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Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

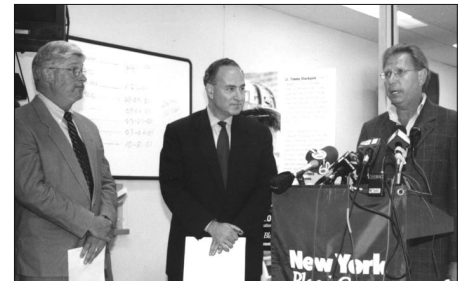
FDA Committee Votes to Recommend Blood Donor Restrictions

On June 28, 2001, GNYHA testified at a hearing of the U.S. Food and Drug Administration's (FDA's) Transmissible Spongiform Encephalopathies (TSE) Advisory Committee regarding proposed restrictions on blood donors who lived or traveled in European countries and restrictions on the importation of European blood due to concerns about possible transmission of bovine spongiform encephalopathy (BSE, or the human form of "mad cow disease") in humans through blood transfusions. After the public testimony, by a vote of 10-7, the Committee voted to recommend to prohibit blood donations from people who have spent

specified periods of time in Europe and to prohibit the importation of blood from Europe. (For details, see box on page 2.) If the FDA adopts that proposal, according to New York Blood Center estimates, the NYC region's blood supply would be reduced by approximately 30%.

GNYHA's Position: No cases of BSE transmission through blood transfusions have been identified; therefore, the risk of such transmission remains purely theoretical—a position that was supported at the June 28 hearing. GNYHA has not taken a position regarding the scientific merits of the prohibi-

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Left to right: New York Blood Center President Dr. Robert Jones, Senator Charles Schumer, and GNYHA President Kenneth E. Raske at a July 1 press conference about the blood shortage.

GNYHA, 1199/SEIU Reach Agreement with Empire

In recent weeks, GNYHA and 1199/SEIU-New York's Health and Human Service Union have been discussing with Empire Blue Cross and Blue Shield strategies for addressing some of the concerns their members have expressed regarding Empire's proposed conversion to a for-profit corporation. As a result of those discussions, GNYHA and 1199/SEIU have agreed to stop opposing the conversion if certain conditions can be met.

Background: GNYHA and 1199/SEIU have opposed legislation that would allow Empire to convert from a not-for-profit insurer to a for-profit corporation. This opposition has been rooted in the strong belief that not-for-profit and public health care entities are bet-

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GNYHA Board Meets

The GNYHA Board of Governors met on June 28, 2001, and took the following actions:

- discussed the potentially disastrous effects on GNYHA members of the American Red Cross's proposal to defer certain blood donations from Europe, as well as GNYHA's planned efforts to address this issue (see story above);
- reviewed the agreement between GNYHA, 1199/SEIU, and Empire Blue Cross and Blue Shield concerning Empire's conversion to a for-profit insurer (see story at right);
- was briefed on GNYHA's initiatives to obtain additional funding for New York's hospitals and continuing care providers;
- was updated on GNYHA's information technology initiatives;
- heard a report on Federal issues including the status of the American Hospital Preservation Act (which would freeze IME payments at 6.5% and provide a full inpatient market basket update for Federal fiscal years 2002 and 2003), and the reorganization of the U.S. Health Care Financing Administration;
- was briefed on recent developments concerning the expansion of health insurance, including the Federal approval of Family Health Plus and a recent New York Appeals Court ruling that the State cannot deny Medicaid coverage to legal immigrants;
- was updated on a number of legal, regulatory, and professional affairs issues, including NYPORTS reporting, genetic testing legislation, quality initiatives, and regulated medical waste issues; and
- heard a report on the status of nursing home staffing ratio bills. ■

Rima Cohen has joined the staff of U.S. Senate Majority Leader Tom Daschle in Washington, D.C., handling health care issues before the Senate. Ms. Cohen will work with the Senate Majority Leader on a number of issues, including a patients' bill of rights, a Medicare prescription drug benefit, and health insurance expansion. Formerly GNYHA's Vice President for Insurance Options for the Uninsured, Ms. Cohen was a driving force behind the creation and enactment of Family Health Plus, New York State's comprehensive health insurance program for low-income, working New Yorkers. ■

Blood Donor Restrictions

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tions on the importation of blood or the restrictions on blood donations from certain European travelers. Rather, GNYHA has commented on the significant negative implications of a 30% drop in the blood supply. As a result, GNYHA is advocating that if the FDA follows the recommendations of the TSE Committee, then the FDA and the Federal government must adopt a concrete plan so that the New York City area maintains a stable blood supply.

Support from Senators: On June 27, Senators Hillary Clinton and Charles Schumer wrote to U.S. Department of Health and Human Services (HHS) Secretary Tommy Thompson to urge HHS to develop a plan to replenish the blood supply in the New York metropolitan area.

Breaking News: GNYHA has learned that HHS is working on a proposal whereby surplus blood from U.S. military bases in Europe would be sent to the NYC region. GNYHA is extremely pleased that HHS is considering this potential solution.

GNYHA's Action Plan: In order to ensure that GNYHA members receive an adequate blood supply, GNYHA:

- is requesting that physicians, surgeons, and blood specialists from its member facilities write to Secretary Thompson expressing concern regarding the proposal due to its severe negative impact on patients, and requesting that members send copies of any letters to their Congressional representatives and Senators Schumer and Clinton;

- has met with Congressional staff members to urge them to review and to hold Congressional oversight hearings on the FDA proposal;

- will continue to discuss with the NYC Mayor's Office of Emergency Management

the potential public health crisis that would result from the FDA's adoption of the recommendations without a replacement for the blood supply; and

- suggests that its members encourage their employees to donate blood now, and to plan for blood drives.

Press Conference with Senator Schumer:

On July 1, GNYHA participated in a press conference with Senator Schumer, who called upon HHS to declare a Blood Shortage Emergency in NYC and on Long Island. Senator Schumer pointed out that NYC's blood supply was already critically low even before the TSE Committee made its recom-

mendations. Senator Schumer's plan to combat the blood shortage includes calling upon HHS to allocate \$10 million in funding for a campaign to promote blood donations and urging President Bush and Governor Pataki to offer compensatory time to State and Federal employees in exchange for donating blood. The press conference was covered on *ABC World News Tonight* and many other media outlets.

Donor Recruitment: NYS Health Commissioner Antonia Novello, M.D., announced recently that the NYS Department of Health will immediately develop a \$500,000 statewide media campaign to help increase the number of blood donors in NYS.

Implementation: The FDA is now considering the recommendations of the Committee and will publish guidance for the industry for public comment. The FDA will then analyze the public comments and publish final guidance. It is expected that the final guidelines will be implemented during the summer of 2002. If you have any questions, please contact Doris. R. Varlese at GNYHA. ■

FDA's TSE Advisory Committee Recommendations for Blood Donations

- Defer blood donors who have spent a cumulative period of three months or more in the United Kingdom from 1980 through the end of 1996.
- Defer blood donors who have traveled to or resided in any European country (except the United Kingdom; see above) for a cumulative period of five years or more from 1980 to the present. (This action will effectively ban the importation of blood from Europe, which accounts for 25% of the New York City area's blood supply.)
- Defer donors who have spent more than six months on a European Department of Defense base from 1980 through the end of 1996 (or 1980 through 1990 if all exposure after 1990 was on Department of Defense bases north of the Alps).
- Defer any recipient of a blood transfusion in the United Kingdom from 1980 to the present.
- Implement deferrals within six months of final FDA guidelines.
- Institute a national blood donor recruitment campaign and a system to monitor adequate blood supply.

GNYHA Offers Root Cause Analysis Training

As part of its quality improvement and medical error reduction initiatives, GNYHA has been conducting on-site root cause analysis training at member institutions for the last six months. The program has helped hospitals assess the effectiveness of their own medical error reduction efforts and redesign their strategies for responding to and eliminating future serious patient incidents. During the training, GNYHA staff also review relevant New York State regulations, specifically New York Patient Occurrence Reporting and Tracking System (NYPORTS)

requirements and the new Joint Commission on Accreditation of Healthcare Organizations (JCAHO) standards for Patient Safety and Medical Error Reduction effective July 1, 2001.

GNYHA will be continuing its root cause analysis training program throughout the year. In addition, GNYHA will be developing a NYPORTS information booklet that hospitals can incorporate into their ongoing efforts to appropriately identify and process cases that are required to be reported to the New York State Department of Health under NYPORTS. ■

GNYHA Comments on Statewide Plan for Mental Health Services

On June 26, 2001, GNYHA presented testimony at a hearing scheduled by the New York State Office of Mental Health (OMH) to receive comments on The Statewide Comprehensive Plan for Mental Health Services 2001–05. The State's plan was developed pursuant to Mental Hygiene Law, Section 5.07, and is intended to be a blueprint for the planning of services for individuals with psychiatric disabilities.

The plan addresses the need for housing, case management, supported employment, and community-based services, especially for children. It also envisions an increased role for recipients of services and their families. In addition, OMH indicates its intent to phase in a model of evidence-based practice, quality indicators, and outcome measures. At a recent conference, OMH outlined plans to include best practices in the licensing and certification process, and to use outcome measures as a basis for payment.

GNYHA's Testimony: In its testimony, GNYHA called for a comprehensive needs assessment as a way of ensuring that the volume of and access to services are adequate to meet existing needs. There are current gaps

in treatment services, particularly in the areas of children's services and services for mentally ill individuals who are also substance abusers or mentally retarded. GNYHA supports the concept of evidence-based psychiatry and noted that the high concentration of teaching hospitals and residency training programs in the New York City metropolitan area served to promote the use of best practices among GNYHA providers of mental health services. However, GNYHA emphasized the critical need for adequate and sustained funding from OMH to support best practices, and provided examples of where best practices are currently being compromised by a lack of financial resources. GNYHA also noted the need for OMH to include in its budget the costs for staff training and ongoing supervision in State-licensed facilities. GNYHA reminded OMH that homelessness, substance abuse, unemployment, and other characteristics that have been associated with poor treatment outcomes are prevalent among people with mental illness in the New York City area. Therefore, a payment system, as well as any comparison of outcome data, would need to take that into account.

Finally, GNYHA reaffirmed its interest in working with OMH to introduce positive changes in the mental health delivery system. ■

HCRA GME Incentive Pool Survey Due Date Extended

The New York State Department of Health (DOH) announced recently that the deadline for submitting incentive pool surveys has been extended to July 25, 2001. The \$31 million incentive pool program rewards teaching hospitals and GME consortia for progress toward and achievement of State policy goals in the area of GME. It was originally authorized in the Health Care Reform Act (HCRA) of 1996 and continued in HCRA 2000. The previous requirement that a hospital must downsize the number of residents in order to qualify for any portion of the incentive pool funding was removed from the program in HCRA 2000. As a result, virtually all New York teaching hospitals are likely to qualify for some portion of the funding.

Any hospital seeking funding in this incentive pool cycle that received funding in a previous year must submit a response to the "Use of Funds" questionnaire included with the survey if it has not been submitted already. In particular, hospitals that received funding in Year 3 of the incentive pool program must submit a response regarding their use of that funding to qualify for Year 4 funding. After receiving, reviewing, and finalizing the submitted surveys, DOH staff will distribute data sheets to hospitals that include any revisions made by DOH. Distributions will be made based on the hospital-specific data. GNYHA has requested that DOH provide a short period of time following receipt of the revised data sheets for hospital staff to make any necessary corrections. DOH indicates that this entire process should be completed some time in the fall.

For more details, contact DOH's GME Unit at gme@health.state.ny.us or (518) 473-3513, or contact Tim Johnson at GNYHA. ■

Legislative Digest

During the final week in which the 2001 New York State Legislature met, the Senate and Assembly took action on the following health care bills.

Genetics Research: The Senate and the Assembly passed S.5489/A.8956, to advance genetics research while protecting the privacy of individuals who donate stored tissue samples for research purposes. GNYHA worked closely with Senator Kenneth Lavalle and Assemblyman Robert Sweeney to create legislation that would benefit patients and research institutions by providing clarity and sound public policy for genetics research on stored human tissue samples. • **Pre-Hospital Emergency Services:** The Senate and the Assembly passed S.5213/A.2359, to require health insurance plans to cover treatment of an emergency medical condition when services are provided by a certified ambulance service or advanced life support first response. GNYHA supports this legislation. • **Auto Insurance Coverage:** The Senate and Assembly passed S.5685/A.4395, to require that no-fault automobile insurance policies make payments to health care providers for services rendered for injuries incurred as a result of operating a motor vehicle while intoxicated, if the individual seeks treatment within 48 hours of the accident. GNYHA supports this legislation.

• **HMO Reform:** The Assembly passed A.8740, which ends the abusive practices of many HMOs and health insurance companies. The bill creates an independent dispute resolution system; creates a health insurance guaranty fund to protect consumers and providers from punishing financial obligations in the case of the insolvency of an HMO or insurer; clarifies that prior authorization for treatment is binding; provides for enhanced penalties, including an interim payment system, for HMOs that violate the State's prompt payment statute; and requires HMOs or insurers to pay electronic claims within 15 days and imposes penalties on payers who cannot accept electronic claims by January 1, 2002. GNYHA strongly supports this legislation. • **Medicaid and CHP:** The Assembly passed A.2613 to include rehabilitation hospitals in the definition of inpatient health care services under the Child Health Plus (CHP) program. The Assembly also passed A.8953, which would enable lower-income pregnant women to receive prenatal care through the Prenatal Care Assistance Program (PCAP), regardless of their immigration status. GNYHA supports both A.2613 and A.8953. ■

GNYHA Comments on Proposed Medicare Payment Rules

GNYHA has submitted comments to the Centers for Medicare and Medicaid Services (CMS) on two proposed rules for Federal fiscal year provider reimbursement rates.

