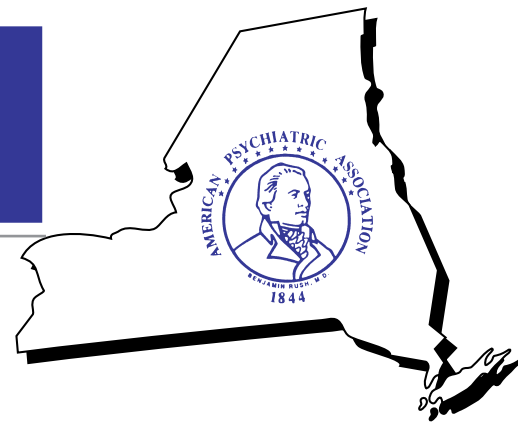


# THE BULLETIN

## NEW YORK STATE PSYCHIATRIC ASSOCIATION

Summer 2003, Vol. 46, #2 • Bringing New York State Psychiatrists Together



### President's Message

By Barry Perlman, M.D.

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

By now all our members, as well as APA members across the country, are aware of the passage of the Mental Health Professions Bill which was signed into law by Governor Pataki on December 9, 2002. Its passage was a singular accomplishment and the culmination of years of work by NYSPA's staff - our Government Relations Advocate, Richard



Barry Perlman, M.D.

Gallo, and our Executive Director and General Counsel, Seth Stein, along with special lobbyists working closely with the government relations staff of the Medical Society of the State of New York and with the financial support of the APA. The law included a clear prohibition on psychologist prescribing and

passed in New York soon after New Mexico passed legislation permitting limited psychologist prescribing. We hope that New York will be a beacon to other states grappling with this issue. In addition to the headline issue barring psychologists from prescribing, the Mental Health Professions Bill also included other protections by prohibiting non-licensed persons from holding themselves out as psychotherapists and requiring persons with serious mental illness in treatment with the four new mental health disciplines to be evaluated by a physician before treatment continues.

[See **President's** on page 2]

### NAMI Offers Support, Education and Advocacy

By Liz Lipton, M.A.

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

NAMI-NYS, located in Albany, is a statewide organization with 58 affiliates and 5,000 members. Its mission is support, education, and advocacy on behalf of persons with serious mental illness and their families. NAMI-NYC Metro, with 1,400 members, is the largest New York State affiliate.

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

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

#### Parity

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

MS: We have tried to persuade the legislatures of every state and the federal government of a number of things: First of all, mental illness is a physical illness, and it is a major act of dis-

crimination to cut out the people with mental illness from legitimate insurance coverage. Second, according to studies throughout the country, premiums will only increase one or two percent from introducing parity.

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

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

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

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

LL: Are you involved in the Timothy's Law Campaign? Timothy's Law

[See **NAMI** on page 3]

### Albany Report

By Barry B. Perlman, M.D., Seth Stein, Esq., and Richard Gallo

#### The Budget Battle

Will they or won't they? Well they did. The Legislature, in an historic move, rejected the Governor's 2003-2004 budget proposal and passed one of their own. As he had threatened, the Governor vetoed much of the "Legislature's budget" and in turn the Legislature voted to override the veto -- doing so by a substantial margin in the Assembly and unanimously in the Senate.

#### The Priorities for NYSPA

When presented to the Legislature in January, the Executive Budget proposed deep cuts in state spending to bridge the widening gap between revenue and expenditure estimates. Education and health care were particularly hard hit by the proposed budget. Mental health care by itself was a mixed bag. The overall recommendation for mental health serv-

ices funded in the budget for the Office for Mental Health (OMH) showed little change over prior year appropriations in stark contrast to that which was proposed for most other state agencies. However, the OMH budget does not include appropriations for Medicaid nor the appropriations for psychiatric care to be rendered in general hospital inpatient and outpatient units. Those items are found in the Department of Health budget. In addition, while the bottom line of the OMH budget was encouraging, the means to get there were objectionable to psychiatry. (See Albany Report -- *The Bulletin* -- Spring 2003, Vol.46, # 1)

On March 11, 2003, as part of NYSPA's overall budget lobbying activities, a delegation of NYSPA Officers and members

[See **Albany** on page 7]

### Brooklyn Psychiatric Society Holds its 12th Annual Residents' Scientific Session

By Alan Tusher, M.D., President, Brooklyn Psychiatric Society



Drs. Reddy, Shabry, Goldstein, Cross, Addepali, Shah, Viswanathan, and Tusher.

I would like to take this opportunity to describe an activity that we in the Brooklyn Psychiatric Society have yearly. Residents from the three residency programs in the district branch gather together for an evening of academic and social collegiality. The residents' scientific presentation session is an annual event that was established in 1992 with an endowment fund generously provided by Drs. Ramaswamy and Kusum Viswanathan, which provides awards for the residents who have come to compete with their colleagues. The program was begun under the direction of Dr. Ramaswamy Viswanathan when he was president of the DB, and has continued under his direction. The purpose of the program is to promote scholarly work by residents, promote collegiality amongst residents from various programs, and to promote the involvement of the residents in the Brooklyn Psychiatric Society. Each year we have 3 judges who are not affiliated with any of the training programs judge the presentations. We are thankful to the numerous psy-

chiatrists who have served in this role, many of them from outside Brooklyn. The event has been a highly successful annual event attracting a large attendance, and has played an important role in trainees getting involved in the DB and the APA.

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

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

[See **Brooklyn** on page 8]

# THE BULLETIN NEW YORK STATE PSYCHIATRIC ASSOCIATION

## Editorial Board

Jeffrey Borenstein, M.D.

*Editor-in-Chief*

Holliswood Hospital

87-37 Palermo Street

Queens, NY 11423

Tel: (718) 776-8181 ext. 321

Fax: (718) 776-8551

e-mail: [jborenstein@libertymgt.com](mailto:jborenstein@libertymgt.com)

<http://www.nyspsych.org/bulletin>

Thomas E. Gift, M.D.

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Ann Sullivan, M.D.

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*Assistant Editor*

Robert J. Campbell III, M.D.

*Editor-in-Chief Emeritus*

Leslie Citrome, M.D., M.P.H.

*Editor-in-Chief Emeritus*

## New York State Psychiatric Association

100 Quentin Roosevelt Blvd.

Ste. 509

Garden City, NY 11530

(516) 542-0077; Fax: (516) 542-0094

e-mail: [centraloffice@nyspsych.org](mailto:centraloffice@nyspsych.org)

<http://www.nyspsych.org>

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## Information for Contributors

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

## Information for Advertisers

The Bulletin welcomes advertisements from both NYSPA members and commercial enterprises. Total circulation averages 5,500 copies per issue. The Bulletin is received by all 5,000 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.

## Graphic Design & Production

Lydia Dmitrieff

A to Z Design Group

<umcommon@frontiernet.net>

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

This edition of the Bulletin provides information about legislative and public policy issues, which will have a tremendous impact on the practice of psychiatry and the care of our patients in New York. The president's message reviews the accomplishments and ongoing challenges of our organization. The Albany Report provides a summary of the key legislative issues concerning psychiatry. The Trustee Report and the Spring Area II Council Meeting report provide an overview of a number of initiatives at the state and national level. The President and Executive Director of NAMI share their views about key issues including ECT and parity, and building an even



Jeffrey Borenstein, M.D.

closer relationship with NYSPA. We provide information about upcoming changes in Medicare reimbursement for inpatient services. We have an article about the Brooklyn Psychiatric Society's Annual Residents' Scientific Session and a follow-up article written by the Daniel X. Freedman

Congressional Fellow.

We have continued to supplement The Bulletin with the E-Bulletin. It is sent by email in order to inform members about important developments in a timely way. We believe that this is a useful service to our members and encourage all members who have not yet supplied their

email address to NYSPA to do so. Just email NYSPA's Central Office at [centraloffice@nyspsych.org](mailto:centraloffice@nyspsych.org).

We are proud to report that the Bulletin received Honorable Mention for Newsletter of the Year at the APA Annual Meeting. I want to once again thank Les Citrome for his service as editor and express my hope to maintain and build upon his achievements. During the last year, I have had the opportunity to work closely with the Executive Committee of NYSPA and see first hand the impact that our organization can have on the major issues of our field. I hope that this issue of the Bulletin gives you a sense of these efforts and encourages you to become more involved in our organization. ■

## President's Message continued from page 1

The other outstanding accomplishment of this last year was the publication by NYSPA of a "how to" guide and sample documents to assist members in complying with complex requirements of the federal HIPAA regulations relating to medical privacy. As we now know, what makes HIPAA compliance complex is that the federal regulations must be integrated with the privacy rules of each state and, in any given area, which ever is more stringent trumps the other. While the APA has posted basic HIPAA documents on its Web site, those documents are generic and do not merge them with the privacy laws of the states. Seth Stein and Rachel Fernbach, an attorney working in his firm, completed the difficult task of analyzing and merging the HIPAA regulations and New York State's medical privacy statutes and regulations into a final set of documents which became available to NYSPA members in the "members' only" section of our Web site - [www.nyspsych.org](http://www.nyspsych.org) - in early April, 2003, just in time for the April 14, 2003 implementation date. Available on the Web site are an introduction to HIPAA's requirements and documents presenting a model privacy policy adaptable by those in private practice, a model HIPAA privacy notice for distribution to patients, a model business partner agreement, a HIPAA acknowledgment for release of information, among other documents.

Their high quality work was critical to the ability of NYS psychiatrists to successfully comply with the mandates of the HIPAA privacy rules. Given the cost of commercially available HIPAA material which were not specifically tailored to New York law, the value to each member who utilized this unique NYSPA product certainly had a comparable value of several hundred dollars!

Another valuable service provided to members is NYSPA's annual Medicare fee schedule update adapted to comply with the NYS Limiting Charge requirements along with a primer about its use. In this same vein, Mark Russakoff, Chair of NYSPA's Economic Affairs Committee, and Edward Gordon, former NYSPA president, along with Seth Stein, NYSPA's general counsel, continue to represent New York psychiatrists at the Medicare Carrier Advisory Committee. Their efforts were responsible for significant improvements in the local carrier's policies regarding provi-

sion of and documentation of mental health services under Medicare in NYS.

Also new during the past year are the means of communication available to the organization. In addition to the NYSPA Bulletin, now ably edited by Jeffrey Borenstein, two new vehicles have been added. The graphically pleasing E-Bulletin, designed by NYSPA staff person Donna Gajda, has gained acceptance as a means for rapidly communicating important, time sensitive information with our members. It has been used to alert members to efforts to protect them from inappropriate charges filed by Oxford Health Care with the NYS Office of Professional Conduct for their protecting patient's privacy. The E-Bulletin has also been used to encourage members to communicate the concerns of organized psychiatry to their legislators through a link to CapWiz, a newly acquired web-based program for identifying members state and federal legislators and sending them, by mail or email, a letter on critical issues of importance. For example, CapWiz on the NYSPA website was assist members in raising their voices about proposed cuts in the NYS budget, the harshest budget in decades in its treatment of health and mental health issues.

The severity of this year's budget proposal prompted NYSPA, for the first time in many years, to hold an Albany advocacy day during which participants met with Senators, Assemblymembers and legislative staff. The event, arranged by Richard Gallo, engendered considerable enthusiasm and consideration will be given to holding it again in future years.

What I have found perplexing is the seeming contradiction between the increasing numbers of NYSPA members who have contributed increasing sums to the NYSPA PAC, a critical element in our advocacy work, and the relatively small numbers using the easy links to CapWiz. For our collective voice to gain in strength we require greater member participation in our PAC as well as in communicating concern to legislators! The advocacy partnership between NYSPA and its members requires that we make it as easy as possible for members to make their concerns known to legislators and that the members take the very few moments required to do it. With the link from either the E-Bulletin or the NYSPA Web site to CapWiz, the

process takes no more than a few minutes from start to finish. NYSPA having done its part, we now need more members to do theirs.

The other new vehicle by which NYSPA is working to communicate with the broader community having an interest in mental health issues is through a new quarterly column in Mental Health News, a remarkable publication distributed in New York State and Connecticut whose Editor and Publisher, Ira Minot, is a consumer. Through the NYSPA column we have informed an interested public about NYSPA and its mission, about our legislative advocacy efforts in relation to our work for parity mental health insurance coverage and to contain the abuses of managed care, especially as it impacts access to and quality of mental health care. We have also used the column to provide the public with scientifically accurate information about ECT, a modality that continues to be under ill advised legislative attack, and educate them about HIPAA and how it will affect them. Mental Health News has afforded NYSPA a wonderful public relations vehicle for making our perspective known to an interested public, thus complimenting our other advocacy efforts.

While there is always more to strive for, by any measure much has been accomplished during this past year, continuing NYSPA's proud history of service to its members. Those who have volunteered their time and energy to help NYSPA reach its goals, along with our devoted staff, deserve appreciation and NYSPA members deserve thanks for their decision to maintain their ties to organized psychiatry. It would be gratifying if next year we could number among our achievements increased membership and increased member participation. ■

## Assembly Speaker-Elect

James Nininger, M.D., past-President of NYSPA and currently the Recorder of the Assembly, has been elected to serve as Speaker-Elect of the Assembly. The Bulletin and the Executive Committee of NYSPA congratulate Jim on this accomplishment.

# NAMI Offers Support, Education and Advocacy

Continued from page 1

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

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

LL: How could NYSPA and NAMI work together on Timothy's Law?

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

So we are already working with NYSPA on this. But as far as the membership of NYSPA, anything they can do individually to help pass the law so much the

better. Members of the legislature do respond to mail and postcards on particular issues. We would love it if your membership would write in support of the passage of Timothy's Law.

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

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

## ECT

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

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

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

LL: In your [Mr. Silverberg's] excellent article "ECT Can Be Safe and Effective Therapy," you stated the following: "Based on the scientific evidence, NAMI-NYS has long supported the

appropriate use of ECT as an important therapy that has proven its effectiveness in situations where other modes of treatment do not work." Could you provide some background about this decision?

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

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

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

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

## Psychiatric Beds and Housing

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

JDS: We don't advocate for long term hospitalization to be the treatment of choice, but only as a safety net because the general hospital sec-

tor doesn't offer long term or intermediate term beds for people who need them, and there are people who need them.

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

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

JDS: We have some experts on the national level who said that about 2 percent of the seriously and persistently mentally ill need intermediate or long term beds available at any given time. OMH's data show that we have 228,000 to 250,000 people with serious and persistent illness.

JDS: And if you do the math on that,

you come out with about 4,500 beds, and we're already below that. But NAMI would be glad to review other data and participate in a serious planning process that begins with a needs assessment.

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

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

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

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

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

- 74.9 percent disagreed or strongly disagreed that, "psychiatric center beds are being closed because the need for inpatient care is declining";
- 60.1 percent disagreed or strongly disagreed that, "there are an adequate number of psychiatric center beds to serve the community";
- 58.5 percent disagreed or strongly disagreed that, "there are an adequate number of beds for the patients who need them."

JDS: We also surveyed our own members to determine [the following:] Are beds available when they are needed? Are people discharged too soon? Is there a revolving door with a high-level of readmissions?

LL: If the closings do go through, will the savings be reinvested back into mental health services?

MS: The savings will not be reinvested back into the mental health budget because the Reinvestment Act expired in 2001. There is a plan for reintroducing the Reinvestment Act in 2004, but this will not include savings from any closings that may occur this year.

LL: You mentioned that housing is usually your top priority. Do you expect to see any new housing in this year?

MS: Most of the money that we had hoped would be put into new and better housing for some of the people in adult homes depends on [the] matching of funds by local governments, ...and it is not likely that they will be able to provide the matching

funds. It looks like we will not make much headway on the housing front based on this budget. Maybe we will get minimal fixes to the adult home problems abuses. I hope we will see at least that.

LL: Is there any overall comment you would like to add about the relationship between NYSPA and NAMI?

JDS: Going back to the beginning

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

MS: I really appreciated the opportunity to meet with

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

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

*"If the ball game goes only to those people against ECT, then the concern is that many people will suffer unnecessarily (even including potential deaths) because they don't have access to this procedure of last resort." said Michael J. Silverberg, Esq., President of NAMI-NYS and NAMI-NYC Metro.*

## HERE IS MORE INFORMATION:

- 1.) NAMI-NYS Web site: <<http://www.naminy.org>>
- 2.) NAMI-NYC Metro Web site: <<http://www.nami-nyc-metro.org>>
- 3.) This link <<http://www.naminy.org/ect.htm>> is to the article "ECT Can Be Safe and Effective Therapy" written by Michael Silverberg, Esq., President of NAMI-NYS and NAMI-NYC Metro.
- 4.) "ECT Bills--Memo in Opposition" written by Seth Stein, Esq., NYSPA's Executive Director, is available on the association's Web site: <<http://www.nyspsych.org>>
- 5.) This link <<http://www.naminy.org/statement.htm>> is to the statement by NAMI-NYS before the Senate Finance Committee and the Assembly Ways and Means Committee at the budget hearing on mental health services on February 5, 2003.
- 6.) NAMI-NYS Helpline, toll-free in NY at (800) 950-FACT.
- 7.) NAMI-NYC Metro Helpline (212) 684-3264 or [helpline@naminy.org](mailto:helpline@naminy.org)

## Spring Area II Council Meeting By Liz Lipton, M.A.

The Spring 2003 Area II Council Meeting was held on Saturday March 29 at the LaGuardia Marriot Hotel in East Elmhurst, New York. Barry Perlman, M.D., NYSPA's President and Chair of the Committee on Legislation, moderated the event. After brief remarks by Secretary Glenn Martin, M.D., and Treasurer Aaron Satloff, M.D., respectively, the previous meetings' minutes and the treasurer's report were approved.

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

According to Edward Gordon, M.D., the Co-Chair of the New York State Psychiatric Political Action Committee, Inc., "The PAC has been very active.... It has given us access to the governor and the government, and we have been very effective in lobbying on behalf of psychiatry," said Dr. Gordon.

Dr. Gordon is also NYSPA's liaison to the Medical Society of the State of New York (MSSNY). "MSSNY follows our agenda; We follow their agenda.... We actually serve to help set policy as far as psychiatry is concerned for MSSNY. They back us up 100 percent."

### **Vivian Pender, M.D., APAPAC**

Vivian Pender, M.D., Secretary of the APA Political Action Committee and President-Elect of the New York County District Branch, explained why it was important that members contribute to APAPAC: "Frankly, in order to speak to some of these people in Congress, you either have to be a constituent or you have to contribute money to them, and if you do [contribute money], you get their ear, and you can lobby them and advocate for psychiatry and our patients."

### **Barry Perlman, M.D., NYSPA's President**

Dr. Perlman spoke about NYSPA's accomplishments over the past year including the passage of the Mental Health Professions Bill. For more information about NYSPA's accomplishments, see Dr. Perlman's column on page 1.

### **Richard Gallo, NYSPA's Legislative Consultant**

Richard Gallo, NYSPA's legislative consultant spoke. Please see the *Albany Report* on page 1.

### **C. Deborah Cross, M.D., Vice President and Chair of the Committee on Public Affairs**

The next speaker was C. Deborah Cross, M.D., Vice President of NYSPA, Deputy Representative for Area II, and the newly appointed Chair of the Committee on Public Affairs.

Reflecting on her new appointment, Dr. Cross said, "The media plays a large role in influencing...legislators and how they vote."

Dr. Cross provided some background on the APA Committee on Public Affairs and suggestions about future directions.

### **James Scully, M.D., APA's Medical Director**

James Scully, M.D., the APA's Medical Director, provided information on a number of topics including the APA's new offices, which are more conducive to employees working together.

Regarding the APA's Web site, Dr. Scully said, "If you have tapped into our Web site, it's not what it should be.... We have a task force, called a performance group, working on a new Web

site.... Turns out we had spent \$300,000 on a consultant for this a couple of years ago, so let's see if we get some use out of those dollars now."

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

### **Seth Stein, Esq., NYSPA's Executive Director**

NYSPA's Executive Director, Seth Stein, Esq., spoke about HIPAA. Mr. Stein and Rachel Fernbach, Esq., have developed a packet of materials that will assist members in complying with the HIPAA Privacy Rule, which went into effect on April 14, 2003. The NYSPA HIPAA documents are now posted on the "Member's Only" section of the NYSPA web site.

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

Mr. Stein explained why NYSPA decided to create the New York specific HIPAA documents: "Although the APA HIPAA documents are well done and very comprehensive, the APA documents were not written with specific state requirements in mind. New York State law currently provides strong protections for the confidentiality of med-

*NYSPA has prepared a set of HIPAA documents that are specifically designed for NYS psychiatrists.*

ical information, which in most cases is not affected by the new federal rule."

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

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

### **Michael Silverberg, Esq., President of NAMI-NYC Metro and NAMI-NYS**

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

### **Jeffrey Borenstein, M.D., Editor-in-Chief of The Bulletin**

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

### **L. Mark Russakoff, M.D., Committee on Economics Affairs**

L. Mark Russakoff, M.D., Chair of the



Mr. Silverberg and Dr. Perlman at the Area II Council Meeting.

Photo Credit: L. Mark Russakoff, M.D.

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

Dr. Russakoff also discussed billing to Empire Medical Services, the carrier for Medicare in most of New York State. "For people who had been billing Medicare under 90846 and 90847, the family therapy codes...., there was an automatic edit and request from Empire Medical Services for paperwork after two visits [in a calendar year].... [In other words], if you billed for more than two of these visits, you had to send in a copy of your notes and records. This was a costly endeavor - photocopying the notes -, and there was delayed payment," he explained.

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

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

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

Dr. Russakoff said the Committee on Economic Affairs requested that NYSPA ask OMH to complete its review and distribute this manual by May 1, 2003. The request was approved.

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

### **James Nininger, M.D., Disaster Psychiatry Committee**

Area II maintains a list of volunteer psychiatrists who are available to see victims of 9/11 and their families, said

James Nininger, M.D., Chair of the Disaster Psychiatry Committee. Additionally, Project Liberty is providing funding for mental health treatment.

### **Lenore Engel, M.D., Committee on Children and Adolescents**

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

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

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

### **Arturo Olaechea, M.D., Committee on MITs**

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

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

**Ruth Waldbaum, M.D., Committee for District Branch Presidents** and Presidents-Elect Ruth Waldbaum, M.D., President-Elect of the Greater Long Island Psychiatric Society, was elected Co-Chair along with Dr. Borenstein, President-Elect of the Queens County Psychiatric Society, of the Committee for District Branch Presidents and

[Continued on next page]

# Change in Medicare Reimbursement for Inpatient Psychiatry

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

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

Studies have shown that the new payment methodology will probably redistribute about \$300 million nationwide, which is about 10% of current Medicare spending on psychiatric facilities. Directors of inpatient psychiatry should pay close attention to the new regulation because they will have two important responsibili-

ties to fulfill once the proposal is released. First, they will have 60 days to estimate how much money their facility would gain or lose under the proposal, analyze the programmatic impact of such a gain or loss, and, if they wish, write a comment letter to CMS either supporting or opposing the proposal, along with recommended changes if they oppose the proposal. Second, once the final regulation is released, they will again have to estimate the fiscal impact on their facility and determine whether or to what extent they must change their program to live within their new budget.

In conjunction with the American Psychiatric Association (APA), The Health Economics and Outcomes Research Institute (THEORI), a division of the Greater New York Hospital Association (GNYHA), has set up a Psych PPS Support Group that any hospital in the U.S. can join. For a fee of \$3,350 (the fee is waived for GNYHA members), THEORI will provide a written description and analysis of the proposed and final regulations, PowerPoint presentation files containing the same information that clients can use to brief their staff and colleagues, hospital-specific case-level and hospital-wide fiscal impact analyses of the proposed and final regulations, and individual consulting,

which might include preparation of comment letters to CMS. For information about joining the APA/THEORI Psych PPS Support Group, please contact Elisabeth Wynn at (212) 259-0719 or [wynn@gnyha.org](mailto:wynn@gnyha.org).

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

In 1982, Congress passed TEFRA, which governed how Medicare would reimburse all hospital-based inpatient care. The methodology was simple. Each hospital's total 1981 operating costs were divided by its total discharges to derive a target amount. That amount was updated every year by the hospital market basket index, a measure of inflation. Each year the hospital would be paid the lower of its target amount or its actual cost per discharge for each of its discharges.

In 1984, CMS—formerly known as the Health Care Financing Administration, or HCFA—implemented its first prospective payment system, which pertained to hospital inpatient costs.

When the APA's Council on Economics evaluated the fiscal impact of the new PPS on psychiatric services, it found that the payment methodology did an extremely poor job of matching payments and costs, and

would have severely impaired the psychiatric inpatient delivery system in the U.S., which was already fragile and beset by problems. Therefore, the APA led a successful effort to exempt psychiatric services from the PPS. The Chairman of the Council at that time was Joseph T. English, M.D., Chairman of Psychiatry at New York Medical College and the Saint Vincents Catholic Medical Centers, and Chairman of the GNYHA Mental Health Committee.

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

[Continued on next page]

## Spring Area II Council Meeting continued

Presidents-Elect during the committee meeting that morning.

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

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

Cathryn Galanter, M.D., Chair of the Committee on Early Career Psychiatrists, reported that the committee had organized the meeting's job fair, and she thanked NYSPA's

Coordinator Donna Gajda for helping them.

The committee is starting a mentorship program: "The point of the mentorship program is to help MITs and ECPs and any other members...find out about different areas of psychiatry...[and]...different types of jobs they never had before," she said. Members who would like to participate should contact their ECP district branch representative.

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

## Magellan By L. Mark Russakoff, MD

### Re: Area II Council Meeting of March, 2003

In the Fall 2002 there were rumors of the impending bankruptcy of Magellan Health. Magellan announced on November 1, 2002 that it had received waivers on its financial covenants through December 31, 2002. There was a concomitant re-structuring of the company's management. They noted at the time that they expected to continue to pay providers. Their contract with Aetna, Magellan's largest customer, expires January 1, 2004.

On March 11, 2003, Magellan announced that the US Bankruptcy Court authorized the payment of its obligations to providers, amongst others. They also noted that their Aetna contract had been extended until 12/31/05. They anticipated coming out of bankruptcy by Fall, 2003.

Several members at the Council Meeting asked about the ramifications of the bankruptcy filing of Magellan. The bankruptcy filing should not have any immediate effects on the care of Magellan patients. The bankruptcy court approved continued payments to providers, for which Magellan claims they have sufficient cash flow.

Magellan's problem is with investors, who seem to be the probable losers in this situation. Their debt has been restructured in a complex series of fiscal moves that seems to satisfy their creditors as well as the Court. Seth Stein noted that in accordance with NYS bankruptcy law, providers have a superior claim on funds over investors.

Members should continue to see their Magellan patients. It would probably be wise to bill reasonably promptly, not to delay billing by months, in case the scenario should change. ■

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Ann Sullivan, M.D.

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

**So here are the highlights:**

- **Budget:** There is currently a cash surplus of approximately \$800,000 in this year's budget. While this is good news, it is important to remember that the organization's reserves are still at only one third of what they need to be. Should the surplus continue, it will probably be used to replenish the reserves, and this will be further discussed at the June meeting. The Board and the financial oversight committee have been vigilant about the budget. Dr. Scully has been reviewing

efficiencies. The key issue remains how resources are to be allocated, with advocacy high on the agenda as needing more funding.

- **Investment:** The APA has 17.0 million in investments. The Board passed a resolution, recommended by the investment oversight committee after extensive research, to increase its investment flexibility, by moving its investments to a central custodianship with Sun Trust Bank.

A request to then diversify some of the investment, about 1 million in funds, to small and mid-capital products was deferred to the June meeting when more data and discussion would occur. It has been recommended by the oversight committee and its paid financial consultants, that some limited diversification, while a little more "risky" could be significantly more profitable. A decision will be made in June.

- **Assembly Actions:** These actions developed by the Assembly and approved by the Board speak to the APA's wide arena of action and hopefully influence. They also demonstrate the effort to keep communication open and effective and member benefits useful. Actions include:

- Adoption of Principles of Care for persons with serious and persistent mental illness
- Advocacy for persons with serious mental illness

- **Membership Benefit:** Board Preparation Assistance
- **The State as the Ultimately Responsible Agent** for the mentally ill
- **Dues relief** for Canadian members APA
- **Advocating for Research for Rational Health Care Reform**
- **Increasing communication** within the APA
- **Financial Disclosure to Membership:** The Board requested that the content and format for placement in the Members Only section of the website be presented for approval at the June Board Meeting
- **Information Systems:** An overview of the Association Management System was presented, with a follow up to be presented in June. Implementation has been delayed, but the IS Task Force has recommended Dr. Hsuing as the new chair. Hopefully there will be more rapid progress in the future. Unfortunately my first impression is that there is still much to be done in finalizing the needs and details of the system. I have been appointed to the committee and will keep you updated.
- **HIPAA Educational Packet:** Packet was released and can be retrieved at the website. This packet is more generic than the one on the NYSPA website as the national packet provides an overview for all states. I would recommend utilizing the NYSPA website for more detailed New York State info.

- **Membership:** In an attempt to make By-laws changes less cumbersome, the Board voted that the recommendation of the By-laws Committee to lower from 33 1/3% to 30% or 25% the voting requirement by membership for a By-laws change, be forwarded to the Assembly and Area Councils for feedback. While By-laws changes always seem to be a tedious issue, your input would be useful. As a membership organization, the votes needed for a change could be important! On another note, Las Vegas was proposed as a future meeting site for the APA, a location that has at times been controversial. The Board will vote in June after getting feedback

from the Area Council's.

- **Advocacy:** A "white paper" entitled "A Vision for the Mental Health System" drafted by Dr. Sharfstein et al. is an answer to the President's Commission on Mental Health. It answers many of the inadequacies in the commission report, and advocates for comprehensive reform in the accessibility, payment and structure of mental health services. It was e-mailed to all Assembly members for comment and will be available in final form on the national website.

Funding was approved for advocacy in several state associations including Wyoming and New Mexico. Also funding capped at \$3,000 from the Liaison Representative account, would be utilized for participation in the WPA Violence in the Middle East Task Force. In addition, several Amicus curiae briefs by APA were approved on such issues as involuntary medication for competency to stand trial; affirmative action in medical student admissions and discriminatory/prohibition of sexual practice in Texas.

Finally, your feedback regarding the advocacy structure with the APA and how to better communicate with District Branches, State Associations and Members would be greatly appreciated. This will be a critical decision at the next meeting.

**Issues to be discussed:**

- The Board recommended that a plan for advocacy across all states be developed in response to the current Medicaid reimbursement crisis. All states are being faced with severe reductions in funding for the mentally ill. A pro-active, effective national strategy to assist states is necessary. Government Relations will develop a plan for rapid implementation.
  - How to be more effective at working with states on scope of practice issues and psychologist prescribing.
  - Recommendations on strategy include developing effective coalitions, medical partnerships, effective lobbyists, response systems, etc. at the local levels. The role of national in these areas is critical.
- Once again, please let me know your ideas, suggestions, questions? ■

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## Change in Medicare Continued

Continuing its role in advocating on behalf of the psychiatric inpatient delivery system, the APA's Committee on Reimbursement for Psychiatric Care, which is chaired by Dr. English, monitored CMS's development of the Psych PPS and became concerned that the agency was pursuing research that would lead to hospitals' having to fill out a lengthy patient assessment instrument in order to capture data for payment purposes. The new SNE, home health, and "rehab" PPSs all employ such instruments, which are extremely costly to administer. Therefore, Dr. English, who was familiar with THEORI's work through his association with GNYHA, introduced THEORI to the APA, which engaged the Institute to conduct a study of whether existing billing data would be adequate to develop the Psych PPS.

THEORI's research showed that billing data could explain roughly 20% of per diem cost variation. The APA presented this research to CMS and urged the agency not to require hospitals to collect additional data unless the new data substantially improved the Psych PPS. Since CMS's preliminary patient assessment instruments could not substantially improve the Psych PPS, in its August 29, 2002 report to Congress, the agency indicated that it would probably not propose a new patient assessment instrument, and extensively referenced the work of the APA and THEORI. It is expected, however, that the proposed regulation will include a draft instrument for possible use in the future. Hospitals will want to pay close attention to that instrument and provide appropriate comments about it to CMS. ■

## Albany Report Continued from page 1

traveled to Albany for meetings with legislative leaders and staff regarding our opposition to:

- Eliminating coverage of Medicare deductible and copayments for Medicaid beneficiaries enrolled in the Medicare Program ( "crossover coverage" );
- Closing any state psychiatric centers without a full and complete assessment of bed needs and community resources;
- Closing the Nathan S. Kline Institute for Mental Health Research;
- Imposing a 5% Medicaid rate reduction on general hospital inpatient psychiatric care and a .07% gross receipts tax on general hospital revenue.

### What Got Done – What didn't?

The enacted budget significantly restores the healthcare cuts proposed by the Governor in January, including all of the items addressed by NYSPA except Medicaid/Medicare crossover coverage. Unfortunately, in a dangerous blow to persons with serious mental illness, the agreement reached between the Assembly and Senate only fractionally restores the Governor's earlier proposal which had called for the elimination of payments made by Medicaid for Medicare deductibles and coinsurance.

Historically, for all inpatient care and outpatient non-psychiatric care, Medicare paid 80% of the Medicare allowable charge and Medicaid paid 20%. For most outpatient psychiatric care (office, nursing home, patient home, adult home), Medicare paid only 50% of the Medicare fee and Medicaid

paid the balance for dual eligible patients. Thus, parity existed within the system of treating dually eligible patients; those on disability and the elderly poor, in that all doctors, once they received reimbursement from Medicare and Medicaid, had received 100% of the Medicare allowed fee.

Under the health care budget adopted by the Senate and Assembly and enacted by their veto override, the Legislature restores 20% of the amount currently funded by Medicaid. Thus, for general medical care and psychiatric codes reimbursed by Medicare at 80%, the budget restored 20% of the 20% coinsurance payment paid by Medicaid -- or 4% --for a combined total payment of 84% of the Medicare fee. However, when the percentage formula is applied to psychiatric outpatient care reimbursed by Medicare at 50%, the restoration results in a Medicaid payment of 20% of 50% -- or 10% -- for a total combined payment of only 60% of the Medicare fee -- an unacceptable 40% fee reduction.

NYSPA has obtained Medicaid data which reveals that in FY 2002 psychiatrists treated over 15,000 patients 64 years of age and younger who were dually eligible and psychologists treated just over 3,000 patients from this population. Psychiatrists also treated another 35,500 dually eligible patients who were older than 64 and psychologists treated 8,500 such persons.

NYSPA made the case these patients represent persons with chronic mental illness, including many residing in adult or nursing homes, who depend on appropriate treatment with psychotropic medications for their stability and

tenure in the community. NYSPA argued that a 40% or 50% reduction in payment would likely result in many patients being discharged from care. Further, the consequence of such a drastic reduction in reimbursement to private practicing clinicians would be a dramatic increase in the number of patients seeking care from clinics, where little excess capacity exists, or from emergency rooms. Either alternative, even if obtainable, would be far more costly than treatment from private practicing psychiatrists. In the worst case scenario, patients would be unable to obtain their psychotropic medications, resulting in costly hospital admissions, adding pressure to an already stressed psychiatric inpatient system.

Despite our efforts and those of other interested organizations, including the State Medical Society, the Legislature chose a course, slightly less onerous than the Governor's proposal, but one that is nonetheless harmful to the care and treatment of persons suffering with chronic mental illnesses. NYSPA will pursue remedial legislation to reverse this unfortunate action by the Legislature. Members whose practices are impacted by the reduction in Medicaid reimbursement for dually eligible recipients are urged to contact their Senator and Assemblymember, as well as NYSPA.

### The Fight for Parity Broadens and Intensifies

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

### Timothy O'Clair

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

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

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

### The Timothy's Law Campaign

Since October, the O'Clairs and the staff of the coalition groups (now appropriately known as the Timothy's Law Campaign) have worked tirelessly to construct and promote a comprehensive parity bill for mental illness and chemical dependency. The bill, entitled Timothy's Law, has been introduced in

the Assembly (A-8301) by Assemblyman Paul Tonko (D-Schenectady) and fifty-one of his Democratic colleagues. In the Senate, Senator Thomas Libous (R-Binghamton) will be joined by thirty-one of his Republican colleagues as cosponsors of the bill in that house.

### Call to Action

Newspapers throughout the state have been reporting on Timothy's Law. The O'Clairs have been guests on numerous radio talk shows, as well as TV news programs. Now is the time for NYSPA members and all grassroots components of the organizations that comprise the Timothy's Law Campaign to contact their legislator expressing appreciation to the bills' sponsors, where applicable, and urging for the passage of this important legislation. 12247 -- Senate Switchboard 518-455-2800

All Assembly offices are in Albany, NY 12248 -- Assembly Switchboard 518-455-4100

### Scope of Practice

Last year's negotiated enactment of various scope of practice bills involving psychology, social work and four new mental health professions, has evolved into this year's proposed amendments to those bills. Most of the measures being proposed were anticipated "clean-up" items not handled properly in the original bills (effective days, licensing fees, etc.)

However, there are some substantive issues being discussed especially with regard to the difference between the scopes of practice of "Licensed Masters Social Work" and "Licensed Clinical Social Work." Two areas of potential conflict are: 1) a proposal to clarify the scope of practice of non-clinical social workers with respect to whether they can render a diagnosis as opposed to a "diagnostic assessment" specified in the last year's legislation; and 2) a proposal to grandfather existing corporate practices involving psychologists and social workers, amending a provision in last year's law, prohibits such arrangements. In addition, we are anticipating from the State Education Department (SED), the publication of draft or proposed regulations to implement the new licensure laws. It is difficult to conceive that these proposed regulations will be entirely to our or the Medical Society's liking. NYSPA has met twice with SED officials on the subject of implementation since the enactment of the licensing laws. Now that the business of state agencies appears to be returning to normal after the Legislature's veto override of the budget, we hope to resume the dialogue.

### ECT Bills

Once again, NYSPA finds itself in a losing battle with the State Assembly over legislation to restrict the use of electroconvulsive therapy (ECT). The new Chairman of the Assembly Mental Health and Developmental Disabilities Committee, Assemblyman Peter Rivera (D-Bronx), has reintroduced the four anti-ECT bills passed in the Assembly by his predecessor, former Assemblyman Martin Luster. The Senate scenario, more favorable to psychiatry, is also much the same as last year -- one bill in the upper house requiring the reporting of ECT procedures by hospitals. The Senate bill is not the "same as" any of the Assembly bills but is near enough to one of them as to require close watching. ■

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## Brooklyn continued

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

Dr. Fredryka Shabry from Coney Island Hospital in Brooklyn, Dr. Deborah Cross from Elmhurst Hospital in Queens, and Dr. Manoj Shah from Long Island Jewish Hillside Medical Center in Queens graciously served as judges. The choice of first prize was acknowledged to be a difficult one. Brookdale took the first prize. Each participant had clearly demonstrated mastery of their subject and provided the audience with new perspectives in their areas.

The annual residents' scientific presentation session provides an opportunity for Brooklyn psychiatric residents and psychiatrists to come together for an evening that is both intellectually stimulating and rewarding. Many have maintained relationships with those residents whom they met at these sessions. This is one of the ways that we in the Brooklyn Psychiatric Society assist in the development of the professional identities of our young colleagues. ■

### CAPWIZ

Your opinion counts. To speak up for our patients and profession go to [www.nyspsych.org](http://www.nyspsych.org) and click on the CAPWIZ logo at the bottom of the NYSPA home page.

## All in a Day's Work

By Andrew J. Kolodny, M.D.

This morning is a typical day in the office of Senator Joseph Lieberman. I arrived just after 8 a.m. and quickly scoured the three newspapers with the largest national distribution for all the articles related to health care policy and reform. CNN is playing from the small television sets that are set atop the desks of all of the congressional staffers and other fellows. Quickly the office is abuzz with activity. The Senate is not in session today, but a van load of constituents who are members of the Connecticut "Right to Life Committee" have arrived to express dissatisfaction with the Senator's long-standing commitment to a woman's right to choose. The Military Fellow named Aaron, who is not the least bit regimented as one might expect, is busy today as he has been for months, churning out memos on what the Senator should know about what is happening on the ground in Afghanistan and Iraq. The Senator has a Scheduler, Advisors of all sorts and an entire Press department. All of them are now in full swing, scurrying down well-worn paths between rows of cubicles.

It seems a world away from the busyness I was used to as a fourth year Psychiatry resident at Mount Sinai hospital, yet many of the skills that a doctor needs are being put to use on Capitol Hill. Instead of sitting on the phone for hours wrangling with an insurance company in order to get a patient admitted to the unit, I am on the phone with a staffer in Senator

Corzine's office, asking them if they might co-sign an appropriations request for an organization that provides psychiatric services in the aftermath of disasters. Instead of writing discharge plans and filling out a backlog of charts, I am writing memos detailing the ins and outs of the President's Medicare reform proposal and adding my two cents as to whether and how the Senator should respond.

Last January, I left Mount Sinai to begin the Daniel X. Freedman Congressional Fellowship. Freedman Fellows are PGY-4 residents that are sponsored by the American Psychiatric Foundation to spend the last six months of residency working on Capitol Hill in a Senate or House office. The fellowship is named for the late Daniel Freedman, a former president of the American Psychiatric Association and Chairman of Psychiatry at the University of Chicago, who believed that Psychiatrists should become more involved in the political process.

Shortly after arriving in Washington I interviewed in a handful of Senate offices and was thrilled to get snatched up by Senator Lieberman. In his office, I am only one of eight fellows working on legislation and policy issues ranging from the Environment to Education. Congressional fellows, who are usually on leave from a federal agency, a university or other organization, play an important role in Senate offices. The section of the office where my cubicle sits is known as the "Fellow's Ghetto." I am not the only doctor in the office.

Michelle McMurry, who occupied my post last year, left a Pediatric residency to become Senator Lieberman's Health Fellow and never returned. On this morning, she is reading the latest draft of legislation I've been working on to make real the Senator's goal of translating medical breakthroughs into actual treatments more rapidly. Meanwhile, I begin a days worth of meetings. First, it's a group of OBGYNs concerned about the rising tide of insurance premiums, then there are representatives from Doctors Without Borders, and after that a retirees group concerned about being denied their promised medical benefits as health insurance premiums rise and the economy dwindles. I take down our conversations in detail and assure them that the Senator is on top of their concerns.

Back in Fellows Ghetto, people are gathered around someone's desk to watch Senator Lieberman on C-SPAN as he talks to reporters along the presidential campaign trail. "He looks good," one fellow says. "I think he got a haircut," says another. But then it's back to work. Sometime after the sun has gone down, I turn off my desktop TV and email the latest draft of memos to Michelle. Down in the parking lot of the Senate office building, I unlock my bicycle and ride the eight blocks home. ■

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