



# PROFESSIONAL ASSOCIATES

## NOTICE OF INDEPENDENT REVIEW

**NAME OF PATIENT:** \_\_\_\_\_  
**IRO CASE NUMBER:** M2-05-2299-01  
**NAME OF REQUESTOR:** \_\_\_\_\_  
**NAME OF PROVIDER:** Steven Nolan, M.D.  
**REVIEWED BY:** Board Certified in Orthopedic Surgery  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 09/26/05

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 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

**M2-05-2299-01**

**Page Two**

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 Employer's First Report of Injury or Illness dated 10/24/02  
Evaluations with Steven Nolan, M.D., at Westside Orthopedic and Sports Medicine Associates, P.A., on 07/09/01, 08/10/01, 01/02/02, 11/08/02, 11/11/02, 11/15/02, 12/04/02, 12/16/02, and 12/27/02  
MRIs of the right knee and right hip dated 11/15/02 and interpreted by Noah Jaffee, M.D.  
An initial rehabilitation evaluation dated 12/03/02 from Danielle Yassall, P.T.  
An operative report dated 12/09/02 from Dr. Nolan  
Rehabilitation progress note from Ms. Yassall dated 12/13/02, 12/27/02, 01/10/03, 01/24/03, 02/07/03, 02/21/03, and 03/14/03  
Additional evaluations with Dr. Nolan dated 02/12/03, 03/05/03, 04/02/03, 04/30/03, 05/23/03, 07/07/03, 08/29/03, and 12/19/03  
A Designated Doctor Evaluation dated 06/11/03 with Thomas Greider, M.D.  
A TWCC-69 form dated 06/11/03 and signed by Dr. Greider  
A Functional Capacity Evaluation (FCE) dated 09/15/03 by Ms. Yassall  
Another Designed Doctor Evaluation dated 10/13/03 by William Donovan, M.D.  
A TWCC-69 form signed by Dr. Donovan on 10/13/03  
An evaluation dated 11/11/03 with Katrina Winterboer, P.A.-C., for Vladimir Redko, M.D.  
A letter to the Texas Workers' Compensation Commission (TWCC) dated 12/01/03 from Dr. Donovan  
An MRI of the cervical spine dated 12/11/03 and signed by Richard Oria, M.D.  
Another Designed Doctor Evaluation dated 01/08/04 with Dr. Donovan  
Continued evaluations with Dr. Nolan on 02/06/04, 04/12/04, 04/23/04, and 06/07/04  
A Required Medical Evaluation (RME) dated 04/07/04 from Charles E. George, M.D.  
A TWCC-69 form dated 04/07/04 from Dr. George  
An evaluation dated 04/27/04 dated 04/27/04 from Howard Cotler, M.D.  
A Physical Performance Evaluation (PPE) dated 06/10/04 and interpreted by Ms. Yasall

**M2-05-2299-01**

**Page Three**

An additional Designated Doctor Evaluation with Dr. Donovan dated 06/15/04

A TWCC-69 form signed by Dr. Donovan on 06/15/04

A rehabilitation program progress note dated 06/18/04 and signed by Ms. Yasall

A TWCC-73 form signed by Dr. Nolan on 09/22/04

Additional follow-up evaluations with Dr. Nolan dated 11/08/04, 12/13/04, 02/14/05, 03/14/05, and 04/29/05

An impairment rating evaluation on 11/19/04 and 11/29/04 by Jeanne Southern, M.D.

A TWCC-69 form signed on 11/29/04 by Dr. Southern

A Designated Doctor Evaluation with Augusto S. Avila, M.D. dated 01/25/05

A TWCC-69 form signed by Dr. Avila on 01/25/05

A letter "To Whom It May Concern" dated 02/14/05 from Dr. Nolan

A Designated Doctor Evaluation letter of clarification with an unknown date from Dr. Avila

Another letter "To Whom It May Concern" signed by Dr. Nolan on 03/14/05

A rebuttal of an impairment rating by a Designated Doctor dated 04/04/05 from Dr. Southern

Another letter of clarification from Dr. Avila, which was undated

A preauthorization determination dated 06/21/05 from FairIsaac and signed by Lisa Richards, R.N., C.S.M.

An interdisciplinary assessment dated 06/23/05 by Pawan Grover, M.D.

A notice of preauthorization dated 07/05/05 from FairIsaac and signed by Lou Richards, R.N.

