according to studies throughout the country, premiums will only increase one or two percent from introducing parity.

There is no real reason to resist parity legislation except prejudice. The business community is afraid it will result in significant increases to their premiums, but that has not been the experience wherever it has been tried. The insurers are afraid that people will drop their health insurance coverage, but the premium difference has been very slight.

In all parts of American society, we agree that if we spot discrimination, we eliminate it or try our best to. No one says that discrimination must be continued for any group of people because it’s too expensive to eliminate.

LL: Is it important to work for parity at both the state and national level?

JD: We have to do both because many large employers who are self-insured are exempt from state laws dealing with health insurance because of ERISA [Employee Retirement Income Security Act]. ERISA, the Federal law that covers employers’ retirement and self-insured health plans, preempts state law. So just passing a good state parity law--like Vermont and Maine and other states have done--is not enough. We’re also fighting for the national bill.

LL: Are you involved in the Timothy’s Law Campaign? Timothy’s Law was funded in the budget for the Office for Mental Health (OMH) showed little change over prior year appropriations in stark contrast to that which was proposed for most other state agencies. However, the OMH budget does not include appropriations for Medicaid nor the appropriations for psychiatric care to be rendered in general hospital inpatient and outpatient units. Those items are found in the Department of Health budget. In addition, while the bottom line of the OMH budget was encouraging, the means to get there were objectionable to psychiatry (See Albany Report – The Bulletin – Spring 2003, Vol. 46, #1). On March 11, 2003, as part of NYSPA’s overall budget lobbying activities, a delegation of NYSPA Officers and members [See Albany on page 7]

Brooklyn Psychiatric Society
Holds its 12th Annual Residents’ Scientific Session
By Alan Tusher, M.D., President, Brooklyn Psychiatric Society

Dr. Reddy, Shabry, Goldstein, Cross, AddepaI, Shah, Viswanathan, and Tusher.

I would like to take this opportunity to describe an activity that we in the Brooklyn Psychiatric Society have yearly. Residents from the three residency programs in the district branch gather together for an evening of academic and social collegiality. The residents’ scientific presentation session is an annual event that was established in 1992 with an endowment fund generously provided by Drs. Ramaswamy and Kusum Viswanathan, which provides awards for the residents who have come to compete with their colleagues. The program was begun under the direction of Dr. Ramaswamy Viswanathan when he was president of the DB, and has continued under his direction. The program is one of the program is to promote scholarly work by residents, promote collegiality amongst residents from various programs, and to promote the involvement of the residents in the Brooklyn Psychiatric Society. Each year we have 3 judges who are not affiliated with any of the training programs judge the presentations. We are thankful to the numerous psychiatrists who have served in this role, many of them from outside Brooklyn. The event has been a highly successful annual event attracting a large attendance, and has played an important role in trainees getting involved in the DB and the APA.

This year the presentations took place on April 9, 2003. The residency programs were represented by Dr. Jennie Goldstein from Maimonides Medical Center, Dr. Dorothy Reddy from SUNY Downstate Medical Center, and Dr. Raj AddepaI from Brooklyndale University Hospital. Their presentations were very informative and enlightening.

Dr. Goldstein presented a case study which highlighted the necessity of understanding the patients’ perspective of their ‘life struggle’ in order to effectively engage in psychotherapy. Dr. Reddy gave a very thorough elucidation of the neurobiology of panic disorder, which shed new light on the relationship of co-morbidity from a genetic perspective. Dr. AddepaI con-
President's Message continued from page 1

The other outstanding accomplishment of this last year was the publication by NYS Psychiatry of a "How to" guide and sample documents to assist members in complying with complex requirements of the federal HIPAA regulations relating to medical privacy. As we now know, what makes HIPAA compliance complex is that the federal regulations must be integrated with the privacy rules of each state and, in any given area, which ever is more stringent trumps the other. While the APA has posted best HIPAA documents on its website, those documents are generic and do not merge them with the privacy laws of the states. Seth Stein, a lawyer and Rachel Fenbach, an attorney working in his firm, completed the difficult task of analyzing and merging the HIPAA regulations and New York State's medical privacy statutes and regulations into a final set of documents which became available to NYSPA members in the "members only" section of our website – www.nyspsych.org – in early April, 2003. Just in time for the April 14, 2003 HIPAA deadline! All authors, Donna Gajda, a NYSPA member who utilized this unique partner agreement, a HIPAA knowledge and New York State's medical privacy insurance coverage and to contain the abuses of managed care, especially as it impacts access to mental and behavioral health care. We have also used the column to provide the public with scientifically accurate information about HIPAA, that continues to be under ill advised legislative attack, and educate them about HIPAA and how it applies to their own mental and behavioral health care. NYSPA has a wonderful public relations vehicle for making our perspective known to an interested public, and implementing our other advocacy efforts. While there is always more to strive for, by any measure much has been accomplished during this past year, continuing NYSPA's proud history of service to its members. Those who have volunteered their time and energy to help NYSPA reach its goals, along with our devoted staff, deserve appreciation and NYSPA members deserve thanks for their efforts and for organizing psychiatry. It would be gratifying if next year we could number among our achievements increased member participation. (June 2003)

Assembly Speaker-Elect
James Nininger, M.D.
Past-President of NYSPA and currently the Recorder of the Assembly, has been elected to serve as Speaker-Elect for the upcoming annual meeting of the United States Psychiatric Association and the Executive Committee of NYSPA congratulate Jim on this accomplishment.
NAMI Offers Support, Education and Advocacy

Continued from page 1

Campaign is a coalition of providers, consumers, family members, and other state and local advocates of mental health and chemical dependency services. The coalition is working to pass Timothy’s Law, a bill requiring broad-based insurance parity for mental illness and chemical dependency. It is named after 12-year-old Timothy O’Clair who committed suicide in March 2001.

JDS: We are very active members. I personally have been involved in their activities and spoken at their press conferences. It is one of our top issues. Our top issue this year is saving the OMH research budget which would be cut by 22 percent by the proposed budget.

LL: How could NYSNA and NAMI work together on Timothy’s Law?

JDS: We are already working together. Your lobbyist here in Albany, Richard Gallo, has been one of the most active members of the Timothy’s Law Campaign. He has traveled a lot of work behind the scenes to get us where we are today with Timothy’s Law. Mr. Gallo knows exactly what he’s doing because everybody in the legislature, and he’s been a great help to our coalition.

So we are already working with NYSNA on this. But as far as the membership of NYSNA, anything they can do individually to help pass the law so much the better. Members of the legislature do respond to mail and postcards on particular issues. We would love it if your membership would write in support of the passage of Timothy’s Law.

LL: Does NAMI encourage its members to do this as well?

JDS: We have a grass roots campaign where people send in postcards and letters.

ECT

LL: Why do you view ECT as an important issue that NAMI should focus on now?

JDS: Because there is a movement to try to get it banned. If not outright banned, there are bills in the legislature that would restrict access . . . so severely that it would have a harmful impact on banning access to that therapy for the small number of people for whom it is effective—often as a last resort.

JDS: I don’t know of any other medical procedure where medicine is practiced by the state legislature. Normally, we leave that up to physicians, but in this case they want them to step in and intervene.

LL: In your [Mr. Silverberg’s] excellent article “ECT Can Be Safe and Effective Therapy,” you stated the following: “Based on the scientific evidence, NAMI-NYS has long supported the appropriate use of ECT as an important therapy that has proven its effectiveness in situations where other modes of treatment do not work.” Could you provide some background about this decision?

MS: I’ve read enough scientific articles and listened to enough people who have been through ECT themselves to realize that when situations are desperate, this is the treatment of last resort and sometimes it is very effective . . . However, there can be memory loss. I’ve heard it can be worse than slight, but that can vary.

MS: NYS Commission on Quality of Care did a study, and they found that it was not being abused. It was being administered very carefully.

MS: There is a lot of talk about involuntary ECT, but that is very much the exception. In those exceptional circumstances, there already is a procedure in place for a court to monitor it.

MS: If the ball game goes only to those people who agree to ECT, then the concern is that many people will suffer unnecessarily (even including potential deaths) because they don’t have access to this procedure of last resort. I surely hope that before long, we will have procedures that are much better and much less worrisome, but right now this procedure that often works when others do not.

"If the ball game goes only to those people against ECT, then the concern is that many people will suffer unnecessarily (even including potential deaths) because they don’t have access to this procedure of last resort."

JDS: I don’t think many people need ECT; the wish is that many people would wish they didn’t need it. But what is clear is that ECT is a treatment of last resort and sometimes it is very effective. . .

ECT

LL: Why is NAMI advocating against the closure of state psychiatric hospitals?

JDS: We don’t advocate for long term hospitalization to be the treatment of choice, but only as a safety net because the general hospital sector doesn’t offer long term or intermediate term beds for people who need them, and there are people who need them.

JDS: We can’t support any further closures or downsizing unless it’s done in accordance with a plan that would have specifics in it—numbers, timelines, deadlines, and a needs assessment. Full compliance with Section 5.07 of the Mental Hygiene Law, which requires this kind of planning, would be a step in the right direction.

LL: You report that the number of beds at state psychiatric hospitals has fallen below what NYS needs as a safety net.

JDS: We have some experts on the national level who said that about 2 percent of the seriously and persistently mentally ill need intermediate or long term beds available at any given time. OMH’s data show that we would have 228,000 to 240,000 people with serious and persistent illness.

