THE BULLETIN

NEW YORK STATE PSYCHIATRIC ASSOCIATION

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

By C. Deborah Cross, M.D.

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As I write this column in early January 2007, I am reminded of the task that January brings to each of us—to look back and to look forward. We, as New York State psychiatrists, have a lot to look back on in 2006 with great pride. The passage of Timothy's Law was an incredible achievement for all New Yorkers. It is not a perfect piece of legislation (that remains for 2007), but for the first time we can stand up and say that New York recognizes the right of all people in this state to have equal access to treatment for mental illness. And the reason we now have Timothy's Law is that all of you, and thousands of other New Yorkers, made their voices heard in Albany.

On a national level, 2006 also gave us many opportunities and achievements. For 2007 we have a Congress that appears to be open to hearing our concerns about numerous issues affecting us, our profession and our patients; everything from Medicare reimbursement, Medicare Part D, funding for research, use of health information technology, physician shortage issues for child and geriatric psychiatry and many more.

As we move forward, our agenda is large. On advocacy issues in both the national and state arenas, NYSPA is extremely fortunate to have as our Chair of the Legislative Committee, our past President, Barry Perlman. He is also the Chair of the APA's Government Relations Committee. He, along with Richard Gallo, our long-time lobbyist, and Seth Stein, our Executive Director, are extremely effective at championing NYSPA's interests. I must take just a minute to encourage each of you to make a commitment to join NYSPA's PAC this year. This organization is crucial to our continued efforts in Albany. And let's be very clear, the advocacy issues are crucial to all of us: we must continue to advocate for our patients so that all patients, including those in prisons and jails, get the mental health care they need—and that means continuing our fight to have realistic legislation for sexually violent predators, and protection of prisoners with mental illness from restrictive solitary confinement. Other issues include access to care for patients (adults and children) who need admission to hospitals (for both acute and long term care), appropriate reimbursement for psychiatrists for services provided (without unnecessary micromanaging by payers), and revisiting Timothy's Law so that substance abuse services are also recognized and reimbursed appropriately.

Psychiatrists in New York State are actively involved in the Medical Society of the State of New York (MSSNY), and several NYSPA members are Delegates to the MSSNY House of Delegates, which is extremely important when we try to negotiate political issues in Albany. Working in tandem with our fellow physicians we are much more effective in our shared legislative goals. This is also true at the national level, and a former Speaker of the APA Assembly, Jeremy Lazarus, M.D., is currently Vice Speaker of the AMA House of Delegates!

NYSPA has approximately 4000 psychiatrist members, with 13 District Branches. However, there are approximately another 2000 psychiatrists in New York State who are not members of NYSPA! These psychiatrists must join! And you, as members, need to reach out individually to encourage your colleagues to join. NYSPA will soon be starting a joint campaign, with the APA and your District Branch, to contact these non-members and urge them to join. However, we all know that the one thing that makes the difference is individual contact! I urge each and every one of you to make it your resolution this year to talk to a non-member about

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Timothy's Law is the Law!!!

By Richard Gallo, Esq.

Governor Pataki signing Timothy's Law.

On December 22nd, following a week-long vigil outside the Governor's office on the 2nd floor of the Capitol, the Albany-based core members of the Timothy's Law Campaign, were invited into the "Red Room" -- a grand parlor adjacent the Governor's personal office -- to witness the signing of Timothy's Law. Already in place were a dozen or so TV news cameras, numerous newspaper photographers and a host of media reporters.

First, there were the speeches from the Governor, the Senate Majority Leader and other officials extolling the courage and determination of Timothy's family, the hard work and tenacity of the advocacy community, the leadership of the bill's sponsors and the merits of the legislation itself.

"Timothy's Law is an important step to ensure that mental-health services are accessible to all individuals and families, so that they can receive beneficial assistance and treatment for mental illnesses," said Governor Pataki. "It is vital that our society take care of those in need, especially our most vulnerable children. Insurance coverage serves as a safety net and with this new law, we have extended this protection to children and families across the State." Pataki said.

Although the various speeches sounded surprisingly familiar, as they echoed the many presentations and narratives penned by the TLC, it was still a thrill for some of us there to have lived long enough to actually hear the words spoken in the context of the occasion.

Next Step

Implementation of Timothy's Law will be somewhat rocky for awhile because the bill was finalized with the expectation it would pass the Legislature last June. Hence, the "effective date," January 1, 2007, was established to give insurers time to make the necessary adjustments to their policies and practices, as well as to comply with certain filing obligations required under the State's Public Health and Insurance laws. The insurance industry and HMOs are seeking legislation to change the effective date of the new law to July 1, 2007. We believe the health plans can muddle through without tampering with the effective date. However, we are none-theless engaging in discussions with all concerned to find a suitable means of holding insurers harmless for late filings and the like, while assuring that there are no delays in the coverage provided by the law, effective January 1, 2007. One alternative being con-

[See **Albany Report** on page 2]

Drop in 2007 Medicare Fees

By Seth P. Stein, Esq.

New Coding Options for Psychiatrists

NY Law Mandates Health Plans Permit Physicians to Use All CPT Codes

Psychiatrists in New York and across the country are reviewing their options in light of the significant decreases in Medicare fees for 2007. The NYSPA Medicare 2007 Update mailed out to all members in January, 2007, focuses on Medicare reimbursement changes and describes an alternative approach to coding and documentation of inpatient and office psychiatric services that may provide a solution.

As part of the five year review of the relative value units assigned to all 7,700 CPT[1] codes, CMS implemented a substantial increase in the RVU for 35 evaluation and management codes (99xxx). However, due to the statutory requirement for budget neutrality, CMS was compelled to offset the cost of the RVU enhancements for the 35 E/M codes by implementing a 10% reduction in the RVU value for all CPT codes.

The effect of this process was that the Medicare fee for every CPT code (except for the 35 E/M codes selected for an increase) was reduced while at the same time the fee for the 35 selected E/M codes increased or suffered no decrease. Psychiatric fees (908xx) decreased by 7-9%.

Key E/M codes for hospital visits (99232 & 99233) and office visits (99214 & 99215) for established patients now yield substantially higher reimbursement than comparable psychiatric codes (90862, 90807, 90805). These decreases were moderated, but not eliminated, when Congress acted at the end of 2006 to prevent a 5% reduction in the Medicare conversion factor. Without Congressional action, Medicare fees would have dropped by an additional 5%.

The Medicare 2007 Update focuses on the impact of significant enhancements in reimbursement for the 35 E/M codes and recommendations on how psychiatrists can use these enhanced E/M codes instead of psychiatry codes. Use of these enhanced Evaluation & Management codes requires familiarity with CPT coding and documentation requirements and the special rules regarding providing counseling and/or coordination of care as the primary Evaluation & Management service.

Psychiatrists have typically been reluctant to use E/M for regular hospital and office visit services because of uncertainty regarding the rules for billing for the higher level E/M codes. Normally, under CPT, in order to bill for each successive higher level E&M code in a specific series (e.g., office visit for an established patient 99211-99215), a physician must document that the higher level of service in question involved a higher level of history obtained, examination performed, and the complexity of medical decision-making. The time values assigned to E/M codes in CPT are included only as a guidance, but never as the basis for selecting the proper level of E/M code for billing purposes.

However, there is one exception where the level of E/M code for billing purposes is determined solely by the duration of the service provided and without regard to the intensity or complexity of the patient's psychiatric problem. CPT provides that:

"When counseling and/or coordination of care dominates (more than 50%) the physician/patient and/or family encounter (face-to-face in the office or other outpatient setting or floor/unit time in the hospital or nursing facility), the time may be considered the key or controlling factor to quality for a

[See **Medicare** on page 4]

[1] CPT 2007 is a publication of the American Medical Association. CPT 2007 can be purchased from the AMA at www.amapress.com or by calling 1-800-621-8335

Legislative Brunches

By Rachel A. Fernbach, Esq.

The New York City District Branches of the APA hosted their Eighth Annual Citywide Legislative Breakfast on December 3, 2006, at The New York Academy of Medicine in New York, New York. One week later, the Psychiatric Society of Westchester hosted its 20th Annual Legislative Brunch on December 10, 2006, at the Crowne Plaza Hotel in White Plains, New York.

Both events focused on hot topics currently facing New York psychiatrists, including Timothy's Law - the mental health mandate bill, proposed legislation regarding civil confinement for sexually violent predators (SVPs), the recommendations of the Commission on Health Care Facilities in the 21st Century, often referred to as the "Berger Commission" and Medicare Part D. As reported earlier in this issue of the Bulletin, following the two legislative events, Timothy's Law was signed into law by New York Governor George E. Pataki on December 22, 2006.

Barry Perlman, M.D., NYSPA Past-President and current Chair of the Committee on Legislation, spoke at both events and provided a highlight of NYSPA's position on several pending legislative issues, including Timothy's Law, the Berger Commission and SVP legislation. He recognized Assemblyman Peter Grannis (D-Manhattan) for his pivotal role in the compromise reached between the Senate and the Assembly on Timothy's Law. Dr. Perlman

Congresswoman Carolyn Maloney in NYC.

also noted that NYSPA supports the adoption of the Berger Commission Report because many of its concerns regarding the mental health system in New York were adequately addressed. Finally, Dr. Perlman spoke passionately about NYSPA's opposition to the proposed SVP legislation because of its use of the mental health system to address a problem in the criminal justice system. He cited examples of foreign governments that utilize mental health diagnoses and treatments for political reasons and urged the legislators present not to allow similar injustices to happen in New York.

The New York City event was moderated by Vivian Pender, M.D., New York County District Branch Representative and was attended by Congresswoman Carolyn Maloney (D-Astoria) and Assembly members Peter Grannis (D-Manhattan), Richard

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

I am pleased that the lead headline of the Bulletin is "Timothy's Law is the Law." I am proud to be an active member of NYSPA which has worked for years along with other advocates for equality of benefits for mental health treatment. This law is a major step forward in improving access to care and decreasing stigma.


Jeffrey Borenstein, M.D.

We also cover other legislative issues, with a report on the Legislative Brunches in NYC and Westchester, as well as an article about the issue of civil commitment for sexually violent predators. The President's Message focuses on advocacy and participation in NYSPA and APA. The Area II Trustee report provides an update on a number of national APA issues.

In addition, we report on Medicare fees, including a significant decrease for 2007 as well as information about the use of E/M Codes. Finally, we have initiated a new feature: the NYSPA Interview. In this edition, our Assistant Editor, Rachel Fernbach Esq., interviews Suzanne Vogel-Scibilia, M.D., the President of the Board of Trustees of NAMI. ■

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joining the APA—and don't give up after one contact!

And if **you** are not active in your District Branch, you need to call them and ask what you can do to get involved. NYSPA, as the umbrella organization for New York District Branches, also has a number of committees made up of members from the various DBs. We are always looking for interested and committed psychiatrists who want to make a difference! Challenges abound. I have just formed a Committee on Information Technology for NYSPA, chaired by Glenn Martin, NYSPA's Vice President, who is extremely expert in the field. He is looking for interested and knowledgeable members. IT is here for physicians and we must be involved in the initiation and implementation of the process.

A couple of years ago the APA started a 100% club for psychiatry residency programs—you see pictures of these groups as they are recognized in the APA Psychiatric News. A number of the New York residencies are members of the 100% club, meaning that all the residents are members of the APA. It is my goal that we have a 100% for all of New York State, with all the psychiatry residencies in NYS being 100% members each year! If you are a Residency Director, a Chairman of a Medical School or Director of a Psychiatric Service with a residency, I challenge you to bring your program into the 100% club. NYS has more residencies than any other state! We need to set the standard for the rest of the country. There are numerous issues that we in organized psychiatry need to focus on with our residents. We are extremely proud that the Chair of our MIT (Member in Training) Committee, Emily Stein, is also the national MIT Representative to the APA Assembly. She has an extremely challenging job since residents are short-timers in the role. Resident issues such as visa status, fellowship training, and loan forgiveness, are critical and NYSPA needs to focus on these for the future of our profession. I encourage all residents to become active in NYSPA. Contact us and let us know how we can help you as you begin your career.

One of the most visible benefits of NYSPA is the E-Bulletin! If you are "connected" to the Web, and we have your email address, you get our E-Bulletin. When action is needed in Albany, we let you know. (And this is what made the difference in Governor Pataki signing Timothy's Law!) When there is an issue affecting reimbursement by Medicare or Medicaid, you hear about it from NYSPA through the E-Bulletin. If you don't get the E-Bulletin send us your email address and we will put you on the list.

NYSPA is your professional home. Let us know what you want us to focus on and what your priorities are. I would urge each of you to take a moment and write down what you want to see happen this year that NYSPA can work on. Then send your list to us. Email me directly at deborahcross@usa.net, email NYSPA's office at centraloffice@nyspsych.org or write a letter to the Editor of The Bulletin, Jeff Borenstein, M.D. As we begin 2007, I know that together we can achieve momentous gains for our patients and our profession. ■

Albany Report continued from page 1

sidered is to establish a "grace period" for completing filing and notification requirements without penalties to insurers while, at the same time providing for the payment of covered services under the new law, retroactively, if necessary. Such a solution does not appear to require legislative action.

In the meantime, we are told the 2007-2008 Executive Budget Request will include approximately $90 Million in General Fund appropriations to cover the full cost of the 30/20 base benefit to all employers of 50 or less employees who provide group health insurance to their employees.

Without diminishing the Herculean accomplishment in enacting Timothy's Law, the last several years have constituted a long journey to the "starting-line." In order to gain the enactment of this legislation, many crucial elements to what is considered "full parity" had to be left to another day. Most notably, parity for chemical dependency, the addition of mental health and chemical dependency coverage in the "Healthy New York" plan, and the inclusion of a full array of diagnoses in the mandated parity coverage for employee groups of 50 or more, as well as, in the "subscriber option" applicable to employee groups of 50 or less.

Also, contemplated but not addressed specifically by the TLC in this go-round is the entire universe of managed health care. Mandating the right to more mental health benefits doesn't eliminate draconian utilization review practices; in fact, the added work load could make them even worse. So Phase II or perhaps II-A is the deployment of TLC energies toward legislation which levels the playing field between the consumer-provider community and managed health care entities. ■

Timothy's Law Provisions

These are the provisions of Timothy's Law, which took effect Jan. 1:

- Every person covered by group health insurance or a group HMO plan has a minimum of 20 outpatient visits for mental illness and 30 inpatient treatment days a year.
- The state will pick up the cost of providing the 20/30 benefit for businesses with 50 or fewer employees.
- The 20/30 benefit covers all diagnoses covered by the state employees health benefit plan which cover members of the Legislature and their families.
- Larger employers have to provide an additional layer of coverage. It includes unlimited treatment for adults with schizophrenia/psychotic disorders, major depression, bipolar disorder, obsessive-compulsive disorder, delusional disorders, panic disorder, bulimia and anorexia.

The level of coverage also applies to children under 18 for those illnesses plus "serious emotional disturbances," (SED) defined as attention deficit/hyperactivity disorders, disruptive behavior disorders and pervasive developmental disorders, where the child is at risk for suicide, serious self-destructive behavior, significant property damage or removal from the home.

- Smaller employers can opt into the expanded coverage.
- Deductibles and co-insurance for any covered mental health service must mirror those imposed for other benefits under the policy or plan. "Specialty co-payments" will apply where policies impose a different co-payment for specialty services.

The law does not affect utilization review requirements or out-of-network differentials, except that such differential must mirror those imposed on other covered illnesses in the policy. However, networks must demonstrate an adequate number of participating providers as will be necessary to accommodate the additional number of insured persons and added coverage.

- The law is in effect for three years. During that time, the state has to analyze the cost and effect of the law.
- The law does not affect coverage under the Child Health Plus, Family Health Plus or Healthy New York programs nor does it affect self-insurance plans which are exempt from state insurance law requirements by federal law (ERISA).

Ed Hornick Award Lecture to be given by Dr. Harold Koplewicz

The New York Academy of Medicine and the Society for Adolescent Psychiatry have selected Harold S. Koplewicz, M.D. as the recipient of the 2007 Ed Hornick Memorial Award. Dr. Koplewicz will speak on *"Understanding Adolescent Depression."* The lecture will be given Wednesday March 21, 2007 at the NY Academy of Medicine, at 103rd Street and Fifth Avenue. Although there is no charge for lecture or reception, pre-registration is mandatory. NYSPA members may register by calling Donald Morcone at the NY Academy of Medicine (212-822-7272) or online dmorcone@nyam.org. The reception with Dr. Koplewicz will be from 6 pm to 7:30 pm with the lecture from 7:30 pm to 8:30 pm. Discussion and questions will be until 9 pm.


Harold S. Koplewicz, M.D.

AREA II TRUSTEE'S REPORT By Ann Sullivan, M.D.

Ann Sullivan, M.D.

Happy 2007! Once again it has been my pleasure to serve you as Area 2 Trustee, and I would like to thank you for all your support !

2006 was a productive year for the APA! We increased membership slightly, balanced our budget with a surplus, launched a successful Healthy Minds Healthy Lives Campaign, took a strong stand against psychiatrists' direct participation in the interrogation of detainees, prevented several psychologist prescribing bills from passing, and helped our members and our patients deal with the complexities of Medicare D, to name a few accomplishments!! Thanks again for all your support!

For the last meeting of the year, the Board met in Arlington, Virginia at the national office December 9th and 10th 2006. Several work groups appointed by Dr.Ruiz at the start of his presidency reported on key initiatives such as access to care, parity, psychiatric needs in underserved areas and public affairs. The Board also heard from Dr.Thomas Insel, Director of the National Institute of Mental Health on the major research inititiatves and the struggles we need to face in the future!

Here are some of the highlights:

Key Work Groups

The Task Force to Develop a Strategic Plan to Address Psychiatric Needs in Underserved Areas presented an excellent report that can serve as a how to guide to increase psychiatric services in areas in need. The report outlines shortage areas in each state, provides valuable information on the use of telepsychiatry, how to access programs targeted at increasing availability in your state and lots of additional useful information! It can be accessed on our website and is definitely worth reading!

The Communications Work Group in coordination with the APA Office of Communications and the Committee on Public Affairs, presented a detailed strategy for rolling out a public affairs , media relations and marketing effort focused on the key issues affecting psychiatry today. Creative elements include a weekly podcast on timely issues, increased media training to district branches, extended online advertising on Google and Yahoo, etc. A key focus is to utilize the communication technology universe to our advantage!!

The Work Group on APA Relations with Commercial Entities chaired by Dr. William Carpenter charged the APA to develop an "over-arching" policy on this critical issue. They proposed that a group be appointed to establish such over-arching principles and policies, with a continual mechanism to monitor implementation and revise policy as necessary. Initial recommendations of the group included to markedly decrease branding outside the exhibit hall at the annual meeting, including awards, to establish a more informative method for disclosing conflict of interest, to develop methods of monitoring and enforcement , etc. The ongoing debate and critical discussions on this key issue need to be a priority for the APA, and our members.

Dr.Thomas Insel's Report

Dr. Insel described the 4 "P's" that he considers critical to the care we need to provide in the future and where we need to develop effective practices: PERSONALIZED care for each unique individual ; determine the PREDICTORS of illness and the response to those predictors; PREEMPTIVE treatments that get to the illness early and effectively and PARTICIPATORY treatment with the patient and family. Some key areas he saw the NIMH addressing included the investigation of the causes and treatments of autism, the treatment of mentally ill in jails and prisons as well as how to prevent incarceration and the growing issue of psychiatric ethics in relationship to pharmaceutical and other development industries. He also emphasized the need for continued advocacy for increased research funding for the NIMH , as this is always in jeopardy in difficult budgetary times!!

Financial

The APA continues to be in good financial health! There is a projected "surplus" of approximately 3.7 million this year, which will be added to the reserves. While we are doing well, a truly stable organization should have about one year's operating expenses in reserves that can be utilized in leaner times. We are about 50% there, and the Board voted to continue to replenish the reserves until we reach 100%. The reserves will also be available as a "loan" for the development of the DSM-V which is expected to cost about 15 million dollars over the next several years. This should be repaid when the DSM-V is published.

The Board passed a balanced budget for 2007, that included an additional $300,000 to the communications budget to further expand its public affairs work and an additional $100,000 for initiatives for membership recruitment and retention, an additional $10,000 to the District Branch Grant fund. The total budget for Advocacy including Government Relations, Public Affairs and Healthcare Systems and Financing , totals $5.4 million dollars, significantly funding this key activity of the APA!

The Institute for Psychiatric Services did very well this year in New York City, coming in in the black with the highest attendance ever at 2,263 attendees!! I had the pleasure to attend and can attest to the high quality and relevance of the presentations to those of us who work in systems based care.

