

# MEDICAL REVIEW OF TEXAS

[IRO #5259]

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Austin, Texas 78738

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## NOTICE OF INDEPENDENT REVIEW DETERMINATION

**REVISED 8/29/05**

TWCC Case Number:	
MDR Tracking Number:	M2-05-2149-01
Name of Patient:	
Name of URA/Payer:	Facility Insurance Corp.
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Jacob Rosenstein, MD

August 22, 2005

An independent review of the above-referenced case has been completed by a medical physician board certified in physical medicine and rehabilitation. 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: Jacob Rosenstein, MD  
Texas Workers Compensation Commission

#### CLINICAL HISTORY

Records reviewed included:

- Records submitted by Flahive, Ogden & Latson including Utilization Review Findings dated 7/7/05 and 7/12/05;
- Records submitted by North Texas Neurosurgical Consultants (Jacob Rosenstein, MD); and
- Diagnostic Neuro Imaging report dated 6/29/05 (Shelley Rosenbloom, MD).

The claimant is being followed for low back pain originally injured on \_\_\_\_; status post L5-S1 posterior lumbar interbody fusion in 1994 with known L5-S1 pseudoarthrosis. Works as a piano trainer, has had chronic back pain, has done very well with facet injections in the past and has complaints of chronic pain.

Physical examination reveals lumbar spine flexion at 45°, extension 0° produces low back pain.

#### REQUESTED SERVICE(S)

Bilateral facet injection L1-2, L4-5 and L5-S1.

#### DECISION

Overturn carrier's prior denial and approve L4-5 and L5-S1 levels.

Deny L1-2.

#### RATIONALE/BASIS FOR DECISION

In reviewing both the carrier and the treating physician notes, there is lots of confusion about the procedure being performed. According to Dr. Rosenstein, the procedure being performed is not a diagnostic procedure but a therapeutic procedure, which would be that of medial branch rhizolysis with phenol. It is not a facet injections. The

guidelines used by the carrier to deny facet injections are those of diagnostic criteria, not those of treatment criteria. There is clear-cut evidence in the chart to support L4-L5 and L5-S1 bilateral facet rhizolysis with phenol, which will require two levels from L5-S1 which should be L4-5 and L5-S1 and two levels for L4-5 which is L4-5 already being completed and L3-4 to get good relief. Not clear why L1-2 needs to be performed and would deny unless additional information is provided by the operative surgeon. The information at hand would support therapeutic phenol rhizolysis of the medial branch nerves bilaterally at L4-5, L5-S1 and L3-4 for treatment of L4-5 and L5-S1 facet arthritis/facet arthrosis.

## 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 23<sup>rd</sup> day of August, 2005.

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

Printed Name of IRO Employee: Cindy Mitchell