

**NYSPA EXECUTIVE COMMITTEE MEETING
Conference Call
February 16, 2021**

8:00 P.M.

- 1. January 19, 2021 Minutes**
- 2. Dues Comparison Statement**
- 3. Albany Report**
- 4. NYS-DOH Letter Regarding Board for Professional Medical Conduct**
- 5. March 20, 2021 NYSPA/Area Council Meeting**



New York State Psychiatric Association, Inc.

Area II Council of the American Psychiatric Association
400 Garden City Plaza, Garden City, New York 11530 • (516) 542-0077

MINUTES OF THE MEETING OF THE EXECUTIVE COMMITTEE

January 19, 2021

Meeting by Conference Call

PRESENT:

EDWARD HERMAN, M.D., Vice President
MARVIN KOSS, M.D., Secretary
JOSE VITO, M.D., Treasurer
JEFFREY FREEDMAN, M.D., Chair, Public Affairs
GLENN MARTIN, M.D., Chair, Legislation
JAMES NININGER, M.D., Chair, Membership
RICHARD GALLO, M.D., Legislative Consultant
KARIN CARREAU, MSW, Legislative Consultant
JAMIE PAPAPETROS, Legislative Staff
SETH P. STEIN, ESQ., Executive Director
RACHEL FERNBACH, ESQ., Deputy Director
DONNA GAJDA, Coordinator
MEGAN ROGERS, Administrative Assistant

Mr. Stein called the meeting to order. The following issues were discussed:

1. Minutes. The minutes for the December 15, 2020 Executive Committee meeting were reviewed and accepted.
2. Financial Report. The Committee reviewed a financial statement for the period January through December, 2020. Mr. Stein reported that income was slightly higher, and expenses are down, for the most part owing to virtual meetings. Mr. Stein reported that, although dues income appears to have stabilized, we will continue to closely monitor this situation.

The Committee discussed the possibility of asking life members who no longer pay dues to consider making a voluntary dues payment. A Motion to send a letter to dues-exempt life members asking them to consider making a voluntary dues payment to NYSPA was Approved.

3. Dues Comparison Statement. The Committee reviewed a dues comparison statement for the months of October through December for the years 2010 through 2021.
4. PAC Financial Statement. The Committee reviewed a PAC financial statement for the period January through December, 2020. Mr. Stein reported that the number of contributors is lower than the previous year, possibly due to the absence of in-person meetings. Ms. Gajda reported that a number of contributions were received in January and were not reflected in the 2020 financial report. Mr. Stein stated that the first PAC solicitation for 2021 is being drafted and will soon be sent to the membership.

5. Albany Report. In addition to the written Albany Report included in the meeting packet, Mr. Gallo reported on the following:

Mr. Gallo summarized the 2021-22 Executive Budget Proposal. Governor Cuomo projects a deficit of \$15 billion. Two budget proposals have been presented. The first proposal assumes that NYS will receive \$6 billion and would require both reductions in expenses as well as a tax increase to close the \$9 billion gap in the deficit. The second proposal assumes that New York will receive \$15 billion in aid from the federal government.

Mr. Gallo gave an overview of Governor Cuomo's State of the State address and summarized a number of items from the 322-page State of the State written report including the following: Telehealth/Telemedicine Proposal; Strengthening the Health Care Workforce; Expanding Mental Health and Addiction Services; Conquering COVID and Reimagining Public Health; Reopening Business Post-COVID/During Vaccination Ramp Up; Comprehensive Adult-Use Cannabis Program; Women and Families Agenda, LGBTQ Rights; Support for New York Veterans, Child Welfare System; and Police Report/Public Safety. Mr. Gallo encouraged Committee members to read the full, in-depth written report included in the packet

Mr. Gallo gave an overview of the current bills that were introduced this session including: (S560) a bill authorizing psychologists to prescribe; (A1535) a bill amending the Nurse Practitioner Modernization Act; (A272) a Mental Health Practitioners "Duty to Protect" bill; and (A1869/S563) a Mental Health Absences bill allowing a student to be absent from school for mental or behavioral health reasons.

Mr. Gallo summarized the changes to Assembly and Senate Committee appointments.

6. NYS Division of Human Rights Complaint. Mr. Stein reported that a complaint has been filed against NYSPA with the NYS Division of Human Rights. The complaint states that NYSPA failed to forward a complaint against a physician to the Office of Professional Medical Conduct. Mr. Stein noted that there was no basis for discrimination included in the letter and the complainant was a persistent and abusive caller. Mr. Stein stated that a response is being prepared and a copy of that response will be shared with the Executive Committee.

7. January 15, 2021 MSSNY E-News Article. A copy of the MSSNY E-News Article focused on objections to a proposal that would reduce due process protections for physicians against whom a complaint has been filed with OPMC was included in the packet for the Committee's review.

8. Spring Area II Council Meeting Date. The Committee confirmed that the Spring NYSPA/Area 2 Council Meeting will be held on Saturday, March 20, 2021.

There being no further business, the meeting was adjourned.

Dues Income	October	November	December	End of Year Total	January	February	Total through February
2010-2011	14,605	91,371	44,838	150,815	69,101	43,637	263,553
2011-2012	15,190	83,220	41,693	140,103	70,981	58,092	269,177
2012-2013	14,636	74,259	38,841	127,736	72,562	53,114	253,412
2013-2014	11,924	75,397	41,955	129,275	85,030	37,253	251,559
2014-2015	21,960	67,357	41,233	130,550	69,710	43,560	243,820
2015-2016	21,045	73,868	41,805	136,718	104,297	61,695	302,709
2016-2017	16,326	72,458	39,113	127,896	102,690	49,052	279,638
2017-2018	6,625	26,321	62,881	95,828	133,834	47,679	277,341
2018-2019	11,452	39,282	52,916	103,650	103,593	56,409	263,652
2019-2020	6,294	55,190	46,407	107,891	114,895	49,093	271,879
2020-2021	11,354	60,216	44,327	115,897	100,965	46,647.92	263,511



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

December 9, 2020

Seth P. Stein, Esq.
Executive Director
New York State Psychiatric Association
400 Garden City Plaza
Suite 202
Garden City, New York 11530

Dear Mr. Stein,

I am writing to you in my capacity as the Interim Executive Secretary of the Board for Professional Medical Conduct (Board). As you may be aware, the Board, and the Office of Professional Medical Conduct (OPMC), are defined in NYS Public Health Law (PHL) §230, and have disciplinary authority over physicians, physician assistants, specialist assistants, and unlicensed medical residents. The mission of the Board and the OPMC is to ensure patient safety while preserving the due process rights of physicians, as described in PHL. Peer review is the cornerstone of the disciplinary process in New York State.

The Board has identified a need for increasing the diversity of its membership and the need for specific specialties. The Board would like to add female physicians and persons of color. We have also found Psychiatry to be a specialty that needs greater representation on the Board.

If you know of appropriate physicians within the specialty of Psychiatry whom you would recommend as a good candidate to serve on the Board of Professional Medical Conduct, would you please consult with them and forward their contact information to us? I have enclosed a Program Description, a list of Qualifications, and Service Requirements for your information in making a recommendation.

In addition to service as a Board Member, there are various other opportunities for physicians to participate in the peer review nature of the disciplinary process such as serving as experts to review the care of patients. Such experts are also needed in the specialty of Psychiatry.

If you would like to arrange for a presentation to your Society on the medical misconduct process, what one may experience during a complaint investigation, how to best avoid a misconduct finding, and opportunities for participation, please let me know.

Thank you for your help in improving the Board for Professional Medical Conduct, and the disciplinary process for all patients and physicians in NYS. Should you have any questions, you may contact me at 518-402-6718.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael S. Jakubowski". The signature is written in a cursive style with a large initial "M" and a stylized "S".

Michael S. Jakubowski, M.D.
Interim Executive Secretary
Board for Professional Medical Conduct
Riverview Center
150 Broadway, Suite 354
Albany, NY 12204-2719
518-402-6718

PROGRAM DESCRIPTION

BOARD FOR PROFESSIONAL MEDICAL CONDUCT

The Board for Professional Medical Conduct was created by the New York State Legislature in 1975 and serves as a key resource in the state's disciplinary oversight of physicians, physician assistants and specialist assistants.

The Board serves as a key component in the State's disciplinary process. The Board's objective is to ensure that the physician disciplinary structure is qualitatively sound and that it is fair and effective to both physicians and the public. Physician members are appointed by the Commissioner of Health with recommendations for membership received largely from medical and professional societies. The Commissioner of Health, with approval of the Governor, appoints lay members of the Board. By law, the Board of Regents appoints 20 percent of the Board's membership.

In disciplinary matters, Board members serve on committees of two physicians and one non-physician as appointed by the Board chair. Disciplinary committees include investigation, hearing and direct referral committees. The Administrative Review Board (ARB) is a standing appeals committee consisting of three physicians and two lay members. Board members also serve on a variety of committees as appointed by the Board chair to address procedural and emerging policy issues.

The roles of the Board and OPMC are delineated in Public Health Law Section 230. The definitions of misconduct are found in Sections 6530 and 6531 of the Education Law.

A Physician Candidate must:

- 1 Be a New York State Resident,**
- 2 Be Board Certified in their Profession, and**
- 3 Be Licensed in New York State for at least Five Years.**

Members of the Board for Professional Medical Conduct (Board) are required to render at least *15 days of service over a three-year period*. Members are provided an honorarium of \$150 per day for each day of service and expenses are reimbursed, subject to state restrictions. These days may be for service on:

- Investigation Committees
- Hearing Committees
- Direct Referral Hearing Committees
- Other chair appointed committee meetings.

In addition, members are required to:

- Complete a New Member Orientation
- Observe two Investigation Committee meetings prior to serving on a committee.
- Participate in two Investigation Committee meetings and two Direct Referral Proceedings prior to serving on a hearing committee.
- Attend an annual Board training session.



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Spring 2021 AREA II COUNCIL MEETING SCHEDULE AND AGENDA Saturday, March 20, 2021 Virtual Meeting

10:00 A.M.	Call to Order and Introductions
10:00 A.M.	Presentation of Minutes - Dr. Koss
10:05 A.M.	Treasurer's Report - Dr. Vito
10:10 A.M.	Budget Committee Report – Dr. Satloff
10:15 A.M.	NYSP-PAC – Dr. Gordon
10:20 A.M.	Chair's Report – Dr. Borenstein
10:35 A.M.	Remarks from Saul Levin, M.D., CEO and Medical Director, APA
10:50 A.M.	Results of 2021 NYSPA RFM Poster Contest
10:55 A.M.	Remarks from Ann Sullivan, M.D., Commissioner, OMH
11:10 A.M.	Legislative Report – Mr. Gallo and Dr. Martin
11:25 A.M.	Executive Director's Report
11:40 A.M.	Vice President's Report – Dr. Herman
11:50 A.M.	Area II Trustee Report – Dr. Martin
12:00 P.M.	APA Update – Dr. Pender
12:15 P.M.	Action Papers
12:25 P.M.	Old Business/New Business
12:30 P.M.	Adjournment

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**Government Relations Office
123 State Street, Albany, N.Y. 12207 • (518) 465-3545**

**ALBANY REPORT FOR EXECUTIVE COMMITTEE MEETING
TUESDAY, FEBRUARY 16, 2021**

GLENN MARTIN, M.D., CHAIR OF COMMITTEE ON LEGISLATION

Prepared by:
Richard J. Gallo
Karin Carreau
Jamie Papapetros

I. UPDATE ON GOVERNOR'S EXECUTIVE BUDGET PROPOSAL FY 2021-22

The preeminent focus of the Governor and Legislature continues to be the adoption of a state budget for FY 2021-22 along with renewed scrutiny on Governor Cuomo's handling of the COVID-19 pandemic in nursing homes following the release of the NY Attorney General's report. The report and developments have renewed focus and calls for repeal of Governor Cuomo's emergency powers.

