



# PROFESSIONAL ASSOCIATES

## NOTICE OF INDEPENDENT REVIEW

**NAME OF PATIENT:** \_\_\_\_\_  
**IRO CASE NUMBER:** M2-06-1855-01  
**NAME OF REQUESTOR:** Canton Health Care Systems  
**NAME OF PROVIDER:** Nicholas Galloway, D.C.  
**REVIEWED BY:** Fellowship Trained in Pain Management  
Board Certified in Anesthesiology  
Added Qualifications in Pain Medicine  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 09/20/06

Dear Canton Health Care Systems:

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 Pain Management and Anesthesiology with Added Qualifications in Pain Medicine 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:**

X-rays of the right leg and right hip interpreted by Lawrence W. Kaler, M.D. dated 04/22/03  
Physical therapy with Martin Swiderski, P.T. dated 05/23/03, 05/27/03, and 05/28/03  
An evaluation and EMG/NCV study with Samuel Bierner, M.D. dated 06/25/03  
Chiropractic treatment with Nicole Tran, D.C. dated 08/15/03, 08/18/03, 08/20/03, 08/22/03, 08/25/03, 08/27/03, 09/02/03, 09/11/03, 09/15/03, 09/17/03, 09/19/03, 09/24/03, 09/25/03, 10/02/03, 10/03/03, 10/06/03, 10/28/03, 10/31/03, 11/03/03, 11/05/03, 11/07/03, 11/10/03, 11/19/03, 11/24/03, 12/12/03, 01/09/04, 04/12/04, and 05/13/04  
An MRI of the lumbar spine interpreted by Margaret A. Hollar, D.O. dated 08/26/03  
Evaluations with Pedro Nosnik, M.D. dated 09/19/03 and 10/03/03  
A Required Medical Evaluation (RME) with Melissa D. Tonn, M.D. dated 10/15/03  
A Functional Capacity Evaluation (FCE) with an unknown provider (no name or signature was available) dated 10/15/03  
Designated Doctor Evaluations with John P. Obermiller, M.D. dated 12/11/03 and 05/06/05  
An evaluation with Dr. Tran dated 03/23/04  
Letters from Dr. Obermiller dated 03/30/04, 01/25/05, and 07/06/06  
Evaluations with Paul A. Vaughan, M.D. dated 04/08/04, 05/13/04, 11/04/04, 11/18/04, 01/20/05, 03/17/05, 05/19/05, and 06/16/05  
A peer review report from R. A. Buczek, D.O. dated 04/10/04  
Team conference notes from C.M. Schade, M.D. dated 06/02/04 and 06/18/04  
A letter from Dr. Vaughan dated 07/20/04  
A short stay summary from Dr. Schade dated 11/02/04  
An operative report from Dr. Schade dated 11/02/04  
A CT scan of the lumbar spine interpreted by Ellis Robertson, M.D. dated 11/02/04  
A letter of partial approval from UniMed Direct, L.L.C. dated 11/11/04  
Laboratory studies dated 12/02/04  
A preoperative evaluation with Jose Rivas, M.D. dated 12/02/04  
An evaluation with Steven H. Thompson, M.D. dated 12/03/04

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An operative report from Dr. Vaughan dated 12/03/04  
A discharge summary from Dr. Thompson dated 12/03/04  
A prescription for physical therapy from Dr. Vaughan dated 01/20/05  
An evaluation with Terry Sadler, P.T. dated 01/27/05  
Physical therapy with Mr. Sadler dated 02/02/05, 02/04/05, 02/07/05, 02/09/05, 02/14/05, and 02/16/05  
An evaluation with Misty J. Hurley, P.T. dated 02/21/05  
Physical therapy with Ms. Hurley dated 02/24/05, 02/28/05, and 03/03/05  
A progress note with Ms. Hurley dated 03/10/05  
Evaluations with an unknown provider (the signature was illegible) dated 04/13/05, 07/19/05, and 09/15/05  
A prescription from Dr. Vaughan dated 05/17/05  
Evaluations with Nicholas Galloway, D.C. dated 07/13/05, 08/10/05, 09/19/05, 11/14/05, 12/12/05, and 02/22/06  
A psychological evaluation with George Esterly, L.P.C. dated 07/26/05  
A medical evaluation with an unknown provider (no name or signature was available) dated 08/04/05  
Physical Performance Evaluations (PPEs) with Dr. Galloway dated 08/17/05 and 06/14/06  
Evaluations with Bala K. Giri, M.D. dated 08/29/05 and 10/31/05  
Evaluations with Ronald Davis, D.O. dated 08/31/05, 10/24/05, 11/18/05, 12/16/05, 01/04/06, 01/09/06, 01/25/06, 02/06/06, 02/27/06, 03/06/06, 04/03/06, 05/01/06, 05/31/06, and 06/28/06  
An MRI of the lumbar spine interpreted by M. Sarwar, M.D. dated 10/27/05  
Evaluations with Jeffrey L. Wasserman, M.D. dated 12/16/05, 03/31/06, and 05/12/06  
An EMG/NCV study interpreted by Sybil Reddick, M.D. dated 01/04/06  
A mental health evaluation with Scott E. Persinger, L.C.S.W. dated 02/06/06  
Operative reports from Dr. Wasserman dated 03/22/06 and 05/03/06  
Evaluations with Joe Fuentes, M.D. dated 06/06/06 and 06/27/06  
An evaluation with Melisa Cooper, M.S., L.P.C. dated 06/14/06  
Letters of adverse determination from the insurance carrier dated 06/26/06 and 07/17/06  
An evaluation with Michelle Steffek, P.A.-C. dated 07/07/06

**Clinical History Summarized:**

X-rays of the right leg and hip interpreted by Dr. Kaler on 04/22/03 were normal. Physical therapy was performed with Mr. Swiderski on 05/23/03, 05/27/03, and 05/28/03. An EMG/NCV study interpreted by Dr. Bierner on 06/25/03 revealed evidence suggestive of lumbosacral nerve root delay in the L5 and/or S1 distributions. Chiropractic therapy was performed with Dr. Tran from 08/15/03 through 05/13/04 for a total of 28 sessions. An MRI of the lumbar spine

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interpreted by Dr. Hollar on 08/26/03 revealed congenital narrowing of the spinal canal, osteophytic spurring at L1-L2, a disc bulge at L5-S1 with mild to moderate foraminal narrowing, and facet hypertrophy at L4-L5 and L5-S1. On 12/11/03, Dr. Obermiller placed the patient at Maximum Medical Improvement (MMI) with a 5% whole person impairment rating. On 04/08/04, Dr. Vaughan recommended ESIs, facet injections, and Bextra. On 04/10/04, Dr. Buczek recommended a pain management evaluation with possible injections or discogram, a trial TENS unit, possible work conditioning program, and continued medications. The lumbar discogram performed by Dr. Schade on 11/02/04 revealed concordant pain at L4-L5 and L5-S1. The discogram CT scan interpreted by Dr. Robertson on 11/02/04 revealed probable fissuring at L4-L5 and L5-S1. On 11/04/04, Dr. Vaughan recommended a lumbar fusion. A letter of partial approval was provided by UniMed Direct on 11/11/04. On 12/03/04, Dr. Vaughan performed a hemilaminectomy and decompression of L4-L5 and L5-S1. Physical therapy was performed with Mr. Sadler from 02/02/05 through 02/16/05 for a total of six sessions. Physical therapy was performed with Ms. Hurley on 02/24/05, 02/28/05, and 03/03/05. On 05/06/05, Dr. Obermiller placed the patient at MMI as of 03/17/05 with a 5% whole person impairment rating. On 05/19/05, Dr. Vaughan recommended discectomies and fusions at L4-L5 and L5-S1. On 06/16/05, Dr. Vaughan recommended a chronic pain management program and lumbar fusion. Dr. Galloway recommended a second surgical opinion and a psychological evaluation on 07/13/05. On 08/10/05, Dr. Galloway recommended continued medications and off work status. A PPE with Dr. Galloway on 08/17/05 determined the patient was unable to work any level. On 08/31/05, Dr. Davis prescribed Paxil, Ultram, and Ambien. On 10/24/05, Dr. Davis prescribed Amitriptyline, Zoloft, and Hydrocodone. An MRI of the lumbar spine interpreted by Dr. Sarwar on 10/27/05 revealed mild degenerative disease from L1 through S1 with granulation tissue on the right at L4-L5 and L5-S1. On 10/31/05, Dr. Giri recommended an EMG/NCV study. On 12/12/05, Dr. Galloway recommended a possible rhizotomy. On 12/16/05, Dr. Wasserman recommended Lyrica and possible spinal cord stimulation. An EMG/NCV study interpreted by Dr. Reddick on 01/04/06 revealed bilateral peroneal neuropathy and a right S1 radiculopathy. On 02/06/06, Dr. Davis kept the patient on Paxil, Hydrocodone, Amitriptyline, Flexeril, and Ultram. On 03/22/06, Dr. Wasserman performed a spinal cord stimulator trial. Dr. Wasserman performed spinal cord stimulator implantation on 05/03/06. On 06/14/06, Ms. Cooper recommended a chronic pain management program. A PPE with Dr. Galloway on 06/14/06 indicated the patient could not perform even sedentary level. Letters of adverse determination regarding the pain program were provided by the insurance carrier on 06/26/06 and 07/17/06.

