

# THE BULLETIN

## NEW YORK STATE PSYCHIATRIC ASSOCIATION

Winter 2008, Vol. 51, #1 • Bringing New York State Psychiatrists Together



### President's Message: Psychiatry and Pharma

By C. Deborah Cross, M.D.

Every day seems to bring a new story about the interaction of the pharmaceutical companies and psychiatry, a story which usually appears to paint us and our profession in a negative light. With the explosion of new drugs in our field has come a deluge of marketing—to us and to our patients. It often seems as if we are all struggling just to try to stay aware of all the new pharmacological advances. And how better to do this than to invite the drug rep into our offices, or go to a drug company sponsored dinner/talk. At least, we reason, we'll get some information. And we tell ourselves that we know it will be slanted toward the drug company's side, but, hey, since we know this we can factor it in, and, besides, it won't really change the way we prescribe medications for our patients!

And yet, research seems to say that such exposure does influence us. In the 11/25/07 New York Times magazine section, Daniel Carlat, MD (a psychiatrist) detailed how his year as a paid speaker for a pharmaceutical company changed the way he dealt with colleagues and patients. His description of the ways in which psychiatrists are targeted and wooed by the drug companies to increase the number of prescriptions written for a specific drug should not surprise us. This is capitalism in action. A product is



C. Deborah Cross, M.D.

developed, a market is created and the product is sold, and sold, and sold!

I was at a Grand Rounds recently where the speaker quoted a statistic saying that by the time a young physician (any discipline) is out of his/her training for 6 years their practice patterns are no longer recognizable as to where they trained. In other

words, 2 residents from the same graduating class, taught by the same attendings, will, within 6 years, have diverged significantly from their original standards of practice on graduation. How does this happen? How do we, as psychiatrists, develop our standards of care? I would really like to believe that all of us practice "evidence based medicine"—but I know this isn't really true. When we decide to give a specific patient a specific medication we tap into a lot of different areas of learning—and most of it is not "evidence based", and for a very good reason. Our patients are not subjects in research protocols. They have multiple illnesses and comorbid conditions, both medical and psychiatric, and we also have developed our own likes and dislikes. As Carlat said in his article, he had tried the specific

[See **President** on page 2]

### Medicare Fees Reduction - A Problem for Patients As Well As Physicians

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

Once again physicians are facing a substantial reduction in Medicare fees for 2008. The Medicare conversion factor for 2008 will decrease by 10% unless Congress once again takes action to prevent this reduction. Last year, Congress averted a 5% decrease for 2007, but granted no increase in the Medicare conversion factor. At the same time, Congress mandated that the entire 5% decrease mandated for 2007 should be implemented in 2008 in addition to the 5% decrease mandated for 2008. The culprit is the Medicare Sustainable Growth Rate (SGR) formula used to update the Medicare conversion factor. The SGR was enacted precisely to prevent Medicare fee increases due to increases in the Medical Economic Index (MEI).

Every fall for the past several years, Congress debates whether the automatically mandated decreases in Medicare Part B conversion factor will take effect. Each year Congress has acted at the last moment, or even after the new calendar year had begun, to avert the mandated reductions and sometimes grant a small increase that is much less than the increase in the cost of living. For 2007, Congress granted no increase at all.

Although it is quite clear why psychiatrists and other physicians are concerned about the continual and steady erosion in Medicare Part B fees, this issue should be of

equal concern for patients covered by Medicare Part B and their families. Patients who are enrolled in the Medicare program should be rightfully concerned about having adequate access to psychiatrists and other mental health professionals in the years to come. The impact of Medicare fee reductions will inevitably adversely impact access to care for both the aged and those under 65 years of age with disabilities, including those suffering with serious and persistent mental illness, who are enrolled in the Medicare program.

The problem of Medicare fee reductions will also exacerbate the nationally recognized need for geriatricians and geriatric psychiatrists at a time when the population is rapidly aging with the enrollment in Medicare of the "baby boom" generation rapidly approaching. Demographic data and projections make the trend clear. In 2005, 12.4% of the population was over 65 years of age. That percentage is expected to increase to 20% by 2025 and even then will not have reached its peak. This data explains the basis of the call by national political and health-care leaders for more doctors, including psychiatrists, with specialty training in the care of this population with its special needs.

The projected 10% decrease in the 2008 Medicare conversion factor follows a 10%

[See **Medicare Fees** on page 6]

### Fall 2007 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 20, 2007, at The New York LaGuardia Airport Marriott in East Elmhurst, New York. C. Deborah Cross, M.D., NYSPA President, called the meeting to order and introduced several Council guests including Jeffrey Akaka, M.D., Assembly Speaker, Michael Blumenfeld, M.D., Immediate Past Speaker, Jim Nininger, M.D., Past Speaker, Gary Weinstein, M.D., Assembly Recorder, Nada Stotland, M.D., APA President-Elect, Frank Lu, M.D., APA Trustee-at-Large, and Sam Musczynski, Director, APA Healthcare Systems and Finance.

