

Circuit Court Again To Hear Appeal in Confidentiality Case

By Brian Crowley, MD, Chair, Ad Hoc Committee on Confidentiality

For the second time in two years the Circuit Court for Montgomery County, Maryland will hear an appeal of a Maryland Board of Physicians' fine and reprimand to a WPS member for "failure to cooperate" with an investigation. Already the Circuit Court has affirmed that confidentiality is primary to the doctor/patient relationship and that the BoP misinterpreted the law in issuing a fine and reprimand. An Administrative Law Judge has reached the same conclusion twice. Yet the BoP continues to insist that no matter the source of the complaint or the wishes of patients and the guardians of minor children, mental health records must be turned over to BoP on demand with no prior weighing of the complaint's validity or exploration of alternatives to turning over the complete record.

Should the Board of Physicians prevail, no psychiatrist in Maryland can truthfully tell a patient that the patient's mental health records are private.

The appeal to Circuit Court is the latest chapter in a saga which has lasted four years, involved hundreds of thousands of dollars, and pits the ethical practice of psychiatry against the demands of a state body whose only victories in this case have come when the BoP has appealed (twice) a

judge's ruling to itself, insisting that they as non-attorneys have a better understanding of the law than does the Maryland judiciary.

At issue is the question of whether or not the Board of Physicians has an absolute right to confidential medical records over the objections of a patient. In this case, in which Harold Eist, MD is accused of failure to cooperate, the BoP issued a subpoena for records of a mother and two children following an accusation by her estranged husband in the middle of a hotly contested divorce and custody proceeding that Dr. Eist was "over-medicated" the mother causing the her to be "overly psychotic" and causing a deterioration in the children. A Peer Review Panel subsequently investigating the matter exonerated Dr. Eist on all counts of the charge.

On receiving the subpoena from BoP, Dr. Eist informed them that ethics demanded that he first seek permission of the adult patient and the guardian for the children before releasing the records. All replied that they did not wish their records released. Dr. Eist asked the BoP for guidance in the matter. The BoP issued no response until, seven months later, it notified Dr. Eist that it was charging him with failure to cooperate.

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Contact Information

Washington Psychiatric Society

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rpolley@wdcpsych.org
Web www.dcpsych.org
WPSNet (electronic bulletin board and listserv) to subscribe: <http://live.megapipe.net/mailman/listinfo/wpsnet>
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American Psychiatric Association

1000 Wilson Blvd. Ste 1825
Arlington, VA 22209
Tel. 703-907-7300
Email apa@psych.org
Web www.psych.org ■

The President's Column



Going Boldly – and Thoughtfully – into Our Future

By David H. Fram, MD

The Board has been moving ahead with its strategic planning activity during the past weeks. Under the chairmanship of our President Elect, Richard Ratner, the Strategic Planning Committee has been formed and has had an initial meeting. The Committee is attempting to get as much input from members of WPS as possible regarding the direction that we would like to see the WPS take. To this end, the Committee will be meeting with members and various interest groups of members to discuss how WPS can be helpful to them in conducting their work.

Prior to these meetings, all members will be asked to complete a survey regarding themselves and the issues that are most important to them. It is hoped that this survey will generate ideas for the Committee to focus its efforts on. Issues such as malpractice insurance, managed care interference, reimbursement, practice building and the effect of government regulation are some of the issues that will likely be considered as important matters for the WPS to address. We expect that over the next few months that the Committee will generate a report for review by the Board and the membership.

An example of an issue that WPS has already considered important and worthy of pursuit is confidentiality. We are most

concerned that our patients continue to be assured of the confidential nature of their communications to us. Without this assurance, our ability to conduct effective treatment is markedly impaired. WPS has been very active on this issue for some time on two fronts. One area has been the successful activity of the Committee on Confidentiality, chaired by Barry Landau and Elizabeth Hersh, to influence the implementation of strict guidelines regarding the nature of appropriate and necessary communications to third-party payers. This has been accomplished by continuing dialogue with managed care companies and governmental regulators. Another area of our activity has been our support of the effort by Harold Eist to defend himself in the case brought against him by the Maryland Board of Physicians for challenging that Board's self-perceived right to subpoena patient records without regard to usual legal procedures.

The mission statement of WPS clearly provides a framework for us to work from. It states that we aim to promote the highest quality of care for individuals with mental illnesses and their families; to promote psychiatric education and research; to advance and represent the profession of psychiatry; and to address the professional needs of our members. I encourage our members to help the Strategic Planning Committee fill in the blanks about the specifics and the priorities. ■



THE WASHINGTON
PSYCHIATRIC SOCIETY *News*

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WPS Presents Issues in Documentation Seminar

By Elizabeth A. Morrison, MD
Chair CME Committee

Wondering whether you should modify any of your documentation and record keeping practices in this era of HIPAA regulations and increased privacy concerns? Wondering whether your documentation would pass muster with a Medicare audit? What exactly are the charting requirements to justify the various service codes available to psychiatrists? Do Maryland, Virginia and the District of Columbia have different requirements for documentation and record keeping? What about documentation as it relates to malpractice concerns?

The WPS Committee on Continuing Medical Education is sponsoring a four-hour seminar, "Issues in Documentation" on Saturday, December 10, 2005, from 9 am to 1 pm to address these and related issues. This is the seminar many of you have asked for specifically. We are excited to offer it to you.

We intend this course to be basic, comprehensive, and practical. Our speakers include Jackie Melonas, R.N., J.D, Vice President and Donna Vanderpool, MBA, JD, Asst Vice President for Risk Management of PRMS, Inc, and Chester Schmidt, Jr., M.D., Professor of Psychiatry at Johns Hopkins University School of Medicine and Chair of the APA Committee on RBRVS and Codes and Reimbursements. He has been the APA representative to the HCFA (now Center for Medicare/Medicaid Services – CMS) committee that developed the present coding documentation requirements.

This program will take place in the Suburban Hospital auditorium, 8600 Old Georgetown Road, Bethesda. Cost for this program is \$30.00 per person. Parking is free. Continental breakfast and light refreshments will be served. Registration begins at 8:15.

Watch your mail for detailed program information. Early bird registration is welcome. Please complete and return the form below to lock in your place at this important educational event.

Issues in Documentation

Saturday, December 10, 2005
9:00 a.m. – 1:00 p.m.
Suburban Hospital Auditorium
8600 Old Georgetown Road
Bethesda, Maryland

Yes, register me for the Seminar

Name _____

Tel. _____ Fax _____

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I practice in Maryland Virginia
 Washington, DC

My check for \$30.00 payable to the Washington Psychiatric Society is enclosed.

I will pay at the door.

Send this form to:
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Department D
3615 Wisconsin Ave, NW
Washington, DC 20016
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You may register by email to
whill@wdcpsych.org. In the message
box type your name and "Register
Documentation Issues." ■

You have just been subpoenaed. *Do you know how to respond?*



If you have your malpractice insurance through The Psychiatrists' Program you can rest assured. With a simple toll-free call, a risk manager can assist you with the immediate steps you need to take to protect your practice.

As a Program participant, you can call the Risk Management Consultation Service (RMCS) to obtain advice and guidance on risk management issues encountered in psychiatric practice. Staffed by experienced professionals with both legal and clinical backgrounds, the RMCS can help prevent potential professional liability incidents and lawsuits.

If you are not currently insured with The Program, we invite you to learn more about the many psychiatric-specific benefits of participation. Call today to receive more information and a complimentary copy of "Six Things You Can Do Now to Avoid Being Successfully Sued Later."

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CME Program Will Explore the Interface of Psychiatric and Somatic Medicine

By Elizabeth Morrison, MD, Chair WPS CME Committee

The Washington Psychiatric Society's Committee on Continuing Medical Education will present its third annual half-day seminar on the Interface of Psychiatric and Somatic Medicine on Saturday September 24, 2005. The program begins with registration at 8:30 a.m. and ends at 1:45. We will meet in the auditorium of the George Washington University Hospital, 900 23rd St, NW in Washington. Our day begins with registration and a continental breakfast. Our first program session begins at 8:55. The program will offer 4.0 category 1 credits of CME.

As in past years, we have arranged for an outstanding faculty to present on a variety of medical conditions that are often present in the psychiatric patients we treat.

Helene Emsellem, MD, head of the Center for Sleep and Wake Disorders in Chevy Chase will present "Disorders of Sleep and Wakefulness." Dr. Emsellem will focus on basic sleep needs, the consequences of sleep deprivation and the common sleep disorders seen in psychiatric practice. She will provide information on the appropriate use of sleep studies in psychiatric practice. Dr. Emsellem completed a rotating internship in

psychiatry, internal medicine and neurology at George Washington University. She completed her neurology training at George Washington and subspecialty training in epileptology and clinical neurophysiology at Johns Hopkins.

Thomas Hyde, MD, PhD, will discuss neuroimaging for psychiatrists. Dr. Hyde is the neurology consultant to the clinical programs of the Clinical Brain Disorders Branch, IRP, NIMH. He has focused his research interests on the neuropathological bases of major mental illnesses, especially schizophrenia. He is currently focused on the application of microarrays and laser capture microscopy to post-mortem human brain tissue in general and schizophrenia in particular. Attendees will have an understanding of the value of neuroimaging in the diagnosis of psychiatric disorders as well as the clinical applications of MRI scans for depression and schizophrenia.

Perry Richardson, MD will present "Opening Doors on Chronic Pain." Dr. Richardson is Associate Professor of Neurology and Residency Program Director at George Washington University School of Medicine. Board certified in neurology, electrodiagnostic medicine, clinical neurology and pain medi-

cine, Dr. Richardson holds a Fellowship at the National Institutes of Health.

Watch your mail for the registration brochure. Each year we have a large and enthusiastic audience for this seminar so register soon. For more information contact the WPS office at 202-244-7750. You may also use the registration form on page 8.

This activity has been planned and implemented in accordance with the Essential Areas and policies of the Accreditation Council for Continuing Medical Education (ACCME) through the joint sponsorship of the American Psychiatric Association and the Washington Psychiatric Society. The APA is accredited by ACCME to provide continuing medical education for physicians.

The APA designates this educational activity for a maximum of 4.0 category 1 credits toward the AMA Physician's Recognition Award and for the CME requirement of the APA. Each physician should claim only those credits that he/she actually spent in the activity.

This program is made possible in part through an unrestricted educational grant from Glaxo/Smith/Kline. ■

