



# PROFESSIONAL ASSOCIATES

## NOTICE OF INDEPENDENT REVIEW

**NAME OF PATIENT:**  
**IRO CASE NUMBER:** M2-05-1832-01  
**NAME OF REQUESTOR:** Valley Total Health Systems  
**NAME OF PROVIDER:** Jorge Garcia, D.C.  
**REVIEWED BY:** Board Certified in Pain Management  
Board Certified in Anesthesiology  
**DATE OF REPORT:** 07/14/05

Dear Nick Kempisty:

Professional Associates has been certified by the Texas Workers' Compensation Commission (TWCC) as an independent review organization (IRO). 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 TWCC to randomly assign cases to IROs, TWCC 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.

The independent review was performed by a matched peer with the treating physician. This case was reviewed by a physician reviewer who is Board Certified in the area of Pain Management and Anesthesiology and is currently listed on the TWCC 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 and any of the treating physicians or providers or any

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of the physicians or providers who reviewed this case for determination prior to referral to the Independent Review Organization.

### **REVIEWER REPORT**

#### **Information Provided for Review:**

X-rays of the cervical spine and right shoulder performed on 07/14/04 and interpreted by Jorge H. Garcia, D.C.

An initial medical report from Dr. Garcia dated 07/20/04

Physical therapy notes from 08/02/04 through 08/30/04 with an unknown provider (no name or signature was provided) at Dr. Garcia's office

An MRI of the right shoulder performed on 09/13/04 and interpreted by Kevin Legendre, M.D.

Physical therapy notes Dr. Garcia's office from 09/16/04 through 01/28/05 with the unknown provider

A progress report from Dr. Garcia

A new patient evaluation from Mike Sweeney, M.D.

An operative report dated 10/21/04 from Dr. Sweeney

Follow-up notes from Dr. Sweeney on 10/22/04, 11/02/04, and 12/22/04

Additional follow-up notes from Dr. Sweeney dated 01/22/05 and 02/02/05

Additional therapy notes from Dr. Garcia's office with the unknown provider from 02/01/05 through 02/21/05

A Functional Capacity Evaluation (FCE) report from Adrian Flores, L.P.T.A. and Kevin Abers, P.T. dated 02/08/05

A Designated Doctor Evaluation performed by Jose Castillo, M.D. on 03/11/05

Another FCE from Valley Total Healthcare Systems by Fergus Dowling, L.P.T. dated 03/15/05

A psychological evaluation by George Esterly, L.P.C. from Valley Total Healthcare Systems dated 03/15/05

A follow-up note from Dr. Sweeney dated 03/22/05

A request for an initial 10 sessions of a chronic pain management program from Valley Total Healthcare dated 03/23/05

An adverse review determination from The Hartford regarding the 10 sessions of the chronic pain management program dated 03/29/05

An MRI of the right shoulder performed on 03/31/05 and interpreted by L.M. Farolan, M.D.

A request for reconsideration for the 10 sessions of the chronic pain management program dated 04/05/05 from Robert DeAnda, L.P.C.

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Another adverse review determination from The Hartford for the 10 sessions of the chronic pain management program

A follow-up note from Mike Sweeney dated 04/19/05

Follow-up notes from an unknown physician (the signature was illegible) dated 04/20/05 and 04/25/05