Advocacy

Dr. Ruiz convened a "NAMI SUMMIT" of the executive officers of NAMI and the APA to strategize in three key areas: Parity; Medicaid reimbursement at the Federal and State level; and care for our Veterans. The Summit developed mutual advocacy strategies at the state and federal level. Our District Branches and local state NAMIs also need to come together as one powerful force on these key issues!

The national APA working close with our District Branches in Hawaii, California and other states continues to defeat any additional states allowing psychologist prescribing. A particularly creative attempt to obtain psychologist prescribing privileges in the Virgin Islands was thwarted!! The more district branches can do to increase psychiatry access in underserved areas (as outlined in the task force report above) the more we will be able to prevent further psychologist prescribing.

Pay for Performance is coming, and the APA is working with CMS to develop reasonable measures for psychiatry. It is critical that we are at the table for these discussions, which will have a major impact on our practices.

Finally, the new Congress offers new hope and new challenges! We will continue to fight for parity, adequate Medicare and Medicaid reimbursement, patient privacy, and increased dollars for research!

DSMV

The DSM V development is progressing, with the full appointment of the Steering Committee chaired by Dr. Kupfer. Work groups are now being appointed to begin the hard work of reviewing the science base, developing work plans, etc. An important discussion at the Board was ensuring that appropriate time, effort and expertise was incorporated in such areas as culture, gender, ethnicity, race , age, sexual orientation , religion/spirituality, as well as a mix of researchers and clinical practitioners with a range of practice skills. The challenge is to incorporate a full range of science and experience in our diverse and fascinating field!

Policies and Positions

Finally , the Board passed a number of resolutions, actions, guidelines, including the following:

*Approved the Practice Guidelines for the Treatment of Patients with Alzheimer's Disease and other Dementias of Late Life

* Resolution to change the by-laws to provide the Speaker Elect with one vote on the Board of Trustees

* Approved the Assembly action opposing the action by the British National Association of Teachers that endorsed a boycott of individual's and institutions that do not publicly dissociate themselves from Israel's policies regarding the Palestinians. The Board agreed with the Assembly that this was a serious breach of the basic principles of academic freedom and that it was important to clearly state our opposition.

* Passed a statement opposing the appointment of Dr. Eric Keroack as the Director of Family Planning for the US Department of Health and Human Services. Dr. Keroack will be responsible for the funding that provides access to birth control options for low income women. Dr.Keroack is an anti-contraceptive advocate who has made the claim that multiple sexual partners hurt a woman's ability to bond by altering brain chemistry. The board considered his appointment a poor choice, lacking in the balance needed to fairly direct a national family planning program.

*Added heartfelt board approval to the Assembly Resolution in appreciation and support of our Uniformed Services Psychiatrists, and their work on behalf of our Armed Forces and their families!

My new e-mail address is sullivaa@nychhc.org and telephone # 718-334-1141.

Once again, my wishes to you and your loved ones for a happy, healthy and peaceful New Year!! ■

NYSPA INTERVIEW: SUZANNE VOGEL-SCIBILIA, M.D. By Rachel A. Fernbach, Esq.

Suzanne Vogel-Scibilia, M.D., a practicing clinical psychiatrist, currently serves as President of the Board of Directors of the National Alliance on Mental Illness ("NAMI"). NAMI is the largest grassroots mental health organization in the United States, providing advocacy, public education and support to individuals with mental illness and their families. NAMI has 1,100 affiliates in the United States and over 200,000 members. Dr. Vogel-Scibilia has served on NAMI's board since 2001 and has been President since 2005. She also served for six years on the NAMI-Pennsylvania Board of Directors and is Co-Chair of the annual NAMI-Pennsylvania Walk She is active in her local NAMI chapter and speaks frequently throughout the country on a variety of topics relating to mental health.

Dr. Vogel-Scibilia founded and operates an independent mental health clinic in Western Pennsylvania. She is also a clinical assistant professor at Western Psychiatric Institute and Clinic in Pittsburgh, PA, and serves on the faculty of two community hospitals. She attended Johns Hopkins University and the University of Pittsburgh School of Medicine and completed her residency at Western Psychiatric Institute and Clinic where she was a Laughlin Awardee for her teaching and public service. Dr. Vogel-Scibilia lives in Beaver, Pennsylvania, with her husband, James Scibilia, M.D., and their five children.

Notably, Dr. Vogel-Scibilia is also a patient, having been diagnosed with bipolar disorder at the age of fifteen. She has spoken openly about her own experiences with mental illness as well as about her successful recovery. As reported in Psychiatric News, while speaking at the APA's 58th Institute on Psychiatric Services in New York in October, 2006, she said "I am probably the first NAMI president to wear three hats." In addition to being a clinician and a patient herself, Dr. Vogel-Scibilia is also the mother of children with mental illness.

Suzanne Vogel-Scibilia, M.D

Dr. Vogel-Scibilia spoke at the November, 2006, meeting of the APA Assembly of District Branches in Washington, D.C., where she called for greater collaboration between NAMI and the APA, citing the two organizations' shared interests and constituencies. Many APA members are also "NAMI doctors," physicians whose primary clinical focus is treating patients with serious and persistent mental illness.

NYSPA sat down with Dr. Vogel-Scibilia at the J.W. Marriott Hotel in Washington, D.C., on November 5, 2006, to discuss NAMI's work as well as her own views on mental illness and psychiatry. Her varied background and experiences offer a unique and relevant perspective to Bulletin readers.

Editor's Note: *The NYSPA INTERVIEW will be a new regular column in the Bulletin, featuring interviews with psychiatrists, state and national officials and other leaders in the field of psychiatry and mental health.*

NYSPA: How did you first get involved with NAMI?

DR. VOGEL-SCIBILIA: I first became a member of NAMI when I was teaching at Western Psychiatric Institute and Clinic. After that, I was invited to speak at the NAMI Beaver County chapter and then got more involved with NAMI on a local level. I also served on the NAMI Southwest Pennsylvania Regional Board. In 1996, I attended a meeting of the American Psychiatric Association in New York as a NAMI Exemplary Psychiatrist, a psychiatrist recognized by NAMI for significant work on behalf of persons with mental illness. During the meeting, a colleague told me the news of a fellow psychiatrist who had completed suicide. The colleague said "If you are a psychiatrist living in a rural area and you get sick, who are you going to turn to? He was a really nice guy and he died alone." This information affected me powerfully. I began thinking more and more about the strong stigma and discrimination in society towards people with mental illness and how often it is a topic that is not discussed. In addition, there are so many negative images and terrible stereotypes portrayed in the media. At that point, I decided to get more involved and started giving talks at NAMI National and was elected to the NAMI-Pennsylvania Board of Directors. Then, I was elected to the NAMI National Board and became active on various committees.

NYSPA: What is the role of psychiatrists within NAMI and how can we increase psychiatrist involvement with NAMI?

