THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA WORKERS COMPENSATION

Full Commission

WCC File No. 1200349
Appellate Case No. 2018-000133

RECEIVED
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SC Court of Appeals

James Provins, Employee/Deceased,
Debra Provins, Alleged Dependents/Claimants, Appellants,

v.

Spirit Construction Services, Inc., Employer,
And Insurance Company of the State of PA, Carrier, Respondents.

RECORD ON APPEAL

Volume I of III

September 12, 2018

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APPELLATE PANEL DECISION AND ORDER
FULL COMMISSION
JANUARY 11, 2018

APPELLATE PANEL

DECISION AND ORDER

OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1200349

James Provins, Employee/Deceased Debra Provins; Alleged Dependent, vs.	CLAIMANTS
Spirit Construction Services, Inc.,	EMPLOYER,
AND	
Insurance Company of the State of PA,	CARRIER, DEFENDANTS/RESPONDENTS

Appellate Panel Review held in Columbia, South Carolina, on November 14, 2017 per notices timely and properly served upon all parties of interest.

Appellate Panel Decision and Order filed January 11, 2018

APPEARANCES: Appellant /Claimant represented by Donald L. Smith, Esquire of Attorney Office of Donald Smith in Anderson, South Carolina.

Defendants/Respondents represented by J. South Lewis, II, Esquire of Willson Jones Carter & Baxley, P.A. in Greenville, South Carolina.

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SC Court of Appeals

STATEMENT OF THE CASE

The parties were heard by Commissioner R. Michael Campbell, II, on December 5, 2016, in Anderson, South Carolina. On March 6, 2017, Commissioner Campbell issued the following Order:

> **IT IS, HEREBY, ORDERED** that the claim for death benefits is **denied.**
>
> No hearing costs are assessed in this instance.
>
> **IT IS SO ORDERED.**

In his Decision and Order, dated March 6, 2017, Commissioner Campbell made the following specific Findings of Fact and Conclusions of Law:

Findings of Fact

IT IS FOUND AS A FACT:

1. That all parties to this action are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with James Provins as Employee/Deceased/Claimant, Debra Provins as Alleged Dependent/Claimant, Spirit Construction Services, Inc. as Employer, and Insurance Company of the State of PA as Carrier, Defendants.

2. That Employee/Deceased/Claimant James Provins was an employee of the above-named Employer on January 24, 2012, on which date he did sustain an injury to his right shoulder.

3. That the average weekly wage of Employee at the time of the above-described accident was $1,130.51, with a corresponding compensation rate of $725.47.

4. Employee passed away on April 14, 2014, before he reached maximum medical improvement for his right shoulder.

5. At the time of Employee's death, he had not been released from care for his right shoulder, and was still undergoing treatment with Dr. Bonnarens.

6. There was no bad faith denial of medical treatment or unreasonable delay by Defendants. The evidence, including emails among counsel included in Defendants' exhibits, indicate that another surgery had been recommended by Dr. Bonnarens (for a recurrent rotator cuff tear) and Defendants requested medical releases be signed to further investigate causation of same. (Defendants' Exhibit A).

7. Prior to the work injury of January 24, 2012, Employee suffered from a significant alcohol abuse problem. This finding is based upon the medical records which illustrate

Employee was a long-suffering alcoholic, and drank excessively, to include beer and liquor, for the majority of his life. These records included history provided by Employee, as well as family members, such as the following:

a. Ms. Provins, Claimant's widow, provided such a history at the time of his hospitalization/death in April 2014. "*According to his wife* a long history of alcoholism...". (*See* APA #18, p. 374)

b. An admission report from April 10, 2014, details a history of a "52-year-old male who is an alcoholic and drinks about half a pint of Vodka *every day for most of his life*...". (*See* APA #18, p. 234)

c. On July 7, 2009, Employee's sister, Ms. Zimmerman, called the police and Employee was transported to University of Louisville Hospital with chief complaint of "I'm drinking myself to death." He further reported that "I can't sleep at all unless I get drunk." It was reported that Employee was a longstanding alcoholic, who consumed 16-18 beers per day and a half a pint to a pint of liquor per day. (*See* APA #11, pp. 121-126)

d. When Employee initially began treating with Dr. Bonnarens, on April 15, 2013, he reported drinking 8-10 beers per day, and this was before his shoulder surgery. (*See* APA #12, p. 154)

e. In none of the post-accident medical reports does it indicate that Employee's drinking habits changed or increased after his work injury or shoulder surgery, which is indicative of someone who simply has been a longstanding user of alcohol, notwithstanding the work injury. The testimony of Employee's widow, Debra Provins, that the drinking only became a problem after his work injury, in response to dealing with his pain, is not supported by the history she herself provided upon Employee's hospital admission on April 10, 2014. (*See* APA #18, p. 374)

8. I give little weight to the report of Dr. Price. Dr. Price's opinion that Employee had "No history of pain, anxiety, depression or alcoholism prior to" the work injury is clearly refuted by the pre-injury medical records. I find that Employee did have a pre-injury history of alcoholism and depression as indicated by his suicidal threats and excessive alcohol consumption pre-injury. Even Employee's other expert, Dr. Martin, acknowledges a history of depression, suicidal ideation, and alcohol dependence.

9. Dr. Price's opinion is based on incorrect, or at a minimum flawed, facts which formed his causation opinion, including but not limited to the following:

a. Ms. Provins told Dr. Price that Employee "developed an alcohol abuse problem secondary to his injury," but the medical records and Ms. Provins' own testimony do not support this assertion. Ms. Provins acknowledged at the hearing that she was unaware of his heavy abuse of alcohol, to include hard liquor, as far back as 2001. (Hr. Tr., pp. 26-27)

b. The information provided by Employee's sister, Alice Marie Zimmerman, that prior to his injury he was "a social drinker but had not consumed alcohol the way he did following his injury" is not supported by the pre-injury medical records. Specifically, Ms. Zimmerman herself called the police on Employee and had him hospitalized in July of 2009, at which time a history was provided that he drank 16-18 beers per day, as well as half a pint to a pint of liquor per day.

c. Dr. Price did not review any medical records from before the work injury, so as to ascertain a complete history of his alcohol habits.

10. Dr. Price, as a PhD and licensed clinical psychologist, is not qualified to provide a medical opinion regarding a cause of death.

11. Dr. Martin's causation affidavit is not reliable, in that it acknowledges pre-injury alcohol abuses, but then relies on subjective history included in Dr. Price's report from Employee's attorney, Employee's widow, and his sister, in opining that his alcohol consumption worsened after the work injury. However, Dr. Martin did not review the body of medical records showing issues with alcohol abuse prior to the work injury. Furthermore, Dr. Martin's opinion cannot be reconciled with the hospital admission records in April of 2014, which outline a lifelong history of alcohol abuse.

12. Dr. Martin's affidavit is further discredited by his reliance upon the report of Dr. Price, which, as detailed herein, contains factual errors and inconsistencies regarding Employee's pre-injury alcohol dependency. Therefore, I give little weight to Dr. Martin's affidavit.

13. I give greater weight to the expert report of Dr. James Ballenger, who has practiced clinical psychiatry and served as a forensic examiner for over 30 years. Dr. Ballenger reviewed voluminous records and explained his opinions at his deposition. Dr. Ballenger's conclusions that Employee suffered from a progressively worsening alcoholism over the course of his adult life is consistent with the medical records, both prior to and subsequent to the work injury. I give greater weight to Dr. Ballenger's conclusion that the work injury had essentially no impact upon Employee's alcohol abuse and ultimate death.

14. No qualified medical doctor who actually treated Employee prior to his death, or in the hospital at the time of death, provided a medical causation regarding the precise causative factors in Employee's death. Thus, we are left to rely on posthumous analysis by experts to determine whether there is any causal connection between Employee's right shoulder injury and his death.

15. The cause of Employee's death was multifactorial, to include sepsis, respiratory failure, multi-organ decompensation, and alcohol abuse. While alcohol was certainly a contributing factor – if not a primary factor – in his ultimate death, no expert has pinned down the precise cause of death. This finding is based upon the Death Certificate (Claimants' Exhibit R, p. 685), and the "Death Summary" from the hospital at the time of death (APA #18, p. 397).

16. The testimony of Ms. Provins, Employee's widow, was not reliable as it related to Employee's history of alcohol use. This finding was based on my observation of her testimony, and comparison of same to the pre-injury medical records:

    a. Ms. Provins admitted at the hearing that she would not be around her husband for weeks at a time while he traveled for work, and she did not know to what extent he was drinking before the injury (*See* Hr. Tr. pp. 27-28)

    b. She testified that prior to the injury, Employee was a beer drinker, but began consuming liquor in large amounts after the injury. However, this does not square with the report she provided to the hospital in April 2014, nor is it consistent with the pre-injury medical records, going all the way back to 2001, in which it was noted that Employee drank beer and hard liquor. (*See* APA #10, p. 113)

    c. She admitted that she really knew very little about Employee's health history. (*See* Hr. Tr. p. 35)

17. The testimony of Ms. Zimmerman, Employee's sister, regarding his pre-injury alcohol use is not supported by the greater weight of the evidence in the record. While she testified that Employee did not drink alcohol excessively prior to the injury, she herself called the police on Employee in 2009, at which time it was reported he was drinking excessive amounts of beer and liquor on a daily basis. Furthermore, she acknowledged that she had no knowledge of his drinking habits when he was traveling regularly for work, but that when he was home, she saw him regularly drink beer and liquor. (Hr. Tr. pp. 46-49)

18. There is no objective evidence – only subjective history provided by Employee's relatives – that his drinking increased significantly after his work injury. In fact, Employee admitted to drinking on a daily basis prior to the work injury at the Compensability Hearing. What is more, there is not a single medical record, either with the treating workers' compensation doctors or his personal doctors/hospitals in Kentucky, which indicate that Employee's alcohol consumption increased after the work injury. To the contrary, on his admission to the hospital in April 2014, he reported that he had tried to quit drinking. (APA #18, p. 264) I decline to speculate that Employee drank more as a result of his work injury.

19. Even assuming Employee has increased his alcohol intake after – and because of – the work injury, such would not constitute a compensable work "injury by accident" or death. Dr. Ballenger testified that the act of drinking, even for an alcoholic, is an intentional one. (Claimants' Exhibit J, p. 619) Injury resulting from a willful intent to injure one's self is not compensable. S.C. Code Ann. 42-9-60. I find that Employee understood the harm his drinking was causing.

20. Employee knew, even before his work injury, that he was harming his body drinking. He told the University of Louisville Hospital in July 2009 that "I'm drinking myself to

death." (APA #11, pp. 121-126) Under Caper v. Flautt, 407 S.E. 2d 248 (1991) an injury has to be unforeseen or unexpected to be compensable, and the medical records establish that Employee appreciated the damage that alcohol abuse was causing, including the risk of death, and had been counseled to quit drinking and seek treatment. Under the circumstances, I cannot find that his death was "by accident" as required to be considered compensable.

21. I find that it would be against public policy to hold that one's choice to abuse a substance, which results in death, should be attributable to his employer/carrier. This would create a "slippery slope" which could result in unintended conclusions, such as an addict's behavior being ascribed to a workers' compensation claim.

