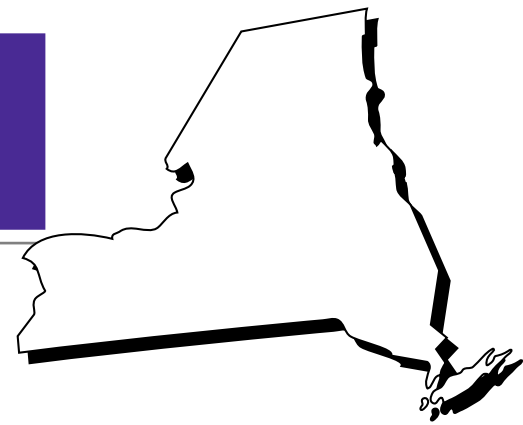


THE BULLETIN

NEW YORK STATE PSYCHIATRIC ASSOCIATION

Winter 2011, Vol. 55, #1 • Bringing New York State Psychiatrists Together



President's Message

By Glenn Martin, M.D.

With the start of a new year, New York State has a new Governor and a shift back to Republican control of the state senate. We are faced with a worse than usual fiscal environment and a need to make significant budget reductions which will include painful reductions to the state Medicaid spend. At the same time, legislators have already introduced a wide range of legislation, some favorable, e.g. tort reform, and some unfavorable, e.g. scope of practice encroachments, and unfunded mandates. This issue of the Bulletin includes our state legislative report. I urge all members to read it carefully and then take the next logical step and join our NYSPA PAC (for information on how to join the PAC, see page 5). We have plenty to do and we need the strong support of our members, financially and on the ground, to effectively promote our agenda.

As for the budget, the Governor's Medicaid Redesign Team (MRT) did not take long to identify the care of the



Glenn Martin, MD

severely mentally ill as a very significant part of the Medicaid budget and an area ripe for cutbacks. NYSPA responded with its own recommendations, which we have submitted to the MRT and other interested parties. I think the issue is important enough to our members and patients that I will

devote the rest of my column space to a summary of our recommendations. The full text, along with pertinent attachments, is available on the NYSPA website (www.nyspsych.org).

Please let me know your thoughts and suggestions. Feel free to contact me directly at doctor@glennmartinmd.com or through your NYSPA council representative.

SUMMARY OF NYSPA RECOMMENDATIONS TO THE NYS MEDICAID REDESIGN TEAM

Medical Home for Patients With SPMI
NYSPA recommended a medical home model as the best option to achieve the

[See [President's Message](#) on page 3]

Albany Report

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

2011-12 Executive Budget Proposal

Hailing it as a transformation plan for a "New" New York that is otherwise "functionally bankrupt," Governor Cuomo unveiled his \$132.9 billion Executive Budget proposal for the 2011-12 fiscal year on Tuesday, February 1, 2011. Compared to the budget for the 2010-11 fiscal year, this Executive Budget proposal represents a 2.7 percent decrease of \$3.7 billion. As we prepare this Albany Report for publication, a systemic review of the budget documents is underway, but the information below provides a brief overview of the key points of the budget proposal, which the Legislature is expected to adopt by April 1.

Health/Medicaid Redesign

As part of his plan to overhaul New York's \$53 billion Medicaid Program, Governor Cuomo's budget proposal calls on a 27-member Medicaid Redesign Team, comprised of health care providers and other industry experts, to find \$2.85 billion in savings for the 2011-12 fiscal year and \$4.6 billion in the 2012-13 fiscal year. To spearhead the efforts, Governor Cuomo tapped Jason Helgeson, former direc-

tor of Wisconsin's Medicaid Program who led a similar effort to reduce that state's Medicaid spending and James Introne, Deputy Secretary for Health and the Director of Healthcare Redesign, whose career in healthcare and government in New York State spans more than three decades.

The Medicaid Redesign Team has been holding regional public meetings to hear ideas about how the state's program can be redesigned to achieve greater efficiencies while maintaining critical services and avoiding across the board cuts. To date, the Medicaid Redesign Team has received 600 ideas for savings from the public meetings and more than 2,000 ideas on its website, which it has narrowed down to 274 proposals. Members of the Medicaid Redesign Team will be asked to rate between 25-30 of the proposals based on cost, quality, efficiency, and overall impact.

One proposal under consideration would move the chronically ill population (those with HIV/AIDS, serious and persistent mental illness, substance abuse conditions and other high-cost

[See [Albany Report](#) on page 5]

Fall Area II Council Meeting

By Rachel A. Fernbach, Esq.

The New York State Psychiatric Association held its annual Fall Area II Council Meeting on Saturday, October 23, 2010, at the LaGuardia Marriott Hotel in East Elmhurst, New York. Glenn Martin, M.D., NYSPA President, called the meeting to order and welcomed guests Bruce Hershfield, M.D., Assembly Speaker and Sam Muszynski, APA Director of Healthcare Systems and Financing. After introductions, members of the Executive Committee provided reports. NYSPA Secretary Richard Altesman, M.D. presented the minutes from the meeting of the New York State delegation to the Spring 2010 APA Assembly Meeting, which were approved. Jeffrey Borenstein, M.D., NYSPA Treasurer, presented financial statements for January-September 2010 with a comparison for the same period for 2009 and 2008. Dr. Borenstein stated that the organization is awaiting additional dues revenue in the coming months, which will result in increased income on the 2010 financial statement. Assuming membership patterns stay the same, the Executive Committee is considering a potential dues increase for fiscal year 2012 to offset anticipated decreases in revenue.

