

THE BULLETIN

NEW YORK STATE PSYCHIATRIC ASSOCIATION

2012, Vol. 56, #1 • Bringing New York State Psychiatrists Together



Albany Report

By Richard J. Gallo, Barry B. Perlman, MD and Jamie Papapetros

Governor Lays Out Agenda for 2012 Legislative Session in State of State Address

Basking in the glow of the successes of the 2011 Legislative Session, Governor Cuomo delivered his second State of the State address – an ambitious roadmap that largely focused on revitalizing the State's economy and spurring job creation. Calling it a blueprint for a *New New York*, the Governor outlined several specific agenda items for the 2012 Legislative Session including:

- Closing a \$2 billion budget deficit without any new taxes or fees.
- Continuing the consolidation of State agencies and authorities, as recommended by the Governor's Spending and Government Efficiency (SAGE) Commission, including the merger of the Office of Mental Health and the Office of Alcoholism and Substance Abuse Services. Details of this re-organization are expected to be unveiled in the Governor's budget proposal for 2012-13.
- Passage of legislation establishing an insurance exchange pursuant to the federal healthcare reform law.

The complete text of the State of the State address can be downloaded at: <http://www.governor.ny.gov/assets/documents/Building-a-New-New-York-Book.pdf>

MEDICAID REDESIGN TEAM SUBMITS FINAL REPORT:

Work Groups' Recommendations Advance to the Governor

Established by Executive Order on January 5, 2011, the Medicaid Redesign Team (MRT) concluded its year-long assignment and issued its final report on 12/31/11, concluding that the recommendations, if implemented, constitute "the most significant overhaul of the New York State Medicaid program

since its inception."

The last meeting of the MRT was held on 12/13/11 to receive and approve the recommendations of the remaining four of the nine Work Groups:

- Basic Benefit Review Work Group
- Workforce Flexibility and Change of Scope of Practice Work Group
- Payment Reform Work Group
- Affordable Housing Work Group

[See **Albany Report** on page 5]

Legislative Brunches

By Rachel A. Fernbach, Esq.

The New York County District Branch of the APA hosted its 13th Annual Citywide Josef Weissberg Legislative Breakfast on December 4, 2011, at the New York Academy of Medicine in New York, New York. One week later, the Psychiatric Society of Westchester hosted its 25th Annual Legislative Brunch on December 11, 2011, at the Crowne Plaza Hotel in White Plains, New York.

New York City Breakfast

The planning committee for the New York City event adopted a new and exciting format this year. The organizers invited a panel of experts to discuss proposed changes to the Medicaid managed care system and the expected impact on individuals with serious and persistent mental illness. The panel included New York State Assemblymember Richard Gottfried (D-Manhattan); Michael Hogan, Ph.D., Commissioner, NYS Office of Mental Health; Andrea Cohen, Director of Health Services, Office of the Mayor, New York City; and Ann Sullivan, M.D., Senior Vice President, Queens Health Network, NYCHHC.

The event was moderated by Barry Perlman, M.D., Chair of the NYSPA Committee on Legislation and NYSPA Past-President.

Craig Katz, M.D., President of the New York County District Branch welcomed everyone and shared a memory of Josef Weissberg. He welcomed Richard Stagnato from PRMS and thanked PRMS for its support of today's event. Dr. Katz intro-

duced Carol Bernstein, M.D., APA Immediate Past-President; Glenn Martin, M.D., NYSPA President; and Jack Hirshowitz, M.D., Chair of the NYCO Legislative Committee. Finally, Dr. Katz introduced New York State Assembly Members David Weprin (D-Queens) and Brian Kavanaugh (D-Manhattan).

The members of the panel discussed a variety of issues regarding proposed changes to the Medicaid managed care system, which will move all Medicaid beneficiaries into a managed care plan. The Medicaid program plans to establish behavioral health organizations (BHOs) which will coordinate care for individual with serious and persistent mental illness (SPMI), traditionally high volume users of the Medicaid system. As individuals are transitioned out of fee-for-service Medicaid, mental health professionals must work to ensure that access to medically necessary care, treatment and medications are not compromised.

The panel discussed the need to preserve safety net institutions as well the

[See **Legislative Brunches** on page 4]



Panelists at the NYC event

Medicaid Redesign & the Public Mental Health System in NYS

By Barry B. Perlman, M.D.

In my last piece for the NYSPA Bulletin I presented an overview of the attack on Medicaid, including mental health services, taking place across the nation. I expressed my belief that given New York State's expenditures on Medicaid, which are far higher than any other state, reductions were necessary although not welcome in the current dismal economic climate. We are fortunate that the changes in New York are being implemented in a thoughtful manner meant to preserve the gains made in the delivery system in recent years and, perhaps, even to improve that system of care.

The 2011 New York State budget included wide ranging budget reductions to the Medicaid program. These changes included but were not limited to: a 2% reimbursement cut for hospitals, including most mental health services, both inpatient and outpatient; creation of thresholds for outpatient mental health and drug & alcohol visits which when exceeded result in automatic reimbursement reductions; reduction of reimbursement for Continuing Day Treatment Programs (CDT) to the extent that many were shuttered or

changed to PROS (Personalized Recovery Oriented Services) programs; transition of the NYS Medicaid formulary to a series of Medicaid HMO based formularies and a limited formulary for those enrollees remaining in the Medicaid Fee For Service (FFS) system and elimination of the long standing statutory requirement that when a difference exist between a physician and a Medicaid formulary, the "physician prevails"; the process of moving all of those covered under the Medicaid FFS system to a fully managed system; initiation of a process of creating Health Homes to provide varying intensities of case management for a "high user" population composed of persons with serious and persistent mental illness (SPMI) and/ or chronic medical diseases.

The work of fostering the wide ranging transformation of the mental health system and the Medicaid system more broadly is being developed under the aegis of the semitransparent/semi opaque MRT (Medicaid Redesign Team) process and its Behavioral MRT sub-

[See **Medicaid Redesign** on page 6]

Fall NYSPA Council Meeting

By Rachel A. Fernbach, Esq.

The New York State Psychiatric Association held its annual Fall NYSPA Council Meeting on Saturday, October 15, 2011 at the New York LaGuardia Airport Marriott Hotel in East Elmhurst, New York. Glenn Martin, M.D., NYSPA President, called the meeting to order and welcomed Council guests. After the call to order, various members of the Council provided reports.

