

Texas Chiro. Assoc. Joins Federal Lawsuit

Steve Kelly, managing editor

On February 9, 1991, the board of directors of the Texas Chiropractic Association (TCA) unanimously voted to join in the federal class action lawsuit to protect the right of health care providers in using digital thermal imaging technology (DTIT).

Thermography

Modern digital thermal imaging technology uses an infrared camera to record the self-emanating infrared radiation from the body, revealing temperature variations of the skin to the nearest 0.05°C. The data is converted to a digital image for processing by computer. The differing heat emissions produce brightly colored patterns. Each color represents a specific temperature level. The interpretation of these color patterns are proposed as an aid to diagnose nerve root irritation and compression; peripheral nerve injury; reflex sympathetic dystrophy (RSD); occlusive disease of cranial vessels; headaches; neuropathy and neuropathic pain syndromes; and musculoskeletal pain. The AMA issued a report in 1988 that said: "Thermography is a safe adjunctive physiological procedure which may be useful in the diagnosis of selected neurological and musculoskeletal conditions."

Background of the Lawsuit

The Health Care Financing Administration (HCFA), which administers the Medicare program, has twice asked the Public Health Service's Office of Health Technology Assessment (OHTA) for its recommendations to continue Medicare coverage of thermography.

In 1985, OHTA gave HCFA a negative report about thermography. Because of new thermography studies, HCFA asked OHTA in the fall of 1989 to make a second analysis of thermography; the second report was also negative.

The American Herschel Society and the International Academy of Clinical Thermology organized an ad hoc group called Health Care Professionals United to Protect Patients which brought a federal class action suit against OHTA and HCFA in September of 1990. The lawsuit claims that the OHTA study "failed to include more than 40 recent articles and papers supportive of thermography as a reliable clinical procedure in the diagnosis and management of a number of disabling conditions, and failed to consider the vast international literature on thermography that has led to its unquestioned acceptance by ... Great Britain, France, Italy, and Japan." In addition, the OHTA did not solicit advice from the American Academy of Thermology for its report, the only organization with any significant experience in the clinical practice of thermography.

Harold Farris, D.C., DNAT, a member of the National Academy of Thermography and an executive board member of the International Academy of Clinical Thermology, says of the OHTA reports: (they were) "flawed with obvious bias against thermography. ... The authors of these documents have been questionably linked to major insurance corporations and their reports have been previously utilized in

an attempt to decline payment and discredit thermography."

Dr. Farris sees a dilemma: "The insurance industry is wagering that thermography does not have the depth of support within the chiropractic and medical community. While it is true that for the first time in history thermal imaging technology is allowing research into the autonomic nervous system and its complex role in the pain complex, and in fact disease, it is the confusion and misunderstanding of its importance in neuropathic assessment that has inhibited its growth and acceptance.

Texas Chiro.'s Get Involved

The Medical Advisory Committee of the Texas Workers' Compensation Commission (TWCC) had voted to approve thermography in the fee guidelines of Texas. However, a subsequent public hearing on thermography in December 1990 saw the Alliance of American Insurers bring in several experts who gave anti-thermography testimony (based largely on what the lawsuit calls the flawed OHTA report). As a result of this testimony, the TWCC voted to reject the recommendations of its own medical advisory committee.

The class action lawsuit is on file as CV 90-3086, under the jurisdiction of the U.S. District Court of New York. The attorney for the plaintiffs is Victor Yannacone, Jr., and the case has been assigned to U.S. District Judge, Leonard Wexler.

Copies of the complaint may be obtained at the following address:

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