



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-05-2191-01
NAME OF REQUESTOR: _____
NAME OF PROVIDER: Robert LeGrand, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 10/18/05

Dear Mr. ____:

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. 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 Orthopedic Surgery 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

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conflicts of interest that exist between him and any of the treating physicians or providers or any 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:

Evaluations with Robert H. LeGrand, Jr., M.D. dated 03/23/84, 04/25/84, 05/02/84, 06/06/84, 07/30/84, 08/31/84, 09/26/84, 10/17/84, 11/09/84, 11/28/84, 08/02/85, 08/29/85, 11/01/85, 11/27/85, 01/09/86, 02/24/86, 04/21/86, 05/22/86, 05/26/87, 06/08/87, 06/22/87, 11/19/87, 12/10/87, 01/04/88, 02/08/88, 02/17/88, 04/11/88, 05/12/88, 06/23/88, 09/08/88, 02/28/91, 03/11/91, 03/25/91, 04/08/91, 04/29/91, 05/28/91, 12/29/94, 01/09/95, 01/19/95, 02/13/95, 04/03/95, 04/12/95, 05/01/95, 05/22/95, 06/26/95, 08/17/95, 02/16/04, 03/01/04, 07/08/04, 07/26/04, 09/16/04, 05/16/05, 05/26/05, 06/09/05, 06/27/05, 07/07/05, and 07/26/05

Operative reports by Dr. LeGrand on 08/08/84, 08/16/85, 03/08/88, 07/16/04, and 06/22/05

An MRI of the lumbar spine on 11/28/87 interpreted by William E. Bishop, M.D.

An evaluation with Charles G. Caldwell, M.D. dated 03/06/88

Evaluations with J. Patrick Hooker, M.D. dated 07/19/89, 08/11/89, 09/01/89, 09/21/89, 10/13/89, 03/14/90, 05/14/90, and 07/20/90

An evaluation with Edward T. Driscoll, M.D. dated 08/03/89

A CT scan of the lumbar spine interpreted by Paul H. Pevsner, M.D. dated 08/10/89

An MRI of the lumbar spine interpreted by Dr. Pevsner dated 07/20/90

MRIs of the lumbar spine interpreted by Ronald K. McCauley, M.D. dated 04/09/91 and 01/27/95

An Employer's First Report of Injury or Illness form for a date of injury of 12/15/94

An evaluation with Charles Benham, M.D. dated 12/15/94

A TWCC-69 form filed by Irvin Zeitler, D.O. dated 12/19/94

A lumbar myelogram CT scan interpreted by Dr. McCauley dated 04/12/95

A TWCC-69 form filed by Dr. LeGrand on 06/14/95

An emergency room visit with Daniel A. Heimbecker, M.D. dated 08/27/97

X-rays of the chest and cervical spine dated 08/27/97 and interpreted by Don L. Kusenberger, M.D.

An emergency room visit with Mark H. Murphy, M.D. dated 08/30/97

X-rays of the chest interpreted by Ronnie M. Fenton, M.D. dated 08/30/97

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Evaluations with James E. Melott, M.D. dated 11/14/00, 04/24/01, 04/26/01, 05/01/01, 08/20/01, 05/21/02, 09/12/02, 11/08/02, 04/21/03, and 07/30/03

An upper gastrointestinal study interpreted by Garry Anderson, M.D. dated 05/16/01

A laboratory study interpreted by Myla Lai-Goldman, M.D. dated 05/21/02

An evaluation with Edward J. Artnak, M.D. dated 06/13/02

An Employer's First Report of Injury or Illness form for a date of injury of ____

An emergency room visit with Samuel J. Kasberg, M.D. on ____

X-rays of the lumbar spine interpreted by E. H. Snyder, M.D. dated ____

A telephone interview with Josh Leske dated 02/18/04

Video surveillance of the patient from Veracity Research Company dated 03/05/04 and 03/08/04

A letter of appeal and reconsideration from Charlie T. Morrell at the Workers' Compensation Department dated 04/08/04.

Another telephone interview with Scott Calhoun dated 04/13/04

A letter of Decision and Order from the Texas Workers' Compensation Commission (TWCC) dated 05/04/04

A letter regarding a Contested Case Hearing (CCH) from Flahive, Ogden, and Latson dated 06/15/04

A letter of preauthorization request for a lumbar myelogram CT scan from Dr. LeGrand dated 07/12/04

A lumbar myelogram CT scan interpreted by Kenneth E. Breedlove, M.D. dated 07/16/04

A letter of preauthorization request for a lumbar injection from Dr. LeGrand on 07/29/04

A notice of disputed issue(s) and refusal to pay benefits form dated 08/12/04

Designated Doctor Evaluations with Donald L. Wehmeyer, M.D. dated 08/16/04 and 01/24/05

Letters of preauthorization request for lumbar spine surgery and a back brace from Dr. LeGrand dated 09/20/04, 05/17/05, 06/28/05, 07/19/05, and 08/05/05

