



JUNE 16, 2003

# Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

## Stanley Brezenoff Installed as GNYHA Chairman at Annual Reception; Senator Bruno, "Partners in Preparedness" Honored

Stanley Brezenoff, the incoming President and Chief Executive Officer of Continuum Health Partners, Inc., was installed as GNYHA Chairman at the Association's 2003 Annual Reception and Cocktail Buffet on June 5 at Gotham Hall. Mr. Brezenoff, who will join Continuum on July 7, 2003, has been President and Chief Executive Officer of Maimonides Medical Center since 1995. Continuum Health Partners is the parent company of Beth Israel Medical Center, St. Luke's-Roosevelt Hospital Center, Long Island College Hospital, and the New York Eye and Ear Infirmary.

**Senator Bruno, "Partners in Preparedness" Honored:** GNYHA saluted NYS Senate

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New York State Senator Joseph Bruno (right), with GNYHA President Kenneth E. Raske, speaking to GNYHA members at Gotham Hall on June 5.



GNYHA's "Partners in Preparedness" accept their awards. *L. to r.:* Ed Gabriel, NYC OEM; Thomas Frieden, NYC DOHMH; Dennis Whalen, NYS DOH; George Estel, NYS Office of Public Security; Joshua Lipsman, M.D., Westchester County Department of Health; Michael Volk, Westchester Office of Emergency Management; David Ackman, M.D., Nassau County Department of Health; and Linda Mermelstein, M.D., Suffolk County Department of Health.

## Senate Committee Approves Medicare Bill

On June 12, 2003, the U.S. Senate Finance Committee approved the Prescription Drug and Medicare Improvement Act of 2003 (PDMIA), by a vote of 16 to 5. Among other things, the PDMIA creates a new, voluntary outpatient prescription drug benefit for Medicare beneficiaries. The bill also contains a number of provisions

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## Coalition Warns That Soaring Malpractice Costs Will Force Cuts in Hospital Services

On June 3, 2003, at a press conference outside St. Luke's-Roosevelt Hospital Center, a coalition that included GNYHA, 1199 SEIU, and a number of New York's leading health care providers warned that a recent NYS Court of Appeals decision will cause malpractice premiums to soar—which could force hospitals to close critical services such as obstetrics, neurosurgery, and trauma care.

The looming crisis was touched off on April 8, 2003, when the NYS Court of Appeals upheld a lower court's interpretation of NYS's Civil Practice Law and Rules that address how to structure a future damages judgment (CPLR 50-A). In the case, known as *Desiderio v. Ochs, et al.*, the trial court increased the jury

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# SHRPC Approves Member Projects

At its June 5, 2003, meeting, the State Hospital Review and Planning Council (SHRPC) gave contingent approval to the following GNYHA member projects: **Southside Hospital**—construction of a second cardiac catheterization laboratory; **Good Samaritan Hospital Medical Center**—construction of a second cardiac catheterization laboratory; **St. Francis Hos-**

**pital**—construction of an addition to the main hospital building and expansion of the parking facility; **Vassar Brothers Hospital**—certification of a third cardiac catheterization laboratory; **Kings County Hospital Center**—renovation of four floors of E building for consolidation of ambulatory care services; **St. Catherine of Siena**—designation as a Level 2 perinatal service and operation of

seven neonatal intermediate care beds; **Kingsbrook Jewish Medical Center**—initiation of a long term home health care program (LTHHCP) in Kings County; **Victory Memorial Hospital**—expansion of LTHHCP in Kings County; **Center for Nursing and Rehabilitation**—expansion of LTHHCP in Kings County; **Village Center for Care**—initiation of LTHHCP in Kings County; **St. Mary's Hospital for Children**—expansion of LTHHCP. In addition, several cardiac catheterization applications were deferred. ■

## Legislative Digest

Over the last week, the New York State Legislature took action on the following health care bills of interest:

**Medical Device Technology:** The Assembly Health Committee approved A.8796 to provide Medicaid pass-through payments for drug-eluting stents, which received full approval from the U.S. Food and Drug Administration in April 2003. The stent is expected to lower the incidence of coronary artery bypass graft surgery. GNYHA supports this legislation, which follows Medicare's recognition of the need to create special payment mechanisms for a breakthrough medical device. • **Medical Records Copying Fees:** The Assembly Health Committee approved A.8702, which would increase the fees for reimbursement to health care providers for copying medical records. Increased fees would not apply to copy requests made by patients for ongoing health care purposes. GNYHA supports this legislation, which updates fees instituted in 1991 and eliminates the risk of lawsuits against health care providers. • **Nursing Home Reporting:** The Assembly Ways and Means Committee approved A.8022, requiring nursing homes to publicly report facility-specific information, including special care needs and gender of residents, daily staffing levels, performance indicators, and nursing home financial information. GNYHA opposes this legislation on the basis that it duplicates existing reporting and could mislead the public. • **Timothy's Law:** The Assembly passed A.8301, requiring health insurers and health maintenance organizations to provide insurance coverage related to the treatment of alcohol and/or substance abuse and addictions that are different from limitations set by insurers for other health care benefits. The bill is consistent with GNYHA's position supporting parity in health care coverage for physical, mental, and substance abuse disorders. ■

## GNYHA Annual Reception *continued from page 1*



**Outgoing GNYHA Chairman Edward A. Stolzenberg (left) with incoming Chairman Stanley Brezenoff.**

Majority Leader Joseph L. Bruno for his leadership role in the passage of a budget that protects the State's health care providers from massive and devastating budget cuts.

"Senator Bruno's commitment to protecting the financially fragile hospitals and nursing homes of New York has been extraordinary," said GNYHA President Kenneth E. Raske. (GNYHA also invited and planned to recognize NYS Assembly Speaker Sheldon Silver, but he was unable to attend.)

GNYHA also honored its "Partners in Preparedness"—the local and State emergency management and public health agencies and officials that play an essential role in the region's emergency/disaster response system: NYS Department of Health, NYS Office of Public Security, NYC Department of Health and Mental Hygiene, NYC Office of Emergency Management, Westchester County Department of Health, Westchester Office of Emergency Management, Nassau County Department of Health, and Suffolk County Department of Health Services.

**New Officers, Board Members:** Also installed

as officers of GNYHA's Board of Governors were **Herbert Pades, M.D.**, New York-Presbyterian Hospital, Chairman-Elect; **Michael Dowling**, North Shore-Long Island Jewish Health Care System, Vice Chairman; **David J. Campbell**, Saint Vincent Catholic Medical Centers, Vice Chairman; **Mark J. Kator**, Isabella Geriatric Center, Vice Chairman, Long Term Care; **Benjamin Chu, M.D., M.P.H.**, NYC Health and Hospitals Corporation, Secretary; **Gail F. Donovan**, Continuum Health Partners, Inc., Treasurer; **Robert M. Glickman, M.D.**, NYU Hospitals Center, Assistant Treasurer; **Kenneth L. Davis, M.D.**, The Mount Sinai Medical Center, Assistant Secretary; **Edward A. Stolzenberg**, Westchester Medical Center, Immediate Past Chair; **Gladys George**, Lenox Hill Hospital, Past Chair; **Mark J. Mundy**, New York Methodist Hospital, Past Chair; **John R. Gunn**, Memorial Hospital for Cancer and Allied Diseases, Past Chair; **David P. Rosen**, MediSys Health Network, Inc., Past Chair; and **Spencer Foreman, M.D.**, Montefiore Medical Center, Past Chair. Installed as members of the GNYHA Board of Governors in the Class of 2006 were **Ronald T. Mullahey**, Health Quest Systems, Inc.; **Daniel P. Walsh**, Winthrop-University Hospital; **Audrey Weiner, D.S.W.**, The Jewish Home and Hospital Lifecare System; **William D. McGuire**, Kaleida Health; **Gary S. Horan, F.A.C.H.E.**, Trinitas Hospital; and **John C. LaRosa, M.D.**, University Hospital of Brooklyn, SUNY Health Science Center at Brooklyn. Installed as a member of the GNYHA Board of Governors in the Class of 2005 was **Robert Chaloner**, Cabrini Medical Center, and in the Class of 2004, **Arthur Y. Webb**, Village Care of New York. ■

# SNF Rule to Increase Nursing Home Payments by \$450 Million

On June 10, 2003, the Centers for Medicare & Medicaid Services (CMS) published a proposed skilled nursing facility (SNF) payment rule that would increase Medicare payments to SNFs by an additional 3.26% in fiscal year 2004. If the rule is adopted as proposed, its net effect would be to increase total Medicare payments to SNFs nationwide by \$450 million, approximately \$40 million of which would flow to SNFs within NYS. The proposed rule would effectively modify the SNF payment rule published in the *Federal Register* on May 16, 2003. In that earlier rule, CMS announced that SNF Medicare payment rates would increase in fiscal year 2004 by the full SNF market basket of 2.9%. CMS estimated that this increase would boost payments to SNFs nationwide by approximately \$400 million.

The modification proposed in the new rule would be to establish a process for adjusting SNF payment rates to account for forecast errors in the SNF market basket percentages used in prior prospective payment system (PPS) rate years. Such an adjustment has not been a part of the PPS

to date because CMS had concerns that it “might tend to detract from the prospective nature of the PPS payment system.” However, CMS has now concluded that “establishing an adjustment for forecast error in prior years could help to further ensure that the payment rates appropriately reflect changes over time in the price of goods and services.”

The rule would have a particularly positive effect on SNF payment rates in 2004 by calling for one-time forecast error correction covering the three-year period 2000–02. Since the cumulative market basket used for SNF payments over the three-year period underestimated actual market basket growth by 3.26%, CMS is proposing to increase Medicare SNF payments for fiscal year 2004 to fully offset this underestimate. This would increase overall Medicare SNF spending by roughly \$450 million nationally. This is in addition to the \$400 million that will be generated by the 2.9% market basket update otherwise being provided to SNFs pursuant to the May 16 proposed rule. CMS estimates in the new rule that the initial three-year forecast error adjustment alone will raise the unadjusted urban rate by \$9.64 per day. ■

## Upcoming GNYHA Briefings

### Hand Hygiene and Barrier Protection in Infection Control

MANHATTAN

**Date:** Wednesday, June 25, 2003

**Time:** 11:30 a.m.–4:30 p.m.

**Location:** GNYHA Conference Center, 555 West 57th Street, 15th Floor

LONG ISLAND

**Date:** Thursday, June 26, 2003

**Time:** 11:30 a.m.–4:30 p.m.

**Location:** North Shore University Hospital, Center for Emergency Medical Services, 15 Burke Lane, Syosset, NY

This briefing is intended to update members on developments in hand hygiene and barrier protection in infection control. The briefing will be held twice, once in Manhattan and once on Long Island. Speakers will provide participants with an overview and interpretation of the most recent CDC *Hand Hygiene Guidelines for the Health Care Setting*, and will review the latest alcohol-based products for hygiene. Participants will hear updates on latex allergies, glove usage, barrier protection, dermal reactions, and skin wellness. GNYHA encourages members to send infection control staff, health educators, and nursing and medical purchasing staff to this session. The program is approved for 4.0 continuing contact hours through the American Nurses Credentialing Center; in addition, 4.0 continuing medical education credits have been requested for the program. For more information contact Terri Straub or Tim Glennon, and to register contact Rosanne Denaro, at GNYHA. ■

## Senate Committee Approves Medicare Bill *continued from page 1*

designed to create new private insurance options for Medicare beneficiaries so that they could choose to receive Medicare covered benefits, including new prescription drug benefits, through private plans. To that end, the PDMIA creates the “Medicare Advantage” program, which would include HMO options for beneficiaries, similar to the current Medicare+Choice program, and new Medicare preferred provider organization options. Importantly, Medicare beneficiaries would not have to join a comprehensive, private Medicare plan in order to receive prescription drug coverage. Beneficiaries could remain in the Medicare fee-for-service program and enroll separately for the new Medicare prescription drug benefit. These provisions have led many experts, including

the Congressional Budget Office, to predict that very few Medicare beneficiaries would choose private plans, although many supporters of the plan expect that, given the choice, Medicare beneficiaries would prefer to receive benefits through private plans rather than the traditional Medicare program.

**Provider Issues:** Significantly, the PDMIA does not contain any Medicare payment reductions for hospitals, nursing homes, or home health providers, including reductions recommended earlier this year by the Medicare Payment Advisory Commission, which recommended Medicare market basket update reductions for hospitals, payment freezes for skilled nursing facilities and home health care providers, and some other proposals. The bill does, however, contain several

Medicare payment improvements for rural providers, reflecting the rural orientation of the Chairman of the Senate Finance Committee, Charles Grassley (R-IA), and the Ranking Member of the Committee, Max Baucus (D-MT). GNYHA is working with a number of senators on amendments to provide relief for urban and suburban providers when the PDMIA is debated by the full Senate this week, including an amendment to repeal the indirect medical education adjustment cut that took effect on October 1, 2002, and an amendment to “carve out” Medicare disproportionate share hospital (DSH) payments from private plan premiums and make those payments directly to DSH hospitals. Two House committees, the Ways and Means and Energy and Commerce committees, are also expected to consider their own versions of Medicare legislation this week. ■

# GNYHA and DOH Conduct Drill of Emergency Data-Gathering System

On June 3, 2003, GNYHA conducted a drill of the NYS Department of Health (DOH) Hospital Emergency Response Data System (HERDS). More than 70 hospitals in the New York metropolitan area participated in the drill.

At the GNYHA Command Center, representatives from GNYHA, DOH, and the NYC Department of Health and Mental Hygiene posted the drill scenario, provided updates to the scenario, and engaged in two-way communication with hospital participants using a secure discussion forum. Each par-

ticipating hospital remained at its own facility, responded to the drill scenario by entering surge capacity information, and, in many cases, activated a drill of its internal incident command system. The HERDS drill was designed to assess hospitals' ability to access and enter data in HERDS; provide an opportunity for hospitals to practice using HERDS; test HERDS's bi-directional communication capacity; and demonstrate the patient locator module of HERDS, which could be activated to gather information for a patient locator system in the event of

a disaster.

Since the first HERDS drill held on November 14, 2002, GNYHA and its members have convened a HERDS Users Group and have been collaborating with DOH to improve the system. Drill participants have been asked to help identify operational improvements to HERDS that hospitals want. DOH has indicated its strong commitment to improve HERDS and to conduct drills on an ongoing basis.

If you have questions about the HERDS drill, contact Susan Stuard at GNYHA. ■

## Malpractice Costs *continued from page 1*

award for future medical expenses from \$40 million to \$140 million by "averaging" and counting inflation twice. In rendering its decision, the Court of Appeals stated that it was compelled to follow the direction of the statute for structuring a judgment, but implored the State Legislature to clarify the law, which was passed in 1986 and was designed to moderate the increases in medical malpractice premiums. It has been estimated that without State legislation to correct the problem caused by CPLR 50-A, malpractice premiums for hospitals will more than double in cost, assuming that malpractice insurance remains available at all.

At the press conference, GNYHA and its coalition partners called upon both houses of the State Legislature to restore the original intent of the law and bring financial awards back in line with accepted norms and in proportion to the related injury.

"We just fought a monumental battle in Albany against Medicaid cuts that would have devastated New York's health care system,"



Herbert Pardes, M.D. (at podium), addresses press conference participants outside St. Luke's-Roosevelt Hospital on June 3. Background (l. to r.): Spencer Foreman, M.D., David Rosen, Jennifer Cunningham (SEIU NYS Council), Kenneth E. Raske, Stanley Brezenoff, Gail Donovan, and Pamela Brier.

said GNYHA President Kenneth E. Raske. "The State Legislature came through and saved New Yorkers from those cuts. Now we need the Legislature to act again, because inaction on this issue would erase the positive impact of the Medicaid restorations and lead to dire consequences."

Health care executives at the press conference included Herbert Pardes, M.D., President and CEO, NewYork-Presbyterian Hospital; Spencer Foreman, M.D., President, Montefiore Medical Center; David Rosen, President and CEO, MediSys Health Network; Stanley Brezenoff, incoming President and

CEO of Continuum Health Partners, Inc.; Gail Donovan, Executive Vice President and COO, Continuum; and Pamela Brier, President and CEO, Maimonides Medical Center.

In response to the efforts of the coalition, Assembly Insurance Committee Chairman Pete Grannis supports legislation to correct the situation created by the current statute and underscored by *Desiderio*. The coalition has also met with Senate Majority Leader Joseph Bruno, who has expressed his strong support. Negotiations are continuing with the goal of passing legislation before the Legislature adjourns for the year on June 19. ■

## NYS Department of Health and IPRO Report Significant Improvement in Resident Working Hours Compliance

Last week, at a meeting at GNYHA, the New York State Department of Health (DOH) and its contractor, IPRO, previewed the upcoming report on the first year of the annual compliance reviews of resident working hours, and provided year-to-date information about the second-year reviews. The first year of the contract ended in October 2002. According to DOH, the second-year reviews currently show a significantly improved compliance rate across the State. DOH staff also pointed out that even during the first year, only 10 (8.5%) of the hospitals reviewed were found to have three or more programs out of compliance. Based on the data collected,

noncompliance was not found to be significantly greater during July, the beginning of the residency program year. DOH staff noted that the reviews are finding that residents have improved significantly in maintaining the overall 80-hour limit, but that challenges continue in limiting on-call periods to 24 consecutive hours. DOH also reported that hospitals have been having particular difficulty achieving compliance for their first-year residents, in contrast to earlier reviews conducted by DOH, which found compliance difficulties more evenly distributed among the various levels of trainees. At the meeting, IPRO staff noted that they are completing their second-year reviews in approximately half the time it took during the first year. ■