



**PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION**

28 Texas Administrative Code Sec. 133.308

**PART VII: DIVISION DECISION**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code, Sec. 413.031, the Division has determined that the requestor is not entitled to additional reimbursement for the services involved in this dispute.

Findings and Decision by:

Donna Auby

2-16-06

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Date of Findings and Decision

**PART VIII: YOUR RIGHT TO REQUEST JUDICIAL REVIEW**

Appeals of medical dispute resolution decisions and orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005]. An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. The Division is not considered a party to the appeal.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**



# PROFESSIONAL ASSOCIATES

## NOTICE OF INDEPENDENT REVIEW

**NAME OF PATIENT:** \_\_\_\_\_  
**IRO CASE NUMBER:** M5-06-0773-01  
**NAME OF REQUESTOR:** \_\_\_\_\_  
**NAME OF PROVIDER:** Charles D. Marable, M.D.  
**REVIEWED BY:** Board Certified in Orthopedic Surgery  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 02/08/06

Dear Mr. \_\_\_\_:

Professional Associates has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO) (#IRO5288). Texas Insurance Code Article 21.58C, effective September 1, 1997, allows a patient, in the event of a life-threatening condition or after having completed the utilization review agent's internal process, to appeal an adverse determination by requesting an independent review by an IRO.

In accordance with the requirement for TDI-Division of Workers' Compensation (DWC) to randomly assign cases to IROs, DWC has assigned your case to Professional Associates for an independent review. The reviewing physician selected has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, the reviewing physician reviewed relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal. determination, and any documentation and written information submitted in support of the appeal.

This case was reviewed by a physician reviewer who is Board Certified in the area of Orthopedic Surgery and is currently listed on the DWC Approved Doctor List.

I am the Secretary and General Counsel of Professional Associates and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him the provider, the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the Independent Review Organization.

### REVIEWER REPORT

#### Information Provided for Review:

Evaluations with Quirico Torres, M.D. dated 07/15/03, 07/29/03, 08/19/03, 08/25/03, 09/03/03, 09/17/03, 10/06/03, 10/20/03, 10/27/03, 11/17/03, 12/22/03, 01/19/04, 03/01/04, and 03/29/04

Physical therapy evaluations with Richard Lech, P.T. dated 07/21/03, 08/19/03, 03/10/04, 03/26/04, and 04/16/04

Physical therapy with Mr. Lech dated 07/23/03, 07/25/03, 07/28/03, 07/30/03, 07/31/03, 08/01/03, 08/04/03, 08/05/03, 08/06/03, 08/07/03, 08/08/03, 08/11/03, 08/12/03, 08/13/03, 08/14/03, 08/15/03, 08/18/03, 08/19/03, 08/21/03, 08/22/03, 08/25/03, 08/26/03, 08/27/03, 08/28/03, 08/29/03, 09/02/03, 09/03/03, 09/04/03, 09/05/03, 09/08/03, 09/09/03, 09/10/03, 09/11/03, 09/12/03, 09/15/03, 09/16/03, 09/17/03, 09/18/03, 09/19/03, 09/22/03, 09/23/03, 09/24/03, 09/25/03, 09/26/03, 09/29/03, 09/30/03, 10/01/03, 10/02/03,

10/03/03, 03/11/04, 03/12/04, 03/15/04, 03/16/04, 03/17/04, 03/18/04, 03/19/04, 03/22/04, 03/23/04, 03/24/04, 03/25/04, 03/26/04, 03/30/04, 03/31/04, 04/01/04, 04/02/04, 04/05/04, 04/06/04, 04/08/04, 04/12/04, 04/14/04, 04/16/04, 05/03/04, 05/05/04, 05/07/04, and 05/10/04

An MRI of the cervical spine interpreted by an unknown provider (no name or signature available) dated 07/24/03

An MRI of the orbits interpreted by Steven Nitke, M.D. dated 07/24/03

TWCC-53 forms dated 09/02/03 and 02/22/05

Letters of preauthorization from CorVel dated 09/11/03, 09/15/03, 09/29/03, 12/17/04, 02/15/05, 03/18/05, 03/21/05, 03/28/05, and 08/24/05

An EMG/NCV study interpreted by S. Daggubati, M.D. dated 09/17/03

An operative report from Dr. Torres dated 10/10/03

A pathology report from Maureen E. Trotter, M.D. dated 10/10/03

A discharge note from Dr. Torres dated 10/13/03

X-rays of the cervical spine interpreted by Eric Schackmuth, M.D. dated 10/27/03

Evaluations with Jeff Gilbertson, M.D. dated 05/14/04, 07/15/04, 08/12/04, 10/05/04, 12/02/04, and 02/02/05

Designated Doctor Evaluations with Donald L. Wehmeyer, M.D. dated 05/18/04 and 09/16/04

Required Medical Evaluations (RMEs) with Paul Foxcroft, M.D. dated 11/03/04 and 03/10/05

Evaluations with Charles D. Marable, M.D. dated 12/08/04, 01/04/05, 02/08/05, 02/16/05, 03/22/05, 05/03/05, 06/14/05, 08/16/05, 09/27/05, and 12/21/05

An MRI of the cervical spine interpreted by Johnny Bliznak, M.D. dated 12/20/04

A letter written by Dr. Foxcroft dated 01/25/05

Evaluations with Jacob Rosenstein, M.D. dated 02/07/05, 03/07/05, 04/06/05, 05/10/05, 06/10/05, and 08/12/05