Richard Altesman, M.D., NYSPA Secretary, presented minutes from the March 26, 2011 meeting of the NYSPA Council, which were approved. NYSPA Treasurer Jeffrey Borenstein, M.D. presented NYSPA financial statements for January-September 2011 with a comparison for the same period for 2010 and 2009. Dr. Borenstein reported that the \$15 dues increase slated for 2012 should begin to have an impact in the next billing cycle. He also noted that the new APA credit card installment payment plan for dues has affected the timing of anticipated revenues. Finally, Dr. Borenstein noted that due to very low CD rates, NYSPA has decided not to reinvest any funds at this point and will wait to see if rates shift in the near future.

Budget Committee Chair Aaron Satloff, M.D. presented the 2012 NYSPA budget, which included very little change from the prior year. The Council voted to adopt the 2012 budget. Edward Gordon, M.D., Chair of the Political Action Committee, presented the



James Nininger, M.D., Seeth Vivek, M.D., M. Mercedes Perez-Rodriguez, M.D., Aaron Satloff, M.D., Russell Denea, M.D.

NYSP-PAC financial statement for January-October, 2011, comparisons for the same time period for 2010 and 2009, and the list of contributors so far this year.

In his President's Report, Dr. Martin provided an update on a variety of Council issues. He confirmed that no additional cuts have been made to the New York State Delegation to the APA Assembly and that the number of representatives remains at 14. Dr. Martin announced that the Assembly Speaker, Ann Sullivan, M.D., has formed a special Planning Committee to review the structure of the Assembly and determine whether it is best suited to represent and serve the needs of APA members. Dr. Martin noted that he was pleased to have been appointed a member of this committee.

Dr. Martin announced that NYSPA and MSSNY have collaborated to improve membership in both organizations and that MSSNY has agreed to offer reduced dues for the first two years of membership for any APA member who joins MSSNY.

[See **Council Meeting** on page 3]

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

Information for Advertisers

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

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

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FROM THE EDITOR'S DESK... By Jeffrey Borenstein, MD

This edition of the *Bulletin* focuses on a number of key legislative and regulatory issues. The Albany Report reviews issues related to Medicaid, workforce and scope of practice, and parity implementation. The report on the legislative branches reviews these



Jeffrey Borenstein, MD

events, including a panel of experts discussing changes to Medicaid. We also have an article which examines Medicaid Re-design. In addition, we report on the Fall NYSPA Council Meeting which included a presentation by the winner of the NYSPA Scientific Paper

Contest. The Area II Trustee Report highlights key issues addressed at the APA Board of Trustees meeting. We are also pleased to announce that Barry Perlman, M.D., NYSPA Legislative Chair and Past President, has been asked to serve as Chair of the Behavioral Health Task Force for HANYS. ■

Area II Trustee's Report:

By James Nininger, MD

The APA Board of Trustees met December 10-11, 2011.

Following are some of the major issues addressed.

The preparation and evolution of DSM-5 continues with plans for its release in May of 2013. Introductory chapters include topics such as: the emergence of neuroscience/medical biomarkers, development across the life span, gender and psychiatric diagnosis, culture and psychiatric diagnosis, the need for quantitative (dimensional) measures, and ICD (International Classification of Disease) and WHO (World Health Organization) coordination. There will be approximately 80 short chapters on various disorders. A Scientific Review Work Group chaired by Dr. Kenneth Kendler is reviewing proposed changes to the Diagnostic Manual from the standpoint of the scientific evidence available, and additionally, proposed changes are being reviewed where appropriate by a clinical and public health committee chaired by Drs Joel Yaeger and Jack McIntyre regarding practical difficulties that might be involved in any changes. An Assembly Liaison Committee chaired by Dr. Glenn Martin is providing feedback on how the document might most help clinicians. To date, 17 million dollars have been spent out of a proposed budget of 25 million.

Dr. Paul Summergrad chairs an Ad Hoc Work Group on the Role of Psychiatrists in Health Care Reform, and provided a preliminary report. Issues such as the possible role of psychiatrists in the patient-centered Medical Home, the emerging role of performance measures, the state of the use of Electronic Health Records, the increase in cost of care because of psychiatric co-morbidities, and the evidence base for Integrated Care models are being studied.

Dr. Mary Helen Davis chairs a Work Group on Maintenance of (Board) Certification (MOC). Other sub-specialties have been addressing this movement, and psychiatry needs to have a clear sense and statement of its place in these procedures, particularly where specific practice exemptions and exclusions might apply. Psychiatrists have concerns about the performance-in-practice (PIP) requirements being considered for patients' reports of their doctors' effectiveness in treatment. As over 25% of psychiatrists are not Board Certified, they too will be required (on a state-to-state basis) to justify maintenance of their licensure (MOL). Some hospitals may additionally require their own certification criteria. The hope is the more effectively we can regulate ourselves, the less we will be regulated by government intrusiveness.

E-Therapy (psychotherapy on the Internet) models have been proliferating, and there was discussion about the



James Nininger, MD

need to educate our members and the public about the range of communications of this nature occurring and to provide guidelines about what might be considered appropriate treatment.

In his Medical Director's report, Dr. Scully reported that 85% of the APA website redesign is completed and will be launched in 2012 ("Psychiatry.org"). Through tight management, APA's cuts in expenditures have outpaced decreases in revenue, allowing a surplus for the year. Any further decreases in staff funding, however, would require cutting current programs. APA currently has a FTE roster of 225 positions (was at a peak in 2008 of 265). The year 2012 may prove to be a period of uncertainty for the APA. The Annual Meeting in Hawaii showed an increase in course registration but overall attendance was down and industry support minimal. Philadelphia has in the past been a good location for Annual Meeting success and the figures in May 2012 will be of interest and revealing. National membership is now between 32,000 and 33,000 (was 34,000 at the end of last year). There have been some decreases in MIT membership and international membership numbers. Major efforts are being made to analyze the various reasons for current trends and to take positive action to make improvements.