DR. VOGEL-SCIBILIA: There is significant representation by psychiatrists in NAMI. There are three psychiatrists currently serving on the NAMI Board of Directors, which is made up of 16 individuals. Physicians are welcome to join NAMI in the "provider" membership category. There are many member psychiatrists who also classify themselves as consumers, family members or friends. Like myself, most people who join NAMI wear more than one hat – consumer, family member, friend and/or provider. NAMI is currently conducting surveys to find out exactly how many categories members feel they fit into.

NYSPA: Back in 2001, you participated in an APA panel discussion about stigma within the medical profession towards physicians and psychiatrists who have mental illness. Do you think this stigma, or perceived stigma, among the medical profession is different from stigma among the general population?

DR. VOGEL-SCIBILIA: I think stigma is worse among the medical profession. When I first decided to speak openly about my

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Gottfried (D-Manhattan), and James Brennan (D-Brooklyn). Lloyd Sederer, M.D., Executive Deputy Commissioner for Mental Hygiene Services for the New York City Department of Health and Mental Hygiene, and Hosani Pratts, Chief of Staff for Assemblyman Karim Camara (D-Brooklyn), also attended the event.

The legislators at the New York City event echoed many of Dr. Perlman's sentiments. Congresswoman Carolyn Maloney stated that one of the top priorities of the newly-elected Congress and the new administration will be mental health parity. She also spoke at length about many of the challenges still present in the Medicare Part D Prescription Drug Program and about solutions for improving access and coverage for persons with mental illness.

Assembly members Sandy Galef and Adam Bradley.

Assemblyman Peter Grannis stated that he agrees with NYSPA's opposition to proposed SVP legislation and would instead favor a more moderate, nuanced approach to dealing with the issue. He also spoke in favor of a bill to ban solitary confinement of prisoners with mental illness and a bill to eliminate waiting lists for housing for the mentally ill. Finally, Assemblyman Grannis noted that he expects the Assembly to pass Timothy's Law when it re-convenes in Albany on December 13, 2006.

Assemblyman Peter Grannis

Assemblyman Richard Gottfried opened his remarks by congratulating the New York City District Branches on another successful event and stated, "This brunch every year is probably about the most substantive, wide-ranging, thoughtful discussion that we [as legislators] are all called upon to participate in." He also discussed the Report of the Berger Commission, which poses a local concern for his constituents because of the possible closing of St. Clare's Hospital and Health Center, located in his Assembly district. Assemblyman Gottfried reported that the Assembly plans to hold public hearings about the recommendations of the Berger Commission during the month of December.

Assemblyman Richard Gottfried

Lloyd Sederer, M.D., Executive Deputy Commissioner for Mental Hygiene Services, discussed some Department initiatives, including increased use of the supportive housing program, a demonstration project to assist individuals who are classified as Medicaid mental health high users, and a new grant program for services for substance abuse high users.

Lloyd Sederer, M.D.

The New York City event concluded with remarks from Assemblyman James Brennan, who expressed his desire for improvements in managed care for persons with mental illness. Assemblyman Brennan also noted that he supports re-regulation of HMOs as a tool for improving the balance between provision of services to beneficiaries and opportunities for utilization review by the carrier.

The following week, at the Westchester event, members had the opportunity to hear from Assembly members Sandy Galef (D-Ossining) and Adam Bradley (D-White Plains), who addressed many similar issues. The event was moderated by Anna Dolan, M.D., Legislative Representative for the Psychiatric Society of Westchester.

Assemblywoman Sandy Galef expressed her support for Timothy's Law and also stated that she supports NYSPA's position on the proposed SVP legislation. Regarding the Report of the Berger Commission, Assemblywoman Galef noted that one hospital in her district, Dobbs Ferry Hospital, has regrettably been recommended for closure.

Assemblyman Adam Bradley also expressed support for Timothy's Law and remarked that he wishes the law could go even further towards providing full mental health parity. He also expressed his opposition to the current version of SVP legislation, particularly because there is no provision requiring mental health treatment during incarceration. He believes that mental health treatment should be included as part of sentencing for individuals who commit sexually violent crimes.

Assemblyman James Brennan

The Westchester event concluded with remarks from Anna Dolan, M.D., Legislative Representative, who discussed health care finance issues and the fiscal problems facing healthcare in New York and across the nation. ■

Dr. Perlman's Remarks at Legislative Brunch

In prior election years we would have taken note of the results of the NYS and national, mid term elections, offered congratulations, and addressed our concerns for the coming sessions. Certainly, in our state and nationally the results portend important, possibly dramatic shifts of agendas.

However, never before in the time we have been sponsoring these legislative brunches has the NYS Legislature had such important matters to address before the end of the current session. Therefore, never before has the need for you to hear our perspective been so important.

First, let me say that NYSPA was gratified at the deal struck & reported between the 2 legislative chambers with respect to Timothy's Law, the New York State mental health parity bill. Since then the Senate has passed the bill. We expect that the deal will be honored and that the Assembly too will pass the agreed to bill upon its return, so that the legislation may be sent to the Governor. We were please to learn that Governor-elect Spitzer said he would sign such legislation if it came to him.

In passing it should be noted that since the election we've heard a lot about bipartisan cooperation in Washington. A federal parity bill would seem to us to be a good place to start as the president has expressed his interest and it has bipartisan sponsorship.

Second, the legislature will be debating the fate of the recommendations of the "Commission on Health Care Facilities in the Twenty-First Century", often referred to as the Berger Commission. Those recommendations became public this past week. The NYSPA joined with other mental health advocacy groups to raise concern about the potential danger which the finding might inadvertently pose to the state's public mental health system. We noted that while mental health & substance abuse services represented only 7 % of the monies expended by the article 28 hospitals, those same monies represented 37 % of the funds expended by OMH licensed facilities for mental health care. We were please to note that the Berger Commission's recommendations displayed great sensitivity to our concerns and seem not to have endangered the state's mental health system. While we take no specific position on the Commission's recommendations we can say that we do not oppose their adoption because concerns about the mental health system have been satisfactorily addressed. Indeed, we were pleased to note the following statement in the Report's Prologue: "Issues of the uninsured, mental health, and primary care development should be at the forefront of an ongoing reform agenda."

Next, let me turn my attention to the matter of the drive to civilly commit sexual predators to state psychiatric hospitals. NYSPA has been on record as adamantly opposing such legislation since 1998. We were dismayed to learn of the light prison sentences given those who committed these heinous crimes. We support sentences commensurate with the crime but vehemently oppose using the mental health system as a solution to the failure of the criminal justice system. Legislation proposed redefines psychiatric illness by its creation of the category of Sexually Violent Predator, a judicial finding contingent on the individual having committed a specific type of crime, and treating it as a mental illness for the purpose of legitimizing civil commitment under the mental hygiene laws. Such action further stigmatizes mental illness and endangers the fragile trust persons with mental illness have in the public health system by linking it to criminal activity and substituting the fig leaf of treatment as justification for incarceration in mental hospitals.