**Disputed Services:**

Ten sessions of chronic pain management

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**Decision:**

I disagree with the requestor. The 10 sessions of chronic pain management would not be reasonable or necessary.

**Rationale/Basis for Decision:**

A chronic pain management program would not be medically reasonable or necessary unless all appropriate medical treatment, actions, and evaluation have been exhausted. In this case, there are clearly medical treatment options and evaluations that have not been completed and, which, in my opinion, must be completed before this patient could be considered for tertiary level of care.

First and foremost, this patient has had a spinal cord stimulator system implanted approximately four months ago, but has had minimal to no effort made at reprogramming or optimizing the system. It would, in my opinion, be ethically incumbent upon the physician who implanted the spinal cord stimulator to follow-up with the patient for whatever needs may be necessary for optimization of a spinal cord stimulator system. It would not, in my opinion, be appropriate for the physician managing the spinal cord stimulator system to expect a sales representative to take care of clinical duties such as reprogramming, especially when the patient continues to have pain despite implantation of the stimulator. Therefore, the patient clearly requires further medical treatment and effort made to optimize the spinal cord stimulator system.

Secondly, the PPE results that were used to justify the necessity of a chronic pain management program are clearly flawed, as it was entirely inappropriate to perform such an evaluation less than six weeks after spinal cord stimulator implantation. In fact, no exertional activity should have been required of this patient so soon after spinal cord stimulator implantation, as such exertional activity as would be expected in an PPE could have dislodged the spinal cord stimulator leads, leading to migration, poor stimulation pattern, and possibly more surgery to reimplant the leads. Fortunately, there did not appear to be any documentation suggestive of lead migration, but this was one possibility that must be considered and possibly explored in working up the patient's continuing pain despite spinal cord stimulator implant. It must be remembered that the spinal cord stimulator trial provided this patient with a reduction in pain level from 6/10 to 2/10, yet his current pain level of 6-8/10 (depending on the evaluator) clearly indicates that he has not been obtaining sufficient stimulation or pain relief. Every effort, therefore, must be made to optimize the spinal cord stimulator system before this patient could be considered for any other treatment, including a chronic pain management program.

Third, there was no evidence the patient consuming excessive amounts of medication or narcotics that would require a chronic pain management program, detoxification, or weaning from medication. In fact, there was no documentation or evidence that this patient had been abusing any of his medications.

Fourth, there was no consistency among the three psychological evaluations performed by this patient at the same facility by different psychological counselors regarding the interpretation of the scoring of the anxiety and depression screening tests performed. It appeared the interpretation of the scoring varied with the requested procedure, based upon that scoring, as very similar scores are interpreted as being either mild or moderate, depending on whether the patient was being considered for the spinal cord stimulator or for admission to the chronic pain management program. This inconsistency, in my opinion, invalidated the interpretation of those psychological screening tests. Since the patient has not had in-depth objective psychological testing, such as an MMPI-2, nor has he had an in-depth psychological evaluation with a clinical psychologist or psychiatrist, there was not, in my opinion, sufficient or valid evidence of a psychological condition that would require, necessitate, or justify admission to a chronic pain management program.

Therefore, for all the reasons discussed above, there was no medical reason or necessity for ten sessions of a chronic pain management program for treatment of this patient's clinical condition or for treatment of a condition related to his work injury.

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.

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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 09/20/06 from the office of Professional Associates.

Sincerely,

Lisa Christian  
Secretary/General Counsel