

MEDICAL REVIEW OF TEXAS

[IRO #5259]

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-07-0521-01
Name of Patient:	
Name of URA/Payer:	TASB Risk Management Fund
Name of Provider: (ER, Hospital, or Other Facility)	Lone Star Orthopedics
Name of Physician: (Treating or Requesting)	Kenneth Berliner, MD

January 10, 2007

An independent review of the above-referenced case has been completed by a physician board certified in orthopedic surgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on the Division of Workers' Compensation Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

January 10, 2007
Notice of Independent Review Determination
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Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: _____
Lone Star Orthopedics
Kenneth Berliner, MD
Division of Workers' Compensation

RE: _____

DOCUMENTS REVIEWED

- Memorial MRI and Diagnostic – MRI of the cervical spine from 5/11/06, MRI of the lumbar spine from 5/11/06, MRI of the right shoulder from 5/12/06.
- Texas Association of School Boards, Inc. – Denial of cervical and lumbar facet injections from October 19 and 31, 2006.
- Bruce Edward Whitehead, MD – Designated Doctor Examination from 8/10/06 and a TWCC 68 form completed on that date. Letter of clarification from 8/23/06.
- Kenneth G. Berliner, MD – Evaluation 9/1/06.
- Michael M. Albrecht, MD – Peer review 7/17/06.
- Richard Francis, MD – Evaluation 6/8/06.
- Consuelo Howard, MD – Peer review 12/15/06.
- Suzanne Novak, MD, PhD – Peer review 10/16/06.
- Casey G. Cochran, DO – Peer review 8/24/06.
- Omar D. Vidal, MD – Evaluation 5/23 and 8/15/06.
- Brian H. Le, DC – Evaluation TWCC 73 form 8/11/06.

CLINICAL HISTORY

This 28-year-old woman is employed as a school bus assistant. On her date of injury the bus she was in was struck on the passenger side. It spun and flipped over. The patient was unrestrained and complained of pain in her neck, low back and right shoulder. She was transferred to Memorial Northwest Hospital by ambulance where she was treated and released.

The patient subsequently was seen by Brian H. Le, DC who treated her with therapy. A cervical MRI performed on 5/11/06 was normal with the exception of loss of cervical lordosis which was thought to be indicative of muscle or ligament injury. A lumbar MRI performed the same day also showed loss of lordosis, mild loss of disc signal at L4-5 and L5-S1 and a 3mm bulge of the L1-2 and L5-S1 discs without neural compromise. A right shoulder MRI performed the following day was compatible with rotator cuff tendonitis.

The patient was seen by Omar D. Vidal, MD who treated her with analgesics, muscle relaxants and nonsteroidal anti-inflammatory medications. She was seen by Richard Francis, MD with regards to her

RE: ____

low back pain. He recommended further conservative treatment and epidural steroid injections. These injections were denied.

Most recently the patient has been seen by Kenneth Berliner, MD on 11/1/06. His diagnosis was cervical strain, herniated nucleus pulposus L5-S1 and L1-2 and right shoulder tendonitis. He has requested cervical and lumbar facet injections at C4-5, C5-6, C6-7, and L5-S1.

REQUESTED SERVICE(S)

Cervical and lumbar facet injections C4-5, C5-6, C6-7 and L5-S1.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

With regards to the cervical spine, there is no radiographic evidence of facet or disc pathology. Further, the patient was reported by Dr. Berliner to have a fairly normal range of motion of her neck. There is no reason to suspect that the facets are the etiology of the pain. Dr. Berliner's working diagnosis is cervical strain which denotes a musculotendinous etiology of the problem. This course of pain would not respond to facet blocks. Dr. Berliner appeared to arbitrarily have decided to inject the cervical facets at 3 levels in the cervical spine. In the absence of any defined pathology at any of these levels there is no rationale why facet injections should be expected to affect this patient's outcome and are therefore not indicated.

With regards to the lumbar spine there is no radiographic evidence of facet pathology. There is mild disc desiccation at L4-5 and L5-S1 and mild bulging of the L5-S1 and L1-2 discs without neural compromise. These bulging discs are of no clinical significance. Dr. Berliner's diagnosis is herniated nucleus pulposus at L5-S1 and L1-2. He offers no explanation as to why he thinks the L5-S1 facets may be the cause of this patient's back pain.

The etiology of this patient's lumbar problem is the same as her cervical problem; namely it is musculotendinous in origin. This source of the patient's pain would not respond to a facet block.

RE: _____

Certification of Independence of Reviewer

As the reviewer of this independent review case, I do hereby certify that I have no known conflicts of interest between the provider and 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 IRO.

YOUR RIGHT TO APPEAL

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.

Chief Clerk of Proceedings
Division of Workers' Compensation
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 12th day of January, 2007.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell