



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-07-0071-01
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: 10/17/06

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

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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:

Evaluations with Jacob Rosenstein, M.D. dated 09/15/03, 10/13/03, 11/10/03, 12/01/03, 12/17/03, 12/24/03, 12/31/03, 01/07/04, 01/26/04, 02/04/04, 02/25/04, 04/07/04, 05/06/04, 05/20/04, 06/28/04, 07/27/04, 08/24/04, 09/23/04, 11/04/04, 12/15/05, 01/11/05, 11/21/05, 01/06/06, 01/13/06, 02/13/06, 03/13/06, 04/10/06, 05/10/06, 07/13/06, 08/14/06, and 09/14/06
X-rays of the thoracic and lumbar spine interpreted by Shelley Rosenbloom, M.D. dated 12/17/03

Operative reports from Dr. Rosenstein dated 01/09/04 and 01/06/06

X-rays of the thoracic spine interpreted by Dr. Rosenbloom dated 02/04/04 and 01/27/06

X-rays of the thoracic spine interpreted by Richard A. Suss, M.D. dated 04/05/04

An impairment rating evaluation with Mark E. Huff, Jr., M.D. dated 11/10/04

A health and behavioral evaluation with Richard Snider, L.P.C. dated 01/13/05

A chronic pain evaluation with Richard Slaughter, Psy.D. dated 01/17/05

An evaluation with James Miller, P.A.-C. for Dr. Rosenstein dated 07/12/06

A letter of appeal from Dr. Rosenstein dated 08/23/06

A medical conference note from Dr. Rosenstein dated 08/28/06

A letter of denial from JI Specialty Service, Inc. dated 08/30/06

Clinical History Summarized:

On 09/15/03, Dr. Rosenstein recommended a Duragesic patch, a CT scan of the thoracic and lumbar spine, thoracic x-rays, and possible epidural steroid injections (ESIs). X-rays of the thoracic and lumbar spine interpreted by Dr. Rosenbloom on 12/17/03 revealed diffuse demineralization of the bones and insufficiency fractures of the superior endplates at T9 and T12 and bone demineralization of the lumbar spine with narrowing of the lower lumbar discs and probable leg length disparity. On 01/09/04, Dr. Rosenstein performed a vertebroplasty at T9. X-rays of the thoracic spine interpreted by Dr. Rosenbloom on 02/04/04 revealed some depression of the superior endplates at T11 and T12 with diffuse demineralization. X-rays of the thoracic spine interpreted by Dr. Suss on 04/05/04 revealed the post T9 and T11 vertebroplasty. On

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11/10/04, Dr. Huff assigned the patient a 5% whole person impairment rating. On 01/17/05, Dr. Slaughter recommended a course of individual psychotherapy and health and behavioral intervention. Dr. Rosenstein performed the bilateral L3 through S1 facet injections on 01/06/06. X-rays of the thoracic spine interpreted by Dr. Rosenbloom on 01/27/06 were unchanged from 03/15/05 study. On 05/10/06, Dr. Rosenstein provided refills of Duragesic, Hydrocodone, and Prozac. On 08/14/06, Dr. Rosenstein recommended repeat lumbar facet injections. On 08/30/06, JI Specialty, Inc. wrote a letter of denial for the bilateral facet injections. On 09/14/06, Dr. Rosenstein provided a Medrol Dosepak, Parafon DSC, and Duragesic.

Disputed Services:

Bilateral facet injection/chemical rhizotomy at L3-L4, L4-L5, and L5-S1 times one

Decision:

I disagree with the requestor. The bilateral facet injection/chemical rhizotomy at L3-L4, L4-L5, and L5-S1 times one would be neither reasonable nor necessary.

Rationale/Basis for Decision:

The patient has chronic parathoracic and lower back pain. She has been treated with a kyphoplasty for osteoporotic fractures. The patient had unrelenting pain in her thoracic spine, as well as what has been characterized by Dr. Rosenstein as recurrent lower back pain. The patient did receive some improvement from the facet injection, but before six months had gone by, the pain had reoccurred. This has not been consistent with a positive response to the injection. A positive response would be nine to twelve months of excellent pain relief. In addition, the patient's functional state has been significantly diminished by other medical issues such as rheumatoid arthritis and osteoporotic compression fractures. It is unclear that performing those injections would lead to an improvement in the patient's quality of life or decrease her narcotic usage. Therefore, in my opinion, the bilateral facet injection/chemical rhizotomy at L3-L4, L4-L5, and L5-S1 times one is not reasonable or necessary.

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.

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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 10/17/06 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel