California Psychiatrist

The Newsletter of the California Psychiatric Association

Volume 30, Number 4 Winter 2015

The President's Message

CPA Growing Stronger: 2015 Year in Review

Timothy Murphy, M.D.

By Timothy Murphy, M.D.
CPA President

CPA's effectiveness in Sacramento flows from the work of its staff, the strength of its finances, and involvement of its membership. I have good news to report on all fronts.

Our Sacramento Platform: Infrastructure is not the most exciting topic, but the effectiveness of our association stems from the strength of our foundation. The staff reorganization, engineered by CPA's past Executive Director Barbara Gard on her retirement, has yielded results exceeding expectations. Lila Schmall, just now completing her first year as CPA's new Executive Director, has taken confident command of operations. Morale in the office has never been higher. Among the many improvements and efficiencies initiated under her direction, she identified vastly superior office space, and negotiated a lease that will save CPA over $100,000 over the next ten years. She is negotiating other corporate support agreements that are likely to produce even more revenue.

Income and savings from these efforts, and from our conferences (below), have allowed CPA to maintain dues without any increases for over six years!

Expanding our Conferences: Attendance of CPA's Annual Meeting, held this year in Dana Point, was the highest in recent memory and was widely lauded for the quality of the faculty and presentations. Our next Annual

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From the President-Elect

Nothing Short of Extraordinary: A Resurrection and The Role of a Psychiatrist in the End of Life Option Act

William Arroyo, M.D.

By William Arroyo, M.D.
CPA President-Elect

As the New Year begins and the second half of the two year legislative session gets underway, at least two good laws were passed.

In addition to CPA's bill, AB 1194, the passage of AB 15 (Eggman) *http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_0001-0050/abx2_15_bill_20151005_chaptered.pdf*, The End of Life Option Act, as it is named, short and simple, was signed by the governor in October, and became law on January 1, 2016. Every conceivable organization and, more importantly, every individual was or will be affected by this new law. Many organizations feared stepping on this political landmine despite its ubiquitous significance. There is no question that this new law remains very controversial.

On a very personal note, I had an experience not unlike many of our members who wrestled painfully with end of life issues (as well as this bill). It will forever enhance my view of what should be (and now is) one's option in the face of terminal illness. Early in my career, I came in contact with a dear friend's sister who was diagnosed with a metastatic neoplasm for which there were no effective interventions. She had previously shared with her family that she did not want a life in which she would be extremely compromised insofar as her bodily functions were concerned. I was called when her family had concern that she was close to reaching that point in her life beyond which she

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Inside This Issue

Special Editor's Message for 2016

Yvonne Ferguson, M.D.

I thought I would start the new year off with an invitation for article submission and a description of what California Psychiatrist desires for its readers. The editorial committee is well aware of the amount of written material with which psychiatrists are inundated every day. Therefore we are interested in timely articles with broad appeal for our members that are going to jump out from the rest of your reading. They should have snappy titles that draw the reader in, be concisely written (500 word limit), factually vetted, and spell and grammar checked if you don't want to see it redesigned by the committee. As editor, I realize that is my job and the job of my committee, but we don't want to lose what the author considers to be of crucial import by rewriting pieces. It is also important to get articles to us by our publication deadlines so that dated materials are still relevant. Although there are recognizable fixture articles each issue from your officiers and committee chairs, we want to receive pieces from District Branches and individual readers as well. The difference between California Psychiatrist and other newsletters is that our authors will refer you to resources that will cover the subject of their writing in more depth when appropriate or invite you to contact them directly. In keeping with the times, we are transitioning from a hard copy organ to an electronic one both to save money and trees and we do appreciate your accommodation of this change. Let us hear from you.

– Yvonne B. Ferguson, M.D., MPH, Editor

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Capitol Insight and Special Inserts

Check our WebSite at www.calpsych.org
APA WebSite: www.psych.org

Board of Trustees (BOT) Highlights (December 12 and 13, 2015)

Melinda L. Young, M.D.