President's Report

Dr. Martin provided an update on the use and regulation of electronic health records. There have been some suggestions that the APA endorse an EHR vendor, however this idea is not uniformly supported. Dr. Martin reminded the Council about Medicare and Medicaid EHR incentive programs that begin in 2011. By 2014, providers who are not using EHR systems will be penalized 1-2% of their fee schedule. The privacy advisory committee of the Office of the National Coordinator for Health Information recently issued formal rec-

ommendations regarding EHR systems, which are available online. Dr. Martin announced that New York State recently awarded \$120 million to various healthcare organizations in the state to promote the use of health information exchanges, particularly with regard to treatment for psychiatric conditions. Dr. Martin reported that the leadership of the Assembly is working on a revised conflict of interest policy that would replace the "Applebaum" report. A revised copy of the policy has been circulated and he asked Council members to review it in anticipation of discussion at the Assembly meeting in November. Dr. Martin also reported that while 400 psychiatrists are currently members of MSSNY, only 200 of them are also NYSPA members. NYSPA plans to reach out to those 200 individuals to see why they are not NYSPA members with hopes of improving relationships and gaining new members. Finally, Dr. Martin provided an update on the Medicaid Pharmacy and Therapeutics Committee, which he chairs. The Committee has now taken the unofficial position that antipsychotic medications should be designated as preferred drugs.

Budget Committee

Aaron Satloff, M.D., Chair of the Budget Committee, presented the 2011 NYSPA budget, which was approved by the Council.

NYSPA Distinguished Service Awards

The Council presented three NYSPA Distinguished Service Awards to three outstanding NYSPA members. The first went to Robert Young, M.D., for his remarkable work on behalf of the Genesee Valley District Branch and the second was awarded to Barry Perlman, M.D. for his tireless work on behalf of NYSPA and the Committee on

[See [Council Meeting](#) on page 4]

Legislative Brunches

By Rachel A. Fernbach, Esq.

The New York City District Branches of the APA hosted their Twelfth Annual Citywide Legislative Breakfast on December 5, 2010, at the New York Academy of Medicine in New York, New York. One week later, the Psychiatric Society of Westchester hosted its 24th

Annual Legislative Brunch on December 12, 2010, at the Crowne Plaza Hotel in White Plains, New York. Barry Perlman, M.D., NYSPA Past-President and current Chair of the NYSPA Committee on Legislation, kicked off both events by providing an overview of current legislative issues affecting New York psychiatrists, particularly the enormous State budget deficit and the expected change in majority of the State Senate following the November elections. Dr. Perlman encouraged the legislators and staff members present at both events to please seek NYSPA's counsel while reviewing the budget and other proposals that may affect mental health services so that we can work together to preserve so many of the gains of recent years.

Dr. Perlman also raised a variety of issues, including the need to expand Timothy's Law to provide parity in nonquantitative treatment limitations for small businesses in New York that are not covered by the federal parity law; concerns with the sexually violent predator civil confinement program;



U.S. Congresswoman Nita Lowey and Susan Stabinsky, M.D.

the proposed consolidation of OMH, OPWDD, OASAS and NYS Medicaid under the umbrella of the Department of Health, which NYSPA does not support; and possible revisions to the Medicaid pharmacy benefit that would reduce costs and protect patients. At the Westchester brunch, Dr. Perlman discussed local issues including the planned closure of all county-run mental health clinics and the need to move children out of emergency rooms as soon as possible to protect them from viewing traumatic events.

New York City Breakfast

The New York City event was moderated by Jack Hirschowitz, M.D., Legislative Representative for the New York County District Branch. Dr. Hirschowitz welcomed those in attendance and introduced Carol Bernstein, M.D., APA President, Seth Stein, Esq., NYSPA Executive Director, Richard Gallo, NYSPA Government Relations Advocate, and Norman Straker, M.D., a NYSPA member who has been appointed to Governor Cuomo's Health Care Transition Team.

[See [Brunches](#) on page 4]

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C. Deborah Cross, MD, *Past President*

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 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

We are in a time of great change which brings about both challenges and opportunities. The Albany Report focuses on the Executive Budget Proposal and the Medicaid Redesign Process. The President's Message includes the recommendation which NYSPA submit-



Jeffrey Borenstein, MD

ted to the Medicaid Redesign Team. We also report on the Legislative Brunches which take on new importance during times of great change.

The Area II Trustee's Report highlights a number of initiatives of the American Psychiatric Foundation, the

philanthropic and educational arm of the APA. A report about the Area II Council Meeting provides important information about the ongoing activities of NYSPA. We also provide information about the Red Flags Rule as well as Medicare payment incentives. Finally we are pleased to announce the winners of the third annual resident paper contest. ■

Area II Trustee's Report: Typical or Troubled By James Nininger, M.D.

With the recent tragedy in Tucson, attention has again turned to violence, the mentally ill and our mental health treatment system. Though most mentally ill individuals are not violent, clearly the attack on the Arizona Congresswoman Gabrielle Giffords and the indiscriminate murder of several standers-by was the act of a person with serious psychiatric illness, a fact backed by the personal history of the individual and the reports of those who had encountered him especially in the recent past. We, as psychiatrists, must summon our resolve to help others identify those beginning to show signs of psychiatric decompensation and encourage them to speak up in the service of those identified so they can get timely and appropriate treatment.

The American Psychiatric Foundation, the philanthropic and educational arm of the APA, has taken initiatives in a number of areas to address these problems. Typical or Troubled is a program providing education and training to teachers in secondary schools to learn to recognize possible psychiatric distress and to follow up appropriately. The program has been active in 30 states, in 300 school districts, providing training to 21,000 teachers and coaches, who reach over 350,000 students. Grants are also available to schools across the country and each year, schools receive grants between \$1,500 and \$2,500 for this training. A study in the January Journal of the American Academy of Child and Adolescent



James Nininger, MD

Psychiatry found that of 6,483 teens ranging in age from 13 to 18, only about one in five with anxiety, eating disorders or substance abuse disorders received treatment. Those with Attention Deficit/Hyperactivity Disorder and behavioral disorders were more likely to be noticed and treated.

The transition from high school to college is a crucial period for all teenagers. For students dealing with pre-existing or newly emerging mental health problems, it can be a difficult and dangerous time. The American Psychiatric Foundation and the Jed Foundation, an organization that seeks to prevent suicide in college students, have launched a joint initiative called The Transition Year, to help foster a safe and healthy transition from high school to college. The program creates guides for both parents and students available online and in print covering issues of mental health considered when selecting a college, warning signs indicating mental health problems, and actions to take when concerns regarding mental health arise. These guides differ from the materials currently available in that they provide a specific focus on mental health and the transition to college life. While individual colleges address some of these topics during freshman orientation, these materials fill a need for access to such information on a national level. To learn how you can offer these free materials to your patients, visit www.jedfoundation.org or www.psychfoundation.org. Suicide

remains the second leading cause of death among college students.

The jail and prison system is another area where psychiatric illness is under-identified and under-treated, contributing factors to recidivism and the high cost of such institutionalization. A recent study of American jails found up to one-fifth of inmates suffering some form of mental illness.

A third arena of great concern is the military, particularly those sent into combat and their families. As a result of a record number of suicides last year at Fort Hood, Texas, attempts have been made to train more than 700 non-commissioned officers and chaplains to spot suicidal soldiers and engage them in counseling and evaluation. Between April and October of 2010, more than 17,000 soldiers participated in role-playing exercises representing suicidal individuals and those evaluating them. According to Colonel Chris Philbrick, Deputy Director of a special task force established to reduce suicides, though the US Army now has 3800 therapists and psychiatrists, two-thirds more than three years ago, there is still a significant shortage. A stunning statistic is that in 2010 more active members and reservists in the US armed services took their own lives (468) than lost their lives in combat.

Hopefully, tragedies such as the recent shooting in Tucson can lead to increased awareness and proactive approaches to engage individuals in treatment rather than serve as a further basis for stigma and barriers to care for the mentally ill. ■

Assembly Update By Rachel A. Fernbach, Esq.

The New York State Delegation, comprised of representatives from all over the state, attended the Fall meeting of the APA Assembly on November 19-21, 2010, in Washington, D.C.

Action Papers

The Assembly passed two action papers that may be of interest to members. The first is a paper presented by mem-

bers from New York State entitled "Medical Malpractice Insurance for Psychiatrists Employed by Hospitals and Other Facilities." This paper discusses the problem of psychiatrists and other physicians who were formerly employed by a hospital that filed bankruptcy and subsequently closed who may have a resulting gap in their malpractice insurance coverage. In imple-

menting the paper, the APA will develop guidance to assist members who find themselves in a similar situation and work with the APA-endorsed malpractice carrier to create programs or special endorsements that would fill any gaps in coverage.

The Assembly also passed a paper

[See Assembly Update on page 3]

CORRECTION:

An article published in the Fall 2010 Bulletin about the new Medicare and Medicaid incentive programs for providers who adopt electronic health records systems, omitted certain information regarding incentives for Medicare providers. The relevant section of the article is amended as follows (see clarification in **bold and underline**):

Medicare Payment Incentives

Starting in calendar year 2011, Medicare providers who are meaningful users of EHR are eligible to receive an annual payment add-on equal to 75% of the provider's fee schedule allowed charges for the calendar year, for a total of five years, subject to an annual limit, as follows:

- \$15,000 in the first payment year (or \$18,000 if the first payment year is 2011 or 2012, rewarding those who act quickly to implement EHR);
- \$12,000 in the 2nd payment year; • \$8,000 in the 3rd payment year; • \$4,000 in the 4th payment year; and
- \$2,000 in the 5th and final payment year.

The key point is that each provider's incentive amount is directly proportional to the provider's Medicare volume. For example, if a provider has \$10,000 in annual Medicare charges, that provider's incentive payment will be equal to \$7,500, assuming all other requirements are met. Likewise, the provider will be eligible to receive the maximum annual incentive only if his or her allowed charges reach a certain threshold. For example, in order to receive the maximum \$18,000 payment for 2011, the provider must have at least \$24,000 in allowed charges for the calendar year (\$18,000 being 75% of \$24,000). Clearly, those providers with the most robust Medicare practices will be at an advantage in maximizing the available incentive payments.

President's Message continued from page 1

integrated care that patients with serious and persistent mental illness require. Instead of handing over patients with SPMI to generic for-profit managed care, New York should turn to the existing network of clinics, outpatient departments and private practitioners who can carve out patients with SPMI to ensure that their health care is well managed to achieve reductions in symptoms, improvement in functioning and improved overall health with a concomitant reduction in costs for ERs and inpatient stays.

Using Reimbursement Methodology To Incentivize Clinic Treatment of Patients With SPMI

NYSPA recommended the targeting of the available dollars to enhance and incentivize outpatient treatment of

patients with SPMI. These enhancements would be paid for by lowering payments for patients who did not have SPMI and thus, were budget neutral.

Maximization of Medicare And Private Health Insurance For Dual Eligibles

NYSPA recommended strategies that will enhance payments from the Medicare program while reducing the Medicaid cost sharing burden. NYSPA asserted that Medicare maximization should be a basic principle of Medicaid reimbursement reform – not just an afterthought.

Exemption of Psychotropic Medication From Prior Authorization Requirements

NYSPA recommended the exemption of certain psychotropic medications (pri-

marily second generation atypical antipsychotic medications) used to treat schizophrenia and other serious mental illnesses from the Medicaid prior authorization program. ■

Classifieds

Rye Brook. Furnished offices in premier building--24/7 access. Excellent location and parking. Close to major highways. Large waiting room, magazines, water, cleaning service. Possible referrals. Dr. Adler 914 253-4927

NYSPA Protests Negative Ad in "Don't Be Silent" Campaign

In October, 2010, NYSPA signed on to a joint letter to Richard Daines, M.D., the former NYS Commissioner of Health, protesting a print advertisement developed as part of DOH's "Don't Be Silent" anti-smoking campaign. The advertisement depicted a physician with his hands in handcuffs behind his back.

The letter, prepared by MSSNY and signed on to by numerous other medical specialty organizations in New York State, requested that DOH immediately withdraw the advertisement from publications and other media because its depiction of physicians as criminals is wholly unacceptable. The letter stated: "Although we strongly assert that smoking cigarettes is an unhealthy practice and a poor individual choice, cigarettes are a legal product and cigarette-smoking is not a crime. To suggest the criminalization of the practice of medicine – based upon the content of the discussions about smoking that occur within the doctor-patient relationship – is simply wrong."

Following the submission of the letter, representatives from MSSNY, the American Academy of Pediatrics and the Academy of Family Physicians met with Commissioner Daines and members of his staff. MSSNY was subsequently informed that DOH would not be running the advertisement and would substitute it with an ad that discusses the importance of physicians reaching out to patients about quitting smoking.

In an email message to all the signatories on the letter, MSSNY noted that the message to DOH from organized medicine on this issue was strong, loud and clear. MSSNY thanked each organization for creating a united front against an advertisement that was offensive to all physicians. ■

Assembly Update

continued from page 2

entitled "Conflicts of Interest – Principles and Guidelines," which was drafted by a subcommittee of the Assembly Executive Committee. The new guidance document will serve as the organization's official public policy statement and member guideline regarding potential conflicts of interest. The APA has worked for some time to develop a workable set of guidelines addressing this issue and the final result was considered to be a great success.

All Assembly action papers may be accessed via the Association Governance link on the APA website (www.psych.org).

New ABPN Rules on Maintenance of Certification

The new American Board of Psychiatry

[See Assembly Update on page 6]

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Council Meeting continued from page 1



(from left) Richard Altesman, M.D., Glenn Martin, M.D., Panagiotis Roussos, M.D., Ph.D., Aaron Satloff, M.D. and Russell Denea, M.D.

Legislation. Finally, C. Deborah Cross, M.D., received an award for her many years of dedicated service to the APA and Area II. All three awardees thanked the Council for the recognition and honor.

NYSP-PAC Report

Seth Stein, NYSPA Executive Director, presented the NYSP-PAC financial statement for January-October, 2010, comparisons for the same time period for 2009 and 2008, and the list of contributors so far this year. Mr. Stein reported that there has been a downward trend in the amount of contributions over the past three years, at a greater rate than the downward trend in the number of members. He stated that the next PAC solicitation mailing will be going out in January and encouraged all present to contribute if they had not already done so.

American Professional Agency, Inc.

Cindy Tunney and Charlene Glock, representatives from the American Professional Agency, Inc., the new APA-endorsed malpractice insurance carrier, provided information about the history of the company and an overview of available benefits.