For psychiatrists such an abuse of the mental health system is a very big deal because more than most we are aware of the damage caused when the state resorts to using the mental health system and psychiatric diagnoses and treatments to accomplish political ends. Just this year a political dilemma was solved in Afghanistan when a man facing the death penalty for converting from Islam to Christianity was ultimately declared mentally ill and allowed to leave the country. In China a political dissident has been confined to a psychiatric hospital as having "delusions of grandeur, litigation mania, and conspicuously enhanced pathological will" since unfurling a banner critical of the Communist Party in 1992. This case reminds us of the widespread state abuse of psychiatric diagnoses, treatment, and mental hospitals in China and, in the past, in the Soviet Union to solve problems of a political nature not felt to be otherwise soluble. While our country and state should not be facilely compared to others which coopted their mental health systems to silence political dissidents, we ourselves are in danger addressing a criminal problem which has become a political flashpoint by wrongly resorting to a psychiatric solution.

Rather, as advocates of public safety, NYSPA supports dealing with the matter of sexual offenders by requiring appropriate sentences which include indefinite, mandatory parole, by creating within DOC, or a new agency, a system for continuing retention which could purchase "treatment services" from another vendor or OMH, by requiring evaluation of those convicted as sexual offenders at the time of imprisonment in order that they receive "treatment" while in prison, by requiring a program for intensive mandatory community monitoring and "treatment". NYSPA believes that any system created should include protection from liability for psychiatrists acting in good faith. It should also treat any costs incurred by such a program as a separate line in the budget lest it become an unstoppable competitor for community treatment funds necessary to the carrying out of the State's constitutional obligation of caring for those suffering with mentally illness

In summary, we oppose the proposed legislation meant to extend the incarceration of SVPs in mental hospitals under newly written civil commitment statutes. We ask you to resist the temptation of misusing NYS's mental health system in an expedient manner without full consideration of the consequences. We do not think thorough enough analysis and consideration can be given to solving this complex problem in the waning days of this legislative session and this administration.

As we have members of Congress present, I wish to mention one last issue impacting those with mental illness and our profession. At this moment psychiatric reimbursement is slated for significant cuts unless action is taken. For example, due to a number of technical factors, the reimbursement for an initial evaluation will drop by 18% on January 1. If such a drop stands the implications are clear. There will be diminished access of elderly needing psychiatric care, increasing numbers of psychiatrists will choose to opt out of the Medicare system, and at a time when policy leaders are calling for increased numbers to train in geriatric psychiatry the incentives will become increasing perverse to the stated goal. Action to halt the cuts is needed and needed quickly. ■

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particular level of E/M services. This includes time spent with parties who have assumed responsibility for the care of the patient or decision making whether or not they are family members (e.g., foster parents, person acting locum parentis, legal guardian). The extent of counseling and/or coordination of care must be documented in the medical record."

CPT defines counseling as follows:

" Counseling is a discussion with a patient and/or family concerning one or more of the following areas:

" Diagnostic results, impressions, and/or recommended diagnostic studies
" Prognosis
" Risks and benefits of management (treatment) options
" Instructions for management (treatment) and/or follow-up
" Importance of compliance with chosen management (treatment) options
" Risk factor reduction
" Patient and family education"

Although CPT considers "counseling" as separate and distinct from psychotherapy, psychiatrists typically include counseling (as defined in CPT) as part of their regular treatment - especially with patients in the hospital, but also in their offices and in the outpatient clinic. Many of the components of supportive psychotherapy may be considered as overlapping with counseling.

There is no explicit definition or elaboration of coordination of care in CPT. However, coordination of care would typically include interactions with family members, other physicians treating the patient, hospital staff including social worker, nurses, treatment team. The focus of coordination of care is typically management of patient's non-psychiatric medical problems, discharge planning, interaction with family members.

The key to using E/M codes by a psychiatrist is proper documentation. When a psychiatrist selects an E/M code based upon counseling and/or coordination of care, the ses-

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Fall 2006 Area II Council Meeting By Rachel A. Fernbach, Esq.

The New York State Psychiatric Association held its annual Fall Area II Council Meeting on Saturday, October 21, 2006, at The New York LaGuardia Airport Marriott in East Elmhurst, New York. C. Deborah Cross, M.D., NYSPA President, called the meeting to order and introduced several Council guests including Nada Stotland, M.D., APA Vice President, Jeffrey Akaka, M.D., Assembly Speaker-Elect and Ronald Burd, M.D., Assembly Recorder.

After the introductions, Dr. Cross presented the President's Report. She reported that the Assembly Executive Committee met in July, 2006 and discussed various issues, including the possibility of instituting electronic voting in the Assembly and whether the APA should have a definition of the term "psychiatrist." Dr. Cross also announced that NYSPA has formed a new Information Technology Committee, which will be chaired by Glenn Martin, M.D. The Committee will focus its attention on developments in electronic medical records, electronic prescribing and other similar issues affecting the practice of psychiatry. Dr. Cross invited nominations for committee membership from Area II district branches.

After the President's Report, other members of the Council provided reports. NYSPA Secretary Seeth Vivek, M.D., presented the minutes from the last Area II Council Meeting and NYSPA Treasurer Darvin Varon, M.D. presented the NYSPA financial reports. Next, Aaron Satloff, M.D., Chair of the Budget Committee, presented the proposed NYSPA budget for 2007. Dr. Satloff directed Council members' attention to the Committee's recommendation regarding consideration of a dues increase of $15 for General Members in 2008. The Budget Committee recommends that the Council take up consideration of a dues increase at its spring meetings in order to meet the deadline for changes in APA membership billing.

Edward Gordon, M.D., Chair of the NYSPA Political Action Committee ("PAC"), presented the PAC financial statement for January-October, 2006, and the list of contributors to date. Seth P. Stein, Esq., NYSPA Executive Director, added that during the past year, NYSPA representatives have visited approximately one-half of all the district branches in New York to speak to members and solicit PAC contributions. He stated that the visits have been quite successful and encouraged those district branches who have not yet invited a representative to contact him to schedule a visit.

Special Award to Barry Perlman, M.D.

Dr. Cross presented a plaque to Barry Perlman, M.D., in recognition of his service as NYSPA President and Area II Representative from 2002-2006. Dr. Perlman thanked the Council for its recognition.

Barry Perlman, M.D. with C. Deborah Cross, M.D.

Legislative Report

Richard Gallo, NYSPA Government Relations Advocate, and Barry Perlman, M.D., Chair of the Committee on Legislation, provided an update on NYSPA legislative activities. Mr. Gallo reported that the NYS Senate recently passed a version of Timothy's Law that had been agreed to by the Assembly and that the Assembly is expected to pass the bill when it reconvenes briefly following the November elections. If signed into law by Governor Pataki, the bill 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. The State will cover the cost of such coverage for all employers with less than 50 employees. In addition, the bill would require large employers only to provide, in addition to the 30/20 basic benefit, full coverage of certain serious mental illnesses for adults and children. Coinsurance and deductibles must mirror those imposed for other benefits in both large and small employer group plans.

Mr. Gallo reported on other open legislative issues. A bill seeking to end solitary confinement of inmates with severe mental illness was vetoed by the Governor, but is expected to be back on the agenda next year. Both the Assembly and the Senate passed a version of a sexually violent predator confinement bill, but weren't able to reach agreement on final bill language. Mr. Gallo expects this issue to be back on the agenda next year as well. The report of the Commission on Healthcare in the 21st Century will be reviewed by the Governor and the Legislature during the month of December, and if not rejected by the Legislature, will become law.

Dr. Perlman reported on federal legislative developments and the Medicare Part D prescription drug program, in particular. He expressed his gratitude to Richard Gallo for all his hard work in connection with the Senate's passage of Timothy's Law.

Executive Director's Report

Mr. Stein provided an update on the Medicare/Medicaid Crossover. He reported that the 2006/2007 crossover restoration payments for outpatient psychiatric services that are paid at 50% will not be made until the end of the fiscal year, but will be paid on a pro rata basis. All psychiatrists should submit claims to Medicaid during the fiscal year and the deadline for submission starts running the date the provider receives the Medicaid remittance.

Mr. Stein also reported on changes in the Medicare prescription drug program. Effective January 1, 2007, there will be many changes to the drug plan offerings in New York State. The list of benchmark plans have changed, formularies and offerings have changed and some dual eligibles may be reassigned to new plans. NYSPA will update the Part D portion of the NYSPA website to reflect all the 2007 changes.

Finally, Mr. Stein reported that CMS recently announced that it plans to enhance the work value of certain CPT evaluation and management (E & M) codes, which may present significant billing opportunities for psychiatrists. Each individual psychiatrist should review the available materials and their own circumstances to determine whether these codes are appropriate for the services they render. Ronald Burd, M.D., Assembly Recorder and Chair of the APA Committee on RBRVS, Codes and Reimbursements, also spoke about the new codes and offered additional suggestions and advice to members.

Area II Trustee's Report

Ann Sullivan, M.D., Area II Trustee to the APA Board of Directors, provided an update on APA activities. She reported that the Board is supporting a proposed pilot program that would permit board eligible pediatricians interested in training in child and adolescent psychiatry to complete their training in four years instead of five. Also, the APA Board has created a new task force on improving access to psychiatric services. Activities of the task force will include telepsychiatry initiatives, providing information on designated federal shortage areas, and sharing information on existing model programs.

Dr. Sullivan reported on a newly founded medical student organization called the Psychiatry Student Interest Group Network (Psych SIGN). Psych SIGN was formed with the support of the APA to foster the involvement, organization and implementation of psychiatry interest groups in medical schools nationwide and their website is located at www.psychsign.org. In addition, the APA has begun work on the development of the DSM V and has started the process for selecting the Steering Committee who will work on the project.

In connection with APA Finances, Dr. Sullivan reported there will be a $400,000 surplus in 2007 and that to date 40% of the annual operating budget has been placed into the reserve fund. In addition, the Board recently voted to increase by $10,000 the amount of honoraria offered to certain APA officers to compensate them for time spent on APA activities. At present, the APA President, APA President-Elect, Assembly Speaker and Speaker-Elect receive honoraria.

With respect to APA governance, Dr. Sullivan reported that the Board recently considered two proposed amendments to the APA bylaws. The Board approved a bylaw amendment that would grant the Speaker-Elect a vote on the Board. This amendment was also approved by the Assembly during its November, 2006, meeting in Washington, DC. The Board did not approve the second proposed bylaw amendment, which would have given the Immediate Past Speaker of the Assembly a seat and vote on the Board.

Committee Reports

The meeting was concluded with reports from the Chairs of the following NYSPA Committees: Committee on Economic Affairs, Committee on Addiction Psychiatry, NYSPA Bulletin, Committee on Public Affairs, Committee on Children and Adolescents, Early Career Psychiatrists Committee, Committee on Members-in-Training, Committee on DB Presidents and Presidents-Elect, Committee on Public Psychiatry, as well as a report from the MSSNY Committee on Psychiatric Medicine. ■

SVP Legislation and the Misuse of Psychiatry By Barry B. Perlman, M.D.

It was disappointing to hear Governor Spitzer call for the enactment of a civil confinement statute for sexually violent felons in his first State of the State Address, just as Governor Pataki had done before him. When governments resort to the use of their mental health systems to solve what otherwise appear to be insoluble political or criminal problems, persons with mental illness and the professionals who serve them are damaged. Psychiatrists recall with dismay the abuses of psychiatry which have occurred worldwide in recent decades. Most familiar to us have been the misuse of the mental health systems by the Soviet Union and China. Last year the government of Afghanistan made use of psychiatry to solve the dicey situation of a capital sentence of a Muslim convert to Christianity. Ultimately, the apostate was spared but forced from his country. This result was realized only by his being declared mentally ill. Likewise, the United States has looked to its mental health system to dodge awkward political situations. On the basis of a 5 to 4 Supreme Court decision, *Kansas v. Hendricks* (1997), 17 states passed laws which direct the civil confinement of persons convicted of having committed a sexually violent offense at the conclusion of their prison term. New York State, our state, now wishes to pass a similar law.

Professional psychiatric organizations, such as the APA and NYSPA, view such legal "hijacking" of the mental health system as an assault on the integrity and scientific basis of their profession. Looking through the dark lens of the Cold War it was easier for Americans to be critical of the Soviet Union's corruption of its psychiatric system to suppress political dissent than it for us today to self-critically note the misuse of the system in our country where those being effected are societal pariahs. The 1977 book, "Psychiatric Terror: How Soviet Psychiatry Is Used to Suppress Dissent", describes how the lack of strict medical criteria for the diagnosis of mental illness enabled the state to create alternate diagnostic schemes for the purpose justifying the commitment of political dissidents to special "hospitals" such as the infamous Serbsky Institute for Forensic Psychiatry. During that period *samizdat* (underground) publications were the vehicle by which the abuses were made known. In one such publication the anonymous author says, "…the blame for these outrages lies not in the science but those who have seized power in science". In another the psychiatrist Dr. Semyon Gluzman reminds the reader that, "Psychiatry is a branch of medicine and not of the penal law." Each of these statements is relevant to our concerns about the abusive use of civil confinement. The approach justified by the majority decision in *Hendricks* disingenuously asserts that the scheme is not meant as punishment and that there is no requirement that the legislature use the term "mental illness" as "…we have traditionally left to legislators the task of defining terms of a medical nature that have legal significance." Thus in existing laws dealing with sexually violent predators and in the proposed NYS bills the non scientific term "mental abnormality", a legal construct, becomes the basis for commitment. The question then is whether by generating such terminology the legislature is defining a pseudo diagnostic scheme about which psychiatrists can claim no special expertise.