By Melinda L. Young, MD, DFAPA
Area 6 Trustee

BY THE NUMBERS

APA is projected to end the year $2.6 million ahead of budget. Revenue generating activities were in line with budget expectations. The better-than-expected financial results are attributable to budget savings from vacant positions. DSM sales are declining, heading toward their anticipated plateau, and attendance at the Annual Meeting in Toronto was lower than at the previous Annual Meeting, both of which were anticipated in developing the 2015 budget. The overall balance sheet remains strong.

Membership is up slightly compared with this time last year, due primarily to an increase in medical student membership. APA is focusing membership outreach to medical students, introducing potential psychiatrists to the APA at the earliest possible point, and will be rolling out an end of the year recruitment effort aimed at Resident-Fellow and Early Career Psychiatrist member segments.

"Congratulations to 2 CA DBs: OCPS received $5,300 for developing a Resident Wellness Program and NCPS received $3,500 for the development of support groups for psychiatrists addressing various difficult and stressful situations arising in the course of a psychiatrist's career."

DB/SA COMPETITIVE GRANTS

The APA's BOT reinstated money in 2011, allowing DBs and SAs to apply for funding through a competitive grant process that includes both Expedited and Innovative grants. Expedited grants require a less rigorous application process than the Innovative grants. 56 DB/SAs applied for and received Expedited grants in the amount of $2,727.00 each. Innovative grants are funded at variable levels, not to exceed $10,000 each, and require both a more rigorous application process and demonstration of both quantitative member value and easy replication by other DBs/SAs. Congratulations to 2 CA DBs: OCPS received $5,300 for developing a Resident Wellness Program and NCPS received $3,500 for the development of support groups for psychiatrists addressing various difficult and stressful situations arising in the course of a psychiatrist's career.

"APA received a $2.9 million Support Alignment Network (SAN) Grant from CMS' Transforming Clinical Practice Initiative to provide training to 3,500 member psychiatrists in general clinical and leadership skills needed to support collaborative care with primary care practices, partnering with the University of Washington's AIMS Center to conduct trainings both in person and online."

PSYCHIATRIC and MENTAL HEALTH QUALITY REGISTRIES

The BOT had asked Dr. Saul Levin and the APA central office administration to present a business case for the development and implementation of a national psychiatric and mental health quality registry. This was presented and discussed, along with input from the Finance and Budget Committee and the Councils on Quality and Research. A registry, if developed, could help provide information on best practices for psychiatric treatment as well as provide participants (APA members) with criteria which could be used for performance in practice reporting as well as have an impact on credentialing and payment.

REORGANIZATION OF APA DEPARTMENTS

Using the APA's recently developed strategic initiatives as a jumping off point, APA is reorganizing the central APA departments of Healthcare Systems and Financing (HSF) and Quality Improvement and Psychiatric Services (QIPS) in order to advance APA initiatives in new delivery models, reimbursement, and ensuring parity and equity in the delivery of mental health services. Three new coordinated areas have emerged:

- Reimbursement Policy
- Practice Management and Systems Delivery Policy
- Mental Health Parity Enforcement and Implementation Policy

ADVANCING THE INTEGRATION OF PSYCHIATRY AND SUPPORTING EDUCATION

APA received a $2.9 million Support Alignment Network

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Legal Update

Revisions to HIPAA Privacy Rule to Protect Against Firearm Purchase or Possession by the Mentally Ill

Daniel H. Willick, Esq.

By Daniel H. Willick, J.D., Ph.D.

Introduction

On January 6, 2016, as part of President Obama's initiative to lessen gun violence, the HIPAA Privacy Rule was amended to expressly permit certain HIPAA-covered entities to disclose to the National Instant Criminal Background Check System ("NICS") the identities of individuals who are prohibited under federal law from shipping, transporting, possessing or receiving firearms. The reporting obligations under this amendment to HIPAA do not apply to psychiatrists who are treating patients, but do apply to government agencies which, under certain circumstances, receive reports from psychiatrists regarding mentally ill persons who are disqualified from possessing firearms. In California, such agencies probably include the California Department of Justice and local law enforcement agencies.