Legislative Report

Richard Gallo, NYSPA Government Relations Advocate, reported on the recent issuance by the NYS Insurance Department of Supplement No. 1 to Circular Letter No. 20, which discusses the impact of the federal parity law and regulations on Timothy's Law benefits and mental health parity in the State of

New York. NYSPA is very pleased that the Insurance Department has taken such a proactive stance regarding implementation of federal parity. Mr. Gallo also shared some highlights of the 2010-2011 enacted budget and provided an update on bills of interest that were either signed by or vetoed by Governor Paterson. Finally, Mr. Gallo discussed additional pending bills that are of interest to NYSPA.

Resident Paper Contest

Dr. Martin announced the winners of the third annual NYSPA Resident Paper Contest (see page 6 for list of winners and their paper topics). First place winner Panagiotis Roussos, M.D., Ph.D., a resident at the Mount Sinai School of Medicine, presented his paper to the Council.

Executive Director's Report

Mr. Stein reported that the NYS Insurance Department has issued a final version of its circular letter regarding the use of E/M codes by psychiatrists. A noteworthy change from the draft version is that the circular letter will take effect retroactively and that providers will not need to resubmit claims to carriers.

Mr. Stein provided an update on the Medicare RUC committee and its 5-year review of CPT codes. He expects that the committee may undertake a thorough review of CPT codes for psychiatry, which may increase coding options for use by members. Use of E/M codes by psychiatrists is expected to result in

greater reimbursement from Medicare and third party payers.

Mr. Stein also discussed the new OMH Part 599 regulations, which do not allow for maximum use of E/M codes. This is a significant problem because it deprives clinics as well as the NYS Medicaid Program from receiving maximum reimbursement for services provided.

Assembly Update

Assembly Speaker Bruce Hershfield, M.D., was pleased to report that there are no planned cuts to the Assembly budget for 2011. He announced a new Assembly blog, which can be accessed at www.apamember.wordpress.com. Dr. Hershfield reported that there are 30 action papers for review by the Assembly at its November meeting. Also, at the November meeting, there will be no formal seating for Deputy Representatives who will instead be seated as guests. Finally, Dr. Hershfield recognized Ann Sullivan, M.D., Speaker-Elect, and he stated that she has been wonderful to work with.

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Assembly Reference Committees

As Chair of the APA Procedures Committee, Dr. Martin reported that the Committee has been discussing possible changes in the functioning of the Assembly Reference Committees that would improve their efficiency and effectiveness. A possible model are the MSSNY Reference Committees, which meet for a longer period of time and produce written reports of their work.

NYSPA Ad Hoc Planning Committee

In response to recent reductions to Area II representation in the Assembly, Dr. Martin created an Ad Hoc Planning Committee to discuss possible reorganization of the NYSPA governing body, with C. Deborah Cross, M.D., NYSPA Immediate Past President, as Chair. Dr. Cross presented the report of the Committee, which recommended a variety of proposals, including increasing representation in the NYSPA Council from different areas of the state and the

use of video conferencing as a way to improve communication among the district branches.

Area II Trustee's Report

Area II Trustee James Niningger, M.D., reported on the recent corporate reorganization of the APA. The American Psychiatric Foundation has been merged into a newly formed entity while APPI and APIRE have been merged into the APA. These changes were made in an attempt to reduce costs and increase efficiencies. Dr. Niningger also reported that the Healthy



Glenn Martin, M.D. and C. Deborah Cross, M.D.

Minds television program, hosted by Jeff Borenstein, M.D., is now available to over 60% of U.S. television households. Finally, Dr. Niningger provided an update on practice guidelines. The Practice Guideline for the Treatment of Patients with Major Depressive Disorder has been published at Psychiatry-Online.com and as a supplement to the October American Journal of Psychiatry.

New Business

Richard Altesman, M.D., proposed that NYSPA send a letter to the APA regarding the fact that American Professional Agency, Inc., the new APA-endorsed malpractice carrier, is not approved to do business in New York State, which may have a negative impact on members. The Council voted to send such a letter.

The meeting was concluded with reports from the following NYSPA committees: Public Affairs, Public Psychiatry, Children and Adolescents, Economic Affairs, Early Career Psychiatrists, Members-In-Training and Presidents and President-Elects. ■

Branches continued from page 1

Silvia Hafliger, M.D., President of the New York County District Branch, thanked PRMS for providing today's breakfast and encouraged everyone to visit the District Branch's new website, located at www.nycpsych.org. Next, Dr. Bernstein addressed the group, thanking all participants for their work in advocating for psychiatry and encouraged experienced members to take MITs and early career psychiatrists under their wing to promote mentorship and growth in the organization.

The following legislators attended the New York City breakfast: New York State Senator Toby Ann Stavisky (D-Queens); New York State Assembly Members Richard Gottfried (D-Manhattan) and James Brennan (D-Brooklyn); and New York City Council Member Mathieu Eugene. David Agliatoro, a staff member from the office of Assembly Member Catherine Nolan (D-Queens) and Joseph Goldbloom, a staff member from the office of New York City Council Member Leroy Comrie, also attended the event.

Assemblyman Richard Gottfried was

the first legislator to address the group. He discussed state budget issues and noted that he expects the incoming Governor's budget to include significant cuts to Medicaid reimbursement rates. Assemblyman Gottfried stated that he supports the addition of antipsychotics to the Medicaid preferred drug list as well as final decision-making power for physicians. He then provided an update on an anti-torture bill that he introduced which prohibits licensed health care professionals from participating in torture or interrogation. The bill was recently revised in response to input from several advocacy groups and he hopes that NYSPA will join in supporting the bill. Assemblyman Gottfried concluded his remarks by noting that he supports health care reform and a single payer system.

Senator Toby Ann Stavisky spoke next, discussing the state budget and the recent elections. She noted that she supports the expansion of mental health parity benefits in New York as well as NYSPA's position on scope of practice issues. Senator Stavisky discussed the sexually violent predator

civil confinement program and the outpatient model currently in use in the State of Texas as well as the potential consolidation of the "O" agencies, which she does not expect to come to fruition. Finally, she commended Richard Gallo, NYSPA Government Relations Advocate, for his fine work on behalf of NYSPA.

The next speaker was New York City Council Member Mathieu Eugene, who is a physician as well as a legislator. He acknowledged the very difficult budget situation but cautioned that mental health needs and concern for the well-being of our citizens must remain a priority. As Chair of the Committee on Veterans, he is very aware of the unique mental health issues affecting veterans and service members. Council Member Eugene concluded his remarks by stating that he supports NYSPA's legislative agenda and encouraged members to contact his office at anytime.

The final legislator to speak was Assemblyman James Brennan, who discussed the many challenges presented by the adoption of a new state budget. He noted that he does not support the



Senator Toby Ann Stavisky

consolidation of the "O" agencies, but does support an outpatient treatment model for sexually violent predators, which he believes would save the State a great deal of money. Finally, Assemblyman Brennan stated that he support the expansion of Timothy's Law and answered questions on the federal parity law and Medicaid managed care.

The New York City event was concluded with remarks from staff members from the offices of Assemblywoman Catherine Nolan and City Council

[See Branches on page 5]

Albany Report continued from page 1

enrollees), currently covered under Medicaid fee-for-service, into Medicaid managed care plans to which they have previously been ineligible. While the idea has been touted as a way of reducing costs for this special needs population which comprises 20 percent of Medicaid enrollees, but accounts for 75 percent of Medicaid spending – there are varying recommendations as to how such a proposal should be implemented. Some are arguing that this population should be “carved-in” to the generic Medicaid managed care plans. On

ty or shut down state government. The next step: the Medicaid Redesign Team must vote on and submit its recommendations by March 1, 2011, for consideration in the budget process.

Mental Hygiene

The executive budget proposal provides a total of \$8.2 billion in funding for mental hygiene agencies (Commission on Quality and Advocacy for Persons with Disabilities, Office of Alcoholism and Substance Abuse Services, Office for Persons with Developmental Disabilities, and Office of Mental

“O” agencies (see Figure 2).

Mergers/Consolidations

Also included in the budget proposal is a plan to consolidate eleven state agencies into four, pending Legislative approval. Under Cuomo’s plan for “rightsizing state government,” the Banking and Insurance Departments, along with Consumer Protection Board, would become the Department of Financial Regulation. Meanwhile, the Governor’s Spending and Government Efficiency Commission is tasked with preparing recommendations for reduc-

that liability protections for psychiatrists and other physicians were in jeopardy when the hospital or institution they work for (either part-time or full-time) becomes insolvent and a claim is filed subsequent to its closure.

Nevertheless, NYSPA will pursue legislation in New York that would require hospitals to include physician liability contingency coverage in the event the institution becomes insolvent or bankrupt.

Legislation

The year ahead for physicians and the practice of medicine will be historic as New York implements the Affordable Care Act, confronts a massive budget deficit and the Legislature grapples with critical issues at a time when Governor Cuomo has indicated the State is at a pivotal crossroads that calls for a complete recalibration. As of Wednesday, February 9, 2011, more than 8,000 bills have been introduced. To date, there are over two dozen bills to expand the scope of practice of allied health care professionals, which run the gamut from repealing the requirement for nurse practitioners to practice pursuant to a collaborative agreement with a physician to allowing dentists to perform facial plastic surgery. In addition, to accomplish Governor Cuomo’s health care cost reductions including redesigning Medicaid, some measure of tort reform in New York State is essential. Nevertheless, there are at least half a dozen bills that would alter or repeal the modest gains that physicians and hospitals have been able to eek out of the Legislature over many years. Proactively, MSSNY continues to promote major tort reform legislation and NYSPA remains committed to assisting MSSNY in this fight. ■

For further information on any of the matters discussed in this article, please contact Richard Gallo at (518) 465-3545 or richardgallo@galloassociates.org. A list of bills that are currently being monitored by NYSPA can be viewed on the NYSPA website at www.nyspsych.org.

Psychiatrists are urged to contribute to the New York State Psychiatric Political Action Committee to enhance NYSPA’s ability to meet the challenges that lie ahead for our profession. To make a contribution, please send a check payable to the “NYSP-PAC” to the New York State Psychiatric Political Action Committee, Inc., 400 Garden City Plaza, Suite 202, Garden City, New York 11530.

Figure 1

Category	2010-11 (\$ in millions)	2011-12 (\$ in millions)	Change	
			Dollar (in millions)	Percent
OPWDD	4,468.9	4,323.3	(145.6)	(3.3)
OMH	3,348.8	3,278.1	(70.7)	(2.1)
OASAS	591.8	581.4	(10.4)	(1.8)
CQCAPD	16.2	16.0	(0.2)	(1.2)
DDPC	4.2	4.2	0.0	0.0
Total	8,429.9	8,203.0	(226.9)	(2.7)

Figure 2

Proposal	2011-12 (\$ in millions)	2012-13 (\$ in millions)
Restructure Non-Residential OMH Programs	27	30
Reform Financing of Various OPWDD Programs	73	98
Freeze Development of All New OMH Community Residential Programs for One Year	32	32
Delay Funding of New Community Residential Facilities	40	35
Utilize Quality Assessments to Determine Funding for OASAS Programs	27	27
Maintain Funding to Support Costs of Drug Law Reforms	20	20
Improve Collections through Audits and Third-Party Payment	92	89
Forgo Planned COLA/Rate Increases	42	42
Ten Percent General Fund State Operations Reduction	251	258
Total	604	631

the other hand, a broad coalition of consumers and provider organizations, including NYSPA, has vehemently opposed the idea. Instead, NYSPA and others are urging that not for profit regional behavioral health plans be established utilizing a health home model that would manage the mental and physical health services, including primary and specialty care, for this population, maximizing the flow of funds for patient care and minimizing overhead expenses.

If the Medicaid Redesign Team cannot reach the targeted savings, Governor Cuomo has included language in the budget proposal that would give him the authority to implement the reductions -- an authority that the Legislature is not likely to give up without a fight. Nevertheless, the Legislature may be between a rock and a hard place if the Governor includes such language in an emergency extender bill thereby forcing the Legislature to relinquish its authori-

Health, euphemistically referred to as the “O” agencies) – an annual spending decrease of \$227 million from 2010-11.

The Office of Mental Health fares slightly better than the other mental hygiene agencies, despite growing costs as a result of a rising civil confinement population and a court order that requires 4,500 individuals to be moved out of New York City adult homes and into the community. Overall, the budget proposal allocates \$3.6 billion for the Office of Mental Health, a decrease of \$95 million or 2.6 percent from 2010-11.

Figure 1 outlines and compares last year’s budget for the agencies and the proposal for the upcoming fiscal year:

The budget calls for state agencies to reduce their operating costs by 10 percent, which the Office of Mental Health plans on implementing through administrative functions and maximizing community placement. Furthermore, the budget proposal calls for \$604 million worth of “gap-closing actions” for the

ing the number of agencies, authorities and commissions by 20 percent by May 1, 2011. Although not specifically a budget item, consolidation of the “O” agencies or parts thereof are being discussed.

Physician Liability/Hospital Insolvency

Spurred by the bankruptcy and subsequent closure of St. Vincent’s Hospital in Manhattan, the American Medical Association’s (AMA) House of Delegates recently passed an emergency resolution -- urging Congress to enact legislation that would amend the federal bankruptcy statute to ensure that the medical liability premiums a hospital or institution is obligated to pay for its physicians, residents and fellows are considered a priority in bankruptcy proceedings and paid out of the proceeds of the insolvent’s estate.

The passage of Resolution No. 230, introduced by MSSNY at the AMA’s interim meeting, comes as a result of the concerns raised by NYSPA -- fearful

Branches continued from page 4

Member Leroy Comrie.

Westchester Branch

The Westchester brunch, which took place the following week, was moderated by Susan Stabinsky, M.D., Legislative Representative for the Psychiatric

Society of Westchester.

Dr. Stabinsky, a psychiatrist at the Veterans Administration Hospital in Montrose, spoke briefly about the mental health needs of new returning veterans, which are different today than ever before.

Complicating factors include the younger age of the veterans, difficulties with securing jobs and education due to the current economy and increased problems with addiction.

Dr. Stabinsky then welcomed U.S. Congresswoman Nita Lowey; New York State Senator Suzi Oppenheimer

(D-Westchester); New York State Assembly Members Robert Castelli (D-White Plains) and Amy Paulin (D-Scarsdale); and Westchester County Legislators William Burton, Kenneth Jenkins and Lyndon Williams. She also introduced Grant Mitchell, M.D., Commissioner of the Westchester County Department of Community Mental Health.

The first legislator to address the group was Congresswoman Nita Lowey who spoke about the mental health needs of returning veterans as well as her strong support for mental health parity, especially in the new health care exchanges. Next, Senator Oppenheimer discussed state budget issues, her lack of support for the proposed consolidation of the “O” agencies and the challenges associated with the sexually violent predator civil confinement program.

County Legislator Lyndon Williams



Susan Stabinsky, M.D. and Senator Suzi Oppenheimer



NYC Council Member Mathieu Eugene

took the podium next and stated that when making budgetary and other fiscal decisions, legislators must be mindful of the impact those decisions will have on public goods and services. He addressed the planned closure of county-run mental health centers through-

[See Branches on last page]

Brunches continued from page 5

out Westchester and the importance of seeking expert advice and input during the transition process.

The next speaker was Assemblyman Robert Castelli who remarked that he is a Vietnam veteran and discussed the importance of mental health services and outreach for returning and other veterans. He indicated his support for mental health parity and an expansion of Timothy's Law as well as streamlining state agencies without reducing necessary services.

Next, Assemblywoman Amy Paulin discussed the potential consolidation of OASAS within the Department of Health. As Chair of the Assembly Alcohol and Substance Abuse Committee, she is committed to ensur-

ing that current services are maintained during any possible consolidation or reorganization. Assemblywoman Paulin also discussed the sexually violent predator program and the planned closing of county clinics.

The next person to speak was County Legislator William Burton who discussed the transitional closing of county mental health clinics, which is expected to result in a 2% tax savings in the current budget. He also recognized Commissioner Grant Mitchell for his work and assistance during the difficult decision-making process. Finally Legislator Burton announced that, as part of a Medicaid fraud recovery pilot program, Westchester County recovered \$600,000, which will be used to fund

necessary programs and services.

Next, County Legislator Kenneth Jenkins, the Chair of the Board of Legislators, addressed the group, stating that he is very pleased to work with organizations like NYSPA and its district branches to ensure that services are maintained and that citizens receive the support they require.

The Westchester event was concluded with remarks from Grant Mitchell, M.D., a psychiatrist who serves as the Commissioner of the Westchester County Department of Community Mental Health. Dr. Mitchell discussed the planned closing of county mental health clinics and his continuing commitment to oversight to ensure that patients are successfully referred to

alternate clinics and that the indigent population continues to be adequately served.

Commissioner Mitchell also provided an update on the Care Coordination Project, a pilot program aimed at the top users of Medicaid services within the county to provide coordination of care in an attempt to improve outcomes and reduce Medicaid expenditures. In its first few years of existence, the program has already saved millions of dollars with no cuts in service. The Care Coordination Project is also in talks with New York State to develop a managed care plan that would provide care coordination services throughout the state in collaboration with Beacon Health Strategies. ■

NYSPA is Pleased to Announce the Winners of the Third Annual Resident Paper Contest

First Place

Panagiotis Roussos, M.D., Ph.D., Mount Sinai School of Medicine

Schizophrenia susceptibility D-amino acid oxidase polymorphisms are associated with reduced sensorimotor gating, working memory and reduced anxiety in the LOGOS cohort of healthy males

Second Place

Zimri Yaseen, M.D., Beth Israel Medical Center

Construct Development: The Suicide Trigger Scale (STS-2), a Measure of a Hypothesized Suicide Trigger State

Third Place

Seethalakshmi Ramanathan, M.D., SUNY Upstate Medical University

Can the macroeconomic environment during infancy have enduring behavioral influences?

Thank you to all the participants.

Physicians No Longer Subject to Red Flags Rule

Pursuant to the Red Flag Program Clarification Act of 2010, federal legislation signed into law on December 18, 2010, physicians and other health care providers will no longer be subject to the requirements of the FTC Red Flags Rule.

The Red Flags Rule seeks to prevent identity theft by imposing requirements on financial institutions and other creditors who extend credit to their customers. In the past, the FTC had taken the position that the Rule applied to physicians and health care providers who extend credit to their patients by allowing payment for medical services following the provision of service. However, due to confusion over application of the rule to physicians and other professionals, enforcement of the Rule was delayed several times over the past 18 months, most recently until December 31st of last year.

The Red Flag Program Clarification Act limits the definition of "creditor" to only those entities that use consumer reports in connection with a credit transaction, furnish information to consumer reporting agencies or advance funds to or on behalf of a person. The goal of the legislation was to limit application of the Rule to only those entities that engage in activities that are associated with the greatest risk of identity theft. Clearly, physicians and health care providers do not engage in the high risk activities enumerated in the bill and will no longer be required to comply with the Red Flags Rule.

Assembly Update continued from page 3

and Neurology rules on maintenance of certification were a hot button issue discussed during the Assembly meeting. Under the new rules, psychiatrists are required to solicit evaluations from their patients, which may violate the APA ethics code and generally accepted psychiatric principles. The APA has agreed to work with the ABPN to develop guidelines specifically designed for psychiatrists that would permit them to maintain their certification while also continuing to fulfill their ethical and professional obligations.

Procedures for Handling Complaints of Unethical Conduct

For the past year, the APA Ethics Committee has been developing proposed revisions to the APA guidance document entitled "Procedures for Handling Complaints of Unethical

Conduct." The changes, which were approved by the Assembly, were designed to clarify ambiguities, streamline the ethics process and provide clearer guidance, in general.

Profile of Courage Award

NYSPA would like to congratulate Jean Tropnas, M.D., a member of the Brooklyn Psychiatric Society and recipient of the 2010 Assembly Profile of



Courage Award for his work on behalf of the Haiti earthquake disaster relief effort. Dr. Tropnas, a member of the faculty at SUNY Downstate Medical Center, has visited Haiti several times since the disaster and is also working with the local Haitian community in Brooklyn. ■

