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Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

Governor, Legislature Reach Agreement on NYS Budget

On March 27, Gov. Eliot Spitzer and the leaders of the NYS Legislature, Assembly Speaker Sheldon Silver, and Senate Majority Leader Joseph L. Bruno announced that they had reached a conceptual budget agreement that restores most of the funding cuts to hospitals and nursing homes that were contained in the Governor's original budget proposal. It is also GNYHA's understanding that they have agreed on a new \$50 million pool (\$25 million in State funds) for voluntary hospitals in NYC to help address the geographic maldistribution of restoration funding contained in an earlier agreement announced by the Healthcare Association of New York State (HANYS). Until the budget vote is completed, however, the details of this conceptual agreement are subject to change.

GNYHA is extremely grateful to Senator Bruno and the Senate majority, who have been supportive throughout this budget debate and passed a budget resolution earlier this month that restored all of the Governor's proposed funding cuts to hospitals and nursing homes. GNYHA is equally grateful to Assembly Speaker Silver and the Assembly Democratic Majority, who worked very hard with the Governor to secure more restorations for NYC hospitals. The Speaker's strong support for geographic equity and his intercession with Gov. Spitzer contributed mightily to the outcome. Finally, GNYHA thanks the members of the Senate Minority for their contribution and their explicit support in conversations with the Governor for more restorations for NYC hospitals.

Preliminary Details: The conceptual agreement reached on March 27 included the following changes from an earlier agreement.

- Restore 75% of the annual inflation adjustment—the “trend factor”—to Medicaid payments made to hospitals and nursing homes.
- Eliminate the 0.35% assessment on hospital gross receipts.
- Restore a little more than half of the reduc-

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Senate War Supplemental Includes Key Provision for Hospitals

On March 29, the U.S. Senate voted to pass the Iraq war supplemental by a vote of 51–47. The \$123 billion measure includes a critical provision protecting teaching and public hospitals across the country. The provision, offered originally as an amendment by Senator Richard Durbin (D-IL) while in the Senate Appropriations Committee, moves to block the Administration from implementing a devastating Medicaid regulation (already proposed in January) that would reduce payments to public providers and severely restrict the use of intergovernmental transfers. Should it be implemented, this regulation would result in losses to the New York City Health and Hospitals Corporation of \$1.75 billion over the

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GNYHA Board Meets

The GNYHA Board of Governors met on March 29, 2007, and took the following actions:

- heard a briefing on the conceptual budget agreement reached by Governor Eliot Spitzer and the NYS Legislature, which restores many of the direct hospital and nursing home cuts proposed in the Executive Budget (see story above);
- heard from Senator Joseph Bruno, via conference call, who discussed the strong advocacy work of GNYHA and 1199 SEIU to help restore the health care cuts in Governor Spitzer's proposed budget;
- was briefed by Patrick Gaspard of 1199 SEIU on “Friends and Family,” a new advocacy program that worked in the field to successfully encourage thousands of New York voters to voice their opposition to Governor Spitzer's proposed budget cuts;
- heard an update of the Federal appropriations process, including the Senate's decision to attach a provision that would block the implementation of the Medicaid upper payment limit and any rule eliminating Federal support for Medicaid graduate medical education to the Iraq War Supplemental Appropriations bill (see story at right); and
- approved a number of business-related provisions including the appointment of members to the boards of several GNYHA subsidiaries and affiliates and revisions to the GNYHA employee pension plan in accordance with the Pension Protection Act. ■

Congress Passes Budget Blueprints, Avoids Hospital Cuts

Voting largely along party lines, the U.S. House of Representatives adopted its \$2.96 trillion budget resolution on Mar. 29 by a vote of 216–210. The U.S. Senate adopted a similar resolution on Mar. 23, by a vote of 52–47. Both chambers essentially rejected any cuts to the Medicare and Medicaid programs and, in particular, essentially rejected all of President Bush's legislative proposals affecting hospitals and other health care providers. Had these proposals been implemented, New York hospitals would have faced billions of dollars in losses over the next five years. While only a non-binding

blueprint for Congress in terms of spending, the budget resolution serves as an important roadmap for lawmakers, and the lack of any direct hospital cuts in either chamber's resolution is a testament to Congress's responsiveness to the devastating impact these proposals would have if implemented. GNYHA, along with the entire hospital community, is grateful to Federal lawmakers for their steadfast support of hospitals in this measure.

The measures add significantly more funding—\$25 billion in the House and \$18 billion in the Senate—to the discretionary spending cap proposed by the President in his fiscal

year 2008 budget released earlier last month. An amendment offered by Senate Finance Committee Chairman Max Baucus (D-MT) was agreed to and affirmed the Senate's commitment to reauthorize the State Children's Health Insurance Program (SCHIP) by the end of the fiscal year, when the program officially expires. The Senate's resolution also calls for \$50 billion in funding to reauthorize SCHIP. Finally, the Senate approved, by a vote of 59–40, a separate amendment offered by Sen. Gordon Smith (R-OR) that would allow up to \$35 billion of the SCHIP spending to be raised from a tobacco tax increase. ■

GNYHA Submits Comments on Proposed Medicare GME Policy Changes

On Mar. 26, GNYHA submitted comments to the Centers for Medicare & Medicaid Services (CMS) on proposed graduate medical education (GME) policy changes within a Medicare proposed rule on counting residents who are training in a nonhospital setting for reimbursement purposes. Under the Balanced Budget Act, training in such settings is allowable and countable for teaching hospitals for both direct GME and indirect medical education (IME) reimbursement if certain requirements are met. The proposed rule was developed in response to concerns raised by the national academic medicine community that this training was being disallowed on audit as a result of unclear requirements for counting the time and onerous documentation requirements.

In its proposal, CMS discussed the poten-

tial for teaching hospitals to use certain standard proxies in lieu of generating site- and rotation-specific information as support for certain financial transactions between the hospital and the nonhospital setting. For example, CMS proposed that publicly reported national physician salary data be used instead of specific physician salary information, which hospitals would have to gather from the nonhospital settings to which their residents rotate. In its comments, GNYHA expressed its appreciation to CMS for developing the rule and encouraged the Agency to

further simplify the methodology in several specific areas. GNYHA also noted the significant and growing documentation requirements that teaching hospitals have been forced to meet in order to receive and hold on to the Medicare GME reimbursement to which they are entitled. Because Medicare-participating hospitals are subject to annual cost-report audits by CMS's contractors, and these audits occur several years after the cost reports are filed, hospitals are often subject to reimbursement disallowances because of lack of clarity about adequate documentation standards. ■

SAVE THE DATE!

GNYHA Annual Reception and Awards Ceremony

May 31, 2007 • 5:30 p.m.
Nokia Theatre, Times Square

Please mark your calendar for GNYHA's 2007 Annual Reception and Awards Ceremony, to be held on May 31 at the Nokia Theatre in Times Square. Invitations will be mailed to all members shortly. Check your mailbox in the coming weeks to make sure you don't miss this very special event. ■

REGISTER NOW FOR

GNYHA Annual Meeting on April 19

GNYHA's Annual Meeting will be held this year at the Pierre Hotel on 61st Street and Fifth Avenue in Manhattan. Following registration and breakfast, the morning's events will kick off with the Annual Business Meeting, during which the membership will elect new officers and Board members for the 2007–08 Association year. This year's program will also feature the following speakers:

- ▶ **Leslie V. Norwalk, Esq.**, Acting Administrator for the Centers for Medicare & Medicaid Services (CMS), will discuss the 2007 Federal health agenda.
- ▶ **Richard F. Daines, M.D.**, Commissioner of the NYS Department of Health, will focus on the new Administration's agenda for health care and NYS's health care economy.
- ▶ **Michael F. Hogan, M.D.**, Commissioner of the NYS Office of Mental Health, will discuss how the new Administration's health care agenda will affect mental health services in member communities and ongoing service challenges.
- ▶ **Steven Spear, D.B.A., M.S., M.S., Sr.** Lecturer at the Massachusetts Institute of Technology and Sr. Fellow at the Institute for Healthcare Improvement, will discuss how members can create a competitive advantage by strengthening internal operations.

Registration brochures have been mailed to all members. If you have not received a brochure, please contact Adriana Ramos at aramos@gnyha.org by April 12, 2007. ■

GNYHA and HANYS Participate in Joint Lobby Day for Inpatient Rehab

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On March 22, GNYHA and the Healthcare Association of New York State (HANYS) held a joint “lobby day” in conjunction with the American Hospital Association and the American Medical Rehabilitation Providers Association on the issues facing inpatient rehabilitation facilities (IRFs).

IRFs across NYS face forced downsizing and closures as a result of further implementation of a Centers for Medicare & Medicaid Services regulation known as the “75% rule.” The rule currently requires that 60% of a facility’s admissions, regardless of payer, must have a primary diagnosis that falls within 13 conditions (which have not been updated since the inception of the rule in the early 1980s). Last year, the Deficit Reduction Act extended the phase-in period for this rule for an additional year. Without further Congressional action, however, the rule will be phased in over the next two years, with an increase to a compliance threshold of 65% starting July 1, 2007, and a further increase to 75%—that is, full implementation—on July 1, 2008, which would have a devastating impact on IRFs. At that time, patient comorbidities will no longer be considered for compliance purposes, making the threshold even more difficult to achieve.

