



# PROFESSIONAL ASSOCIATES

## NOTICE OF INDEPENDENT REVIEW

**NAME OF PATIENT:** \_\_\_\_\_  
**IRO CASE NUMBER:** M2-06-0670-01  
**NAME OF REQUESTOR:** Dallas Rehabilitation Institute  
**NAME OF PROVIDER:** Tommy Overman, Ed.D.  
**REVIEWED BY:** Board Certified in Pain Management  
Board Certified in Anesthesiology  
Certificate of Added Qualifications in Pain  
Medicine  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 02/08/06

Dear Dallas Rehabilitation Institute:

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 Pain Management, Anesthesiology, and Added Qualifications in Pain Medicine and is currently listed on the DWC Approved Doctor List.

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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 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:**

A handwritten and illegible note from Sherif Hanna, M.D. dated 07/15/99  
X-rays of the lumbosacral spine and chest interpreted by Dr. Hanna dated 07/15/99  
An MRI of the lumbar spine interpreted by Joseph Milner, M.D. dated 08/02/99  
Evaluations with Ralph F. Rashbaum, M.D. dated 08/24/99, 12/07/99, 02/29/00, 05/21/01, 08/27/01, and 05/23/05  
Evaluations with John J. Triano, D.C. dated 11/30/99 and 12/15/99  
Chiropractic treatment with Dr. Triano dated 09/13/99, 09/17/99, 09/21/99, 09/24/99, 09/28/99, 10/08/99, 10/12/99, 10/15/99, 10/19/99, 10/26/99, 11/02/99, 11/09/99, 01/07/00, 03/18/02, 03/22/02, 03/25/02, 04/01/02, 04/05/02, 04/08/02, and 04/19/02  
Procedure notes from Patrick K. Stanton, D.O. dated 11/04/99, 11/11/99, and 11/19/99  
A Functional Capacity Evaluation (FCE) with Sherry Carey, O.T.R. dated 12/03/99  
Physical therapy with Ms. Carey dated 02/21/00, 02/22/00, 02/23/00, 02/24/00, 02/28/00, 02/29/00, 03/01/00, 03/02/00, 03/03/00, 03/06/00, 03/07/00, 03/08/00, 03/09/00, and 03/10/00  
A letter written by Dr. Rashbaum dated 06/02/00  
An impairment rating evaluation with Dr. Triano dated 05/31/01  
A Designated Doctor Evaluation with Carl Simpson, M.D. dated 07/20/01  
A prescription for a gym membership from Shannon Amrhein, P.A.-C. dated 08/29/01  
Evaluations with Ms. Amrhein for Dr. Rashbaum dated 01/04/02 and 04/26/02  
Evaluations with Sid Bernstein, D.O. dated 09/06/02, 11/25/02, 02/18/03, 05/19/03, 08/18/03, 11/14/03, 01/21/04, 03/17/04, 06/18/04, 09/17/04, 01/04/05, 04/04/05, 05/11/05, 07/01/05, and 10/28/05  
Required Medical Evaluations (RMEs) with Melissa D. Tonn, M.D. dated 04/15/03, 11/25/03, and 12/13/05

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A letter written "To Whom It May Concern" from Dr. Bernstein dated 09/01/04

A letter written by Dr. Rashbaum to Dr. Bernstein dated 05/23/05

Psychiatric evaluations with Tommy Overman, Ed.D. dated 06/09/05, 10/13/05, and 11/10/05

An evaluation with Ingrid Zasterova, M.D. dated 06/14/05

Letters of preauthorization from an unknown provider (no name or signature was available) dated 10/24/05, 11/01/05, and 11/15/05

A letter of adverse determination from Robin Schneider, L.P.N. dated 10/27/05

A letter written by Dr. Overman dated 11/14/05

A letter of adverse determination from Terry Shultis, L.P.N. dated 11/21/05

**Clinical History Summarized:**

An MRI of the lumbar spine interpreted by Dr. Milner on 08/02/99 revealed a protrusion at L4-L5 and L5-S1. Chiropractic treatment was performed with Dr. Triano from 09/13/99 through 04/19/02 for a total of 20 sessions. Lumbar epidural steroid injections (ESIs) were performed by Dr. Stanton on 11/04/99, 11/11/99, and 11/19/99. An FCE performed with an unknown provider on 12/03/99 showed the patient could work in the medium physical demand level and a four week work hardening program was recommended. Physical therapy was performed with Ms. Carey from 02/21/00 through 03/10/00 for a total of 14 sessions. On 05/31/01, Dr. Triano placed the patient at Maximum Medical Improvement (MMI) with an 8% whole person impairment rating. On 07/20/01, Dr. Simpson placed the patient at MMI as of 05/13/01 with a 7% whole person impairment rating. On 04/15/03, Dr. Tonn recommended continued medications and a home exercise program. On 11/25/03, Dr. Tonn recommended weaning from Vicodin and transferring to either Darvocet or Ultram. On 01/21/04, Dr. Bernstein placed the patient on Bextra and Ultram. Norco was prescribed by Dr. Bernstein on 03/17/04. Neurontin was started on 06/18/04. On 05/23/05, Dr. Rashbaum recommended a chronic pain management program. Dr. Overman also recommended the pain management program on 10/13/05. On 11/14/05, Dr. Overman wrote a letter regarding the denial of the pain management program. On 12/13/05, Dr. Tonn recommended a return to work and limited participation in the pain management program only if the patient had a more positive outlook and attitude.

**Disputed Services:**

A pain management program five times a week for four weeks

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**Decision:**

I disagree with the requestor. The pain management program five times a week for four weeks would be neither medically reasonable nor necessary.

**Rationale/Basis for Decision:**

It was neither medically reasonable nor necessary for this patient to attend a chronic pain management program nor would his attendance in such a program be related to the alleged work event of \_\_\_ almost seven years ago. First, the patient's subjective pain complaints are not nor have they ever been, physiologically or medically valid. He has always complained of pain in the left lower extremity despite the fact that the MRI demonstrated right sided disc bulges. There was no valid medical mechanism by which right sided disc bulges could cause left lower extremity symptoms. Therefore, the patient's pain complaints have, from the outset, been non-physiological and, therefore, medically invalid. Secondly, this patient has clearly not exhausted all medical treatment options. Additionally, as the psychologist pointed out, his Beck Depression Inventory score has reduced dramatically between June of 2005 and October of 2005 to a level where its severity was no longer clinically significant. The psychological (not psychiatric) evaluation clearly indicated the patient does not have significant symptoms of depression or manifestation of depression. In fact, the patient clearly had no decrease in appetite, as would be expected with depression, but he has eaten to such an extent that he has gained over 55 pounds. The patient also reported less than one night per month of sleep disturbance, again clearly pointing out that he has not been suffering from depression. Given the minimal Beck Depression Inventory scores, no eating or sleeping difficulties, as well as the psychologist's own multiple observation of lack of signs of depression or anxiety, this patient clearly was not in need of medical or psychological treatment for alleged depression, which was clearly not an appropriate diagnosis. Finally, despite a complaint for the development of foot drop and worsening pain, this patient has not had a repeat MRI performed of his lumbar spine to evaluate whether there was or was not evidence of structural pathology. Although Dr. Rashbaum chose not to recommend an MRI, since it was his opinion the patient was not a surgical candidate, an MRI would not be necessarily limited to presurgical patients or evaluation. Therefore, it was abundantly clear that this patient has not exhausted all appropriate medical evaluations and treatment, and, therefore, was not an appropriate candidate for a chronic pain management program. Chronic pain management programs are only appropriate when all medical treatment evaluation and options have been exhausted and when there has been clear evidence of psychological disturbance or psychological illness requiring such a program. In this case, the patient's deficit has been clearly documented as being one of deconditioning with the recommendation of Dr. Rashbaum for the patient to be referred for vocational rehabilitation and vocational counseling. Having already attended a work hardening program, the issues of

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deconditioning and vocational rehabilitation should have already been addressed and do not need to be addressed again or through a chronic pain management program.

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 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.

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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