

Commingling Money: 12 Questions for the ACA About the CHAMP / NCLAF Merger

By James Edwards, DC

The American Chiropractic Association (ACA) recently announced it was merging the National Chiropractic Legal Action Fund (NCLAF) and the Chiropractic Health Advocacy and Mobilization Project (CHAMP) into a single entity that will support both legal and legislative actions. While that action may seem unimportant, as a five-figure contributor, charter board member, and past chairman of the NCLAF, the announcement shocked me. Here's why I believe combining the two entities is a serious mistake.

Origins: Two Separate Missions

The NCLAF was formed in March 1999 when another board governor and I (a rookie ACA governor at the time) were summoned to meet with the three-member ACA Executive Committee. The meeting began with a surprising proclamation that it was the responsibility of the individuals in the room to raise \$5 million to legally overturn the Health and Human Services' (HHS) ruling that permitted MDs and PTs to provide subluxation care. By the end of the meeting (and after catching our breath), the NCLAF had been formed, along with a detailed strategy of how to accomplish the assigned mission by soliciting legal action funds from both ACA members and the profession as a whole.

The entire profession united as never before, with support coming from not only ACA members, but also hundreds of ICA members, Parker Seminars – and even WCA president Dr. Terry Rondberg, who contributed \$10,000 to the cause. After raising \$8 million, the ACA Board of Governors made the NCLAF a permanent, semi-autonomous, legal-action fund-raising entity in 2005 and adopted NCLAF Bylaws, which directed the entity to "build a litigation 'war chest' to be utilized *solely for legal actions.*" [Emphasis added]



In addition, the ACA ratified the new NCLAF officers (who were both ACA members and non-members); and an Advisory Committee was appointed that represented a broad spectrum of the chiropractic profession. The NCLAF has now raised approximately \$11 million, making it one of the most successful fund-raising efforts in the history of the chiropractic profession.

Now to the origins of CHAMP. With health care reform on the horizon, the proposed one-year campaign was created in 2009 to solicit funds from both ACA members and non-members in an effort to have the greatest impact possible in lobbying members of Congress.

In other words, while NCLAF was designed to solicit millions of dollars in funding from the entire profession solely for legal action, CHAMP was designed to solicit funds from the entire profession solely for legislative / lobbying activities. As separate, segregated funds, there was assurance the money would be spent on activities the contributor intended to contribute toward.

Before going any further, I want to stress in the strongest possible terms that I fervently believe in the separate missions of both fund-raising entities; and that each is deserving of the profession's generous financial support in order to protect and defend the rights of our patients – both legally and legislatively. But on June 30, 2014, the ACA cavalierly announced it was combining NCLAF and CHAMP funds, which will allow contributions to be spent on lobbying activities when the money was solicited for legal action, and vice versa. That is simply not right and for lack of a better description, borders on "bait and switch."

Three Primary Questions

To be candid, I am very concerned about the following three comments made in the ACA news release announcing the merger, because I believe they signal the true motivation:

1. "The merger vastly expands and improves the chiropractic profession's advocacy abilities both in the halls of Congress, where laws are made, *and in America's courtrooms*, where they are interpreted and enforced." [Emphasis added]

Q #1: Does the reference to "America's courtrooms" mean the new legal-legislative fund will be authorized to spend resources for the ACA to involve itself in state courts, as it did in New Mexico?

2. In the press release, ACA President Anthony Hamm, DC, then stated: "However, given the unprecedented challenges today, we must *increase our efficiency* to be successful in doing business and marshaling the support of the broad base of DCs serving on *the front lines* of health care." [Emphasis added]

Q #2: How does the merger "increase our efficiency" in any way, and on what basis can the ACA represent the "broad base of DCs" who have contributed?

3. ACA President Dr. Hamm concluded the release by stating, "However, the new NCLAF can serve as the profession's *national 'war chest'*, providing the resources *to fight those who wish to see chiropractic contained and diminished*." [Emphasis added]

Q #3: Does Dr. Hamm's use of the word *national* (instead of *federal*) indicate that funds will be used for state scope-of-practice efforts, and does the ACA consider doctors of chiropractic who wish to maintain chiropractic as a drug-free, non-surgical science among those "who wish to see chiropractic contained and diminished"?

In addition, there are many more important questions for which NCLAF and CHAMP contributors deserve answers.

Other Important Questions

Q #4: Were any NCLAF or CHAMP funds used to pay any part of the legal cost for the filing of the Amicus Brief on behalf of the pro-drug New Mexico Board of Chiropractic Examiners?

Q #5: Since the NCLAF has bylaws which prohibit using NCLAF funds for any purpose other than legal action, were its bylaws amended prior to the proposed merger, was the NCLAF board of directors consulted,

and did the board endorse this action?

Q #6: Since their respective formation, what are the amounts from NCLAF and CHAMP funds that have been transferred to the ACA to cover or offset association budgetary salaries and expenses?

Q #7: Who are the current officers and directors of NCLAF, and who are the current members of the NCLAF Advisory Committee?

Q #8: When was the last time the NCLAF Board of Directors and the NCLAF Advisory Committee met, and when was the last time either entity received a financial accounting?

Q #9: In the interest of transparency, what are the current NCLAF and CHAMP balances, when were the last financial audits of the entities, and how can stakeholder contributors obtain copies to review?

Q #10: Since the funding for NCLAF and CHAMP was contributed by a broad cross-section of the profession's members – many of whom are not ACA members and do not approve of the ACA's current direction – what moral standing does the ACA have to arbitrarily make funding decisions on their behalf?

Q #11: Some have suggested the proposed merger is an effort to dispense available NCLAF funds for ACA budgetary relief and/or for use in state scope-of-practice efforts. Will the ACA assure and promise the profession that not a nickel more will ever be used for either purpose?

Q #12: If the ACA proceeds with combining the two entities and commingles the funds – when contributors were solicited and made donations based on the original stated purpose of each fund – what procedure will be established for contributors to receive a refund of their contributions?

References

1. Edwards J. "That Was Then and This Is Now!" *ACA Today*, April 2005.
2. NCLAF Bylaws, Section 3.a. Adopted Jan. 11, 2005, with an effective date of March 1, 2005.
3. Edwards DC. "From 'Wartime' to Peacetime Buildup." *ACA Today*, May 2005.
4. "New Program Will CHAMPion Chiropractic in Congress." ACA news release, Oct. 13, 2009.
5. "New NCLAF 'War Chest' Supports Chiropractic's Legal, Legislative Advocacy." ACA news release, June 30, 2014.

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