



MAY 31, 2004

# Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

## Herbert Pardes Installed as GNYHA Chairman at Annual Reception; Members Celebrate GNYHA's 100-Year Anniversary

**H**erbert Pardes, M.D., President and CEO of NewYork-Presbyterian Hospital, was installed as GNYHA Chairman at the Association's 2004 Annual Reception and Cocktail Buffet on May 26. Dr. Pardes will also serve as Chairman of GNYHA Ventures, Inc., as well as several GNYHA Ventures affiliates and the not-for-profit Greater New York Hospital Foundation, Inc. Before joining NewYork-Presbyterian Hospital in 2000, Dr. Pardes had served as Vice President for Health Sciences at Columbia University and Dean of the Faculty of Medicine at the College of Physicians and Surgeons. He also served as Director of the National Institute of Mental Health, and U.S. Assistant Surgeon



**GNYHA President Kenneth E. Raske (center) at GNYHA's Annual Reception, accepting a commemorative plaque for 20 years of service at GNYHA. New GNYHA Board Chairman Herbert Pardes, M.D. (left) and outgoing Chairman Stanley Brezenoff (right) joined him on the podium.**

General during the Carter and Reagan administrations.

**New Officers:** Also installed as officers of GNYHA's Board of Governors were **Michael Dowling**, North Shore-Long Island Jewish Health Care System, Chairman-Elect; **Ben-**

*continued on page 3*

## NYS Health Plan Profits Still Soaring

**N**YS health plans recorded over \$1.5 billion in profits for 2003, or 24% more than they earned in 2002, representing a 5% total margin, up from 4% in 2002. These results, compiled from 2003 health plan financial statements filed with the NYS Insurance Department (SID), exhibit a consistent trend of growing profits since 1999, when health plans showed over \$700 million in profits. In both 2003 and 2002, net underwriting gains accounted for the majority of total profits—\$1.46 billion of \$1.5 billion in 2003, and \$991 million of \$1.2 billion in 2002. Net underwriting gains are defined as earnings exclusively from operations, primarily income from premiums collected, and excluding investment income and other revenue sources. The 2003 results do not include as yet unavailable statistics for Prepaid Health Services Plans (PHSPs), which contributed \$111 million to total health plan profits in 2002.

*continued on page 2*

## Budget Reform Bill Puts Health Care at Risk

**T**he NYS Legislature is considering budget reform legislation that could have a devastating impact on New York's health care system. S.7318 was introduced on May 20, 2004, and quickly passed the Senate on May 24. Its companion bill, A.11232, will be considered by the Assembly this week. The bills place health care programs, including Medicaid, Child Health Plus, and Family Health Plus, at risk of massive funding cuts in the future if there is a budget negotiation impasse in Albany.

Under the bill, budget reform would take effect in 2006 if certain constitutional changes are approved by the State Legislature this year, by the next State Legislature next year, and by the voters in November 2005. The beginning of the State fiscal year would be changed from April 1 to May 1. The bill also mandates that if there is no budget agreement prior to the beginning of the new fiscal year, a contingency budget would take effect, under which spending for certain programs (including all

*continued on page 3*

# House Rejects Bill Requiring Hospitals to Patrol Nation's Borders

On May 18, the U.S. House of Representatives voted against the Undocumented Alien Emergency Medical Assistance Amendments Act of 2004 (H.R.3722), introduced by Congressman Dana Rohrabacher (R-CA). The legislation would require hospitals to collect and report biometric information—such as fingerprints and digital photographs—to the Department of Homeland Security as a condition of receiving funds through Section 1011 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). Congress recognized the need to pay for some of the care offered to undocumented immigrants by including \$1 billion over four years to hospitals, physicians, and ambulance service providers. Under Section 1011 of the MMA, New York is expected to receive an estimated \$12 million per year, while New Jersey is estimated to receive \$5 million per year.

GNYHA strongly opposed H.R.3722, citing that hospitals are in the business of caring for patients, not patrolling borders. GNYHA was concerned about the potential threat a bill such as H.R.3722 would have on the public health system. An immigrant with a contagious disease who is threatened with deportation could delay seeking treatment and risk spreading an illness such as tuberculosis in epidemic proportions. Furthermore, hospitals are required to treat all patients who enter the emergency room, regardless of citizenship status, as part of the Emergency Medical and Active Labor Treatment Act.

