



# PROFESSIONAL ASSOCIATES

## NOTICE OF INDEPENDENT REVIEW

**NAME OF PATIENT:** \_\_\_\_\_  
**IRO CASE NUMBER:** M2-06-1291-01  
**NAME OF REQUESTOR:** \_\_\_\_\_  
**NAME OF PROVIDER:** Patrick Cindrich, M.D.  
**REVIEWED BY:** Board Certified in Orthopedic Surgery  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 06/08/06

Dear Dr. \_\_\_\_:

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.

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 MRI of the lumbar spine interpreted by Jose Watson, M.D. dated 09/16/05

An evaluation with H. Bruce Hamilton, M.D. dated 09/22/05

Evaluations with Richard E. Scott, Jr., D.O. dated 09/27/05, 10/26/05, and 12/21/05

A lumbar epidural steroid injection (ESI) with Jeffrey C. Gerik, M.D. dated 09/29/05

A physical therapy evaluation with an unknown therapist (the signature was illegible) dated 10/05/05

Physical therapy with the unknown therapist on 10/18/05, 10/19/05, 10/20/05, 10/28/05, 10/31/05, 11/03/05, and 11/08/05

An evaluation with Patrick Cindrich, M.D. dated 11/15/05

Letters of denial from Corvel dated 11/21/05, 12/08/05, 03/10/06, and 05/03/06

A TWCC-53 form dated 01/02/06

Evaluations with M. Scott Johnson, D.C. at Hillsboro Chiropractic Clinic dated 01/12/06 and 02/23/06

A letter from Charles C. Finch at Flahive, Ogden & Latson Attorneys at Law dated 05/09/06

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

An MRI of the lumbar spine interpreted by Dr. Watson on 09/16/05 revealed a disc protrusion at L5-S1 producing mass effect on the exiting L5 nerve root and mild diffuse disc bulges at L3-L4 and L4-L5. On 09/22/05, Dr. Hamilton recommended ESIs and physical therapy, along with weight loss and a daily exercise program. On 09/27/05, Dr. Scott agreed with Dr. Hamilton's recommendations and also restarted the patient on Celebrex and Hydrocodone. Dr. Gerik performed a lumbar ESI on 09/29/05. Physical therapy was performed with an unknown therapist from 10/18/05 through 11/08/05 for a total of six sessions. Dr. Cindrich recommended lumbar surgery on 11/15/05. On 11/21/05, 12/08/05, 03/10/06, and 05/03/06, Corvel wrote letters of denial for the surgery. On 12/21/05, Dr. Scott recommended continued conservative management, continued work restrictions, and adding Neurontin. On 02/23/06, Dr. Johnson noted no changes in pain with chiropractic therapy and a home exercise program and he

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recommended another opinion from Dr. Cindrich. On 05/09/06, Mr. Finch from Flahive, Ogden & Latson wrote a letter stating a Contested Case Hearing (CCH) was requested in regards to the dispute over the need for surgery.

**Disputed Services:**

L5-S1 facetotomy, discectomy, FLIF, BMI, BMP, instrumentation, arthrodesis, and nerve monitoring

**Decision:**

I disagree with the requestor. The L5-S1 facetotomy, discectomy, FLIF, BMI, BMP, instrumentation, arthrodesis, and nerve monitoring are not reasonable or necessary.

**Rationale/Basis for Decision:**

The patient has degenerative disease in the lumbar spine. He would not be a good candidate for surgery at this time. His initial treating physician stated he was well above the ideal body weight, approximately 100 pounds above. This gives a significant increased risk for surgery and makes it less likely that a successful result would be obtained. In addition, the patient has unrealistic expectations that the surgery will allow him, an obese deconditioned individual with chronic degenerative changes at multiple levels, to return to full duty as a firefighter. This simply is unlikely.

Criteria utilized to make this decision included The North American Spine Society Phase III Clinical Guidelines for Multidisciplinary Spine Specialists for the treatment of acute and chronic lower back pain and the textbook *Rothman and Simone, The Spine*, the chapter on the degenerative disc disease.

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 06/08/06 from the office of Professional Associates.

Sincerely,

Lisa Christian  
Secretary/General Counsel