An impairment rating from Dr. Garcia dated 05/17/05

**Clinical History Summarized:**

X-rays of the cervical spine and right shoulder on 07/14/04 revealed cervical spondylosis at C5-C6 and to a lesser degree at C4-C5. The right shoulder films revealed a type II acromion without evidence of dislocation. There appeared to be some calcification of the supraspinatous tendon at its insertion. Dr. Garcia initially evaluated the claimant on 07/20/04 and felt the claimant had muscular spasms, acute tendonitis of the right shoulder, cervicalgia, and mid back pain. Therapy was recommended three times a week for four weeks. Biofreeze gel was prescribed, as well as Baldarian Plus tablets. From 07/30/04 through 08/30/04, the claimant received electrical stimulation, moist heat, and therapeutic exercises. An MRI of the right shoulder on 09/13/04 revealed a full thickness tear of the distal supraspinatous tendon with tendon retraction and free flow of fluid into the subacromial-subdeltoid bursa and a tear of the inferior AC joint ligament/capsule with fluid extending into the AC joint. The claimant continued in therapy under Dr. Garcia's direction from 09/16/04 through 01/28/05. Dr. Garcia reviewed the right shoulder MRI on 09/17/04 and referred the claimant to an orthopedic surgeon to address the right shoulder. Dr. Sweeney evaluated the claimant on 10/12/04 and recommended a repair of the torn rotator cuff. The claimant underwent arthroscopic subacromial decompression, right shoulder rotator cuff repair, and distal clavicle debridement on 10/21/04 by Dr. Sweeney. On 11/02/04, Dr. Sweeney refilled the claimant's medications and kept her off work. On 12/22/04, Dr. Sweeney removed the claimant from her sling and recommended gentle rehabilitation. She remained off work. Dr. Sweeney noted on 01/12/05, the claimant's progress was slow due to her massive tear and he suspected she would not be able to return to normal lifting. He released the claimant to light duty work with no lifting with the right arm. On 02/02/05, Dr. Sweeney recommended an FCE. The claimant underwent an FCE on 02/08/05 with Mr. Flores and Mr. Abers. They felt the claimant's subjective reports of pain and associated limitation were unreliable and inaccurate and they also felt she could do more at times than she currently stated or perceived; however, she was not able to return to her pre-injury status. On 02/14/05 and 02/21/05, the claimant continued in therapy. Dr. Castillo performed a Designated Doctor Evaluation on 03/11/05. He did not feel the claimant had reached Maximum Medical Improvement (MMI), but felt she would in three months. The claimant underwent another FCE on 03/15/05 with Mr. Dowling and functioned in the sedentary physical demand level. She was

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very focused on her pain as opposed to function with a constant subjective complaint of pain rated at 6/10. A chronic pain management program was recommended. Mr. Esterly performed a psychological evaluation on 03/15/05 and recommended an interdisciplinary pain management program. On 03/22/05, Dr. Sweeney recommended another MRI of the right shoulder to assess if there was failure of healing of the rotator cuff repair. On 03/23/05, Valley Total Healthcare requested 10 sessions of the chronic pain management program. On 03/29/05, The Hartford provided an adverse review determination regarding the 10 sessions of the chronic pain management program. An MRI of the right shoulder on 03/31/05 revealed postsurgical changes with a recurrent full thickness tear of the supraspinatous tendon, as well as bursitis and synovitis. Mr. DeAnda provided a request for reconsideration for the 10 sessions of the chronic pain management program. The Hartford provided another adverse determination review on 04/15/05 regarding the 10 sessions of the chronic pain management program. On 04/19/05, Dr. Sweeney reviewed the claimant's MRI and she elected to not pursue surgical repair of the retear of the rotator cuff. Dr. Sweeney agreed and recommended permanent restrictions based upon the FCE. He felt she had reached MMI. On 04/20/05 and 04/25/05, an unknown provider evaluated the claimant and provided illegible notes. On 05/17/05, Dr. Garcia performed an impairment rating. He felt the claimant had reached MMI on 05/10/05 and assigned her a 14% whole person impairment rating.

**Disputed Services:**

Ten sessions of a chronic pain management program.

**Decision:**

I agree with the determination of the carrier that 10 sessions of chronic behavioral pain management would not be necessary at this time.

**Rationale/Basis for Decision:**

This claimant had clear evidence of ongoing organic pathology, which will limit the functional status of her right shoulder. Moreover, there was no documented medical evidence of psychological disturbances or manifestations of psychological illness in this claimant record that would necessitate psychological treatment. Additionally, the psychological evaluation by Mr. Esterly clearly documented only mild levels of depression and anxiety, for which conservative care does not seem to have been attempted. Therefore, it was abundantly clear that this claimant has not exhausted all appropriate medical treatment options and, therefore, would not be an

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appropriate candidate for a chronic pain management program. Chronic pain management programs are only considered as possibly medically reasonable and necessary if all appropriate medical treatment options have been exhausted. This is clearly not the case in this situation.

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 with Professional Associates is deemed to be a Commission decision and order.

### **YOUR RIGHT TO REQUEST A HEARING**

Either party to this medical dispute may disagree with all or part of this 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/Appeals Clerk **within ten (10) calendar days** of your receipt of this decision (28 Texas Administrative Code 1133.308 (v) (1)).

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

This decision is deemed received by you **five (5) calendar days** after it was mailed (28 Texas Administrative Code 102.5 (d)). A request for a hearing should be faxed to 512-804-4011 or sent to:

Chief Clerk of Proceedings/Appeals Clerk  
Texas Workers' Compensation Commission  
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.

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I hereby verify that a copy of this Independent Review Organization's decision was sent to the respondent, the requestor, TWCC and the claimant via facsimile or U.S. Postal Service this day of 07/14/05 from the office of Professional Associates.

Sincerely,

Lisa Christian  
Secretary/General Counsel