

American Chiropractic Association

DEDICATED TO IMPROVING THE HEALTH AND WELLNESS OF AMERICA, NATURALLY.

November 15, 2005

Mr. George DeVries
American Specialty Health
777 Front Street
San Diego, CA 92101

Re: ACA's Communications to Its Own Members Concerning ASH

Dear Mr. DeVries:

This letter responds to your letter of October 7, 2005 ("Letter") concerning American Chiropractic Association's ("ACA") communications with its members and, in particular, ACA's e-mail communication of October 3, 2005 ("October 3rd e-mail").

Initially, we would like to point out that the antagonistic and threatening tone of your Letter does nothing to improve the relationship between ACA and American Specialty Health ("ASH"). If the purpose of your Letter was to intimidate ACA, rest assured that your Letter missed the mark. ACA will not be intimidated.

We now address each of the issues raised in your Letter in turn. First, as to your comment concerning ACA's "disparaging remarks" about Dr. Hegetschweiler, we point out that our October 3rd e-mail at no point mentions him. By contrast, despite ACA's repeated requests that ASH refrain from referring to Dr. Hegetschweiler by reference to his former position with ACA, your company continues to do so in various communications. As we have previously explained, ASH's references to Dr. Hegetschweiler's former position with ACA have resulted in a general misperception within the chiropractic community that ACA condones ASH's policies and practices. ASH has ignored our request and, in fact, your recent letter to Capital Blue Cross shows that ASH refuses to comply. Given your refusal to honor our request, ACA feels compelled to affirmatively disassociate itself from Dr. Hegetschweiler and will continue to do so in the future.

Second, your Letter asks ACA to provide copies of the written complaints that we have received from our members about ASH's policies and procedures. There are a myriad of reasons why ACA will not share our private communications with our members with ASH - not the least of which is our members' fears of ASH's retribution against them. Nevertheless, ACA has every right to collect this information from our members and, if necessary, to pursue legal avenues in search of a remedy on our members' behalf. ACA has no obligation to provide you with copies of our members'



1701 Clarendon Boulevard, Arlington, VA 22209
(703) 276-8800 Fax: (703) 243-2593 www.acatoday.com Email: memberinfo@amerchiro.org

complaints concerning ASH.

Third, ACA disagrees with your contention that our statement concerning the “numbers of patients that are being hurt” by ASH’s policies or practices is “false” or “defamatory.” To the contrary, ACA’s October 3rd e-mail, which, again, was sent to our own members, contains the factually supported opinions of our organization’s leadership. As such, ACA will not retract our statements concerning patient care or any other statement or communication made to our members.

Fourth, you take issue with the refusal of Dr. Richard Clark to communicate with ASH based upon ACA’s request that he not do so. Dr. Clark, ACA’s Delegate from Georgia, was correct that ACA has asked all of its delegates, representatives, officers and directors to refrain from communicating directly with ASH without legal counsel present. It is ACA’s opinion, based upon our experiences with your company, that ASH will exploit any connection to ACA that it can. As such, we do not want our organization’s leadership communicating with ASH without counsel present.

Fifth, with regard to the California Chiropractic Association’s (“CCA’s”) case against ASHP, ACA believes that your characterization of the case is grossly flawed. ACA does not believe that CCA’s litigation has “completely failed.” In fact, in ACA’s opinion, nothing could be farther from the truth.

As you are undoubtedly aware, ASHP changed many of its business practices in direct response to the complaint filed by CCA. We believe that these changes in business practices demonstrate the success of the litigation. Moreover, although the California Superior Court recently ruled that CCA cannot proceed with a class litigation for injunctive relief against ASHP, CCA has the right to appeal the Superior Court’s decisions and, as such, the dismissals of CCA’s injunctive relief claims are not final. As your attorneys have surely informed you, appeals in this matter could take months, even years. Given that fact, and because CCA’s litigation is ongoing, we do not believe that it is appropriate to comment on the “evidence” produced during the course of CCA’s litigation. Nevertheless, suffice it to say that ACA does not believe that CCA’s claims are “meritless.” Lastly, as you are undoubtedly aware, several of CCA’s arbitable claims for monetary relief have been stayed pending the outcome of litigation. Since it is our understanding that CCA and several individual chiropractors have every intention of arbitrating those claims on their behalf and on behalf of a class, CCA’s case against ASHP remains far from over.

I remind you that ACA’s mission is to “preserve, protect, improve and promote the chiropractic profession and the services of Doctors of Chiropractic for the benefit of patients they serve.” In our opinion, your company’s policies and procedures harm Doctors of Chiropractic as well as their patients and, therefore, fly in the face of our mission. Notably, I have had a chance to review ASH’s company’s filings with the California Department of Managed Care. From 2002 through 2004 ASH received in payments and other income a total of over \$208,000,000.00. Of that net income, ASH paid Doctors of Chiropractic approximately \$98,000,000.00 or approximately 47%. The remaining 53% your company kept for salaries, expenses and profit. ASH has clearly

profited from the work of Doctors of Chiropractic; unfortunately, chiropractors have not fared as well.

Despite our disagreements, I do appreciate your expression that your "door is open" to discuss these matters. If you are truly open to the possibility of resolving the points of contention between us, we would be happy to attempt to do so with counsel present. Accordingly, I will instruct our attorneys to invite such a meeting through your counsel.

Sincerely,

Richard M. Brassard D.C.

Richard Brassard, D.C.
ACA President

cc: ACA Board of Governors
Kevin Corcoran, ACA Executive Vice President
Tom Daly, Esq.
Edith M. Kallas, Esq.
Joseph P. Guglielmo, Esq.
Patrick J. Sheehan, Esq.
Hannah K. Kiernan, Esq.