



# PROFESSIONAL ASSOCIATES

## NOTICE OF INDEPENDENT REVIEW

**NAME OF PATIENT:** \_\_\_\_\_  
**IRO CASE NUMBER:** M2-06-1443-01  
**NAME OF REQUESTOR:** John Bergeron, M.D.  
**NAME OF PROVIDER:** John Bergeron, M.D.  
**REVIEWED BY:** Board Certified in Orthopedic Surgery  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 07/05/06

Dear Dr. Bergeron:

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

**M2-06-1443-01**

**Page Two**

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:**

Evaluations with David L. Singleton, M.D. dated 09/09/05, 10/14/05, 11/18/05, 12/02/05, 02/21/06, 03/15/06, and 05/02/06

Procedure notes from Dr. Singleton dated 09/30/05 and 11/04/05

An evaluation with David E. Tomaszek, M.D. dated 12/14/05

A lumbar myelogram interpreted by Omar Vidal, M.D. dated 02/24/06

A post myelogram CT scan interpreted by Sandeep Arnesur, M.D. dated 02/24/06

Letters of non-authorization from Beverly Davis, R.N. dated 03/24/06 and 04/19/06

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

On 09/09/05, Dr. Singleton recommended injections, Ultram, and Soma. Transforaminal epidural lumbar blocks and paravertebral intra-myofascial injections were performed by Dr. Singleton on 09/30/05 and 11/04/05. On 11/18/05, Dr. Singleton recommended a surgical evaluation and Duragesic. On 12/02/05, Dr. Singleton recommended a lumbar discogram. Dr. Tomaszek also recommended a discogram on 12/14/05. On 02/21/06, Dr. Singleton recommended a lumbar myelogram CT scan. A post lumbar myelogram CT scan interpreted by Dr. Arnesur on 02/24/06 revealed a disc bulge at L4-L5, a disc herniation at L3-L4, and a disc bulge versus protrusion at L5-S1. On 03/15/06, Dr. Singleton recommended a minimally invasive percutaneous decompression. Letters of denial for the decompression were provided by Ms. Davis on 03/24/06 and 04/19/06. Dr. Singleton increased Norco on 05/02/06.

#### **Disputed Services:**

L4-L5 and L5-S1 percutaneous decompression with fluoroscopy

#### **Decision:**

I disagree with the requestor. The L4-L5 and L5-1 percutaneous decompression with fluoroscopy would be neither reasonable nor necessary.

**M2-06-1443-01**

**Page Three**

**Rationale/Basis for Decision:**

The proposed percutaneous decompression would be neither reasonable nor necessary. This particular procedure was touted as a minimally invasive procedure. However, its success rate has been extremely low. Case studies have been performed, but there has never been comparative study against open techniques and the efficacy of this technique has been unproven. In fact, the results of the percutaneous procedure seem to be inferior to those of other open procedures. Surgical treatment has not as yet been proven to be necessary in this gentleman and in particular, a percutaneous decompression would not assist them. Therefore, in my opinion, the proposed L4-L5 and L5-S1 percutaneous decompression with fluoroscopy would be neither reasonable nor necessary.

Reference used: Simeon and Rothman, The Spine, Fifth Edition.

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.

**M2-06-1443-01**

**Page Four**

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 07/05/06 from the office of Professional Associates.

Sincerely,

Lisa Christian  
Secretary/General Counsel