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The State of Electroconvulsive Therapy in Texas.* Part 2: Contact with Physicians, Hospitals, Medical Liability Insurance Companies, and Manufacturers of Stimulus Generating Equipment

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ABSTRACT: Since mid-1993, all ECT treatments performed in the state of Texas (except for United States government hospitals) must be reported every quarter to the Texas Department of Mental Health and Mental Retardation (TXMHMR) on a data collection form provided by the Department. Part 1 of this paper reviewed that data.

This paper reviews the responses to questionnaires and contacts made with physicians, hospitals, medical liability insurance companies, and manufacturers of stimulus generating devices regarding their experience with ECT in Texas. Questionnaires were sent to physicians and hospitals that had not performed ECT during the final two quarters of the review period. Medical liability insurance companies and the manufacturers of the stimulus generating equipment used in ECT were contacted regarding their experience with liability claims. The results indicate that medical liability in regards to the performance of ECT is extremely low. Physicians and hospitals that stopped performing ECT did so for reasons other than medical liability.

KEYWORDS: forensic science, forensic psychiatry, hospitals, physicians, medical liability insurance companies, manufacturers of ECT stimulus generating devices, electroconvulsive therapy, Texas

In Part 1 of this paper, we presented data collected by the Texas Department of Mental Health and Mental Retardation (TDMHMR) in regards to electroconvulsive therapy (ECT) performed in Texas. It became evident in reviewing the data that a number of physicians and hospitals that had at one time provided ECT had stopped sometime during the four years under review. Part 2 looks at the reasons why these physicians and hospitals decided to no longer provide ECT services. In addition, medical liability insurance companies and manufacturers of ECT electrical stimulus equipment were contacted to determine, if possible, their experience with liability issues and ECT. Finally, the performance in ECT in various Texas geographic areas is explored.

This was a retrospective study, which relied upon data from questionnaires and personal contact. Personal contact with a number of the physicians, hospitals, medical liability companies, and manufacturers of the ECT stimulus generating equipment by one of the authors (VRS) led to the subjective belief that the responses were candid.

Methods

All physicians not reporting the performance of ECT in the final two or more quarters of the review period were sent a questionnaire in order to verify whether they had stopped performing ECT and what factors went into that decision.

All hospitals that did not report the performance of ECT at their institution during the final two or more quarters of the review period were sent a questionnaire to verify whether they had stopped performing ECT and what factors went into that decision.

The database was reviewed to determine in which Texas counties ECT was being performed. From these data, counties were separated according to the percent of the total ECT treatments performed. Four categories were arbitrarily created, i.e., those counties accounting for 10% or more of the total ECT performed, those accounting for 5 to 9%, those accounting for 1 to 4%, and those accounting for less than 1%.

The companies that manufacture ECT stimulus generating equipment used by Texas psychiatrists were contacted to ascertain their experience with product liability and other tort claims.

All medical liability insurance companies providing insurance coverage for psychiatrists in Texas were contacted to ascertain their claims and closed case experience in regards to psychiatrists in general and psychiatrists performing ECT in particular.

The four U.S. government hospitals (three VA hospitals and one military hospital) were contacted and asked to provide data in regards to the performance of ECT at their institution for, at least, a one-year period. The pooled data disclosed: 138 patients (115 males and 23 females) received 1160 ECT treatments. There were no recorded deaths.

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Results and Discussion

Physicians

During the 16 quarters, a total of 145 physicians performed ECT. Of the psychiatrists performing ECT, 7.8% were female, whereas 30% of the APA and 31% of the Texas Society of Psychiatric Physicians membership are female. Hermann (1) et al. in their study could not explain this phenomenon, even though "the proportion of women among new psychiatrists has been steadily rising, reaching 43% in 1990."

Seventy-four physicians performed ECT throughout the 16 quarters. Ten began performing ECT at various intervals following the first reporting quarter. Sixty-one physicians who were performing ECT but had not reported in the final two quarters (six months) of the survey period were contacted by letter. They were asked to complete a questionnaire to verify whether they had stopped performing ECT, and, if so, what factors went into their decision. Fifty-eight (95%) of the 61 physicians responded. Twelve stated that they had not stopped performing ECT. Of the remaining 46, four had retired from the practice of medicine, 10 had moved (six out of state, four instate), six had taken administrative positions, one left the practice of medicine, and one had died. The four physicians who moved in-state moved to an area of Texas where ECT was not available.

