PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT:	___
IRO CASE NUMBER:	M2-06-1923-01
NAME OF REQUESTOR:	Jacob Rosenstein, M.D.
NAME OF PROVIDER:	Jacob Rosenstein, M.D.
REVIEWED BY:	Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO:	IRO 5288
DATE OF REPORT:	09/18/06

Dear Dr. Rosenstein:

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

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:

Required Medical Evaluations (RMEs) with Bernie L. McCaskill, M.D. dated 01/14/03, 11/25/03, 02/22/05, and 01/02/06
A TWCC-73 form from Dr. McCaskill dated 01/14/03
X-rays of the lumbar spine interpreted by Michael F. McAuley, M.D. dated 10/23/03
An evaluation with John B. Payne, D.O. dated 11/05/03
An EMG/NCV study interpreted by Meyer L. Proler, M.D. dated 11/20/03
An evaluation with William R. Culver, M.D. dated 01/08/04
A CT scan of the lumbar spine interpreted by David R. Phelps, M.D. on 03/10/04
Notices of Disputed Issue(s) and Refusal to Pay Benefits forms from the insurance carrier dated 12/07/04, 12/08/04, and 03/17/06
An evaluation with Philip C. Lening, D.C. dated 02/16/05
An evaluation with Brian August, M.D. dated 03/15/05
A letter written by Dr. McCaskill dated 01/12/06
Letters of non-authorization from Forte dated 01/12/06, 01/17/06, 07/25/06, and 08/07/06
An EMG/NCV study interpreted by Jonathan E. Walker, M.D. dated 03/06/06
X-rays of the lumbar spine interpreted by Shelley Rosenbloom, M.D. dated 03/06/06
A letter from Lisa Gebbie, M.S., R.N. at Maximus dated 03/09/06
A medical record review from Michael M. Albrecht, M.D. dated 07/10/06
An evaluation with Jacob Rosenstein, M.D. dated 07/12/06

Clinical History Summarized:

On 01/14/03, Dr. McCaskill felt no further diagnostics or surgery would be reasonable and recommended weaning from addicting medications and a home exercise program. X-rays of the lumbar spine interpreted by Dr. McAuley on 10/23/03 were unremarkable. On 11/05/03, Dr. Payne reviewed the x-rays and felt the patient might have a pseudoarthrosis at L4-L5. An EMG/NCV study interpreted by Dr. Proler on 11/20/03 revealed bilateral L4-S2 radiculopathy. On 11/25/03, Dr. McCaskill felt the patient had a solid fusion and did not require further

medications. On 01/08/04, Dr. Culver felt the Hydrocodone and Norco should be weaned in eight to twelve weeks. A CT scan of the lumbar spine interpreted by Dr. Phelps on 03/10/04 revealed only the prior fusion at L4-L5. On 02/16/05, Dr. Lening felt further chiropractic care was not reasonable or necessary. On 02/22/05, Dr. McCaskill continued to advise against further surgery. On 03/15/05, Dr. August felt the patient's symptoms should have resolved and that treatment had been excessive. He recommended continued medications and a home exercise program. On 01/02/06, Dr. McCaskill continued to feel the patient did not have a pseudoarthrosis and should be weaned from her Hydrocodone. On 01/12/06 and 01/17/06, Forte wrote letters of non-authorization for a lumbar myelogram CT scan. An EMG/NCV study interpreted by Dr. Walker on 03/06/06 revealed L4 radiculopathy on the right and S1 radiculopathy on the left. X-rays of the lumbar spine interpreted by Dr. Rosenbloom on 03/06/06 revealed anatomic position of the L4-L5 fusion. On 03/09/06, Ms. Gebbie at Maximus wrote a letter upholding the denial of the lumbar myelogram and CT scan. Dr. Albrecht agreed with Dr. McCaskill's opinions on 07/10/06. On 07/12/06, Dr. Rosenstein recommended a lumbar myelogram, Relafen, Hydrocodone, Robaxin, and a psychological evaluation. Dr. Rosenstein also reviewed the x-rays and revealed subsidence of the BAK cages into the L4 and L5 vertebra. On 07/25/06 and 08/07/06, Forte provided further letters of non-authorization for the lumbar myelogram CT scan.

Disputed Services:

Lumbar myelogram and CT scan with reconstruction

Decision:

I disagree with the requestor. The lumbar myelogram and CT scan with reconstruction would be neither reasonable nor necessary.

Rationale/Basis for Decision:

The patient has had multiple surgeries without any improvement. Further surgery would not likely help this individual. Furthermore, the new diagnostic testing, such as the electrodiagnostics performed by Dr. Walker, were consistent with the old electrodiagnostic studies. In short, there was no evidence of new injury. While Dr. Rosenbloom concludes that L4-L5 BAK cages showed persistent motion on flexion and extension views, x-rays obtained in March of 2004 did not demonstrate a non-union. If there was no non-union in 2004, it was unlikely unreasonable to assume that flexion and extension films would demonstrate an abnormality at this time. The patient has had multiple diagnostic studies in the past that do not

define the etiology of her symptoms. It was unreasonable to assume that any new studies would show anything different than the old studies. There was no medical necessity to proceed with diagnostic studies.

Criteria used included clinical experience of 15 years in the field, as well as textbook references such as Rothman and Simeon, *The Spine*.

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.

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 09/18/06 from the office of Professional Associates.

Sincerely,

_____
Lisa Christian
Secretary/General Counsel