In terms of the budget, we previously circulated a summary of the major elements of interest in the Governor's Executive budget proposal. At this stage in the process, the Senate and Assembly conducted ten joint hearings examining aspects of the budget related to environmental conservation, transportation, human services, mental hygiene, higher education, work force, housing, local government, elementary education, and public protection. The Senate and Assembly have three more hearings on the docket next week: health, economic development and taxes. The next step in the process is the revenue consensus forecast where the Executive, Senate and Assembly must reach an agreement on the expected revenue for the coming year. The Senate and Assembly will release their one-house budget proposals in mid-March staking out areas where they agree or disagree with the Executive budget proposal setting forth budget negotiations in earnest ahead of the April 1 deadline.

In terms of advocacy on the budget, NYSPA has done the following:

- Prepared and sent a letter opposing repeal of prescriber prevails under Medicaid Fee for Service and Medicaid Managed Care, co-signed by 11 statewide medical specialty societies and MSSNY.
- Signed onto letter with MSSNY and medical specialty societies opposing changes to the Excess Medical Malpractice Program.
- Signed onto letter with MSSNY and medical specialty societies opposing OPMC proposal.
- Signed onto letter expressing concern with telehealth proposal.
- Advocated with MSSNY for an additional \$150,000 appropriation for the VMH-PCTI split between at the two organizations at \$75,000. We have had virtual meetings with Senator Brooks (D-Seaford), Chair of Senate Veterans, Homeland Security & Military Affairs Committee, Senator Brouk (D-Rochester), Chair of the Senate Mental Health Committee, and Assemblymember Gunther (D-Forestburgh), Chair of Assembly Mental Health Committee, and Senate Finance Staff, all of whom expressed enthusiastic support for the VMH-PCTI. Senator Brouk and Assemblymember Gunther have both written letters in support of the appropriation to Senate and Assembly leadership.
- Prepared letter to be sent to OMH Commissioner on the proposed changes to Article 9 of the Mental Hygiene Law recommending the language align with what appears on the form for CPEP and emergency admission.

On Monday, February 15, 2021, Governor Cuomo indicated he would be submitting 30-day amendments to his Executive Budget to include changes the proposal legalized adult use cannabis and package related to nursing homes with particular emphasis on "for profit nursing homes."

With regard to the proposal to legalize adult use cannabis, Governor Cuomo released issued a press release today (February 16, 2021) outlining the 30-day amendments as follows:

- \$100 Million Cannabis Social Equity Fund – The 30-day amendments provide parameters on how funds will be allocated noting qualified community-based organizations and local governments will be eligible to apply for funding to support a variety of “community revitalization efforts” including: Job placement and skills services, adult education, mental health treatment, substance use disorder treatment, Housing, Financial literacy, Community banking, Nutrition services, Services to address adverse childhood experiences, Afterschool and child care services, system navigation services, Legal services to address barriers to reentry, and Linkages to medical care, women's health services and other community-based supportive services. Pursuant to a provision in the 30-day amendments, the Department of State will be in charge of allocating the fund in the form of grants administered by the Empire State Development Corporate contingent upon approval from Division of Budget.
- Permit use of delivery services while providing local governments the opportunity to opt out from delivery services occurring within their jurisdiction.
- Lowering of certain criminal penalties:
 - Criminal sale in the third degree (sale to under 21 year old) will be made a class A misdemeanor
 - Criminal sale in the second degree (sale of over 16 ounces or 80 grams of concentrate) will be made a class E felony
 - Criminal sale in the first degree (sale of over 64 ounces or 320 grams of concentrate) will be made a class D felony

II. LEGISLATIVE SESSION

The Legislature is not in session this week. There are growing calls from some members of the Legislature to return to session to remove the Governor Cuomo’s emergency powers amid the ongoing fallout from the recent NY Attorney General report on nursing homes and recent reports in the press.

