

ACA SUPPORTS NEW YORK, CAUTIONS OTHER STATES TO BE AWARE OF POSSIBLE OUTSIDE INFLUENCE

Following its investigation, the ACA has officially submitted a protest to the FMCSA regarding the removal of all DC CME's in the state of New York from the National Registry, and has requested the immediate reinstatement of all DC's on the National Registry.

The ACA has also advised all state associations to be aware that there is possible outside influence (elements of political medicine) working in an effort to eliminate the chiropractic profession from the National Registry.

From: John Falardeau [mailto:JFalardeau@acatoday.org]

Sent: Friday, June 3, 2016 6:34 PM

To: House of Delegates

Subject: Important message from Dr. David Herd

Sent on behalf of ACA President Dr. David A. Herd:

I have responded, on behalf of the ACA, to an arbitrary action taken earlier this week by the Federal Motor Carrier Safety Administration (FMCSA). In a June 1, 2016 email to doctors practicing in New York, the FMCSA informed them that they were being immediately removed from the FMCSA national registry of providers authorized to perform required physical examination for the nation's truck drivers. Doctors of chiropractic in New York have been performing such examinations for several years. A recent determination from the New York licensing board had placed the authority to perform such examinations into question. Federal law provides that doctors of chiropractic are authorized to perform these examinations if within the state scope of practice. The June 1, 2016 FMCSA "emergency" action was taken without notice and without the opportunity of a hearing.

In responding to this unprecedented action, I have stated in his letter to the FMCSA (attached):

"Your summary edict, to immediately remove New York doctors of chiropractic from the FMCSA national registry, was taken without affording the affected doctors with any semblance of fundamental fairness or due process. The rationale that such a unilateral and capricious summary edict is justified in order to protect "the public health, interest and safety" is absurd.

Doctors of chiropractic in New York have effectively and safely participated in the national registry for several years without any reports of adverse effects to the "public health, interest and safety." We fail to see how such participation can suddenly be considered to be an "emergency" on June 1, 2016 and thereby deny the affected doctors of their basic due process rights.

We therefore urge that you and the FMCSA immediately rescind this unreasonable action and proceed under agency rules which afford the appropriate measure of due process."

HOD members should alert their states that there are efforts by outside organizations and individuals to identify and exploit any weaknesses within state licensing laws and regulations in order to deny doctors of chiropractic the ability to perform U.S. Department of Transportation truck driver physicals.

Please relay any pertinent information from your state to John Falardeau at jfalardeau@acatoday.org

Thank you. David A. Herd, DC