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Mergers: Remain open to possibilities

“Be open to opportunities to expand your impact,” said Scott Bowling, president and CEO of the Exceptional Children’s Foundation (ECF), a Los Angeles–based nonprofit organization dedicated to serving children and adults with developmental and other disabilities.

During strategic planning sessions that took place in 2004, Bowling and the ECF board developed an objective to expand their impact through mergers and acquisitions (*NBA 252*).

“That objective gave me permission from the board of directors to be open to those possibilities as they surfaced,” he said.

Back then, a colleague of Bowling’s was the then CEO of the Kayne Eras Center, an organization designed to holistically meet the wide range of needs of children with learning and developmental disabilities and their families. The colleague told Bowling he was leaving to pursue other opportunities, and Bowling immediately asked if the Kayne Eras Center was interested in becoming a part of the Exceptional Children’s Foundation.

“He told me he couldn’t speak for them, but several weeks later I received a call from the new interim CEO of the Kayne Eras Center,” said Bowling, “and we started talking right there about ways we could

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Big Easy study: City improves, residents brace for oil-spill impact

According to a new comprehensive survey by the Kaiser Family Foundation of the lives and attitudes of New Orleans residents half a decade after Hurricane Katrina, residents report good progress on rebuilding efforts, but many hesitate to call it a full recovery and fear the rest of the country has forgotten about them.

The third survey in Kaiser’s series carried out in the aftermath of Hurricane Katrina, “New Orleans Five Years After The Storm: A New Disaster Amid Recovery,” also found residents concerned about the size and proximity of the Gulf oil spill. Researchers said that when they asked locals to consider which disaster caused the most damage, more people chose the oil spill than picked Katrina and the levee breaks.

To read the complete survey, including more about residents’ experiences, living conditions and attitudes toward the cleanup, go to www.kff.org/kaiserpolls/upload18089.pdf. ■



MERGERS (continued from page 1)

collaborate or even come together. In 2007, after extensive due diligence on both sides, both boards agreed to a definitive merger agreement.”

That agreement dissolved the Kayne Eras Center—which had an excellent reputation for providing nonpublic school and therapeutic services to children and their families—as a separate 501(c)(3) organization and folded it in as a division of the Exceptional Children’s Foundation, the CEO said.

“We worked under that agreement for about eight months while the legal work was being done, and on July 1, 2008, the merger was legally consummated,” Bowling said. “We’ve been one ever since.”

There were several reasons the organizations came together, the CEO said, including:

- **Mission.** By pulling together, the organizations created a service provider like no other in the state

of California. ECF is currently the only organization that can “walk through” a person with disability’s life. “We have a lifes pan continuum, and it’s already shown to be helpful,” Bowling said, “as several of our people have graduated from our Kayne Eras Center and gone right into one of our residential, work or arts programs.”

- **Economies of scale.** Due to the current economic climate, Bowling said that ECF—like many organizations—is streamlining wherever possible. “You don’t need two CEOs, two CFOs and you don’t need two HR directors,” he said. “There were lots of economies of scale that we’ve been able to actualize, and our administrative overhead is at 11 percent, meaning that 89 cents out of every dollar goes right to programs.”

- **Diversification of funding streams.** Before the merger, ECF had never been able to tap into school district funding. Today, it’s 30 percent of their budget. “This was good because all of our funding eggs are not, so to speak, in the state of California basket. Before the merger, 70 percent of our funds came from the state department of developmental services and now it’s only 40 percent,” Bowling said. The organization now has a variety of funders, including the state department of developmental services, school districts, Medi-Cal, service and product contracts, janitorial services, and HUD. Bowling said the Kayne Eras Center’s supporters were also a welcome addition and are helpful during annual fundraising activities.

The president and CEO was quick to emphasize that completing a merger is never an easy process. Both organizations faced challenges, especially when it came to the blending of cultures. Bowling said these issues were addressed through:

- **Board participation.** Changes within each organization had to be made at both the board and staff level in order for the merger to be successful. For instance, ECF changed its by-laws so that it could add six Kayne Eras Center board members to its own board, ensuring a voice for the Kayne Eras Center stakeholders. The board participation policy was also revised to include a \$2,500 “get or give” clause. This turned out great for ECF, Bowling said, because it had never had a policy like this in place before. Today, board members understand they are expected to donate or assist with fundraising activities.

- **Staff participation.** Staff members from both organizations were asked to review personnel policies, and a “Merger Integration Task Force” was developed to address employee concerns and ideas.

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- **“Coming Together” events.** The entire ECF/Kayne Eras staff came together to meet, and every member of each program talked about and promoted their work, so everyone could see how their contributions were important to the entire mission.

- **Redesign of the organization’s logo.** Bowling said that post merger, the logo was slightly revised to include a rainbow, reflecting ECF’s diversity of programs and people served.

Finally, for those nonprofit executives who might consider a merger to increase their mission’s impact, Bowling suggested they:

- **Check with your board.** The ECF/Kayne Eras Center merger came out of a strategic objective to expand mission impact, and Bowling said a CEO should always get his board’s blessing before starting any merger or acquisition process.

- **Keep an eye on the classified section of the newspaper.** “When I see an ad for a CEO, I make a call,” he said. “These are seeds I am always planting. I

explain while I’m calling ... and it’s a good way to spread the word that you’re interested in collaborating with others.”

The president and CEO of ECF said he’s not finished with mergers, either. “We have a long history of managing multiple, distanced sites, so I’d like to generalize all of those skills learned into a national model someday,” he said.

For more information

The Exceptional Children’s Foundation provides services to children and adults with developmental and other disabilities, and has developed into a comprehensive education, rehabilitation, social service, and advocacy agency that provides a broad range of innovative services to assist the developmentally disabled. For more information, go to www.ecf.net/home. To contact Scott Bowling, president and CEO, phone (310) 845-8041 or e-mail sbowling@ecf.net. ■

Health Plan Regulations

Changes to group health plans: Strictly adhere to new regs or lose time and money

Government and faith-based sponsors of group health plans and other organizations with grandfathered plans that are thinking of making substantial changes to their group health plans should take heed, said Martha Jo (Marty) Wagner, partner and member of the Employee Benefits and Executive Compensation Group at Venable LLP.

The Patient Protection and Affordable Care Act (PACA), as amended through the passing of the Health Care and Education Reconciliation Act of 2010, now requires an enhanced internal and new external claims and appeals process for non-grandfathered plans, Wagner said.

In mid-August, Wagner and co-author Thora A. Johnson, partner at Venable LLP, released the article “Material Changes Now, Material Changes Coming” and in a recent interview with *Nonprofit Business Advisor*, they discussed some of the changes being made and the implications for nonprofits.

Due to changes in PACA, effective for plan years beginning on or after Sept. 23, 2010, the Departments of Labor, Health and Human Services, and Treasury have

new regulations in place designed, according to DOL, to level the playing field for employees during the claims and appeals process to “reduce the incidence of excessive delays and inappropriate denials averting serious, avoidable lapses in healthcare quality,” Johnson said.

Employers and plan administrators who had been careful to include sufficient “discretionary authority” in their group health plan documents to give them deference in the court system after a single internal review process will find their organization or their third-party administrators (TPAs) no longer hold all of the cards in the internal claim process, Wagner said, and they have little to no leverage in the new external process. These changes could wind up costing employers more money.

Before the new regulations were written, an employee who had gone through the single, internal claim and appeals process could sue an organization for benefits in state or federal court, Wagner said, but that employee often had little leverage because of the discretionary language written into the group health plan.

(See **REGULATIONS** on page 4)