In the Advocacy area, a central concern remains the need to fix the sustainable growth rate (SGR) formula for Medicare. Without doing so, each time the proposed Medicare cuts are postponed, the debt incurred (owed by the doctors) increases. As Dr. Scully has said "If this keeps going, we'll be paying to see patients." Significant reductions for psychiatrists who participate in Medicare (of which I am one) would lead to large numbers of physicians "opting out" and severely harm access to care for the elderly and disabled. There will again be an "Advocacy Day"

in Washington D.C. this winter to provide participants with an update on proposed legislation relevant to psychiatry and an opportunity to lobby members of Congress directly. Funding in the APA budget for this year provides an opportunity to increase the number of residents invited.

APA has hired a new Director of Publishing, Becky Rinehart, who is active in developing on-line strategies and working to revitalize Psych News. From a survey of psychiatrists, 45% did not know that Psych News is available on-line. Advertising revenues this year actually increased in part due to new on-line subscriptions.

Revenue from the pharmaceutical industry peaked in 2006 at 18 million and was approximately 6 million for 2011, a two-thirds reduction over five years. Though many value our decreased financial reliance on industry, creative approaches are needed to find other sources of revenue and other avenues to provide education, opportunities for research and collegiality for our members.

Finally, the psychiatric delegation to the AMA (APA Section Council and State Delegates) has come to play an increasingly important role in shaping AMA policy, and several APA members hold prominent positions. This year, Jeremy Lazarus, M.D., former speaker of the Assembly, has been elected (unopposed) as President-Elect of the AMA – the first psychiatrist to attain that position in nearly 100 years.

We are a part of Medicine and must be at the table in any discussions of Health Care Reform, Integrated Care, the appropriate use of Electronic Health Care Records, Maintenance of Certification, implementation of parity legislation, etc. Your APA has groups active in all these areas and there is ample opportunity for involvement if you wish.

A summary of recent Board actions and the most recent Medical Director's Report is available at www.psych.org under Resources/Governance/Board of Trustees. ■

Announcement

Barry B. Perlman, M.D. has been asked to serve as Chair of the Behavioral Health Task Force for HANYS, the Hospital Association of New York State, for a two-year period beginning January, 2012. Dr. Perlman is the Legislative Chair and a Past-President of NYSPA. He explained that he looks forward to working with HANYS on issues impacting mental health care in New York State and the role played by departments of psychiatry and behavioral health in our state's system of care. Many NYSPA members are employed in institutions that are members of HANYS. One example of an area in which HANYS may be able to work collaboratively with NYSPA and the APA is the ongoing effort to realize the promise of the MHPAEA, the federal Mental Health Parity and Addiction Equity Act within New York State. Dr. Perlman is the Director, Dept. of Psychiatry, Saint Joseph's Medical Center in Yonkers, N.Y.

Council Meeting continued from page 1

Dr. Martin acknowledged Dr. Sullivan for her work as a member of the Medicaid Redesign Team's (MRT) Behavioral Health Workgroup and also acknowledged Richard Gallo and Jamie Papapetros for their continued monitoring of the work of the MRT. He also reported that NYSPA has drafted a letter to State Mental Health Commissioner Michael Hogan expressing concerns about OMH's policy regarding use of ECT in children and adolescents. Finally, Dr. Martin announced that NYSPA wrote a letter to the Editor of the New York Post decrying a recent article regarding Medicaid redesign that disparaged individuals with mental illness and substance use disorders. The New York Post declined to publish NYSPA's letter but it has been posted on the NYSPA website for anyone interested.

American Professional Agency, Inc.

Cindy Tunney from the American Professional Agency, Inc., the new APA-endorsed malpractice insurance carrier, provided members with an update. American Professional Agency has now received approval of its rates, which are very competitive at 4% lower than other programs. They are also awaiting approval of a 5% risk management discount. Ms. Tunney confirmed that there is no penalty to switch from a previous carrier, members will receive credit for time with a previous carrier and that members can start with American Professional Agency at its first year rate even if the member has tail coverage from a previous carrier. She reported that American Professional Agency offers coverage for fire damage up to \$150,000, including costs of defense, and coverage of medical bills up to \$25,000. Finally, Ms. Tunney reported that there is no additional surcharge for ECT or telepsychiatry.

Legislative Report

Barry Perlman, M.D., Chair of the Committee on Legislation, reminded the Council that NYSPA has a regular column in the Mental Health News. If anyone has a suggestion or idea for a column topic that would be educational for consumers and patients, please contact him.

Dr. Perlman provided an update on NYSPA's parity compliance efforts and reported that NYSPA has been working closely with the APA on this issue. Also, NYSPA has been contacting health plans directly to address areas of concern as well as consulting with the NYS Department of Financial Services (which now includes the Department of Insurance). NYSPA is hoping to set up a meeting with representatives from the NYS Department of Health to address the lack of compliance by many Medicaid managed care plans. In addition, NYSPA has been corresponding directly with Hudson Health Plan and Beacon Health Strategies, its behavioral health partner, regarding parity implementation.

Dr. Perlman announced that the Governor's office vetoed a recent bill proposing additional due process rights for health care professionals who are being investigated by the Office of Medicaid Inspector General. However, the Governor's office has formed a committee to look into the issues identified in the bill. He also reported on the new APG payment system for Article 31 clinics that went into effect on October 1, 2010. Unfortunately, the

federal government still has not approved the state plan amendment that would permit the new APG system to go into effect. At the same time, the COPS system is being phased out with nothing to replace it, which puts clinics in a dire financial position.

Finally, Dr. Perlman reported on the proposed redesign of the Medicaid system, which will move all Medicaid beneficiaries from fee-for-service Medicaid into a managed care model. The mental health community continues to have grave concerns regarding how the needs of those with serious and persistent mental illness will be addressed under the new system.

Richard Gallo, NYSPA Government Relations Advocate, announced that the NYSPA Legislative Report and a list of bills of interest will be made available on the NYSPA website. NYSPA's legislative agenda for the upcoming year includes the following issues: (i) a bill that would require hospitals to provide for continued malpractice insurance for its physicians in the event the hospital declares bankruptcy; (ii) reinstatement of prescriber prevails in the Medicaid program; (iii) ensuring that patients be permitted to assign payment over to a health care provider even if the provider is not an in-network provider under the patient's health insurance plan; and (iv) legislation supporting collective negotiation by physicians. Finally, Mr. Gallo announced that NYSPA plans to host a Legislative Day in Albany in 2012 and to keep an eye out for more information.

NYSPA Scientific Paper Contest

Seeth Vivek, M.D., announced the results of the 4th Annual NYSPA Scientific Paper Contest:

1st Place: M. Mercedes Perez-

Rodriguez, MD, Mount Sinai Medical Center
"Striatal Activity in Borderline Personality Disorder: Sex Differences"

2nd Place: Anna Dickerman, M.D., Weill Cornell Medical Center
"Abnormal Thyroid functioning in Psychiatric patients: a red herring?"

3rd Place: Dr. Zimri Yaseen, M.D., Beth Israel Medical Center
"Brain Activity in Depression, Insecure attachment"

Dr. Perez-Rodriguez, the First Place winner, received a plaque and a \$500 cash prize and was given the opportunity to present her paper to the Council. Dr. Vivek reported that 15 papers were submitted from a variety of residency programs throughout the state and that all identifying information was removed from the papers before review. He thanked the judges, Aaron Satloff, M.D., Russell Denea, M.D. and James Nininger, M.D. for their assistance and participation.

Executive Director's Report

Seth P. Stein, Esq., NYSPA Executive Director, provided an update on the Medicare RUC Committee and its 5 year review of CPT codes. NYSPA and other parties have suggested that code 90862 be eliminated because it is reimbursed at a lower rate than comparable evaluation and management codes. Mr. Stein noted that he has been authorized to disclose that this suggestion has been opposed by the 73 psychologists in the United States who have been granted prescribing privileges by their state.

Mr. Stein provided an update on NYSPA's parity efforts. NYSPA has contacted EmblemHealth, who is now partnered with ValueOptions, regarding submission of evaluation and management claims by psychiatrists. In response, EmblemHealth stated that it does not plan to reimburse evaluation and management codes submitted by psychiatrists at the same rate as evaluation and management codes submitted by all other physicians. This is a clear violation of the parity rules and NYSPA plans to pursue this issue with federal and state regulators. In addition, NYSPA has been advised by the NYS Department of Financial Services, which now includes the Department of Insurance, that the best way to enforce parity implementation is to file individual complaints with the DFS Consumer Affairs Office. All NYSPA members receiving denials are encouraged to request from each plan copies of the criteria used to make medical necessity determinations. If plans refuse to disclose their criteria or if their policies appear to violate the parity rules, members are encouraged to contact NYSPA Central Office for guidance.

Finally, Mr. Stein reported on recent changes to the Medicaid system in New York State.

Going forward, all individuals with serious and persistent mental illness will be transferred from fee-for-service Medicaid into a managed care environment. Care will be provided and managed by a behavioral health organization that will receive reimbursement based on a capitation rate for each individual served. This capitation rate model represents a sea change in how Medicaid providers will be reimbursed in the future.

NYSPA Policy for Disclosure of Interests and Affiliations

Dr. Vivek, Chair of the Ad Hoc Committee on a NYSPA Conflict of Interest Policy, presented the proposed NYSPA Policy for Disclosure of Interests and Affiliations. Dr. Vivek summarized the proposed policy and thanked Herb Peyser, M.D., for serving on the committee with him. He encouraged all district branches to consider adopting similar conflict of interest policies as well. Following discussion, the Council voted to adopt the NYSPA Policy for Disclosure of Interests and Affiliations.

NYSPA Reorganization Proposal

The Council reviewed the NYSPA Reorganization Proposal, which had been tabled from the Spring 2011 Council meeting. The Reorganization Proposal includes revisions to the NYSPA Code of Procedures required as a result of recent reductions in the number of New York State representatives to the APA Assembly. The revisions include (i) a new method for determining the members of the New York State Delegation to the Assembly and (ii) in an effort to increase local representation at the Council level, the addition of District Branch Presidents as voting members of the NYSPA Council. Following discussion, the Reorganization Proposal was adopted.

APA Election Guidelines

Robert Kelly, M.D., Chair of the APA Election Committee, presented proposed changes to APA Election Guidelines designed to streamline and update the campaign and election

process. The proposed changes will be voted on at the upcoming Assembly meeting.

Area II Trustee's Report

James Nininger, M.D., Area II Representative to the APA Board of Trustees, provided an update on APA Practice Guidelines and ongoing efforts to improve the guideline development process. He also provided an update on APA finances. Staff vacancies have created a surplus and the reserve fund is in good shape. There have been significant expenditures with regard to the development of DSM-5, which will also generate significant revenue upon completion. DSM-5 is currently in field trials in the second level of review.

Assembly Update

Ann Sullivan, M.D., Assembly Speaker, announced that the Assembly meeting in November will include new breakout sessions from 3:00-4:30 pm on



Ann Sullivan, M.D. and Scott Benson, M.D.

Saturday. She encouraged everyone to participate in the breakout topics, which will include DSM-5, Communications, Mentorship, Legislation, Access to Care, Maintenance of Certification and Practice Guidelines. Dr. Sullivan reported that all members of the Board of Trustees are expected to attend the upcoming Assembly meeting and that the Board will be meeting with the Assembly Executive Committee over the weekend. In addition, Board members will be visiting Area Council meetings to observe and listen in.

Scott Benson, M.D., Assembly Speaker-Elect, reported that the APA has recently established a LinkedIn account and encouraged all members to join. He hopes the LinkedIn account will provide members with a forum to discuss issues on a large scale. He also noted that he is very excited about the breakout sessions scheduled for the upcoming Assembly meeting and hopes everyone will participate.

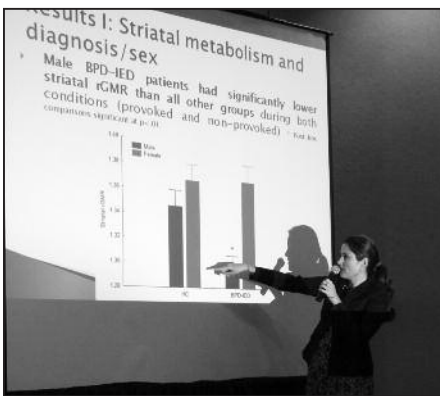
Action Papers

The Council discussed the following action papers that will be reviewed by the Assembly in November: (i) Endorsement of the Convention for the Elimination of All Forms of Discrimination Against Women; (ii) Continuing support for the APA Public Psychiatry Fellowship; (iii) Provision of Formalized Mentorship for Members-in-Training (MIT) in the Assembly; (iv) Reinstating the APA State Legislative Institutes; and (v) APA Documentation Templates.

New Business

Edmund Amyot, M.D., announced that the next meeting of the MSSNY House of Delegates will be held in Saratoga Springs, New York, in April 2012.

The meeting was concluded with reports from the following NYSPA Committees: Psychiatry and the Law, Public Affairs, Public Psychiatry, and MSSNY Committee on Psychiatry and Addiction Medicine. ■



M. Mercedes Perez-Rodriguez, M.D., presenting her winning paper.

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involvement of the provider community in ensuring the success of a managed care model, especially for those with SPMI. Commissioner Hogan noted and other panelists agreed that a good managed care system is one where realized savings are reinvested back into the system to improve care and outcomes and that an ideal system is one designed with the needs of patients in mind. Ms. Cohen echoed that sentiment, stating that the system should focus on integrated care and that a silo model does not necessarily best serve the needs of the individual.

The panelists discussed the October 1, 2011, "carve-in" of the Medicaid pharmacy benefit into individual managed care plans and uniformly expressed concerns about the change.

They noted that the new carve-in has created a "Tower of Babel" approach, resulting in a myriad of different rules, requirements and available medications from plan to plan. Under the newly deconstructed system, patients and psy-

chiatrists will be forced to navigate a complicated web of rules where one medication may be included in the formulary of one plan but not included in the formulary of another. Switching between managed care plans may force individuals to change medications, which may result in destabilization and other dire consequences for individuals with serious and persistent mental illness.

Next, the panel discussed the future of public psychiatry and need to cultivate young psychiatrists interested in the field, which truly needs renewed talent and energy. Finally, the panel answered questions from the audience. Following the panel discussion, Assemblyman David Weprin addressed the group, noting that prior to his time in the Assembly, he served on the New York City Council for eight years. He stated that he was very involved in supporting the passage and implementation of Timothy's Law and will continue to work hard to ensure that mental health services are not cut back in the future.

Westchester Brunch

The Westchester brunch, which took place the following week, was moderated by C. Deborah Cross, M.D., President of the Psychiatric Society of

Westchester and NYSPA Past-President. Dr. Cross welcomed Remy Palumbo from PRMS and thanked PRMS for its support of the event. She acknowledged other NYSPA Past-Presidents Edward Gordon, M.D. and Barry Perlman, M.D.

Dr. Perlman, Chair of the NYSPA Legislative Committee, was very pleased to report that the event marked the 25th year that the Psychiatric Society of Westchester has hosted a legislative brunch. He continued by providing an

overview of issues facing psychiatrists in New York, including sweeping changes to the Medicaid program and transfer of all Medicaid beneficiaries into Medicaid managed care plans. It is important that organized psychiatry play a central role in these changes to ensure that access to care for persons with mental illness is protected and that any savings achieved are reinvested back in the system. Dr. Perlman also discussed the carve-in of the Medicaid pharmacy benefit and reported that the Assembly Committee on Health is hosting a public hearing on December 19, 2011, to address how the transition is



The Westchester Legislative Brunch

impacting Medicaid enrollees.

On the federal side, Dr. Perlman noted that NYSPA is continuing to work diligently to ensure full implementation of the federal parity law and regulations. NYSPA plans to contact state and federal legislators to ask for assistance in communicating with federal and state regulators about key areas of concern.

Dr. Cross then welcomed New York State Senator Andrea Stewart-Cousins (D-Yonkers), New York State Assembly Members George Latimer (D-Mamaroneck) and Robert Castelli (D-White Plains), and Pat Keegan, a representative from the office of U.S. Congresswoman Nita Lowey. She also introduced Grant Mitchell, M.D., Commissioner of the Westchester County Department of Community Mental Health and Susan Stabinsky, M.D., Westchester Legislative Chair.

The first legislator to address the group was Assemblyman Robert Castelli who, as a relatively new member of the Assembly, noted that 2011 has proven to be a year of improvement, with evidence of greater cooperative capabilities among state leaders and legislators. Assemblyman Castelli noted that Medicaid expenditures represent the single largest portion of the New York State budget and that revisions to the Medicaid system should not be taken lightly. He encouraged all members to feel free to stop by his offices if they have any concerns or questions.

Next, Senator Andrea Stewart-Cousins addressed the group, discussing Medicaid redesign and the importance of ensuring that the most vulnerable and marginalized populations have a voice in the process. Senator Stewart-Cousins concluded her remarks by stating that she is committed to working towards solutions.

Assemblyman George Latimer took the podium next and discussed the state budget process and current efforts to redesign the state Medicaid system. He stated that he looks forward to working with organized psychiatry to identify specific issues and areas of concern after the 2012-2013 budget is presented.

Next, Grant Mitchell, M.D., addressed the group. Dr. Mitchell is a psychiatrist who serves as the Commissioner of the Westchester County Department of Community Mental Health. He discussed the July 1 closing of all county mental health clinics and the successful

transfer of 1,200 patients over to private not-for-profit clinics. This decision to close the county clinics generated \$3 million in savings and strengthened the private non-profit clinics, which are now able to serve new patient populations. The successful transition is an excellent example of what can be accomplished when government, the business sector and the not-for-profit sector work together.

Dr. Mitchell also reported on a new county initiative to provide mobile crisis services with a focus on prevention, early intervention and ancillary services to help patients, particularly children, avoid emergency room visits. Finally, Dr. Mitchell discussed the county Police



Senator Andrea Stewart-Cousins

Ride-Around Program, which pairs social workers with police officers specially trained in responding to persons with behavioral issues. The recently expanded program, which encourages police to utilize verbal techniques



Assemblymember George Latimer, Barry Perlman, MD, Mark Cannon, MD

instead of physical interventions and arrests, creates a powerful interface between the criminal justice system and the mental health system.

The event was concluded with a question and answer period. ■



The New York City Legislative Breakfast



Assemblyman Robert Castelli, C. Deborah Cross, MD, Barry Perlman, MD

Albany Report continued from page 1

As reported in the last issue of *The Bulletin*, the MRT Behavioral Health Reform Work Group submitted its final recommendations on October 15, 2011, the text of which can be found online at: http://www.health.ny.gov/health_care/medicaid/redesign/docs/mrt_behavioral_health_reform_recommend.pdf

Work Group on Work Force Flexibility & Scope Of Practice

After considering 87 proposals that ran the gamut from expanding the scope of practice of podiatrists and certified nurse anesthetists to establishing certification for clinical nurse specialists, the work group on Workforce Flexibility and Scope of Practice voted in favor of forwarding 13 recommendations to the Medicaid Redesign Team. MRT member, Richard Gottfried, Chair of the Assembly Health Committee abstained, noting he was the Assembly's representative to the MRT and that Assemblywoman Deborah Glick, Chair of the Assembly Higher Education Committee, had expressed concern and opposition to some of the recommendations.

The recommendations that are of particular importance to NYSPA:

- Remove the requirement that certified nurse practitioners enter into a collaborative agreement with a licensed physician.
- Extend to July 1, 2016, the exemption that programs or services operated, regulated, funded or approved by the Department of Mental Hygiene, the Office of Children and Family Services, the Department of Correctional Services, the State Office for the Aging, the Department of Health or local government unit or social services districts has from the laws providing for the licensure of social workers, psychologists and mental health practitioners.
- Remove physician supervisory ratio of physician assistants.
- Establish an advisory committee to the State Education Department's Office of Professions that would create a system for evaluating workforce flexibility proposals including changes in scope of practice that would be based on scientific data regarding impact of the proposed change on cost, quality and access to care.

The proposal to establish an advisory committee to the State Education Department's Office of Professions incorporates a number of the proposals brought to the Workforce Flexibility/Scope of Practice Work Group, including those from the Medical Society of the State of New York and the State University of New York urging a comprehensive study of workforce matters beyond the self-aggrandizing proposals of the professional associations on the work group. The standing members of the advisory committee would include officials from the Department of Health, Office of Mental Health, Office of Alcohol and Substance Abuse Services, Department of Labor, State University of New York, City University of New York, legislative staff, professional associations representing physicians, nurses and other allied health professionals, health work unions, the Center for Health Workforce Studies, the Paraprofessional Healthcare Institute, and consumer groups. Upon the State Education Department's request to review a particular proposal, a small work group would be convened. Drawn from the membership of

the Advisory Committee, the small work group would have no more than ten members and consist of a member who is a proponent of the proposal, a member impacted by the proposal, a member that represents an impacted provider group and others who would be impacted including state agencies, unions and consumers. The Center for Health Workforce Studies will serve as staff to the committee tasked with convening work groups and preparing reports. The full text of the Workforce/Scope of Practice Work Group recommendations can be found online at: http://www.health.ny.gov/health_care/medicaid/redesign/docs/workforce_flexibility_scope_of_practice_wg_recommend.pdf

Update on Medicaid Redesign Team Proposals in 2011-12 Budget: OMH/OASAS Name Regional BHOS

The Department of Health has implemented or is in the process of implementing seventy-eight of MRT proposals that were approved in the 2011-12 state budget, the most important of which to psychiatry is proposal #93, which provides for the establishment of regional behavioral health organizations (BHOs) that will monitor inpatient fee-for-service behavioral health services of Medicaid beneficiaries with serious and persistent mental illness. The Office of Mental Health and the Office of Alcoholism and Substance Abuse announced that they have contracted with the following:

- **New York City Region:** OptumHealth
- **Hudson River Region:** Community Care Behavioral Health
- **Central Region:** Magellan Behavioral Health
- **Western Region:** New York Care Coordination Program
- **Long Island:** Northshore LIJ/Value Options

In Phase I, the above behavioral health organizations will be responsible for the following: concurrent review of behavioral health inpatient length of stay; reducing behavioral health inpatient readmission rate; improving rates of engagement in outpatient treatment post discharge; gathering information on clinical conditions of children with a serious emotional disturbance who are covered by Medicaid Managed Care and receiving treatment in an OMH-licensed specialty clinic; and profiling provider performance and testing systems metrics. NYSPA will continue to monitor the developments of this initial phase as preparations for the second phase in 2013 will include establishing "some form of risk-bearing Medicaid managed care" for those with serious and persistent mental illness.

The State is moving full steam ahead with proposal #89 to establish health homes for high-cost, high need Medicaid enrollees with two or more chronic conditions or a serious and persistent mental illness for which it will receive a 90/10 FMAP. While the Department initially expected to implement the proposal on a statewide basis all at once, it has since decided to move implementation into three phases with the first phase scheduled to start on February 1, 2012 (pending CMS approval of the State Plan Amendment) in the following ten counties: Bronx, Kings (Brooklyn), Nassau, Warren, Washington, Essex, Hamilton, Clinton, Franklin, Schenectady.

To date, the savings achieved from the proposals, which were projected to produce \$2.2 billion in savings for the

State Share Medicaid spending in 2011-12, total \$596.35 million. Meanwhile, you will recall that the budget also set a Global State Medicaid spending cap of \$15.3 billion in 2011-12 and \$15.9 billion in 2012-13. Through September, Medicaid State spending is \$134.9 million below projections or 1.8 percent, while cumulative spending from April through September totaled \$7.499 billion compared to estimate of \$7.634 billion. Still, pressure on the Medicaid budget is increasing as enrollment in Medicaid has grown by approximately 71,000 enrollees since April.

Parity & E&M CPT Codes

NYSPA is actively monitoring insurers' compliance with the federal parity regulations and the directive the State Insurance Department issued late last year that reminds insurers that they are required to accept and initiate the processing of all claims submitted by psychiatrists including Evaluation and Management (E/M) Current Procedural Terminology (CPT) Codes. In regards to parity, NYSPA has received some complaints from members that insurers are not disclosing the criteria it uses to make medical necessity determinations even though the federal parity regulations require such disclosure upon the request of a provider or patient. In addition, it has come to NYSPA's attention that some insurers are differentiating between E&M codes for medical or surgical services and E&M codes for psychiatric services. One letter a member received from an insurer stated, "E&M codes for medical or surgical services are not 'comparable' to E&M codes for psychiatric services under [the Mental Health Parity and Addiction Equity Act]. Given the differentiation in services, variations in E&M code reimbursement are clinically appropriate." NYSPA has brought these issues to the attention of the Department of Financial Services, the entity formed by the merger of the Insurance and Banking Departments and is forwarding complaints received from members to the Department's Consumer Bureau to investigate.

Status of Health Insurance Exchange Legislation

The Senate did not return to Albany before the end of 2011 to take up the bill establishing the governance structure the insurance exchange in New York, which the Assembly passed before it adjourned. The bill is facing opposition from several members of the Senate Republican conference. Although New York has not passed legislation to establish the insurance exchange, it has been awarded more grant money than many other states. To date, New York has received more than \$38.7 million with the latest round of funding coming in August through a Level One establishment grant for \$10.7 million. A lack of action on necessary government structure will cause New York to miss the September 30 and December 30 deadlines to apply for further and more substantial funding. The State will have two more chances in 2012 – March 30, 2012 and June 29, 2012.

Priorities/Outlook on 2012 Legislative Session

The dynamics of the 2012 Legislative Session are already surfacing. The Governor with an approval rating in the stratosphere will face another multi-billion dollar budget deficit with a Legislature that will be up for re-election in November. The health care system infrastructure in New York will be

in the midst of a tidal wave of transformation brought on by the initiatives of the Medicaid Redesign Team. Still, NYSPA is looking to 2012 with a focus on two main priorities:

- **Hospital Bankruptcy & Physician Liability** – Pursue the enactment of legislation that would require hospitals in New York State to be proactive with regard to protecting physician employees from liability in the event the hospital goes bankrupt or becomes insolvent. NYSPA will be working in collaboration with MSSNY in 2012 to enact this urgently-needed legislation.
- **Prescriber Prevails** – Support prescriber prevails in Medicaid managed care as a result of changes enacted in 2011-12 budget regarding psychotropic medications.

Expectations for the enactment of the physician collective negotiation bill remain high following the Senate's passage of the bill before it adjourned this past year and NYSPA will continue its support of that and MSSNY's priorities regarding medical liability reform, and transparency in insurers' methodology for calculating reimbursement for out-of-network services as many insurers have begun tying their reimbursement in such instances to a percentage of the Medicare fee schedule.

Meanwhile, NYSPA will be fighting the efforts of nurse practitioners who are seeking passage of legislation that would allow them to admit a patient on a voluntary/involuntary basis and perform such functions currently restricted to psychiatrists and other physicians, pursuant to Article 9 of the Mental Hygiene Law.

Rest assured, there have never been so many moving parts and balls in the air on the state and national level. On the State level, the redesign of the Medicaid program will culminate with the elimination of fee-for-service and growth of managed care. Nationally, there are several forthcoming outcomes that will have a very real impact, including the Supreme Court's ruling on the constitutionality of the federal healthcare reform law and the 30 percent cut to physician reimbursement that was scheduled to go into effect January 1, 2012, under Medicare due to the sustainable growth rate formula, but was staved off for two months by last minute Congressional action. While it's unclear where the chips will land, one thing is certain – the ripple effects will transform the healthcare system as we know it. ■

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The New York State
Psychiatric Association
is pleased to announce
that Jeffrey Borenstein,
M.D., has been
named Editor-in-Chief
of *Psychiatric News*, the
official newspaper of the
American Psychiatric
Association (APA).

Medicaid Redesign continued from page 1

committee working group. All of the changes in our system are being played out against the vast array of changes taking place nationally which include the implementation of the American Recovery & Reinvestment Act (ARRA), and the Patient Protection & Accountable Care Act (PPACA).

How New York State's system of public health care will look in the future hangs in the balance based on how well these state and national changes are implemented and work together. Needless to say, we all hope for the best, as our professional practices as well as our ability to provide care for those we serve and the care we ourselves receive depend on it. (Yes, given the dependence of New York's hospitals on Medicaid reimbursement, the quality of care all New Yorkers receive in hospitals depends on their Medicaid reimbursement.) At the same time, it would not be inappropriate to remain skeptical that it will come out all right. Some steps taken give reason for hope while others do not.

What questions should NYSPA be asking and, based on answers received, what should we be advocating for or against? Concern needs to be raised about the "Tower of Babel" approach to the new Medicaid formulary. Rather than leveraging the state's immense purchasing power to realize savings, as advocated in NYSPA's 2005 position paper on the Preferred Drug List, New York State now requires each Medicaid HMO to create its own formulary. The end result is a capricious process resulting in a multitude of differing formularies for psychoactive medications. Many of these formularies do not con-

form to the Office of Mental Health PSYCKES Quality Initiative, the goal of which is to minimize exposure for those requiring atypical antipsychotics who are at risk for cardiometabolic syndrome to those medications which put them at highest risk. The state's own formulary is similarly flawed. Also, given the limitations on drugs, doses and numbers of pills dispensed, psychiatrists are forced to expend undue time on these matters during patient visits. The new approach is especially problematic when patients are seen in the Emergency Department. NYSPA provided testimony on this matter to a Hearing held by Assemblyman Richard Gottfried, Chair of the Assembly Health Committee, who shares our perspective on this issue. The loss of "physician prevails" was ill advised, harmful for patients and deserves to be reversed.

Psychiatrists' experience with managed care has traditionally been particularly difficult. Thus, the news that all New York State Medicaid enrollees will be moved into managed care over the next several years was not good news! However, we are pleased that the transition is being phased in over time, providing an opportunity to create a more collaborative, less adversarial form of care management. By designating five regional carve-out Behavioral Health Organizations (BHOs), which will gather data and engage in collaborative management for the next year or so, the state and providers will gain information that should inform decisions when the BHO come under the control of risk bearing entities starting in 2013. Mental health advocates have seen their

interests decimated when they are drawn into full service medical managed care and have been savaged by commercial carve-out managed care, which is notorious for "just saying no" without helping to solve clinical problems. Hopefully, nonprofit carve-out managed care will provide a more collaborative route, one which New York State may wish to embrace going forward.

Health Homes, encouraged by the PPACA, will replace Targeted Case Management (TCM) over the next couple of years. They will seek to incorporate more than 700,000 persons enrolled in the state Medicaid program who by virtue of having SPMI and/or multiple chronic medical diseases cost the system disproportionately large amounts of money. While New York State will be advantaged by the federal government's assumption of 90% of the cost for the first two years, it remains unclear given the reimbursement scheme whether there will be adequate funding to realize the cost saving goals of the effort, especially given the limited funding for the SPMI cohort when contrasted with current funding of the TCM program, an approach tailored specifically for those with SPMI. Ultimately, whether Health Homes and BHOs will work together and align their goals or trip over each other remains an open question with serious potential consequences for patients and providers.

The NYS Office of Mental Health has sought to refocus the mental health system into a person-centered, recovery-oriented approach. The agency has also

expressed its belief in a data driven system and one in which consumers should experience more choices of accessible services. Recent years have seen reimbursement for CDT programs so reduced as to force the closure of many across the state in favor of pushing for the opening of PROS programs. Many clinicians remain skeptical of this programmatic realignment, believing that for an important cohort of vulnerable persons with SPMI, CDT offered an important level of care, given its focus on stability and protection, which PROS may not offer with its emphasis on focused skills training and shorter stays. They believe that one program should not have been endorsed at the expense of the other and that both might have continued to be viable and thus provided consumers with a broader array of care options. It also would have been appropriate to collect data on the impact of the shift, especially on metrics such as avoidable inpatient readmissions which has correctly been identified as an important focus of BHOs. Unfortunately, such data was never sought.

I should like to call attention to a final area of concern having to do with "scope of practice." Under ordinary circumstances, changes affecting the requirement for a "practice agreement" for nurse practitioners would be addressed by the legislature in a bill after the adoption of the budget. However, the MRT Workforce subcommittee, going beyond its original charge, chose to make recommendations dealing with this sensitive public health

[See **Medicaid Redesign** on page 7]

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matter. As a consequence, it is likely to be included as part of the 2012 Executive Budget. NYSPA along with organized medicine believes the recommendation to drop the requirement for a "practice agreement" presents a public health concern. It would allow nurse practitioners a comparable scope of practice to primary care physicians and specialists, including psychiatrists, without the necessary training gained through residency. For this reason, NYSPA shall work to oppose such change.

This piece can only begin to focus attention on the tectonic areas of transformation that the health and mental health systems in New York State and the nation are passing through. NYSPA will continue to advocate, along with other groups, to prevent or minimize harm to the persons we serve and to our profession. To date, the state, managed care and others have disregarded the burden placed on physicians, including psychiatrists, and other providers when creating regulations and requirements of participation that

detract from a meaningful relation with those treated. Thus, valuable professional time is squandered and job satisfaction diminished. Perhaps if we are lucky, and if the Rubik's Cube of system change is properly solved, we may see the improvements. It is critical that attention be paid to the "professional fulfillment" of psychiatrists choosing to work in the public sector. Too often these psychiatrists are forced by the calculus of cost to grind out patients at a rate of three or more per hour leaving little opportunity to relate meaningfully

to their patients. If the system does not permit improved practice patterns that allow for better therapeutic relations, younger colleagues, often graduating with significant debt, may choose to look elsewhere when making their career choices which would represent a great loss to our field and the public mental health system. ■

Dr. Perlman is the Director, Dept. of Psychiatry, Saint Joseph's Medical Center, Yonkers, N.Y. and NYSPA Legislative Chair and Past President.

Seeking a dynamic and dedicated Chief of Psychiatry to join our progressive and innovative health system in Rochester, NY

Rochester General Health System (RGHS) is seeking a dynamic Board Certified Psychiatrist with a commitment to excellence for our Chief of Psychiatry opportunity. This outstanding candidate should have at least 5-7 years of experience in the field of Psychiatry, demonstrated clinical leadership and administrative experience. Key components of this position include the participation and active support of the overall Rochester General Health System strategic plan in collaboration with the Chief of Psychiatry; the development of a fully integrated behavioral health program throughout Rochester General Health System; support and cultivation of relationships among the behavioral health services and other services within the System; and the collaboration with other departments in the development of joint services to enhance the mission and vision of Rochester General Health System.

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Caring for the whole person is our primary focus. In so doing, we are able to provide integrated Mental Health Services throughout the entire BHN System. With our multidisciplinary team that includes psychiatrists, nurses, certified alcohol and substance abuse counselors, other counselors, social workers, psychologists and case managers; we provide the necessary support and service to meet your daily needs. To learn more about the Behavior Health Network visit www.rochestergeneral.org/behavioral-health-network.

Highlights of Rochester General Health System

A top 100 Integrated Health Network and the 3rd largest employer in the region encompassing seven affiliates including:

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- Newark-Wayne Community Hospital, a Joint Commission accredited, 120-bed acute care community hospital & 180 bed hospital-based nursing facility
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Highlights of Rochester, NY

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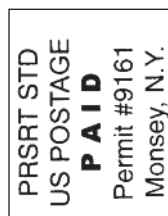
Notice Of Good Faith Estimate Of Non-Deductibility Of NYSPA 2012 Dues

The Omnibus Budget Reconciliation Act of 1993 included certain provisions denying tax deductibility for the portion of dues paid to 501(c)(6) professional organizations that is spent on influencing state or federal legislation. The law requires NYSPA to provide its members with a good-faith estimate of the portion of their dues which is attributable to lobbying and therefore, is non-deductible for federal income tax purposes.

For 2012 dues, NYSPA has estimated that 33 1/3% of NYSPA/Area II dues are attributable to lobbying and cannot be deducted. The schedule below sets forth the calculation of the deductible and non-deductible portion assuming payment in full. If only a partial payment was made, then 33 1/3% of the amount paid is non-deductible.

| Membership Category | 2012 Dues | Deductible | Non-Deductible |
|--------------------------------|-----------|------------|----------------|
| General Member/Fellow | 165.00 | 110.00 | 55.00 |
| Member in Training | 15.00 | 10.00 | 5.00 |
| Life Member/Life Fellow (1-5) | 110.00 | 73.00 | 37.00 |
| Life Member/Life Fellow (6-10) | 55.00 | 36.00 | 19.00 |

Please note that this notification only applies to NYSPA/Area II dues. It does not apply to APA dues or to district branch dues. If you have any questions, please do not hesitate to contact the NYSPA Central Office.



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