

# MEDICAL REVIEW OF TEXAS

[IRO #5259]

3402 Vanshire Drive

Austin, Texas 78738

Phone: 512-402-1400

FAX: 512-402-1012

## NOTICE OF INDEPENDENT REVIEW DETERMINATION

|  |                      |
|--|----------------------|
| TWCC Case Number:                                      |                      |
| MDR Tracking Number:                                   | M2-05-1991-01        |
| Name of Patient:                                       |                      |
| Name of URA/Payer:                                     | Liberty Insurance    |
| Name of Provider:<br>(ER, Hospital, or Other Facility) |                      |
| Name of Physician:<br>(Treating or Requesting)         | Robert Carpenter, DC |

July 13, 2005

An independent review of the above-referenced case has been completed by a medical physician board certified in orthopedic surgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD  
Medical Director

cc: Francisco Battle, MD  
Robert Carpenter, DC  
Texas Workers Compensation Commission

CLINICAL HISTORY

This 56-year-old man was cleaning trash off the floor and developed an acute onset of low back pain on his date of injury \_\_\_\_\_. The patient has been treated with physical therapy. He has had at least one epidural steroid injection on 1/17/05. He has also been treated with medications including Bextra, Hydrocodone and Carisoprodol.

X-rays of the lumbar spine obtained on 4/7/04 at Trinity Clinic were reportedly normal. An MRI of the lumbar spine dated 8/26/04 at MRI Central was read by Thomas Arnold, MD and reportedly showed no specific evidence of disc protrusion or canal stenosis. He did report a small area of increased signal posteriorly in the annulus of the L5-S1 disc. He did not comment on the presence of disc desiccation at the other lumbar levels.

Discograms at L4-5 and L5-S1 were performed 2/11/05 by Robert M. Sutherland, MD. He reported no pain at the L4-5 level and concordant pain at the L5-S1 level. Post discogram CT scans were read by Thomas Arnold, MD showing disc degeneration at both the L4-5 and L5-S1 levels with contrast extending to the peripheral margins of the annuli. A mild protrusion was also noted at L5-S1.

It is noted that this patient has an ongoing complaint of low back pain since the time of his injury despite conservative treatment. He has been working light duty.

REQUESTED SERVICE(S)

Arthrodesis, posterior or posterolateral technique at L5-S1.

DECISION

Denied.

### RATIONALE/BASIS FOR DECISION

There is insufficient evidence of pathology to warrant this procedure. This patient has no documentation of instability on flexion/extension x-rays. There is no evidence of spondylolisthesis. This patient has no prior history of surgery. Therefore the proposed surgery is not indicated for any of the above conditions.

The patient has degeneration of at least two lumbar discs, L4-5 and L5-S1. If tested, this 56-year-old man likely has degeneration of other lumbar discs as well. With review of the records it appears that the indication for L5-S1 fusion is that discography at that level produced concordant pain while discography at L4-5 produced no symptoms.

E.J. Carragee from Stanford University has publications in *Spine* December 2002 and *Orthopedic Clinics of North America* January 2004. In both publications he questions the validity of concordant pain with discography. In the first article he found that pain response "may be amplified in those subject with issues of chronic pain, social stressors such as secondary gain or litigation claims or psychometric stress disorders." The second article reiterates this point. It also shows that "asymptomatic people with normal psychometric profiles and known abnormal discs will have concordant pain 40% of the time with injection of these discs." Therefore, simply because the patient has pain associated with discography of an abnormal disc does not mean the disc is causing symptoms.

In conclusion, in this patient with known disc desiccation at multiple levels, concordant pain is an unreliable and unpredictable method of evaluating the need of surgical intervention. Surgery is not indicated on the basis of concordant pain alone.

## 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** (ten) calendar days of your receipt of this decision (20 Tex. Admin. Code 142.5©).

**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) calendar 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 or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk  
Texas Workers' Compensation Commission  
P.O. Box 17787  
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

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 14<sup>th</sup> day of July 2005.

Signature of IRO Employee: \_\_\_\_\_

Printed Name of IRO Employee: Cindy Mitchell