New Hampshire Psychiatric Society

Newsletter

February 2014

We exist to bring together psychiatrists to work for the benefit of our patients and our profession.

In This Issue:

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JOIN US May 29

Please join your colleagues at the N.H. Psychiatric Society
Annual Spring Meeting, Awards Dinner & Scientific Presentation
May 29, 5:30-8:30 p.m.
Lake Sunapee Country Club
100 Country Club Lane
New London, N.H.
Presentation by:
David Rubin, MD

President's Message

Jeffrey Fetter, MD

Your Psychiatric Society continues to work hard for you

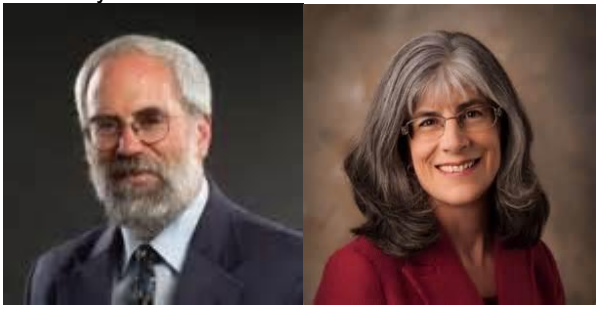
This year we have taken insurance company coding problems seriously. We held another well-received insurance coding education event this fall. We held a special strategy meeting and reached out to the Medical Society to formulate a plan of action. We thank the practices that participated in our "Bellwether Practice" program to monitor for insurance company coding issues. It appears that the difficulties our members encountered a year ago have gradually improved in recent months, and we encourage you to report any issues to us.

We have been providing education and support to policymakers and our colleagues in the N.H. Medical Society in this busy legislative season, as you'll read about in the articles that follow. But most of all, we are proud of our ability to serve as the voice of N.H. psychiatrists in the Statehouse and at the national APA levels.

Announcements

This year's Leadership Award recipients are Mary Brunette, MD and Ken Norton. Dr. Brunette is associate professor of psychiatry at the Geisel School of Medicine at Dartmouth, an accomplished researcher and outstanding clinician. Mr. Norton is executive director of the National Alliance on Mental Illness New Hampshire and has worked on behalf of the mentally ill in New Hampshire for more than 20 years.

Awards will be presented at the annual spring meeting on May 29, 2014, at the Lake Sunapee Country Club.



Letter from the Editor

By Len Korn, MD

For the last three-plus years, I have been representing the New Hampshire Psychiatric Society on the Executive Council of the New Hampshire Medical Society. In that context, I have been active most recently in the areas responsible for gun control and repeal of the death penalty. I also participated in an NHMS committee charged with surveying physicians throughout N.H. on their opinions on controversial issues such as gun control and the death penalty. As a result of my advocacy on issues of violence, I have recently been appointed chair of a newly established NHMS Subcommittee on Violence as a Public Health Issue.

The results of the New Hampshire Medical Society's 2013 survey have provided NHMS with key information about the opinions of N.H. physicians and the issues that are most important for NHMS to pursue. The survey dealt with two issues that have been the focus of my advocacy work for the last few years. The two issues, repeal of the death penalty and gun control, are issues related to my focus on violence as a public health matter.

Firearm Safety

The NHMS survey results indicated N.H. physicians are strongly in favor of "more regulations on the possession of firearms including universal background checks," with 59% of N.H. physicians strongly supporting and 17% somewhat supporting that position, with 6% neutral, 6% somewhat opposing and 12% strongly opposing such restrictions. The NHMS Subcommittee on Violence has developed and passed a policy position on gun control and recently forwarded that policy position to the NHMS Public Health Task Force for its consideration. It will then be sent to the NHMS Executive Council for its deliberation and decision. I prepared a report for the NHMS on research relevant to the proposed policy position on firearm safety and I have included a copy of that report in this edition of the NHPS Newsletter. That report summarizes some of the data relative to gun violence in the U.S. Gun violence, murder and suicide rates, even accidental deaths, are much more prevalent in our country compared to similar countries in Europe.

There are currently at least two bills in the N.H. Legislature relative to gun control**. HB 1589** is a bill that would close the loopholes in our background check system and require all sales be submitted to the federal background check system. Currently 40% of firearm sales avoid that background check system, making our current system a farce. **SB 244** adds the names of involuntarily committed patients to the federal background check system. I urge everyone to consider these matters and lend your support for reasonable changes to our current porous background check system. Please call or email your state senator and representatives, as they really respect the opinion of doctors. And they do need to hear from us, as they have the NRA representing, of course, the gun manufacturers, so strong in voicing their minority opinion on the other side. Indeed, the NRA opinion has so far overwhelmed any rational thinking relative to matters involving guns. *Let your voice be heard!*

Repeal of the Death Penalty in N.H.

The NHMS survey also asked for physician opinion on repeal of the death penalty. A total of 50% of respondents supported the following: "As a penalty for murder, the sentence of imprisonment for life without the possibility of parole as an acceptable substitute for the death penalty," while 23% were neutral and 27% opposed. Omitting the 23% who were neutral leaves 65% of physician respondents in favor of repeal of the death penalty, with 35% opposed.

I've been involved with the New Hampshire Coalition to Abolish the Death Penalty for almost four years. I think of my opposition to the death penalty as the other side of this issue of violence. Of course, first-degree murder is a horrible crime. But murder by the state is, in today's world, horrible, too.

HB 1170 is the current bill in the Legislature for repeal of the death penalty, substituting life without the possibility of parole for the death penalty. On Jan. 16, 2014, I testified in support of HB 1170 before the House Criminal Justice Committee. I have included a copy of that testimony in this issue of the NHPS Newsletter, as it expresses the many reasons why I think it is time to end the unnecessary barbarity of the death penalty in N.H. *Please consider adding your voice to this issue by emailing or calling your state senator and representatives on this important issue.*

NHMS sponsored Malpractice Support Group

I have also participated in the NHMS committee establishing a malpractice support group for physicians struggling through malpractice suits. This support group will begin in early 2014. We are currently looking for participants who are NHMS members and either facing or have faced a malpractice case and would like the opportunity to share with other physicians and PAs their trials and tribulations. Interested physicians should contact NHMS for details. This may be a unique support group, perhaps the first in the nation organized by a state medical society.

Legislative Update

By Alex de Nesnera, MD

HB 1588-FN: An act requiring suicide prevention education in schools. This bill requires school districts and chartered public schools to provide suicide prevention education and training to pupils, parents, faculty, staff and school volunteers. A hearing was held in front of the House Education Committee. Executive session was to be held Feb. 4, when the committee was to decide whether to recommend passage.

HB 1624-FN: An act modernizing the juvenile justice system to ensure rehabilitation of juveniles and preservation of juvenile rights. This bill clarifies the age of minority for juvenile delinquency proceedings from 17 to 18 years of age, clarifies competency determinations in juvenile proceedings, clarifies the right to counsel in juvenile hearings, changes the waiver of counsel procedure for juvenile proceedings, directs DHHS to collect certain data regarding the juvenile justice program, requires the judicial council to adopt rules relative to the appointment and qualification of juvenile defense counsel and requires the DOC to submit plans for compliance with the Prison Rape Elimination Act (PREA). A hearing was held in front of the House Children and Family Law Committee. Executive session was to be held Feb. 4, when committee was to decide whether to recommend passage.

HB 1442: An act relative to mental health courts. This bill permits any circuit court and superior court to establish mental health courts. Hearing was to be held on Feb. 6.

HB 1292-FN: An act creating an affirmative defense for a person who causes or aids another in committing suicide. This bill creates an affirmative defense for a person who causes or aids another in committing suicide. A hearing was held Jan. 28 in front of the House Criminal Justice and Public Safety Committee.

HB 1618: Authorizing an additional hearing for persons who meet the standard of involuntary admission to a state treatment facility. This bill provides for an additional hearing for persons who meet the standard for involuntary admission to a mental health treatment facility. A hearing was held on Jan. 30 in front of the House Judiciary Committee.

HB 1330-FN: An act prohibiting the disclosure by search warrant of privileged individual medical records. This bill prohibits the disclosure by search warrant of medical information contained in an individual's medical records. A hearing was held in front of the House Criminal Justice and Public Safety Committee. Executive session was scheduled for Feb. 4, when committee was to decide whether to recommend passage.

SB 270: An act establishing a commission to study mental health in New Hampshire. This bill establishes a commission to study mental health in New Hampshire. A hearing was held on Jan. 28 in front of the Senate Health, Education and Human Services Committee. This bill will probably be amended.

SB 229: An act relative to the use and disclosure of protected health information. This bill clarifies the term "health care provider" for the purposes of medical records law. This bill also declares that a patient may transmit his or her protected health information through the health information organization and that such information may only be used in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). A hearing was to be held Feb. 4 in front of the Senate Health, Education and Human Services Committee.

SB 298: An act establishing a permanent commission on PTSD and TBI. This bill permanently establishes the commission on PTSD and TBI. A hearing was held in front of the Executive Departments and Administration Committee on Jan. 15. The committee recommended passage (5-0), and the full Senate agreed. The bill now moves to the House.

HB 1325-FN: An act relative to death with dignity for certain persons suffering from a terminal condition. This bill allows for a mentally competent person who is 18 years of age or older and who has been diagnosed as having a terminal condition by the patient's attending physician and a consulting physician to request a prescription for medication that will enable the patient to control the time, place and manner of such person's death. A hearing was to be held Feb. 4 in front of the House Judiciary Committee.

HB 1535: An act extending the committee to study the resolution of barriers to the use of telehealth technology in New Hampshire. This bill extends the report date of the committee established to study the resolution of barriers to the use of telehealth technology in New Hampshire. A hearing was held in front of House Legislative Administration Committee. Executive session was to be held Feb. 5.

SB 244: An act requiring the names of certain persons to be reported to the National Instant Criminal Background Check System index. This bill requires the name of a person who has been adjudicated as not mentally competent to be reported to the NICBCS for the purpose of conducting a background check to determine eligibility to possess a firearm. This bill also establishes a procedure to have his or her name removed from this system. A hearing was held on Jan. 14. A main issue from our perspective was that mental health providers would be asked to disclose reports and express opinions as to their patients' future likelihood that they would misuse firearms or otherwise act in a manner dangerous to the public safety. I informed the committee that we could not do this. This bill will probably go to a subcommittee or will be revised to form a commission to look into this issue.

2013 HB 217: Imposing an extended term of imprisonment for assault against a healthcare provider was found inexpedient to legislate (ITL) by the House Criminal Justice and Public Safety Committee on Oct. 30, 2013. This bill was referred for further study at the beginning of this legislative session. This was the second time this legislation was presented to the committee (the last year was 2012). Full House voted to kill the bill on Jan. 29, 2014.

Legislative Schedule:

Jan. 8, 2014: Introduction of new bills, voting on old bills (like HB 217 above)
March 20, 2014: All Legislative bills need to be out of committee, voted on by full House and Senate
March 27, 2014: Crossover
May 15, 2014: All remaining legislative bills that crossed over need to be voted on
May 22, 2014: Committees of Conference formed
May 30, 2014: Sign-Off Committee of Conference reports
June 5, 2014: Act on Committee of Conference reports

Research Relative to Firearm Safety

By Len Korn, MD

Centers for Disease Control and Prevention (CDC) statistics related to firearm injuries and deaths are very limited because Congress passed laws eliminating CDC research on firearm violence in 1996. President Obama lifted the restrictions on doing research on firearm violence last year, but there is still no funding appropriated for such research.

As indicated in the Proposed Policy Position on Firearm Safety, gun-related deaths in 2010 included 11,078 murders by guns and 19,392 suicides by guns. In 2010, gun accidents were the ninth-leading cause of death among children, according to the CDC, but a recent New York Times study (Sept. 29, 2013) suggests that accidental deaths of children involving a firearm are greatly underreported. CDC data reported 62 such killings in 2010, but the New York Times study suggests that number is likely underreported by half, so the estimated deaths by firearm accidents for kids would be 124 or more in 2010. The suggestion was that the actual rate would place the death rate for children by accidental firearm shootings as the fifth- or sixth-leading cause of accidental death in children. The recent report in the Times was very alarming as every accidental death of a child is such a

tragedy. These data and investigations support the inclusion of requiring gun locks or locked gun cases and other safety features as important regulations to reduce these tragic outcomes.

Some other facts: The presence of guns in households is estimated to triple the risk of violence (CDC), with increases in rates for domestic abuse and 4.8 times the suicide risk. Probably 90% of suicide attempts by guns that require a hospital visit are fatal, compared to 34% by jumping and 2% by overdose and poisoning.

In the United Kingdom, where handguns are not permitted, the homicide rate is 0.04 per 100,000 persons, in Germany it is 0.6 per 100,000, in the U.S. there are 3.2 intentional homicides per 100,000 persons. In the U.K., the suicide rate is 0.17 per 100,000, in Germany the rate is 0.94 and in the U.S. (with extremely limited gun restrictions) the rate is 6.3 per 100,000. In N.H. in 2011 there were 16 homicides, six with guns (38%). In the U.S., suicide is the 10th-leading cause of death. In the U.S. in 2010 there were 38,364 suicides, more than half (19,392) using firearms.

Violence and the Mentally Ill

Data about the connection between violence and the mentally ill is actually limited. Generally, the data suggests that there is a correlation between the severely mentally ill and risk of violence. The best study demonstrating that correlation is from Sweden and published in 2006. Sweden, like other Scandinavian countries, has a well-defined and closely followed and documented population, so data on hospitalizations and crime is relatively easy to correlate and study. In that study, patients with serious mental illness (schizophrenia and other psychotic disorders) had a conviction rate of 6.6% during the 13-year period of study compared to a rate of 1.8% in the general population. This data included hospitalizations in the private (voluntary) sector as well as state hospitals. (S Fazel MD, M. Grann, PhD, "The Population Impact of Severe Mental Illness on Violent Crime," Am J Psychiatry 2006; 163:1397-1403).

It is also clear from the data from many research studies that individuals with mental illness are far more likely to be victims than perpetrators of violence. Many studies emphasize this fact.

Data regarding violence potential for individuals who have been committed to a state hospital is very limited. The best study on violence of patients discharged from acute psychiatric units is the MacArthur Foundation supported research published in the Archives of General Psychiatry, 1998; 55(5):393-401. That study found very high rates of violence in discharged psychiatric patients but also high rates of violence in their carefully controlled community sample. The rates of violence were higher in the substance abuse groups in both discharged psychiatric patients and community sample. In this initial study the discharged psychiatric patients were not any more violent than the community sample, as long as substance abuse was not present. However, further analysis by the authors in "Rethinking Risk Assessment: The MacArthur Study of Mental Disorder and Violence" (Oxford University Press, NY, 2001) revealed a significant association between propensity to violence and being discharged after a commitment to a state hospital. This is a very crucial point as this further analysis of the MacArthur Foundation results separated patients discharged from acute psychiatric hospitals into two groups, patients from private psychiatric hospitals (voluntary patients) and patients from state hospitals (committed patients). In this final analysis, only psychiatric patients who had needed to be committed had a significantly greater propensity for violence.

On its face, the association between committed psychiatric patients and violence is understandable and expected. Committed patients have, by definition, extremely poor judgment and denial of their illness. The likelihood of further possible danger after discharge, suicide or violence, makes sense, since the combination of factors (mental illness and danger, poor judgment and denial of illness) has already been established in a court by judicial decision. These factors can certainly be ameliorated by satisfactory treatment, but poor judgment and denial of illness are factors that regularly impede successful treatment. Unfortunately, the failures of our mental health resources also contribute to failed treatment outcomes.

E. Fuller Torrey has been at the forefront in the professional discussion of violence and the severely mentally ill. In his April 27, 2007, Wall Street Journal article entitled "Commitment Phobia," Dr. Torrey refers to a 1985 study in Contra Costa County in California that found that individuals with severe mental illness perpetrated 10% of homicides. He also referenced "studies in Denmark and Finland (that) found the conviction rate for violent crimes of individuals with schizophrenia to be seven times the rate for the general population."

The psychiatric profession has generally been hesitant to respond to the connection between violence and the severely mentally ill. I suspect that hesitancy arises from concern of stigma that already is so prevalent against the mentally ill. However, the connection is present, and it is necessary to respond to it appropriately. The medical profession responds to many issues from a safety perspective, from the dangers of cigarette smoking, the safety factors involved in driving, biking, skiing and, more recently, contact sports. Violence is clearly a public health issue. NHMS support for reasonable gun control measures is needed to help stem the high rate of violence in our society.

HB 1170 Testimony

By Len Korn, MD

I am testifying in support of HB 1170, in support of replacement of the death penalty by life without the possibility of parole for those convicted of first-degree murder.

Thank you for your attention to this very important legislation.

By way of introduction, I have been a practicing psychiatrist in Portsmouth since 1974. I passed my boards in general psychiatry in 1977 and forensic psychiatry in 1999. I have been on the active staff of Portsmouth Regional Hospital with one brief interval since 1974. At Portsmouth Regional, I served for about 17 years on the Ethics Committee, including five years as chair. I am the immediate past president of the New Hampshire Psychiatric Society and currently serve on the executive boards of the New Hampshire Psychiatric Society, New Hampshire Medical Society and New Hampshire Coalition to Abolish the Death Penalty. I am a Distinguished Life Fellow of the American Psychiatric Association.

My professional interests and attention for many years have focused on violence and its many societal and mental illness aspects. I was recently appointed chair of the New Hampshire Medical Society's newly formed Subcommittee on Violence as a Public Health Issue.

There are many important, compelling reasons for our state of New Hampshire to join the 17 other states and the District of Columbia that have abolished the death penalty. As a physician and psychiatrist I will focus primarily on the ethical, human and civil aspects of why, as a civilized society, New Hampshire should add our voice and commitment to ending this archaic form of punishment for the most brutal, inexcusable crimes of murder.

In terms of punishment for crimes, civilized societies like New Hampshire and the United States, along with most countries in the world, have evolved over history to change the manner of punishment for crimes. Some countries still punish free speech with death if the speech violates religious or other restrictive rules, but fortunately that is not present in our country or Western democracies. We no longer put people in blocks in the town square nor do we permit torture (mostly!) nor flogging. We never used guillotines, sanctioned beheading, as the ultimate punishment, thank goodness!

We don't sanction bullies by bullying them. We don't punish thieves by stealing from them. But in New Hampshire we still consider killing someone by the state for the crime of murder is a good idea. Well, as a state, we really only think killing a person who has been convicted of first-degree murder is appropriate a small percentage of the time.

Fairness and equal treatment under the law, principles guaranteed by the Fourteenth Amendment, do not take place in issues involving the death penalty here in New Hampshire. We, fortunately, have few murders in our state each year, yet in only one since 1939 have we as a state prosecuted a murder for the death penalty, and that is the conviction of a black man for the murder of a policeman. If you are rich, or white, or kill say a psychiatrist or your wife or your neighbor, you mostly will get life maybe without the possibility of parole, maybe less.

But I am not here primarily to testify about the racial discrimination that is so prevalent throughout our country relative to the death penalty, although that is one of the important reasons to abolish the death penalty. Nor will I focus on the great extra and unnecessary costs that are tied to the death penalty, another important reason why this penalty should be abolished.

What I do want to focus on is the moral and ethical issues involved in the death penalty and the unnecessary emotional costs of this barbaric act of state-sanctioned killing. Recently, my wife and I traveled to the lovely Polish city of Krakow, a historic city that was the seat of the Polish monarchy from the 10th to the 15th century. It is also about 40 miles from Auschwitz, which we visited fittingly in the pouring rain. We learned that Hitler and his partners created the ovens and crematoriums because shooting Jews was too traumatic to the German soldiers.

NHPS welcomes new executive director

Catrina Watson of the N.H. Medical Society has been named the new executive director of the New Hampshire Psychiatric Society. Watson is the executive director of several primary care specialty societies and has a special interest in mental health issues. Our former executive, Joy Potter, will be missed, and we greatly appreciate her years of hard work for our society.

Writers wanted!!!

We on the NHPS Newsletter staff welcome content from our readers. Please consider sharing your thoughts and words about psychiatry in 2014 and the future with the New Hampshire community of psychiatrists. Letters to the Editor, Articles, Book Reviews or just Commentary. Let us hear from you. Email Len at len.korn.md@gmail.com , Jeff at jfetter@mhn-services.com or Catrina at Catrina.Watson@nhms.org.

Please join your colleagues at the N.H. Psychiatric Society's Annual Spring Meeting, Awards Dinner & Scientific Presentation

May 29, 2014, 5:30-8:30 p.m.
Lake Sunapee Country Club, 100 Country Club Lane, New London, N.H.
Registration fee $25 (Please watch your mail for a brochure)
Presentation by David Rubin, MD

The N.H. Psychiatric Society Leadership Award has been established to recognize and encourage excellence in advancing the goals of the society. Recipients may be nominated at any time by any society member, who can write a letter in support of the nomination. Recipients will be chosen by the Executive Council. The award will be bestowed based on meeting at least one of three criteria: demonstrating leadership by excellent clinical example, advancing the care of the mentally ill in New Hampshire through exemplary public service or outstanding service to the N.H. Psychiatric Society.

Awards this year will be presented to **Ken Norton and Mary Brunette, MD**