



# PROFESSIONAL ASSOCIATES

## NOTICE OF INDEPENDENT REVIEW

**NAME OF PATIENT:**  
**IRO CASE NUMBER:** M2-05-2200-01  
**NAME OF REQUESTOR:** Advantage Healthcare Systems  
**NAME OF PROVIDER:** George Cole, D.O.  
**REVIEWED BY:** Board Certified in Pain Management and Anesthesiology  
Board Certified in Pain Medicine  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 09/20/05

Dear Advantage Healthcare Systems:

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.

This case was reviewed by a physician reviewer who is Board Certified in the area of Pain Management and Anesthesiology and Pain Medicine 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

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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:**

An MRI of the lumbar spine interpreted by Gregory B. Smith, M.D. on 04/15/03

Evaluations with Mary F. Burgesser, M.D. on 07/02/03, 07/28/03, 11/05/03, 12/17/03, 12/16/04

An evaluation by J. Brett Gentry, M.D. on 08/08/03

A lumbar myelogram CT scan that was interpreted by James J. Newman, Ph.D., M.D. on 08/28/03

An MRI of the lumbar spine that was interpreted by Emily H. Lee, M.D. on 01/25/05

Evaluations by George M. Cole, D.O. on 02/02/05, 03/02/05, 03/30/05, 04/13/05, 04/15/05, 04/27/05, 06/01/05, 06/29/05, 08/09/05

Physical therapy with an unknown provider (the signature was illegible) on 02/03/05, 02/06/05, 02/07/05, 02/08/05, 02/10/05, 02/11/05, 02/16/05, 02/21/05, 02/23/05, 02/28/05, 03/02/05, 03/04/05, 03/08/05, 03/10/05, 03/13/05, 03/17/05, 03/18/05, 03/22/05, 03/24/05, 03/28/05, 03/30/05, 04/04/05, 04/08/05, and 04/11/05

A psychological evaluation by Billy Stone, L.P.C. on 05/17/05

A request for a chronic pain management program from Mr. Stone on 05/25/05

A letter of non-authorization for the chronic pain management program from Peggy M. Steed, L.V.N. at Texas Mutual Insurance Company on 06/01/05

A request for reconsideration of the pain management program from Mr. Stone on 06/06/05

A letter of non-authorization for the pain management program from Sandra L. Keith, L.V.N. at Texas Mutual Insurance Company on 06/14/05

A TWCC-69 form from Dr. Cole on 08/09/05

An undated (no date was provided on the note) EMG/NCV study that was interpreted by Dr. Burgesser

#### **Clinical History Summarized:**

An MRI of the lumbar spine on 04/15/03 that was interpreted by Gregory B. Smith, M.D. revealed a left lateral L4-L5 disc protrusion, broad based disc bulging at L5-S1, and questionable mild spinal canal narrowing at T10-T11. On 07/28/03 and 11/05/03, Dr. Burgesser recommended a neurosurgical consultation and an epidural steroid injection (ESI). A lumbar

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myelogram CT scan interpreted by James J. Newman, M.D. on 08/28/03 revealed only very mild degenerative changes of the L4-L5 and L5-S1 facet joints. On 12/16/04, Dr. Burgesser noted the patient had a new lumbar injury on \_\_\_ and recommended an MRI and Lortab, Neurontin, Ibuprofen, and Ambien. A lumbar MRI date 01/25/05 and interpreted by Emily H. Lee, M.D. revealed multilevel disc disease in the lumbar spine that was worse at L4-L5 with moderate left lateral disc protrusion and neuroforaminal narrowing. Billy Stone, L.P.C. indicated the patient had symptoms of chronic pain, depression, and anxiety on 05/17/05 and recommended a chronic pain management program. Peggy M. Steed, L.V.N., of Texas Mutual Insurance Company, provided a notice of non-authorization of the pain management program on 06/01/05, as the patient had not exhausted all lower levels of care. On 06/06/05, Mr. Stone provided a request for reconsideration of the program. Sandra Keith, L.V.N. at Texas Mutual Insurance Company sent a letter of non-authorization for the pain management program on 06/14/05, again noting that all lower levels of care had not been exhausted. On 08/09/05, Dr. Cole performed a regional lumbar block and placed the patient at Maximum Medical Improvement (MMI) with a 5% whole person impairment rating.

**Disputed Services:**

An initial 10 sessions of a behavioral chronic pain management program

**Decision:**

I disagree with the requestor. The initial 10 sessions of a behavioral chronic pain management program would not be reasonable or necessary.

**Rationale/Basis for Decision:**

There was no valid medical evidence of psychological illness, manifestation of psychological illness, or a valid diagnosis of depression that would necessitate any psychological treatment for this patient's ongoing pain complaints. Moreover, it was abundantly clear this patient's pain complaints predated her work injury of \_\_\_ by at least 20 months and there was, in fact, no evidence of any significant pathology seen on the myelogram performed in August of 2003. The open MRI study of 04/15/03 and 01/25/05 were essentially unchanged. However, the results of 04/15/03 were found to not be validated by virtue of a lumbar myelogram study performed four months thereafter. Therefore, in all medical probability, the results of the open MRI study on 01/25/05, which was essentially identical to those of 04/15/03, were also invalid. Additionally, the patient's complaints of right leg pain were clearly non-physiological based upon the fact that there was, if anything, a left disc bulge at L4-L5. A left disc bulge could not produce right leg symptoms, thereby invalidating the complaints of right leg pain expressed by the patient.

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Moreover, there was no valid medical evidence of radiculopathy by physical examination. Straight leg raising test was repeatedly documented as producing low back pain only, which was not indicative of pathology. The psychological testing performed by Mr. Stone demonstrated only mild elevations on the anxiety and depression scores. A chronic pain management program would not be medically reasonable or necessary unless all appropriate medical treatment options have been exhausted. Therefore, there is no medical reason or necessity for 10 sessions of a behavioral chronic pain management program, since this patient has no valid medical evidence of a psychological disorder, no clinically significant abnormalities on psychological testing, non-physiological contralateral pain, a clearly preexisting identical pain complaint, no valid objective evidence of pathology, and no trials of levels of treatment or, for that matter, anti-depressants.

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.

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

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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 09/20/05 from the office of Professional Associates.

Sincerely,

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Amanda Grimes  
Secretary/General Counsel