Obligations Of Psychiatrists Under California Law To Report The Identity of Psychiatric Patients To California Law Enforcement

There are several California laws that obligate psychiatrists to report patients to law enforcement under circumstances where the patient is disqualified from possessing, controlling, purchasing or receiving any firearms. In turn, California law enforcement will now be permitted or required under HIPAA to report the identity of such patients to NICS. The circumstances where psychiatrists are permitted or obligated to make reports to California law enforcement are as follows:

1. A psychotherapist must report to local law enforcement within 24 hours any patient or other individual who has communicated to the psychotherapist "a serious threat of physical violence to a reasonably identifiable victim or victims." (Welfare and Institutions Code Sections 8100(b), 8105(c).) Local law enforcement must

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CPA in the Courts

By Joe Simpson, M.D., Ph.D.
Chair, CPA Judicial Action Committee

Joe Simpson, M.D., Ph.D.

Over the past year CPA has been involved in a number of court cases addressing issues that are critical to psychiatrists and their patients. The major themes of recent cases are parity and safeguarding the psychotherapist-patient privilege.

The primary tool available to CPA in the judicial arena is the *amicus curiae* or "friend-of-the-court" brief. CPA becomes aware of cases making their way through the court system via a variety of sources, including the attorneys involved, patient's rights organizations, and other professional organizations such as the California Medical Association. The CPA Council, with advice and recommendations from the Judicial Action Committee, the Government Affairs Committee, and the CPA Executive Committee then must decide whether CPA will become involved. The decision is based both on the merits of the issues and budgetary concerns. CPA's involvement may range from signing on to a brief originated by another organization, to co-authoring a brief with other organizations, to taking the lead role.

CPA joined by the National Association of Social Workers and its California chapter filed an amici curiae brief with the California Supreme Court in *People v. Garcia*, which involves a state law requiring mandatory waiver of confidentiality for sex offenders participating in therapy as a condition of probation. The brief argues that such a waiver violates psychotherapist-patient privilege, and creates conditions antithetical to effective therapy.

CPA joined a brief to the California Supreme Court by CMA in *Lewis v. Superior Court*, involving whether the Medical Board can access the CURES database of a patient who is not party to a Medical Board complaint and who does not consent to the access. CPA is also taking the lead, with CMA joining in filing an amici curiae brief with the California Court of Appeal, in *Gerner v. Superior Court*, which involves the Medical Board seeking access to a psychiatrist's patient records over the patient's explicit refusal to consent to release of the records.

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APA Fall Assembly Review


Robert McCarron, D.O.

By Joe Mawhinney MD and
Barbara Weissman MD,
APA Area Representative and
Deputy Representative

The APA met in Washington DC over the Halloween weekend. Colorful costumes were combined with business in this meeting. It would be impossible to cover all the items discussed in this three-day meeting, but some of the highlights are as follows. Our CEO updated us that the recent IPS meeting had 1600 attendees, up from about a thousand the past couple years, and also reviewed the very successful reinstatement of the State Advocacy Conference with its focus on parity and scope of practice. The APA remains involved in parity enforcement, and will have a complaint form on the website to help gather complaints about inequities. A scope of practice toolkit has been developed (psychiatry.org/unsafe). Our state regional director is Tim Miller, who will be located in Denver, Colorado, and he is available for help with state issues. Dr. Paul Burton, Chief Psychiatrist at San Quentin, spoke on "The Mass Incarceration of American Mental Illness". There will be a national conference on this issue in April. The Profile of Courage Award was presented to Dr. Steven Sharfstein, president of the APA from 2005-2006, for his role in maintaining the medical ethics of the APA in opposing any role for psychiatrists in interrogation or torture.


Barbara Weissman, M.D.

Action papers covered workforce issues in the Department of Veterans Affairs including fairness of pay and loan repayment programs, and a commitment to explore reimbursement for phone time required for prior authorizations. The APA will work to oppose insurance non-coverage of prescriptions ordered by nonparticipating psychiatrists that has begun to occur across the country. The issue of whether it is ethical for a psychiatrist to serve as a utilization management reviewer when review standards

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Why Senior Psychiatrists?

By Nada Stotland, MD, MPH
President, Senior Psychiatrists, Inc.

Why Senior Psychiatrists?

Senior psychiatrists are just those of us who have been psychiatrists for a long time. We may or may not prefer to be reminded just how long we've been at it. But, just like those who are still in or have recently finished psychiatric training, senior psychiatrists have particular interests, needs, and abilities.

We are interested in deciding whether, when, how, and how much to retire. We are concerned about maintaining our competence, assessing our competence, and dealing with situations in which we or colleagues seem to be less competent than before. How do we keep current as new modalities for diagnosis and treatment are added to the armamentarium?

We have assets to offer, both financial and interpersonal; we have decades of experience in a wide variety of subspecialties and treatment settings, and, with children educated and homes paid for, we may have money to donate to worthy institutions and organizations.

Senior Psychiatrists, Inc. is a 501(c)(3) (non-profit) association composed of Life Members of the American Psychiatric Association. We come together to address common interests, needs, and assets. We learn how our colleagues have made retirement choices, and how they have worked out. Some are practicing in different ways and places than ever before in their careers. Some are reveling in hobbies for which we had little time earlier, or developing new ones. Some are traveling to exotic locales. Some are relocating, to be near family, in moderate climates, to enjoy different scenery or old and new friends.

We exchange information about competency assessment and what to do about it. We offer mentorship to medical students, residents, and early career psychiatrists, and they deeply appreciate it. This comradeship is most rewarding; we hope you'll join us. For more information, go to http://seniorpsych.org

Federal Government Relations Update

Melinda L. Young, M.D.

By Melinda Young, M.D.
Area 6 Federal Legislative Rep.

Comprehensive Mental Health Reform bills continue to be discussed in Congress

H.R. 2646, the "**Helping Families in Mental Health Crisis Act**", Murphy (R-PA)/Johnson (D-TX) passed out of the House Energy & Commerce Health Subcommittee on November 4 by a vote of 18-12, split along party lines (all Republicans and one Democrat (Kurt Schrader D-OR) voted in favor/ all Democrats but one voting against). Rep. Tim Murphy and several subcommittee members on both sides of the aisle verbally committed to continue negotiations on several of the more contested provisions of the bill, including the establishment of an Assistant Secretary of Mental Health and Substance Use Disorders, federal support for the development of state laws governing the use of Assisted Outpatient Treatment, and the expansion of privacy exemptions under HIPAA for certain individuals with serious mental illness. After considering more than 30 amendments, H.R. 2646 still retains its top APA priorities, including psychiatric workforce development provisions, provisions related to enforcement of the Mental Health Parity and Addiction Equity Act, enhanced authorized funding for research activities within NIMH and stronger coordination of federal mental health resources across departments and agencies and requirements for mental health clinician leadership at the highest levels. Timing for a full committee markup is unclear.

S. 1945, the "**Mental Health Reform Act of 2015**", Cassidy (R-LA)/Chris Murphy (D-CT) will probably receive a January hearing at the Senate HELP (Health, Education, Labor and Pensions) Committee. Committee Chair Lamar Alexander (R-TN) continues to express a desire to move the legislation through the committee next year.

"**Comprehensive Justice and Mental Health reform Act**", Franken (D-MN)/Cornyn (R-TX) was passed by the Senate on December 10. The bill improves mental health services in the criminal justice system through federal grants for mental health diversion court efforts, investments in veterans treatment courts, improvements to state and local mental health surveillance activities and enhanced training for law enforcement and correctional officers. The House Judiciary Committee is expected to take up companion legislation in January.

Current law includes a federal ban on firearms research. The APA signed on to a letter urging Congress to lift the ban.

NIH Funding: Both the House and Senate Appropriations Committees approved increases for NIH in fiscal year 2016. The House bill allocates $31.2 billion for NIH, while the Senate provides $32 billion for the agency – a nearly $2 billion increase above 2015 levels. Neither bill has received a floor vote to date, although 145 members of the House signed a bipartisan letter urging NIH funding at the $32 billion level.

State Advocacy Leadership Conference: After a 15 year hiatus, APA held the State Advocacy Leadership Conference in October, with participation from 44 DB/SAs. Discussions focused on best practices regarding parity implementation and scope of practice advocacy, and included a review of the new Scope of Practice toolkit containing new talking points, fact sheets, infographics, media templates, and historical information. There was also a discussion about the resources available as part of the AMA's Scope of Practice Partnership, of which APA was one of the founding partners.

Decriminalizing People with Mental Illness: APA organized a Congressional briefing reflecting continuing APA's lobbying efforts in addressing the pervasive criminalization of persons with mental illness. *Moving Mental Health Care from the Jails to the Community: Decriminalizing People with Mental Illness*, held October 29th, was co-sponsored by partners including the Council on State Governments, NAMI, the National Association of Counties, and the Major County Sheriffs' Association. APA President Renée Binder, M.D. and correctional psychiatry expert Robert Trestman, M.D. participated on the panel discussion.

President's Message *(Continued from page 1)*

Meeting, to be held in Rancho Mirage in September, will be expanded with a Friday "preconference". This month, CPA held its first "Primary Care Psychiatry" conference in Sacramento, to be repeated this fall in Southern California. The premier event will have nearly 200 attendees! The Integrated Care Committee, Co-Chaired by Robert McCarron, MD and Shannon Suo, MD, as well as Lila Schmall and her busy staff, deserve great credit for all the work that has gone into these activities.

Website: Completely new, and full of valuable information for our members and anyone else interested in our interests and advocacy. If you haven't checked it out yet, you should, at calpsych.org.

Legislative Accomplishments: CPA helped make important improvements to the Physician Aid-In-Dying bill, and worked to pass the mandatory vaccination bill. We sponsored legislation, now signed by the governor, which helps guarantee access to psychiatric care for patients who are dangerous to themselves or others. CPA helped the Department of Managed Health Care achieve greater funding to enforce mental health parity laws, and assisted their staff in developing audit mechanisms of important elements such as timely access to a psychiatrist. CPA also played an important role generating and shaping a state audit of mandated mental health care provided by school districts. And CPA played a crucial role in beating back legislation that would have made it nearly impossible for foster kids to access needed psychiatric medications.

Randall Hagar, CPA's Director of Government Affairs, has earned a reputation in the Capitol as not only an expert, but also a passionate advocate in matters concerning mental health care, and is routinely consulted by policymakers and legislators. He was also appointed as a faculty member for the APA's widely lauded Conference on State Legislative Advocacy held in October.

In the Courthouse: Led by our attorney Dan Willick, CPA is fighting the Medical Board's efforts to mine the CURES data without cause. CPA is also joining in the fight over illegal limitations and authorization procedures some private insurers place on ongoing psychotherapy for patients with chronic mental illness.

CPA joined a lawsuit involving insurance coverage for outpatient mental health treatment from out-of-network providers, denied following retroactive review. The case is now before the Court of Appeal as a parity violation. CPA joined several medical organizations in another lawsuit which involves the Medical Board's unwarranted review of the prescribing practices of a physician. This physician was under investigation because a patient complained that the physician told her she was fat. Although the complaint did not involve prescribing practices, the Medical Board reviewed the physician's prescribing record for patients who did not authorize such a review and filed an accusation which asserts the physician's prescribing practices were deficient.

CPA joined CMA and many other medical specialty societies in legal action over the silent PPO problem, whereby health plans allow third party payors to access the medical services of network providers at negotiated, discounted reimbursement rates without the agreement of the providers.

CPA is also preparing to stand up for a psychiatrist in his whistleblower action in state prison, after there was retaliation for his efforts to maintain procedures required for the safe provision of quality care.

Member Involvement: Over 90 members directly contribute to CPA's efforts through their work on committees, which shape CPA's policies and strategies. Council meetings are well attended, and I have been gratified to see the energy and engagement of so many psychiatrists from many settings, reflecting the demographic diversity of our membership.

The Future: As I have written in previous issues, I am hoping that the strength of our organization will help it make a real difference in some of the most vexing problems that still describe our treatment of those with mental disorders – including access issues, homelessness, and the shameful incarceration of the mentally ill.

The great State of California deserves a mental health care system that is a model for the nation. CPA is well positioned to play a role in making that goal a reality.

Extraordinary... *(Continued from page 1)*

would not want to live. Her family strongly disapproved of her desire and was hopeful that I, as a trustworthy psychiatrist-in-training, could intervene to dissuade her from thoughts of ending her life. I was responsible for the patient's care and I naively believed that I could accomplish this within 60 minutes. However, this "consultation" was

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Extraordinary... *(Continued from page 7)*

completed after five or six hours during which she articulately described the effects of the cancer and her rapidly deteriorating level of functioning. She recounted many of the joys and sad moments of her life with interesting family history. Signs of a compromising depression and other major mental disorders were not evident. Frankly, I was overwhelmed by the peace and level of conviction she had attained relative to her decision to end her life. I could not have been more convinced that she was ready for death. Unexpectedly, we completed the consultation by toasting her life with champagne. Three days later she died of what may or may not have been an overdose of unknown medications.

As I suggested in a prior column, AB 15's predecessor SB 128, was not favorably reviewed by the Assembly Health Committee and would have died had it not been for the opportunity posed by the "special extraordinary session on health care" ordered by the governor who had a health agenda which had not been fully addressed during the first half of the legislative session. Assemblywoman Eggman shepherded ABX2-15 and was informed by the governor that the special session was not intended for her End of Life bill, the remnants of SB 128. Nonetheless, it made it to the floor of the Assembly where the Assemblywoman delivered an impassioned and inspirational plea for passage *https://www.youtube.com/watch?v=qHvCYHb-Ie0* . Many supporters erroneously believed that the governor's initial rebuke would translate into a veto. (The original SB 128 has been amended significantly since my prior editorial was published. Those seeking the actual language of the new law, AB 15, should use the link provided earlier in this commentary) I will provide a summary of the role of the psychiatrist. Eligibility criteria for a patient, in general, is an adult (at least 18 years old) who is a resident of California with a terminal disease which is incurable and for which death is prognosticated within six months. The individual must have the physical and mental ability to self-administer the "aid-in-dying" drug required to be consulted; however, a consultation may be requested by the attending physician for "indications of a mental disorder". The psychiatrist, "mental health specialist", must provide an "assessment" which includes:

- (A) a description of the patient's "capacity to make medical decisions", more specifically,
  - (1) to understand the nature and consequences of a healthcare decision,
  - (2) the ability to understand its significant benefits, risks, and alternatives, and
  - (3) the ability to make and communicate an *informed decision* to health care providers,
- (B) an examination of the patient and review of "relevant" clinical records and
- (C) opinion as to whether or not the patient is suffering from impaired judgment due to a mental disorder. The *informed decision* refers to
  - (1) a decision by an individual with a terminal illness to request and obtain a prescription for a drug that the individual may administer to end his/her life, based on an understanding and acknowledgement of the relevant facts and
  - (2) a decision that is made after being fully informed by the attending physician of all of the following:
    - (a) the individual's medical diagnosis and prognosis,
    - (b) the potential risks associated with the drug being prescribed,
    - (c) the probable result of taking the drug,
    - (d) the possibility that the individual may choose not to obtain the drug or may obtain the drug and may choose not to ingest it, and
    - (e) the feasible alternatives or additional treatment opportunities, including but not limited to, comfort care, hospice care, palliative care, and pain control. Lastly, the psychiatrist must determine that the patient is acting voluntarily and not coerced into making this request. This information elicited by the psychiatrist must be documented in the medical record. Although there are specified forms necessary for completion by the attending and the consulting physician (second opinion), there are no specified forms for the psychiatrist. The psychiatrist cannot serve as one of two required witnesses and the psychiatrist "shall not" be related by blood, marriage, domestic partnership, or adoption, or be entitled to a portion of the patient's estate. The Act is silent on qualifications, eg, board certification, of the psychiatrist.

