



# Nebraska Psychiatrists Newsletter

1st Quarter 2009

## Letter from the NPS President

**Sid Kauzlarich, M.D.**



Last May the NPS Executive Committee identified the following areas as concerns and goals needing addressed.

1. Mental Health Provider scope of practice issues.
2. Education, training and licensure of mental health providers.
3. Develop a strong working relationship with the Nebraska Medical Association (NMA).
4. Work closely with State and Local Entities impacting the Mental Health Care Profession.
5. We want all Creighton-Nebraska Psychiatry Residents to become NPS Members.
6. The NPS Executive Committee needs to enhance communications with NPS members, as well as, among NPS members. In part this can be accomplished by adding the capacity to chat/blog on the NPS Web Site.
7. Support Insurance Parity.
8. Advocate for open access to psychotropic medications.
9. Improve access to mental health care.
10. Improve the quality of mental health care.
11. Support the Behavioral Health Work Force Development Legislative Bill.
12. Develop a CME program for primary care providers practicing in rural Nebraska.
13. Increase involvement in NPS activities by psychiatrists outside the Omaha metropolitan area.

I would like to take this opportunity to update members regarding some of these issues.

A lack of access to mental health care appears to be one of the main factors driving both good and potentially harmful changes in the delivery of mental health care. With the exception of psychiatry, it seems legislation is allowing mental health providers to expand their scope of practice without the requirement for appropriately expanding education, training and supervision. This could be a dangerous trend and if it continues will ultimately jeopardize patient care.

It is concerning to many physicians that Nebraska Licensed Independent Mental Health Practitioners (LIMHP) can diagnose and treat patients with major mental illnesses without consultation with a physician. This includes patients with psychotic disorders, major mood disorders and patients with suicidal and homicidal ideations. These are patients that need and deserve the benefits of a medical work-up and medical treatment. However, there is no requirement to refer a patient to a physician, or psychiatrist, for evaluation when a severe mental illness and/or suicidal or homicidal ideations are identified by a LIMHP. Certainly, this is not in the best interest of patients suffering from severe mental illness.

In July of 2008, the NPS Executive Committee under the direction of Drs. Buda, Boust and Marsh made a valiant effort to address these issues by offering the Department of Health and Human Services Regulatory Analysis & Integration Section suggestions for improving the training, supervision and practice guidelines for Independent Mental Health Practitioners, Mental Health Practitioners, Certified Marriage and Family Therapists, Professional Counselors and Social Workers. Unfortunately, none of these recommendations were implemented.

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## IMPORTANT WEB SITES:

The following are some websites that I recommend to all members for important information at the national and state level.

**The National Association of State  
Mental Health Program Directors**  
[www.nasmhpd.org](http://www.nasmhpd.org).

This site has technical papers from the Medical Director's Council, my peer group. These include papers on suicide, morbidity and mortality, obesity, health indicators, etc.

They also issue papers including one on the comparative effectiveness of atypical antipsychotics. These are at [www.nasmhpd.org/publicationsmeddir.cfm](http://www.nasmhpd.org/publicationsmeddir.cfm).

The main site also has great links to many other state, federal, and non-profit agencies. The link to the NASMHPD Research Institute, NRI, also has good reports and other publications.

**For Nebraska, I recommend the UN-L Public Policy Center site** for info on our suicide prevention work, disaster behavioral health, and justice/behavioral health projects. **This is at** <http://ppc.unl.edu/priority/behavioralhealth>, as well at <http://www.disastermh.nebraska.edu>.

**The Nebraska DHHS, Division of Behavioral Health site at** [www.dhhs.ne.gov](http://www.dhhs.ne.gov), has information at the community based services link, on psychiatric medications for the indigent (LB 95), draft regulations, service definitions, a mental health board training handbook with information on the commitment laws and processes both for mentally ill commitments (LB 1083), as well as dangerous sex offender commitments (LB 1199). Other recent reports are listed also. Other links have information on the Regional Centers, Children's Mental Health, problem gambling, etc.

Please check out these sites and become more familiar with information that you may not have known about previously.