22. Claimants have failed to prove by a preponderance of the evidence that Employee/Deceased's death in April 2014 is causally related to the shoulder injury which occurred on January 24, 2012.

23. Defendants' motion for costs and attorney's fees is denied.

Conclusions of Law

Accordingly, as provided in § 42-17-40, S.C. Code Ann. (1976), as amended, it is the determination of this Commission that:

1. Under § 42-1-130, Employee/Deceased, James Provins, was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer, Spirit Construction, was a covered employer under the Act.

2. Under § 42-1-160, Employee/Deceased did sustain an injury to his right shoulder, for which he was afforded medical treatment by Defendants.

3. Under § 42-9-290, Employee/Deceased's death was not proximately caused by the January 24, 2012, right shoulder injury.

On March 20, 2017, within the statutory period, counsel for Claimants filed an application for review in the case setting forth his grounds for review, copies of which were furnished to all interested parties prior to oral argument presented to the Appellate Panel on November 14, 2017. By appeal, counsel for Claimant submitted the following grounds *verbatim* for review:

1. Whether the Single Commissioner erred as a matter of fact and law in finding that Claimant has not died, in part, because of the Employer's bad faith refusal to abide by the Act and provide treatment for Claimant.

2. Whether the Single Commissioner erred as a matter of fact and law in finding that Claimant has not suffered permanent impairment to his right upper extremity prior to his untimely death.

3. Whether the Single Commissioner erred as a matter of fact and law in finding that Claimant's issues with alcohol has retuned prior to the on-the-job accident, despite no evidence to substantiate the claim other than employees who maintained their job despite mass layoffs.

4. Whether the Single Commissioner erred in finding that Defendants' allegation that Claimant prevented their investigation of causation by failing to sign a HIPAA form, when the treating physician has related the second tear of the shoulder to the first tear.
5. Whether the Single Commissioner erred as a matter of fact and law in dining that Claimant's inability to "wipe his ass", maintain his career, earn a living to support his disabled wife and two daughters, necessity of borrowing from everyone to subsist, did not cause the iron worker depression.

6. Whether the Single Commissioner erred as a matter of fact and law in finding that Dr. Ballenger was credible, despite the fact that he misrepresented his payment for his testimony, the fact that he relied on testimony company employees from the initial hearing which was summarily dismissed by the sitting Commissioner, instructed the undersigned that he was the expert and knew that clear meaning of Claimant's expert's words were not what he meant with their use, etc.

7. Whether the Single Commissioner erred as a matter of fact and law in ignoring the findings of Claimant's IME performed by Dr. Dwight Jacobus, M.D.

8. Whether the Single Commissioner erred as a matter of fact and law by disregarding public policy, and finding on behalf of the defense who denied, denied, denied, until Claimant died.

FINDINGS OF FACT

Based upon the documentary evidence submitted by the respective parties, pursuant to the Administrative Procedures Act, and the Commission's file relative to this claim, WE, THE APPELLATE PANEL, FIND THE FOLLOWING AS FACT:

1. That all parties to this action are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with James Provins as Employee/Deceased/Claimant, Debra Provins as Alleged Dependent/Claimant, Spirit Construction Services, Inc. as Employer, and Insurance Company of the State of PA as Carrier, Defendants.

2. That Employee/Deceased/Claimant James Provins was an employee of the above-named Employer on January 24, 2012, on which date he did sustain an injury to his right shoulder.

3. That the average weekly wage of Employee at the time of the above-described accident was $1,130.51, with a corresponding compensation rate of $725.47.

4. Employee passed away on April 14, 2014, before he reached maximum medical improvement for his right shoulder.

5. At the time of Employee's death, he had not been released from care for his right shoulder, and was still undergoing treatment with Dr. Bonnarens.

6. There was no bad faith denial of medical treatment or unreasonable delay by Defendants. The evidence, including emails among counsel included in Defendants' exhibits, indicate that another surgery had been recommended by Dr. Bonnarens (for a recurrent rotator cuff tear) and Defendants requested medical releases be signed to further investigate causation of same. (Defendants' Exhibit A).

7. Prior to the work injury of January 24, 2012, Employee suffered from a significant alcohol abuse problem. This finding is based upon the medical records which illustrate Employee was a long-suffering alcoholic, and drank excessively, to include beer and liquor, for the majority of his life. These records included history provided by Employee, as well as family members, such as the following:

a. Ms. Provins, Claimant's widow, provided such a history at the time of his hospitalization/death in April 2014. "*According to his wife* a long history of alcoholism...". (*See* APA #18, p. 374)

b. An admission report from April 10, 2014, details a history of a "52-year-old male who is an alcoholic and drinks about half a pint of Vodka *every day for most of his life*...". (*See* APA #18, p. 234)

c. On July 7, 2009, Employee's sister, Ms. Zimmerman, called the police and Employee was transported to University of Louisville Hospital with chief complaint of "I'm drinking myself to death." He further reported that "I can't

sleep at all unless I get drunk." It was reported that Employee was a longstanding alcoholic, who consumed 16-18 beers per day and a half a pint to a pint of liquor per day. (*See* APA #11, pp. 121-126)

d. When Employee initially began treating with Dr. Bonnarens, on April 15, 2013, he reported drinking 8-10 beers per day, and this was before his shoulder surgery. (*See* APA #12, p. 154)

c. In none of the post-accident medical reports does it indicate that Employee's drinking habits changed or increased after his work injury or shoulder surgery, which is indicative of someone who simply has been a longstanding user of alcohol, notwithstanding the work injury. The testimony of Employee's widow, Debra Provins, that the drinking only became a problem after his work injury, in response to dealing with his pain, is not supported by the history she herself provided upon Employee's hospital admission on April 10, 2014. (*See* APA #18, p. 374)

8. We give little weight to the report of Dr. Price. Dr. Price's opinion that Employee had "No history of pain, anxiety, depression or alcoholism prior to" the work injury is clearly refuted by the pre-injury medical records. We find that Employee did have a pre-injury history of alcoholism and depression as indicated by his suicidal threats and excessive alcohol consumption pre-injury. Even Employee's other expert, Dr. Martin, acknowledges a history of depression, suicidal ideation, and alcohol dependence.

9. Dr. Price's opinion is based on incorrect, or at a minimum flawed, facts which formed his causation opinion, including but not limited to the following:

a. Ms. Provins told Dr. Price that Employee "developed an alcohol abuse problem secondary to his injury," but the medical records and Ms. Provins' own testimony do not support this assertion. Ms. Provins acknowledged at the hearing that she was unaware of his heavy abuse of alcohol, to include hard liquor, as far back as 2001. (Hr. Tr., pp. 26-27)

b. The information provided by Employee's sister, Alice Marie Zimmerman, that prior to his injury he was "a social drinker but had not consumed alcohol the way he did following his injury" is not supported by the pre-injury medical records. Specifically, Ms. Zimmerman herself called the police on Employee and had him hospitalized in July of 2009, at which time a history was provided that he drank 16-18 beers per day, as well as half a pint to a pint of liquor per day.

c. Dr. Price did not review any medical records from before the work injury, so as to ascertain a complete history of his alcohol habits.

10. Dr. Price, as a PhD and licensed clinical psychologist, is not qualified to provide a medical opinion regarding a cause of death.

11. Dr. Martin's causation affidavit is not reliable, in that it acknowledges pre-injury alcohol abuses, but then relies on subjective history included in Dr. Price's report from Employee's attorney, Employee's widow, and his sister, in opining that his alcohol consumption worsened after the work injury. However, Dr. Martin did not review the body of medical records showing issues with alcohol abuse prior to the work injury. Furthermore, Dr. Martin's opinion cannot be reconciled with the hospital admission records in April of 2014, which outline a lifelong history of alcohol abuse.

12. Dr. Martin's affidavit is further discredited by his reliance upon the report of Dr. Price, which, as detailed herein, contains factual errors and inconsistencies regarding Employee's pre-injury alcohol dependency. Therefore, we give little weight to Dr. Martin's affidavit.

13. We give greater weight to the expert report of Dr. James Ballenger, who has practiced clinical psychiatry and served as a forensic examiner for over 30 years. Dr. Ballenger reviewed voluminous records and explained his opinions at his deposition. Dr. Ballenger's conclusions that Employee suffered from a progressively worsening alcoholism over the course of his adult life is consistent with the medical records, both prior to and subsequent to the work injury. We give greater weight to Dr. Ballenger's conclusion that the work injury had essentially no impact upon Employee's alcohol abuse and ultimate death.

14. No qualified medical doctor who actually treated Employee prior to his death, or in the hospital at the time of death, provided a medical causation regarding the precise causative factors in Employee's death. Thus, we are left to rely on posthumous analysis by experts to determine

whether there is any causal connection between Employee's right shoulder injury and his death.

15. The cause of Employee's death was multifactorial, to include sepsis, respiratory failure, multi-organ decompensation, and alcohol abuse. While alcohol was certainly a contributing factor – if not a primary factor – in his ultimate death, no expert has pinned down the precise cause of death. This finding is based upon the Death Certificate (Claimants' Exhibit R, p. 685), and the "Death Summary" from the hospital at the time of death (APA #18, p. 397).

16. The testimony of Ms. Provins, Employee's widow, was not reliable as it related to Employee's history of alcohol use. This finding was based on our observation of her testimony, and comparison of same to the pre-injury medical records:

a. Ms. Provins admitted at the hearing that she would not be around her husband for weeks at a time while he traveled for work, and she did not know to what extent he was drinking before the injury (*See* Hr. Tr. pp. 27-28)

b. She testified that prior to the injury, Employee was a beer drinker, but began consuming liquor in large amounts after the injury. However, this does not square with the report she provided to the hospital in April 2014, nor is it consistent with the pre-injury medical records, going all the way back to 2001, in which it was noted that Employee drank beer and hard liquor. (*See* APA #10, p. 113)

c. She admitted that she really knew very little about Employee's health history. (*See* Hr. Tr. p. 35)

17. The testimony of Ms. Zimmerman, Employee's sister, regarding his pre-injury alcohol use is not supported by the greater weight of the evidence in the record. While she testified that Employee did not drink alcohol excessively prior to the injury, she herself called the police on Employee in 2009, at which time it was reported he was drinking excessive amounts of beer and liquor on a daily basis. Furthermore, she acknowledged that she had no knowledge of his drinking habits when he was traveling regularly for work, but that when he was home, she saw him regularly drink beer and liquor. (Hr. Tr. pp. 46-49)

18. There is no objective evidence – only subjective history provided by Employee's

relatives that his drinking increased significantly after his work injury. In fact, Employee admitted to drinking on a daily basis prior to the work injury at the Compensability Hearing. What is more, there is not a single medical record, either with the treating workers' compensation doctors or his personal doctors/hospitals in Kentucky, which indicate that Employee's alcohol consumption increased after the work injury. To the contrary, on his admission to the hospital in April 2014, he reported that he had tried to quit drinking. (APA #18, p. 264) We decline to speculate that Employee drank more as a result of his work injury.