Several provisions clearly remain controversial and clearer

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Extraordinary... *(Continued from page 8)*

safeguards for physicians are included than in its predecessor. The new law states that for purposes of any insurance and other life policies, "death resulting from the self-administration of an aid-in-dying drug is not suicide". (Unlike its predecessor, the Act does not stipulate the cause of death on the death certificate.) Additionally, a professional organization or association "shall not" subject a physician who participates to "censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other penalty". Furthermore, a physician "shall not" be subject "to civil, criminal, administrative, disciplinary, employment, credentialing, professional discipline, contractual liability, or medical staff action, sanction or penalty or other liability" for either participating or refusing to participate. And, finally, a healthcare organization may prohibit its employees from participating in these procedures.

I conclude with a toast to future bold policies from Assemblywoman Eggman and other legislators.

The identifying characteristics of the patient have been altered to protect confidentiality.

Board of Trustees... *(Continued from page 3)*

(SAN) Grant from CMS' Transforming Clinical Practice Initiative to provide training to 3,500 member psychiatrists in general clinical and leadership skills needed to support collaborative care with primary care practices, partnering with the University of Washington's AIMS Center to conduct trainings both in person and online. Online modules will launch in January and in person trainings will take place at the Annual Meeting and Institute for Psychiatric Services. DB Executive Directors (ED) have been contacted regarding recruitment of members to participate; contact your ED if interested in participating.

APA ELECTIONS

The Elections Committee has agreed to pilot a new campaign opportunity for this election cycle. A total of eight candidates running for the three nationally-elected positions (President-Elect, Treasurer and Trustee-at-Large) were invited to Arlington to videotape interviews in which they answered three scripted questions developed by the Elections Committee, to be available on the election page of the APA website. In part, this reflects a change in availability of APA member email addresses at the membership directory site, from which candidates in prior years had often created mailing lists. Specific email addresses are no longer available, having been replaced by a "send message" option, so current and future candidates can no longer develop either mailing lists or listservs based on APA data.

These changes stimulated an intense discussion among BOT members who charged the Elections Committee to review the election process with regards to communications with members, requesting a report by the time of the BOT meeting in March.

ETHICS

The Board of Trustees accepted a report of the APA's Ad Hoc Work Group on Revising the Ethics Annotations that will serve as a commentary to the *Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry*. It was written as a resource for psychiatrists in their clinical activities, those who serve in multiple roles, and for teachers and academic psychiatrists as they convey expectations regarding ethical conduct to the next generation of physicians. It is not a "rule book", but rather a resource to aid in understanding the complexity of psychiatric ethics and how they apply in different situations, and as a tool emphasizing the importance of ethical skills as well as knowledge of ethical principles and their application to psychiatric practice. It is available as a PDF on the APA's website http://www.psychiatry.org/psychiatrists/practice/ethics

REPORT OF THE APA FOUNDATION

The Foundation is in its year-end fundraising cycle with a target of $115,000, from contributions funding ongoing Foundation and public educational programs.

The Stepping-Up Initiative and Summit, to be held in concert with the Council of State Governments and the National Association of Counties, will be hosting 50 county teams of five in Washington, DC on April 16-18, 2016 to participate in a county-level mental health-training program.

The American Psychiatric EXcellence Awards (APEX Awards) will be presented on April 18, 2016 in Washington, DC, in conjunction with the Stepping Up Initiative and Summit, honoring individuals who have demonstrated professionalism, achievement and success within his or her pursuit of humane care and effective treatment for individuals with mental disorders.

Legal Update (Continued from page 4)

then notify the California Department of Justice within 24 hours. (*Id.*) The patient is prohibited for five years for possessing, controlling, purchasing or receiving any firearm unless a Court orders otherwise.

2. A psychotherapist is permitted, but not required, to breach confidentiality if the psychotherapist in good faith believes disclosure of information regarding the patient is "necessary to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims." (Civil Code Section 5610(c)(19).)

3. A facility certifying or admitting a mental patient must within 24 hours report to local law enforcement and/or to the California Department of Justice certification of that patient for involuntarily intensive treatment under Welfare and Institutions Code Sections 5150, 5151, 5152, 5250, 5260, 5270.15 or 5300. (Welfare and Institutions Code Sections 8100(a), 8103(f)(A), 8103(g), 8105(a),(b).)