training for

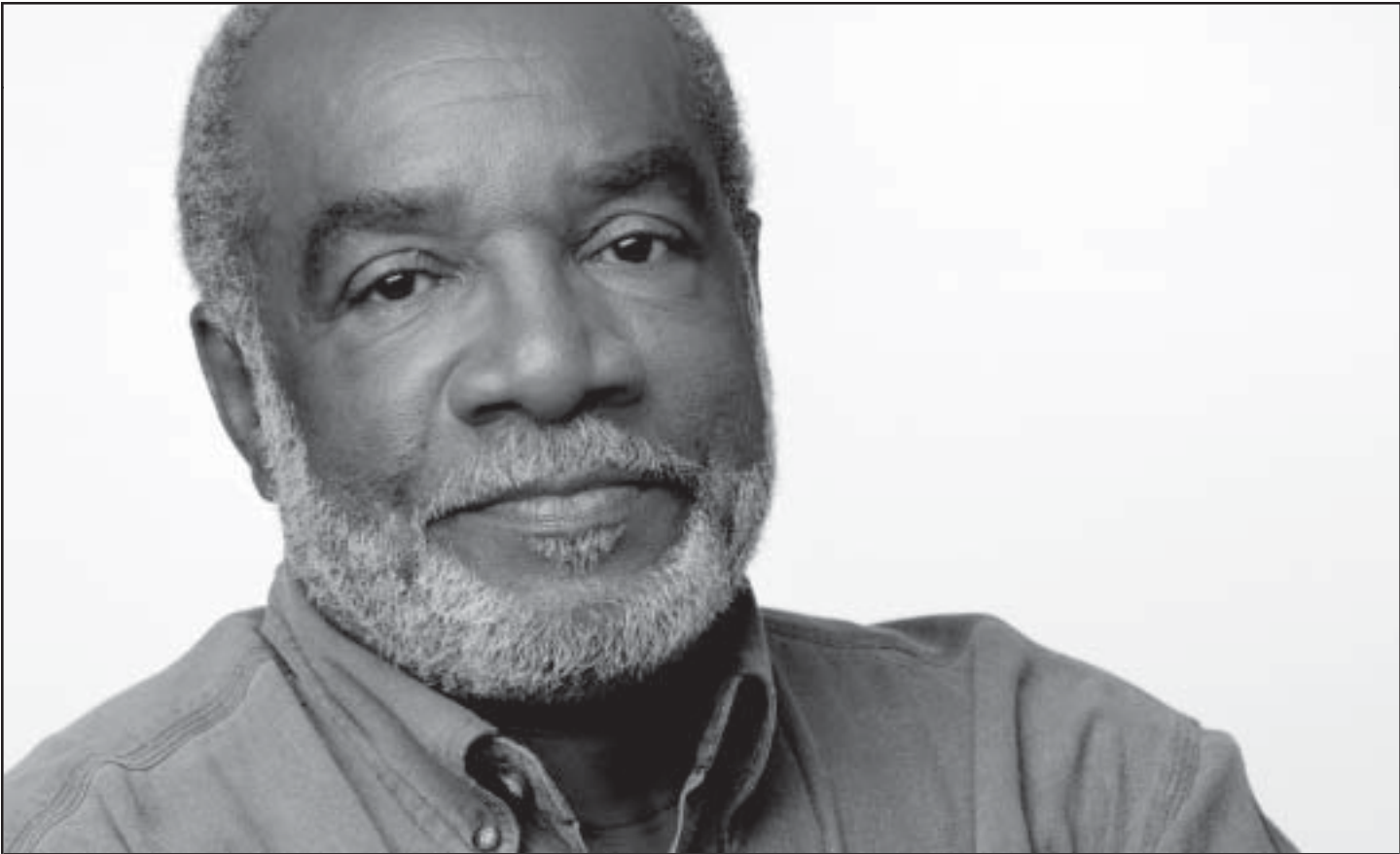
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- ▶ **Modern Perspectives on Psychotherapy**
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 - ▶ **New Directions**
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(CME/CE programs)



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Open Access: for the patients, for the people

All too often, people who depend on public assistance are denied access to newer, safer, and more effective treatments for mental illness. This inability to obtain the treatment they need can trigger a pattern of deterioration — becoming unemployed, being hospitalized, imprisoned, and often ending up homeless. This destructive cycle is costly for taxpayers and devastating to the families of people with mental illness.

That's why Eli Lilly and Company continues to support open and unrestricted access to all available treatments for mental illness.

Scientific advances have resulted in medications that are effective in delaying relapse¹, provide more effective symptom control, fewer side effects, and offer longer-term treatment than in the past.

Give them access to the treatments they need, and give them hope for taking their lives back.

¹ Fenton WS, Blyler CR, Heinssen RK. Determinants of medication compliance in schizophrenia: empirical and clinical findings. *Schizophr Bull.* 1997;234:637-651.

Answers That Matter.



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Positions

Available

Fairfax/Falls Church Community Services Board - Currently recruiting for psychiatrists with an interest in community mental health and substance abuse services. We have contract hours available in a variety of different outpatient and residential programs. Hourly pay based on board status. Please contact Dr. Colton Hand, Medical Director Fairfax/Falls Church CSB for more specific details. 703-207-7831. Email: colton.hand@fairfaxcounty.gov

PT Psychiatrist needed in well established psychiatric practice in Gaithersburg, MD, 10-20 hours per week to treat adolescents and adults. Schedule flexible, BC only, experience in brief psychotherapy and meds management a must. Mail CV to GMPS, 9055 Shady Grove Ct, Gaithersburg, MD 20877 or fax to 301-948-4333.

ISO: Bookkeeper, seeks PT pos medical or psychiatric practice, sub DC area, 8 yrs exp, full serv. & ins., able, reliable, top ref, call Maira 301-220-0529 ■

MEETING NOTICES

The seminar, "Baltimore-Washington Center for Psychoanalysis, from 5:00 – 6:30 p.m. William Goldstein will lead the seminar. For more information see www.bwanalysis.org or call 301-470-3635 or 410-792-8060.

Massachusetts General Hospital
Psychiatry Academy
Presents
Psychosis
October 22, 2005
Sheraton Premiere Hotel Tysons
Corner
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Vienna, VA
7:30 a.m. – 12:50 p.m.

Topics "New approaches to Treatment Resistant Schizophrenia," "Evaluating and Managing the Side Effects of Antipsychotic Drugs" and "Cognitive Behavioral Approaches in Schizophrenia." Registration and information call toll-free 1-866- 644-7792 or visit the MGH website at www.mghcme.com

Washington Psychoanalytic Society Scientific Meetings — 2005-2006

Friday, September 23, 2005 -

REGISTER BY MONDAY
SEPTEMBER 19

Bethesda Marriott, 5151 Pooks Hill Road,
Bethesda MD 20814

6:30 - cocktails, 7:00 - dinner,

8:15 - paper and discussion, \$50

Antoine Hani, M.D. - *The Role of the Father in Development*

Friday, October 21, 2005 -

REGISTER BY MONDAY
OCTOBER 17

Holiday Inn Washington Silver Spring, 8777

Georgia Avenue, Silver Spring MD

6:30 - cocktails, 7:00 - dinner,

8:15 - paper and discussion, \$50

Ellen Handler Spitz, Ph.D. - *Picture Books and The Inner Life of the Child*

Friday, November 18, 2005 -

REGISTER BY MONDAY
NOVEMBER 14

Bethesda Marriott, 5151 Pooks Hill Road,
Bethesda MD 20814

6:30 - cocktails, 7:00 - dinner,

8:15 - paper and discussion, \$50

Barbara Stimmel, Ph.D. - *Paying for Analysis: Shame, Guilt, and Excitement*

Thursday, February 3, 2006 -

REGISTER BY MONDAY
JANUARY 23

Grand Ballroom, Marvin Center,
George Washington University

800 21st Street, NW, Suite 204,
Washington, DC 20052

9:00 am – 5:00 pm Workshop, \$150

A Day with Psychoanalyst and

Neuroscientist Mark Solms

Friday, February 3, 2006 -

REGISTER BY MONDAY
JANUARY 23

One Washington Circle Hotel, One
Washington Circle, NW,

Washington DC.

6:30 - cocktails, 7:00 - dinner,

8:15 - paper and discussion, \$50

Howard Shevrin, M.D. - *A Psychoanalytic and Cognitive Exploration of a Memory of Childhood Sexual Abuse*

Friday, March 31, 2006

Ross Hall, Room #117, 2300 Eye St NW,
George Washington University

8:00 PM, \$FREE

Nancy Chodorow, Ph.D. - *title to be confirmed*

Friday, April 21, 2006 -

REGISTER BY MONDAY
APRIL 10

One Washington Circle Hotel,
One Washington Circle, NW,

Washington DC.

6:30 - cocktails, 7:00 - dinner,

8:15 - paper and discussion, \$50

Ethel Person, M.D. - *Love and Power* ■

Neurobiology of Mental Illness Graduate Course Providing an Introduction to the Biological Basis of Major Neuropsychiatric Disorders

Wednesday evenings on the NIH
Campus (Bethesda, MD)
September 14, 2005 through
December 14, 2005
Offered through the Foundation for
Advanced Education in Science
(FAES)

The objective of this graduate level course is to provide an introduction to the biological basis of major neuropsychiatric disorders, as well as to explore the emerging methodologies (both basic science and clinical) being utilized in the study of these brain disorders. A group of leading scientists and clinicians provide lectures in their areas of expertise. Disorders to be covered include bipolar disorder, major depression, anxiety disorders, schizophrenia, childhood onset psychiatric disorders, Alzheimer's disease, and substance dependence. Speakers will discuss the evidence supporting current theories related to each disorder, with particular emphasis on the limitations of current methodologies, the prospects for the greatest advances, and their individual contributions to the field. Additionally, specific lectures will focus on methodologies that are rapidly having a major impact on neuroscience research, as well as advancing our understanding of neural function and disease mechanisms. The methodologies to be discussed will include positron imaging tomography, magnetic resonance imaging (functional and structural), animal models, biochemical techniques, and genetic and epidemiological analysis used in the study these disorders. Students enrolled in the course will be expected to develop a broad knowledge of the scope, impact, and biological basis of mental illnesses, a specific knowledge of the advanced techniques used to study these illnesses, and an understanding of recent and groundbreaking novel research in the field.

Advance registration through the FAES office, <http://www.faes.org/> located on the NIH campus (301-496-7976), is required. The cost of the course is \$345.00, which can be reimbursed through your laboratory or branch if approved by your supervisor; there is a fee for cancellation.

Target Audience: Audience will be composed of health professionals, biomedical researchers, practicing physicians, physician scientists, and psychologists.

Accreditation and Credit Designation Statements

Physicians: The NIH/FAES is accredited by the Accreditation Council for Continuing Medical Education to provide continuing medical education for physicians. The NIH/FAES designates this educational activity for a maximum of 42 category 1 credits toward the AMA Physician's Recognition Award. Each physician should claim only those credits that he/she actually spent in the activity. ■

Continued from page 1

Circuit Court Judge Michael Mason, who heard the case in July 2003, rejected the BoP's absolutist view that whenever it issues a subpoena for mental health records it can get them, even when the patient objects. Judge Mason ruled that, in each case, the need of the BoP must be weighed against the need to preserve the confidentiality of the records.

The Washington Psychiatric Society will again join colleague organizations in filing an amicus curia brief with the Circuit Court. Already the American Psychiatric Association has committed to support the brief both in name and financially. Also committed are the American Association of Practicing Psychiatrists, the Mississippi Psychiatric Association and the American Psychoanalytic Association. The brief will make clear that the principle of confidentiality is the cornerstone on which psychiatrist/patient relationships are built. Without the guaranteed sanctity of that relationship and the trust that it creates, patients will be unwilling to share

their innermost thoughts and feelings with the psychiatrists, thereby hindering their care. As with the previous two amicus briefs, WPS financial support will come exclusively from voluntary donations to the Confidentiality Fund. Members and other psychiatrists who wish to support the brief may send a check payable to WPS and marked "confidentiality" to the Society at 3615 Wisconsin Ave, NW/ Washington, DC 20016. ■

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The Washington Psychiatric Society and the American Psychiatric Association Present The Interface of Psychiatric and Somatic Medicine

Saturday, September 24, 2005
9:00 a.m. – 1:00 p.m.
George Washington University
Hospital
900 23rd St, NW (23rd St NW at
Washington Circle)
Washington, DC

Presenters:

Helene Emsellem, MD

“Disorders of Sleep and
Wakefulness”

Perry Richardson, MD

“Opening Doors on Chronic Pain”

Thomas Hyde, MD

“Practical Neuroimaging for the
Psychiatrist”

CME accredited for up to 4.0
Category 1 credits

This activity has been planned and
implemented in accordance with the
Essential Areas and policies of the
Accreditation Council for Continu-
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medical education for physicians.

The APA designates this educational
activity for a maximum of 4.0
category 1 credits toward the AMA
Physician’s Recognition Award and
for the CME requirement of the
APA. Each physician should claim
only those credits that he/she
actually spent in the activity. ■

Register Now – Complete this form and send to:

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Fax 202-244-6110

You may register by email to
whill@wdcpsych.org

In the message box type your name
and Register Interface Sept 24

Name _____

Address _____

City _____ State _____ Zip _____

Telephone _____

Email _____

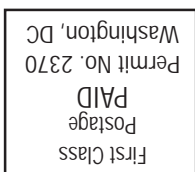
Check the appropriate box below

WPS Member \$30

APA Member of another District Branch \$45

Non WPS/APA Member \$60

Your check payable to Washington Psychiatric Society may be included with
your registration or you may pay at the door.



THE WASHINGTON PSYCHIATRIC SOCIETY

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www.dcpsych.org