Hospitals: On the hospital rule, GNYHA's principal recommendations were as follows:

- that CMS implement All Patient Refined-Diagnosis Related Groups (APR-DRGs) no later than implementation of a new wage index that excludes the effects of regional variation in occupational mix;

- that CMS recognize the cost of expensive new medical services and technologies not by making additional payments for specific cases as proposed, but by revising all the DRG weights to recognize the effect of new technologies in certain DRGs. BIPA had directed CMS to develop a mechanism to compensate hospitals for the use of expensive new technologies to eliminate a barrier to their usage. GNYHA was concerned that CMS's proposal would create an inappropriate incentive to use new technologies in place of existing ones.

Skilled Nursing Facilities: On the skilled nursing facility (SNF) rule, GNYHA's principal recommendations were as follows:

- that CMS continue its process to revise and refine the RUG III case-mix system to improve CMS's ability to predict the costs of providing care for medically complex residents. GNYHA identified shortcomings in the case-mix system in its analysis and comments that followed the interim final rule for the SNF prospective payment system (PPS) published on May 12, 1998, and has continued to advocate for a more appropriate case-mix system.

- that CMS move forward with the development and implementation of a SNF wage index, which will more appropriately reflect the labor portion of the Medicare rates under the SNF PPS for a skilled nursing facility setting.

- that CMS recognize that the SNF PPS does not adequately reimburse facilities for the capital costs of construction or renovation projects that had recently been completed or were in progress during the implementation of the SNF PPS. ■

Agreement with Empire *continued from page 1*

ter suited to meeting the needs of patients. In addition, both GNYHA and 1199/SEIU have been extremely concerned about the loss of a major not-for-profit insurer that was founded in 1934 at the request of hospitals for the dual purposes of providing a way for low-income New Yorkers to afford hospital care and strengthening the health care provider infrastructure. Both organizations have been alarmed at the prospect of a new, large, for-profit insurer that would engage in the unfair payment practices typical of large, for-profit insurance companies nationwide, further exacerbating the already weak financial condition of New York's health care providers.

A number of individuals and organizations have urged GNYHA and 1199/SEIU to stop opposing the Empire conversion—including Empire itself, members of the NYS Legislature, and advocacy groups that have expressed an interest in the proceeds from a foundation that would be created if Empire converts to a for-profit entity.

Current Discussions: The two organizations will always believe not-for-profit and public health care is preferable to for-profit health care. However, they agreed to discuss with Empire the conditions under which not-for-profit and public health care providers could continue to provide high-quality health care in a marketplace dominated by for-profit insurers as well as conditions under which it could be guaranteed that the charitable asset continues to serve the dual purposes for which Empire was originally created.

After weeks of discussion, 1199/SEIU and GNYHA agreed to no longer oppose the conversion *if the following conditions are met:*

- Empire adopts new claims payment practices for all hospitals in its service area (which includes 28 counties from Long Island to the Canadian border). Empire will memorialize these practices in the form of contract amendments, designed to ensure more prompt, timely payment. The amendments will be optional for hospitals, but will only be offered 45 days after the enactment of conversion legislation. The discussion of new claims payment practices began in the context of pursuing comprehensive payer reform legislation; however, due to potential obstacles to the enactment of such legislation, Empire will adopt these new practices for itself.

- Empire will support a very limited, free-standing payer reform bill and will work with GNYHA and 1199/SEIU to secure support for its enactment.

- Conversion legislation includes a provision that would allow 50% of the charitable asset to be dedicated to a foundation that would enhance the accessibility, quality, and affordability of health care by providing funding to health care providers that serve uninsured, underinsured, or publicly insured New Yorkers throughout the 28 counties of Empire's service area, to fund innovative projects designed to 1) aid in the restructuring of providers that are critical to continued health care access for low-income New Yorkers but are experiencing financial difficulty; and 2) improve quality, reduce medical errors, and strengthen medical record privacy protections. These important reforms require costly technologies that have been recommended by the Institute of Medicine and demanded by consumer and employer groups nationwide. Unfortunately, the cost of such technologies places them out of reach of many providers throughout the Empire service area.

- 1199/SEIU and GNYHA also support the creation of a second foundation that would improve access to health insurance for low-income New Yorkers, as envisioned by A.7352, sponsored by Assemblyman Alexander "Pete" Grannis. Given that the estimated value of Empire has nearly tripled since 1199/SEIU and GNYHA first announced their opposition to the conversion—and, thus, the value of the charitable asset has increased from several hundred million dollars to well over \$1 billion—there is now more than enough funding for the foundation originally envisioned by A.7352 and the foundation proposed by GNYHA and 1199/SEIU.

Only if the above conditions are met will 1199/SEIU and GNYHA withdraw their opposition to conversion legislation. GNYHA and 1199/SEIU believe that only if the Governor and State Legislature fashion conversion legislation along the lines outlined above, and Empire implements the new contract terms negotiated under the terms of this agreement, will New Yorkers be assured of continued access to high-quality health care and a strong health care provider infrastructure in a post-conversion world. ■