Conclusion

Under the above law, facilities or psychotherapists, including psychiatrists, are either required or permitted to make disclosures of patient identity to law enforcement and, under the recent amendments to HIPAA, law enforcement is permitted or required to pass that information on to the NICS, which will use the information to disqualify individuals from owning, buying, selling or possessing firearms. These rules are complicated. Please consult with an attorney if you believe a report is appropriate. This article is not legal advice since reporting obligations depend on the facts of each particular matter.

CPA in the Courts (Continued from page 4)

Following on the heels of last year's critical victory for mental health parity in *Rea v. Blue Shield* (requiring insurance providers to cover residential treatment for eating disorders), CPA has joined with three patients' rights organizations in filing an amici curiae brief with the California Court of Appeal in the case of *Fradenberg v. United Healthcare*. It involves prior utilization review that restricts reimbursement for psychotherapy visits. The brief argues that this policy violates California's Mental Health Parity Act, as well as constituting breach-of-contract.

The issues in these and other cases are complex and require the balancing of competing interests and principles. It is not uncommon for an appellate court to reverse a trial court, and then be reversed in turn by the state Supreme Court – clear evidence that the "right" decision is not always obvious and that trained legal minds can disagree. CPA *amicus curiae* briefs can be critical to providing the court with a deeper understanding of the issues at stake and steering it towards an outcome that protects practitioners and patients, both in the case itself and as precedent when similar situations arise in the future. Involvement in litigation via *amicus* briefs is one of the key methods by which CPA advocates for psychiatrists and patients in our state.

APA Fall Assembly... (Continued from page 5)

fail to comply with parity was referred for further study. The APA will work with the ACGME/RRC to promote the inclusion of Buprenorphine (Suboxone) training during general adult psychiatric residency curricula and to support equality for IMGs in the number of years of ACGME-accreditated training required for obtaining permanent medical licensure, as currently 37 states require IMGs to spend more time in the same ACGME-accredited training programs than their US medical grad counterparts to obtain their permanent licensure. The Assembly also supported California authored action papers to optimize psychiatric inpatient bed availability and advocating for the expansion of Medicaid under the ACA. Practice guidelines on the use of antipsychotics to treat agitation or psychosis in patients with dementia and an updated position statement on telemedicine were adopted, and an AMA statement on direct-to-consumer advertising was referred for strengthening to the JRC.

The next Assembly meeting will be in May prior to the APA annual meeting in Atlanta, Georgia. We have enjoyed serving you as your representatives and would welcome your ideas for action papers that could improve the practice of psychiatry for patients and psychiatrists. You may contact us or any of the Area representatives.

Robert McCarron, DO, CCPS Assembly Rep.
Richard Granese, MD, OCPS Assembly Rep.
John Onate, MD, CCPS Deputy Assembly Rep.
Donald Sharps, MD, OCPS Deputy Assembly Rep.
Adam Nelson, MD, NCPS Assembly Rep.
Lawrence Gross, MD, SCPS Assembly Rep.
Robert Cabaj, MD, NCPS Assembly Rep.
Mary Ann Schaepper, MD, SCPS Assembly Rep.

(Continued on page 11)

APA Fall Assembly... *(Continued from page 10)*

Peter Forster, MD, NCPS Assembly Rep.
Larry Lawrence, MD, SCPS Assembly Rep.
Raymond Reyes, MD, NCPS Assembly Rep.
Steve Soldinger, MD, SCPS Assembly Rep.
Maria Tiamson-Kassab, MD, SDPS Assembly Rep.
Steve Koh, MD, Early Career Rep.
Thomas Lian, MD, SDPS Deputy Assembly Rep.
Lawrence Malak, MD, Early Career Deputy Rep.
Alexis Seegan, MD, Resident-Fellow Rep.
Melinda Young, MD, Area 6 Federal Legislative Rep.
Jonathan Serrato, MD, Resident-Fellow Deputy Rep.

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- "Pediatric Bipolar Disorder Update"

Alan Koike, M.D. and Hendry Ton, M.D.
- "Cultural Psychiatry and Bipolar Disorder"

Nikki Kimball
- "Living and Thriving with Depression"

Nikki Kimball and John Onate, M.D.
- "Exercise and Depression"

Amy Barnhorst, M.D.
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