III. CHAPTER AMENDMENTS

The Senate and Assembly have passed several chapter amendments for laws signed in 2020 per an agreement with the Legislature. Among them:

- A1250 (Gunther)/S1301 (Brouk) – This is the agreed upon chapter amendment for last year’s bill that would have established a Frontline Workers Trauma Informed Care Advisory Council. The chapter amendment directs OMH to establish a work group that already exists can augmented. The work group is tasked with preparing an interim report by March 1, 2021 and final report by December 1, 2021. The representation on the work group will include: the state conference of local mental hygiene directors, behavioral health advocacy organizations, health care provider organizations, employee organizations representing nurses and other frontline workers, human service providers, law enforcement agencies, and individuals with expertise in fields of discipline related to trauma informed care. **STATUS: *The bill (A1250) passed both houses and was signed into law today as Chapter 33 of the Laws of 2021.***
- A1941 (Walker)/S861 (Sepulveda) – This is the agreed upon chapter amendment to authorize the NYC Board of Correction to access medical and psychiatric records of deceased inmates, which is similar to the authorization provided to the New York State Commission of Correction. **STATUS: *The bill (A1941) passed both houses and was signed into law as Chapter 36 of the Laws of 2021.***

IV. LEGISLATION UPDATE

As of today (Monday, February 15, 2021), more than 9,600 bills have been introduced. Many of these bills are re-introduced perennial bills:

- **S560 (HARCKHAM)/A3205 (MCDONALD)** – Authorizes psychologists to prescribe. **STATUS: *The bills are in the Senate and Assembly Higher Education Committees.***
- **S2103 (SEPULVEDA)** – Use of psychotropic medications in nursing homes – Under this bill, a health care professional cannot order or increase an order for a psychotropic medication for a patient unless the health care professional has obtained the written informed consent of the patient or the patient’s lawful representative. The bill outlines the disclosures that must be given as part of the consent. The bill does contain a section where consent would not be required “where it is reasonably necessary in an emergency to protect the life, health or safety of the patient or another

person.” The bill authorizes the DOH Commissioner to promulgate regulations. NYSPA has opposed the bill in the past and will continue to do so. **STATUS: The bill is in the Senate Health Committee.**

- **A4697 (BRONSON)/S4814 (BROUK)** – In response to recent incidents involving the Rochester Police Department, local Senator Brouk and Assemblymember Bronson have introduced a bill known as Daniel’s Law, which would establish a NYS statewide mental health response council and up to 18 regional councils and regional response units for overseeing responses to mental health emergencies. **STATUS: The bills are in the Senate and Assembly Mental Health Committees.**
- **TELEHEALTH** – Separate from the Executive budget proposal, the introduction of legislation in the Assembly on telehealth is pending. NYSPA has been engaged with MSSNY and medical specialty societies on the issue to assure it addresses the key issues including preserving audio-only.

V. ORGANIZING VIRTUAL MEETINGS WITH SENATORS & ASSEMBLY MEMBERS FOR NYSPA DISTRICT BRANCHES

Last year, a letter was sent to district branch presidents and LRs with a copy to executive staff for help in building relationships at the local level between District Branch leadership and representatives in the New York State Legislature. The plan, as envisioned, would be for each district branch to convene a small group of psychiatrists, who live or work in a legislator’s district to schedule a meeting with such legislator(s) on topics of concern to our profession. Given COVID-19, the plan has been modified to envision virtual meetings this year. As a next step, NYSPA’s Government Relations Office will prepare and send an invite letter to DBs to confirm interest in 2021.