Letters of denial for the surgery from Travelers Indemnity Co. on 09/24/04 and 07/01/05

A TWCC-73 form by Jerry Franz, M.D. dated 02/07/05

A letter of appeal from the Law Offices of Phillip L. Wray, II Attorneys at Law dated 04/04/05

A letter of preauthorization request for a lumbar myelogram CT scan from Dr. LeGrand on 05/31/05

A lumbar myelogram CT scan interpreted by Thomas Murnane, III, M.D. dated 06/22/05

Physician Advisory Referrals from an unknown provider on 07/12/05 and 07/18/05

A resolution plan from Ebony Upshaw on 08/08/05

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Clinical History Summarized:

On 08/08/84, Dr. LeGrand performed a right L3-L4 and L4-L5 decompressive laminectomy with foraminotomies and opening of the lateral recesses, nerve root decompressions, and excision of the right L4-L5 disc, along with trigger point injections. Dr. LeGrand performed a left lumbosacral laminectomy with opening of the lateral recess, foraminotomy, and excision of the disc, along with trigger point injections on 08/16/85. On 03/08/88, Dr. LeGrand performed a right L4-L5 exploration with further opening of the lateral recess and foraminotomy and excision of epidural cicatrix with nerve root decompression and inspection of the disc space, along with a right L3-L4 laminectomy with opening of the lateral recess and foraminotomy and excision of the disc with nerve root decompression. The lumbar MRI on 07/20/90 interpreted by Dr. Pevsner showed only degenerative changes at L4-L5 and L5-S1. An Employer's First Report of Injury or Illness form stated the patient had a new injury on ___ when he fell off a board and sprained his neck and back. He was placed at Maximum Medical Improvement (MMI) by Irvin Zeitler, D.O. as of 12/19/94 with a 0% whole person impairment rating. On 06/14/95, Dr. LeGrand placed the patient at MMI as of 05/22/95 with an 8% whole person impairment rating. The patient had an injury on ___ when he was involved in a motor vehicle accident (MVA). A new Employer's First Report of Injury or Illness form on ___ noted the patient injured his lumbar spine again. On 03/01/04 and 07/08/04, Dr. LeGrand recommended a lumbar myelogram CT scan and lumbar Depo-Medrol and Marcaine injection. On 04/12/04, Travelers Investigative Services took recorded statements and noted the patient had advised his co-worker to change his story. His co-worker also noted that he had driven by the patient's house on a couple different occasions and saw him loading a pickup style toolbox into a truck and hanging and swinging on a support board on the front porch of his house. On 09/16/04, Dr. LeGrand requested an L2-L3 decompression, fusion, and instrumentation. On 08/12/04, Travelers Insurance provided a notice of dispute issue(s) and refusal to pay benefits stating they disputed additional body parts were related to the ___ date of injury. Dr. LeGrand wrote several letters requesting preauthorization of the lumbar fusion and instrumentation with a back brace on 09/20/04, 05/17/05, 06/28/05, 07/19/05, and 08/05/05. Letters of denial for the surgery from Travelers Indemnity Co. were provided on 09/24/04, 07/01/05, and 07/19/05. A letter to the insurance carrier from Phillip L. Wray, II, Attorneys at Law on 04/04/05 noted the patient was appealing the extent of his compensable injury.

Disputed Services:

Lumbar laminectomy with fusion and instrumentation at L2-L3 with a one night stay and the purchase of an LSO brace

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Decision:

I disagree with the requestor. The lumbar laminectomy with fusion and instrumentation at L2-L3 with a one night stay, as well as purchase of an LSO brace is neither reasonable nor necessary.

Rationale/Basis for Decision:

This patient had a very mild injury in _____. He was lifting with several other individuals a fairly light weight. At worst, the patient sustained a lumbar strain. He had undergone previous surgeries. The anatomy of his lumbar spine was severely distorted from those prior surgeries. There was no evidence that the lifting injury of _____ caused the degenerative disease at L2-L3. This was a natural occurrence after his prior fusions. In addition, the imaging studies have shown this degeneration at L2-L3 to be getting worse over time, which was consistent with the natural history of such degeneration and not related to the compensable injury. In addition, there was a question as to the patient's veracity, with the patient having been noted to be able to do more than he claimed. Lastly, the prognosis with such a decompression and fusion is terrible. This patient already has fusion from L3 to the sacrum. The chance of making any recovery with a surgical procedure is less than 50%. At this point, there was no indication for surgical intervention. In addition, even if surgery were indicated, it would not be related to the compensable injury. This decision was based on the medical records, ACOEM Guidelines, peer reviewed literature and clinical experience.

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

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 (other than a spinal surgery prospective 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.

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If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision. 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 the respondent, the requestor, DWC, and the patient via facsimile or U.S. Postal Service this day of 10/18/05 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel