PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT:	
IRO CASE NUMBER:	M2-05-2352-01
NAME OF REQUESTOR:	Texas Health
NAME OF PROVIDER:	Anthony Jones, D.C.
REVIEWED BY:	Board Certified in Pain Management Board Certified in Anethesiology
IRO CERTIFICATION NO:	IRO 5288
DATE OF REPORT:	10/10/05

Dear Texas Health:

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 Pain Management and Anesthesiology 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

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:

Behavioral Medical Evaluations with William R. Hester, Ph.D. dated 01/21/03, 03/04/03, 04/25/03, and 03/12/05
MRIs of the thoracic spine and lumbar spine interpreted by Crys Sory, M.D. dated 03/13/03
An evaluation and EMG/NCV study with Pedro Nosnik, M.D. dated 05/15/03
Behavioral medical progress notes from an unknown provider (the signature was illegible) on 06/27/03, 07/10/03, 07/18/03, 08/08/03, 08/15/03, 08/22/03, 01/05/04, 01/12/04, 01/19/04, and 02/02/04
Behavioral medical service reports from the unknown provider on 09/05/03, 09/12/03, 09/18/03, 09/26/03, 10/10/03, 10/20/03, 10/31/03, 11/10/03, 04/12/04, 04/14/04, 04/30/04, 05/07/04, 05/21/04, 05/28/04, 07/02/04, 07/09/04, 07/16/04, 08/05/04, 08/13/04, 08/20/04, 08/27/04, 09/03/04, 09/10/04, 09/17/04, 09/24/04, 10/01/04, 10/08/04, 10/15/04, 10/22/04, 11/05/04, 11/19/04, and 11/29/04
Orthopedic evaluations with Mike Shah, M.D. dated 11/03/03, 12/02/03, 12/16/03, 01/06/04, and 01/23/04
Procedure notes from Dr. Shah dated 11/20/03 and 12/02/03
A letter of preauthorization from Liberty Mutual Group dated 11/24/03
Orthopedic visits with Robert Chouteau, D.O. dated 02/10/04, 04/22/04, and 06/18/04
A telephone conversation from John M. Tierney, P.A.-C. for Dr. Chouteau on 02/18/04
Evaluations with Mr. Tierney for Dr. Chouteau dated 02/26/04 and 03/25/04
Evaluations with Donald Mackenzie, M.D. dated 06/01/04, 06/09/04, and 06/10/04
Chiropractic treatment with an unknown provider on 07/07/04, 03/01/05, 03/02/05, 03/03/05, 03/04/05, 03/07/05, 03/08/05, 03/09/05, 03/10/05, 03/11/05, 03/14/05, 03/15/05, 03/16/05, 03/17/05, 03/18/05, 03/21/05, 03/22/05, 03/23/05, 03/24/05, and 03/25/05
Evaluations by Devon Williams, P.A.-C. for Dr. Chouteau dated 09/15/04 and 10/13/04
Evaluations with Phillip E. Williams, Jr., M.D. dated 10/27/04 and 12/02/04
An evaluation with Phillip Kravetz, M.D. dated 11/05/04

A procedure note from James P. Pak, M.D. dated 11/11/04
An EMG/NCV study interpreted by Mark Parker, M.D. dated 11/17/04
An impairment rating evaluation with Victor Guerrero, M.D. on 03/18/05
A request for chronic pain management from the unknown chiropractor on 06/27/05
A chronic pain management evaluation with Claudia Ramirez, L.P.C.-I. and Tracey Duran, M.S., L.P.C. dated 07/05/05
A chronic pain management program plan and goals of treatment form from various providers dated 07/15/05
A physical therapy evaluation with Mark Dodson, P.T. dated 07/15/05
A Functional Capacity Evaluation (FCE) with an unknown provider dated 07/15/05
An evaluation with Sherine Boyd Reno, M.D. dated 07/22/05
Request for an initial 10 day trial of the pain management program by Phil Bohart, M.S., L.P.C. on 07/27/05
A letter of denial for the pain program from Gary Lefkof, M.D. at Intracorp dated 08/02/05
A letter of denial of the pain program from Liberty Mutual Group dated 08/03/05
Another letter of request for the initial 10 day chronic pain management program from Ms. Duran dated 08/12/05
A letter of appeal for the pain management program from I. Jack Abramson, M.D. at Intracorp on 08/17/05
Another letter of denial for the pain management program from Liberty Mutual Group on 08/17/05
A requestor's position regarding preauthorization from Ms. Duran dated 08/23/05
A letter to the Medical Dispute Resolution Department of the Texas Workers' Compensation Commission (TWCC) from Carolyn Guard, R.N.C. dated 09/08/05

Clinical History Summarized:

A behavioral medical evaluation performed with William R. Hester, Ph.D. on 01/21/03 noted the claimant had stress, anxiety, and depression. Individual psychotherapy or biofeedback was recommended. Behavioral medical service reports with Dr. Hester were provided from 03/04/03 through 03/04/05 for a total of 37 sessions. MRIs of the thoracic and lumbar spines interpreted by Crys Sory, M.D. on 03/13/03 revealed disc protrusions at L3-L4, L4-L5, and L5-S1. An EMG/NCV study interpreted by Pedro Nosnik, M.D. on 05/15/03 revealed evidence of left L5 radiculopathy. Mike Shah, M.D. performed a right L4-L5 ESI on 11/20/03 and a trigger point injection on 12/02/03. On 01/23/04, Dr. Shah noted the discogram was positive and discussed surgery. Robert Chouteau, D.O. recommended the IDET procedure on 02/10/04. John M. Tierney,P.A.-C. for Dr. Choteau recommended a lumbar fusion surgery on 03/25/04, 06/18/04,

and 09/15/04. Chiropractic therapy was performed with an unknown provider (no name or signature was provided) from 07/07/04 through 03/25/05 for a total of 20 sessions. The lumbar myelogram CT scan on 11/11/04 interpreted by James P. Pak, M.D. revealed minimal bulges at L3-L4 and L4-L5 and a broad based chronic disc protrusion at L5-S1. On 12/02/04, Dr. Williams felt the claimant did not need surgery. Victor Guerrero, M.D. assigned the claimant a 10% whole person impairment rating on 03/18/05 and noted he had been at Maximum Medical Improvement (MMI) on 01/10/05. Surgery was recommended. A chronic pain management evaluation by Claudia Ramirez, L.P.C.-I. and Tracey Duran, M.S., L.P.C. occurred on 07/05/05 that stated the claimant would benefit from the program because of chronic pain syndrome and no improvement with conservative measures. A minimum of two weeks was requested. Sherine Boyd Reno, M.D. also recommended the pain management program on 07/22/05. On 07/27/05, Phil Bohart, M.S., L.P.C. provided a preauthorization request for an initial 10 day trial of the pain management program. On 08/02/05, Gary Lefkof, M.D., from Intracorp, wrote a letter recommending denial of the pain management program. Liberty Mutual Group wrote a letter to Mr. Bohart on 08/03/05 stating the pain program had been denied. On 08/12/05, Ms. Duran wrote another preauthorization request for the initial 10 day pain management program. I. Jack Abramson, M.D., of Intracorp, wrote a letter on 08/17/05 denying the request. Ms. Duran wrote a letter of requestor's position regarding preauthorization of the pain program (rebuttal) on 08/23/05. Carolyn Guard, R.N.C. wrote a letter to the Medical Review Division of the TWCC on 09/08/05 regarding a dispute for the pain program and noted the original denial determinations should be upheld.

Disputed Services:

Ten initial sessions of a chronic pain management program

Decision:

I disagree with the requestor. The initial 10 sessions of a chronic pain management program would be neither reasonable nor necessary.

Rationale/Basis for Decision:

This claimant has had "exhaustive" amounts of physical therapy and individual psychotherapy with no benefit. He has had virtually all of the elements of a chronic pain management program

provided to him over an extended amount of time and repeatedly, essentially since two weeks after his injury event. By their own documentation, the requesting party admitted that despite this "exhaustive" treatment, the claimant has obtained no benefit. Therefore, there was no medical reason or necessity for repeating any of the previously failed elements of psychological treatment and physical therapy, which have been provided and, therefore, no medical reason or necessity for the claimant to undergo a chronic pain management program, which would clearly be nothing more than a repetition of all of those elements. Moreover, the objective tests that have been performed on this claimant do not demonstrate valid evidence of pathology, as a three level discogram, which produces concordant pain at each level, could not be considered valid as it lacked a control level. Moreover, Lidocaine discography produced no relief of the claimant's pain, which again would invalidate the discogram results and clearly indicate the claimant's discs are not, in fact, the source of his pain. Additionally, multiple physical examinations from different individuals document repeatedly non-physiological findings such as give way weakness and straight leg raising test positive at 10-15 degrees. Both of those findings are more indicative of functional overlay, symptom magnification, or factious disorder than they are of any true pathological condition. This claimant has had appropriate and "exhaustive" treatment provided to him, albeit without clinical benefit. There was no medical reason or necessity to repeat any or all of those clearly documented ineffective treatments within the structure of a chronic pain management program, as there was no valid expectation or treatment success after identical treatment has failed.

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.

I hereby verify that a copy of this Independent Review Organization's decision was sent to the respondent, the requestor, DWC, and the claimant via facsimile or U.S. Postal Service this day of 10/10/05 from the office of Professional Associates.

Sincerely,

_____
Lisa Christian
Secretary/General Counsel