19. Even assuming Employee has increased his alcohol intake after – and because of the work injury, such would not constitute a compensable work "injury by accident" or death. Dr. Ballenger testified that the act of drinking, even for an alcoholic, is an intentional one. (Claimants' Exhibit J, p. 619) Injury resulting from a willful intent to injure one's self is not compensable. S.C. Code Ann. 42-9-60. We find that Employee understood the harm his drinking was causing.

20. Employee knew, even before his work injury, that he was harming his body drinking. He told the University of Louisville Hospital in July 2009 that "I'm drinking myself to death." (APA #11, pp. 121-126) Under Caper v. Flautt, 407 S.E. 2d 248 (1991) an injury has to be unforeseen or unexpected to be compensable, and the medical records establish that Employee appreciated the damage that alcohol abuse was causing, including the risk of death, and had been counseled to quit drinking and seek treatment. Under the circumstances, we cannot find that his death was "by accident" as required to be considered compensable.

21. We find that it would be against public policy to hold that one's choice to abuse a substance, which results in death, should be attributable to his employer/carrier. This would create a "slippery slope" which could result in unintended conclusions, such as an addict's behavior being ascribed to a workers' compensation claim.

22. Claimants have failed to prove by a preponderance of the evidence that

Employee/Deceased's death in April 2014 is causally related to the shoulder injury which occurred on January 24, 2012.

23. Defendants' motion for costs and attorney's fees is denied.

CONCLUSIONS OF LAW

In view of those Findings of Fact, and as provided in the South Carolina Code of Laws, WE, THE APPELLATE PANEL, CONCLUDE THE FOLLOWING AS MATTERS OF LAW:

1. Under § 42-1-130, Employee/Deceased, James Provins, was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer, Spirit Construction, was a covered employer under the Act.

2. Under § 42-1-160, Employee/Deceased did sustain an injury to his right shoulder, for which he was afforded medical treatment by Defendants.

3. Under § 42-9-290, Employee/Deceased's death was not proximately caused by the January 24, 2012, right shoulder injury.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS, HEREBY, ORDERED that the claim for death benefits is **denied.**

No hearing costs are assessed in this instance.

IT IS SO ORDERED.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Melody L. James, Commissioner

FULL AFFIRMATION

CONCUR:

Aisha G. Taylor, Commissioner

Gene McCaskill, Commissioner

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Valerie Deller on January 11, 2018

ADMINISTRATIVE ORDER
DISMISSING APPELLANTS' REQUEST
FOR COMMISSION REVIEW
MAY 26, 2017

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723

WCC File #: 1200349

Date of Injury: 01/24/2012

ADMINISTRATIVE ORDER

JAMES PROVINS v. SPIRIT CONSTRUCTION
WCC File No: 1200349

The Request for Commission Review in the above captioned case is dismissed. The appellant brief was not timely filed pursuant to R.67-705 H(3).

Amy A. Bracy
Judicial Director

Date: May 26, 2017

CERTIFICATE OF SERVICE

I hereby certify on May 26, 2017, I served this document on the parties listed below by electronic mail or depositing a copy hereof, postage prepaid, in the United States mail and addressed as follows:

Donald L. Smith
Attorney At Law
122 N. Main Street
Anderson, SC 29621

SPIRIT CONSTRUCTION
118 COLEMAN BLVD
SAVANNAH, GA 31408

J. South Lewis, II
Willson Jones Carter & Baxley, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607

By: Valerie D. Deller, Judicial Department

DECISION AND ORDER OF
COMMISSIONER R. MICHAEL CAMPBELL, II
MARCH 6, 2017

DECISION AND ORDER OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1200349

James Provins, Employee/Deceased Debra Provins, Alleged Dependent, Claimants, vs. Spirit Construction Services, Inc., Employer, and Insurance Company of the State of PA, Carrier, Defendants.	)

HEARING: Held in Anderson, South Carolina on December 5, 2016.

APPEARANCES: Claimants are represented by Donald L. Smith, Esquire of Anderson, South Carolina.

Defendants represented by J. South Lewis, II, Esquire of Willson Jones Carter & Baxley, P.A., Greenville, South Carolina.

PURPOSE OF HEARING: To determine the issues as set forth on the Forms 52 and 53.

DECISION AND ORDER: **By R. Michael Campbell, II, Commissioner**

FILED: March 6, 2017.

I. APA SUBMISSIONS

Under the Administrative Procedures Act, the following records were submitted into evidence at the time of the hearing:

Name of Report/Provider	Date of Report	Pages
Claimants' Submissions:		
1. RediCare	01/24/12 – 01/30/12	1 – 5
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II. STIPULATIONS

Counsel for the respective parties stipulated at the time of the hearing to the following issues:

1. The purpose of the hearing is to determine the issues as set forth on Forms 52 and 53, and any other issues which may timely come before the Commission;

2. That Employee/Deceased's accident occurred on January 24, 2012;

3. Employee/Deceased died on April 14, 2014.

4. Employee/Deceased's average weekly wage was $1,130.51 with a corresponding compensation rate of $725.47;

5. Notices were timely and properly served upon all parties of interest;

6. Venue, set in Anderson, South Carolina, is proper as agreed by all parties;

7. That the South Carolina Workers' Compensation Commission has jurisdiction over the parties and issues involved;

Without objection, the Commission's file was made a part of the record in this matter with the exception of any self-serving declaration or unstipulated medical reports.

III. STATEMENT OF THE CASE

This matter has a fairly involved procedural history. The claim was initiated upon the filing

of a Form 50 hearing request in which Employee/Deceased James Provins (hereinafter "Provins" or "Employee") alleged injury to the right shoulder on January 24, 2012. Defendants, via Form 51, denied compensability. Subsequently, after an evidentiary hearing before Commission Gene McCaskill (hereinafter "Compensability Hearing"), the claim was found compensable. Defendants timely appealed to the South Carolina Workers' Compensation Commission Appellate Panel, and after oral arguments, an affirmation was issued. Thereafter, Defendants began providing Employee medical treatment for the right shoulder.

During the course of medical treatment, Employee filed a Motion to Compel Additional Surgery. Defendants also filed their own Motion to Compel, seeking execution of medical releases to obtain out of state medical records. While a motion hearing was pending and scheduled, Employee died on April 14, 2014. The Death Certificate lists "Acute respiratory failure and septic shock" as the causes of death. (See Claimants' Exhibit "R")

Claimants, through Claimant/Alleged Dependent Debra Provins (hereinafter "Claimant" or "Ms. Provins"), filed a Form 50 on November 18, 2014, seeking entitlement to benefits pursuant to 42-9-280. Prior to the scheduled hearing of January 22, 2015, with Commissioner Barden, and after a pre-hearing conference, the Form 50 was withdrawn. Claimants refiled the Form 50 on March 18, 2015, again asserting entitlement to benefits pursuant to 42-9-280. Subsequently, Claimants filed an Amended Form 50 on April 13, 2015, and additionally filed a Form 52 Death Claim on April 15, 2015. Defendants responded with a Form 53, denying that Employee had sustained a compensable death. A hearing was scheduled before Commissioner T. Scott Beck on October 21, 2015; after a pre-trial conference, Claimants withdrew the Forms 50 and 52.

Claimants refiled the Form 52 on January 25, 2016. A hearing was scheduled before Commissioner Melody James on July 26, 2016. During the pre-trial conference, Commissioner

James ordered the case for mediation. Mediation was held on September 29, at which time the parties did not reach a settlement. This hearing ensued.

At the hearing of December 5, 2016, Ms. Provins asserted that Employee's death resulted from "the bad faith denial of the claim which prolonged his treatment..." Furthermore, and more specifically, Claimants' position is that in order to deal with his pain, Employee became dependent on alcohol, which eventually lead to, or contributed to, his death.

Defendants deny that there was any bad faith denial of the claim. After treatment ensued, to include a surgery, Defendants submitted medical releases to Employee to further investigate causation of the subsequent/recurrent rotator cuff tear; however, those releases had not been executed as of the time of his death. As to the death itself, Defendants assert that the cause of death was multifactorial, as evidenced by the Death Certificate, and that even if Employee's death was attributable to alcohol, such would not justify a compensable death claim. Specifically, Defendants point out that Employee had a significant pre-existing alcohol issue and was an alcoholic prior to the work injury. Defendants rely on the expert report and testimony of Dr. Ballenger, in support of its position that the work injury did not result in his death.

Furthermore, Defendants raise a Capers[1] defense, based on the documented history that Provins had gone to the hospital even before his work injury, reporting that he was drinking himself to death; as such, Defendants contend that death due to alcohol abuse was not an unexpected or unforeseen event, and thus, under Capers, would not meet the standard of "accidental." Finally, Defendants assert a public policy defense. Defendants aver that this matter started as a shoulder claim and the push to morph it into a death claim was done so without reasonable grounds and in bad faith, and request costs and attorney fees be assessed against Claimants.

[1] Capers v. Flautt, 407 S.E. 2d 248 (1991)

IV. EVIDENCE OF THE CASE

MEDICAL EVIDENCE BY CLAIMANT

APA #1: On January 24, 2012, Employee was treated for right shoulder pain following a reported a lifting injury at work. On January 30, 2012, he followed up for same.

APA #2: MRI of right shoulder taken February 18, 2012.

APA #3: Baptist Health Louisville. Employee underwent surgical repair of the right shoulder on May 15, 2013.

APA #4: Baptistworx Physical therapy records from June 7, 2013 to August 23, 2013.

APA #5: Employee underwent right shoulder MRI on October 2, 2013, which showed a large recurrent full thickness tear of the rotator cuff.

APA #6: Dwight A. Jacobus, D.O. wrote a letter to Employee's counsel on December 23, 2014, opining that Employee's pathology would lead to a 10-13% rating pursuant to the Sixth Edition of the A.M.A. Guides for Permanent Impairment, and a follow up letter of January 15, 2015 reiterating same.

APA #7: David R. Price, PhD. prepared a report, based on a review of medical records and interviews with Alice Marie Zimmerman and Debra Ann Provins. Dr. Price noted that Ms. Zimmerman gave a history of Employee being a "social drinker" pre-injury, but that he had not consumed alcohol to the extent he did following his injury. Debra Provins provided information that after his work injury, Employee became severely depressed and "developed an alcohol abuse problem secondary to his injury." Ms. Provins did not provide Dr. Price any information about his pre-injury alcohol use.

APA #8: Questionnaire completed by Gabrielle Linder, PA-C on May 1, 2012.

APA #9: Thomas V. Martin, M.D. Dr. Martin prepared an Affidavit in which he opined

that Employee suffered from depressive illness and alcohol abuse disorders prior to his work injury in 2012. He opined that while under psychosocial stressor and pain, Employee would self-medicate his pain and depression with alcohol. Furthermore, he asserted that Employee self-medicated after his work injury, while awaiting additional medical treatment, with alcohol, and that such abuse likely contributed to his multi-organ decompensation which required hospitalization in 2014.

MEDICAL EVIDENCE BY DEFENDANTS

APA #10: On July 31, 2001, Employee reported three recent blackout spells in which his eyes rolled back in his head. He reported drinking "beer mostly and hard liquor at times." He was diagnosed with syncopal episodes.

