

We Get Letters & E-Mail

"Who better to pay for back-cracking than the taxpayer?"

Dear Editor:

Dr. Wilk wrote an article in your paper suggesting we persuade Rush Limbaugh to become a promoter of chiropractic. In a subsequent issue of your paper, Dr. Russell Gibbons wrote and offered an emotional rebuttal to the Limbaugh idea. Next, Dr. Rich Roth opined that some of Dr. Gibbons' ideas come from "left field."

Is there any way we could get Mr. Limbaugh's input on this idea? Yes!

In the April, 1994 issue of The Limbaugh Letter, in "Special Section: The Pork You're Buying," we read, "... Folks, hidden in the 1994 appropriations bills are billions of dollars of nonsense ... According to the Citizens Against Government Waste, nearly 6 billion of your tax dollars will be squandered on such, shall we say, dubious government projects this year. Here are some of the most absurd:"

"\$1 million: chiropractic demonstrations at the Palmer Chiropractic School in Davenport, Iowa."
Limbaugh's wisecrack addendum: "Who better to pay for back-cracking than the taxpayer?"

Call me cynical, but I do not think Rush Limbaugh will become a friend of chiropractic.

Gerald W. Howe, DC
Eldon, Missouri

Just Pay Us for the X-rays

I keep seeing the ACA bragging about getting the Medicare x-ray requirement removed.

I've been in practice 30 years, and I don't ever want to see a Medicare age person without an x-ray.

The only thing we need is Medicare to reimburse us for the x-ray.

Leroy Wilson, DC
Lee's Summit, Missouri

Developer or Enveloper?

Dear Editor:

In your April 7 issue, FCER Executive Director Stephen Seater, CAE wrote:

"Until proven otherwise, I believe there is much to be said about B.J. Palmer's unique approach to disease, i.e., that mechanical forces which affect the spine can cause perturbations of the nervous system ..."

Mr. Seater continued:

"[B.J.] Palmer also recognized that biochemical and psychic factors are important causes of disease. It is because of this recognition on his part that chiropractors are educated as physicians who can differentially diagnose and promote total wellness in a large variety of nondrug, nonsurgical ways ..."

Stephen Seater has confused the founder of the science of chiropractic, Dr. D.D. Palmer, with the son, B.J. Palmer, DC, PhC.

Here is one of the nicer things D.D. wrote about B.J.: "Really -- what did 'this boy' discover in regard to the cause of disease? Who would then have thought that 'this boy' would have proved to be a sneak thief; that he would try to appropriate the credit of originating the principles of this science¹ ... Little did I think then that my own son would play the Judas, put me in prison, rob me financially and of credit justly due me."²

It was D.D. Palmer who wrote that the cause of all disease -- including vertebral subluxation -- is mechanical, chemical and psychic irritation of the nervous system from the external environment; and this fundamental hypothesis of chiropractic may be found in the 27th and 28th editions of Dorland's Illustrated Medical Dictionary. It is in Dorland's because years after D.D. said it, it was enshrined in an essay called "The Highest Obligation" by Drs. W.D. Harper, Joseph Janse, Helmut Bittner, Clarence Weiant and Earl Homewood. After which, Dr. W.D. Harper reprinted it in his text Anything Can Cause Anything "just in case it gets lost in the fast political shuffle of chiropractic."

Very early on, the true developer of chiropractic, Dr. D.D. Palmer, identified his son B.J. as "the enveloper" of chiropractic. B.J. called himself "the developer" anyway and for years hid the fundamental hypothesis of chiropractic from the profession.

When D.D.'s grandson finally published D.D.'s work, he wrote in the preface, "I have long recognized my grandfather's writing as basic to a full understanding and appreciation of our chiropractic philosophy ..."

We all need to recognize what D.D.'s grandson finally recognized.

Reference

1. Palmer D.D. The Science, Art and Philosophy of Chiropractic. Portland, OR: Portland Printing House Co., 1910.

Todd D. Gastaldo, DC
Hillsboro, Oregon
E-mail: gastaldo@gte.net

More Confusion over Codes

Dear Editor:

In the last two issues of *Dynamic Chiropractic*, there has been a two part series by K.S.J. Murkowski, DC, on his opinion regarding the new CMT codes. I would challenge anyone to read the description on page 372 of CPT '97 pertaining to CMT and show me where it states that these codes are only for Medicare. If this was the case, why would 98943 (extraspinal) exist since it is not a covered procedure? Obviously, some of the codes are being used by Medicare, but they are not exclusively for that program.

Medicare with A2000 did provide the mechanism to create the new CPT codes and to attempt to achieve a most needed uniformity in reporting our services to third party payors. Dr. Murkowski, it appears, prefers to maintain the status quo which creates confusion and makes for a billing nightmare for all chiropractic offices.

Larry E. Stout, DC
Dodge City, Kansas

Editor's note: Please see "[Clarifying the CMT Codes.](#)"

Whose Side is the ACA on?

Dear Editor:

Regarding the article "CCSP -- You Earned It, But Can You Keep It?" (*Dynamic Chiropractic*, April 7, 1997), I am appalled. If the ACA can unilaterally claim trademark rights on earned degrees, what is to keep any institution of higher learning from claiming such a right to the degrees it grants and then later holding the use of that degree hostage to membership in, say, that college's alumni association?

After almost 40 years with the NCA/ACA, I discontinued my membership several years ago because of general disappointment with its performance. If I were minded to rejoin, the ACA has now given me a whole new reason not to do so. I would not want my dues to be used to buy more Hitlerian jackboots to stomp on the rights of the profession it claims to represent.

