

# Midyear Meeting In Los Angeles

*ABA addresses international and national issues*

By Scott M. Karson

This past February, I had the privilege of representing the Suffolk County Bar Association as its delegate to the American Bar Association House of Delegates at the ABA's 2008 Midyear Meeting in Los Angeles. The 536-member House of Delegates, the ABA's policy-making body, is comprised of delegates elected by ABA members in each state, as well as delegates from every state bar association and larger local bar associations (including the SCBA), and ABA sections and divisions. The House roster includes more than 40 delegates from the State of New York.

At its meeting in Los Angeles, the House, under the leadership of its Chair, Laurel G. Bellows of Illinois, took up a number of significant issues involving the practice of law and the administration of justice. Among them were the following:

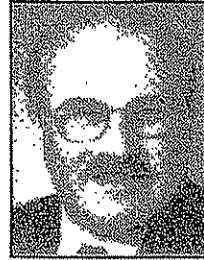
First, as previously reported in the February 2008 issue of *The Suffolk Lawyer*, the House unanimously adopted a resolution co-sponsored by the New York State Bar Association and presented by NYSBA Kathryn Grant Madigan expressing support for and solidarity with the judges and lawyers of Pakistan. The resolution calls upon President Musharraf of Pakistan to restore the country's con-

stitution, reinstate its supreme court and other judges to their respective courts and to release all judges and lawyers who have been wrongfully arrested and detained.

The House adopted another proposal co-sponsored by the New York State Bar Association, and also introduced by NYSBA President

Kate Madigan, urging federal, state and local legislatures and administrative agencies to develop and assess innovative long-term care programs such as the "Compact for Long-Term Care" as a reasonable and fair solution to the financing of long-term care. The resolution passed by the House expressly provides that the Compact is intended to be in addition to — and *not* a replacement for — Medicaid.

In the area of criminal justice, the House approved a resolution calling for the creation of special elder abuse units within prosecutors' offices or the designation of a specially trained prosecutor to handle elder abuse cases. The House also approved an amendment to the *ABA Model Rules of Professional Conduct* identifying a prosecutor's obligation when he/she knows of new evidence establishing a reasonable likelihood that a convicted defendant did not commit the



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offense of which he/she was convicted. In addition, the House adopted the black letter *ABA Criminal Justice Standards on Prosecutorial Investigations* to supplement the *ABA Criminal Justice Standards on the Prosecution Function*.

In the area of public legal education, the House enacted

a resolution encouraging efforts to increase understanding of the so-called "Religion Clauses" of the First Amendment to the United States Constitution (*i.e.*, the Establishment Clause and Free Exercise Clause) as they apply in public schools, and encouraging bar associations to assist public school officials to better understand and apply the Religion Clauses.

The House passed a resolution urging Congress to enact legislation promoting the provision of legal services to veterans and members of the Armed Forces to assist them in securing the full range of benefits and services to which they are entitled.

The House also enacted a resolution calling on each state to assign the redistricting process for congressional and legislative districts to independent commissions.

The House approved the *Model Act Governing Assisted Reproductive Technology* and recommends its consideration and adoption by appropriate legislative and other governmental bodies. The act addresses legal issues brought about by advances in reproductive technology, and attempts to clarify the rights and obligations of assisted reproductive technology patients, participants, parents, providers and the children resulting from the use of these new technologies.

On the issue of homeland security, the House approved a resolution supporting the issuance of federal regulations codifying the Department of Homeland Security Immigration and Customs Enforcement National Detention Standards, and supporting improvement, periodic review and increased oversight of detention standards implementation in order to ensure that detained non-citizens and their families are treated humanely and have meaningful access to counsel and the legal process.

Two issues before the House gave rise to particularly contentious debates. The first involved a proposal to adopt the *Model Rule on Conditional Admission to Practice Law*, which would provide for conditional admission to practice for

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lawyers who currently satisfy all essential eligibility requirements for admission to practice law and have demonstrated recent rehabilitation from substance abuse or successful treatment for mental or other illness. The issue which many delegates found troubling was the provision of the proposed model rule which would make the fact of conditional admission confidential, thereby preventing public disclosure (including disclosure to clients of the conditionally-admit-

ted attorney). The proponents of confidentiality argued that without it attorneys would simply not disclose the types of problems which conditional admission is intended to address, while those opposing confidentiality maintained that the public is entitled to know if a lawyer's license to practice is conditional and, if so, why. In the end the House agreed on a compromise, leaving it to the highest court of each state adopting the model rules to determine the question of confidentiality.

The other contentious issue involved legal education and the accreditation of law schools (the ABA has been designated as the sole law school accrediting authority in the United States). The House enacted a resolution concurring in the action of the Council of the ABA Section on Legal Education and Admissions to the Bar adopting an interpretation of the Standards for Approval of Law Schools pertaining to bar examination passage rates. This interpretation establishes several alternative means by which a law school can demonstrate compliance with bar passage standards necessary for accreditation.

In addition to the foregoing business, the House meeting featured remarks by ABA President William Neukom of Washington, who reported on the ABA's efforts in support of the judges and lawyers of Pakistan; to secure pay raises for the federal judiciary; to fight assaults on the attorney-client privilege; and to secure adequate funding for civil legal services. The House also heard from Carolyn B. Lamm of Washington, D.C., who was elected at the Midyear Meeting

by the ABA's Nominating Committee as the Association's President Elect Nominee.

One of the highlights of the midyear meeting was the Spirit of Excellence Awards luncheon sponsored by the ABA Commission on Racial and Ethnic Diversity in the Profession. Among the seven distinguished lawyers who were honored for their work in achieving racial and ethnic diversity in the legal profession was George Bundy Smith, a former Judge of the New York Court of Appeals.

This year's ABA Annual Meeting will be held on August 7-12, 2008 in New York City, providing an opportunity for SCBA members to attend some of the many educational programs and social events to be held in conjunction with the meeting. The schedule and registration information can be found at the ABA website.

*Note: The author is a partner at Lami & Barnosky, LLP in Melville. He concentrates his practice in municipal, commercial, land title and appellate litigation. He is a former president of the SCBA.*