L: And if you do the math on that, you come out with about 4,500 beds, and we’re already below that. But NAMI would be glad to review the raw data and participate in a serious planning process that begins with a needs assessment.

LL: Will OMH tell you how far they will cut?

JDS: I have not heard from OMH how far they will cut. Yet each year more beds are cut.

JDS: OMH suggests that they don’t own close beds: they [the beds] close themselves because they are underutilized or they are empty. OMH asserts that the close beds are driven by the “market.” I am not convinced that the “market” has much to do with it in any traditional economic sense.

LL: You conducted a survey regarding this issue. What was the outcome?

JDS: Actually, we did two surveys, and we will be analyzing the data soon. In one study the Public Employees Federation helped us survey OMH employees who work in psychiatric centers. Our preliminary results found that of the 183 OMH employees who responded so far, . . .

"Your lobbyist here in Albany, Richard Gallo, has been one of the most active members of the Timothy’s Law Campaign and has really done a lot of work behind the scenes to get us where we are today with Timothy’s Law. Mr. Gallo knows exactly what he’s doing; he knows everybody in the legislature, and he’s been a great help to our coalition,” said J. David Seay, Esq., Executive Director of NAMI-NYS.

JDS: Going back to the beginning when we [NAMI-NYS] first started here 20 years ago, the psychiatrists were our best friends, and they should continue to be our best friends today because we all have the same common goals. We agree on the fact that scientific research and treatment offers the best hope for the future.

MS: I really appreciate the opportunity to work with the psychiatrists’ association [at the Area II Council Meeting], and I think we have common issues . . . We have had a lot help from the psychiatric community, but the association, itself, is one with which I would like to work much more closely.

HERE IS MORE INFORMATION:

1.) NAMI-NYS Web site: <http://www.naminys.org>

2.) NAMI-NYC Metro Web site: <http://www.namyccmetro.org>

3.) This link <http://www.naminys.org/ect.htm> is to the article “ECT Can Be Safe and Effective Therapy” written by Michael Silverberg, Esq., President of NAMI-NYS and NAMI-NYC Metro.

4.) “ECT Bills—Memo in Opposition” written by Seth Stein, Esq., NYSAP’s Executive Director, is available on the association’s Web site: <http://www.nyspsych.org>

5.) This link <http://www.naminys.org/state-ment.htm> is to the statement by NAMI-NYS before the Senate Finance Committee and the Assembly Ways and Means Committee at the budget hearing on mental health services on February 5, 2003.

6.) NAMI-NYS HelpLine, toll-free in NY at (800) 950-FACT.

7.) NAMI-NYC Metro HelpLine (212) 694-3289 or helpline@naminyc.org
Spring Area II Council Meeting

By Liz Lipton, M.A.

The Spring Area II Council Meeting was held on Saturday, March 29 at the LaGuardia Marriott Hotel in East Elmhurst, New York. Barry Perlman, M.D., NYSPA’s President and Chair of the Committee on Legislation, moderated the meeting. After brief remarks by Secretary Glenn Martin, M.D., and Treasurer Aaron Sadoff, M.D., respectively, the previous meetings’ minutes and the treasurer’s report were approved.

Edward Gordon, M.D., NYSP-PAC, Inc., and MSSNY

According to Edward Gordon, M.D., chair of materials that will assist Psychiatric Political Action Committee, Inc., “The PAC has been very active… It has given us access to the governor and the government, and we have been very effective in influencing the way things go.”

Regarding personnel, Jay Cutler, J.D., retired after working 26 years as the Director of Government Relations. There was a search underway for a new director, and the APA has already received over 90 applications.

Seth Stein, Esq., NYSPA’s Executive Director

NYSPA’s Executive Director, Seth Stein, Esq., spoke about HIPAA. Mr. Stein and Rachel Fernbach, Esq., have developed a 27-year task force, called a performance committee, committing to help new members in conforming with the HIPAA Privacy Rule, which went into effect on April 14, 2003. The HIPAA documents are now posted on the “Member’s Only” section of the NYSPA web site.

The NYSPA HIPAA documents include a step-by-step instruction guide, model forms and additional guidance materials, are designed for the individual or psychiatrist with a single practitioner or psychiatrist with a small staff practicing in New York.

Mr. Stein explained why NYSPA decided to create the New York specific HIPAA documents: “Although the APA HIPAA documents are well done and very comprehensive, the APA documents were not written with specific state requirements in mind. New York State law currently provides strong protections for the confidentiality of medical information, which in most cases is not affected by the new federal law.”

“What NYSPA did was to prepare a set of HIPAA documents specifically designed for the New York State psychiatrists that incorporates both HIPAA and New York State law on privacy and access to records,” said Mr. Stein.

