

**SOUTHWEST MEDICAL EXAMINATION SERVICES, INC.**  
**7502 GREENVILLE AVENUE**  
**SUITE 600**  
**DALLAS, TEXAS 75231**  
**(214) 750-6110**  
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December 12, 2006

Re: Medical Dispute Resolution  
MDR# M2-07-0388-01  
DWC#  
Injured Employee: \_\_\_\_\_  
DOI: \_\_\_\_\_  
SS#: \_\_\_\_\_  
IRO Certificate #: IRO5313  
Name of Requestor: \_\_\_\_\_  
Name of Provider: Foundation Surgical Center  
Reviewed by: Certified in Orthopedic Surgery

**TRANSMITTED VIA FAX TO:**

Medical Dispute Resolution  
TDI-Division of Workers' Compensation  
FAX: 512-804-4868

Dear Ms. \_\_\_\_:

In accordance with the requirements for TDI-Division of Workers' Compensation (DWC) to randomly assign cases to IROs, DWC has assigned your case to Southwest Medical Examination Services, Inc. (SMES) for an independent review. In performing this review, SMES reviewed relevant medical records, any documents provided by the parties referenced above, and documentation and written information submitted in support of the dispute.

I am an officer of Southwest Medical Examination Services, Inc., 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 and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician who is certified in the area of orthopedic surgery, and is currently listed on the DWC Approved Doctor List.

**REVIEWER'S REPORT**

**Information Provided for Review:**

Medical records from the Respondent include:

- Forté, 09/25/06, 10/19/06, 10/20/06, 11/13/06
- Flahive, Ogden & Latson, 11/07/06, 11/14/06, 11/27/06

Medical records from the Treating Doctor include:

- Memorial Neurological Association, 03/03/03, 06/30/03, 11/21/03, 06/29/04, 01/21/05, 08/15/05, 11/17/05, 12/12/05, 05/11/06, 10/19/06, 11/01/06
- Doctor, McCann and Arthur, L.L.P., 03/30/05, 11/28/05
- Cypress Orthopedics, 12/09/03, 01/12/04, 02/16/04, 03/16/04, 11/02/04, 06/24/05
- Texas Pain Institute, 08/15/06, 10/03/06

Medical records from Richard Francis, M.D.:

- Michael T. McCann, M.D., 01/15/00, 04/29/05, 06/27/05, 07/18/05, 10/26/05, 11/28/05
- Memorial Neurological Association, 11/17/05
- Richard Francis, M.D., 12/20/05, 01/14/06, 03/07/06, 05/02/06, 08/01/06, 09/15/06, 10/24/06, 11/21/06
- Spine Associates of Houston, 01/12/06
- Foundation Surgical Hospital, 02/22/06
- Houston Medical Imaging, 01/06/06, 09/07/06, 10/03/06

Medical records from Viet Nguyen, M.D.:

- Texas Pain Institute, 06/27/06, 07/06/06, 07/20/06, 08/15/06, 09/12/06, 10/03/06, 10/24/06, 11/07/06, 11/21/06

### **Clinical History:**

The patient is a 51-year-old female who was involved in a work-related vehicle accident on \_\_\_\_\_. At that time, she had an injury to her right knee for which she has received subsequent knee surgeries, and reportedly her spine was accepted as work-related also because she had subsequent conservative care to her neck and lower back as work-related to this date.

As far as her lower back was concerned, she had an index lumbar spine surgery in 1997 with disc excision. That operative dictation is not present for review. Records available for review indicate that she was doing pretty well with her lower back with pain management techniques, including medicines and intermittent epidural steroid injections until mid to late 2005. At that time, she began to have increasing lower back and right lower extremity pain, which appeared to be L4 radiculopathy involving the lateral thigh and medial right leg. A second surgical procedure of February of 2006 was performed with attempted disc excision and decompression.

At this time, further surgery is recommended to consist of lumbar laminectomy at L3-4 and right-sided L3-4 discectomy in association with anterior and posterior spinal fusion.

I have reviewed records from a pain management group with Michael McCann, M.D. I have office notes from Richard Francis, M.D., with Spine Associates of Houston, in which he discusses his recommendation for further surgical procedure to consist of stabilization and fusion of L3-4 and L4-5 on account of "segmental spinal instability." In conjunction with Dr. Francis' report, there is a discussion of recent CT myelogram study having been performed on the injured worker on September 7, 2006. Retrolisthesis of L3 on L4 is present in association with a 7 mm broad-based posterior central right-sided disc protrusion and complete filling of both L4 nerve roots. There is also listhesis L4 on L5 in association with a 6 mm disc protrusion at L4-5.

Physical examination findings by Dr. Francis note progressive weakness right lower extremity. Neurodiagnostic studies note 1+ fibrillations and 1+ positive sharp waves in the tibialis anterior muscle on the right consistent with right L5 radiculopathy.

A prior operative dictation of February 22, 2006, is present and reviewed noting extensive scar tissue surrounding an extruded disc fragment at L4-5 that made it technically impossible for removal.

**Disputed Services:**

Inpatient lumbar laminectomy L3-4 with right sided discectomy, posterior spinal fusion L3-L5, ICBC anterior spinal fusion L3-L5 with three day length of stay; Purchase of LSO brace, Rental cryo unit x 10 days, and purchase of bone growth stimulator.

**Decision:**

After review of the additional records as discussed above, I agree with a proposed surgical procedure to consist of posterior decompression, laminectomy, and excision of extruded disc fragment at L3-4 and disc protrusion at L4-5 in association with lateral instrumentation and fusion.

I do not agree with supplementation of the procedure with anterior discectomy and fusion. This is in accordance with opinions expressed in ODG Guidelines that anterior fusion procedure does not add anything to the results in association with posterior lateral fusion procedures.

I agree with the purchase of LSO brace, the rental of a cryotherapy unit for 10 days and the purchase of a bone growth stimulator.

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**Rationale:**

These opinions are based on findings of instability in the lumbar spine as well as progressive neurologic deficit.

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 Southwest Medical Examination Services, Inc., is deemed to be a Commission decision and order.

**YOUR RIGHT TO REQUEST A HEARING**

If you are unhappy with this decision, you may seek judicial review of the decision. (Texas Labor Code, 413.031k) To seek such an appeal, a petition for judicial review must be filed with the Travis County District Clerk's Office in Austin, Texas not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. (Subchapter G, Chapter 2001, of the Texas Government Code) Neither the Department of Insurance nor the Division of Workers' Compensation is considered a party to the medical dispute in a judicial review. You may wish to consult with an attorney of your choice to assist you in filing an appeal. The Division of Workers' Compensation cannot assist or provide legal advice to you in this matter."

In accordance with Commission Rule 102.4(b), I hereby certify that a copy of this Independent Review Organization (IRO) decision was sent to the carrier and the requestor and claimant via facsimile or US Postal Service from the office of the IRO on this 26th day of December 2006.

Sincerely,

John E. Turner, II  
Southwest Medical Examination Services, Inc.