Another preauthorization notice dated 07/13/05 and signed by Suzette Price, R.N., at FairIsaac

A letter from Robert S. Josey, at Harris and Harris Attorneys at Law, dated 09/07/05

**Clinical History Summarized:**

The Employer's First Report of Injury or Illness stated the patient was in the process of restraining a patient, who became combative, and the patient injured his neck, back, and hip on \_\_\_\_\_. In an evaluation dated 07/09/01, which predated the original injury, Dr. Nolan noted the patient had on-the-job injuries involving his left shoulder and right knee. It was also felt the cervical spine was causing him pain. The patient was felt to be disabled and unable to work. Dr. Nolan noted on 01/02/02 that the patient still had pain in his knees, more so on the right than the left. On 11/08/02, he evaluated the patient for his \_\_\_\_\_ injury. He had pain with rotation of his hip and also injured his right knee. The patient underwent arthroscopic examination of the right knee, a partial medial meniscectomy, a partial lateral meniscectomy, arthroscopic debridement, and damage articular cartilage of the medial femoral condyle, medial tibial plateau, and the patellofemoral joint, and removal of multiple weak bodies of the right knee on 12/09/02 by Dr. Nolan. On 10/13/03, in a Designated Doctor Evaluation, Dr. Donovan placed

**M2-05-2299-01**

**Page Four**

the patient at Maximum Medical Improvement (MMI) and assigned him 14% impairment rating. In an RME dated 04/07/04, Dr. George noted the patient had no particular problem with his neck or back prior to the altercations, but he had three knee surgeries and undoubtedly, the right knee was aggravated by the accident. He did not feel the patient was a candidate for cervical or lumbar spine surgery, which he did not want to go through. On 04/27/04, Dr. Cotler diagnosed the patient with C6-C7 degenerative disc disease associated with the right foraminal disc herniation, lumbar syndrome with a possible disc disruption and somatization of multiple body parts. He recommended an MRI of the lumbar spine. On 01/25/05, Dr. Avila placed the patient at statutory MMI on 11/02/04 and assigned him 4% whole person impairment rating. On 06/21/05, FairIsaac provided a denial of the requested cervical MRI, as it was not indicated. There was insufficient clinical documentation to justify the medical necessity of the requested service. On 06/23/05, Dr. Grover requested a copy of the patient's last cervical MRI, but also requested a new one at that time. On 07/05/05, FairIsaac again denied the requested cervical MRI. On 07/13/05, FairIsaac provided another preauthorization notice stating that based on the information available, the request for cervical spine MRI was not recommended, as Dr. Nolan's note on 06/10/05 indicated only neck pain with no special physical findings to warrant the medical necessity for a cervical MRI. In a letter dated 09/07/05, Mr. Josey provided a letter regarding the patient stating the compensable injury to his neck, back, hip, and knee on \_\_\_\_.. However, Dr. George, in his 04/14/04 RME, opined the patient needed no further diagnostic testing. Mr. Josey further noted no evidence existed at that time to document a change in the patient's condition, which might necessitate further diagnostics.

**Disputed Services:**

A cervical MRI

**Decision:**

I disagree with the requestor. The proposed cervical MRI is neither reasonable nor necessary in regard to the patient's \_\_\_\_ injury.

**Rationale/Basis for Decision:**

The patient had an MRI back in 2003 that was relatively normal for his age. This individual, who was in the sixth decade of his life, had mild degenerative changes in the cervical spine. He has had neck complaints for many years. There was evidence of symptom magnification, for example his showing up at the Designated Doctor Evaluation wearing a cervical collar

**M2-05-2299-01**

**Page Five**

for a nonacute injury. The patient has had no signs or symptoms of radicular injury. There was no indication that surgical intervention would be reasonable or necessary, or being contemplated. There was no medical justification for this MRI. Even if surgery were to be considered, this would not be a good idea. Therefore, there was no indication for a cervical MRI.

Medical criteria used in developing this decision involved the AECOM Guidelines, Chapter 8, Pages 177-179, neck and upper back. Also utilized in making this decision were the guidelines for the treatment of chronic lower back pain. A similar rationale would exist for chronic neck pain.

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

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.

**M2-05-2299-01**

**Page Six**

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 09/26/05 from the office of Professional Associates.

Sincerely,

Lisa Christian  
Secretary/General Counsel