As Pogo said years ago, "We have discovered the enemy, and he is us." The ACA (read American Chiropractors Adversary in this case) should be ashamed.

W.M. Holland, DC
Caseyville, Illinois

CCSP Trademarks, Take II

Dear Editor:

I feel obligated to state that I am one of those thousands of CCSPs (or perhaps I should use the designation CCSPA to acknowledge the ACA's apparent right to register, but would reserve my apparent right to use) to whom the CCSP article was directed (not a member of the ACA). I would like for the others who are in this position to know about some information I found on the web site of the U.S. Patent and Trademark Office at:

http://www.uspto.gov/web/offices/tac/doc/basic/basic_facts.html

All information in quotes is taken verbatim from that location.

Establishing Trademark Rights

"Trademark rights arise from either (1) actual use of the mark, or (2) the filing of a proper application to register a mark in the Patent and Trademark Office (PTO) stating that the applicant has a bona fide intention to use the mark in commerce regulated by the U.S. Congress. (See below, under 'Types of Applications,' for a discussion of what is meant by the terms commerce and use in commerce.)

"Federal registration is not required to establish rights in a mark, nor is it required to begin use of a mark. However, federal registration can secure benefits beyond the rights acquired by merely using a mark. For example, the owner of a federal registration is presumed to be the owner of the mark for the goods and services specified in the registration, and to be entitled to use the mark nationwide.

"There are two related but distinct types of rights in a mark: the right to register and the right to use. Generally, the first party who either uses a mark in commerce or files an application in the PTO has the ultimate right to register that mark. The PTO's authority is limited to determining the right to register. The right to use a mark can be more complicated to determine. This is particularly true when two parties have begun use of the same or similar marks without knowledge of one another and neither has a federal registration. Only a court can render a decision about the right to use, such as issuing an injunction or awarding damages for infringement. It should be noted that a federal registration can provide significant advantages to a party involved in a court proceeding. The PTO cannot provide advice concerning rights in a mark. Only a private attorney can provide such advice.

"Unlike copyrights or patents, trademark rights can last indefinitely if the owner continues to use the mark to identify its goods or services. The term of a federal trademark registration is 10 years, with 10-year renewal terms. However, between the fifth and sixth year after the date of initial registration, the registrant must file an affidavit setting forth certain information to keep the registration alive. If no affidavit is filed, the registration is canceled.

"The PTO does not conduct searches for the public to determine if a conflicting mark is registered, or is the subject of a pending application, except as noted above when acting on an application. However, there are a variety of ways to get this same type of information. First, by performing a search in the PTO public search library. The search library is located on the second floor of the South Tower Building, 2900 Crystal Drive, Arlington, Virginia 22202. Second, by visiting a patent and trademark depository library. These libraries have CD-ROMs containing the trademark database of registered and pending marks. Finally, either a private trademark search company, or an attorney who deals with trademark law, can provide trademark registration information. The PTO cannot provide advice about possible conflicts between marks."

As for the DC commenting about use outside the U.S., here is some information for him:

"A United States registration provides protection only in the United States and its territories. If the owner of a mark wishes to protect a mark in other countries, the owner must seek protection in each country separately under the relevant laws. The PTO cannot provide information or advice concerning protection in other countries. Interested parties may inquire directly in the relevant country or its U.S. offices or through an attorney."

With this information in mind a few interesting questions come to mind:

1. On what date did the ACA receive its trademark registration for the CCSPA? Perhaps one of the CCSPAs in Washington, DC or Arlington, Virginia could look up this information and get back to us, as it's not yet available through the net.
2. If this date, as I was lead to believe by the article, was after the beginning of the issuance of the CCSPA, do those of us who were granted the title prior to that date have a "right to use" as described above?
3. For those receiving the title after the registration, were they made aware that there were "conditions" to its use (when I was conferred the title in 1987, I was informed at that time that there were no conditions to using the title, not even continuing education requirements)?
4. Why has the "AE" symbol not been used to alert everyone to the registered status of this set of letters and the intention to enforce the registration? Should it be from now on?
5. Do those of us who had received the title prior to its registration have any legal rights or recourse, should the ACA decide to take some of us to court over this issue? Specifically, a class action suit for infringement on our apparent "right to use" as outlined in the quoted text above? (It is not my intent to harm the ACA in any way; I'm merely interested in protecting myself against what, in my opinion, would be an obviously frivolous lawsuit on the part of the ACA, but then again, I'm no lawyer! This is a no win situation for the ACA, or can they not see that?)
6. Is there an issue here in that those of us who took, and paid for, the coursework, invested our time and resources to sitting for and passing the certification examination all in good faith, are being dealt with fairly?

I can understand the ACA's position of trademarking these initials and designations to protect the integrity of them (so no other association or group could use them with certification requirements lower than those of the ACA), but to attempt to enforce a restriction on those whom the title has been conferred upon, in my opinion, is not in the best interest of the profession, at best, and unethical at worst. I must also state that I feel very betrayed by the ACA for what is, in my opinion, an obviously desperate attempt to increase membership by force, thus increasing revenues! I am reminded why I do not hold membership in the ACA!

If the ACA were truly interested in what is best for the profession, the Board of Governors would issue a statement that no legal action will be taken against any individual DC, those on whom the title has been conferred can continue to utilize it, and that this was all just a big misunderstanding. This will prevent an almost assured further splitting of our very noble profession.

Just because one holds a patent, copyright, or trademark does not mean it must be enforced. It may only need to be enforced if the protected object, work or logo is being abused, misused, or another

attempts to make a profit off of it!

Stephen W. Vaitl, DC

Certified Chiropractic Sports Physician

Certified Chiropractic Extremity Practitioner

E-mail: docv@sound.net

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