



# PROFESSIONAL ASSOCIATES

## NOTICE OF INDEPENDENT REVIEW

**NAME OF PATIENT:** \_\_\_\_\_  
**IRO CASE NUMBER:** M2-06-0477-01  
**NAME OF REQUESTOR:** Jacob Rosenstein, M.D.  
**NAME OF PROVIDER:** Jacob Rosenstein, M.D.  
**REVIEWED BY:** Board Certified in Orthopedic Surgery  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 02/08/06

Dear Dr. Rosenstein:

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 Dr. George Niemirowski (no credentials were listed) dated 12/05/97

An evaluation with David Heath, P.A. dated 12/12/97

Evaluations with Jacob Rosenstein, M.D. dated 01/07/98, 02/10/98, 02/27/98, 03/09/98, 04/10/98, 05/06/98, 05/18/98, 05/19/98, 06/10/98, 07/17/98, 07/29/98, 09/03/98, 10/05/98, 11/06/98, 01/04/99, 01/14/99, 03/24/99, 04/05/99, 05/10/99, 05/17/99, 05/18/99, 06/14/99, 08/02/99, 08/11/99, 10/08/99, 11/17/99, 11/19/99, 01/07/00, 01/12/00, 01/13/00, 02/04/00, 02/18/00, 03/20/00, 04/21/00, 05/01/00, 05/19/00, 06/21/00, 07/12/00, 07/14/00, 08/30/00, 04/03/02, 05/24/02, 06/28/02, 01/23/03, 05/21/03, 07/14/03, 08/29/03, 10/23/03, 11/03/03, 11/20/03, 12/22/03, 01/28/04, 02/09/04, 04/20/04, 06/03/04, 08/16/04, 10/11/04, 12/28/04, 02/23/05, 03/02/05, 04/20/05, 07/18/05, and 10/18/05

X-rays of the cervical spine and a CT scan of the lumbosacral spine interpreted by Richard A. Suss, M.D. dated 01/30/98

Rehabilitation with Dr. Rosenstein dated 02/17/98, 02/18/98, 02/20/98, 02/23/98, 02/28/98, 03/02/98, 03/04/98, 03/09/98, 03/11/98, 03/13/98, 03/12/99, 03/15/99, 03/17/99, 03/19/99, 03/22/99, 03/24/99, 03/26/99, 03/29/99, and 04/01/99

An evaluation with Frederick D. Todd, II, M.D. dated 03/02/98

A lumbar myelogram CT scan interpreted by Shelley Rosenbloom, M.D. dated 04/06/98

Evaluations with D. Chi Nguyen, M.D. dated 05/05/98, 04/01/99, and 05/07/99

Operative reports from Dr. Rosenstein dated 05/19/98, 09/03/98, 01/14/99, 05/18/99, and 01/13/00

MRIs of the thoracic and lumbar spines interpreted by Dr. Rosenbloom dated 07/22/98

X-rays of the lumbar spine interpreted by Dr. Suss dated 06/09/98

X-rays of the lumbar spine interpreted by Dr. Rosenbloom on 07/22/98, 10/01/98, 02/12/99, and 08/02/01

A CT scan of the lumbosacral spine interpreted by Dr. Rosenbloom dated 08/12/98

A preoperative chest x-ray interpreted by Thomas Telle, M.D. dated 08/31/98

A physical therapy evaluation with Ethan Gilliam, P.T. dated 09/04/98

X-rays of the lumbar spine interpreted by Won Kim, M.D. dated 09/05/98

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A discharge summary from Dr. Rosenstein dated 09/06/98  
A cervical spine CT scan interpreted by Dr. Suss on 11/03/98  
An evaluation with Roger S. Blair, M.D. dated 11/30/98  
A Required Medical Evaluation (RME) with James A. Scott, M.D. dated 12/02/98  
A letter written "To Whom It May Concern" from Jerry F. Gurkoff, D.O. dated 12/08/98  
A cervical CT myelogram interpreted by Dr. Rosenbloom dated 12/14/98  
A CT scan of the brain interpreted by Dana Fuller, M.D. dated 12/18/98  
An addendum report from Dr. Gurkoff dated 12/21/98  
Chest x-rays interpreted by Scott Sargent, M.D. dated 01/11/99  
Postoperative cervical spine x-rays interpreted by William Lowry, M.D. dated 01/15/99  
X-rays of the cervical spine interpreted by Dr. Rosenbloom dated 02/12/99, 09/28/99, and 05/18/00  
Cervical, thoracic, and lumbar myelograms interpreted by Dr. Rosenbloom dated 05/06/99  
A physical therapy evaluation with Aimee Whitfield, M.S., P.T. dated 06/15/99  
Physical therapy with Ms. Whitfield and various unknown therapists (the signatures were illegible) dated 06/18/99, 06/22/99, 06/23/99, 06/29/99, 07/02/99, 07/06/99, 07/09/99, 07/12/99, 07/17/99, 07/21/99, 07/22/99, 07/27/99, 07/28/99, 07/30/99, 08/05/99, 08/06/99, 08/13/99, 08/16/99, 08/18/99, 08/20/99, 08/23/99, 08/27/99, 09/01/99, 09/07/99, 09/09/99, and 09/15/99  
Thoracic ESIs with Lee Stout, M.D. dated 07/13/99, 07/28/99, 09/19/00, and 10/25/00  
Cervical spine x-rays interpreted by Dr. Suss on 07/20/99, 02/15/00, and 07/11/00  
An evaluation with Stephen L. Wilson, M.D. dated 07/23/99  
A physical therapy discharge summary from Ms. Whitfield dated 09/15/99  
A Functional Capacity Evaluation (FCE) with Andrea Stark, O.T.R. and Mindi Benner, P.T. dated 09/16/99  
Chiropractic treatment with Johann Van Beest, D.C. dated 10/20/99, 11/02/99, 11/08/99, 11/12/99, 11/23/99, 11/29/99, 12/28/99, and 02/04/02  
Evaluations with Dr. Van Beest dated 11/23/99, 11/29/99, 12/28/99, 01/07/00, 03/14/00, 03/24/00, 03/31/00, 04/12/00, 04/18/00, 04/21/00, 05/01/00, 05/09/00, 06/30/00, 08/02/00, 08/22/00, 09/16/00, 01/15/01, 01/17/01, 01/30/01, 10/10/01, 10/16/01, 10/26/01, 11/12/01, 02/06/02, 05/07/02, 05/09/02, and 05/13/02  
RMEs with Wright W. Singleton, M.D. dated 10/26/99, 02/26/04, and 02/03/05  
A CT scan of the cervical and lumbar spine interpreted by Dr. Rosenbloom dated 11/11/99  
An addendum report from Dr. Singleton dated 11/11/99  
An impairment rating report from Dr. Rosenstein dated 11/19/99  
An MRI of the cervical spine interpreted by Dr. Rosenbloom dated 12/28/99  
Evaluations with Michael Haas Brophy, M.D. dated 01/04/00 and 03/07/00  
An evaluation with Anthony W. Evangelista, M.D. dated 01/18/00  
A procedure report and pelvic x-rays from Dr. Suss dated 02/01/05

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A letter of medical necessity written by Dr. Van Beest on 04/12/00

Cervical x-rays and a CT scan interpreted by Dr. Suss on 04/17/00

A Designated Doctor Evaluation with Becky B. Personett, M.D. dated 07/06/00

A physical therapy evaluation with Troy Gayler, O.T.R. dated 08/09/00

An EMG/NCV study interpreted by Jonathan E. Walker, M.D. dated 08/10/00

Physical therapy with Mr. Gayler dated 08/10/00, 08/11/00, 08/15/00, 08/16/00, 08/18/00, 08/22/00, 08/24/00, 08/29/00, 08/31/00, 09/01/00, 09/05/00, 09/13/00, 09/14/00, 09/15/00, 09/19/00, 09/21/00, 09/22/00, 09/26/00, 09/27/00, 09/28/00, and 10/04/00

Acupuncture with Clelia Hinojoza, L.M.S.W., A.C.P. and Robert C. Kent, D.O. dated 08/31/00, 09/01/00, 09/06/00, 09/07/00, 09/13/00, 09/14/00, 09/19/00, 09/21/00, 09/26/00, and 10/04/00

A physical therapy progress note from Mr. Gayler dated 09/01/00 and 09/21/00

A chronic pain assessment with Jack R. Scherschell, Ph.D., L.P.C. dated 09/06/00

A chronic pain program progress report from Mr. Gayler and an unknown therapist (the signature was illegible) dated 09/06/00

An individual/group psychotherapy/biofeedback progress note from Ms. Hinojoza dated 11/06/00

A chronic pain program was performed with Mr. Gayler and Ms. Hinojoza on 11/06/00, 11/07/00, 11/09/00, 11/10/00, 11/16/00, 11/17/00, 11/20/00, 11/21/00, 11/22/00, 11/28/00, and 11/29/00

A prescription for a neuromuscular stimulator unit from Dr. Van Beest dated 09/25/01

Myelograms and CT scans of the cervical, thoracic, and lumbar spines interpreted by Dr. Rosenbloom dated 03/14/02

Physical therapy with Pat Cooper, P.T. dated 03/18/02, 03/21/02, 03/27/02, and 03/28/02

An FCE with therapist Cooper dated 03/29/02

Work hardening and individual therapy notes from various unknown providers (the signatures were illegible) dated 05/13/02, 05/16/02, 05/20/02, 05/21/02, 05/22/02, 05/23/02, 05/24/02, 05/29/02, 05/31/02, 06/03/02, 06/04/02, 06/05/02, 06/10/02, 06/11/02, 06/12/02, 06/13/02, 06/18/02, 06/19/02, 07/01/02, 07/08/02, 07/09/02, 07/17/02, 07/18/02, 07/23/02, and 07/29/02

Chest x-rays and bilateral subcostal nerve blocks were performed by Dr. Suss dated 05/14/02

Lumbar trigger point injections performed by Dr. Rosenstein dated 05/14/02, 06/20/02, 08/13/02, 01/23/03, and 07/24/03

An FCE with an unknown therapist (the signature was illegible) dated 06/28/02

X-rays of the pelvis interpreted by Dr. Rosenbloom dated 08/08/02

Thoracic ESIs performed with Dr. Suss dated 03/07/03, 03/25/03, and 05/09/03

A prescription for a Tempur-pedic mattress from Dr. Rosenstein dated 03/26/03

A letter written "To Whom It May Concern" from Dr. Rosenstein dated 04/09/03

An evaluation with John C. Milani, M.D. dated 06/10/03

An MRI of the pelvis interpreted by Dr. Rosenbloom dated 11/13/03

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Notices of utilization review decision from Suzette Doherty, R.N. dated 12/09/03, 12/29/03, and 01/06/04

A cyst aspiration under CT guidance performed with Dr. Rosenbloom dated 12/12/03

A medical conference note with Dr. Rosenstein dated 12/31/03

Right SI joint injections with Dr. Suss dated 01/27/04, 05/11/04, and 09/09/04

An RME review with Dr. Rosenstein dated 03/05/04

A letter written by the patient on 03/16/04 regarding the RME

A letter written "To Whom It May Concern" by Dr. Rosenstein dated 04/27/04

A notice of utilization review decision from Debbie Wright, R.N. dated 04/28/04

An FCE with Dr. Singleton dated 02/03/05

A letter written by Dr. Singleton dated 02/10/05

Notices of preauthorization dated 03/11/05, 10/28/05, and 11/10/05

An RME review report from Dr. Rosenstein dated 03/21/05

A procedure report from Dr. Suss dated 04/12/05

An addendum note from Dr. Singleton dated 04/12/05

Letters written "To Whom It May Concern" from Dr. Rosenstein dated 10/10/05, 10/12/05, 10/18/05, and 11/08/05

A medical conference note from Dr. Rosenstein dated 11/17/05

**Clinical History Summarized:**

Dr. Rosenstein recommended Voltaren, Vanadom, a lumbosacral CT scan, and continued physical therapy on 01/07/98. On 02/10/98, Dr. Rosenstein recommended lumbar epidural steroid injections (ESIs). A lumbar myelogram CT scan and probable surgery were recommended by Dr. Rosenstein on 03/09/98. L4-L5 decompressive hemilaminectomies, facetectomies, foraminotomies, a discectomy, and interbody fusion with instrumentation was performed by Dr. Rosenstein on 05/19/98. MRIs of the thoracic and lumbar spines interpreted by Dr. Rosenbloom on 07/22/98 revealed a solid fusion at C5-C6 and disc degeneration at C7-T1, a disc herniation at T12-L1, and fluid collection and extensive epidural scarring at L4-L5. A CT scan of the lumbosacral spine interpreted by Dr. Rosenbloom on 08/12/98 showed a "hard disk" at T12-L1, a disc protrusion at T11-T12, a possible disc bulge at L3-L4, and surgical changes at L4-L5 with lucencies along the cages and sclerosis at L4. On 09/03/98, Dr. Rosenstein performed a reexploration lumbar laminectomy and fusion with posterior implantation and bone growth stimulation at L4-L5. A cervical myelogram CT scan interpreted by Dr. Rosenbloom on 12/14/98 revealed disc herniation at C6-C7, disc protrusion at C4-C5, a bulging annulus and spondylosis at C3-C4, and a solid fusion at C5-C6. On 01/14/99, Dr. Rosenstein performed cervical spine surgery at C4-C5 and C6-C7. Dr. Rosenstein removed the bone growth stimulator on 05/18/99. On 01/13/00, Dr. Rosenstein performed another cervical

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surgery at C4-C5 and C6-C7. X-rays of the lumbar spine interpreted by Dr. Rosenbloom on 08/02/01 showed anatomic positioning of the L4-L5 fusion with cages. Hydrocodone was refilled by Dr. Rosenstein on 10/11/04 and he noted SI joint injections had been performed on 09/09/04. Dr. Suss performed a right SI joint injection on 02/01/05 and 04/12/05. On 02/10/05, Dr. Singleton recommended medication weaning and a return to work. Dr. Rosenstein stated he disagreed with Dr. Singleton on 03/21/05. On 10/28/05 and 11/10/05, there was a notice of preauthorization denying a right SI joint rhizotomy/injection.

**Disputed Services:**

A right sacroiliac rhizotomy injection at L5-S1

**Decision:**

I disagree with the requestor. The right sacroiliac rhizotomy injection at L5-S1 would be neither reasonable nor necessary.

**Rationale/Basis for Decision:**

Further injections into the sacroiliac joint, including a rhizotomy, would be neither reasonable nor necessary. This patient has a chronic injury. It was unlikely that performing any injections at this time will change his chronic pain syndrome. The patient has had very short term success from the sacroiliac joint injections in the past. There was no indication that a rhizotomy would improve those results. The scientific literature does not provide a clear rationale for performing such an injection. In my opinion as a board certified orthopedic surgeon, with a specialty in spinal diseases, I do not believe the sacroiliac rhizotomy injection at L5-S1 was reasonable or necessary.

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 Division decision and order.

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### **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 02/08/06 from the office of Professional Associates.

Sincerely,

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Lisa Christian  
Secretary/General Counsel