A cervical CT myelogram interpreted by Shelley Rosenbloom, M.D. dated 03/02/05

Laboratory studies dated 04/06/05

An operative report from Dr. Rosenstein dated 04/12/05

A pathology report interpreted by J. Trace Worrell, M.D. dated 04/12/05

Illegible hospital notes dated 04/12/05, 04/13/05, 04/14/05, 04/15/05, 04/16/05, 04/17/05, and 04/18/05

X-rays of the cervical spine interpreted by Kenneth Usher, M.D. dated 04/17/05

X-rays of the cervical spine interpreted by Richard A. Suss, M.D. dated 05/10/05

An evaluation with Daniel J. M. Vaughan, M.D. dated 08/17/05

### **Clinical History Summarized:**

Dr. Torres recommended a cervical MRI, Ultram, and physical therapy on 07/15/03. Physical therapy was performed with Mr. Lech from 07/23/03 through 05/10/04 for a total of 75 sessions. An MRI of the cervical spine interpreted by an unknown provider on 07/24/03 revealed a disc protrusion at C5-C6 and a disc bulge at C6-C7. Surgery was recommended by Dr. Torres on 08/19/03. On 09/11/03 and 09/15/03, CorVel denied cervical spine surgery. An EMG/NCV study interpreted by Dr. Daggubati on 09/17/03 revealed left C6-C7 radiculopathy and mild C5 radiculopathy on the left. On 10/10/03, Dr. Torres performed an anterior C5-C6 and C6-C7 anterior discectomy and fusion. X-rays of the cervical spine interpreted by Dr. Schackmuth on 10/27/03 showed normal alignment with the bone plugs in place. On 05/18/04, Dr. Wehmeyer placed the patient at Maximum Medical Improvement (MMI) at that time with a 20% whole person impairment rating. On 07/15/04, Dr. Gilbertson prescribed Lortab, Zanaflex, and Soma. On 09/16/04, Dr. Wehmeyer stated the patient was at MMI as of 05/18/04 now with a 15% whole person impairment rating. On 11/03/04, Dr. Foxcroft recommended over-the-counter analgesics and anti-inflammatory medication, along with possible nerve testing or an MRI. An MRI of the cervical spine interpreted by Dr. Bliznak on 12/20/04 revealed a large extradural lesion into the left paracentral spinal canal at C5-C6 and a very small protruding disc at C6-C7. On 02/07/05, Dr. Rosenstein recommended a cervical myelogram CT scan. On 02/08/05, Dr. Marable felt the patient had a 25% impairment rating, not 15%. The cervical myelogram CT scan interpreted by Dr. Rosenbloom on 03/02/05 showed lucencies at C6-C7 and a disc herniation at C5-C6 and C7-T1. There was also a disc protrusion at C4-C5. Dr. Rosenstein recommended repeat surgery on 03/07/05. CorVel denied the repeat surgery on 03/18/05 and 03/21/05. Dr. Rosenstein performed a repeat cervical surgery from C5 through T1 on 04/12/05. On 05/03/05, Dr. Marable placed the patient at statutory MMI with a 25% whole person impairment rating. He also recommended Vicodin, Soma, and Oxycontin. Further cervical x-rays interpreted by Dr. Suss on 05/10/05 revealed the metal and bony C5 through T2 fusion in anatomic alignment. Physical therapy was recommended by Dr. Rosenstein on 08/12/05. An EMG/NCV study interpreted by Dr. Vaughan on 08/17/05 revealed a left C6-C7 radiculopathic process. On 12/21/05, Dr. Marable noted the patient was going through a work hardening program.

### **Disputed Services:**

Prescriptions for Tizanidine 4 mg. tablets, Carisoprodol 350 mg. tablets, and Skelaxin 800 mg. tablets

**Decision:**

I disagree with the requestor. The prescriptions for Tizanidine 4 mg. tablets, Carisoprodol 350 mg. tablets, and Skelaxin 800 mg. tablets would be neither reasonable nor necessary.

**Rationale/Basis for Decision:**

The use of anti-spasm medication of long timeframes would not be indicated. Most of those medications work by sedation, which is centrally acting. Whether they are addicting is unclear, but they are certainly habituating medications. They cease to have actions in the peripheral body on muscle spasms, although they may have central actions on spasticity. This patient has diagnosis of cervical pseudoarthrosis and spondylosis. Over the long timeframe, the medications are not effect and, therefore, are neither medically reasonable nor necessary as related to the original injury.

The rationale for the opinions stated in this report are based on clinical experience and standards of care in the area as well as broadly accepted literature which includes numerous textbooks, professional journals, nationally recognized treatment guidelines and peer consensus.

This review was conducted on the basis of medical and administrative records provided with the assumption that the material is true and correct.

This decision by the reviewing physician consulting for Professional Associates is deemed to be a Division decision and order.

**YOUR RIGHT TO REQUEST A HEARING**

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable.

If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision. A request for a hearing should be faxed to 512-804-4011 or sent to:

Chief Clerk of Proceedings/Appeals Clerk  
TDI-Division of Workers' Compensation  
P. O. Box 17787  
Austin, TX 78744

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

I hereby verify that a copy of this Independent Review Organization's decision was sent to DWC via facsimile or U.S. Postal Service on 02/08/06 from the office of Professional Associates.

Sincerely,

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Lisa Christian  
Secretary/General Counsel