APA #11: Employee was taken by police to University of Louisville Hospital on July 7, 2009, following a call from Employee's sister, after he ingested a large amount of alcohol. He was found sitting in a chair and reported suicidal thoughts. ("I'm drinking myself to death.") It was noted that Employee had experienced multiple episodes of syncope in the past, as well. He reported drinking 16-18 beers per day and a half a pint to one pint of Vodka per day. In the discharge instructions, he was advised to follow up with Alcoholics Anonymous Groups.

APA #12: Employee began seeing Dr. Bonnarens for his right shoulder pain on April 15, 2013, for right shoulder pain. He was diagnosed with a rotator cuff tear, and underwent surgical intervention on May 5, 2013. In post-surgical follow up, he was sent to physical therapy. A repeat MRI was ordered, which showed a recurrent tear of the rotator cuff. Additional surgery was recommended. On October 7, 2013, Employee indicated that he wanted to discuss the follow up surgery with his lawyer, to clarify who was going to be paying for it.

APA #13: Nurse case management notes.

APA #14: Employee underwent surgical clearance on April 24, 2013, with Dr. McMurry, ENT.

APA #15: Employee underwent surgery for right rotator cuff repair on May 15, 2013, at Baptist Health Louisville.

APA #16: Physical therapy records from Baptistworx, June through December 2013.

APA #17: Employee went to Jewish Hospital Medical Center Southwest on April 10, 2014, with complaints of chest pain. He gave a history of quitting drinking two days previous. He was transferred to St. Mary's and Elizabeth Hospital to the Intensive Care Unit, via EMS.

APA #18: Employee was admitted to St. Mary's and Elizabeth Hospital on April 10, 2014, with a history of upper abdominal pain, chest pain for a few days, and nausea. Under the "History of Present Illness," it was noted that Employee was an alcoholic who drinks approximately a half a pint of Vodka every day and has for "most of his life." Employee was intubated and on a ventilator. He was diagnosed with acute hypoxic hypercapnic respiratory failure, acute kidney injury, hyponatremia pancreatitis leukocytosis, sepsis, sepsis with multi-system organ failure, alcohol withdrawal, acute respiratory failure, polysubstance abuse, tachycardia and ARDS. Employee's wife reported a "long history of alcoholism and hypertension." Employee passed away at 8:22 a.m. on August 14, 2014, with the cause of death reported as "sepsis, multi organ failure, acute pancreatitis."

APA #19: Dr. James Ballenger, Clinical Psychiatrist for over 40 years and Forensic Examiner for over 30 years, reviewed medical records, both pre-injury and post-injury, reviewed the hearing transcript from the Compensability Hearing, and opined that Employee suffered from lifelong progressively worsening alcoholism, and that it was more likely than not that Employee's

longstanding consumption of large amounts of alcohol would have contributed to his death regardless of his shoulder injury.

APA #20: Curriculum Vitae of James C. Ballenger, M.D.

TESTIMONY OF DEBRA PROVINS

Ms. Provins testified that she lives in Louisville, Kentucky and had been married to the Employee/Deceased, James Provins, for over twenty years, but could not recall the date of their marriage. They have two children together. (Hr. Tr., 9-10) Ms. Provins is on disability. (Hr. Tr., 10) She testified that Employee was an iron worker, who worked in Louisville, as well as regularly out of state. (Hr. Tr., 11)

In 2009, they experienced marriage difficulties, and Ms. Provins kicked Employee out of the house. One of his parents also died that year. (Hr. Tr., 11) As a result, he started drinking; beforehand, he drank "off and on" but it was "social" drinking. Employee's pre-injury drinking was characterized as "beer and stuff and all the recreational-wise," but that he was not "falling down drunk or nothing." (Hr. Tr., 14) She believes he drank beer in 2009 when he was kicked out of the house, but did not really know. (Hr. Tr., 19-20) She did not know whether—or how much—he drank when he worked out of town. (Hr. Tr., 20-21) After they reconciled, Employee got his drinking under control. (Hr. Tr., 12) He had no problems working after 2009. (Hr. Tr., 23)

After his work injury, Employee "couldn't even wipe his butt." He was stressed and depressed, and kept to himself. Despite treatment, he was still hurting. (Hr. Tr., 13-14) Initially, after his injury, he drank beer. Eventually, Employee started drinking vodka and he did not drink vodka before the injury. (Hr. Tr., 15) She initially testified that she did not see much vodka come into the house, but then subsequently testified that she would find vodka bottles laying in/on his

bed. (Hr. Tr., 16) Before the injury, Employee was outgoing and happy. Afterwards, he did not joke around, stayed in his room, and was very quiet. (Hr. Tr., 19)

On cross-examination, Ms. Provins reiterated that Employee did not drink in excess other than during their marital separation in 2009. (Hr. Tr., 25) However, when presented with a 2001 record from Dr. Amin, family doctor, indicating that Employee had black out spells from drinking and that he drank hard liquor, she admitted that she "didn't know about everything." (Hr. Tr., 26-27) She testified that he traveled regularly, and would often be gone for the entire week and over the weekend. While gone, she had no idea about his alcohol consumption habits. (Hr. Tr., 27-28) She was not surprised that Employee testified (at the Compensability Hearing) that he drank daily, as far as beer was concerned. (Hr. Tr., 28)

Ms. Provins was presented with the medical record from University of Louisville Hospital from July 7, 2009, which indicated that Employee was a longstanding alcoholic who drank 16-18 beers and ½-1 pint of liquor per day. She testified that she was not aware of that behavior. (Hr. Tr., 29-31) She also did not know that he was drinking 8-10 beers per day, which was the history Employee provided to Dr. Bonnarens when he began treating with him in April 2013. (Tr. Hr., 31)

Ms. Provins testified that Employee did not go for any depression treatment before his death, and she did not attempt to take him to any mental health facility. (Hr. Tr., 32) In reality, she knew very little about his medical history. (Hr. Tr., 35)

Ms. Provins did not provide the medical history to the hospital when Employee was admitted in April 2014. In fact, she was notified by a friend that he'd been taken to the hospital. Hospital personnel may have obtained a history from Employee's sister, but she does not remember giving them any information herself. (Hr. Tr., 32-33) She did not report to the hospital that Employee only recently began drinking more, due to his pain or work injury. (Hr. Tr., 34) At

the time of his death, Employee was of sound mind, and to the extent he was drinking, he did so of his own free will. (Hr. Tr., 35) She did not recall speaking to either of Claimants' experts (Drs. Price and Martin), or providing them any history. (Tr. Hr., 36-37)

TESTIMONY OF ALICE ZIMMERMAN

Employee's sister, Alice Zimmerman, testified that she has been a registered nurse (RN) since 2008. She lives in Panama City Beach, Florida, and has for two years. She suffers from fainting spells, back to age 15; she has witnessed Employee pass out, unrelated to alcohol. Their father and mother also suffered from strokes and seizures. (Hr. Tr., 44-46)

As far as Employee's drinking history, he drank regularly and would get drunk occasionally, but was "functional." (Hr. Tr., 46) He typically drank beer, but would also drink hard liquor. (Hr. Tr., 47) In 2009, Employee stayed with Ms. Zimmerman for a couple of weeks, during a period of marital difficulty. During that time period, he was drinking in excess and was suicidal. After he got back with his wife, Employee quit drinking and started going to church. (Hr. Tr, 47-48)

After 2009, Ms. Zimmerman saw Employee when he would come back into town from working. He was drinking beer, but was working and doing fine. She was not aware of his level of drinking when he was out of town. (Hr. Tr., 48-49) She would see him drink a six-pack or 12-pack of beer, but was not aware that he had an alcohol abuse problem. (Hr. Tr., 49). She describes that Employee was a hard worker. (Hr. Tr., 50) Before his work injury, was a fun and giving person. Afterwards, he was initially drinking beer, but eventually started drinking hard liquor. He would stay in his room and drink. (Hr. Tr., 51-52) She believes his work injury led to his death because he was in constant pain, and changed from the man he was before. (Hr. Tr., 54)

On cross-examination, Ms. Zimmerman testified that she spoke to Dr. Price (expert for Claimants) by phone, and acknowledged telling Dr. Price that her brother was a "social drinker" before the injury. She disputes the characterization in the April 2014 hospital record that described Employee as an alcoholic who drank vodka daily. (Hr. Tr., 56) Ms. Zimmerman was present when Employee was hospitalized in April 2014, but she does not know if Ms. Provins provided any history to the intake personnel. Ms. Zimmerman has no personal knowledge of Employee's activities when he was working out of town. (Hr. Tr., 57) She last spoke to him about two weeks before his death. (Hr. Tr., 58)

A record such as was necessary for a decision was made of the proceeding and after careful consideration and study of all the evidence, the following findings of fact are accordingly made.

V. FINDINGS OF FACT

IT IS FOUND AS A FACT:

1. That all parties to this action are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with James Provins as Employee/Deceased/Claimant, Debra Provins as Alleged Dependent/Claimant, Spirit Construction Services, Inc. as Employer, and Insurance Company of the State of PA as Carrier, Defendants.

2. That Employee/Deceased/Claimant James Provins was an employee of the above-named Employer on January 24, 2012, on which date he did sustain an injury to his right shoulder.

3. That the average weekly wage of Employee at the time of the above-described accident was $1,130.51, with a corresponding compensation rate of $725.47.

4. Employee passed away on April 14, 2014, before he reached maximum medical improvement for his right shoulder.

5. At the time of Employee's death, had not been released from care for his right

shoulder, and was still undergoing treatment with Dr. Bonnarens.

6. There was no bad faith denial of medical treatment or unreasonable delay by Defendants. The evidence, including the emails among counsel included in Defendants' exhibits, indicate that another surgery had been recommended by Dr. Bonnarens (for a recurrent rotator cuff tear) and Defendants requested medical releases be signed to further investigate causation of same. (Defendants' Exhibit A).

7. Prior to the work injury of January 24, 2012, Employee suffered from a significant alcohol abuse problem. This finding is based upon the medical records which illustrate Employee was a long-suffering alcoholic, and drank excessively, to include beer and liquor, for the majority of his life. These records included history provided by Employee, as well as family members, such as the following:

A. Ms. Provins, Claimant's widow, provided such a history at the time of his hospitalization/death in April 2014. "*According to his wife* a long history of alcoholism . . .". (*See* APA #18, p. 374)

B. An admission report from April 10, 2014, details a history of a "52-year-old male who is an alcoholic and drinks about half a pint of Vodka *every day for most of his life* . . .". (*See* APA #18, p. 234)

C. On July 7, 2009, Employee's sister, Ms. Zimmerman, called the police and Employee was transported to University of Louisville Hospital with chief complaint of "I'm drinking myself to death." He further reported that "I can't sleep at all unless I get drunk." It was reported that Employee was a longstanding alcoholic, who consumed 16-18 beers per day and a half a pint to a pint of liquor per day. (*See* APA #11, pp. 121-126)

D. When Employee initially began treating with Dr. Bonnarens, on April 15, 2013, he reported drinking 8-10 beers per day, and this was before his shoulder surgery. (*See* APA #12, p. 154)

E. In none of the post-accident medical reports does it indicate that Employee's drinking habits changed or increased after his work injury or shoulder surgery, which is indicative of someone who simply has been a longstanding user of alcohol, notwithstanding the work injury. The testimony of Employee's widow, Debra Provins, that the drinking only became a problem after his work

injury, in response to dealing with his pain, and is not supported by the history she herself provided upon Employee's hospital admission on April 10, 2014. (*See* APA #18, p. 374)

8. I give little weight to the report of Dr. Price. Dr. Price's opinion that Employee had "No history of pain, anxiety, depression or alcoholism prior to" the work injury is clearly refuted by the pre-injury medical records. I find that Employee did have a pre-injury history of alcoholism and depression as indicated by his suicidal threats and excessive alcohol consumption pre-injury. Even Employee's other expert, Dr. Martin, acknowledges a history of depression, suicidal ideation, and alcohol dependence.

9. Dr. Price's opinion is based on incorrect, or at a minimum flawed, facts which formed his causation opinion, including but not limited to the following:

a. Ms. Provins told Dr. Price that Employee "developed an alcohol abuse problem secondary to his injury," but the medical records and Ms. Provin's own testimony don't support this assertion. Ms. Provins acknowledged at the hearing that she was unaware of his heavy abuse of alcohol, to include hard liquor, as far back as 2001. (Hr. Tr., 26-27)

b. The information provided by Employee's sister, Alice Marie Zimmerman, that prior to his injury he was "a social drinker but had not consumed alcohol the way he did following his injury" is not supported by the pre-injury medical records. Specifically, Ms. Zimmerman herself called the police on Employee and had him hospitalized in July of 2009, at which time a history was provided that he drank 16-18 beers per day, as well as a half a pint to a pint of liquor per day.

c. Dr. Price did not review any medical records from before the work injury, so as to ascertain a complete history of his alcohol habits.

10. Dr. Price, as a PhD and licensed clinical psychologist, is not qualified to provide a medical opinion regarding a cause of death.

11. Dr. Martin's causation affidavit is not reliable, in that it acknowledges pre-injury alcohol abuses, but then relies on subjective history included in Dr. Price's report from Employee's attorney, Employee's widow, and his sister, in opining that his alcohol consumption worsened after

the work injury. However, Dr. Martin did not review the body of medical records showing issues with alcohol abuse prior to the work injury. Furthermore, Dr. Martin's opinion cannot be reconciled with the hospital admission records in April of 2014, which outline a lifelong history of alcohol abuse.

12. Dr. Martin's affidavit is further discredited by his reliance upon the report of Dr. Price, which, as detailed herein, contains factual errors and inconsistencies regarding Employee's pre-injury alcohol dependency. Therefore, I give little weight to Dr. Martin's affidavit.

13. I give greater weight to the expert report of Dr. James Ballenger, who has practiced clinical psychiatry and served as a forensic examiner for over 30 years. Dr. Ballenger reviewed voluminous records and explained his opinions at his deposition. Dr. Ballenger's conclusions that Employee suffered from a progressively worsening alcoholism over the course of his adult life is consistent with the medical records, both prior to and subsequent to the work injury. I give greater weight to Dr. Ballenger's conclusion that the work injury had essentially no impact upon Employee's alcohol abuse and ultimate death.

14. No qualified medical doctor who actually treated Employee prior to his death, or in the hospital at the time of death, provided a medical causation regarding the precise causative factors in Employee's death. Thus, we are left to rely on posthumous analysis by experts to determine whether there is any causal connection between Employee's right shoulder injury and his death.

15. The cause of Employee's death was multifactorial, to include sepsis, respiratory failure, multi-organ decompensation, and alcohol abuse. While alcohol was certainly a contributing factor—if not a primary factor—in his ultimate death, no expert has pinned down the precise cause of death. This finding is based upon the Death Certificate (Claimants' Exhibit R, p. 685), and the

"Death Summary" from the hospital at the time of death (APA #18, p 397).

16. The testimony of Ms. Provins, Employee's widow, was not reliable as it related to Employee's history of alcohol use. This finding was based on my observation of her testimony, and comparison of same to the pre-injury medical records:

a. Ms. Provins admitted at hearing that she would not be around her husband for weeks at a time while he traveled for work, and she did not know to what extent he was drinking before the injury. (*See* Hr. Tr. p. 27-28)

b. She testified that prior to the injury, Employee was a beer drinker, but began consuming liquor in large amounts after the injury. However, this does not square with the report that she provided to the hospital in April 2014, nor is it consistent with the pre-injury medical records, going all the way back to 2001, in which it was noted that Employee drank beer and hard liquor. (*See* APA #10, p. 113)

c. She admitted that she really knew very little about Employee's health history. (*See* Hr. Tr., p. 35)

17. The testimony of Ms. Zimmerman, Employee's sister, regarding his pre-injury alcohol use is not supported by the greater weight of the evidence in the record. While she testified that Employee did not drink alcohol excessively prior to the injury, she herself called the police on Employee in 2009, at which time it was reported he was drinking excessive amounts of beer and liquor on a daily basis. Furthermore, she acknowledged that she had no knowledge of his drinking habits when he was traveling regularly for work, but that when he was home, she saw him regularly drink beer and liquor. (Hr. Tr. pp. 46-49)

18. There is no objective evidence—only subjective history provided by Employee's relatives—that his drinking increased significantly after his work injury. In fact, Employee admitted to drinking on a daily basis prior to the work injury at the Compensability Hearing. What's more, there is not a single medical record, either with the treating workers' compensation doctors or his personal doctors/hospitals in Kentucky, which indicate that Employee's alcohol

consumption increased after the work injury. To the contrary, on his admission to the hospital in April 2014, he reported that he'd tried to quit drinking. (APA # 18, p. 264) I decline to speculate that Employee drank more as a result of his work injury.

19. Even assuming Employee had increased his alcohol intake after—and because of—the work injury, such would not constitute a compensable work "injury by accident" or death. Dr. Ballenger testified that the act of drinking, even for an alcoholic, is an intentional one. (Claimants' Exhibit J, p. 619) Injury resulting from a willful intent to injure one's self is not compensable. S.C. Code Ann. 42-9-60. I find Employee understood the harm his drinking was causing.

20. Employee knew, even before his work injury, that he was harming his body drinking. He told the University of Louisville Hospital in July 2009 that "I'm drinking myself to death." (APA #11, p. 121-126) Under Caper v. Flautt, 407 S.E. 2d 248 (1991) an injury has to be unforeseen or unexpected to be compensable, and the medical records establish that Employee appreciated the damage that alcohol abuse was causing, including the risk of death, and had been counseled to quit drinking and seek treatment. Under these circumstances, I cannot find that his death was "by accident" as required to be considered compensable.

21. I find it would be against public policy to hold that one's choice to abuse a substance, which results in death, should be attributable to his employer/carrier. This would create a "slippery slope" which could result in unintended conclusions, such as an addict's behavior being ascribed to a workers' compensation claim.

22. Claimants have failed to prove by preponderance of the evidence that Employee/Deceased's death in April 2014 is causally related to the shoulder injury which occurred on January 24, 2012.

23. Defendants' motion for costs and attorney's fees is denied.

VI. CONCLUSIONS OF LAW

Accordingly, as provided in § 42-17-40, SC Code Ann. (1976), as amended, it is the determination of this Commission that:

1. Under § 42-1-130, Employee/Deceased, James Provins, was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer, Spirit Construction, was a covered employer under the Act.

2. Under § 42-1-160, Employee/Deceased did sustain an injury to his right shoulder, for which he was afforded medical treatment by the Defendants.

3. Under § 42-9-290, Employee/Deceased's death was not proximately caused by the January 24, 2012, right shoulder injury.

VII. ORDER/AWARD

IT IS HEREBY ORDERED that the claim for death benefits is **denied**.

No hearing costs are assessed in this instance.

IT IS SO ORDERED.

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

Mike Campbell

Commissioner Mike Campbell

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid, in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

March 6, 2017

By: Barbara Cheeseboro, Administrative Assistant to Commissioner Campbell

APPELLATE DECISION AND ORDER
FULL COMMISSION
FEBRUARY 27, 2013

APPELLATE PANEL

DECISION AND ORDER

OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. NO.: 1200349

JAMES PROVINS,

Claimant,

vs.

SPIRIT CONSTRUCTION SERVICES, INC., Employer
and INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA, Carrier,

Defendants.

HEARING:	Appellate Panel Review held in Columbia, South Carolina on January 23, 2013, per notices timely and properly served upon all parties of interest.
APPEARANCES:	Claimant, represented by Donald L. Smith of Anderson, South Carolina. Defendants represented by J. South Lewis, II of Greenville, South Carolina. Court Reporter- Gigi Davis
FILED:	Appellate Panel Decision & Order, filed February 27 2013.

STATEMENT OF THE CASE

The parties were originally heard by Commissioner Gene McCaskill on August 14, 2012. On September 7, 2012, the Commissioner issued the following Order:

IT IS THEREFORE ORDERED that based upon the Findings of Fact and Conclusions of Law set forth herein, Defendants shall pay for causally related medical treatment associated with the accidental injury on January 24, 2012, including but not limited to, reimbursement for MRI performed on February 18, 2012.

IT IS FURTHER ORDERED that the Defendants shall be responsible to provide the necessary medical treatment at a provider of their choosing in Louisville, Kentucky in order to lessen the duration of the Claimant's disability.

IT IS FURTHER ORDERED that the Claimant is awarded temporary total disability until he has reached maximum medical improvement.

IT IS FURTHER ORDERED that the Defendants are entitled to a credit of four-weeks of temporary total disability.

In the September 7, 2012, Order, Commissioner McCaskill made the following findings of fact based upon a preponderance of the evidence:

1. All parties to this proceeding are subject to and governed by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with Claimant, James Provins, employee appearing with his counsel, Donald L. Smith, and Spirit Construction as employer and the Insurance Company of the State of Pennsylvania, as carrier, with J. South Lewis appearing on their behalf.

2. The Claimant suffered an accident and injury within the course and scope of his employment on January 24, 2012. This finding is supported by the greater weight of the evidence.

3. The case rests on the testimony of the Claimant and Luis Carrion, who were the only two witnesses to the event which involved moving sheets of steel decking. The Claimant asserts that while they were moving a sheet of decking, Mr. Carrion dropped his end which created a jarring effect on the Claimant's end that resulted in an injury to the Claimant's shoulder.

4. I found the Claimant to be very credible and believe that he suffered an injury by the mechanism which he described.

5. The witness, Ernst McDonald, who appeared for the Defendants, testified that he took the Claimant to the doctor after the Claimant reported the accident at work. He also testified that the Claimant was shaking so badly that Mr. McDonald had to sign the Claimant in once they arrived. This behavior is consistent with someone who has been injured, and not behavior that Mr. Provins would have thought to contrive. While the medicals in this case are limited, they do support a shoulder injury to the Claimant.

6. While the Defendants sought to impugn the Claimant's character with assertions of a drinking problem, that characterization of the Claimant is more than rebutted by testimony from another defense witness, Tony Azusenis, who describes the Claimant's work ethic as exceptional. The Claimant has never filed a Worker's Compensation claim prior to the accident. Moreover, the Claimant testifies that there were no drugs or alcohol in his system on the day of the accident. This claim was not rebutted, and his post-accident drug test was negative on all accounts.

7. The Defendant's claim that the Claimant has found other employment in Kentucky is without merit. While the Claimant did find a "job," it was very short term and could not be classified as employment.

8. The Claimant is entitled to medical care and treatment for his shoulder injury with a provider in Kentucky of the Defendant's choosing.

9. The Claimant is entitled to temporary total disability from the date of the accident (01/24/12) going forward. The Defendants are entitled to a credit against that amount for four weeks of temporary total disability due to the Claimant's testimony that he worked for Mechanical Contracting Systems for four weeks in Kentucky.

The Hearing Commissioner's Decision and Order also set forth the following Conclusions of Law:

1. That pursuant to Section 42-1-160, the Claimant did sustain an injury by accident to his right upper extremity.

2. That pursuant to Section 42-15-20, the Claimant gave proper notice of his accident within 90 days thereof.

3. That pursuant to Section 42-15-40, this claim was filed within the two-year statute of limitations.

4. That pursuant to Section 42-15-60, the employer/carrier is required to pay all causally related medical expenses.

Within the statutory period, Defendants filed a Form 30, Request for Commissioner Review, setting forth issues on appeal, copies of which were furnished to all interested parties

prior to oral argument to the individual members of the Appellate Panel on September 13, 2012. Plaintiff did not appeal the decision of the Hearing Commissioner.

All proffered testimony has been taken. Such, together with all documentary evidence, has been delivered by oral argument to the individual members of the Appellate Panel and has since been under careful consideration. By appeal, Defendants respectfully submitted that the Hearing Commissioner erred in the following:

1. Did the Hearing Commissioner err in finding that the claimant sustained a compensable injury to his right shoulder on January 24, 2012. The error being that such is not supported by the preponderance of the evidence of the case and the record as a whole.

2. Did the Hearing Commissioner err in finding that the claimant "was a very credible witness." The error being that such is not supported by the preponderance of the evidence of the case and the record as a whole.

3. Did the Hearing Commissioner err in finding that Luis Carron dropped his end of the decking causing injury to the claimant's shoulder? The error being that such is not supported by the preponderance of the evidence of the case and the record as a whole.

4. Did the Hearing Commissioner err in finding that the claimant's shaking while en route to the medical clinic on the date of alleged injury was consistent with someone who suffered a shoulder injury? The error being that such is not supported by the preponderance of the evidence of the case and the record as a whole.

5. Did the Hearing Commissioner err in finding that the claimant's diagnosis and

Condition is causally related to the work injury? The error being that such is not supported by the preponderance of the evidence of the case; specifically, the questionnaire submitted by the claimant at the hearing did not support same, and the record as a whole.

6. Did the Hearing Commissioner err in finding that the claimant is entitled to medical Treatment? The error being that such is not supported by the preponderance of the evidence of the case and the record as a whole does not support a compensable injury and, thus, no medical treatment should be awarded.

7. Did the Hearing Commissioner err in finding that the claimant is entitled to temporary total disability benefits for the inability to work? The error being that such is not supported by the preponderance of the evidence of the case and the record as a whole, particularly since Claimant has worked subsequently in Kentucky.

In an Appellate Review, the Appellate Panel shall, pursuant to S.C. Code Ann. § 42-17-50, review the award, weigh the evidence as presented at the hearing and, if good grounds be shown therefore, make its findings of facts and reach its own conclusions of law consistent or inconsistent with those of the Hearing Commissioner. *See Green v. Raybestos-Manhattan, Inc.*, 250 S.C. 58, 156 S.E.2d 318 (1967); *see also Lowe v. Am-Can Transport Serv., Inc.*, 283 S.C. 534, 324 S.E.2d 87 (Ct. App. 1984).

Although the Appellate Panel is empowered to make its own findings of fact ant to reach its own conclusions of law, it is logical for the Appellate Panel, which did not have the benefit of observing the witnesses, to give weight to the Hearing Commissioner's opinion. *McGuffin v. Schlumberger-Sangamo*, 307 S.C. 184, 414 S.E.2d 162 (1992).

After a hearing before the South Carolina Workers' Compensation Full Commission Appellate Panel and after thoroughly considering the evidence in the record, the Appellate Panel find a **FULL AFFIRMATION** of the Single Commissioner's Decision and Order.

FINDINGS OF FACT

IT IS FOUND AS A FACT:

1. All parties to this proceeding are subject to and governed by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with Claimant, James Provins, employee appearing with his counsel, Donald L. Smith, and Spirit Construction as employer and the Insurance Company of the State of Pennsylvania, as carrier, with J. South Lewis appearing on their behalf.

2. The Claimant suffered an accident and injury within the course and scope of his employment on January 24, 2012. This finding is supported by the greater weight of the evidence.

3. The case rests on the testimony of the Claimant and Luis Carrion, who were the only two witnesses to the event which involved moving sheets of steel decking. The Claimant asserts that while they were moving a sheet of decking, Mr. Carrion dropped his end which created a jarring effect on the Claimant's end that resulted in an injury to the Claimant's shoulder.

4. We found the Claimant to be very credible and believe that he suffered an injury by the mechanism which he described.

5. The witness, Ernst McDonald, who appeared for the Defendants, testified that he took the Claimant to the doctor after the Claimant reported the accident at work. He also testified that the Claimant was shaking so badly that Mr. McDonald had to sign the Claimant in once they

arrived. This behavior is consistent with someone who has been injured, and not behavior that Mr. Provins would have thought to contrive. While the medicals in this case are limited, they do support a shoulder injury to the Claimant.

6. While the Defendants sought to impugn the Claimant's character with assertions of a drinking problem, that characterization of the Claimant is more than rebutted by testimony from another defense witness, Tony Azusenis, who describes the Claimant's work ethic as exceptional. The Claimant has never filed a Worker's Compensation claim prior to the accident. Moreover, the Claimant testifies that there were no drugs or alcohol in his system on the day of the accident. This claim was not rebutted, and his post-accident drug test was negative on all accounts.

7. The Defendant's claim that the Claimant has found other employment in Kentucky is without merit. While the Claimant did find a "job," it was very short term and could not be classified as employment.

8. The Claimant is entitled to medical care and treatment for his shoulder injury with a provider in Kentucky of the Defendant's choosing.

9. The Claimant is entitled to temporary total disability from the date of the accident (01/24/12) going forward. The Defendants are entitled to a credit against that amount for four weeks of temporary total disability due to the Claimant's testimony that he worked for Mechanical Contracting Systems for four weeks in Kentucky.

CONCLUSIONS OF LAW

Accordingly, as provided by South Carolina Code Ann. Section 42-17-50, as amended, it is the determination of this Commission that:

1. That pursuant to Section 42-1-160, the Claimant did sustain an injury by accident to his right upper extremity.

2. That pursuant to Section 42-15-20, the Claimant gave proper notice of his accident within 90 days thereof.

3. That pursuant to Section 42-15-40, this claim was filed within the two-year statute of limitations.

4. That pursuant to Section 42-15-60, the employer/carrier is required to pay all causally related medical expenses.

ORDER

IT IS HEREBY ORDERED that the Hearing Commissioner's Order dated September 7, 2012, is fully affirmed as set forth above.

IT IS SO ORDERED.

Avery B. Wilkerson, Jr., Commissioner

T. Scott Beck, Interim Chair

Melody L. James, Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States mail addressed to any unrepresented party.

By Valerie Deller on February 27, 2013

DECISION AND ORDER OF COMMISSIONER GENE McCASKILL SEPTEMBER 7, 2012

DECISION AND ORDER

OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. NO.: 1200349

JAMES PROVINS,

Claimant,

vs.

SPIRIT CONSTRUCTION SERVICES, INC., Employer
and INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA, Carrier,

Defendants.

HEARING:	Held in Anderson, South Carolina on August 14, 2012.
APPEARANCES:	Claimant, represented by Donald L. Smith of Anderson, South Carolina. Defendants represented by J. South Lewis, II of Greenville, South Carolina.
PURPOSE OF HEARING:	To determine whether the Claimant is entitled to medical care, reimbursement for necessary MRI, treatment for his right shoulder, and to determine whether he is entitled to temporary total disability benefits.
OPINION AND AWARD:	By Commissioner Gene McCaskill
FILED:	September 7, 2012

APA SUBMISSIONS

CLAIMANT

	NAME OF MEDICAL PROVIDER:	DATES OF SERVICE:	NO. OF PAGES:
1.	InMed Diagnostic Services of SC, LLC	2/18/12	1
2.	Redicare	1/24/12-1/30-12	2-9

CLAIMANT'S EXHIBITS

3.	Kentucky Office of Employment and Training	10-13

STIPULATIONS

Counsel for the parties stipulated at the time of the hearing to the following issues:

(1) Notice of the hearing was timely and properly served upon all parties of interest.

(2) The claimant seeks benefits under the South Carolina Workers' Compensation Act based on accidental injuries occurring on or about January 24, 2012, while in the employ of Spirit Construction Services, Inc.; therefore, the South Carolina Workers' Compensation Commission has jurisdiction.

(3) The purpose of this hearing is to determine whether the Claimant is entitled to medical care and treatment for his right shoulder, and to see if he is entitled to TTD.

(4) The claimant gave notice of an accident and the fact that he was injured within ninety (90) days, pursuant to the Act.

(5) Venue, set in Anderson, SC, is proper.

(6) Claimant's compensation rate is $725.47 as calculated by the Commission based upon the Claimant's average weekly wage of $1,130.51.

(7) Defendants deny that the Claimant sustained a compensable injury while in the course and scope of his employment on January 24, 2012.

(8) Defendants deny that Claimant is entitled to an award of temporary total disability because he procured other employment prior to this hearing and following his alleged injury.

(9) Claimant testified that he was employed by Mechanical Contracting Systems on a short-term basis for a period of four weeks.

STATEMENT OF THE CASE

This matter was heard by the undersigned Commissioner on August 14, 2012 in Anderson, South Carolina to determine whether the Claimant sustained a compensable injury; and if compensable, whether the evidence supports an award of temporary total disability. Notices were timely and properly served on all parties of interest at which time all parties were present for the hearing: The claimant, James Provins, who was represented by Donald L. Smith; the defendants, Spirit Construction Services, Inc., and Insurance Company of the State of Pennsylvania, represented by their attorney, J. South Lewis, II. The South Carolina Workers' Compensation Commission has jurisdiction over the parties and the subject matter of this case.

This is a hearing to determine the compensability of the Claimant's shoulder injury. The Defendants contend that the Claimant complained of shoulder pain to a co-worker prior to the date of the alleged accident. The Defendants claim that the injury to Claimant's shoulder was a chronic injury and not the result of an accident on January 24, 2012. The Defendants request a determination as to whether the Claimant is entitled to temporary total disability benefits as a result of his right shoulder injury because he was employed in Kentucky following the injury.

The Claimant contends that his torn right rotator cuff is a direct result of his injury at work on January 24, 2012. Further, the Claimant contends that any subsequent post-accident employment was sporadic in nature and on a temporary basis, which did not exceed four weeks.

