



# PROFESSIONAL ASSOCIATES

## NOTICE OF INDEPENDENT REVIEW

**NAME OF PATIENT:** \_\_\_\_\_  
**IRO CASE NUMBER:** M2-06-0927-01  
**NAME OF REQUESTOR:** Francisco J. Batlle, M.D.  
**NAME OF PROVIDER:** Francisco J. Batlle, M.D.  
**REVIEWED BY:** Board Certified in Orthopedic Surgery  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 04/27/06

Dear Dr. Batlle:

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:**

Evaluations with Marivel C. Subia, D.C. dated 01/17/05, 01/05/06, 01/16/06, and 02/15/06

An EMG/NCV study interpreted by Jonathan E. Walker, M.D. dated 01/24/05

An MRI of the lumbar spine interpreted by Raman Mocharla, M.D. dated 01/31/05

Evaluations with Steven W. Eaton, M.D. dated 02/28/05, 04/19/05, 06/14/05, 06/21/05, 07/14/05, and 08/25/05

Required Medical Evaluations (RMEs) with Charles F. Xeller, M.D. dated 03/25/05 and 02/10/06

An MRI of the lumbar spine interpreted by Tom Knight, M.D. dated 03/31/05

Evaluations with Andrew B. Small, III, M.D. dated 06/02/05 and 09/08/05

Operative reports with Dr. Eaton dated 06/29/05 and 08/12/05

An evaluation with Bryce I. Benbow, D.O. dated 10/11/05

Authorization requests from Francisco Batlle, M.D. dated 10/20/05, 12/29/05, and 01/05/06

X-rays and a lumbar discogram CT scan interpreted by Margaret A. Hollar, D.O. dated 11/01/05

An evaluation with Dr. Batlle dated 11/11/05

A summary of carrier's position from S. Rhett Robinson at Flahive, Ogden & Latson Attorneys at Law dated 03/13/06

#### **Clinical History Summarized:**

An EMG/NCV study of the lower extremity interpreted by Dr. Walker on 01/24/05 showed evidence of L5 radiculopathy on the right. An MRI of the lumbar spine interpreted by Dr. Mocharla on 01/31/05 showed degenerative facet changes from L2 to S1, disc bulges at L4-L5 and L5-S1, postoperative changes at L4-L5, and a possible lipoma from L2 to S1. On 02/28/05, Dr. Eaton recommended an L5 nerve root block and SI joint injection. On 03/25/05, Dr. Xeller recommended a trial of epidural steroid injections (ESIs), a pain management program, weaning

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off narcotic medication, and a home exercise program. An MRI of the lumbar spine interpreted by Dr. Knight dated 03/31/05 revealed desiccated disc bulges at L4-L5 and L5-S1. On 04/19/05 and 06/14/05, Dr. Eaton again recommended injections. Dr. Eaton performed left SI joint and left piriformis muscle injections on 06/29/05. On 07/14/05, Dr. Eaton recommended an evaluation with a neurosurgeon and a left L5 selective nerve root block. Dr. Eaton performed a left L5 selective nerve root block on 08/12/05. On 10/11/05, Dr. Benbow recommended a lumbar myelogram CT scan. On 10/20/05, 11/11/05, 12/29/05, and 01/05/06, Dr. Battle recommended lumbar surgery. A lumbar discogram CT scan interpreted by Dr. Hollar on 11/01/05 revealed concordant back pain at L5-S1 with a fissure and degenerative changes at L4-L5. On 02/10/06, Dr. Xeller recommended job retraining, a Functional Capacity Evaluation (FCE), and continued medication. On 03/13/06, Mr. Robinson indicated a Contested Case Hearing (CCH) would be performed.

**Disputed Services:**

Anterior lumbar interbody fusion at L4-L5 and L5-S1 and posterior lumbar decompression and posterolateral fusion and pedicle screw fixation at L4-L5 and L5-S1

**Decision:**

I agree with the requestor. The anterior lumbar interbody fusion at L4-L5 and L5-S1 and posterior lumbar decompression and posterolateral fusion and pedicle screw fixation at L4-L5 and L5-S1 would be reasonable and necessary.

**Rationale/Basis for Decision:**

I believe the proposed two level global fusion would be reasonable and necessary. It appeared from the medical records that the claimant has had ongoing symptoms since the time of his original injury. He was treated ineffectively with a lumbar laminectomy and he has continued to have pain consistent with the findings on the CT discogram. The claimant had back pain, with aching into his legs and this pain was reproduced on the lumbar discography. The claimant has positive findings at L4-L5 and L5-S1, concordant with his normal pain, and a normal discogram at L3-L4. Therefore, the discogram was valid. The claimant appeared to have been treated in an acceptable fashion with injections, medications, and other conservative therapy before considering surgical intervention. Therefore, in my opinion, the proposed interbody fusion at L4-L5 and L5-S1 with concomitant decompression, posterolateral fusion, and pedicle screw

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fixation would be reasonable and necessary as related to the original injury. If this claimant were in my practice, that was what I would recommend and perform. The reference for the above is North American Spine Society Phase III Clinical Guidelines for Multidisciplinary Spine Specialist, Lower Back Pain.

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 claimant via facsimile or U.S. Postal Service this day of 04/27/06 the office of Professional Associates.

Sincerely,

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Amanda Grimes  
Secretary/General Counsel