

Chiropractic vs. Federal Agencies

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Of the many battles fought by our profession, few are as frustrating as those waged against federal bureaucracies. Elected officials act with a certain degree of accountability, but officials of federal agencies, whom are appointed to their offices for political reasons, seem aloof, if not domineering in their actions. When the power of these officials is misused or overextended, particularly when it is directed at a specific profession, what recourse does that profession have?

In this issue you'll read about two attempts made by prominent DCs to reverse the negative directions taken by two federal agencies: the Federal Trade Commission (FTC), and the Health Care Financing Administration (HCFA).

Both situations are critical to the future of chiropractic. The FTC's efforts challenged the chiropractic profession's ability to communicate with patients and the public at large. The actions of the HCFA are well known by many DCs. HCFA comes across as particularly anti-chiropractic.

Dr. Michael Hulsebus got a rare opportunity to point out the inequities commonly seen in the actions of the HCFA (please see "[Dr. Hulsebus Testifies before Congress](#)"). Testifying before a committee of nine members of the U.S. Congress, Dr. Hulsebus summarized the frustration many DCs experience when dealing with HCFA:

"Since March of 1999, when the first demand for documentation was issued, I have been forced to engage in an unjustified and substantial amount of work, effort and expense, all to defend myself from alleged overpayments that were ultimately allowed after a costly two-year review process I had never been informed could exist. This includes the retention and compensation of independent consultants; the retention and compensation of counsel to represent me and the clinics; the expense of time on my own behalf, thereby depriving my patients of the time available to consult with them; and the significant efforts devoted to obtaining a just result, including the involvement of members of Congress.

"HCFA's actions represent an obvious onslaught, a direct targeting of the chiropractic profession. These actions range from the unjustified quasi-criminal nature of the proceedings, to actions such as refusing to accept a draft in full payment of an alleged overpayment, (which is) pending appeal. Unfortunately, relief has been obtained only when members of Congress have become involved. There has been minimal cooperation from HCFA until outside force was applied."

On a similar note, Dr. Tedd Koren and his attorneys fought with the FTC for six years (please see "[Feds Drop Dr. Koren's Case](#)"). As with Dr. Hulsebus, this battle was not waged in the courtroom before an impartial judge. Dr. Koren and his team of lawyers were to fight a war with several FTC lawyers funded by taxpayer dollars and supported by chiropractic's long-time nemesis Stephen

Barrett. Fortunately, Dr. Koren prevailed against the FTC, as signified by a letter dated June 19, 2001, politely stating:

"This letter is to advise you that the matter about which you inquired in your letter to Ms. Maher dated April 26, 2001 has been closed.

"This action is not to be construed as a determination that a violation has not occurred, just as the pendency of an investigation should not be construed as a determination that a violation occurred. The commission reserves the right to take further action as the public interest may require."

These words seem to suffice as the FTC's version of "no harm, no foul." But what about the six years and thousands of dollars spent getting the FTC lawyers to back off?

Where is the responsibility for the wasted hours, days, months and years spent demonstrating that the FTC was wrong in its assertions? What about the time Tedd Koren lost with his children?

Turning our attention toward the HCFA, what about the millions of people who suffered needlessly or took unnecessary drugs because HCFA precluded them from enjoying the access to chiropractic care they are entitled to?

What about the millions of dollars that went to drug companies rather than to DCs - who could have treated the causes of the patients' problems, instead of temporarily masking them?

There appears to be very little accountability, and even less remorse. One gets a sense that many people in these agencies see themselves as untouchable, and that they can do anything they want without incurring personal liability for their actions.

And while this is incredibly frustrating, one shouldn't take on a feeling of powerlessness. Right has prevailed in these two instances and will do so again. Our enemies seem tireless, and we must be the same.

Chiropractic must continue to march forward, ever willing to fight any agency, organization or individual that dares try to restrict this profession from fulfilling its place in the health care of the world.

We can do nothing less.

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