

# MEDICAL REVIEW OF TEXAS

[IRO #5259]

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## NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-06-1365-01
Name of Patient:	
Name of URA/Payer:	Lumberman's Mutual Casualty
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Kenneth Berliner, MD

June 30, 2006

An independent review of the above-referenced case has been completed by a 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.

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Sincerely,

Michael S. Lifshen, MD  
Medical Director

cc: \_\_\_\_\_  
Kenneth Berliner, MD  
Division of Workers' Compensation

DOCUMENTS REVIEWED

1. Notification of IRO Assignment
2. Office notes from Dr. Berliner.
3. Office notes from Houston Center for Pain Medicine, Dr. Erlichman.
4. FCE 4/12/04 by Dr. Charles George.

CLINICAL HISTORY

This is a 45-year-old gentleman who was injured on \_\_\_\_\_. Subsequent to this he has had two lumbar laminectomies, both at L5. The first was in November of 2001 and the second was in 2003. The patient had radicular symptoms with both of those incidences and recovered fully from the radicular pain. Unfortunately, he has also been having what is being described as discogenic low back pain which did not subside with the second procedure and he has continued to have low back pain. Unfortunately, there have not been any new imaging studies since 2002. A request has been made for a 360 degree fusion.

REQUESTED SERVICE(S)

Anterior discectomy L5-S1, anterior lumbar interbody fusion, peak cage, posterior lumbar fusion L5-S1, bone graft and instrumentation.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

Unfortunately, the only thing holding this up is a recent MRI scan. Obviously Dr. Berliner cannot operate on a patient whose last cross sectional imaging study was four years earlier. According to records provided by Dr. Berliner's office; there are no updated imaging studies. Prior to a surgery of this magnitude, an updated anatomic information has to be taken into account. Virtually no justification is necessary but the American Association for Neurologic Surgeons ***Guidelines for Back Fusion*** and the ***North American Spine***

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***Society Guidelines for Back Fusion;*** both discuss having appropriate imaging studies prior to a surgical procedure being performed.

As stated, Dr. Berliner's case has been made; the only outstanding problem is an updated imaging study.

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 3<sup>rd</sup> day of July, 2006.

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

Printed Name of IRO Employee: Cindy Mitchell