

# MEDICAL REVIEW OF TEXAS

[IRO #5259]

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## NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-06-0516-01
Name of Patient:	
Name of URA/Payer:	Jacobs Engineering Group
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Kenneth Berliner, MD

January 27, 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: Kenneth Berliner, MD  
Division of Workers' Compensation

#### DOCUMENTS REVIEWED

1. The notification of IRO assessment.
2. Lone Star Orthopedic evaluations written predominantly by Kenneth Berliner from orthopedic surgery, as well as Sandy Ribeiro of pain management.
3. A designated physician exam, Richard Honaker, M.D., dated 11/08/05.
4. St. Augustine Industrial Clinic Note and clinic notes that started from April 4, in which the patient is described as having thoracic sprain.
5. An EMG from Goran Jezic dated 5/4/05, in which the patient was found to have a chronic right brachial plexopathy but no active abnormalities and an otherwise normal study.
6. Allied Therapy and Diagnostic physical therapy notes.
7. Golf Coast Diagnostics describing above his thoracic and cervical spine MRI scans.

#### CLINICAL HISTORY

This is a 43-year-old gentleman who was injured at work during a plant explosion. He apparently was thrown in between pipes, and grabbed one for support, twisting him substantially. He immediately had neck pain as well as thoracic pain, as well as some left shoulder pain from the pulling in his arms. He was also left with headaches and ringing in his ears. The majority of his symptoms ultimately resolved. However, he was left with chronic neck pain, for which he is being treated. He has had physical therapy and at least one epidural injection, which was complicated by a CSF leak that led to an epidural blood patch. Of note, the patient was substantially better after his epidural injection. The improvement was short lived; unfortunately however, it was not repeated. Instead, a cervical discogram as recommended on 8/31/05, which is currently the procedure in doubt, was performed. As far as investigations, this gentleman has had an

EMG where he was found to have a chronic right brachial plexopathy, but nothing acute and otherwise this study was within normal limits, and on the same day, he had a cervical spine MRI scan. His only substantial abnormality was a 3-mm disc protrusion at C4, which is being described as causing central canal stenosis and moderate bony right foraminal narrowing. He is also noted to have much smaller disc protrusions of C5 and C6.

#### REQUESTED SERVICE(S)

His request of service is a multi-level cervical discogram.

#### DECISION

Denied.

#### RATIONALE/BASIS FOR DECISION

Discography is a very controversial test; its use in the lumbar region has been evaluated extensively, and a number of criteria have been created for its use in the lumbar area. However criteria for discography in the cervical spine derived from peer reviewed literature have yet to be published; but, using the North American Spine Society criteria for lumbar discography, this patient still does not meet the management course. All this patient has had is physical therapy and a single epidural injection, which parenthetically made the patient better. It was not repeated and because of a complication, a recommendation for discography with an anticipated 3-level cervical fusion was made. This can hardly be supported by any literature. This patient is being maintained on narcotics. There has been no discussion or remediable factors as far as his weight, his level of physical conditioning, and his use of tobacco. Further, the findings on his MRI scan are at best, luke warm, and the only real abnormality is at C4 as a 3-mm disc protrusion. The abnormalities at C5 and C6 are completely discounted, 2-mm protrusions in this age group are normal. There is hardly enough information on this study to justify a discogram leading on to a 3-level fusion. The article from **Spine** written by the American Academy of Orthopedic Surgeons describing imaging for pain and the use of discography was reviewed. The articles cited are indicative of the studies which have discredited discography. The "Shelhaus Study" in which 10 asymptomatic volunteers were found to have abnormal discograms was specifically referred to. The structural abnormalities found on discograms have little or no clinical correlation, and the addition of provocation, while

validated in the lumbar region has not been accepted by any national authority/society in the cervical region.

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 1<sup>st</sup> day of February, 2006.

Signature of IRO Employee: \_\_\_\_\_

Printed Name of IRO Employee: Marc Salvato