



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-06-0309-01
NAME OF REQUESTOR: _____
NAME OF PROVIDER: Robert H. LeGrand, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 12/13/05

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 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

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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:

An evaluation with John B. Pracyk, M.D. dated 01/13/04
An evaluation with Kayla Jones for Johnny A. Qubty, M.D. dated 02/04/04
A procedure note from Dr. Qubty dated 02/13/04
Evaluations with Mark D'Alise, M.D. dated 04/26/04, 08/31/04, and 09/10/04
A preoperative chest x-ray interpreted by Todd R. Samuels, M.D. dated 04/26/04
Operative reports from Dr. D'Alise dated 04/26/04 and 10/01/04
Evaluations with David M. Smith, P.A.-C. for Dr. D'Alise on 06/08/04 and 11/16/04
An MRI of the lumbar spine interpreted by Doug H. Wright, M.D. dated 09/08/04
A chest x-ray interpreted by Kyle White, M.D. dated 09/27/04
Laboratory studies interpreted by David L. Morgan, M.D. dated 09/27/04
An evaluation with Brett Clark, R.N. for Dr. D'Alise dated 10/08/04
Evaluations with Robert H. LeGrand, Jr., M.D. dated 07/26/05, 08/29/05, 10/20/05, and 11/17/05
An MRI of the lumbar spine interpreted by Eddie G. Shell, M.D. dated 08/18/05
X-rays of the lumbar spine interpreted by Victor E. Schulze, M.D. dated 08/18/05
A letter of precertification from Dr. LeGrand dated 09/06/05
A letter of denial from Liberty Mutual Group dated 09/12/05
Another letter of denial from Kenneth S. Bayles, D.O. at Intracorp dated 09/12/05
A letter of denial from Gary C. Hutchison, M.D. at Intracorp dated 09/28/05
An operative report from Dr. LeGrand dated 11/04/05
A letter from Carolyn Guard, R.N.C. at Liberty Mutual Group dated 11/09/05

Clinical History Summarized:

On 01/13/04, Dr. Pracyk recommended an EMG/NCV study and injections. Dr. Qubty recommended a lumbar epidural steroid injection (ESI), Relafen, Zanaflex, and Ultram on 02/04/04. A lumbar ESI was performed by Dr. Qubty on 02/13/04. Dr. D'Alise performed a left L5-S1 microlumbar discectomy on 04/26/04. Mr. Smith recommended a Medrol Dosepak and

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physical therapy on 06/08/04. A lumbar MRI interpreted by Dr. Wright on 09/08/04 revealed a large recurrent disc protrusion at L5-S1. On 10/01/04, Dr. D'Alise performed a redo left L5-S1 microlumbar discectomy. Mr. Smith recommended physical therapy and Bextra on 11/16/04. A repeat lumbar MRI interpreted by Dr. Shell on 08/18/05 revealed a diffuse disc bulge at L5-S1. X-rays of the lumbar spine interpreted by Dr. Schulze on 08/18/05 were normal. On 08/29/05, Dr. LeGrand recommended a posterior L5-S1 decompression with fusion and instrumentation. On 09/12/05, Liberty Mutual Group wrote a letter denying the recommendation for the surgery proposed by Dr. LeGrand. Dr. Bayles from Intracorp also wrote a letter of denial for the surgery on 09/12/05. Dr. Hutchison from Intracorp also wrote a letter of denial on 09/28/05. On 10/20/05, Dr. LeGrand continued to recommend the same surgery. A lumbar ESI was performed by Dr. LeGrand on 11/04/05. Ms. Guard at Liberty Mutual Group wrote a letter upholding the denial for the surgery on 11/09/05. Dr. LeGrand continued to request the surgery on 11/17/05.

Disputed Services:

One day inpatient stay and a lumbar laminectomy with fusion and instrumentation at L5-S1 with an TLSO back brace

Decision:

I disagree with the requestor. The one day inpatient stay and a lumbar laminectomy with fusion and instrumentation at L5-S1 with an TLSO back brace would be neither reasonable nor necessary.

Rationale/Basis for Decision:

The treatment of a failed laminectomy is extremely complex. This patient had a recurrent radiculopathy that was treated surgically with relief of the neural compression. He has had continued mechanical back pain. There was no documentation in the files that I reviewed that he had any significant attempt at non-surgical strengthening treatment. In addition, the anatomic basis for his pain has not been determined. In short, it was assumed that the mechanical back pain has been coming from that level, but this has not been determined with any efficacy. In my opinion, based upon *The North American Spine Society Clinical Guidelines for the Treatment of Clinical Chronic Lower Back Pain*, this patient has not been treated with the appropriate types and duration of nonsurgical treatment before one considers such a significant operative procedure. Therefore, the inpatient stay, lumbar laminectomy, and fusion/instrumentation at L5-

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S1 with a TLSO back brace would be neither reasonable nor medically necessary as related to the original injury.

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.

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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 12/13/05 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel