

## NOTICE OF INDEPENDENT REVIEW DECISION

November 19, 2002

MDR Tracking #: M2-02-0885-01  
IRO Certificate #: 4326

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, 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 was reviewed.

The independent review was performed by a \_\_\_ physician reviewer who is board certified in anesthesiology which is the same specialty as the treating physician. The \_\_\_ physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### Clinical History

This 41 year old male sustained a work related injury on \_\_\_ when he was attempting to pull an auger from a hole and experienced low back pain. A discogram performed on 01/21/99 revealed abnormal disc morphology on discography, with annular tears on post-discography CT at L4-5 and L5-S1. Concordant provocative pain was also noted at these levels. An MRI of the lumbar spine was performed 03/19/98 and again on 03/30/01. Electromyography and nerve conduction studies performed on 10/02/01 revealed evidence consistent with chronic right L5 and chronic right S1 nerve root irritation, partial chronic denervation and chronic radiculopathy. The patient has been treated with conservative care including medication, chiropractic manipulation, rehabilitation, and injection therapy. The treating physician has recommended that the patient undergo open coblation nucleoplasty at L4-5 and L5-S1.

### Requested Service(s)

Open coblation nucleoplasty at L4-5 and L5-S1

### Decision

It is determined that the open coblation nucleoplasty at L4-5 and L5-S1 is medically necessary to treat this patient's condition.

Rationale/Basis for Decision

This patient has low back pain that has not responded to conservative care and previous injections. He has contained herniated discs at L4-5 and L5-S1, which is an indication for nucleoplasty. The patient was evaluated by an independent orthopedic surgeon on 11/07/97 who felt that the patient had discogenic low back pain without psychological overlay and Waddell signs were negative. The patient was felt to have "obvious ongoing pain" without disproportionate pain behavior.

Nucleoplasty is a procedure, which is available in every large pain center in the country. Results have shown good success as referenced in Sharps L: "Percutaneous Disc Decompression Using Nucleoplasty", North American Spine Society, 17<sup>th</sup> Annual Meeting, October 2002. It is a procedure which has been FDA approved for the treatment of low back pain associated with contained herniated disc. Therefore, the open coblation nucleoplasty at L4-5 and L5-S1 is medically necessary.

This decision by the IRO is deemed to be a TWCC decision and order.

**YOUR RIGHT TO REQUEST A HEARING**

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

**If disputing a spinal surgery prospective decision** a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within **10** (10) days of your receipt of this decision (20 Tex. Admin. Code 142.5 (c))

**If disputing other prospective medical necessity (preauthorization) decisions** a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin Code 148.3).

This Decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin Code 102.4(h) or 102.5(d)). A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Workers' Compensation Commission, P.O. Box 40669, Austin, Texas, 78704-0012. **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 (Commission Rule 133.308 (t)(2)).

Sincerely,

In accordance with Commission Rule 102.4 (h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 19<sup>th</sup> day of November 2002.