The documents will be updated frequently based on new information or changes in the law and NYSPA will use the E-Bulletin to announce any revisions. The forms will remain even when the new documents will be available. In addition, Mr. Stein and Ms. Fernbach are available to provide in-person training sessions at district branch locations.

Michael Silverberg, Esq., President of NAMI-NY Metro and NAMI-NYS Michael Silverberg, Esq., President of NAMI-NY Metro and NAMI-NYS spoke to the Council. Mr. Silverberg said he hopes to “build a much drier relationship with NYSPA.” He pointed out that NYSPA and the two NAMI organizations share many similar concerns. For more information, see the article on NAMI-NYS and NAMI-NY Metro on page 1.

Jeffrey Borenstein, M.D., Editor-in-Chief of The Bulletin Jeffrey Borenstein, M.D., Editor-in-Chief of The Bulletin, reported that he would like to hear from members who have ideas for articles as well as those who would like to serve on the editorial board.

L. Mark Russakoff, M.D., Committee on Economics Affairs L. Mark Russakoff, M.D., Chair of the Committee on Economic Affairs, provided members with information about Magellan Health Services, which filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code. To learn more about Magellan, see Dr. Russakoff’s article on page 5.

Dr. Russakoff also discussed billing to Empire Medical Services, the carrier for Medicare in most of New York State. “People who used Empire Medical Services for paperwork take a copy of your notes and records. This was a costly endeavor—photocopying the notes—and there was delayed payment,” he explained.

Mr. Stein, Dr. Gordon, and Dr. Russakoff met several times with the people from Empire Medical Services regarding their policy. Dr. Russakoff explained, “These meetings resulted in Empire Medical Services raising the threshold for provision of these services. This means that they are still going to be doing reviews, but they are not going to be doing it after just two sessions. Also, this change will cut down on the paperwork and remove the reinstatement from payment.”

“It was a huge, tough fight, but it was something that was accomplished,” Dr. Russakoff said.

Dr. Russakoff also spoke about the manual titled New York State Criteria for Admission and Continued Stay to Psychiatric Units of General Hospitals. James Spencer, M.D., represented NYSPA on the workgroup that drafted this manual. It is not available yet, even though according to Dr. Russakoff, “it is deemed to be ready for the printer in the fall of 2000.”

Dr. Russakoff said the Committee on Economics Affairs on page 4 of the Bulletin asked NYSPA to complete their review and distribute this manual by May 1, 2003. The request was approved.

Dr. Perlman said, “This [manual] is critical for the hospitals. It would put the providers and the reviewers on a level playing field. People would know what is expected.” Dr. Perlman also thanked Dr. Spencer for the time he spent working on this project.

James Ninninger, M.D., Disaster Psychiatry Committee Area II maintains a list of volunteer psychiatrists who are available to see victims of 9/11 and their families. said James Ninninger, M.D., Chair of the Disaster Psychiatry Committee.

Additionally, Project Liberty is providing funding for mental health treatment.

Lenore Engel, M.D., Committee on Children and Adolescents The Committee on Children and Adolescents had a joint meeting with the Committee on Public Psychiatry. Dr. Perlman organized a phone conference with the two representatives, Dr. Raymond Schimmer, M.A.T., the Executive Director of Parsons Child and Family Center, Albany, NY, and President of the New York State Coalition for Children’s Mental Health Services, also in Albany.

Lenore Engel, M.D., a member of the Committee on Children and Adolescents, reported on the conference call: “What came from the discussion [with Schimmer] was that there is a real fragmentation in care…. There are a lot of really good community-based programs, but there is a feeling among committee members, in general, that there are some kids who really do need, at least, temporary out-of-home placements and that is not being addressed— in fact it is actually being addressed.”

Also, the committee decided that they need to collect data. “We all have general impressions, but what we don’t have are the concrete cases and numbers to support a lot of what we know—clinically know—is necessary,” said Dr. Engel.

Arturo Olaechea, M.D., Committee on MIFs According to Arturo Olaechea, M.D., the Chair of the Committee on Members in Training, the committee’s first priority is to have MIFs join the APA. “We joined forces with MIF representatives from the other areas to write some reasons why residents should join the APA. … We came out with a list of reasons, and we mailed it to every chief resident in the United States,” said Dr. Olaechea.

In other news, Manisha Punwani, M.D., was elected to the position of MIT Deputy Representative for Area II.

