



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-07-0059-01
NAME OF REQUESTOR: Ryan N. Potter, M.D.
NAME OF PROVIDER: Ryan N. Potter, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 10/24/06

Dear Dr. Potter:

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

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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 MRI of the lumbar spine interpreted by Richard P. Chepey, M.D. dated 10/18/04
An MRI of the lumbar spine interpreted by C.B. Gover, M.D. dated 10/26/04
Evaluations with Ryan N. Potter, M.D. dated 10/25/05, 10/26/05, and 07/28/06
Operative notes from Dr. Potter dated 12/29/05, 04/13/06, and 05/18/06
Evaluations with Cynthia Malowitz, R.N. for Dr. Potter dated 01/18/06, 02/20/06, 03/27/06, 04/07/06, 05/10/06, and 05/31/06
Preauthorization forms from Dr. Potter dated 02/27/06, 08/02/06, and 08/17/06
An evaluation with Misti Schroll, R.N. for Dr. Potter dated 04/26/06
A request for consideration letter from Monica D. dated 05/22/06
A request for consideration letter from Jean (no other information was provided) dated 06/30/06
Another request for reconsideration letter from an unknown provider (no name or signature was available) dated 07/19/06
A CT scan of the lumbar spine interpreted by Chien I. Yang, M.D. dated 07/19/06
A lumbar discogram interpreted by Dr. Potter dated 07/19/06
A letter of denial from Concentra dated 08/07/06
A letter of reconsideration from Dr. Potter dated 08/10/06
A letter of denial from Geoffrey Ndeto, M.D. dated 08/25/06
A letter requesting a Medical Dispute Resolution (MDR) from Dr. Potter dated 08/25/06
Undated information describing a nucleoplasty
Several articles regarding nucleoplasty

Clinical History Summarized:

An MRI of the lumbar spine interpreted by Dr. Chepey dated 10/18/04 revealed a small disc bulge at L4-L5. Another MRI of the lumbar spine interpreted by Dr. Gover dated 10/26/04

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revealed a disc protrusion, annular tear, degenerative disc disease, and stenosis at L4-L5 and mild degenerative disease at L5-S1. Lumbar ESIs were performed by Dr. Potter on 12/29/05 and 04/13/06. Ms. Malowitz recommended Xanax on 01/18/06. On 02/20/06, Ms. Malowitz recommended a second ESI. On 02/27/06, Dr. Potter wrote a preauthorization form requesting the ESI. On 03/27/06, Ms. Malowitz prescribed Darvocet and Zanaflex. Dr. Potter performed the lumbar facet injection on 05/18/06. On 05/22/06, Ms. Monica D. wrote a letter requesting reconsideration for repayment for the use of anesthesia during the injection. On 05/31/06, Ms. Malowitz recommended a lumbar discogram. Jean (no other information about this person was provided) wrote a request for reconsideration for the facet blocks. A lumbar discogram interpreted by Dr. Potter on 07/19/06 was concordant only at L4-L5. The post discogram CT scan interpreted by Dr. Yang on 07/19/06 revealed a posterolateral tear at L4-L5. On 07/28/06, Dr. Potter recommended surgery and postoperative rehabilitation. On 08/02/06, Dr. Potter wrote a preauthorization form for a nucleoplasty. On 08/07/06, Concentra wrote a letter of denial for the surgery. On 08/10/06, Dr. Potter wrote a letter of reconsideration for the surgery. Dr. Ndeto wrote a letter of denial for the surgery on 08/25/06. On 08/25/06, Dr. Potter requested an MDR.

Disputed Services:

Percutaneous discectomy (IDET) under fluoroscopic guidance with sedation

Decision:

I disagree with the requestor. The percutaneous discectomy (IDET) under fluoroscopic guidance with sedation is neither reasonable nor necessary.

Rationale/Basis for Decision:

With all due respect to Dr. Potter's impassioned note of 08/25/06, there is substantial doubt in the orthopedic and neurosurgical community as to the efficacy of percutaneous discectomy for axial pain. While this individual may have some radicular symptoms, his predominant complaint throughout has been axial in nature. Percutaneous discectomy is not an effective procedure in this situation. Dr. Potter made several comments that were contrary to fact, for example that the patient has one level discogenic disease and it would be necessary to fuse both L4-L5 and L5-S1. For another, it was not clear that this individual needs any surgery, as he has not been trialed in work conditioning. In my opinion as a board certified orthopedic surgeon, it was neither

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reasonable, nor necessary, nor efficacious for this individual to undergo a percutaneous discectomy.

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.

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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 10/24/06 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel