



# PROFESSIONAL ASSOCIATES

## NOTICE OF INDEPENDENT REVIEW

**NAME OF PATIENT:** \_\_\_\_\_  
**IRO CASE NUMBER:** M2-06-0648-01  
**NAME OF REQUESTOR:** \_\_\_\_\_  
**NAME OF PROVIDER:** Robert LeGrand, M.D.  
**REVIEWED BY:** Board Certified in Orthopedic Surgery  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 02/23/06

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 Nevan G. Baldwin, M.D. dated 01/17/02  
EMG/NCV studies interpreted by Cheryl F. Weber, M.D. dated 03/13/02, 07/19/02, 08/06/03, and 01/15/04  
Operative reports from David Hagstrom, M.D. dated 02/19/03 and 04/24/03  
An evaluation with Mark D. D'Alise, M.D. dated 03/31/03  
Evaluations with Dr. Gonzales (no credentials were listed) at Lubbock Injury Rehabilitation dated 12/23/03 and 01/06/04  
Evaluations with Winston Whitt, M.D. dated 01/15/04, 02/29/04, 04/06/04, 04/20/04, 05/11/04, 06/29/04, 08/10/04, 09/07/04, 10/05/04, 11/02/04, 12/14/04, 02/08/05, 04/05/05, 06/21/05, 07/12/05, 08/09/05, 09/13/05, 11/08/05, 12/06/05, and 01/03/06  
Evaluations with Christopher Myron, D.C. dated 01/19/04, 01/29/04, 02/16/04, 03/22/04, 04/23/04, 07/19/04, and 09/07/04  
An evaluation with H.S. Chang, M.D. dated 03/04/04  
An evaluation with an unknown provider (the signature was illegible) dated 09/20/04  
A chronic pain management program with Kathryn Rowell, O.T.R., Gayla Neff Hall, L.P.C., Ph.D., and S. M. Daniel, Ph.D. dated 12/27/04, 12/28/04, 12/29/04, 12/30/04, 01/03/05, 01/05/05, 01/06/05, and 01/07/05  
A physical therapy weekly note from Ms. Rowell dated 01/07/05  
Evaluations with Robert H. LeGrand, Jr., M.D. dated 01/24/05, 02/25/05, 04/14/05, 06/02/05, 06/16/05, 08/25/05, 11/03/05, 12/01/05, and 12/12/05  
Thoracic and lumbar myelograms interpreted by J. Christopher Cole, M.D. and Dr. LeGrand dated 02/18/05  
A letter of approval from Teresa Ross, L.V.N. at Intracorp dated 03/14/05  
Operative reports with Dr. LeGrand dated 03/23/05 and 11/23/05  
A discharge summary from Dr. LeGrand dated 03/24/05  
Another physical therapy evaluation with Ms. Rowell dated 04/27/05  
X-rays of the lumbar spine interpreted by Dr. Cole dated 06/02/05  
A lumbar myelogram interpreted by Dr. LeGrand on 06/10/05

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A post myelogram CT scan interpreted by Victor Schulze, M.D. dated 06/10/05

A Functional Capacity Evaluation (FCE) with Ms. Rowell dated 07/18/05

A letter from G. Neff Hall, L.P.C., Ph.D. dated 08/31/05

Letters of denial from Intracorp dated 12/08/05 and 12/23/05

**Clinical History Summarized:**

An EMG/NCV study interpreted by Dr. Weber on 07/19/02 revealed a possible myelopathy on the left dorsal columns of the spinal cord. Dr. Hagstrom performed a trial spinal cord stimulator implantation on 02/19/03 and permanent placement of the spinal cord stimulator on 04/24/03. Additional EMG/NCV studies interpreted by Dr. Weber on 08/06/03 and 01/15/04 were unremarkable. On 12/23/03, Dr. Gonzales recommended chiropractic treatment. On 01/29/04, Dr. Myron recommended possible injections and a neurological evaluation. On 04/20/04, the claimant was on Zoloft, Oxycontin, Oxy IR, and Xanax. On 12/14/04, Dr. Whitt noted the claimant was in a chronic pain management program for two or three weeks before being hospitalized for three weeks for pneumonia. Chronic pain management continued with Ms. Rowell, Ms. Neff Hall, and Dr. Daniel from 12/27/04 through 01/07/05 for a total of eight sessions. The thoracolumbar myelogram interpreted by Dr. Cole on 02/18/05 revealed some mild anterior spurring at T9-T10, a mild disc bulge at L4-L5, and moderate spondylitic changes of the facet joints. Surgery was recommended by Dr. LeGrand on 02/25/05. Ms. Ross, from Intracorp, provided a letter of approval on 03/14/05 for lumbar surgery. On 03/23/05, Dr. LeGrand removed the spinal cord stimulator generator and performed a left L4-L5 laminectomy, decompression, and excision of the herniated disc. On 04/05/05, the claimant was kept on Oxycontin, Oxy IR, Zoloft, and Clonazepam. A lumbar myelogram CT scan interpreted by Dr. Schulze on 06/10/05 revealed mild extradural defects at L3-L4, moderate narrowing and a moderate defect at L4-L5, and posterior subluxation at L4-L5. An FCE with Ms. Rowell on 07/18/05 showed the claimant could perform at a sedentary physical demand level and a work hardening program was recommended. A lumbar discogram CT scan interpreted by Eddie G. Schell, M.D. and Dr. LeGrand on 11/23/05 revealed diffuse broadening at L4-L5 and mild findings throughout the spine. Further surgery was recommended by Dr. LeGrand on 12/01/05. Intracorp provided letters of denial for the surgery on 12/08/05 and 12/23/05.

**Disputed Services:**

A lumbar laminectomy with fusion and instrumentation at L4-L5, a bone fusion stimulator, and the purchase of a TLSO brace

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**Decision:**

I disagree with the requestor. The lumbar laminectomy with fusion and instrumentation at L4-L5, a bone fusion stimulator, and the purchase of a TLSO brace would be neither reasonable nor necessary.

**Rationale/Basis for Decision:**

Further surgery in this patient was not going to change his chronic pain state. The claimant has already failed to respond in the past to evasive surgery, as well as the spinal cord stimulation. The claimant was markedly deconditioned and suffers from significant depression. In my opinion, the claimant had enough contraindications to surgery that it would not be reasonable or necessary to subject this patient to any further surgery. The chances of this individual improving was less than 50% and, therefore, I do not believe a lumbar laminectomy with fusion and instrumentation at L4-L5, using a bone fusion stimulator, or purchase of a TLSO would be reasonable or 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 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

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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 claimant via facsimile or U.S. Postal Service this day of 02/23/06 from the office of Professional Associates.

Sincerely,

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Lisa Christian  
Secretary/General Counsel