Legislative Activity: A number of bills have been introduced to stop the implementation of the 75% rule at every stage of its implementation over the past several years. Because GNYHA institutions have already struggled to achieve the current

threshold by limiting admissions for patients with non-compliant diagnoses and downsizing their facilities, GNYHA now advocates for the permanent extension of the 60% level. In an effort to preserve patient access to inpatient rehabilitation services, Congresswoman Nita Lowey (D-NY), with Representative John Tanner (D-TN), has spearheaded legislation—H.R. 1459, the “Preserving Patient Access to Inpatient Rehabilitation Hospitals Act”—that would freeze the threshold at 60%. This bill also contains an important provision that would require the U.S. Department of Health and Human Services to provide recommendations to Congress on the impact of and alternatives to the 75% rule. Senator Ben Nelson (D-NE) has introduced companion legislation (S. 543), which already has the support of Senators Chuck Schumer (D-NY) and Hillary Clinton (D-NY), that would freeze the rule’s implementation in the Senate but has no provision for revised criteria.

During the recent lobby day, GNYHA members including Burke Rehabilitation Hospital, Continuum Health Partners, Inc., New York—Presbyterian Hospital, Phelps Memorial Hospital Center, and the Rusk Institute of Rehabilitation Medicine (NYU Medical Center) joined GNYHA and the State association in meetings with New York Congressional Delegation offices to urge their support of H.R. 1459. Seventeen members of the delegation are already cosponsors of H.R. 1459. GNYHA thanks Representative Lowey for her outstanding leadership on this important issue. ■



Congresswoman Nita Lowey, who is sponsoring legislation that would protect patient access to inpatient rehabilitation services.

tion in the Medicaid graduate medical education (GME) cut for certain teaching hospitals.

- Do not restore the hospital or nursing home recruitment and retention cuts, but change the redistribution methodologies. For hospitals, the redistribution methodology would be based in equal measure on the current method and on case mix-adjusted Medicaid discharges. The methodology for nursing homes was still being discussed as *Skyline News* went to press.
 - Eliminate the second round of recruitment and retention funding for hospitals.
 - Reduce the Health Care Reform Act GME pool by \$24 million to create two new Medicaid pools, one for non-NYC hospitals (\$42 million) and one for public hospitals that are not part of the NYC Health and Hospitals Corporation (\$6 million).
 - Create a new restoration pool for NYC voluntary hospitals, funded at \$50 million (\$25 million in State funding).
 - Redistribute the current \$48 million priority restoration pool for voluntary hospitals from formerly distressed hospitals (that is, hospitals eligible for the Supplemental Low-Income Patient Adjustment, or SLIPA, which gives additional revenue to certain hospitals that demonstrate a disproportionately poor patient population) to voluntary hospitals with Medicaid discharges of greater than 35%.
 - Postpone the Medicaid-only case-mix adjustment for nursing homes for at least two years.
 - Restore \$35 million (\$17.5 million in State funding) for 2006 nursing home quality improvement costs, which will greatly benefit members of the Continuing Care Leadership Coalition—GNYHA’s long term care affiliate—that have counted on that money for more than a year.
- GNYHA will continue to work with the State to ameliorate the impact of the GME cut on affected hospitals. Other details that still needed to be negotiated as *Skyline News* went to press included bad debt and charity care reform and diagnosis-related group (DRG) reweighting. GNYHA will keep members apprised as more details become available. ■

UPCOMING GNYHA MEMBER BRIEFING

Federal Rules of Civil Procedure: Amendments Regarding E-Discovery

Date: Tuesday, April 24, 2007 • **Time:** 3:00 p.m.–5:00 p.m.

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

On Dec. 1, 2006, amendments to the Federal Rules of Civil Procedure containing many important obligations for attorneys and their clients regarding electronic discovery took effect. At this briefing, Steven R. Paradise and Jessica Mussallem of the law firm of Vinson & Elkins LLP will outline the relevant rule changes and explain what they mean for companies and organizations in practical terms. Mr. Paradise is a partner in the firm and co-chair of its Electronic Discovery Task Force, of which Ms. Mussallem is a member. This session will build upon a related program hosted by GNYHA last year. NYS Continuing Legal Education (CLE) credit will be offered for participating. For more information contact Deborah Brown at brown@gnyha.org, and to register contact Cynthia Araujo, at araujo@gnyha.org. ■

ICU Survey Attracts Strong Participation by GNYHA Members

On March 14–15, 2007, GNYHA administered its first ICU Capacity and Utilization Survey, in which 72 GNYHA member hospitals representing 155 intensive care units (ICUs) participated. The ambitious goal of the survey was to obtain a 24-hour “snapshot” of critical care units in GNYHA member hospitals, in an effort to gain a better understanding of care practices, staffing models, utilization and flow of services, and the capacity to accommodate patients. The larger goals of the study are to establish ways to more effectively use existing but already strained ICU resources and to gather concrete data that can be used to identify effective practice guidelines.

Preliminary Findings: Among the preliminary observations from the ICU Survey are that the majority of ICUs are operating at full capacity, with patients sometimes overflowing into other units in the hospital and/or being held in emergency departments, and hospitals going on diversion (that is, requesting that ambulances be diverted to other hos-

pitals) as a result. ICU directors have also reported that completing the survey has highlighted areas in which unit-level process improvement or educational initiatives need to be conducted. In general, it is clear that the study will inform ICUs and hospital leadership in planning for and staffing their critical care services.

The survey was initiated by the Critical Care Leadership Network (CCLN), a combined effort of GNYHA and the United Hospital Fund. CCLN brings together representatives from member hospitals who are leaders in critical care medicine, surgery,

executive leadership, and nursing. CCLN’s primary goal is to optimize the region’s critical care services by sharing and standardizing the implementation of evidence-based practices to improve patient outcomes.

Aggregate results from the survey will be shared with the membership once the final report is generated. In addition, hospitals and hospital networks that participated in the survey will receive reports on their own data for planning and benchmarking purposes.

Please contact Terri Straub or Zeynep Sumer at GNYHA with any questions. ■

Senate War Supplemental Includes Key Provision for Hospitals

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next five years. New York State also stands to suffer additional heavy losses through this rule. Equally important, the Durbin provision would prevent the Administration from eliminating Federal financial support for Medicaid graduate medical education—a critical concern for GNYHA members.

The House approved its emergency spending bill earlier in the week by a vote 218–212. Since the House package does not include a similar provision protecting teaching and public institutions, it is essential that the Durbin provision remain in any final conferenced bill. The President, however, has threatened to veto the spending measure since it includes specific language concerning troop withdrawal from Iraq. Should the measure fail, GNYHA will continue to aggressively advocate for the inclusion of its language on other legislative vehicles moving this spring. ■

In Memoriam FREDERICK ALLEY

GNYHA is deeply saddened by the passing of beloved colleague and friend Fred Alley on March 24, 2007. A former GNYHA Chairman and longtime President and CEO of The Brooklyn Hospital Center, Mr. Alley was a charismatic leader whose talent and kindness earned him the respect and admiration of countless peers both in New York and nationally. After beginning his long career in health care management at Hackensack Hospital, he joined The Brooklyn Hospital Center, where he spent 34 years. He was a former Chairman of the Healthcare Association of New York State and a member of the Board of Directors of the American Hospital Association (AHA), as well as Chairman of the AHA’s Regional Policy Board; founding Director and first Chairman of HealthFirst, Inc.; Director and past Chairman of the Board of Voluntary Hospitals of America, Metro New York, Inc.; and founder, past Chairman, and Director of Combined Coordinating Council, Ltd. In addition to writing on health care-related topics, he held academic appointments at Columbia University’s School of Public Health and Administrative Medicine and at the Arnold and Marie Schwartz College of Pharmacy and Health Sciences of Long Island University.

We send our heartfelt sympathies to his wife Sharon, son Kirk and daughter-in-law Kathy, daughter Nicole and son-in-law Albert, grandchildren Jack and Tessa, sister Bette and brother-in-law Bill, his extended family, and his many friends and colleagues. ■

SHRPC UPDATE

At its meeting on March 29, 2007, the State Hospital Review and Planning Council (SHRPC) approved (in some cases with conditions or con-

tingencies), the following GNYHA member projects: **Our Lady of Mercy Medical Center**, conversion of 10 medical/surgical beds to 10 chemical dependency beds, creating a chemical dependency unit; **Good Samaritan Hospital of Suffern**, construction of an electrophysiology studies laboratory to complement the hospital’s inpatient and outpatient cardiac program; Roosevelt Island Renal Corporation, approval of a for-profit corporation to establish and construct a diagnostic and treatment center to provide a 12-station chronic renal dialysis service for residents of **Coler-Goldwater Specialty Hospital and Nursing Facility**, on the campus of Coler-Goldwater; **Metropolitan Jewish Geriatric Center**, reconfiguration of the facility from 510 residential health care facility (RHCF) beds to 354 RHCF beds and renovation/modernization of the facility in connection with a HEAL-NY Phase II grant; Prime Health Services, LLC, approval to acquire the **Interfaith Medical Center Certified Home Health Agency**; and **Lenox Hill Hospital and Manhattan Eye, Ear and Throat Hospital (MEETH)**, approval for a full asset merger, consistent with the final report of the Commission on Health Care Facilities in the 21st Century. In connection with this recommendation, all 150 inpatient medical/surgical beds and emergency department services will be eliminated at MEETH and it will become an extension clinic site. ■