After the introductions, Dr. Cross presented the President's Report. She reported that NYSPA will be participating in a newly formed work group to address the required changes to the rate structure for New York State COPS funding for outpatient clinic services. New York State has determined that the current COPS reimbursement methodology is in violation of federal Medicaid regulations. Dr. Cross also announced that she has created a new NYSPA Membership Committee that will be chaired by Karen Gennaro, M.D. The Committee will be looking into ways to improve membership recruitment and retention. Finally, Dr. Cross, a member of the New York State Board of Professional Medical Conduct, reported that the BPMC is seeking additional psychiatrist members, particularly in the upstate region. Please contact her if you or someone you know is interested in participating.

After the President's Report, other members of the Council provided reports. NYSPA Secretary Seeth Vivek, M.D., presented the

minutes from the last Area II Council Meeting as well as the last Executive Committee conference call. In addition, Dr. Vivek provided an update on the NYSPA Scientific Paper Contest. An initial mailing about the contest has been sent out to all training directors, psychiatry department chairs, district branch presidents and district branch executive directors in the state. Entries are expected by the third week of January 2008 and an independent panel of judges will select a winner and two honorable mentions. The winner will make a presentation of his or her paper at the March 2008 Area II Council meeting. Dr. Vivek hopes the contest will further the academic accomplishments of NYSPA's members-in-training and promote increased APA membership among psychiatric residents.

Darvin Varon, M.D., NYSPA Treasurer, presented the financial statements for January-September 2007 with a comparison for the same period for 2006. A member of the Assembly Nominating Committee, Dr. Varon also reported that the Committee is currently seeking nominations for the positions of Speaker-Elect and Recorder.

NYSPA Vice-President, Glenn Martin, M.D., provided an update on the NYS Medicaid Pharmacy Preferred Drug Program. In general, if a drug is on the preferred list, there is no requirement for prior approval and even if a drug is not on the preferred list, the statute still includes a physician-over-ride that will permit the patient to fill the prescription. Atypical anti-psychotics and antidepressants are currently exempt from the Preferred Drug List (PDL). Dr. Martin discussed issues regarding sedative hypnotics and central nervous system stimulants and thanked those members of the

[See **Area II** on page 4]



Richard Gallo received the NYSPA Distinguished Service Award. He is pictured here with Barry Perlman, M.D., and C. Deborah Cross, M.D.



Michael Scimeca, M.D., and Aaron Satloff, M.D., awarded the inaugural Harvey Bluestone Award to Seeth Vivek, M.D.



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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  
http://www.nyspsych.org/web-  
pages/bulletin.asp

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**New York State Psychiatric Association**  
**400 Garden City Plaza, Suite 202**  
**Garden City, NY 11530**  
(516) 542-0077; Fax: (516) 542-0094  
e-mail: centraloffice@nyspsych.org  
http://www.nyspsych.org

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

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*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.

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**Graphic Design & Production**  
Lydia Dmitrieff  
A to Z Design Group  
<lydiad@hvc.rr.com>

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

This edition of the Bulletin reports on the Fall Area II Council Meeting; at the meeting Richard Gallo received the NYSPA Distinguished Service Award and Seeth Vivick, M.D. received the Harvey Bluestone Award. The President’s Message provides an overview of the issue of the interaction between the pharmaceutical companies and



Jeffrey Borenstein, M.D.

psychiatry. We also have an article which looks at the important issue of Medicare fee reductions and the impact of these reductions on access to care for Medicare beneficiaries. We provide information about the Healthy Minds public television program which can now be viewed

throughout New York State. We have a report about the new NYSPA Committee on Membership Recruitment and Retention. The Area II Trustees Report provides information about the APA Board Meeting. We also have statements from the two candidates for Area II Trustee: James E. Nininger, M.D. and Seeth Vivek, M.D. I urge all members to make their voices heard, on behalf of our patients and our profession, by voting in the upcoming election. ■

President’s Message continued from page I

drug he was being asked to talk about and he actually felt it worked and helped patients. So if we have a good experience with a medication, we are more apt to use it again. How else can you account for the fact that a large number of psychiatrists still prescribe Neurontin as a mood stabilizing agent when clinical trials have shown it is no better than a placebo? When we attend a symposium on a medication and are told that the speaker (always a famous psychopharmacologist!) uses this specific drug for this specific illness and gets good results, we are much more likely to think of using that drug the next time we see a patient like the one presented! And when we ask a colleague what he or she does in a particular situation, we usually follow their advice. What should we do? Can we, as a profession, rid ourselves entirely of the influence of Pharma? Every year at the APA Annual Meeting, there is hand wringing over the very visible presence of Pharma, from the drug sponsored dinners, to the exhibition booths, to the extra-curricular trips. There have been significant changes over the last 10 years in APA’s oversight of Pharma’s involvement in the Annual Meeting and every effort is made by the Scientific Program Committee to monitor that the educational presentations are as free from bias as possible. However, some members still express the belief that we (the APA) are too in bed with Pharma. At every Assembly meeting we listen to the Treasurer’s report and hear how much of our income is dependent in one way or another on Pharma and the basic fact is that our dues would have to increase by at least 20-30% if we significantly restricted Pharma’s involvement in the Annual Meeting and in other

venues. Hard choices! On the DB level many have taken the approach that they will not accept drug company money for programs, while others continue to make use of unrestricted grants for CME programs. DB officers state that they find it very difficult to get members out for programs where members either have to pay or the meeting is not being held in a fancy restaurant! Creative approaches have to be developed to keep the DB members active and involved at the local level. Another approach to try to regulate the involvement of Pharma with APA has been to require Conflict of Interest statements from members involved in a variety of activities within the APA. Members of the Board of Trustees have to fill them out, as do members of committees, etc. Recently, there has been a lot of controversy about the selection of the Work Groups for the DSM V and the need to get highly qualified experts in the various fields, but ones who are not too tied in to Pharma! The development of the specific Conflict of Interest statement to be used by those asked to be on the Work Groups was a major undertaking. However, there are a number of APA members who say the statements don’t go far enough; that just asking for a set number of years of information, or just focusing on Pharma involvement is missing the point. The push is now to ask for a lifetime of disclosure of conflicts and to include much more than just conflicts focused on pharmaceutical companies. While I think it is helpful for all of us to know what biases others may or may not have, perhaps we are trying to over-control the entire issue. Obviously, I am not advocating that the APA should be the

spokesperson for Pharma, or that we should be the conduit for information directly from pharmaceutical companies with no safeguards or disclaimers. But if you have ever tried to get into one of the drug dinners at the Annual Meeting you know that they are without a doubt one of the most popular offerings at the meeting! And I don’t really believe that every person there immediately goes back home and prescribes nothing but that particular drug for the next 30 days (until the next dinner by another drug company!). Our APA is made up of thousands of psychiatrists, some of whom work for pharmaceutical companies full time doing research, some who give talks for drug companies, and some who never write a prescription! In many ways, the furor over whether the APA is too involved with Pharma reminds me of the arguments (which still continue) that APA is “soft” on managed care! The APA is a big “umbrella” and we must find room for all of our psychiatrists without demonizing any one group. At the same time, we must all be true to our ethical core and try always to deliver the best care possible to our patients—without direct financial gain to ourselves beyond reasonable reimbursement for our clinical efforts. As our field develops more “hard” evidence about exactly which treatments work best in real life for every day patients, we can all strive to incorporate this into our daily practice. Hopefully, I have raised some questions for NYSPA members to think about. If you have any ideas, solutions, or even more questions, on this topic or others, I’d like to hear from you. Email me at deborahcross@usa.net ■

Healthy Minds on Public Television’s  
Thinkbright Stations

*Healthy Minds*, the public television series focusing on mental health, hosted by Jeffrey Borenstein, M.D. is now airing on New York State Public Television Thinkbright’s “Health & Wellness” night.

The series airs Mondays at 10 p.m. on the following stations:

- WNED – Buffalo – Digital: 43.3, Time Warner Channel 21
- WXXI – Rochester – Digital: 21.3, Time Warner Channel 433
- WCNY – Syracuse – Digital: 24.2, Time Warner Channel 851
- WSKG – Binghamton – Digital: 66.1 in Binghamton; 30.1 in Corning, Timer Warner Channel 750
- WPBS and WNPI – Watertown – Digital 16.2 and 18.2
- Mountain Lakes PBS – Plattsburgh – Digital 57.3
- WMHT – Albany – Digital: 17.3

The series has already aired in the NYC Metropolitan area on WLIW 21 and has received four Telly Awards. As Dr. Borenstein explains, “Everyone is touched by psychiatric conditions, either themselves or a loved one. Our goal is to share cutting edge information from experts along with personal experiences from people who have overcome psychiatric conditions. I want people to know that with help, there is hope.”

The series can also be viewed on line at [www.wliw.org/healthyminds](http://www.wliw.org/healthyminds).





Ann Sullivan, M.D.

**H**appy Holidays to all! The APA has been extremely busy and effective in advocating for parity, adequate Medicare reimbursement, preventing psychologist prescribing and in funding for services for our returning veterans. At the Board meeting the progress of the DSM, membership retention and grants for District Branch initiatives were also key items on the agenda. Highlights of the October meeting include:

#### ADVOCACY:

The APA Division of Government Relations has had a hectic, and productive several months! Federal Parity has been passed by both houses and is now in conference deliberations. APA has been closely involved and is trying to ensure that state mandates are not weakened. We also came the closest we ever did to repealing the 50% Medicare co-pay. It was in the SCHIP legislation that President Bush vetoed, and was not able to be overridden by the House. However, since it has been backed by both houses, it gives us a better chance for future bills. The APA has been active with NAMI and MHA in advocating for comprehensive mental health services for our returning veterans, with good success. And once again psychologist prescribing was halted in several states including Hawaii and California!

#### MEMBERSHIP:

Overall national membership continues to grow in all categories. However, some District Branches are still decreasing in numbers, while others are growing. The largest growth is in members in training, although general members are also slightly increased.

Supporting our District Branches is critical for the APA's future. The Board approved the recommendation of the Council on Member and District Branch Relations to

award \$300,000 in DB/SA competitive grants, from a total of \$490,800 in requests. Area 2 did well with awards to the following DB's: Brooklyn \$5,000; Greater Long Island \$4,860; Mid-Hudson \$1,800; New York County \$12,400; NY State Capital District \$21,900; Westchester \$5,842; and West Hudson \$1,200 for a total of \$53,000.