Ruth Waldbaum, M.D., Committee for District Branch Presidents and Presidents-elect Ruth Waldbaum, M.D., President-elect of the Greater Long Island Psychiatric Society, was elected Co-Chair along with Dr. Borenstein, President-elect of The Queens County Psychiatric Society, of the Committee for District Branch Presidents and
Change in Medicare Reimbursement for Inpatient Psychiatry

By Karen S. Heller, Executive Director, The Health Economics and Outcomes Research Institute (THEORI)

Very shortly, the Centers for Medicare & Medicaid Services (CMS), a division of the U.S. Department of Health and Human Services, will issue a proposed regulation that will significantly change the way Medicare reimburses psychiatric hospitals and units within general hospitals for inpatient psychiatric and substance abuse services. The change will take effect for hospital fiscal years beginning on or after January 1, 2004. The facilities that will be affected are the ones known as “TEFRA” or “exempt” hospitals, because they were exempted from the general hospital inpatient prospective payment system (PPS) in the early 1980s and continued to be reimbursed based upon the rules set forth in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). The new payment methodology will be a PPS, but it will be very different from the general hospital inpatient PPS. Industry analysts have nicknamed the new system the “Psych PPS,” which may or may not be the final name conferred by CMS.

Studies have shown that the new payment methodology will probably redistribute about $300 million nationwide, which is about 10% of current Medicare spending on psychiatric facilities. Directors of inpatient psychiatry should pay close attention to the new regulation because they will have two important responsibilities to fulfill once the proposal is released. First, they will have 60 days to estimate how much money their facility would gain or lose under the proposal, analyze the programmatic impact of such a gain or loss, and, if they wish, write a comment letter to CMS either supporting or opposing the proposal, along with recommended changes if they oppose the proposal. Second, once the final regulation is released, they will again have to estimate the fiscal impact on their facility and determine whether or to what extent they must change their program to live within their new budget.

In conjunction with the American Psychiatric Association (APA), The Health Economics and Outcomes Research Institute (THEORI), a division of the Greater New York Hospital Association (GNYHA), has set up a Psych PPS Support Group that any hospital in the U.S. can join. For a fee of $3,350 (the fee is waived for GNYHA members), THEORI will provide a written description and analysis of the proposed and final regulations, PowerPoint presentation files containing the same information that clients can use to brief their staff and colleagues, hospital-specific case-level data, and hospital-wide fiscal impact analyses of the proposed and final regulations, and individual consulting, which might include preparation of comment letters to CMS. For information about joining the APA/THEORI Psych PPS Support Group, please contact Elisabeth Wynn at (212) 259-0719 or wynn@gnyha.org.

History of Medicare Reimbursement for Inpatient Psychiatric Services and the APA’s Role

In 1982, Congress passed TEFRA, which governed how Medicare would reimburse all hospital-based inpatient care. The methodology was simple. Each hospital’s total 1981 operating costs were divided by its total discharges to derive a target amount. That amount was updated every year by the hospital market basket index, a measure of inflation. Each year the hospital would be paid the lower of its target amount or its actual cost per discharge for each of its discharges. In 1984, CMS—formerly known as the Health Care Financing Administration, or HCFA—implemented its first prospective payment system, which pertained to hospital inpatient costs. When the APA’s Council on Economics evaluated the fiscal impact of the new PPS on psychiatric services, it found that the payment methodology did an extremely poor job of matching payments and costs, and would have severely impoverished the psychiatric inpatient delivery system in the U.S., which was already fragile and beset by problems. Therefore, the APA led a successful effort to exempt psychiatric services from the PPS. The Chairman of the Council at that time was Joseph T. English, M.D., Chairman of Psychiatry at New York Medical College and the Saint Vincent Catholic Medical Centers, and Chairman of the GNYHA Mental Health Committee.

The Balanced Budget Act of 1997 (BBA) and the Balanced Budget Refinement Act of 1999 (BBRA) established a schedule to transition all cost-based services to PPSs, including inpatient psychiatric services. Thus, since 1997, new payment methodologies have been developed for skilled nursing facilities (SNFs), home health agencies, hospital outpatient services, inpatient rehabilitation services, and long term care hospitals. Inpatient psychiatric services are the last to make this transition. Bearing in mind the problems associated with applying the general hospital PPS to psychiatric services, Congress mandated that the Psych PPS be a per diem payment system instead of a prospective payment system.

Spring Area II Council Meeting continued

Presidents-Elect during the committee meeting that morning

Dr. Waldbaum reported that the committee discussed training and recruiting members. To facilitate the latter, board members meet with MITs and discuss the benefits of joining the APA and NYSSPA.

Cathryn Galanter, M.D., Committee on Early Career Psychiatrists

Cathryn Galanter, M.D., Chair of the Committee on Early Career Psychiatrists, reported that the committee had organized the meeting’s job fair, and she thanked NYSSPA Coordinator Donna Gajda for helping them.

The committee is starting a mentorship program. “The point of the mentorship program is to help MITs and ECPs and any other members…find out about different areas of psychiatry,” Dr. Galanter said. “They will meet different types of jobs they never had before,” she said. Members who would like to participate should contact their ECP district branch representative.

In his closing remarks, Dr. Perlman thanked Mr. Stein, Ms. Gajda, Nancy Hampton, Esq., and Ms. Fernbach.