Blaine Shaffer, M. D., Chief Clinical Officer  
Division of Behavioral Health,  
Nebraska Department of Health  
and Human Services

## **Letter from the NPS President – cont'd.**

More recently Senator Arnie Stuthman has introduced LB 230 to the Unicameral. This bill is intended to eliminate the requirement for nurse practitioners to develop integrated practice agreements with physicians. In addition, if this bill passes the 2000 hours of supervision necessary for licensure could be provided by a nurse practitioner as opposed to a physician.

As of January 19, 2009 a legislative bill supporting psychologist prescribing privileges has not been introduced to the Unicameral. However, psychologists have gained the privilege to prescribe in New Mexico and Louisiana. Recently legislation promoting prescribing privileges for psychologists has been introduced in many other States. Clearly this is an area the NPS needs to continue to monitor closely.

In order to combat these potentially dangerous trends physicians in Nebraska may want to consider developing a coalition similar to Oklahoma's "PatientFIRST Coalition." PatientsFIRST Coalition consists of 11 physician organizations joining together to promote the common goal of ensuring patient safety and access to quality medical care for all Oklahomans. This Coalition provides a unified defense against untrained individuals from practicing medicine and jeopardizing patient safety.

I am pleased to announce Cheryl Buda, MD is the new NPS Representative to the Nebraska Medical Association (NMA). She will help bridge the gap with our colleagues and fellow professional society. This is an extremely important development that will add horsepower to the NPS. Certainly it can help us achieve our goals when working with State, Regional and Local Entities impacting mental health care. The NMA recognizes this as a mutually beneficial move. Maybe this can be the spark needed to ignite the creation of a PatientsFIRST Coalition in Nebraska.

The capacity to communicate effectively can be the key ingredient leading to a successful professional society. Particularly in a State like Nebraska where psychiatrists are frequently separated by hundreds of miles. I can assure you that Rajeev Chaturvedi, MD has been working diligently to upgrade the NPS Website to include the capacity to blog. If we can succeed in doing this it will allow NPS members from across the State to take a more active role in the NPS. Another option that could possibly help increase participation and needs to be reconsidered is the development of NPS chapters.

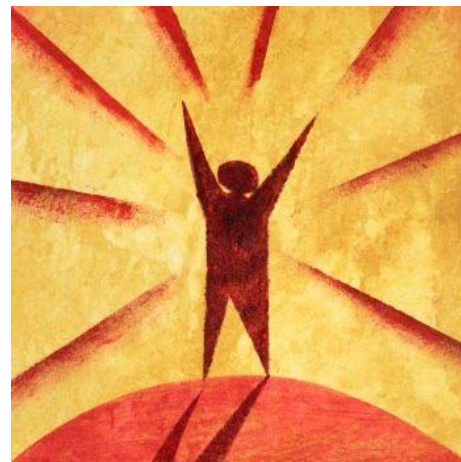
The rising costs of health care and medications, along with cuts in Medicaid budgets, have led many States to develop cost containment policies that restrict access to medications. The State of Nebraska has previously addressed this issue and will continue to entertain medication cost containment policies. Administrative interventions such as restrictive formularies, requirements for prior authorization, tiered co-payments, and step therapy (fail first therapy) are very attractive because they can rapidly decrease up front costs. Unfortunately, these techniques frequently shift costs to other areas of the health care system. Physicians and patients are concerned because these techniques can delay and prevent appropriate and timely access to medications that can improve quality of life and in many cases be life saving. Patients suffering from life threatening conditions such as severe mental illness, cancer, seizure disorders, and organ transplant treatment should not be denied appropriate and timely access to life saving medications. This is an area in which the NPS, NMA and perhaps NAMI will need to work closely with State Officials in order to develop cost containment policies that can be mutually beneficial to patients and the State budget.

John Donaldson, MD continues to do a great job updating the NPS on State and National Insurance issues. The next four years will bring with it controversial issues and lively debate pertaining to the funding of health care at the National and State level.

