



# PROFESSIONAL ASSOCIATES

## NOTICE OF INDEPENDENT REVIEW

**NAME OF PATIENT:** \_\_\_\_\_  
**IRO CASE NUMBER:** M2-06-0566-01  
**NAME OF REQUESTOR:** Robert Henderson, M.D.  
**NAME OF PROVIDER:** Robert Henderson, M.D.  
**REVIEWED BY:** Board Certified in Orthopedic Surgery  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 02/08/06

Dear Dr. Henderson:

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 MR of the lumbar spine interpreted by Kevin A. Short, M.D. on 07/07/04  
A provocative lumbar discogram dated 09/28/04 and interpreted by James Michael, M.D.  
A CT scan of the lumbar spine interpreted by Bob Gaddy, M.D. on 09/28/04  
An operative report for a percutaneous discectomy dated 11/16/04 from Dr. Michaels  
Evaluations with Robert Henderson, M.D. on 07/26/05, 10/03/05, and 11/11/05  
An MRI of the lumbar spine interpreted by John Douglas Wilson, M.D. on 10/19/05  
A request for preauthorization for surgery from Dr. Henderson dated 11/17/05  
A notice of utilization review from Yvette Charlemagne, Utilization Review Nurse, from Liberty Mutual dated 12/01/05  
A case report for Liberty Mutual from F. Daniel Kharrazi, M.D., an orthopedic surgeon, dated 12/01/05  
Another case report for Liberty Mutual from Allen Deutsch, M.D., an orthopedic surgeon, dated 12/07/05  
Another notice of utilization review from Liberty Mutual dated 12/13/05  
A letter to the Division of Workers' Compensation (DWC) dated 01/06/06 from Carolyn Guard, R.N.C., C.M.C., C.C.M., N.M.C.C. at Liberty Mutual

#### **Clinical History Summarized:**

An MR of the lumbar spine on 07/07/04 revealed an L5-S1 central disc protrusion abutting the thecal sac in the S1 nerve root sheath as they exited the thecal sac without significant neural canal or neuroforaminal compromise. A lumbar discogram on 09/28/04 showed the L3-L4 disc to be normal. The L4-L5 disc appeared normal and the pressurization produced a pressure sensation, but was not concordant. The L5-S1 disc appeared degenerated with a posterior leak with concordant pain. Dr. Michaels performed a percutaneous L5-S1 discectomy on 11/16/04. On 07/26/05, Dr. Henderson evaluated the patient. His impression was lumbar radicular syndrome secondary to internal disc disruption at L5-S1 with a herniated nucleus pulposus and disc space narrowing. Dr. Henderson recommended an anterior disc replacement, interbody fusion, and interbody fixation at L5-S1 with a laminectomy at L5 and transverse process fusion

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at L5-S1 with segmental pedicle fixation at L5-S1 without the use of a donor graft from the iliac crest. On 10/03/05, Dr. Henderson noted he reviewed a peer review, which recommended a repeat MRI of the lumbar spine and he agreed with the recommendation. An MRI of the lumbar spine on 10/19/05 revealed a left sided hydronephrosis and degenerative changes of the L5-S1 intervertebral disc space with loss of disc height, some radial annular tearing posteriorly, disc bulging, and facet hypertrophy. These findings resulted in bilateral foraminal narrowing, on the right slightly more than the left. Dr. Henderson provided a request for preauthorization for surgery on 11/17/05. On 12/01/05, Liberty Mutual provided a utilization review notice for the proposed surgery and denied it. Two case reports were available for review on 12/01/05 and 12/07/05, noting the proposed procedure was not medically necessary. Liberty Mutual provided another utilization review notice on 12/13/05 denying the proposed surgery.

**Disputed Services:**

Anterior interbody fusion at L5-S1, retroperitoneal exposure and discectomy at L5-S1, anterior interbody fixation at L5-S1, posterior decompression at L5-S1, transverse process fusion at L5-S1, posterior internal fixation at L5-S1, bone graft, allograft bone graft, autograft in situ, bone graft, autograft, iliac crest, and bone marrow aspirate.

**Decision:**

I disagree with the requestor. The anterior interbody fusion at L5-S1, retroperitoneal exposure and discectomy at L5-S1, anterior interbody fixation at L5-S1, posterior decompression at L5-S1, transverse process fusion at L5-S1, posterior internal fixation at L5-S1, bone graft, allograft bone graft, autograft in situ, bone graft, autograft, iliac crest, and bone marrow aspirate would be neither reasonable nor necessary as related to the original injury.

**Rationale/Basis for Decision:**

The fact that the patient required surgery was not clearly established by the records submitted. Prior to consideration of surgery, the patient should have exhausted all medical treatment options, which was not documented in the records available for review.

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.

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This decision by the reviewing physician with Professional Associates is deemed to be a Division 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 02/08/06 from the office of Professional Associates.

Sincerely,

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Lisa Christian  
Secretary/General Counsel