The remaining 24 physicians completed the questionnaire and recorded the factors that went into the decision to stop performing ECT (Table 1). Two of the 24 stated that they planned on performing ECT within the next year, since a new demand for the service justified it. Three stated that the Church of Scientology and the anti-ECT movement had tried to discourage the use of ECT in their area. Two complained that the Texas Department of Health seemed to be discouraging the use of ECT by imposing various regulatory requirements that were difficult to meet. Table 2 lists responses in the comment's section of the questionnaire. These were mostly single comments except for the harassment section, which indicates that more than one physician commented in regards to harassment. Table 3 indicates the average number of patients treated/month by physicians.

Most ECT in Texas was performed by a small number of physicians. The physicians who stopped ECT accounted for a small number of ECT treatments/year.

TABLE 1—*Reasons given by physicians for ceasing to perform ECT.*

Response Number	Physician Responses
10	Economic risk/benefit analysis made it reasonable to stop
8	Liability insurance for ECT too expensive in regards to the number of ECT performed
7	Too little demand for ECT
7	Stopped because other well-trained physicians were performing a lot more ECT
6	State reporting requirements were a problem
5	The hospital decided to stop offering ECT as a patient service
3	Too much negative publicity regarding ECT
3	Worried about being sued and/or harassed by those opposing ECT
3	Just decided it was time to stop
3	Another hospital in town was providing this service
1	Concerned about the complications associated with ECT
0	Legal claims filed against the hospital, fellow physicians, or me in regard to ECT
0	A patient's death was or may have been ECT related

TABLE 2—*Physician responses in the "comments" section of the questionnaire.*

Cost	Cost of ECT is too expensive and reimbursement is too low
	Cost of liability insurance and decreasing insurance reimbursement
	Cost per treatment charged by hospitals is excessive in my locality
	Not doing enough ECT to justify the cost
Harassment	By the Church of Scientology and its affiliated groups (five comments)
	By the Texas Department of Health (two comments)
Reporting requirements	Regulatory provisions are unscientific and unjustified
	Paperwork and bureaucracy are absurd
	State reporting requirement are excessive
	Follow-up reports require data not always accessible
Incidental	Improvements in antidepressants make ECT obsolete
	Misinformation by the media and misperception by the public

TABLE 3—*ECT activity of 145 physicians.*

Number of Physicians	Average Number of PatientsTreated/Month
1	>10
5	5 to 10
16	2 to 5
27	1 to 2
96	<1

Hospitals

During the 16 quarters a total of 60 hospitals offered ECT. Four of the 60 hospitals were public institutions (three county hospitals and one state psychiatric institution). They accounted for 6% of the patients treated during the 16 quarters reviewed. A small number of the hospitals performed the bulk of the ECT.

Of the 60 hospitals, 25 offered ECT throughout the 16 quarters. Ten hospitals started offering ECT between the 4th and the 8th quarters and continued through the 16th quarter. Two hospitals closed during the review period. Twenty-five hospitals that had offered ECT but had not reported in the last two quarters of the survey were contacted by letter. They were asked to complete a questionnaire to verify whether they had stopped offering ECT at their institution, and, if so, what factors went into their decision. All of the hospitals responded. One hospital stated that it did not wish to participate. Five hospitals stated that they had not stopped offering ECT at their institution. The remaining 19 hospitals completed the questionnaire. The factors that went into their decision are listed in Table 4. In the comments section of the questionnaire, two hospitals stated that they had closed their psychiatry unit, and one each stated "no physical space," "merger requirements," "political controversy surrounding ECT," and "TDH required a recovery room post-ECT which was too expensive to build." When asked who made the decision to stop providing ECT at their institution, the vast majority stated that, generally, it was a decision by the medical staff and the hospital administration. A small minority stated that it was a decision from corporate headquarters. Unlike physicians, the hospitals did not cite harassment factors in the decision-making process. None of the 19 hospitals plan to offer ECT in the future. One hospital stated that a medical liability claim had been filed in which ECT was alleged to play a part. None of the 19 hos-

TABLE 4—*Reasons given by hospitals for ceasing to provide ECT.*

Response Number	Hospital Responses
5	Too little demand for ECT at our hospital
5	Another hospital in town was providing this service
3	Too much negative publicity regarding ECT
3	Economic risk/benefit analysis made it reasonable to stop
2	No one on the medical staff is qualified to perform ECT
2	Legal liability analysis made it reasonable to stop
1	Legal claims filed against a physician provider was a factor
1	Legal claims filed against other hospitals was a factor
1	State reporting requirements
0	Liability insurance too costly to continue ECT
0	A patient death was or might have been ECT related

TABLE 5—*ECT activity of 60 hospitals.*

Number of Hospitals	Average Number of Patients Treated/Month
3	>10
6	5 to 10
14	2 to 5
15	1 to 2
22[a]	<1

[a] Seventeen of the 22 hospitals have stopped providing ECT.

pitals reported a death related to ECT during the 16 quarters reviewed. A few hospitals volunteered responses by the public and physicians regarding the decision to stop offering ECT. Three hospitals stated that former patients, people in the community, and physicians voiced negative sentiments about the hospital's decision to stop providing this service. One hospital stated that their physicians were initially negative, but later supported the decision as a positive move. Table 5 indicates the average number of patients treated/month by the hospitals.

Stimulus Generating Equipment

Three companies manufactured the stimulus generating equipment used to perform ECT in Texas. Two of the companies accounted for 93% (52 and 41%) of the units in use. A questionnaire was sent to the three companies asking about their experience in regard to product liability claims or cases against their stimulus generating units. All three companies responded (providing their national experience). Two companies stated that they had never experienced a product liability or other tort claim. The third company stated that two product liability claims had been filed against them. One was dismissed in the Fall of 1997. Due to inactivity of the 2nd case, a motion to dismiss has been recently filed.

Medical Liability Insurance Companies

Eighteen medical liability insurance companies provided liability insurance to psychiatrists sometime during the 16 quarters reviewed. Questionnaires were sent to all 18 companies asking about their closed case and/or claims experience regarding the performance of ECT. Fifteen companies (83%) responded. Two represented large self-insurance programs, one was a liability insurance company of last resort, and the remaining 12 were private insurance companies (including the American Psychiatric Association's [APA] liability insurance program). Thirteen of the 15 stated that they did not charge a higher insurance premium for psychiatrists who perform ECT. Except for the APA, none of the companies reported any closed case or claims experience in regards to ECT. The APA provided national data since it was unable to break out the specific data for Texas. For the years 1993 through 1996, 1.6% of the closed cases (a total of 16) involved ECT.

There is little to no medical liability associated with the performance of ECT. Previous studies (2–7) are in agreement with our findings: ECT is a safe and effective psychiatric treatment and is seldom cited as a cause of negligent psychiatric practice.

TABLE 6—*The counties and cities where ECT is performed.*

County	City	Census	% of Total ECT
Harris	Houston	3,087,153	16.9
Dallas	Dallas	1,989,156	16.0
Bexar	San Antonio	1,309,550	12.4
Tarrant	Fort Worth	1,288,261	12.2
Travis	Austin	678,500	11.7
Potter	Amarillo	106,736	8.5
Bell	Temple	217,379	4.1
McLennan	Waco	202,137	3.7
Galveston	Galveston	239,292	2.6
Kaufman	Terrell	58,682	2.6
Nueces	Corpus Christi	309,020	2.0
Jefferson	Beaumont	245,828	1.9
Hidalgo	McAllen	485,332	1.7
Lubbock	Lubbock	233,486	1.2
El Paso	El Paso	668,358	0.8
Victoria	Victoria	80,055	0.7
Wichita	Wichita Falls	127,789	0.6
Gregg	Longview	109,772	0.3

Counties

Sometime during the 16 quarters, ECT was performed in a total of 21 of the 254 Texas counties. In three counties, ECT was no longer performed after the 1st, 7th, and 8th quarters. Table 6 lists the counties and their major cities where ECT is performed and the percent of the total patients treated. Almost 70% of the ECT performed in the state of Texas was performed in the cities of Houston, Dallas, Fort Worth, San Antonio, and Austin. There are large sections of the state where ECT is not offered; however, many of these areas are sparsely populated. El Paso County, with a population of 668,358, treated only 0.8% of the total number of patients receiving ECT, whereas Travis County with a similar population base treated 11.7%. One factor that stands out in this comparison is the large Hispanic population in El Paso County as compared to Travis County.

Conclusions

Physicians who stopped performing ECT did so for various reasons. Foremost were cost considerations; however, concern about excessive liability insurance, too little demand for ECT, competition from other ECT-providing physicians, and increased annoying reporting requirements were not uncommon. Hospitals that stopped offering ECT at their institutions did so most frequently because of local supply/demand concerns and from an unfavorable economic risk/benefit analysis, but also because of excessive negative publicity concerning ECT, and various legal concerns. Vast areas of Texas do not have ECT available as an option for patients. Liability in regards to ECT is negligible. Thus, higher medical lia-

bility insurance premiums for psychiatrists performing ECT are not justified.

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