Mariam Garuba, MD is working hard to recruit the Creighton-Nebraska Residents. Currently the majority of residents have applied for APA and NPS membership. In addition, residents have shown interest in attending NPS Executive Committee meetings in order to gain a better understanding of NPS activities and mission.

The NPS Executive Committee wants members to feel free to contact the Committee, or any committee member, with questions, concerns, comments and recommendations. You can email Cindy Hamilton at [cindy.hamilton@omahamedical.com](mailto:cindy.hamilton@omahamedical.com) and she will forward them on.

Sincerely,  
Sidney A. Kauzlarich, MD  
President, NPS



## **NPS Quarterly Membership Meeting**

**Tuesday, February 10th**

Spezia Italian Restaurant  
1001 N. 102nd St • Omaha, NE

6:00 pm – Cash Bar  
6:30 pm – Business Meeting  
7:00 pm – Dinner & Speaker

### **Lasting Hope Recovery Center**

*Presented by:*

*Dr. Thomas Hickey, Executive Director  
& Dr. Roger Pentzein, Medical Director*

#### **Meal Selections:**

Heart of Angus Sirloin Steak  
Chicken Oscar  
Lemon Pepper Fresh Atlantic Salmon

*Served with house salad and  
baked dinner roll.*

**We look forward to  
seeing you there!  
Please consider inviting  
a colleague to come as well.**

RSVP to Lorraine at 393-1415 x13  
or [lseibel@omahamedical.com](mailto:lseibel@omahamedical.com)  
By February 5th.

## Insurance Chair Report

In late November, Nebraska Medicaid providers received revised addendums to our Magellan Behavioral Health Medicaid Contracts. The changes made were very positive compared to the addendum we received in July. The revised Section 2.2 dropped the unrealistic reporting requirements while retaining an understanding that we should make our records available for review on an as needed basis. More importantly they completely dropped Section 2.8, the "hold harmless agreement" which protected them from liability at our potential expense. This clause was also unacceptable to most of our professional liability insurers. It does help to let insurers, state and national organizations know of our concerns.

National Mental Health Parity (P.L. 110-343) was included in the Financial Rescue Package Bill which passed in October. It will help insure 113 million people with non discriminatory mental health coverage starting on January 1, 2010. It will be important for this organization and the APA to continue to monitor the drafting of regulations, specifically those which may have the potential to override of state laws. In my opinion the National Mental Health Parity legislation sets an important precedent regarding mental health coverage as the new Congress and the new President explore the adoption of National Health Insurance.

I have read that Former Senator Daschle, in his role as Secretary of Health and Human Services, will have a major role in developing any National Health Insurance program. He has been a strong proponent of managed health care. Our next potential concern could be that while all of our patients would finally be insured, our ability to provide care for them might be limited by managed care style oversight and limitations.

John Y. Donaldson, M.D.  
Chairman, Insurance Committee



John Donaldson, M.D.

## From a Resident's Perspective - Mariam Garuba, MD

As I begin my fourth year of residency in psychiatry, I reflect on the path taken that has lead me to this point. Many often have said that time flies, but for some reason, with my residency in psychiatry, that has not seemed to be the case. Every moment (save those on call) has been a savored one.

Perhaps it has been savored because of the way our residency is. Every member is treated like family....and listened to. Over the past few years, we have had challenges that have been overcome because of the spirit of working like a family. Our psychotherapy didactics have been revamped and improved significantly due to the interests of the residents in learning. We have adjusted the call schedule to accommodate people's needs and provide equanimity for all residents based on their training level. We have a relatively new website (commented on by interviewees), and we continue to receive constant support from the attendings who teach us. What more can one ask for?!

One excellent example of this was my recent opportunity to testify on behalf of the NPS (Nebraska Psychiatry Society) to the senators at the interim hearings in Lincoln. This was made by the encouragement of Dr. Boust, and was an excellent idea. Just as she envisioned, having the senators receive our testimony from a resident impressed upon them the true commitment of the NPS and the psychiatry residency to the needs of the mentally ill. I felt as though they truly listened to us and our concerns. They encouraged us to continue to serve the mentally ill and be dedicated to advocating for them.

Residency is an exciting time...with changes, advances, and opportunities of a lifetime!

*Contact NPS if you would like more information regarding the residency program.*

## Public Affairs Committee Update In the News...

With the inauguration of a new president we can expect a few new policies that may affect us... None is more intriguing to me than potential changes in how the pharmaceutical industry conducts its business.

The industry is bracing for possible regulatory changes looming on limits being placed on direct to consumer advertising. Pfizer is

attempting to self regulate after negative publicity forced pulling of Lipitor ads featuring Robert Jarvik. There were allegations of misrepresenting him as a heart specialist when he has never been a practicing physician. He has not disclosed how much he was paid to appear in the advertisements but

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## NPS CALENDAR OF EVENTS

February 3rd	Monthly Executive Meeting	MOMS
February 10th	Membership Meeting	Spezia
March 3rd	Monthly Executive Meeting	MOMS
April 7th	Monthly Executive Meeting	MOMS
April 23rd	Membership Meeting	TBD
May 5th	Monthly Executive Meeting	MOMS
June 2nd	Monthly Executive Meeting	MOMS

# Involuntary Hospitalization Pocket Guide

Over the years I have discovered there are as many interpretations of the Nebraska Mental Health Commitment Act as there are mental health providers and attorneys practicing in Nebraska. This frequently leads to confusion and at times interferes with what could be a more therapeutic and less traumatic approach to caring for mentally ill dangerous individuals needing involuntary hospitalization and treatment.

This Pocket Guide to Involuntary Hospitalization was originally developed for Psychiatry Residents practicing at the Omaha Veterans Administration Medical Center. I hope this can be a useful tool for NPS Members practicing in Douglas County. This is just a pocket guide and not a detailed explanation or interpretation of the Nebraska Mental Health Commitment Act.

I would like to thank Shelly Stratman, Deputy Douglas County Attorney, for helping create this Pocket Guide.

## Involuntary Hospitalization

### Important Information and Phone Numbers

- **Nebraska** Mental Health Commitment Act applies to individuals 18 y/o and above, and to emancipated minors. The term "emancipated" means there is a legal determination & court order to that effect.
- **EPC** = (Emergency Protective Custody) Used by law enforcement to accomplish an involuntary psychiatric evaluation.
- **When EPCed**, a patient is required to receive a psychiatric evaluation within 36 hours.
- **All** Nebraska licensed physicians, clinical psychologists and advanced practice registered nurses with proof of current certification in a psychiatric or mental health specialty can perform the psychiatric evaluation required by an EPC.  
This evaluation does not have to be completed by a psychiatrist, or psychiatry resident, and can occur on an outpatient basis, including an emergency department.
- **Make** sure all EPC paperwork is Dated, Timed and Signed by law enforcement.
- **The** EPC can be dismissed prior to 36 hours by the physician, clinical psychologist or APRN if the patient is deemed not mentally ill or mentally ill but not an imminent danger to self or others. The county attorney does not need to be consulted for approval to dismiss an EPC.
- **An** EPC is automatically dismissed when a patient voluntarily signs self into the hospital. Remember, a patient can voluntarily accept treatment while involuntarily hospitalized. In this case a BOMH petition may need to be pursued to involuntarily detain the patient in the hospital.
- **BOMH Petition** = (Board of Mental Health Petition) Used by the County Attorney to accomplish an involuntary inpatient psychiatric evaluation.
- **A** patient is BOMH Petitioned and considered an involuntary patient at the time the County Attorney states intention to file a BOMH Petition with the Board of Mental Health. This can be accomplished over the phone during and after work hours, weekends and holidays. The physician needs to document in the patient's record the County Attorney's name and intention to file a BOMH petition with the BOMH. BOMH paperwork needs to be completed, notarized and faxed to the BOMH ASAP.
- **Voluntary** and EPCed patients believed to be mentally ill and dangerous and in need of inpatient psychiatric hospitalization should be offered voluntary hospitalization. BOMH petition should be pursued if voluntary hospitalization is declined.
- **By** State Statute a facility can detain patients while pursuing an EPC or BOMH Petition. This can be accomplished with the help of security / police.

