



**Texas Department of Insurance, Division of Workers' Compensation**  
 7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

## MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

### Retrospective Medical Necessity Dispute

#### PART I: GENERAL INFORMATION

<b>Type of Requestor:</b> ( X ) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestors Name and Address: Ryan Potter, M.D. 5734 Spohn Drive Corpus Christi, Texas 78414	MDR Tracking No.: M5-07-0129-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Travelers Indemnity Company of Connecticut Rep Box # 05	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

#### PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Requestor's Position Summary: Per the Table of Disputed Services "Physician saw the patient for an office visit for her compensable injury. According to the TWCC Facts Facts, if the injury is compensable, the carrier is liable for all reasonable and necessary medical costs of health care to treat the compensable injury."

Principle Documentation:

1. DWC 60/Table of Disputed Services
2. CMS 1500's
3. Explanation of Benefits

#### PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Respondent's Position Summary: "Adjuster Tracy Friedell has reviewed the file whose position is to sustain the denial based on the Required Medical Exam that no treatment is necessary."

Principle Documentation:

1. Response to DWC 60

#### PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
01-23-2006	99213	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
<b>TOTAL DUE</b>			\$0.00

#### PART V: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Division Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), Medical Dispute Resolution assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the Requestor and Respondent.

The Division has reviewed the enclosed IRO decision and determined that the Requestor **did not prevail** on the disputed medical necessity issues.

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

28 Texas Administrative Code Sec. 133.308 and 134.1  
Texas Labor Code, Sec. 413.031 and 413.011 (a-d)

**PART VII: DIVISION FINDINGS AND 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 reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

01-05-07

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:** M5-07-0129-01  
**NAME OF REQUESTOR:** Ryan Potter, M.D.  
**NAME OF PROVIDER:** Ryan Potter, M.D.  
**REVIEWED BY:** Board Certified in Anesthesiology  
Fellowship Trained in Pain Management  
Added Qualifications in Pain Medicine  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 12/01/06

Dear Dr. Potter:

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.

This case was reviewed by a physician reviewer who is Board Certified in the area of Anesthesiology, Fellowship Trained in Pain Management, and Added Qualifications in Pain Medicine 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:**

Procedure notes from an unknown provider (no name or signature was available) dated 10/05/01 and 01/30/02

Evaluations with Ryan N. Potter, M.D. dated 10/16/01, 02/14/02, 05/31/02, 09/20/02, 12/20/02, 05/05/03, 10/03/03, 02/11/04, 06/10/04, 08/04/04, 10/11/04, 11/10/04, and 04/20/05

An independent evaluation with Charles W. Kennedy, Jr., M.D. dated 09/21/04

A report from Dr. Kennedy dated 10/12/04

Evaluations with Anne M. Schmidt, P.A.-C. for Dr. Potter dated 12/10/04, 01/12/05, 02/18/05, and 03/15/05

An evaluation with Cynthia Malowitz, R.N. for Dr. Potter dated 01/23/06

#### **Clinical History Summarized:**

The unknown provider performed a lumbar epidural steroid injection (ESI) on 10/05/01. On 10/16/01, Dr. Potter recommended a lumbar discogram and continued medications and therapy. The unknown provider interpreted a lumbar discogram on 01/30/02 and noted concordant pain at L5-S1. On 02/14/02 and 05/31/02, Dr. Potter recommended an annuloplasty. On 09/20/02 and 12/20/02, Dr. Potter continued to recommend an annuloplasty. On 05/05/03 and 10/03/03, Dr. Potter recommended an IDET procedure. On 02/11/04, Dr. Potter recommended continued medications. On 06/10/04, Dr. Potter added Melatonin and Diphenhydramine. On 09/21/04, Dr. Kennedy recommended an active exercise program, but no surgical intervention or an IDET procedure. Dr. Potter continued the patient on medications on 10/11/04 and 11/10/04. On 10/12/04, Dr. Kennedy provided another report recommending only an active exercise program, weaning of the Oxycontin, and the addition of Glucosamine Chondroitin. On 12/10/04 and 01/12/05, Ms. Schmidt continued the patient's medications. On 02/18/05, Ms. Schmidt added Lidoderm patches. Ms. Malowitz recommended Lortab and Ambien CR.

#### **Disputed Services:**

Office visit (99213) on 01/23/06

#### **Decision:**

I disagree with the requestor. The office visit (99213) on 01/23/06 was not reasonable or necessary.

#### **Rationale/Basis for Decision:**

The patient's work injury was, as Dr. Kennedy stated, nothing more than a lumbosacral strain. As such, there would be no medical reason or necessity for treatment beyond 12 weeks. Moreover, the patient's clinical status has been essentially stable and identical since 02/14/02, now almost six years after the lumbosacral strain. There has been no change in the patient's entirely normal physical examination since 02/14/02, no change in her pain level, and no change in her subjective pain complaints despite Dr. Potter maintaining the patient on Lortab. There is no medical reason or necessity for Dr. Potter to continue office visits to treat her unchanged subjective pain complaints. Therefore, since there is, in my opinion, no naturally occurring sequelae present as a result of or due to the 02/18/01 work event, there is no medical reason for the office visit of 01/23/06 with Dr. Potter.

Absent any objective evidence of damage, injury, or harm to the patient's body, as well as any evidence of naturally occurring sequelae from the alleged work injury, there is no medical reason or necessity for the additional office visit under the workers' compensation system.

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, 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.

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 12/01/06 from the office of Professional Associates.

Sincerely,

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Amanda Grimes  
Secretary/General Counsel