PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT:	___
IRO CASE NUMBER:	M2-06-0216-01
NAME OF REQUESTOR:	Healthtrust
NAME OF PROVIDER:	Judson Somerville, M.D.
REVIEWED BY:	Board Certified in Pain Management Board Certified in Anesthesiology
IRO CERTIFICATION NO:	IRO 5288
DATE OF REPORT:	11/29/05

Dear Healthtrust:

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 the provider, the injured employee, the injured

employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the Independent Review Organization.

REVIEWER REPORT

Information Provided for Review:

A lumbar and sacral sonogram interpreted by E. Dennis Harris, M.D. on 10/28/03
An evaluation by Raul Martinez, M.D. for Judson Somerville, M.D. dated 11/01/03
An x-ray of the lumbar spine interpreted by L. M. Farolan, M.D. on 11/03/03
Evaluations with Dr. Somerville on 11/06/03, 02/02/04, 02/11/04, 02/18/04, 03/08/04, 03/17/04, 04/07/04, 04/21/04, 04/28/04, 05/07/04, 05/24/04, 06/07/04, 06/28/04, 07/26/04, 08/11/04, 09/07/04, 09/20/04, 10/25/04, 11/23/04, 12/13/04, 01/05/05, 02/07/05, 03/14/05, 04/11/05, 05/18/05, 06/17/05, 07/13/05, 08/12/05, 09/28/05, and 10/24/05
An MRI of the lumbar spine interpreted by Dr. Harris on 02/03/04
An EMG/NCV study interpreted by Dr. Somerville dated 02/18/04
Operative reports from Dr. Somerville dated 02/24/04, 03/11/04, 05/04/04, 09/02/04, 10/14/04, and 12/20/04
An EMG/NCV study interpreted by Fernando Sanchez, M.D. dated 05/18/04
A behavioral assessment with Gabriela Perez, M.A., L.P.C. dated 08/06/04
An MRI of the lumbar spine interpreted by Allan Kapilivsky, M.D. dated 09/28/04
A Required Medical Evaluation (RME) with John P. Obermiller, M.D. dated 01/13/05
An evaluation with James Flowers, M.A., L.P.C. dated 07/27/05
Letters of denial from St. Paul Travelers Company dated 08/15/05, 08/31/05, and 09/14/05
An addendum report from Mr. Flowers dated 08/22/05
A request for reconsideration from Cameron L. Jackson, D.C. dated 09/07/05
A group conference with Dr. Somerville and his staff dated 09/21/05

Clinical History Summarized:

A lumbar and sacral sonogram interpreted by Dr. Harris on 10/28/03 was negative. An x-ray of the lumbar spine interpreted by Dr. Farolan on 11/03/03 revealed multilevel spondylosis and L4-L5 and L5-S1 facet arthropathy. On 02/02/04, Dr. Somerville noted anxiety and depression were related to the work injury. He recommended an MRI of the lumbar spine, injections, and an NCV study. The lumbar MRI on 02/03/04 was interpreted by Dr. Harris and revealed only mild

central stenosis at L3-L4 and L4-L5. An EMG/NCV study interpreted by Dr. Somerville on 02/18/04 revealed severe hypoesthesia of the left L5 peroneal nerve and hyperesthesia of the bilateral L1 and right L2 and S1 nerves. Nerve root blocks and epidural steroid injections (ESIs) were performed by Dr. Somerville on 02/24/04 and 03/11/04. On 04/07/04, Dr. Somerville recommended a Functional Capacity Evaluation (FCE) and work hardening program. A lumbar ESI was performed by Dr. Somerville on 05/04/04. An EMG/NCV study interpreted by Dr. Sanchez on 05/18/04 revealed left leg moderate L5 and mild to moderate S1 radiculopathies. Surgery was recommended by Dr. Somerville on 06/07/04 and 07/26/04. A letter of medical necessity for a chronic pain management program was provided by Dr. Somerville on 06/07/04. A behavioral assessment with Ms. Perez on 08/06/04 indicated a recommendation for eight patient psychotherapy sessions. Thermal disc decompression annuloplasty was performed by Dr. Somerville on 09/02/04. An MRI of the lumbar spine interpreted by Dr. Kapilivsky on 09/28/04 revealed disc desiccation at L3-L4 and L4-L5 and a right paracentral disc protrusion at L4-L5 probably compressing the nerve root. Lumbar ESIs were performed again by Dr. Somerville on 10/14/04 and 12/20/04. On 11/23/04, Dr. Somerville noted that work hardening had been denied. Lumbar spine surgery was recommended by Dr. Somerville on 02/07/05. On 07/13/05 and 08/12/05, Dr. Somerville recommended an evaluation with a neurosurgeon. Mr. Flowers provided a request for patient psychotherapy sessions on 07/27/05. St. Paul Travelers wrote letters of denial for the patient psychotherapy sessions on 08/15/05, 08/31/05, and 09/14/05. Mr. Flowers provided an addendum report on 08/22/05. Dr. Jackson provided a request for reconsideration letter on 09/07/05. On 09/28/05 and 10/24/05, Dr. Somerville recommended peripheral nerve blocks.

Disputed Services:

A chronic pain management program five times a week for six weeks

Decision:

I disagree with the requestor. The chronic pain management program five times a week for six weeks would not be reasonable or necessary as related to the original injury.

Rationale/Basis for Decision:

This patient would not be a valid candidate for a chronic pain management program. First, and foremost, he has not exhausted lesser levels of psychological treatment nor has he exhausted all appropriate medical treatment options. The patient has still not had the myelogram performed that was requested by the RME. A myelogram, in this situation could further determine whether

the patient should undergo surgery. Therefore, there is no definitive evidence of what the patient's pathology is, if any, nor whether the L4-L5 or L5-S1 disc was, in fact, the appropriate pain generator. Chronic pain management programs are not medically reasonable or necessary unless all appropriate medical treatment options have been exhausted. Moreover, based on the entirety of the records I have reviewed, there was no valid psychological or psychiatric evaluation done on this patient demonstrating to a certainty evidence of a medical condition of depression or anxiety that would require psychological treatment nor any comprehensive valid psychological testing. Additionally, the patient's new complaints of right leg pain beginning only after the IDET procedure performed by Dr. Somerville in September of 2004 has not been adequately addressed, especially given the post IDET MRI evidence of a new right L4-L5 disc herniation. Psychologically based pain management would not be appropriate nor likely to be of clinical benefit or lead to clinical success when organic pathology has not been adequately addressed and/or treated.

Finally, according to the very study quoted by Dr. Jackson, the study by Sanders, et. al. entitled *Clinical Practice Guidelines for Chronic Nonmalignant Pain Syndrome Patients II,* clearly stated that there was no evidence that more than 20 sessions of a chronic pain management program would be medically reasonable or necessary nor any more likely to provide clinical benefit than a twenty session chronic pain program. As Dr. Jackson also pointed out, that study also clearly demonstrated that no patient should simply be enrolled in a chronic pain management program without initially undergoing a trial of two to five days to determine compliance and response. In the absence of either compliance or significant response, the Sanders article clearly states the chronic pain management program should then not go forward. In this case, therefore, the requested 30 day chronic pain management program was clearly not medically reasonable or necessary. The patient has not exhausted all medical treatment options, including appropriate diagnostic studies. The patient has also not exhausted lesser levels of psychological treatment.

A chronic pain management program would not be medically reasonable or necessary unless all appropriate medical treatment options and lesser levels of psychological treatment have been exhausted and then only if appropriate diagnostic criteria had been met. In this case, none of those criteria have been met.

The rationale for the opinions stated in this report are based on clinical experience and standards of care in the area as well as broadly accepted literature which includes numerous textbooks, professional journals, nationally recognized treatment guidelines and peer consensus.

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 patient via facsimile or U.S. Postal Service this day of 11/29/05 from the office of Professional Associates.

Sincerely,

_____
Lisa Christian
Secretary/General Counsel