Previous awardees will be requested to report on progress of the initiatives this fiscal year.

Some District Branches have urgent issues. Dr. Rubin, Chair of the Membership Committee, will be working closely with our District Branch in Puerto Rico on issues affecting the serious decline in their membership, and hopefully develop an effective plan to address their concerns.

#### INSTITUTE ON PSYCHIATRIC SERVICES:

The Institute on Psychiatric Services was held in New Orleans October 11 to 14 and had a total registration of 1118, a very good turnout! The only city that has attracted more registrants recently is NY (as expected!!) at 1728. While there may be a slight financial loss due to less exhibitors, as an attendee at the conference I can attest to its excellent program, and the large number of interested MIT members who attended. There were a series of excellent sessions focused on post Katrina recovery in New Orleans and the Gulf Coast. The American Association of Community Psychiatrists worked closely with the APA on the program, and has been a great advocate for the Institute over the years.

#### NAMI:

Dr. Anand Pandya is the new President of NAMI! Many of us know Anand from his work with Disaster Psychiatry and in the NY County District Branch. He is now located in California, and is doing great work with NAMI. Dr. Pandya met with the Board and described the new NAMI national initiative to set up NAMI Connections, a support group nationwide that would be available to the mentally ill, much as AA nationally is available to all alcoholics. It would provide open, easy access to group support for our most vulnerable patients. NAMI is also in a coalition with the APA to lobby for funding for

services for our returning veterans and their families.

#### FINANCE:

The Board adopted a balanced budget for 2008 that based on assumed revenue, would be in the black by about \$200,000. This may be conservative, as depending on the annual meeting revenue we may have a higher surplus. A major expense this year is the development of the DSM V, for which 2.4 million is budgeted. The total cost of the DSM V is estimated at 18.5 million to completion.

We currently have reserves of 18.2 million in the APA ( c ) ( 6 ) and if we are to have one year's unrestricted expenses in the bank we need about 35 million. So we are half way there! We are still in much better shape than 7 years ago when we had no reserves at all!!

The Board approved one change to the proposed budget that we in NY can appreciate. Dr. Ed Gordon has for many years ensured that the APA stay on top of the myriad of coding issues that Medicare often uses to pay us less. The Board specifically added \$25,000 to the budget for a consultant requested by Ed's coding workgroup, to ensure that we maximize our influence in this convoluted process!

#### CONFLICT OF INTEREST/ DISCLOSURES

As with the rest of medicine, the APA's relationship to the pharmaceutical companies and industry is under the microscope. The DSM V Task Force on Disclosures that I am a member of continues to carefully review all nominated appointments to the DSM V. The Board guidelines for example restrict direct industry income per year to \$10,000 or less while serving on the DSMV Workgroups or Steering Committee. The APA is in the process of reviewing the disclosure and conflict guidelines for the other consultants or participants in the DSMV, as well as the components, practice guidelines, publications, etc. While the requirements may not always be the same, it is important to review and see if some common ground is possible and to be careful to ensure reasonable disclosure and management of conflict. All members need to be involved in this critical discussion and in the direction our association

should take!

#### REPORTS FROM WORKGROUPS/TASK FORCES/PROJECTS:

The Board approved an excellent work group report : RECOMMENDATIONS OF THE TASK FORCE ON THE BIOPSY-CHOSICIAL ASPECTS OF CHILDHOOD VIOLENCE. This report outlines the issues, treatment and advocacy needs on the critical issue of childhood violence, and is available on the APA website.

In addition, due to the importance of this work, the Board approved a Corresponding Committee to address the issue of Childhood Violence, under the Component Committee on Child and Adolescent Services.

Pedro Ruiz presented an update on his presidential project, a book focused on the important topic of disparities in Mental Health and Chemical Dependency treatment and services. It will include a wide range of contributors across the country and is expected to be published in 2009.

Finally, the Executive Committee had voted on 9-19-07 to sign onto the Amicus Brief of the American Psychological Association that supports a challenge in the California Supreme Court to California's limitation of marriage to only opposite sex couples. It is critical that the APA be a clear voice on this issue as it makes its way through state courts across the country.

#### NEW APPOINTEES:

Dr. Altha Stewart has completed her tenure as President of the American Psychiatric Foundation. As President she transformed the American Psychiatric Foundation into an effective fund raising and granting institution focused on key issues in psychiatry, often those affecting our underserved patients. She has been a strong advocate for our patients and our profession.

Dr. Richard Harding has been chosen as the new President of the APF and will continue the growth and effectiveness of the foundation. A new Executive Director, Mr. Michael Burke has also been chosen to join the team.

Finally, as 2007 comes to a close, once again Happy Holidays to you and your family, and may we all enjoy peace in the New Year! ■

[sullivaa@nychhc.org](mailto:sullivaa@nychhc.org)

## The Newly Created NYSPA Committee on Membership Recruitment and Retention By Karen G. Gennaro, M.D.

**I** am very pleased to accept the challenge of heading up the newly formed NYSPA Committee on Membership Recruitment and Retention (COMRR) and I'd like to thank NYSPA President Deborah Cross, M.D. for creating a focus on membership in NY. I'd also like to thank APA Membership Chairman Joseph Rubin, M.D. and APA Membership Recruitment and Retention Task Force Chairman James Nininger, M.D. for helping lay the groundwork for the rejuvenation of membership energy at the APA.

Expansion of our membership base will help provide the necessary resources to meet the challenges of our ever changing profession. In this age of managed care, encroachment by paraprofessionals, and lack of access to care by our patients, our collective membership in a group much larger than any of our individual voices is critical. The APA is working hard to protect our professional turf and to improve our patients' access to care. Our challenge is to enlist our

non-member colleagues in this effort.

A group of us accepted our mission from Dr. Cross and met at the inaugural meeting for this new NYSPA Committee at the Area 2 Council meeting on 10/20/07. I am pleased to recognize Vanessa Hiraldo, M.D. of Westchester, Berney Goodman, M.D. of New York County, and Mahendra Singh Airen, M.D. of Queens for their time and contribution in launching this committee. This newly formed committee is in the process of constructing a plan to collectively boost APA membership, a plan that will include collaboration and competition between district branches as well as financial incentives funded by NYSPA and recognition awards to district branches.

In the past, most district branches have limited their membership function to approving membership actions and encouraging members to apply for fellowship classification. This important administrative function has typically been subsumed under the

responsibility of the Secretary or the President-Elect, or sometimes under a Committee on Membership. But we are now asking each of the district branches to consider establishing a special Committee on Membership Recruitment and Retention (COMRR) and naming a chair to work with the new NYSPA committee. Some district branches may choose to have the same person responsible for membership administration as well as recruitment and retention. In order to accomplish our ambitious goals, our expectation is that most district branches will name a second person to focus on recruitment and retention.

Our new committee will meet twice yearly at the Area 2 meetings as well as several times via telephone conference calls. Our motivation will be to compete with each other to have our respective district branch achieve the highest percent of new members to earn financial incentives provided by NYSPA for each new member recruited and to earn a relative ranking among our fellow

NY district branches. Our APA immediate Past Speaker of the APA Assembly, Michael Blumenfield, M.D., has graciously agreed to lend his name to the yearly recognition award for the district branch with the highest percentage of new members.

We need you to personally participate in our membership recruitment and retention efforts. Each district branch would benefit from having a strong group of members come forth who are willing to focus just a bit of their time reaching out to encourage non-members to join the APA. We will provide you with a list of non-member leads and talking points so that you will feel comfortable making these contacts. Please call your district branch President if you are willing to help with membership recruitment. Your effort will help your district branch earn financial incentives as well as a chance of winning the yearly Michael Blumenfield Membership Recruitment Award. ■



# Area II Council Meeting continued from page 1



Jeffrey Akaka, M.D., APA Assembly Speaker

Council who recently testified before the PDL Committee. In addition, Dr. Martin reported that the NYSPA Information Technology Committee has now initiated a Google group, which allows all members of the group to communicate via an online message board. Anyone interested in becoming a member of the Google group is



Darvin Varon, M.D., NYSPA Treasurer

welcome to sign up via the Google website. The Committee is currently discussing issues pertaining to records of minor children, opt-in and opt-out issues, and the issue of access to electronic records.

Edward Gordon, M.D., Chair of the NYSPA Political Action Committee ("PAC"), presented the PAC financial statement for January-September, 2007, compared with the same time period for 2006 and 2005, and the list of contributors to date. He encouraged all present to contribute if they had not already done so.

## NYSPA Nominating Committee

Barry Perlman, M.D., Chair of the NYSPA Nominating Committee, announced that Seeth Vivek, M.D., and James Nininger, M.D., are running for Area II Trustee to the APA Board of Trustees.

## NYSPA Distinguished Service Award

Barry Perlman, M.D., presented the NYSPA Distinguished Service Award to Richard Gallo, NYSPA Government Relations Advocate. Dr. Perlman noted Mr. Gallo's 34 years of service to NYSPA and highlighted some of his many legislative accomplishments, including the Professions Bill and Timothy's Law. Dr. Perlman remarked that Mr. Gallo's work as Chair of the Timothy's Law Coalition truly embodied the spirit of NYSPA and its mission to improve care and treatment of persons with mental illness.

## Harvey Bluestone Award

Aaron Satloff, M.D., and Michael Scimeca, M.D., awarded the inaugural Harvey Bluestone Award to Seeth Vivek, M.D. The Harvey Bluestone Award was created jointly by NYSPA and the Bronx District Branch in memory of Harvey Bluestone, M.D., a dedicated and distinguished long-time member of NYSPA. Dr. Scimeca praised Dr. Vivek for his love of teaching, advocacy for the profession, his many board certifications and his work in establishing the new NYSPA Scientific Paper Contest.

## Legislative Report

Barry Perlman, M.D., Chair of the NYSPA Committee on Legislation, reported that the U.S. House of Representatives recently passed a federal mental health parity law. While original versions of the bill as proposed would have preempted Timothy's Law, this bill, if enacted into law, will not preempt Timothy's Law. Instead, it will mandate enhanced coverage for all health plans,

including ERISA exempt plans.

Richard Gall, provided an update on Timothy's Law implementation. Mr. Gallo plans to participate in a series of meetings to be held by the New York State Department of Insurance to address open issues, including the inclusion of PTSD as a covered disorder and the restructuring of the methodology for funding of licensed clinics. In addition, Mr. Gallo reported that he has been invited to participate in a legislative roundtable discussion on the critical shortage of child psychiatrists. Over one hundred individuals are expected to participate. Finally, NYSPA will be reviewing the possibility of applying for New York State grants to address the shortage.

## Executive Director's Report

Seth Stein, NYSPA Executive Director, reported that NYSPA's Executive Committee has authorized the commencement of a lawsuit by NYSPA against the New York State Department of Health in connection with Medicaid's failure to pay the full coinsurance for services rendered to dually eligible individuals as of April 1, 2007. If we are unable to resolve the issue with NYSDOH, the lawsuit will be brought in the name of NYSPA and individual psychiatrists who have received only 20% Medicaid copayments for claims submitted after March 31, 2007.

Mr. Stein provided an update on Timothy's Law implementation issues. First, NYSPA members have reported receiving retroactive payments from Oxford Health Plans, representing additional payment for psychiatric services rendered. These additional payments are required by Timothy's Law, which mandates that co-payments for psychiatric services be the same as those imposed on all other medical conditions. Second, an upstate insurance carrier has been requiring participating providers to submit patient intake forms to ensure proper diagnosis before paying claims in connection with the six major illnesses required to be covered under Timothy's Law. This practice violates the HIPAA minimum necessary standard and NYSPA plans to work to correct this practice.

Mr. Stein also reported on recent changes to the New York State Social Services Law regarding reporting of child abuse or maltreatment. As of October 1, 2007, all mandatory reporters, including physicians, must make an individual report of suspected child abuse or maltreatment regardless of whether or not a report of the same circumstances has already been reported by another member of the facility staff. NYSPA will be seeking clarification regarding whether a single report can be submitted identifying all those who are mandatory reporters rather than multiple reports from each mandated reporter.

In addition, Mr. Stein stated that NYSPA members have reported that New York State Medicaid has been disallowing claims submitted under code 90862 and is instead applying code 99231, which is a code for a short hospital follow-up visit. Richard Gallo, NYSPA Government Relations Advocate, has agreed to contact the Department of Health regard-



(from left to right) Darvin Varon, M.D., Seeth Vivek, M.D., Deborah Cross, M.D., Seth Stein, Esq., and Glenn Martin, M.D.

ing this problem. Mr. Stein also noted that psychiatrists and institutions have been using E&M codes for reimbursement for psychiatric services. He recommends using the E&M documentation templates prepared by NYSPA to ensure proper documentation in the event of an audit.

Finally, Mr. Stein introduced new NYSPA staff member, Christina DiGiovanni, who will be working with Donna Gajda, NYSPA Coordinator.

## Area II Trustee's Report

Ann Sullivan, M.D., Area II Trustee, provided an update on advocacy issues. She noted that the U.S. House of Representatives passed a federal parity bill and the APA has been very involved in the process to ensure that state mandates are not weakened. Psychologist prescribing was successfully defeated in both Hawaii and California. The National Alliance on Mental Illness has elected a new president, Dr. Anand Pandya, who met with the APA Board at its last meeting. Finally, the APA Board has decided to join an amicus brief being submitted by the American Psychological Association in support of a lawsuit challenging California's limitation of marital status to opposite-sex couples only.

Dr. Sullivan reported that the APA budget for 2008 is expected to be \$200,000 in the black and the APA currently has approximately \$18 million in its reserve fund. She reported that the Board approved the recommendations of the Council on Member and District Branch Relations regarding DB/SA competitive grants. The following Area II district branches received grants in the following amounts: Brooklyn - \$5,000; Greater Long Island - \$4,860; Mid-Hudson - \$1,800; New York County - \$12,400; NYS Capital District - \$21,900; Westchester - \$5,842; and West Hudson - \$1,200.

Finally, Dr. Sullivan reported that Richard Harding, M.D., will be the new President of the American Psychiatric Foundation.

## Assembly Update

Nada Stotland, M.D., APA President-Elect, Jeffrey Akaka, M.D., Assembly Speaker, and

Gary Weinstein, M.D., APA Recorder addressed the Council and answered questions about Assembly and APA activities.

## Committee Reports

The meeting was concluded with reports from the Chairs of the following NYSPA Committees: Addiction Psychiatry Committee, MIT Committee, Public Affairs Committee, NYSPA Bulletin, Children and Adolescent's Committee, Economic Affairs Committee, ECP Committee, Membership Committee, Committee on Public Psychiatry, as well as a report from the MSSNY Committee on Addiction & Psychiatric Medicine. ■



Glenn Martin, M.D., NYSPA Vice President



Deborah Cross, M.D., NYSPA President



Gary Weinstein, M.D., APA Assembly Recorder



Seth P. Stein, Esq., NYSPA Executive Director



Seeth Vivek, M.D., NYSPA Secretary



Richard Gallo, NYSPA Legislative Consultant



Barry B. Perlman, M.D., NYSPA Past President



## AREA II TRUSTEE CANDIDATES

### James E. Nininger, M.D.



#### Distinguished Fellow Member Since 1976

*Private Practice, 1977-; Clinical Associate Professor of Psychiatry, Cornell University Medical College, 1989-; Speaker, APA Assembly, 2004-05; President, New York State Psychiatric Association, 1998-2002; Member, AP A Board of Trustees, 2003-05; Chair, Assembly Committee on Planning, 1999-2002; Member, Executive Committee; Steering Committee on Practice Guidelines, 2005-; Exemplary Psychiatrist Award, National Alliance for the Mentally III, 2006*

#### Candidacy Statement

The role of Area trustee provides a tremendous opportunity to listen to, educate, and represent our members on the AP A Board. We are faced with critical challenges. Severe underfunding of services, stigma, managed care restrictions, and increasingly liberal scopes of practice allowing nonphysicians to diagnose and treat mental illness (including the prescription of medications) all contribute to erosion of proper treatment for our patients and barriers in access to quality care.

In New York we must remain vigilant in sustaining the gains we have made in parity and scope of practice, and speak up on issues such as proper privacy of medical records and appropriate evaluation, diagnosis, and management of sexual offenders that do not deplete our mental health budget for chronic and indigent patients. We must better educate the public, government officials, and our nonpsychiatric colleagues as to the nature, prevalence, and cost-effectiveness of appropriate treatment of mental illness. To attain these goals, membership strength and involvement are crucial in AP A. At the same time we expand and refine our electronic communication abilities, we need to provide greater personal outreach to members in the field and impart to training directors and early career psychiatrists the importance of psychiatrists' active involvement on behalf of our patients. This includes strengthening liaisons with the AMA, state medical societies, and advocacy groups. In New York, a strong alliance with the medical society has helped us to avoid intrusions into our scope of practice. To foster recruitment, we must continue to forge alliances with our allied psychiatric groups, consider shared-dues strategies, and be sensitive to the needs of international medical graduates and minority representatives, many of whom serve valiantly in the public sector.

APA has made progress in the prioritization of goals, removal of redundancy in committee and component functions, and the establishment of financial oversight mechanisms that include Assembly input to ensure fiscal responsibility. We must strive to improve communication with and between legislative and public affairs reps, executive directors, and presidents and presidents-elect of our district branches. Difficulties in establishing a viable information system damaged morale in DBs through lack of an adequate available database and timely reporting of dues billings. Concrete steps have been taken to rectify this. I support having an expert business and financial advisory panel serve as consultant to the Board. As the Area trustee from New York on the Board, I would make sure these issues are pursued and that future concerns of NY SPA members receive appropriate attention. I have lobbied in Albany for NYSPA and in Washington, D.C., for APA and serve on the Board of the APA PAC.

At the New York County District Branch, I established the first task Force on Psychiatry and Nursing Homes and chaired the Committee on Aging for 14 years. I was among the first group of psychiatrists to volunteer services to the homeless, volunteered at Pier 94 and ground zero with Disaster Psychiatry Outreach following 9/11, in Louisiana following Katrina, and coordinate the Assembly liaison representatives to the AP A Committee on Psychiatric Dimensions of Disasters. As a member of the Medical Society of the State of New York, I have served on the Committee on Psychiatric Medicine and the Task Force on Psychiatry and Violence, and currently serve on the Task Force on Tobacco.

I have demonstrated strength in working well with diverse groups to establish consensus, have represented NYSPA as treasurer, vice president, and two terms as president and Area representative, and served on the AP A Board of Trustees as speaker-elect and speaker of the Assembly. I would be honored to serve as your Area 2 trustee.

Contact info: 212-212-879-8338 or [nininger@bestweb.net](mailto:nininger@bestweb.net)

### Seeth Vivek, M.D.



#### Distinguished Fellow Member Since 1978

*Chair, Departments of Psychiatry and Addiction Services; Jamaica, Brookdale and Flushing Hospitals, NY; Chair, Advanced Center for Psychotherapy, NY; Part-time Private Practice, Forest Hills, NY; Secretary, New York State Psychiatric Association; Assembly Rep & Past President, Queens Psychiatric Society*

#### Certified:

General Psychiatry, Addiction Medicine, Addiction Psychiatry, Geriatric Psychiatry, Forensic Psychiatry, Psychosomatic Medicine, Administrative Psychiatry

#### Awards:

The American Red Cross Award for service following 9/11  
First recipient of the Harvey Bluestone Award (Ethics and Service)  
Leo Davidoff Award for Medical Student teaching

#### Accomplishments:

Conceptualized and built a department of psychiatry  
Started a Residency Training Program in 2001, Fellowship in 2007  
Started a Psychiatry Externship in 1996  
Started a free psychiatric clinic for indigent immigrants, Queens  
Initiated Scientific Paper Contest, initially in Queens, now at the NY State level

#### Mission /Goals:

Bringing over 30 years experience in leadership and management to represent you in Washington.

Using experience in various subspecialties in hospital and private practice settings in Board deliberations.

Advocating Proactive legislation against Psychologist Prescription and Admitting privileges.

Introduce creative ideas in receiving enhanced Value for our Membership Dues

Advocacy for Training and Career development for MITs and ECPs.

