



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-06-1451-01
NAME OF REQUESTOR: _____
NAME OF PROVIDER: Richard Guyer, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 06/15/06

Dear Ms. ____:

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:

A lumbosacral myelogram and CT scan interpreted by Rahul C. Mehta, M.D. dated 03/26/97
Evaluations with Gayle M. Jasinski, D.C. dated 05/02/05, 06/06/05, and 08/16/05
An MRI of the lumbar spine interpreted by Stace T. Bradshaw, M.D. dated 06/02/05
A letter written by Dr. Jasinski dated 08/08/05
Evaluations with Jason Marchetti, M.D. dated 08/18/05, 09/08/05, 12/01/05, and 02/02/06
An operative note from Dr. Marchetti dated 12/16/05
Evaluations with Richard D. Guyer, M.D. dated 01/17/06, 01/30/06, and 03/21/06
A bone density study interpreted by Dale Fisher, M.D. dated 02/02/06
Letters of denial from Liberty Mutual Group dated 03/28/06 and 04/19/06
A letter of rebuttal from Dr. Guyer dated 04/11/06
A case report for Liberty Mutual Group from Joel White, M.D. dated 04/19/06
A letter written by Carolyn Guard, R.N.C. at Liberty Mutual Care dated 05/24/06

Clinical History Summarized:

A lumbosacral myelogram CT scan interpreted by Dr. Mehta on 03/26/97 revealed a disc protrusion/herniation at L5-S1. An MRI of the lumbar spine interpreted by Dr. Bradshaw on 06/02/05 revealed a large disc herniation at L5-S1 with marked impingement on the right S1 nerve root. On 06/06/05, Dr. Jasinski recommended a selective nerve root injection. On 08/16/05, Dr. Jasinski again recommended an S1 nerve root injection and a possible surgical consultation. On 08/18/05, Dr. Marchetti recommended a trial of physical therapy, prescriptions for Lortab and Neurontin, and he agreed with the recommendation for the injection. Dr. Marchetti recommended a caudal epidural steroid injection (ESI), possible transforaminal injection, continued Hydrocodone, and a home exercise program on 09/08/05. A caudal lumbar ESI was performed by Dr. Marchetti on 12/16/05. On 01/17/06, Dr. Guyer recommended a new lumbar MRI, a bone density scan, a surgical evaluation, and continued medications. On 01/30/06, Dr. Guyer continued to recommend surgery and a bone density study. A bone density study interpreted by Dr. Fisher on 02/02/06 was normal. Dr. Guyer recommended a disc

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replacement on 03/21/06 and 04/11/06. Letters of denial for the surgery were provided by Liberty Mutual Group on 03/28/06 and 04/19/06. On 05/24/06, Ms. Guard wrote a letter requesting the Utilization Review decision be upheld.

Disputed Services:

Charite disc replacement

Decision:

I disagree with the requestor. The Charite disc replacement would be neither reasonable nor necessary.

Rationale/Basis for Decision:

The patient was not a candidate for the Charite disc replacement. First, there is an extruded disc herniation in the spinal canal. This is one of the exclusion type criteria from the FDA study, as published in The Joint and Spine, quoted in the articles of Dr. Guyer cites, authored by his partner, Scott Blumenthal, M.D. In addition, the patient has facet arthropathy, which is a relative contraindication. Therefore, using the peer reviewed FDA IDE study, this patient does not meet the criteria for the Charite disc replacement. In addition, this individual had a lifting injury in 1996.

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

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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 06/15/06 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel