NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT:	___
IRO CASE NUMBER:	M2-06-1940-01
NAME OF REQUESTOR:	Fort Worth Healthcare System
NAME OF PROVIDER:	Steven L. Casey, D.O.
REVIEWED BY:	Board Certified in Psychiatry Board Certified in Neurology in Psychiatry Board Certified in Pain Medicine
IRO CERTIFICATION NO:	IRO 5288
DATE OF REPORT:	10/09/06

Dear Fort Worth Healthcare System:

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 Psychiatry, Neurology in Psychiatry, and Pain Medicine 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:

An Employer's First Report of Injury or Illness form dated 04/22/99
Physical therapy with an unknown therapist (the signature was illegible) dated 07/21/99, 07/27/99, 07/28/99, 07/30/99, 08/02/99, 08/04/99, 03/06/01, 03/07/01, and 03/08/01
A physical therapy evaluation with the unknown therapist dated 07/23/99
Evaluations with Donald E. Pentecost, M.D. dated 07/27/99 and 08/18/99
MRIs of the lumbar spine interpreted by James G. Schroeder, M.D. dated 08/10/99 and 04/05/01
Medication prescriptions from an unknown physician's assistant (the signature was illegible) dated 08/12/99
An evaluation with Larry M. Kjeldgaard, D.O. dated 08/19/99
An injured employee status report form from Dr. Kjeldgaard dated 08/19/99
A patient referral form from Dr. Kjeldgaard dated 08/19/99
Letters of non-authorization from Forte dated 08/31/99 and 10/13/99
An evaluation with Patrick K. Stanton, D.O. dated 09/02/99
An operative report from Dr. Stanton dated 09/02/99
An evaluation and discharge summary from Dr. Stanton dated 09/10/99
An evaluation with an unknown provider (no name or signature was available) dated 09/15/99
Evaluations with Jose Matus, M.D. dated 09/24/99 and 03/30/01
EMG/NCV studies interpreted by Dr. Matus dated 09/24/99 and 03/30/01
An evaluation with Marco A. Ochoa, M.D. dated 10/19/99
Physical medicine with an unknown therapist (the signature was illegible) at K Clinic dated 10/25/99, 10/27/99, 11/03/99, 11/08/99, 11/12/99, 04/09/01, and 10/14/04
Evaluations with John B. Payne, D.O. dated 11/04/99, 01/06/00, 03/09/00, 10/31/00, 01/18/01, 03/15/01, 05/17/01, 07/05/01, 11/29/01, 03/01/02, 04/12/02, 04/26/02, 06/21/02, 09/06/02, 10/25/02, 11/14/03, 01/21/04, 02/13/04, 05/04/04, and 05/21/04
An MRI of the lumbar spine interpreted by David Frank, M.D. dated 11/26/99

A Functional Capacity Evaluation (FCE) with an unknown provider (no name or signature available) dated 12/09/99
Letters of authorization from Forte dated 12/17/99, 02/15/00, and 03/28/01
X-rays, a lumbar myelogram, and post myelogram CT scan of the lumbar spine interpreted by Megan McDonald, D.O. and G. Pat Sharratt, D.O. dated 12/23/99
An evaluation with Daniel K. Boatright, D.O. dated 02/08/00
A Required Medical Evaluation (RME) with Michael Ellman, M.D. dated 02/10/00
An operative report from Dr. Boatright dated 02/17/00
Recommendations for spinal surgery from Dr. Matthew Jernigan (no credentials were listed) and Norbert Poquiz, M.D. dated 03/27/00 and 03/30/00
An evaluation with an unknown provider (no name or signature available) dated 05/30/00
X-rays of the chest interpreted by Harris F. Pearson, D.O. dated 10/04/00, 06/17/03, and 06/18/03
Intraoperative x-rays of the lumbar spine interpreted by Mary H. Caffrey, D.O. dated 10/06/00 and 08/17/01
Preoperative evaluations with Dr. Payne dated 10/06/00, 08/15/01, and 06/18/03
Operative reports from Dr. Payne dated 10/06/00, 11/01/00, and 08/16/01
A prescription for an RS Medical stimulator unit from Dr. Poguise (no credentials were listed) dated 10/30/00
Laboratory studies interpreted by Dr. Payne dated 10/31/00, 11/01/00, 11/09/00, 11/16/00, 11/21/00, 08/13/01, 08/16/01, 08/18/01, 06/18/03, 06/19/03, and 06/21/03
Wound tissue cultures interpreted by Dr. Payne on 10/31/00, 11/01/00, and 11/09/00
A prescription for an RS Medical stimulator unit from Dr. Payne dated 11/01/00
An evaluation with an unknown provider (no name or signature was available) dated 11/04/00
An FCE with Tom Karmazyn, P.T. dated 03/22/01
An RME with Hooman Sedighi, M.D. dated 04/11/01
X-rays and a lumbar discogram interpreted by Richard A. Suss, M.D. dated 05/01/01
X-rays of the lumbar spine interpreted by Scott McGuire, D.O. dated 08/13/01 and 06/27/02
An evaluation with Adam B. Smith, D.O. dated 08/14/01
A CT scan of the head interpreted by Dr. McGuire dated 08/23/01
A CT scan of the lumbar spine interpreted by Robert L. Nelson, D.O. dated 03/26/02
X-rays of the chest and right hip joint interpreted by Dr. Pearson on 05/27/02
Letters of adverse determination dated 06/10/03, 01/05/04, 05/04/04, 08/23/04, 09/17/04, 01/25/05, 02/07/05, 05/16/05, 01/09/06, 03/13/06, 06/26/06, 07/20/06, and 08/28/06
A letter of approval dated 06/10/03
A discharge summary from Dr. Payne dated 06/18/03

Case management notes from Mauricio Lastra, R.N., C.C.M. dated 10/29/03, 11/29/03, 12/29/03, 01/24/04, 01/29/04, 02/29/04, 03/29/04, 04/12/04, 04/29/04, 06/04/04, 07/04/04, 08/04/04, 09/04/04, 10/04/04, and 12/04/04
X-rays of the lumbar spine interpreted by Dr. Pearson dated 11/14/03
Evaluations with John A. Sklar, M.D. dated 03/09/04 and 03/10/04
A letter of approval dated 03/12/04
An FCE with Kerry Dorton, L.P.T. dated 03/23/04
Physical therapy progress notes with an unknown therapist (no name or signature was available) dated 03/23/04 and 03/24/04
A letter of partial approval dated 03/31/04
Occupational therapy progress evaluations with Ann McIntyre, L.P.T. dated 04/07/04, 04/09/04, 04/12/04, and 04/14/04
Physical therapy notes as part of a pain management program with Ms. McIntyre dated 04/07/04, 04/09/04, 04/12/04, and 04/14/04
Massage therapy with John Taylor, R.M.T. dated 04/07/04
Vocational therapy with Valerie Armstrong, L.P.C. dated 04/07/04, 04/09/04, 04/12/04, and 04/14/04
Physical therapy with Ms. Dorton dated 04/07/04
Daily notes with Pat Tighe, R.N. dated 04/09/04 and 04/12/04,
Group counseling with Nancy E. Hightower, Ph.D. dated 04/09/04 and 04/12/04
Nutrition therapy with Laura Ruth, R.D., L.D. dated 04/12/04
Physical therapy progress notes from Ms. McIntyre dated 04/19/04 and 04/21/04
A pain management staffing report from Ms. Tighe dated 04/22/04
A prescription/plan of care note from Ms. Dorton dated 04/23/04
Evaluations with Lane Casey, D.O. dated 07/20/04, 08/12/04, 09/02/04, 09/23/04, 11/04/04, 12/28/04, 01/25/05, 02/22/05, 03/14/05, 04/11/05, 05/03/05, 07/05/05, 07/25/05, 08/22/05, 09/20/05, 10/17/05, 11/15/05, 12/12/05, 12/29/05, 01/10/06, 02/09/06, 03/02/06, 03/30/06, 05/04/06, 06/08/06, 07/06/06, 08/08/06, and 09/07/06
An evaluation with Marcus Rojas, L.P.C. dated 07/30/04
A Designated Doctor Evaluation and FCE with John Y. Nguyen, M.D. dated 10/28/04
Evaluations with Jana Downum, L.P.C. dated 04/05/05 and 09/01/05
An MMPI-II test with an unknown provider (no name or signature was available) dated 04/22/05
A mental health evaluation with Susan Wade, L.C.S.W. dated 12/05/05
A prescription from Dr. Casey dated 06/08/06
An evaluation with George Esterly, M.S., L.P.C. dated 06/09/06

Clinical History Summarized:

An MRI of the lumbar spine interpreted by Dr. Schroeder on 08/10/99 revealed mild degenerative disc disease and moderate right facet arthropathy at L5-S1. Lumbar ESIs were performed by Dr. Stanton on 09/02/99 and 09/10/99. On 09/24/99, an EMG/NCV study interpreted by Dr. Matus was normal and he recommended a TENS unit and continued physical therapy and medications. Physical therapy was performed with an unknown therapist at K Clinic from 10/25/99 through 10/14/04 for a total of seven sessions. An MRI of the lumbar spine interpreted by Dr. Frank on 11/26/99 revealed a 2 mm. posterior prolapse of the nucleus pulposus at L5-S1. A lumbar myelogram CT scan interpreted by Dr. McDonald and Dr. Sharratt on 12/23/99 revealed a mild disc bulge at L4-L5 and diffuse disc bulge at L5-S1 with effacement of the left S1 nerve root and possible effacement of the S2 nerve root. On 01/06/00, Dr. Payne recommended lumbar surgery, a second surgical opinion, and a possible S1 nerve root block. On 02/10/00, Dr. Ellman recommended a pain management program followed by a work hardening program. He did not recommend surgery. On 02/17/00, Dr. Boatright performed a right S1 nerve root injection. On 10/06/00, Dr. Payne performed a right L5-S1 microdiscectomy. On 11/01/00, Dr. Payne performed an irrigation and debridement of the lumbar wound infection with culture. Based on an FCE with Mr. Karmazyn on 03/22/01, he recommended a work hardening program, individual psychological evaluation, and an orthopedic surgeon evaluation. An MRI of the lumbar spine interpreted by Dr. Schroeder on 04/05/01 revealed mild to moderate L5 neural foraminal narrowing with annular disc bulging and degenerative disc disease and L4-L5 and L5-S1 degenerative facet arthropathy. On 04/11/01, Dr. Sedighi placed the patient at Maximum Medical Improvement (MMI) with a 14% whole person impairment rating. A lumbar discogram interpreted by Dr. Suss on 05/01/01 revealed L5-S1 disc disruption with concordant pain, right facet arthrosis, and bilateral SI ankylosis. On 05/17/01, Dr. Payne recommended a redo discectomy at L5-S1 with a fusion. On 08/14/01, Dr. Smith recommended a laparoscopic anterior lumbar interbody fusion. On 08/16/01, Dr. Payne performed the L5-S1 laparoscopic discectomy and a right L5-S1 foraminotomy with neurolysis. A CT scan of the head interpreted by Dr. McGuire on 08/23/01 was normal. The lumbar CT scan interpreted by Dr. Nelson on 03/26/02 revealed disc bulging at L4-L5, bilateral facet arthritis, a right hemilaminectomy at L5-S1 and space metallic spaces at L5-S1. On 06/18/03, Dr. Payne performed an exploration of the fusion with placement of pedicle screws. The pain management program was performed from 04/07/04 through 04/23/04. Ms. Tighe recommended continuation of the pain program on 04/22/04. On 05/21/04, Dr. Payne recommended a dorsal column stimulator and Norco and Soma. On 07/20/04, Dr. Casey recommended a spinal cord stimulator and psychological evaluation. On 07/30/04, Mr. Rojas recommended individual counseling prior to any dorsal column stimulator implant. On 09/02/04, 11/04/04, 01/25/05, and 03/14/05, Dr. Casey continued to recommend the spinal cord stimulator. On 10/28/04, Dr. Nguyen placed the patient at

statutory MMI as of 08/05/01 with a 24% whole person impairment rating. On 04/05/05, Ms. Downum recommended individual psychotherapy. Dr. Casey recommended psychological counseling on 07/25/05. On 09/01/05, Ms. Downum recommended individual counseling and biofeedback. On 11/15/05, Dr. Casey recommended a psychological evaluation and an LSO brace. On 12/29/05 and 02/09/06, Dr. Casey continued to recommend a dorsal column stimulator trial. On 05/04/06, 07/06/06, and 09/07/06, Dr. Casey recommended psychological counseling. On 06/09/06, Mr. Esterly recommended four sessions of individual counseling.

Disputed Services:

Individual psychotherapy once a week for four weeks

Decision:

I disagree with the requestor. The individual psychotherapy once a week for four weeks would not be reasonable or necessary.

Rationale/Basis for Decision:

The patient had a low back sprain/strain that was not reported for three months. He had essentially a normal back exam. Nonetheless, he progressed through two surgical procedures multiple interventional procedures multiple conservative procedures in to pain management programs. Evidence based guidelines do not support unimodal psychotherapy in this case. Unimodal psychotherapy in this case would, in reasonable medical probability, reinforce pain complaints and disability and have no efficacy.

CRITERIA USED:

American College of Occupational and Environmental Guidelines (ACOEM) chapter 6, page 107, reads: "The immediate focus should be on functional improvement rather than on abolishing pain. Physicians should be aware that while complete cessation of pain may not be a realistic goal for some patients, self-care, functional restoration, and successful reintegration into the workforce can be attainable goals even though the complete elimination of pain may not be possible." There are many dimensions to pain. A major dimension of chronic pain complaints is fear avoidance as a result of a fear of re-injury. Pain related to fear avoidance models typically describe these chronic pain patients as perpetuating disability, and ACOEM chapter 6, page 113 reads "Exposing patients to activities they fear as a way to reduce their pain-related fear can be a powerful intervention for chronic pain. A decline in pain related fear may reduce pain vigilance,

resulting in a decline in reported pain intensity." The proposed individual psychotherapy would not provide in vivo exposure to feared activities that purportedly generate pain. In fact, the patient is ready had the above recognized treatment in the form of a pain management program. There are no criteria supporting repetitive use of the treatment in question here for chronic benign nonmalignant pain syndromes.

American College of Occupational and Environmental Medicine Guidelines (ACOEM) chapter 5 page 83 states: "To achieve functional recovery, patients must assume certain responsibilities. It is important that patients stay active or increase activity to minimize disuse, atrophy, aches, and musculoskeletal pain, and to raise endorphin levels. They must adhere to exercise and medication regimens, keep appointments, and take responsibility for their moods and emotional states. They must work within their medical restrictions, and refuse unreasonable requests by coworkers and supervisors to function over their limitations in a way that could endanger their health or safety."

The documentation does not support that the patient has taken any increased responsibility relative to managing his illness. In fact, the documentation supports the reverse. This is further prognostic evidence that the request for four sessions of individual psychotherapy is unreasonable and unnecessary.

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 10/09/06 from the office of Professional Associates.

Sincerely,

_____
Amanda Grimes
Secretary/General Counsel