EVIDENCE OF THE CASE

A record, such as is necessary, for a decision was made at the proceedings in this matter. The Claimant is a 51 year old man, having been born on June 28, 1961. Mr. Provins is married and lives with his two daughters in Hardin County, Kentucky. Mr. Provins completed high school, and vocational school for welding. He has always worked in the welding and construction fields, and has not previously filed a claim for worker's compensation. He has virtually no medical history, other than a tonsillectomy. He further has no history of alcohol abuse or recreational drug use.

The Claimant began work with the Defendant on or about July 21, 2011. He was hired to build a paper machine building in Anderson, South Carolina.

On January 24, 2012, while carrying a large sheet of decking, with a co-worker, Luis Carrion, the Claimant injured his right shoulder when Mr. Carion dropped his end of the 150 pound sheet. The Claimant suffered immediate pain in the right upper extremity as a direct result of this accident. Mr. Provins was treated by Gabrielle Linder, PA-C, of Redi Care in Anderson, SC. Mr. Provins was treated with anti-inflammatories, and his right arm was placed in a sling.

On January 31, 2012, Claimant reported to Dr. Linder, as requested. He reported no improvement in his condition and Dr. Linder requested an MRI. The defendants did not approve the MRI; and, subsequently, the Claimant was laid off due to a lack of light duty work. On February 18, 2012, a medically necessary MRI was conducted on the Claimant's right shoulder, and Dr. Stephen J. Gordin reported that the MRI revealed a fairly extensive tear of the rotator cuff.

FINDINGS OF FACT

Based upon the stipulations of the parties, the testimony and evidence received and produced at the hearing, as well as personal observation of the witnesses, the undersigned Commissioner makes the following findings of fact based upon a preponderance of the evidence:

1. All parties to this proceeding are subject to and governed by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with Claimant, James Provins, employee appearing with his counsel, Donald L. Smith, and Spirit Construction as employer and the Insurance Company of the State of Pennsylvania, as carrier, with J. South Lewis appearing on their behalf.

2. The Claimant suffered an accident and injury within the course and scope of his employment on January 24, 2012. This finding is supported by the greater weight of the evidence.

3. The case rests on the testimony of the Claimant and Luis Carrion, who were the only two witnesses to the event which involved moving sheets of steel decking. The Claimant asserts that while they were moving a sheet of decking, Mr. Carrion dropped his end which created a jarring effect on the Claimant's end that resulted in an injury to the Claimant's shoulder.

4. I found the Claimant to be very credible and believe that he suffered an injury by the mechanism which he described.

5. The witness, Ernest McDonald, who appeared for the Defendants, testified that he took the Claimant to the doctor after the Claimant reported the accident at work. He also testified that the Claimant was shaking so badly that Mr. McDonald had to sign the Claimant in once they arrived. This behavior is consistent with someone who has been injured, and not behavior that

Mr. Provins would have thought to contrive. While the medicals in this case are limited, they do support a shoulder injury to the Claimant.

6. While the Defendants sought to impugn the Claimant's character with assertions of a drinking problem, that characterization of the Claimant is more than rebutted by testimony from another defense witness, Tony Azusenis, who describes the Claimant's work ethic as exceptional. The Claimant has never filed a Worker's Compensation claim prior to the accident. Moreover, the Claimant testifies that there were no drugs or alcohol in his system on the day of the accident. This claim was not rebutted, and his post-accident drug test was negative on all accounts.

7. The Defendant's claim that the Claimant has found other employment in Kentucky is without merit. While the Claimant did find a "job," it was very short term and could not be classified as employment.

8. The Claimant is entitled to medical care and treatment for his shoulder injury with a provider in Kentucky of the Defendant's choosing.

9. The Claimant is entitled to temporary total disability from the date of the accident (01/24/12) going forward. The Defendants are entitled to a credit against that amount for four weeks of temporary total disability due to the Claimant's testimony that he worked for Mechanical Contracting Systems for four weeks in Kentucky.

CONCLUSIONS OF LAW

Accordingly, as provided by South Carolina Code Ann. Section 42-17-40, it is the determination of this Commissioner:

1. That pursuant to Section 42-1-160, the Claimant did sustain an injury by accident to his right upper extremity.

2. That pursuant to Section 42-15-20, the Claimant gave proper notice of his accident within 90 days thereof.

3. That pursuant to Section 42-15-40, this claim was filed within the two-year statute of limitations.

4. That pursuant to Section 42-15-60, the employer/carrier is required to pay all causally related medical expenses.

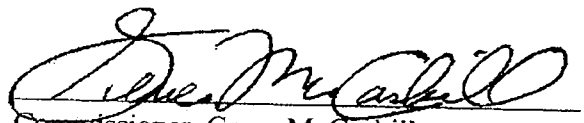
ORDER

IT IS THEREFORE ORDERED that based upon the Findings of Fact and Conclusions of Law set forth herein, Defendants shall pay for causally related medical treatment associated with the accidental injury on January 24, 2012, including but not limited to, reimbursement for MRI performed on February 18, 2012.

IT IS FURTHER ORDERED that the Defendants shall be responsible to provide the necessary medical treatment at a provider of their choosing in Louisville, Kentucky in order to lessen the duration of the Claimant's disability.

IT IS FURTHER ORDERED that the Claimant is awarded temporary total disability until he has reached maximum medical improvement.

IT IS FURTER ORDERED that the Defendants are entitled to a credit of four-weeks of temporary total disability.



Commissioner Gene McCaskill

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.
September 7, 2012

By: Kellie Lindler, Administrative Assistant to Commissioner McCaskill

APPELLANTS' MOTION TO COMPEL TREATMENT
MARCH 14, 2014

STATE OF SOUTH CAROLINA COUNTY OF ANDERSON James Provins, Claimant, vs. Spirit Construction Services, Inc. Employer, and Insurance Company of the PA, Carrier, Defendants.	BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION **MOTION TO COMPEL** W.C.C. File No.: 1200349

TO: Spirit Construction Services, Inc., and Insurance Company of the State of PA, by and through their counsel, J. South Lewis, II.

IT IS ORDERED THAT YOU, Spirit Construction Services, Inc., and Insurance Company of the State of PA, shall appear before this Court on the _____ day of _____, 2014, at _____ ___. M., or as soon thereafter as counsel may be heard, and show cause, if any you can, why you should not be held compelled by this Court to grant the Claimant necessary treatment as alleged in this verified Complaint.

The above-referenced matter went to a hearing on January 23, 2013 for compensability. It was found to be compensable, and the Claimant later had surgery to repair a torn rotator cuff. Due to the high risk of failure of rotator cuff surgeries, the Claimant re-tore his rotator cuff without intentional cause. Dr. Frank Bonnarens stated that this injury is directly related to the injury Claimant sustained while under the scope of his employment on January 24, 2012 during a phone conference on December 30, 2013. As such, the Defendants are held responsible for providing the Claimant with necessary treatment.

Claimant hereby moves for the following:

A) That Claimant be granted the necessary treatment.

B) That Claimant be compensated for any expenditures he may incur to be treated.

C) That the undersigned counsel be afforded fees and costs for this bad faith delay in treatment.

Respectfully Submitted,

DONALD L. SMITH
Attorney for the Claimant
122 N. Main Street
Anderson SC 29621
Telephone: 864-642-9284
Facsimile: 864-642-9285
attorneydonaldsmith@gmail.com

March 14, 2014

STATE OF SOUTH CAROLINA COUNTY OF ANDERSON	)	BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
James Provins, Claimant,	)	**CERTIFICATE OF SERVICE BY MAIL**
vs.	)	W.C.C. File No.: 1200349
Spirit Construction Services, Inc. Employer,	)	
and	)	
Insurance Company of the PA, Carrier, Defendants.	)	

THE UNDERSIGNED person deposes and says that he served a Motion to Compel Treatment, in this action by placing a copies thereof in envelopes addressed to the parties at the addresses shown below, which envelopes were sealed and postage thereon fully prepaid, and deposited in the United States Mail at Anderson, South Carolina, and that there is regular communication by the United States Mail between the place of mailing and the place addressed as follows:

Date: 3/14/14

Tyler Smith
Paralegal To Donald L. Smith
ATTORNEY OFFICE OF DONALD SMITH
122 N. Main St.
Anderson, South Carolina 29621
Phone: (864) 642-9284
Facsimile: (864) 642-9285

MAILED TO:

Virginia Crocker, Director
South Carolina Workers' Compensation Commission
P.O. Box 1715
Columbia SC 29202-1715

J. South Lewis, II., Esquire
872 S. Pleasantburg Drive
Greenville SC 29607

RESPONDENTS' MOTION TO COMPEL AND EXHIBITS MARCH 25, 2014

BEFORE THE SOUTH CAROLINA

WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1200349

James Provins, Employee, Claimant, vs. Spirit Construction Services, Inc., Employer, and Insurance Company of the State of PA, Carrier, Defendants.	**DEFENDANTS' MOTION TO COMPEL AND RESPONSE TO CLAIMANT'S MOTION TO COMPEL**

TO: The Honorable Avery B. Wilkerson, Commissioner;
Donald L. Smith, Esquire, Attorney for Claimant.

YOU WILL PLEASE TAKE NOTICE that on the tenth day of service hereof or as soon thereafter as the matter can be heard, the Defendants, Spirit Construction Services, Inc. and Insurance Company of the State of PA, will move before the jurisdictional Commissioner for an order compelling the Claimant to sign authorizations to release medical records. Grounds for this motion are as follows:

1. That Claimant currently lives in Louisville, Kentucky, and he has been a resident of Kentucky his entire adult life. (Depo. pp. 6-7).

2. That Claimant was hired as an iron worker by Spirit Construction Services, Inc. ("Spirit Construction") on June 21, 2011, and he was assigned to work a construction job in Anderson, South Carolina. (Depo. pp. 15-16).

3. That on January 24, 2012, Claimant sustained an injury to his right shoulder arising out of and in the course of his employment with Spirit Construction. This was initially a denied claim.

4. That on June 11, 2012, Claimant filed a Form 50, Request for Hearing, to determine compensability of his claim, and Defendants timely filed a Form 51 on July 9, 2012 denying that Claimant sustained a compensable injury. A hearing was held in this matter before Commissioner Gene McCaskill on August 14, 2012.

5. That on September 7, 2012, Commissioner McCaskill issued his Decision and Order finding that Claimant sustained a compensable injury to right shoulder and ordering Defendants to provide Claimant with causally related medical treatment with a provider of their choosing in Louisville, Kentucky and to pay him temporary total disability ("TTD") benefits.

6. That Defendants filed a Form 30, Request for Commission Review on September 13, 2012, and an Appellate Panel review hearing was held on January 23, 2013.

7. That on February 27, 2013, the Appellate Panel issued its Order affirming Commissioner McCaskill's decision.

8. That Defendants did not appeal the Appellate Panel's Order and began providing Claimant with appropriate medical treatment per Dr. Frank O. Bonnarens of Orthopaedic Associates of Kentuckiana, the authorized treating physician.

9. That on April 15, 2013, Dr. Bonnarens diagnosed Claimant with a right rotator cuff tear and recommended surgical intervention. (Exhibit A).

10. That on May 15, 2013, Dr. Bonnarens performed a right rotator cuff repair, acromioplasty/Mumford procedure, debridement of the biceps stump and labral tears, and insertion of bone graft on Claimant's right shoulder. (Exhibit B).