Magellan

By L. Mark Russakoff, MD

Re: Area II Council Meeting of March, 2003

In the Fall 2002 there were rumors of the impending bankruptcy of Magellan Health. Magellan announced on November 1, 2002 that it had received waivers on its financial covenants through December 31, 2002. This was a concomitant re-stocking of the company’s management. They noted at the time that they expected to continue to pay providers. Their contract with Aetna, Magellan’s largest customer, expires January 1, 2003.

On March 11, 2003, Magellan announced that the US Bankruptcy Court authorized the payment of its obligations to providers, among others. They also noted that their Aetna contract had been extended until 12/31/03. They anticipated coming out of bankruptcy by Fall, 2003.

Several members at the Council meeting asked about the ramifications of the bankruptcy filing of Magellan. The bankruptcy filing should not have any immediate effects on the care of Magellan patients. The bankruptcy court approved continued payments to providers, for which Magellan claims they have sufficient cash flow. Magellan’s problem is with investors, who seem to be the probable losers in this situation. Their debt has been restructured in several steps and moves that seems to satisfy their creditors as well as the Court. Seth Stein noted that in accordance with NY State bankruptcy law, providers have superior claim on funds over investors.

Members should continue to see their Magellan patients. It would probably be wise to tell reasonably promptly, not to delay billing by months, in case the scenario should change.
AREA II TRUSTEE'S REPORT by Ann M. Sullivan, M.D.

The March Board Meeting once again focused on critical issues for the association such as financial stability, advocacy and a member-friendly infrastructure. The Board also approved several key action papers passed by the Assembly. I've outlined these actions below because I think they demonstrate the work done by governance in the APA and its impact on us and our patients.

So here are the highlights:
• Budget: There is currently a cash surplus of approximately $800,000 in this year's budget. While this is good news, it is important to remember that the organization's reserves are still at only one third of what they need to be. Should the surplus continue, it will probably be used to replenish the reserves, and this will be further discussed at the June meeting. The Board and the financial overseer committee have been vigilant about the budget. Dr. Scully has been reviewing the reserves, and this will be further discussed at the June meeting. A request to then diversify some of the investment, about 1 million in funds to small and mid-capital products was deferred to the June meeting when more data and discussion would occur. It has been recommended by the overseer committee and its paid financial consultants, that some limited diversification, while a little more "risky" could be significantly more profitable. A decision will be made in June.

• Assembly Actions: These actions developed by the Assembly and approved by the Board speak to the APA's wide arena of action and hopefully influence. They also demonstrate the effort to keep communication open and effective and member benefits useful. Actions include:
  - Adoption of Principles of Care for persons with serious and persistent mental illness
  - Advocacy for persons with serious mental illness

• Membership: In an attempt to respond to the current Medicare reimbursement crisis. All states are being faced with severe reductions in funding for the mentally ill. An active, effective national strategy to assist states is necessary. Government Relations will develop a plan for rapid implementation.

• Recommendations on strategy include developing effective coalitions, medical partnerships, effective outreach, and how to better communicate with District Branches, State Associations and Members would be greatly appreciated. This will be a critical decision at the next meeting.

Issues to be discussed:
• The Board recommended that a plan for advocacy across all states be developed in response to the current Medicaid reimbursement crisis. All states are being faced with severe reductions in funding for the mentally ill. An active, effective national strategy to assist states is necessary. Government Relations will develop a plan for rapid implementation.

• How to be more effective at working with states on scope of practice issues and psychologist prescribing.

• Recommendations on strategy included developing effective coalitions, medical partnerships, effective outreach, and how to better communicate with District Branches, State Associations and Members would be greatly appreciated. This will be a critical decision at the next meeting.

Once again, please let me know your ideas, suggestions, questions!

New Standards in The Treatment of Psychotic Disorders

New York, New York
September 19-20, 2003
Chairman: Jeffrey A. Lieberman, MD
University of North Carolina, Chapel Hill, North Carolina

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THEORI's research showed that billing data could explain roughly 20% of per diem cost variation. The APA presented this research to CMS and urged the agency to require hospitals to collect additional data unless the new PPS substantially improved the Psych PPS. Since CMS's preliminary patient assessment instruments could not substantially improve the Psych PPS, in its August 29, 2002 report to Congress, the agency indicated that it would probably not propose a new patient assessment instrument, and the advocacy strategy focused on the APA and THEORI. It is expected, however, that the proposed regulation will include a draft instrument for possible use in the future. Hospitals will need to pay close attention to that instrument and provide appropriate comments about it to CMS.
Travelled to Albany for meetings with legislative leaders and staff regarding our opposition to:
- Eliminating coverage of Medicare deductible and copayments for Medicaid beneficiaries enrolled in the Medicaid Program ("crossover cover-
age").
- Closing any state psychiatric centers without a full and complete assessment of bed needs and community resources.
- Closing the Nathan S. Kline Institute for Mental Health Research.
- Imposing a 5% Medicaid rate reduction on general hospital inpatient psychiatric care and a 0.7% gross receipts tax on general hospital rev-

What Got Done – What didn’t?

The enacted budget significantly restores the healthcare cuts proposed by the Governor in January, including all of the items addressed by NYSPA except Medicaid/Medicare crossover coverage. Unfortunately, in a danger-
ous blow to persons with serious men-
tal illness, the agreement reached between the Assembly and Senate only fractionally restores the Governor’s ear-
lier proposal which had called for the elimina-
tion of payments made by the Medicaid for Medicaid deductibles and co-insurance.

Historically, for all inpatient care and outpatient psychiatric care, Medicaid paid 80% of the Medicare allowable charge and Medicaid paid 100% of the Medicare fee -- an unacceptable 40% fee reduct-

Inpatient/outpatient psychiatric services for Medicaid beneficiaries enrolled in the Medicare Program ("crossover cover-
age") and those on disability, and the elderly poor, in that all doctors, once their received remuneration from Medicare and Medicaid, had received 100% of the Medicare allowable fee.

Under the health care budget adopted by the Senate and Assembly and enact-
ed by their veto override, the Legislature restores 20% of the amount currently funded by Medicaid. Thus, for general medical care and psychiatric codes reimbursed by Medicare at 80%, the budget restored 20% of the 20% coin-
surance payment paid by Medicaid – or 4% – for a combined total payment of 84% of the Medicare fee.

However, when the percentage formula is apply-
to psychiatric outpatient care reim-
bursed by Medicare at 50%, the restora-
tion results in a Medicaid payment of 20% of 50% – or 10% – for a total combined payment of only 60% of the Medicare fee – an unacceptable 40% fee reduct-

Medicaid has obtained Medicaid data which reveals that in FY 2002 psychia-
trists treated over 15,000 patients 64 years of age and younger who were dialyzed for 84% of the Medicare fee, just over 3,000 patients from this popu-
lation. Psychiatrists also treated another 35,500 dually eligible patients who were older than 64 and psychologists treated 8,500 such persons

NYSPA made the case these patients represent persons with chronic mental illness, including many residing in adult or nursing homes, who depend on appro-
appropriate treatment with psychotrop-
ic medications for their stability and
tenure in the community NYSPA argued that a 40% or 50% reduction in payment would likely result in many patients being discharged from care.

Further, the consequences of such a drastic reduction in reimbursement to pri-
ivate practicing clinicians would be a drastic increase in the number of patients seeking care from clinics, where little excess capacity exists, or from emergency rooms. Either an alternative, even if obtainable, would be far more costly than treatment from private prac-
ticing psychiatrists. In the worst case scenario, patients would be unable to obtain their psychotropic medications, resulting in costly hospital admissions, and increasing pressure to resume already stressed psychiatric inpatient system.

Despite our efforts and those of other interested organizations, including the State Medical Society, the Legislature chose a course, slightly less onerous than the Governor’s proposal, but one that is nonetheless harmful to the care and treatment of persons suffering with chronic mental illnesses. NYSPA will work tirelessly to reverse this unfortunate action by the Legislature. Members whose practices are impacted by the reduction in reimbursement for dually eli-

Private practicing clinicians would be a pricey reform to the budget. NYSPA was informed that legislation to restrict the use of electro-
convulsive therapy (ECT) was anticipated “clean-
up” items not handled properly in the original bills (effective days, licensing fees for psychologists).

However, there are some substantive issues being discussed especially with regard to the difference between the scopes of practice of “Licensed Masters Social Work” and “Licensed Clinical Social Work.” Two areas of potential conflict are: 1) a proposal to clarify the scope of practice of non-clinical social workers with respect to whether they can render a diagnosis as opposed to a “diagnostic assessment” specified in the last year’s legislation; and 2) a proposal to grandfather existing corporate prac-
tices involving psychologists and social workers, amending a provision in last year’s law, prohibits such arrangements. In addition, we are anticipating from the State Education Department (SED), the publication of draft or proposed regulations to implement the new licens-

The Fight for Parity Broadens and Intensifies

For the past four years, the New York State Psychiatric Association has been a leading participant in the state-wide coalition of consumer and provider organizations fighting for health insur-
ance parity for mental illness and chem-
ical dependency.

Timothy O’Clair

Last October, members of the coalition met Tom and Donna O’Clair, parents of Timothy O’Clair. In March of 2001, Timothy hung himself at the age of twelve. The O’Clairs shared the story of Timothy’s life and death – from a happy and active baby to a depressed and emotionally drained 12-year-old. “He hurt so bad and was so frustrated with his suffering,” his father told us, “that he saw no law absolutely any way to stop the pain other than to stop his life.”

Timothy’s story is one that rivets atten-
tion to insurance discrimination against mental illness because the limits of his parent’s insurance coverage often dictat-
ed the care he received, especially after his parent’s had exhausted their resources with thousands of dollars spent out-of-pocket. Eventually, Tom and Donna O’Clair made the heart-
breaking decision to give up custody of their son to the County in order to obtain for him the services he needed.

The O’Clairs speak favorably about the quality of the psychiatric care Timothy received both before and after the cus-
tody decision. Timothy’s condition improved dramatically during his eight-
month stay at the Northeast Parent and Child Society residence and he was able to return home. However, when his condition suddenly worsened, the prob-
lems of trying to juggle resources because of insurance limits began anew.

The Timothy’s Law Campaign

Since October, the O’Clairs and the staff of the coalition groups (now appropri-
ately known as the Timothy’s Law Campaign) have worked tirelessly to construct and promote a comprehensive parity bill for mental illness and chemi-

cally dependent. The bill, entitled Timothy’s Law, has been introduced in

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THE BACK PAGE

Brooklyn continued

ducted a survey of Brookdale residents investigating burn-out and found some unique factors that had not been previously discussed in the literature.

Dr. Fredyka Shabey from Coney Island Hospital in Brooklyn, Dr. Deborah Cross from Elmhurst Hospital in Queens, and Dr. Manoj Shah from Long Island Jewish Hillside Medical Center in Queens graciously served as judges. The choice of first prize was acknowledged to be a difficult one. Brookdale took the first prize. Each participant had clearly demonstrated mastery of their subject and provided the audience with new perspectives in their areas. The annual residents’ scientific presentation session provides an opportunity for Brooklyn psychiatric residents and psychiatrists to come together for an evening that is both intellectually stimulating and rewarding. Many have maintained relationships with those residents whom they met at these sessions. This is one of the ways that we in the Brooklyn Psychiatric Society assist in the development of the professional identities of our young colleagues.

All in a Day’s Work

By Andrew J. Kolodny, M.D.

This morning is a typical day in the office of Senator Joseph Lieberman. I arrived just after 8 a.m. and quickly scoured the three newspapers with the largest national distribution for all the articles related to health care policy and reform. CNN is playing from the small television sets that are set atop the desks of all of the congressional staffers and other fellows. Quickly the office is abuzz with activity. The Senate is not in session today, but a van load of constituents who are members of the Connecticut “Right to Life Committee” have arrived to express dissatisfaction with the Senate’s long-standing commitment to a woman’s right to choose. The Military Fellow named Aaron, who is not the least bit regimented as one might expect, is busy today as he has been for months, churning out memos on what the Senator should know about what is happening on the ground in Afghanistan and Iraq. The Senator has a Scheduler, Advisors of all sorts and an entire Press department. All of them are now in full swing, scurrying down well-worn paths between rows of cubicles. It seems a world away from the busyness I was used to as a fourth-year Psychiatry resident at Mount Sinai hospital, yet many of the skills that a doctor needs are being put to use on Capitol Hill. Instead of sitting on the phone for hours wrangling with an insurance company in order to get a patient admitted to the unit, I am on the phone with a staffer in Senator Corzine’s office, asking them if they might co-sign an appropriations request for an organization that provides psychiatric services in the aftermath of disasters. Instead of writing discharge plans and filling out a backlog of charts, I am writing memos detailing the ins and outs of the President’s Medicare reform proposal and adding my two cents as to whether and how the Senator should respond.

Last January, I left Mount Sinai to begin the Daniel X. Freedman Congressional Fellowship. Freedman Fellows are PGY-4 residents that are sponsored by the American Psychiatric Foundation to spend the last six months of residency working on Capitol Hill in a Senate or House office. The fellowship is named for the late Daniel Freedman, a former president of the American Psychiatric Association and Chairman of Psychiatry at the University of Chicago, who believed that Psychiatrists should become more involved in the political process. Shortly after arriving in Washington I interviewed in a handful of Senate offices and was thrilled to get snatched up by Senator Lieberman. In his office, I am only one of eight fellows working on legislation and policy issues ranging from the Environment to Education. I take down our conversations in detail and assure them that the Senator is on top of their concerns. Back in Fellows Ghetto, people are gathered around someone’s desk to watch Senator Lieberman on C-SPAN as he talks to reporters along the presidential campaign trail. “He looks good,” one fellow says. “I think he got a haircut,” says another. But then it’s back to work. Sometime after the sun has gone down, I turn off my desktop TV and email the latest draft of memos to Michelle. Down in the parking lot of the Senate office building, I unlock my bicycle and ride the eight blocks home.

CAPWIZ

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