

ICA Revises Position on Dr. Koren vs. FTC

"WE DO NOT FEEL THAT SUCH A THREAT EXISTS AT THE PRESENT," SAYS ACA

Editorial Staff

In January 1995, the Federal Trade Commission (FTC) asked Tedd Koren, DC, to substantiate numerous "claims" made in his chiropractic brochures. Dr. Koren sent the FTC nearly 400 references to support his publications. In 1997, an attorney for the FTC and Dr. Koren's lawyer negotiated an agreement that some of the brochure material would be rewritten. After Dr. Koren reluctantly signed the agreement, FTC commissioners rejected it.

The FTC issued a new complaint in April 1998, focusing on four of his brochures: Dr. Koren decided to fight. "You are not safe. They could have gone after anyone," he said at the time. "I was just first on their list. The noose is around all our necks."

(Please see "FTC Questions Chiropractor's Claims" in the September 21, 1998 issue, or on line at www.chiroweb.com/archives/16/20/08.html.)

At that time, the ICA position did not demonstrate support for Dr. Koren's lawsuit against the FTC, but it did express concern:

"The International Chiropractors Association is aggressively investigating recent activities of the U.S. Federal Trade Commission regarding that government agency's efforts to regulate statements made on behalf of chiropractic in patient education and practice promotion material. Specifically, the FTC has taken enforcement steps against a major chiropractic publisher arguing that unsubstantiated claims about the appropriateness of chiropractic for certain conditions have been made and that the making of such claims constitutes misleading and false advertising.

"ICA's legal team has begun a detailed examination of the issues surrounding the FTC action to determine the exact implications for the chiropractic profession at large. ICA is keenly aware of the potential danger of government policies that might unfairly restrict the free exchange of vital health information between patient and doctor and is determined to fight any such policy with all of the political, legal and public relations resources it commands."

Now, almost a year after issuing its original position on the case between Dr. Koren and the FTC, the ICA has changed its position. The ICA Executive Committee drafted this statement at their June 9, 1999 meeting:

Statement on Koren vs FTC

The International Chiropractors Association is deeply disturbed by the recent actions on the part of the Federal Trade Commission to restrict the free communication of a doctor of chiropractic with the public. ICA holds that the actions of the FTC should be opposed and that the chiropractic profession should unite in an effort to support any doctor who is

prosecuted for truthfully communicating with the public about the chiropractic profession.

ICA encourages all DCs to support Dr. Tedd Koren in his case. ICA believes that the profession must watch the actions of the FTC very carefully and develop meaningful efforts to stop their anti-chiropractic orientation.

The ICA reports it has had meetings with FTC officials and has studied the statutes and regulations on which the FTC is basing its case. There has also been a meeting between the ICA Board of Directors and James Turner, the lead attorney representing Dr. Koren.

ICA President Bob Hoffman, DC, called the FTC case a "fishing expedition." He said there was reason to dispute the FTC being "involved in matters like doctor-patient communication at all." He stressed the ICA's commitment "to help in the fight to keep the FTC out of these kinds of issues."

The ICA anticipates further meetings with the FTC and will keep in "close coordination with Dr. Koren's legal team."

ACA's Position

The ACA reports that it has "closely monitored the activity of the Federal Trade Commission as it concerns its investigation of Dr. Koren and his company." Their activities to present include communication with Dr. Koren, communication and meetings with his attorney, James Turner, communication with the FTC and a meeting with FTC officials on October 8, 1998. Subsequently, the ACA has had an additional communication to the FTC to which they have received no response.

That said, the ACA's position remains basically what it was a year ago:

"We (ACA) have made it clear to the FTC and to all parties involved that the ACA stands ready to mobilize its considerable political and legal resources to respond to any activity it views to be a threat to the chiropractic profession at large. While we are still closely monitoring the situation, we do not feel that such a threat exists at the present. We understand that Dr. Koren and the FTC are still attempting to negotiate a settlement, and we stand ready to cooperate with Dr. Koren and his attorneys in any appropriate manner. Please inform your readership that the ACA will continue to give close attention to the issues presented by the FTC's investigation of Dr. Koren and his company."

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