Assisting APA members in all stages of their career (practice management, reciprocity of licensure etc.).

**In the last 40 years APA voting has dropped to under 30%. Please do vote!**

**Together we can change our future**

**I will be honored to represent you. Thank you.**

Contact info: 718-206-7165 or [seethvivek@aol.com](mailto:seethvivek@aol.com) or [www.seethvivek.com](http://www.seethvivek.com)

Medicare Fees continued from page 1

decrease in psychiatric fees in 2007 due to the implementation of reductions in the work value assigned to all Medicare CPT codes due to the increase granted to certain evaluation and management codes (99xxx). Because of statutory requirements that the cost of any increase in Medicare codes be “budget neutral”, the 2007 increase for E&M codes was offset by decreases in the work values for all Medicare codes.

For 2008, Medicare has approved a 32% increase in the work values for anesthesiology codes and this increase will be offset by an approximately 2% reduction in the work values for all CPT codes. In sum, psychiatric codes (908xx) face a decrease of 20% from 2007 to 2008 unless Congress takes action this winter.

In addition to the challenge posed by fee decreases, Medicare also imposes fee limitations on non-participating physicians and New York has imposed even more stringent fee restrictions on non-participating physicians than the federal law. At the same time physicians are facing rapidly escalating costs of practicing. For example, liability insurance rates climbed an astounding 13 % this year in New York State which prompted Governor Spitzer to create a Blue Ribbon Commission to study the problem which is rapidly becoming a crisis in our state. Even if Congress passes major Medicare legislation that will postpone the drastic Medicare fee reductions, this legislation will only confer a 0.5% increase in each of the next 2 years. During this two year period, Congress must find a fix for the Medicare fee setting methodology.

Regardless of the outcome of congressional efforts, the calculus of the cost of practice may lead some or many physicians, including psychiatrists, to formally “opt out” of the Medicare program. By opting out of Medicare, physicians gain the right to charge Medicare patients usual and customary

charges, but their patients thereby lose all Medicare and other health insurance coverage for treatment provided by an “opt-out” physician. While many practitioners say they will opt out of the system or stop accepting new Medicare patients, it is difficult to obtain reliable data on their actual practice decisions. Interestingly, it is known that psychiatrists more than physicians in any other specialty have decided to “opt out” of Medicare.

A 1981 study demonstrated that psychiatric participation in Medicaid was directly correlated with reimbursement. The same can be expected of decisions regarding the inclusion of Medicare enrollees in practices today. What is certain is that the threat of rate cuts or flat fees has discouraged medical students from pursuing specialties in geriatrics, and fellowship programs in geriatric psychiatry have chronic problems in filling their slots. The fill rate for fellowships in geriatric psychiatry declined to 61% in the years 2001-2002 from 84% during 1999-2000. While there may be interest in geriatric psychiatry, the decision to seek more lucrative specialties is understandable when one considers the debt load of graduating medical students.

Eight percent (8%) of medical school graduates carry significant debt with 41% carrying debt of more than \$150,000. With that burden, choosing a specialty like geriatric psychiatry whose practitioners are among the lowest paid is a difficult one. Gone are the days when there was an articulated goal of shoring up reimbursement for so called “cognitive specialties”, such as psychiatry, internal medicine including geriatric medicine, and other lower paid specialties whose practice revenue is not contingent on performing well remunerated procedures. Indeed, today Medicare reimbursement provides a clear disincentive rather than an inducement for those considering training in geriatric psychiatry.

If we are serious about remedying this problem so that broad access is preserved and needed medical manpower trained in the necessary fields of geriatric medicine and psychiatry are available for Medicare patients, we must start to take action now. Groups advocating for the elderly and for those with serious mental illness must advocate for the passage of Medicare legislation and then raise these broader concerns about the issues identified in this piece with their members of Congress. If this issue is perceived as only a problem of physician income, then it is unlikely that Congress will see the need to act.

Once the problem has been identified as a problem for access to care for Medicare beneficiaries and their advocacy groups demand change, then we may to find solutions that will encourage young physicians to pursue their interest in treating Medicare patients

and not be forced by an economic calculus to choose procedure based specialties. The first task must be identifying a fair alternate to the SGR methodology which includes enhancements for the “cognitive” specialties. Working together, medical and psychiatric professional associations and organizations speaking for the needs of the elderly and those with serious mental illness can begin to shape the debate and make a tangible difference. ■

Classifieds

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Notice of Good Faith Estimate of Non-Deductibility of NYSPA 2008 Dues

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

For 2008 dues, NYSPA has estimated that 33 1/3% of NYSPA/Area II dues are attributable to lobbying and cannot be deducted. The schedule below sets forth the calculation of the deductible and non-deductible portion assuming payment in full. If only a partial payment was made, then 33 1/3% of the amount paid is non-deductible.

Membership Category	2008 Dues	Deductible	Non-Deductible
General Member/Fellow	150.00	100.00	50.00
Member in Training	15.00	10.00	5.00
Life Member/Life Fellow (1-5)	100.00	67.00	33.00
Life Member/Life Fellow (6-10)	50.00	33.00	17.00

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

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