NYSPA’s Government Relations office will assist in this endeavor by identifying district office scheduling personnel; working on discussion topics with district branch members or staff via conference calls; preparing biographical and key interest information about legislators to be visited; and helping to coordinate virtual meeting dates and times.

VI. RECENT ACTIVITIES

New York County’s Legislative District Branch held a virtual legislative forum on February 4, 2021 hosted in conjunction with New York County Medical Society and The New York Council on Child & Adolescent Psychiatry. We provided the DB with materials in advance, including list of key issues for 2021, and are now awaiting feedback on how the event went.

VII. NYSPA’S VMH-PCTI

NYSPA’s VMH-PCTI is hard at work. Here are the developments since the last report to the Executive Committee:

- The Clinical Importance of Understanding Modern Day Women Veteran Issues presentation developed by Ms. Mobbs is scheduled to be recorded on February 26. Once finalized, it will be housed on NYSPA’s website.
- The military culture presentation was recorded and is under review for final edits with the expectation it will be posted to NYSPA’s website shortly.
- NYSPA is contracting with Ms. Aynisa Leonardo to assist with coordinating and planning for NYSPA’s VMH-PCTI. Ms. Leonardo is a licensed creative arts therapist, Director of Military Services for Long Island Recovery Center as well as the Founder and Director of Clinical Development for Military Resilience Project with training and expertise in the development and coordination of trainings and conferences on combat-related mental health and substance use disorders and on military cultural competency for community mental health providers as well as health and mental health providers and the community at large.

VIII. COVID-19 UPDATES

The Numbers (2/14/21):

- Overall Statewide Positivity: 3.53%
- Test Results Reported: 180,504
- Statewide Deaths: 103
- Statewide Hospitalizations: 6,623 (+30)
- Statewide ICU: 1,270 (-15).
- Statewide Intubations: 875 (-6).

Variants of Interest

- There is a patient in a New York City hospital who has tested positive for the South African variant.
- The patient was transferred from Connecticut directly to New York City hospital (not a NY resident).
- There is NO evidence of any spread in New York State to date.

Vaccine Update

- 3,206,914 vaccinations overall statewide distributed and 2,199,688 people received their first dose and 1,007,226 received their second dose
- Over 1 million New Yorkers fully vaccinated – receiving dose 1 and dose 2.

COVID-19 Regulatory Updates:

- DFS extended the emergency regulation requiring NY health insurers to waive out-of-pocket costs, including cost-sharing, deductibles, copays and coinsurance, for in-network mental health services for New York's frontline essential workers until March 26, 2021. Per DFS' website, the notice of this extension was published in the February 10, 2021 edition of the *NYS Register*.

IX. OTHER NEWS

- Robert Kent, Esq. former general counsel of the New York State Office of Addiction Services and supports, has been appointed General Counsel to the White House Office of National Drug Policy in President Biden's administration. We have prepared an E-bulletin for NYSPA to send out highlight NYSPA work with Mr. Kent over the years to advance implementation of the federal and New York State's mental health and substance use disorders including the passage, enactment and implementation of the historic Behavioral Health Insurance Parity Reforms (BHIPR) in 2019-20. NYSPA has prepared an E-Bulletin to announce the appointment.
- MSSNY News - After an extensive nationwide search, MSSNY has announced a new Executive Vice President, Troy Oechsner, JD, effective March 1. Mr. Oechsner is a Cum Laude graduate of the State University of New York at Buffalo Law School who was most recently working as partner at the law firm Manatt Phelps & Phillips, LLP. Mr. Oechsner is a former Deputy Superintendent of Health Insurance for the New York State Department of Financial Services and played an instrumental role in New York's landmark Surprise Medical Billing Law. Mr. Oechsner plans to prioritize membership expansion and non-dues revenue.
- Date of MSSNY's Virtual Lobby Day – Tuesday, March 2. To register, [click here](#). The format will follow previous years formats, where assembled physicians and allies will hear from legislative leaders in the morning (this year via Zoom), and then have virtual visits with their respective legislators in the afternoon.