Douglas Cty Atty. Shelly Stratman - Pager 271-8686  
Douglas County BOMH Phone - 444-7191  
Douglas County BOMH Fax 444 - 6455  
Douglas County/ City Operator 444-7000  
Can help contact Douglas County Attorney

## Common Scenarios

### Emergency Department Patients & Outpatients

1. Patient brought into ED by law enforcement officer on EPC and has received an evaluation and is believed to be Mentally Ill and Dangerous and in need of inpatient hospitalization.

#### Options

- 1a. Offer patient voluntary hospitalization. If voluntary hospitalization declined, page Douglas County Attorney and pursue BOMH Petition. Complete BOMH paper work, have it notarized and fax to the BOMH ASAP

*By State Statute a facility can detain patients while pursuing an EPC or BOMH Petition. This can be accomplished with the help of security / police.*

2. Voluntary patient receives evaluation in the emergency department, or other outpatient setting. Patient is believed to be mentally ill and dangerous and in need of inpatient hospitalization.

#### Options

- 2a. Refer to **Option 1a**.
- 2b. If patient is in an outpatient setting and needs to be taken into custody immediately call 911 and law enforcement can EPC patient. If law enforcement refuses to EPC patient and clinician believes the patient is mentally ill and imminently dangerous, refer to **Option 1a**.

### Hospitalized Patients

1. Patient voluntarily admitted self to the hospital. Patient request discharge AMA and has provided written request for discharge AMA. Patient believed to be mentally ill and dangerous and in need of inpatient hospitalization.

#### Options

- 3a. Refer to **Option 1a**.
- 3b. A physician (does not have to be a psychiatrist or psychiatric resident) can hold the patient in the hospital involuntarily for up to 48 hours. Be sure to document time the hold started and will end. This process is less preferred than pursuing BOMH Petition. A 48-hour hold / delay of discharge can only be used if the patient has voluntarily signed in to the hospital and subsequently provided a written request for discharge AMA.

Patient is admitted to a hospital, but has not signed in to the hospital voluntarily (Ex. Patient admitted while unconscious) and has provided a written request for discharge AMA. Patient believed to be mentally ill and dangerous and in need of inpatient hospitalization.

#### Option

- 4a. Refer to **Option 1a**. Remember, patients that have not signed in to the hospital voluntarily can not be held involuntarily on a 48-hour hold / delay of discharge.

*Created by Sidney Kauzlarich, MD & Shelly Stratman, Deputy Douglas County Attorney. 12/3/08*

## In the News...

there has been a public outcry that this is always disclosed when physicians are paid to support a particular drug. Pfizer seems to have a long history of doing the right thing... a moment before the hammer falls forcing the issue. And not to just pick on Pfizer, Eli Lilly recently disclosed details of its settlement of both criminal and civil investigations related to the marketing of Zyprexa and has agreed to plead guilty to one misdemeanor violation of the Food, Drug, and Cosmetic Act.

Recently psychiatrists have been under scrutiny for their relationships with pharma. Some scrutiny may be warranted. I have long been disappointed when I've seen colleagues fall prey to pharma's ways. Efforts to increase awareness have not gone unnoticed by our profession and I believe we are savvier as a result. Whether pharma has changed its ways is still up for debate.

Near the top of the Obama list for being named the new FDA commissioner is Josh Sharftein M.D., an outspoken critic of the pharmaceutical industry. He is the son of Steven Sharftein, a prominent psychiatrist who has long crusaded for transparency in physician/industry relationships. Young Sharftein began openly discussing the problematic tendency of unscrupulous influence by pharmaceutical companies when he was a junior resident and wrote a letter published in the NEJM complaining about Pfizer Night at Boston Billiards where residents were courted with booze and pool. I like outspoken residents. I like children of psychiatrists. Whether a commissioner or not, he is young, ambitious and focuses on what really matters in medicine: the patient.

**Opinions?** I'd love to have some feedback from our members! Please send comments to Dr. Jane Theobald at [jtheob1@nmhs.org](mailto:jtheob1@nmhs.org).