A NY Times article on 3/17/06 reported the suppression of political dissidents in China by incarcerating them in "Ankang", a special network of forensic psychiatric hospitals, often without trial. The referenced case was of a prominent dissident who spent 13 years in such an institution for his "delusions of grandeur, litigation mania, and conspicuously enhanced pathological will." Human rights groups reported that 2 Dutch experts who examined the internee found that he did not have mental problems justifying his commitment. "Dangerous Minds: Political Psychiatry in China Today and Its Origin in the Mao Era", published in 2002, details the misuse of psychiatry for purposes of political repression throughout modern Chinese history and, since mid-1999, the forcible confinement of Falun Gong members in mental hospitals. They document official inclusion in Chinese psychiatric literature of the notion of 'political dangerousness' and how it was incorporated into official diagnoses and made part of the concept of psychiatric dangerousness.

In the United States a renowned example of the expedient political use of psychiatry was the commitment of the poet Ezra Pound to Saint Elizabeth's Hospital. Pound had been indicted for treason, a potential capital offense, for his broadcasts from Italy during World War II. For constitutional reasons a conviction seemed unlikely and for that reason prosecutors did not challenge Pound's attorney's assertion that he was not mentally fit to stand trial. He was remanded to a psychiatric hospital. Thus did Pound avoid conviction and the government embarrassment. In similar vein, Attorney General Robert F. Kennedy attempted to make political use of psychiatry when he encouraged the civil commitment of General Edwin Walker, a WWII military hero and right wing segregationist, who was arrested for resisting and impeding federal marshals sent to assure the integration of the University of Mississippi by James Meredith in 1962.

While our country and state should not be facilely compared to other nations, many totalitarian, which have misused their psychiatric systems to silence political dissidents, we are in danger addressing the criminal problem of sexually violent predators, which has become a political flashpoint, by wrongly resorting

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mental illness back in 1996, I confided in a colleague and told him that I wanted to get more involved in activities regarding psychiatrists with bipolar disorder. I told him that I had been really sick and that I have had a good recovery. My colleague insisted that I take his business card and told me to call him in a week. I was perplexed, but I waited a week and then called. He was very surprised to hear from me. In his personal experience, most psychiatrists who initially express interest in talking about their condition often back out later on. Very often, psychiatrists would do more thinking or consult with their psychiatrist, employer or family members and would then change their minds. Because this happened so frequently, he had adopted a practice of asking the person to call him instead of the other way around. This way, he could avoid any awkward or uncomfortable conversations.

NYSPA: In 2004, your son, Tony, who also suffers from mental illness, testified before the FDA in support of the use of anti-depressants by children and teens. How did you and your family make the decision to get him involved in the issue in a public way?

DR. VOGEL-SCIBILIA: I attended the hearing on behalf of NAMI and Tony accompanied me. During testimony, there were many people who spoke in favor of greater restrictions on the use of anti-depressants and there really wasn't a balance of representation from the grass roots perspective. Much of the testimony wasn't even relevant to the topic and instead focused on anti-depressant use by adults. Tony decided on his own to get up there and speak because he felt like his positive experience with medication was not sufficiently represented. He had been involved with and aware of NAMI for quite some time because of my involvement. During his testimony he came up with his great tag line: "Preserve my future, don't take away my medicine."

NYSPA: What do you think are the primary policy implications of the CATIE study regarding access to atypical antipsychotics in pharmacy benefit plans?

DR. VOGEL-SCIBILIA: I think what the study tells us is that treatment has to be individually tailored and that there is no straight algorithm. One issue with the study is that the administrators weren't checking to see if the subjects were actually taking the pills. People bounce around from medication to medication. As a psychiatrist in the grass roots, I personally think that the most effective antipsychotic medication for someone is the one that they take every day. The consistency of actually taking it every day is more important than which medication one takes. The study is a good first step, but we really need long term, longitudinal data to truly examine the consequences and benefits of any medication strategy.

NYSPA: During the time since you first decided to speak openly about your own condition and experiences, do you think public opinion and public perception about mental illness has evolved at all?

DR. VOGEL-SCIBILIA: Yes, I think the world is changing. A psychiatrist who is also a consumer doesn't have to announce it in his or her practice, but even just joining a political action group or acknowledging yourself as a consumer or a family member is a huge step. It would be wonderful for psychiatrists with mental illness to acknowledge that they have a direct personal understanding of the issues people with mental illness face either because of their own condition or a family member's condition. And I think it would go a long way towards eliminating stigma. The best way to decrease stigma is to create exposure to familiar people in the community who have mental illness. Human contact goes a long way and is much more effective than billboards or public service messages. A person going out in their community and speaking to people at churches and civic organizations is really a much more powerful tool. When people speak about their own experiences in their own communities, a personal understanding and a personal connection is created – that is what changes public opinion. ■

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sion note must include the following:

- " a statement of the total time spent during the visit, e.g., "Total time: 25 minutes" (face-to-face with patient for office, outpatient and floor time & patient time for hospital)
- " a statement that "More than 50% of the visit included counseling and/or coordination of care."
- " documentation of the specific nature of the counseling and/or coordination of care
- " documentation of medical/medication management both in office and in hospital.

Thus, documentation of an inpatient visit based upon counseling and/or coordination of care would typically include the following elements: interval history, interval mental status, medication management, counseling, coordination of care, a clear statement that "counseling and/or coordination of care >50% of total floor/patient time of 25 minutes" (for a 99232 visit). Documentation of an office or outpatient department visit would typically contain documentation of the same elements, but with the following statement: counseling and coordination of care >50% of total of 40 minutes spent with patient (for a 99215 office visit). The Medicare Primer posted on the NYSPA website (www.nyspsych.org) includes sample vignettes and session notes illustrating circumstances when coding of an E/M service based upon counseling and/or coordination of care would be appropriate.

The use of E/M codes based upon counseling and/or coordination of care is not limited to the Medicare program. Psychiatrists may also use E/M codes based upon counseling and/or coordination of care for claims submitted to other private health plans - especially those plans whose reimbursement is based upon the Medicare fee schedule. Chapter 551 of the Laws of 2006 signed into law by Governor Pataki on August 19, 2006, mandates that effective for health care claims submitted on or after January 1, 2007, all health plans subject to state law "must accept and initiate the processing of all health care claims submitted by a physician pursuant to and consistent with the current version of the American Medical Association's current procedure terminology (CPT) codes . . ." Effective January 1, 2007, health plans in New York are no longer permitted to restrict or limit psychiatrists to only 908xx codes. All health plans must permit psychiatrists to use E/M codes to the same extent as covered for all other physician services.

Psychiatrists should carefully review their treatment planning, coding selection and documentation protocols to assess whether a change to billing with E/M codes based upon counseling and/or coordination of care as the predominant service is appropriate. ■

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to a psychiatric solution. While some, such as Justice Scalia assert that the purposes of medicine are not for the profession to decide but are rather "a matter for 'public morality,' the province of elected officials." We dissent and assert that beyond the legal boundaries which define our practices lie important ethical and historic traditions which serve to inform our work. Those latter elements lead us to decry misuses of our profession, psychiatry, because it diminishes us. Those defining elements are what differentiate a profession from a trade.

(In his Presidential column in the Spring, 2006 issue of the Bulletin, Dr. Perlman articulated NYSPA's opposition to the proposed civil confinement of persons designated "sexually violent predators".) ■

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