MEDICAL REVIEW OF TEXAS

[IRO #5259]

10817 W. Hwy. 71 **Austin, Texas 78735**
Phone: 512-288-3300 **FAX: 512-288-3356**

NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-06-0266-01
Name of Patient:	
Name of URA/Payer:	Liberty Mutual
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	T.M. Moloney, MD

February 6, 2006

An independent review of the above-referenced case has been completed by a medical physician board certified in neurosurgical surgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on the Division of Workers' Compensation Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Ryan Potter, MD
T.M. Moloney, MD
Division of Workers' Compensation

CLINICAL HISTORY

Records reviewed included: TWC second opinion packet which included the request for L4 and L5 nucleoplasty as well as the clinical information derived from Dr. Porter as well as the initial evaluations by the TWCC reviewers. In addition to this, Dr. Borkowski's evaluations have been reviewed from shortly after the injury of ___ through his recommendations for epidural injections. Ryan N. Porter, M.D; his initial intake of the patient as well as the description of the epidural injections performed and finally his clinical indications for performing a two level nucleoplasty. Reviewed the initial report of injury as well as the MRI scans describing disc bulges and degeneration of the lumbosacral discs

This is a now 39-year-old gentleman who had a work injury on ___. He was lifting some pipes, and he was bent over and felt a strain in his low back as well as substantial low back pain, which has continued to date. He was seen approximately a month after his injury by Dr. John Borkowski, apparently an orthopedic surgeon in Corpus Christi. It was felt that the gentleman had a lumbar sprain and physical therapy was begun. He had substantial physical therapy and little improvement from his pain long term. Ultimately, Dr. Borkowski recommended epidural injections. He had two sets of epidural steroid injections. The initial injection made him feel some better. A subsequent transforaminal ESI did not substantially alleviate his pain. This prompted Ryan N. Porter, M.D., the pain management physician who gave his epidural injections, to perform a provocative discogram, and the patient was noted to have strongly concordant pain at L5 and moderately concordant pain at L4. He had, prior to this, a MRI scan, which showed a disc bulge and degeneration of the lumbosacral disc

and currently, Dr. Porter is recommending a 2-level nucleoplasty; one at L4 and one at L5

REQUESTED SERVICE(S)
Requested service is the L4 and L5 nucleoplasty.

DECISION
Denied.

RATIONALE/BASIS FOR DECISION
Nucleoplasty is an extremely controversial procedure and is currently not accepted by any national society, either surgeons, rehab physicians, or pain management physicians. The North American Spine Society Clinical Guidelines Phase 3, updated in 2005, described annular denervation procedures as currently being developed. The long-term results and potential long-term risks are unknown. Thus, they do not recommend this procedure. The American Association of Neurologic Surgeons in consent with the Congress of Neurologic Surgeons also does not recognize this as a valid long-term treatment of low back pain or the treatment of a herniated disc. This citation derives from the "Guidelines for Back Fusion", a position paper put out by the joint section of spine surgeons in June of 2005. Finally, the American Society of International Pain Physicians also does not recognize nucleoplasty as having long-term efficacy for the treatment of low back pain.

Thus without any substantial recommendations or long-term studies which have demonstrated the efficacy of nucleoplasties, this procedure cannot now be recommended

Certification of Independence of Reviewer

As the reviewer of this independent review case, I do hereby certify that I have no known conflicts of interest between the provider and 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 IRO.

YOUR RIGHT TO APPEAL

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.

Chief Clerk of Proceedings
Division of Workers' Compensation
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

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

In accordance with Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 8th day of February, 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell