

# IRO America Inc.

## An Independent Review Organization

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September 14, 2005

TWCC Medical Dispute Resolution

Fax: (512) 804-4868

Patient: \_\_\_\_\_  
TWCC #: \_\_\_\_\_  
MDR Tracking #: M2-05-2243-01  
IRO #: 5251

IRO America Inc. (IRO America) has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission (TWCC) has assigned this case to IRO America for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

IRO America has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor; the Reviewer is a credentialed Panel Member of IRO America's Medical Knowledge Panel who is a licensed M.D., board certified and specialized in Orthopedic Surgery. The reviewer is on the TWCC Approved Doctor List (ADL).

The IRO America Panel Member/Reviewer is a health care professional who has signed a certification statement stating that no known conflicts of interest exist between the Reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to IRO America for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

### RECORDS REVIEWED

Notification of IRO assignment, information provided by Requestor, Respondent, and Treating Doctor(s) including:

- Claim note
- CT of pelvis 12/04/03
- MRI of pelvis 12/04/03
- MRI lumbar spine 01/16/04
- Bilateral lower extremities EMG 04/15/04
- Office notes of Dr. Cable 09/10/04, 10/22/04, 12/28/04

- physical therapy evaluation 10/22/04
- Office note of Dr. Zigler 01/26/05, 03/02/05, 04/13/05
- Discogram 03/29/05
- Liberty Mutual peer review 05/13/05
- Liberty Mutual letter to Dr. Zigler 05/16/05
- Requests by Dr. Zigler 05/25/05, 06/08/05
- BMD test 05/26/05
- Liberty Mutual second peer review appeal 06/20/05
- Dr. Zigler letter to Liberty Mutual 07/13/05
- Liberty Mutual letter to Dr. Zigler 07/21/05
- Claimant letter 07/29/05
- TWCC hearing with claimant 08/10/04
- Liberty Mutual letter to TWCC 08/10/05

### **CLINICAL HISTORY**

The Patient is a 54-year old male injured on \_\_\_ with a reported low back injury. The Patient has a current diagnosis of low back pain secondary to multilevel degenerative disc disease with a central L5-S1 disc herniation with compression at the S1 nerve root and facet hypertrophy via MRI 01/16/04. The 04/15/04 bilateral EMG studies demonstrated a right sided L5-S1 radiculopathy. The Patient treated conservatively with physical therapy, medications, work modifications and lumbar epidural steroid injections, without resolution of his symptoms.

On 01/26/05 the Patient was seen by Dr. Zigler for a surgical evaluation. The patient reported that 80 percent of his pain was back pain and 20 percent was leg pain with increasing difficulty with standing and walking. On examination there were pain behaviors and the claimant appeared to be in moderate distress. The Patient was able to heel toe walk, however, there was transverse lumbosacral tenderness with mild pars spinal spasm and decreased range of motion in all planes. Dr. Zigler recommended a discogram to further determine treatment.

On 03/29/05 the claimant underwent a lumbar discogram that showed normal non painful L3-L4 discs, moderately painful L4- L5 discs with posterior central disc bulge and right anterolateral disc protrusion. There was a moderately painful L5-S1 disc with moderate degenerative disc disease changes and a left paracentral disc protrusion at this level.

On 04/13/05 Dr. Zigler discussed the discogram results via phone conversation with the Patient. He opined, based on the discogram results, the Patient needed an anterior and posterior fusion at the L4-L5 and L5-S1 levels; however, noted the Patient would be a candidate for a hybrid construct surgery using an artificial disc replacement at L5-S1 and fusion of L4-L5.

According to the documentation Dr. Zigler was unable to obtain approval for the hybrid combination surgery, and noted there was no reason for him to treat the claimant further unless surgery was approved. The claim is currently under appeal for medical dispute resolution.

#### **DISPUTED SERVICE(S)**

Under dispute is prospective and/or concurrent medical necessity of Combination hybrid surgery: Charite disc replacement at level L5-S1 with a 360 degree fusion of level L4-5 surgery

#### **DETERMINATION/DECISION**

The Reviewer agrees, with the determination of the insurance carrier.

#### **RATIONALE/BASIS FOR THE DECISION**

The Patient is a 54-year old male with reported low back injury and a current diagnosis of low back pain secondary to multilevel degenerative disc disease with a central L5-S1 disc herniation with compression at the S1 nerve root and facet hypertrophy with L5-S1 right sided radiculopathy. According to the documentation he has exhausted all conservative treatments, without resolution of his low back pain. The surgeon has recommended a hybrid combination construct surgery using a Charite disc replacement at level L5-S1 with a 360 degree fusion of level L4-5 surgery. The theory of a disc replacement operation is to maintain some motion at the level of the disc; in this case the L5-S1 disc is the disc in question, which usually has limited motion anyway due to the position in the lumbar spine. Disc replacement is clearly not mainstream orthopedics. There are no long-term studies documenting the efficacy of this procedure over traditional forms of treatment. There is a lack of peer reviewed literature that shows combination of disc replacement and fusion surgery to be effective in long term treatment. Therefore, the proposed surgery cannot be recommended as medically necessary.

#### **Screening Criteria**

##### **1. Specific:**

Boden, Scott, Balderston, Richard et al. Disc Replacements: This Time Will We Really Cure Low-Back and Neck Pain? JBJ 86:411-422 (2004)

AAOS, Orthopedic Knowledge Update, Spine, chapter 35, pages 336- 38

Tropiano P, Huang RC, Girardi FP, Cammisa FP, Marnay T: Lumbar Total Disc Replacement: Seven to Eleven Year Follow-Up. The Journal of Bone and Joint Surgery, Volume 87-A, Number 3, March 2005

##### **2. General:**

In making his determination, the Reviewer had reviewed medically acceptable screening criteria relevant to the case, which may include but is not limited to any of the following: Evidence Based Medicine Guidelines (Helsinki, Finland); Texas Medical Foundation: Screening Criteria Manual (Austin, Texas); Texas Chiropractic Association: Texas Guidelines to Quality Assurance (Austin Texas); Texas Medical Foundation: Screening Criteria Manual (Austin, Texas); Mercy Center Guidelines of Quality Assurance; any and all guidelines issued by TWCC or other State of Texas Agencies; standards contained in Medicare Coverage Database; ACOEM

Guidelines; peer-reviewed literate and scientific studies that meet nationally recognized standards; standard references compendia; and findings; studies conducted under the auspices of federal government agencies and research institutes; the findings of any national board recognized by the National Institutes of Health; peer reviewed abstracts submitted for presentation at major medical associates meetings; any other recognized authorities and systems of evaluation that are relevant.

**CERTIFICATION BY OFFICER**

IRO America has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. IRO America has made no determinations regarding benefits available under the injured employee's policy.

As an officer of IRO America Inc., I certify that there is no known conflict between the Reviewer, IRO America and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

IRO America is forwarding by mail or facsimile, a copy of this finding to the TWCC, the Injured Employee, the Respondent, the Requestor, and the Treating Doctor.

Sincerely,

**IRO America Inc.**



Dr. Roger Glenn Brown

**President & Chief Resolutions Officer**

Cc: [Claimant]

Southwestern Bell Telephone LP/Liberty Mutual  
Attn: Carolyn Guard  
Fax: 574-258-5349

Jack E. Zigler M.D.  
Fax: 432-561-9215

## YOUR RIGHT TO REQUEST A HEARING

Either party to 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:

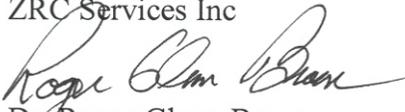
Chief Clerk of Proceedings / Appeals Clerk  
P.O. Box 17787  
Austin, Texas 78744  
Fax: 512-804-4011

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

**I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 14<sup>th</sup> day of Sept, 2005.**

**Name and Signature of Ziroc Representative:**

Sincerely,  
ZRC Services Inc



Dr. Roger Glenn Brown  
Chairman & CEO