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## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** August 24, 2005

**Requester/ Respondent Address:**

TWCC  
Attention: Gloria Covarrubias  
7551 Metro Center Drive, Suite 100, MS-48  
Austin, TX 78744-1609

Arvo Neidre, MD c/o Robert Joyner, MD  
Attn: D. Pohl  
Fax: 210-561-7240  
Phone: 210-561-7234

TASB  
Attn: Jackie Rosga  
Fax: 888-777-8272  
Phone: 512-467-0222 x 2261

**RE: Injured Worker:**

**MDR Tracking #:** M2-05-2198-01  
**IRO Certificate #:** IRO 5263

Forté 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 Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté 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 an Orthopedic Surgeon reviewer (who is board certified in Orthopedic Surgery) who has an ADL certification. 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.

### **Submitted by Requester:**

- MRI of the lumbar spine with and without contrast report dated 3/15/05 from Huebner Imaging Center in San Antonio, Texas
- Lumbar myelogram and post myelogram CT report dated 6/21/05 from Huebner Imaging Center in San Antonio, Texas
- Lumbar myelogram report dated 6/21/05 from Huebner Imaging Center in San Antonio, Texas
- Operative report from Methodist Ambulatory Surgical Hospital Northwest from 1999 documenting L3 through L5 fusion with instrumentation
- Operative report dated 5/19/04 from Methodist Ambulator Surgical Hospital Northwest documenting exploration of spinal fusion with removal of posterior spinal instrumentation
- Medical documents of South Texas Orthopedics and Spinal Surgery Associates, PA
- Letter of medical necessity from Arvo Neidre, MD of South Texas Orthopedics and Spinal Surgery Associates, PA

### **Submitted by Respondent:**

- Lumbar myelogram report dated 6/21/05 from Huebner Imaging Center in San Antonio, Texas
- MRI lumbar spine with and without contrast report dated 3/15/05 from Huebner Imaging Center in San Antonio, Texas
- Medical documents from South Texas Orthopedics and Spinal Surgery Associates, PA
- Pre-authorization report dated 7/15/05 from Texas Association of School Boards, Inc.

### **Clinical History**

The claimant has a history of chronic back pain allegedly related to a compensable injury that occurred on or about \_\_\_\_\_. The claimant is status post laminectomy and fusion with instrumentation from L2 to L5.

### **Requested Service(s)**

Lumbar discogram at L2/3 and L5/S1

### **Decision**

I agree with the carrier that the requested intervention is not medically necessary.

### **Rationale/Basis for Decision**

Discography is an invasive diagnostic procedure generally performed when fusion is anticipated. Generally, fusion is indicated in the presence of acute or chronic instability, tumor, pseudoarthrosis, or other condition causing progressive neurologic compromise. The claimant has a static chronic pain syndrome that has been referred to as “post laminectomy syndrome”.

There is no documentation of motion segment level instability at any motion segment level. Imaging studies document mild to moderate spinal stenosis at L2/3 partly due to a mild bulging disc and partly due to facet arthrosis. The claimant's symptoms and physical findings are consistent with lateral stenosis that has not responded to epidural Cortisone injections. There is no clearly documented clinical rationale explaining why a simple decompression would be any less effective than interbody fusion and instrumentation in this clinical setting. There is no documentation to support the need for fusion and, therefore, no clear indication for the need for discography. Finally, there is no documentation of exhaustion of all usual and customary conservative measures of treatment including but not limited to oral nonsteroidal and corticosteroid medications, bracing, and physical therapy.

## **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 (28 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) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings / Appeals Clerk  
P.O. Box 17787  
Austin, Texas 78744

Fax: 512-804-4011

The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this 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 patient, the requestor, the insurance carrier, and TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 24<sup>th</sup> day of August 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder