Corporation for the Advancement of Psychiatry

1400 K Street, Northwest
Washington, D.C. 20005
(202) 682-6320

Supplement to
AOR 1997-24

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TO:	N. Bradley Litchfield Office of General Counsel Federal Election Commission
FROM:	Debbie Campbell Assistant Secretary Corporation for the Advancement of Psychiatry
DATE:	January 16, 1998
RE:	Advisory Opinion Request

Please find the attached memo and documentation as a response to letter of November 3, 1997. I apologize for the delay in getting this information to you and look forward to your clarifying advisory opinion.

Corporation for the Advancement of Psychiatry
Political Action Committee

1400 K Street, Northwest
Washington, D.C. 20005
(202) 682-6320

January 15, 1997

Mr. N. Bradley Litchfield
Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington, DC 20463

Dear Mr. Litchfield:

I am writing in response to your letter of November 3, 1997, requesting additional information about the Corporation for the Advancement of Psychiatry in connection with its Advisory Opinion Request of October 21, 1997.

In your letter, you indicated that certain organizations (*e.g.*, Arizona Psychiatric Society, the Washington Psychiatric Society) have claimed on web sites and elsewhere, either to be related to CAP or to be soliciting contributions for CAP. We were totally unaware, until we received your letter, that these organizations were making such claims and we appreciate you bringing this matter to our attention. As detailed below, at no time did we give any organization permission to affiliate, join, or otherwise associate with us, or to raise funds on our behalf. Based on the information that you provided to us, we have asked these organizations to delete or remedy incorrect reference to CAP in their communications. Each organization has agreed to do so. (See enclosed copies).

The following is in response to the specific questions that you asked in your letter:

1. American Psychiatric Association (APA). The APA is not affiliated with CAP and the statement in the APA's web page that it created CAP is not correct. No officer or director of the APA is an officer or director of CAP or CAPPAC. Conversely, no officer or director of CAP is an officer or director of the APA.

Also, CAP and the APA have different membership policies and different memberships. As I understand it, APA membership is limited to physicians and medical students, except for honorary, non-voting members. CAP membership is not so limited.

CAP has no role whatsoever in the governance of the approximately 40,000 member American Psychiatric Association. Conversely, the APA has no role whatsoever in the governance of CAP and no role in deciding which candidates are to receive CAPPAC contributions. The governance of CAP and CAPPAC is vested exclusively in its officers and board of directors, none of whom, as noted above, is an officer or director of the APA. *(See attached by-laws and articles of incorporation of CAP.)*[1]

2. American Psychiatric Foundation, Inc. *et. al.* CAP has no relationship whatsoever with the American Psychiatric Foundation, Inc., the American Psychiatric Association Auxiliary, and the American Psychiatric Press, Inc.

3. Administrative Support and Solicitations. CAPPAC derives its administrative support from CAP; no entity is authorized to make solicitations for or on behalf of CAPPAC. Your letter was the first to call our attention to the solicitation message that appeared on the Arizona Psychiatric Society's home page. (See attached letter to the Arizona Psychiatric Society).

4. Contemplated Dissolution. The Board is considering dissolving CAP for a variety of reasons. It has become increasingly difficult for small interest groups, such as CAP, to effectively compete for members with the larger mental health organizations and therefore, from a business perspective, dissolution appears to be an appropriate option.

5. WPSPAC *et. al.* CAPPAC has no relationship with WPSPAC or any other corporate PAC. You noted in your letter that WPSPAC indicated in its FEC filing, that it is a "District Branch" of CAP. CAP has no district branches and neither WPS nor WPSPAC is in any way affiliated, connected, or otherwise associated with CAP. Indeed, I was unaware that WPSPAC even existed until I received your letter. We understand the WPSPAC has corrected the record. (See attached letter to WPSPAC).

Sincerely yours,

Gerald H. Flamm, M.D.

Gerald H. Flamm, M.D.
Treasurer
CAPPAC

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[1]CAP will amend its by-laws and articles of incorporation, consistent with District of Columbia law , to permit CAPPAC to retain the contributions that it received upon the dissolution of CAP, if permitted by the requested Advisory Opinion. We understand that the FEC's Advisory Opinion will only address matters arising under the Federal Election Campaign Act of 1971, as amended, and will not address matters arising under D.C. corporation law.

BYLAWS

OF THE

CORPORATION FOR THE

ADVANCEMENT OF PSYCHIATRY

The following shall be the bylaws of the above Corporation, a nonprofit corporation organized under the District of Columbia Business Corporation Act, and hereinafter called the "Corporation."

ARTICLE I

PURPOSES

SECTION 1. To promote social justice and further human welfare through the advancement of psychiatry; to advance the interests of psychiatry in public forums; to represent the interests of psychiatry before legislative and other governmental bodies; and to undertake corporate activities in furtherance of these purposes.

SECTION 2. All such activities shall be carried out in a manner fully consonant with the Corporation's tax-exempt status under D.C. and federal law.

ARTICLE II

MEETINGS OF THE CORPORATION AND OF BOARD OF DIRECTORS

SECTION 1. Except as may be otherwise provided by law, or by the Articles of Incorporation, or by these bylaws, the number, qualifications, rights, privileges, dues, fees, responsibilities, and the provisions governing the withdrawal, suspension, and expulsion of directors shall be determined by the Board of Directors.

Except as may be otherwise required by law, or by the Articles of Incorporation, or by these bylaws, any right of directors to vote and any right, title, and interest in or to the Corporation, and its properties and franchises, shall cease and divest on termination of his or her directorships.

SECTION 2. The annual meeting of the Corporation, commencing with the year 1981, shall be held at the principal office of the Corporation, or at such other place within or without the District of Columbia as may be designated in the notice of said meeting, in the month of May of each year for the purpose of electing directors and for the transaction of such other business as may properly be brought before the meeting.

SECTION 3. Special meetings of the Corporation shall be held at the principal office of the Corporation, or at such other place within or without the District of Columbia as may be designated in the notice of said meeting, upon call of the Board of Directors or of the President, at such time as may be fixed by the Board of Directors or the President, as the case may be, and as shall be stated in the notice.

SECTION 4. Notice of the purpose or purposes and of the time and place of every meeting of the Corporation shall be in writing and signed by the Secretary or an Assistant Secretary, and a copy thereof shall be served, either personally or by mail, not less than 10 days before the meeting, upon each person entitled to vote at such meeting. Such further notice shall be given as may be required by law. Except as may be otherwise expressly provided by statute, no publication of any notice of a meeting shall be required. No notice of an adjourned meeting need be given unless it shall be expressly required by statute. All meetings may be held without notice and without the lapse of any period of time, if at any time before or after such action be completed such requirements be waived in writing by the person or persons entitled to said notice or entitled to participate in the action to be taken or by his attorney thereunto authorized.

SECTION 5. Meetings shall be presided over by the President, or if he or she is not present, by a Vice-President, or if neither the President nor a Vice-President is present, by a Chairman to be chosen at the meeting. The Secretary of the Corporation, or in the Secretary's absence, an Assistant Secretary, shall act as Secretary of every meeting; but, if neither the Secretary nor an Assistant Secretary is present, the meeting shall choose any person to act as Secretary of the meeting.

SECTION 6. Every person entitled to vote at any meeting must be present and shall be entitled to one vote. At all elections of directors, the voting may but need not be by ballot, and a plurality of the votes cast thereat shall elect.

ARTICLE III

DIRECTORS

SECTION 1. The property, affairs, and business of the Corporation shall be managed by its Board of Directors, consisting of nine (9) directors.

The members of the first Board of Directors shall be those persons named in the Articles of Incorporation of the Corporation. Their initial terms shall be for one, two, or three years, so that the number of directors serving for each such period shall be the same. Subsequently, directors shall be elected at the annual meeting of the Corporation, and each director shall be elected to serve for three years and until his or her successor shall be elected and shall qualify; provided, however, that failure to elect directors at the time designated therefor shall not work any forfeiture or dissolution of the Corporation. If and when the number of directors shall be increased, the additional directors then to be elected shall be elected by a majority of the directors in office at the time of the increase, or if not so elected prior to the next annual meeting of the Corporation, they shall be elected at such meeting.

A majority of the members of the Board of Directors then acting, but in no event less than one-third nor less than two of the number of directors authorized, at a meeting duly assembled, shall constitute a quorum for the transaction of business, but if at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting, without further notice, from time to time until a quorum shall have been obtained.

In case one or more vacancies shall occur in the Board of Directors by reason of death, resignation or otherwise, the remaining directors, although less than a quorum, may, by a majority vote, elect a successor or successors for the unexpired term or terms. A vacancy in the Board of Directors for the purposes of this Section shall be deemed to exist whenever the directors increase their number by an amendment to these bylaws or whenever the Corporation shall fail to elect directors.

SECTION 2. Meetings of the Board of Directors shall be held at such place within or outside the District of Columbia as may from time to time be fixed by resolution of the Board of Directors, or as may be specified in the notice of the meeting. Regular meetings of the Board of Directors shall be held at such times as may from time to time be fixed by resolution of the Board of Directors, and special meetings may he held at any time upon the call of the President by oral, telegraphic, or written notice duly served on or sent or mailed to each director not less than two days before such meeting. Notice need not be given of regular meetings of the Board of Directors held at times fixed by resolution of the Board of Directors.. Meetings may be held at any time without notice if all the directors are present, or if at any time before or after the meeting those not present waive notice of the meeting in writing.

SECTION 3. The Board of Directors may, in its discretion, by the affirmative vote of a majority of those members of the Board of Directors present at which such vote takes place, appoint committees, including an Executive Committee and/or Advisory Board, which shall have and may exercise such powers as shall be conferred or authorized by the resolutions appointing them. The Executive Committee shall be composed of more than two members, may determine its action and fix the time and place of its meetings, unless the Board of Directors shall otherwise provide. The Board of Directors shall have power at any time to fill vacancies in, to change the membership of, or to discharge any such committee.

SECTION 4. At any special meeting of the Corporation, duly called as provided in these bylaws, any director or directors may by the affirmative vote of a majority of all those entitled to vote in the election of directors be removed from office, either with or without cause, and his successor or their successors may be elected at such meeting or the remaining directors may, to the extent vacancies are not filled by such election, fill any vacancy or vacancies created by such removal.

ARTICLE IV

OFFICERS

SECTION 1. The Board of Directors, initially and as soon as may be after the election thereof held in each year, shall elect a President, a Vice-President, a Secretary and a Treasurer, and from time to time shall appoint one or more additional Vice-Presidents and such Assistant Secretaries, Assistant Treasurers and such other officers, agents and employees as it may deem proper, including an Executive Director. More than two offices, other than the offices of the President and Secretary/Treasurer, may be held by the same person. Any one of the officers may, but need not, be chosen from among the directors.

SECTION 2. The term of office of all officers shall be one year and until their respective successors are elected and qualify, but any officer may be removed from office, either with or without cause, at any time by the affirmative vote of a majority of the members of the Board of Directors then in office. A vacancy in any office arising from any cause may be filled for the unexpired portion of the term by the Board of Directors.

SECTION 3. The officers of the Corporation shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as from time to time may be conferred by the Board of Directors. The Vice-President or Vice-Presidents, the Assistant Secretary or Assistant Secretaries and the Assistant Treasurer or Assistant Treasurers shall, in the order of their respective seniorities, in the absence or disability of the President, Vice-President, Secretary or Treasurer respectively, perform the duties of such officer and shall generally assist the President, Secretary or Treasurer respectively.

ARTICLE V

INDEMNIFICATION

Every person who is or shall be or shall have been a director or officer of the Corporation and his personal respresentatives shall be indemnified by the Corporation against all costs and expenses reasonably incurred by or imposed upon him in connection with or resulting from any action, suit or proceeding to which he may be made a party by reason of his being or having been a director or officer of the Corporation or of any subsidiary or affiliate thereof, except in relation to such matters as to which he shall finally be adjudicated in such action, suit or proceeding to have acted in bad faith and to have been liable by reason of willful misconduct in the performance of his duty as such director or officer. "Costs and expenses" shall include, but without limiting the generality thereof, attorney's fees, damages and reasonable amounts paid in settlement.

ARTICLE VI

FISCAL YEAR

The fiscal year of the Corporation shall begin on the 1st day of January of each year and shall end on the 31st day of December next following, unless otherwise determined by the Board of Directors.

ARTICLE VII

CORPORATE SEAL

The official seal of the Corporation shall have inscribed thereon the name of the Corporation and shall be in such form and contain such other words and or figures as the Board of Directors shall determine. The official seal may be used by printing, engraving, lithographing, stamping or otherwise making, placing, or affixing, or causing to be printed, engraved, lithographed, stamped or otherwise made, placed or affixed, upon any paper or document, by any process whatsoever, an impression, facsimile, or other reproduction of said official seal.

ARTICLE VIII

AMENDMENTS

The bylaws of the Corporation may be amended, added to, rescinded or repealed at any meeting of the directors by affirmative vote of two-thirds of all directors.

I HEREBY CERTIFY that the foregoing in a full, true and correct copy of the bylaws of the aforenamed Corporation, a District of Columbia nonprofit corporation, as in effect on the date hereof.

WITNESS my hand and the seal of the Coproration.

Date: 2/18/81

John Thee Griffin
Secretary