

# MEDICAL REVIEW OF TEXAS

[IRO #5259]

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## NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-06-0652-01
Name of Patient:	
Name of URA/Payer:	Texas Mutual Insurance Co.
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	David Dolezal, DC

February 16, 2006

An independent review of the above-referenced case has been completed by a medical physician board certified in neurosurgery. 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: Ryan Potter, MD  
David Dolezal, DC  
Division of Workers' Compensation

CLINICAL HISTORY

RECORDS REVIEWED:

1. Notification of IRO Assignment which has included the position of the carrier as well as the decisions rendered by previous physicians.
2. I have also reviewed a large packet of information from Texas Mutual Insurance which describes some legal proceedings as well as some Occupational Medicine clinic notes. It also includes what is described as a high field 0.6 TESLA "Open" MRI scan obtained on 2/27/03 as well as a description of the IDET procedure that was performed at both L3 and at L4; although at L4 it is being described as a nucleoplasty. There are also orthopedic surgery notes from Dr. Mark S Sanders. Also within this packet is the second MRI scan dated 8/17/04 which shows mild central disc protrusion at L5 and moderate central and left sided disc protrusion at L4.
3. Evaluations by Comprehensive Pain Management, specifically Dr. Ryan Potter and his P.A. and a re-evaluation by Dr. Potter in October of 2005.
4. Summation of the carrier's position, Texas Mutual, on 11/14/2005.
5. More information from Dr. Ryan Potter who is recommending that this patient be allowed to have a four level discogram and the rationale behind his recommendation. He also includes a more recent history and physical on this gentleman from November as well as the aforementioned re-evaluation by Dr. Borkowski who is recommending a multi-level discogram.

This is a 23-year-old gentleman who developed low back pain in \_\_\_\_ after he was carrying some heavy pipes. He was initially diagnosed as having a lumbosacral sprain. An MRI scan was performed three

months later which showed disc degeneration at both L3 and L4 with central radial tears at both of those levels. He then had a four level discogram two months later which ultimately was the basis for what is being described as an IDET procedure at L3 and a nucleoplasty at L4. Unfortunately the patient did not receive a long lasting benefit and had a designated doctor exam on 7/15/04 where he was given a 5% who body impairment rating. It was noted that he continued to have low back pain at that time. However, he was not noted to have any abnormal neurology. He then had a repeat MRI scan dated 8/17/04 which found him to have a mild central disc protrusion at L5 and a moderate central and left sided disc protrusion at L4. Further at L2, he was noted to have a prominent ventral extradural compression of the thecal sac and at L3 had a disc bulge centrally without significant lateralization as well as a component of an annular tear.

#### REQUESTED SERVICE(S)

An L2, L3, L4, L5 discogram with fluoroscopic guidance and IV sedation.

#### DECISION

Approved.

#### RATIONALE/BASIS FOR DECISION

This is a very tough situation. Discography in the clearest situations is a very controversial procedure. The ***Occupational Medicine Practice Guidelines*** rightfully describes the poor correlation between surgically treated levels based upon discography and outcome. However, the ***North American Spine Society*** clearly describes situations in which discography is appropriate. Mr. Hinojosa falls within the clinical guidelines given by the NASS. Referenced is the 2004, which is an update of the 2001 guidelines which were themselves an update of the 1994 guidelines as well as the position paper put out by the ***North American Spine Society*** regarding discography.

#### 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 17<sup>th</sup> day of February, 2006.

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

Printed Name of IRO Employee: Cindy Mitchell