The bill failed by a vote of 88 to 331. Two

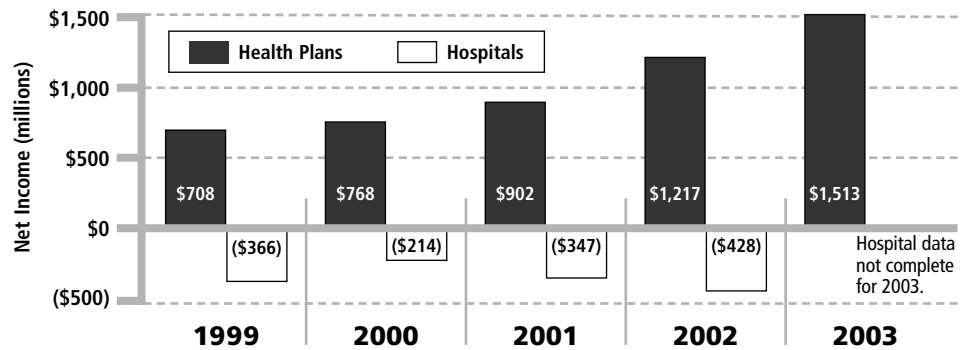
New York and New Jersey Congressional Delegation members, Sue Kelly (R-NY) and Scott Garrett (R-NJ), voted in favor of it.

GNYHA would like to thank the Congressional members who opposed this onerous

provision. GNYHA is working with a coalition of hospital associations to recommend implementation provisions for Section 1011 of the MMA, which CMS expects to implement by November 2004. ■

## NYS Health Plan Profits Still Soaring *continued from page 1*

### Financial Condition of New York State Health Plans and Hospitals, Net Income, 1999–2003



**Note:** Figures do not include Prepaid Health Services Plans. **Source:** NYS Hospital Institutional Cost Reports; NYS Insurance Department, Health Plan Annual Statements (NAIC statements). Data include commercial PPO, HMO, and indemnity plans.

Eighty-one percent of health plan profits resulted from six plans that enroll 69% of all subscribers: Oxford Health Plans (\$321 million), Health Insurance Plan (HIP) of New York (\$281 million), Empire HealthChoice (\$259 million), Excellus Health Plan (\$161 million), Aetna Health Inc. (\$137 million), and UnitedHealthcare (\$60 million), with total margins ranging from 3% to 10%. Pending changes in this group include the proposed merger of UnitedHealth Group and Oxford Health Plans, which would create the largest health plan in NYS, in terms of both

reported enrollment and profitability, as well as the possible conversion of HIP from not-for-profit to publicly traded status.

In contrast to the increasing profitability of health plans, New York hospitals continue to endure financial distress. Although financial data for NYS hospitals is incomplete, it is anticipated that 2003 financial performance will show a decline from 2002 levels. GNYHA has reported that NYS hospitals lost over \$400 million on their bottom line in 2002, with a total margin of -1%, reflecting a continuous pattern of losses since 1999. ■

## GNYHA Comments on Point of Entry System for LTC Services

On May 14, 2004, GNYHA's Continuing Care Leadership Coalition (CCLC) convened a working group of members to discuss the Request for Information (RFI) from the NYS Department of Health (DOH) and the NYS Office for the Aging (SOFA) regarding a proposed long term care Point of Entry (POE) system in NYS. DOH and SOFA have indicated that the RFI process is intended to gather information about how to best design, implement, and manage a POE system to serve all

New Yorkers. The RFI was developed in response to a proposal to design such a system in the interim report of the Governor's Health Care Reform Working Group. Comments based on the working group's recommendations will stress both support for the development of a system to better disseminate information on long term care services and strong concern regarding the development of an assessment and placement service that has the potential to delay entrance into the long term care system and to limit

consumer freedom of choice, while also creating the potential for bias in service coordination activities. A CCLC analysis indicated that if the POE system resulted in increased hospital lengths of stay of one day on average for patients awaiting discharge to a nursing home or home care setting, the cost to hospitals statewide could exceed \$180 million annually. Before the June 1, 2004, deadline, a formal comment letter setting forth these concerns in detail will be submitted to DOH. ■

## Budget Reform *continued from page 1*

health care programs) would be frozen at prior-year levels during the contingency budget period. In addition, trend factors would be frozen, meaning that hospitals, nursing homes, and home health agencies would receive no Medicaid inflation updates until a final budget agreement is passed (if ever). Further, if a new independent budget office estimates that the contingency budget, if allowed to remain in place for a full year, would not be in balance, automatic across-the-board spending cuts would take effect, whether or not a final budget agreement is eventually reached. A number of programs and funding streams are exempted from the

trend factor freeze and the across-the-board spending cuts, including public school aid, the largest single spending item in the State budget; school tax relief, or "STAR" exemptions; a variety of unspecified Federal programs; debt service, lease purchase payments, and other "special contractual obligations"; public assistance grants; and State employee health insurance and pension costs. The programs that are not exempted, including all health care programs, would be cut much more deeply.

GNYHA has communicated its extreme concern to the entire NYS Legislature. In addition, on May 25, GNYHA President Kenneth E. Raske and 1199 SEIU President Dennis

Rivera sent a letter to Senate Majority Leader Joseph Bruno and Assembly Speaker Sheldon Silver, opposing the provisions of the bill that would deny Medicaid trend factors and impose across-the-board cuts on health care programs. "We must strongly protest the decision to explicitly single out New York's fragile health care community for potentially severe funding cuts," Mr. Raske and Mr. Rivera stated. The letter described the dire financial condition of New York's health care system, and concluded with an offer to work with legislative leaders on budget reform legislation that will protect the health care community in the same way that other communities have been protected in the legislation. ■

## GNYHA Holds Briefing on Improving Patient Flow

On May 27, over 200 representatives of GNYHA member facilities attended a GNYHA briefing designed to give a comprehensive overview of the factors affecting patient flow from the perspectives of both inpatient and emergency department care. Speakers highlighted the complexities of safe and efficient patient flow and stressed that hospitals should adopt sys-

temwide initiatives enlisting the support of all staff as well as all patient care units and ancillary departments. The speakers emphasized the need for continuous communication and support from senior leadership, standardized metrics for collecting data related to patient flow, and the accountability of all staff to ensure that patients move smoothly and safely through a hospital. Staff from NewYork-Presbyterian Hospital described use of weekly meetings, standardizing data-reporting on length of stay and wait times, and restructur-

ing communication chains when a decision is made to admit patients. North Shore-LIJ addressed the use of clinical guidelines and Six-Sigma methodologies. H\*Works, an Advisory Board Company, outlined methodologies to calculate the return on investment from specific improvements.

GNYHA has created a patient flow workgroup that provides a forum for sharing best practices. For information about the workgroup, contact Terri Straub or Lillian Forgacs at GNYHA. ■

### GNYHA Board Meets

*The GNYHA Board of Governors met on May 20, 2004, and took the following actions:*

- approved the audit report of the 2003 financial statements of GNYHA and its subsidiaries and affiliates;
- was briefed on the tentative contract agreement between 1199 SEIU and the League of Voluntary Hospitals and Homes of New York;
- was updated on the GNYHA/1199 SEIU Healthcare Education Project's HEAL New York Bond Program;
- was briefed on key provisions of the proposed Medicare inpatient prospective payment system for fiscal year 2005, including CMS's proposal for redefining the nation's wage index labor markets and the redistribution of "unused" resident slots;
- heard a report on the impact of CMS's final "75% Rule," as well as the strategic and operational focus of GNYHA's new taskforce that will facilitate management initiatives for coping with the rule; and
- was briefed on various payer issues, including the announced merger of UnitedHealth Group and Oxford Health Plans. ■

### GNYHA Annual Reception *continued from page 1*

**jamin Chu, M.D., M.P.H.**, NYC Health and Hospitals Corporation, Vice Chairman; **Robert M. Glickman, M.D.**, NYU Medical Center, Vice Chairman; **Mark J. Kator**, Isabella Geriatric Center, Vice Chairman, Long Term Care; **Kenneth L. Davis, M.D.**, The Mount Sinai Medical Center, Secretary; **Gary S. Horan, FACHE**, Trinitas Hospital, Treasurer; **James Foy**, St. John's Riverside Hospital, Assistant Treasurer; **Linda Brady, M.D.**, Kingsbrook Jewish Medical Center, Assistant Secretary; **Stanley Brezenoff**, Continuum Health Partners, Inc., Immediate Past Chairman; **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 Fore-**

**man, M.D.**, Montefiore Medical Center, Past Chair.

**New Board Members:** Installed as members of the GNYHA Board of Governors in the Class of 2007 were **Pamela S. Brier**, Maimonides Medical Center; **James Harden**, Catholic Health Services of Long Island; **Carol Raphael**, Visiting Nurse Service of New York; **Joel Seligman**, Northern Westchester Hospital; **David Speltz**, Saint Vincent Catholic Medical Centers; and **Arthur Y. Webb**, Village Care of New York.

**Featured Events:** GNYHA was honored to have The Boys Choir of Harlem perform at the reception. Also featured were an exhibit of historical health care photographs, drawings, and memorabilia, and a special video presentation, *From Humble Beginnings: The Transformation of Health Care, 1860s-1930s*. ■

# Court Challenge to Empire Conversion Permitted to Move Forward

In an order entered May 20, 2004, the NYS Appellate Division, First Department, refused to dismiss the amended complaint filed by Consumers Union challenging aspects of Empire HealthChoice Inc.'s conversion to for-profit status. The amended complaint alleges that the conversion violates NYS's constitutional prohibition against laws that grant exclusive privileges because the underlying conversion legislation applies only to Empire. The Court did agree, however, that the lower court had acted properly in dismissing the initial complaint filed by Consumers Union, which had included multiple causes of action, as well as in dismissing many of the initial plaintiffs in the case for lack of standing. While it is expected that both sides will seek to appeal the decision

further, the upshot of the Appellate Division's order is that the case by Consumers Union may move forward on the basis of its amended complaint only. In the interim, the restrictions placed on the application of the proceeds of Empire's initial sale of stock under its conversion plan, which were slated to be used for certain State health initiatives, will remain in effect.

The lawsuit, which was brought in August 2002, challenges NYS legislation passed in January 2002 that permitted Empire's conversion to proceed. However, the real target of the plaintiffs' complaint is not the actual conversion but the application of the proceeds of the conversion. Under the 2002 statute, 95% of those proceeds—in effect the proceeds of the sale of Empire's stock over time—are to be deposited in the State's Tobacco Control

and Insurance Initiatives Pool, which was established for specific statutory purposes such as expanding Medicaid eligibility and benefits, extending the Child Health Plus program, and funding other health care-related programs. The remaining 5% of the proceeds is to be transferred to a charitable fund that is to be used to increase access to health care and affordable insurance. The plaintiffs take the position that all the proceeds should be transferred to the charitable fund and be applied for purposes such as premium supports for Empire subscribers.

Meanwhile, Governor George Pataki has proposed legislation to permit the Health Insurance Plan of New York and other not-for-profit plans to convert to for-profit status. If passed, the proposed legislation would likely render the challenge to Empire's conversion moot. New Jersey's State Legislature is similarly interested in allowing Horizon Blue Cross Blue Shield of New Jersey to convert to for-profit status so the proceeds can be used for health care and other State purposes. ■

## Upcoming GNYHA Member Briefings

### **NYC Bioterrorism Tabletop Exercise**

**Date:** Thursday, June 3, 2004

**Time:** 7:30 a.m.–1:30 p.m.

**Location:** Marriott New York at The Brooklyn Bridge, 333 Adams Street, Brooklyn, Ballrooms A, B, C, and D

The NYC Department of Health and Mental Hygiene (DOHMH), in collaboration with the NYS Department of Health, the NYC Office of Emergency Management, and GNYHA, will hold a citywide tabletop exercise focusing on hospital response to a bioterrorism event. To register contact Irene Escobar at [iescobar@health.nyc.gov](mailto:iescobar@health.nyc.gov) or (212) 788-4225.

### **HIPAA Security Workgroup**

**Date:** Tuesday, June 8, 2004

**Time:** 2:00 p.m.–4:30 p.m.

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

At this meeting, Dianne Faup, Advisor to the Office of HIPAA Standards, CMS, U.S. Department of Health and Human Services, will discuss compliance with the HIPAA Security Rule. Richard Cronin, Manager of Network Services, Hackensack University Medical Center, will discuss anti-spam and anti-virus measures. For more information contact Susan Stuard, and to register contact Meg Figley, at GNYHA.

### **Cancer Research Funding Opportunities**

**Date:** Tuesday, June 15, 2004

**Time:** 10:00 p.m.–12:00 noon

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

At this briefing, Worta McCaskill-Stevens, M.D., M.S., Program Director of the Community Oncology and Prevention Trials Research Group at the National Cancer Institute (NCI), will discuss two current NCI requests for applications regarding its Community Clinical Oncology Program (CCOP). The presentation will provide an overview of the CCOP program and the grant process at the agency. For a summary of the two funding opportunities, see member letter bulletin ML 105 (May 24, 2004). For more information contact Gary Sokolow, and to register contact Laurie Sangirardi, at GNYHA.

### **Adopting Baldrige Quality Award Criteria**

**Date:** Tuesday, June 15, 2004

**Time:** 1:30 p.m.–4:30 p.m.

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

At this briefing, SSM Healthcare—the first health care provider to receive the Malcolm Baldrige National Quality Award—will summarize the steps it took that led to its receipt of this prestigious award. Each year, the U.S. Commerce Department selects up to three organizations in the categories of manufacturing, service, small business, education, and health care for the award, which is traditionally presented to the winner by the President of the United States.

Quality management, nursing leadership, medical directors, department heads, finance staff, and other hospital administrators are encouraged to participate. For more information contact Terri Straub, and to register contact Rosanne Denaro, both at GNYHA.

### **Planning Meeting for the Republican National Convention**

**Date:** Friday, June 18, 2004

**Time:** 10:00 a.m.–12:00 noon

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

At this meeting, GNYHA will begin discussions regarding preparations for the Republican National Convention, to be held at Madison Square Garden on August 30 through September 2, 2004, as well as for other major events to be held over the summer. Representatives from the NYC Office of Emergency Management, the NYS Department of Health, the NYC Department of Health and Mental Hygiene, the NYC Fire Department Emergency Medical Services Operations Division, the NYC Police Department, the U.S. Secret Service, and the U.S. Departments of Homeland Security and Health and Human Services have been invited to attend. For more information contact Doris Varlese, and to register contact Meg Figley, at GNYHA. ■