11. That Claimant continued to treat Dr. Bonnerans following surgery, and on September 23, 2013, Dr. Bonnerans recommended an arthrogram MRI of the right shoulder due to Claimant's complaints of pain and decreased range of motion. (Exhibit C).

12. That on October 7, 2013, Dr. Bonnerans opined that the right shoulder MRI revealed a recurrent rotator cuff tear, and he recommended surgery. However, Dr. Bonnerans noted that Claimant "wants to discuss this with his lawyer to make sure about whose paying what and then he will let us know if he would like to proceed with the surgery." (Exhibit D).

13. That on October 10, 2013, Defendants mailed a questionnaire to Dr. Bonnerans to determine his opinion regarding causation of Claimant's recurrent right shoulder tear. Dr. Bonnerans had not responded to the questionnaire as of November 12, 2013, and Defendants resent the questionnaire to his office via facsimile. (See Exhibit E).

14. That on November 15, 2013, Defendants received an email from Dr. Bonnerans's office informing them that Dr. Bonnerans had received the questionnaire, but that he would only answer the questions in a telephone conference or deposition setting. (Exhibit F).

15. That the parties subsequently scheduled a telephone conference with Dr. Bonnnerans on December 30, 2013. (Exhibit G).

16. That during the telephone conference, Dr. Bonnerans indicated that Claimant's use of alcohol could be a complicating factor in his surgical outcome. Dr. Bonnarens stated that while Claimant initially reported that he drank 8 to 10 beers per day, he subsequently reported that he was actually drinking *a case of beer and a bottle of hard liquor per day* ***prior to his surgery***. Dr. Bonnarens further stated that ***following surgery***, Claimant reported that he was attempting to decrease his use of alcohol and that he had completely stopped drinking hard liquor. Dr. Bonnerans said that as a result, Claimant began suffering from dry heaves and

delirium tremens ("DTs"), a severe form of alcohol withdrawal with symptoms that include muscle spasms, hallucinations, seizures, and uncontrolled muscle movements.

17. That Dr. Bonnerans indicated that it was possible Claimant's DTs caused the re-tear in his right shoulder rotator cuff; however, he stated that without any evidence of a subsequent injury to the right shoulder, it was his opinion that Claimant's re-tear and his need for a second surgery was directly related to his January 24, 2012 work injury.

18. That at the original hearing in this matter on September 14, 2012, Claimant testified that he was no longer drinking alcohol. (Tr. 22-23). Yet, *less than eight months later,* Claimant was drinking a case of beer and a bottle of hard liquor per day.

19. That Defendants first learned of Claimant's excessive drinking and his subsequent withdrawals during the telephone conference with Dr. Bonnerans on December 30, 2013, and given Dr. Bonnerans's indication that Claimant's DTs *could* have caused the re-tear of his right rotator cuff, Defendants attempted to engage in further investigation.

20. That on January 7, 2014, Defendants sent Claimant's attorney a letter requesting that Claimant sign authorization forms to allow AMIN Family Medical Care, University of Louisville Hospital, Jewish Hospital Medical Center Southwest, and Norton Immediate Care to release his medical records to Defendants since these providers are located in Kentucky, are not subject to South Carolina subpoenas, and will not provide Defendants with the medical records without a signed release. (Exhibit H).

21. That while Claimant's attorney indicated that he would "be happy to provide" the records from the Kentucky providers, Defendants did not receive the requested medical records or the signed authorization forms. (See Exhibit I).

22. That on February 28, 2014, Defendants sent an e-mail to Claimant's attorney following up on the previous request to have Claimant sign the medical releases. (See Exhibit J).

23. That Claimant's attorney did not provide the signed releases, but sent the following response:

> Have you gotten me the records that I requested? Have you set up the surgery to repair his shoulder (pursuant to the treating physician's statement that the current issue is directly related to the on-the-job injury which the Commission found as compensable)? I'm comfortable with the belief that you will recognize the answer.
>
> (See Exhibit J).

24. That on March 2, 2014, Defendants again requested that Claimant's attorney provide them with the signed releases so that Defendants could obtain Claimant's medical records from the providers in Kentucky. (See Exhibit K).

25. That to date, Defendants have not received Claimant's signed authorization forms.

26. That Defendants need the signed authorization forms in order to perform and complete a proper investigation into the cause of his recurrent right shoulder rotator cuff tear.

27. That had Claimant signed the authorization forms when initially requested, Defendants would have been able to complete the necessary investigation and would have likely already been able to determine whether Claimant's current right shoulder problems are causally related to his work accident.

28. That Defendants continue to authorize TTD benefits and are continuing to be prejudiced by Claimant's ongoing refusal to sign the authorization forms.

29. That as such, Defendants respectfully request an Order compelling the Claimant to sign authorizations allowing AMIN Family Medical Care, University of Louisville Hospital,

Jewish Hospital Medical Center Southwest, and Norton Immediate Care to release his medical records to Defendants.

30. That based on the foregoing, Defendants also respectfully request an Order denying Claimant's Motion to Compel medical treatment.

THERFORE, Defendants Spirit Construction Services, Inc. and Insurance Company of the State of PA move for an Order (1) compelling the Claimant to sign authorizations allowing the out of state medical providers to release his medical records to Defendants and (2) denying Claimant's Motion to Compel medical treatment.

Respectfully submitted,

WILLSON JONES CARTER & BAXLEY, P.A.

J. South Lewis, II, Esquire
872 S. Pleasantburg Drive
Greenville, SC 29607
Attorneys for Defendants

Date: March 25, 2014

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1200349

James Provins, Employee, Claimant, vs. Spirit Construction Services, Inc., Employer, and Insurance Company of the State of PA, Carrier, Defendants.	)	CERTIFICATE OF SERVICE

I, Trudy R. Sharpless, do hereby certify that I am the Legal Assistant for J. South Lewis, II, Esquire, attorney for the defendants with **WILLSON JONES CARTER & BAXLEY, P.A.** in Greenville, South Carolina, and that on the 25th day of March, 2014, I mailed the foregoing NOTICE OF MOTION AND MOTION TO COMPEL to the following by placing a copy thereof in the United States mail, first class, proper postage affixed thereto:

Donald L. Smith, Esquire
Attorney Offices of Donald Smith
122 N. Main Street
Anderson, SC 29621

Trudy R. Sharpless

Trudy R. Sharpless
Legal Assistant to J. South Lewis, II, Esquire
WILLSON JONES CARTER & BAXLEY, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607

RESPONDENTS' FORM 58
JANUARY 12, 2015

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739 www.wcc.sc.gov

PRE-HEARING BRIEF
WCC File No: 1200349

Claimant's Name:	James Provins	Employer's Name:	Spirit Construction Services, Inc.
Address:		Address:	
City:	State: Zip:	City:	State: Zip:
Home Phone:	Work Phone:	Carrier:	Insurance Company of the State of PA
Preparer's Name:	J. South Lewis, II	Preparer's Phone #:	(864) 527-3284

A claim for workers' compensation benefits is made based on the following grounds:
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $725.47 2. AWW: $ 1,130.51 **Date of Injury:** 1/24/2012
3. Type of injury and body part(s): Right shoulder.
4. Facts in controversy: **Whether Claimant's widow is entitled to benefits pursuant to § 42-9-280?** Claimant was in the midst of treatment for a right shoulder injury, drawing weekly TTD benefits at the time of his death *(unrelated to work injury – See Death Certificate 04/30/14)*. Claimant had not reached maximum medical improvement, and thus was not yet entitled to any permanent disability. § 42-9-280 is clear that when a claimant dies from unrelated cause(s), his next of kin "dependent upon him for support" is entitled to the "unpaid balance of compensation." As Claimant had not reached maximum medical improvement, and was receiving *temporary* benefits, there is no "unpaid balance of compensation" accrued. Further, the SC Supreme Court has ruled that "heirs have no claim to unaccrued weekly payments." Stone v. Roadway Express, 367 S.C. 575 (2006).
5. Legal issues involved: § 42-9-280; Stone v. Roadway Express, 367 S.C. 575 (2006).
6. Unusual aspects: See No. 4.
7. Witnesses (designate if expert):* None.
8. Exhibits: None.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): SEE APA SUBMISSION
10. Name, address, and specialty, if any, of the treating physician: Dr. Frank Bonnarens, Orthopaedic Associates of Kentuckiana, P.L.L.C., 3605 Northgate Circle, Suite 202, New Albany, IN 47150.
11. Impairment rating(s); body part(s); physician and date of opinion: Premature; Claimant had not yet reached maximum medical improvement.
12. I am amending my Form 50/51 in the following manner:

☐ **Mediation**
- ☐a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐b. Mediation is required pursuant to Reg. 67-1802.
- ☐c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- ☐d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to **mediation@wcc.sc.gov.**

I verify the contents of this form are accurate and true to the best of my knowledge.
I certify that I have served this document pursuant to R.67-212 by delivering a copy to: Donald L. Smith, 122 N. Main Street Anderson, SC 29621 on the 12th day of January, 2015 by ☒ first class mail ☐ personal service ☐ certified mail.

Trudy R. Sharpless
Certifier, Trudy R. Sharpless

Signature: J. South Lewis, II, Willson Jones Carter & Baxley, P.A.

Email: jslewis@wjlaw.net

Date of hearing: 01/22/2015

Time needed for hearing: 45 minutes

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67- 1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

RESPONDENTS' FORM 58
JULY 15, 2015

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739 www.wcc.sc.gov

PRE-HEARING BRIEF
WCC File No: 1200349

Claimant's Name: James Provins	Employer's Name: Spirit Construction Services, Inc.
Address:	Address: 3131 Market St.
City: State: Zip:	City: Green Bay State: WI Zip: 54304
Home Phone: Work Phone:	Carrier: Insurance Company of the State of PA
Preparer's Name: J. South Lewis, II	Preparer's Phone #: (864) 527-3284

A claim for workers' compensation benefits is made based on the following grounds:
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $725.47 2. AWW: $ 1,130.51 **Date of Injury:** 1/24/2012
3. Type of injury and body part(s): Right shoulder. **Death allegation denied.**
4. Facts in controversy: Please see attached "Defendants Addendum."
5. Legal issues involved: §§ 42-9-280; 42-9-290; 67-614; 42-17-80
6. Unusual aspects:
   (1) Claimant would never sign medical releases for Kentucky medical records;
   (2) Claimant has no "medical" evidence justifying a causally-related death. Claimant only obtained an opinion from a Ph.D. on 07/13/15.
7. Witnesses (designate if expert):* Tony Azusenis; David White.
8. Exhibits:
   (1) Hearing Transcript (08/14/2012).
   (2) Motions to Compel from 2014.
   (3) Emails among attorneys regarding Defendants request to sign medical releases.
   (4) Claimant's previously submitted Form 58 and Pre-hearing Brief (from January 22, 2015, hearing).
   (5) David Price, Ph.D.'s file materials regarding this matter.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): SEE APA SUBMISSION
10. Name, address, and specialty, if any, of the treating physician: Dr. Frank Bonnarens, Orthopaedic Associates of Kentuckiana, P.L.L.C, 3605 Northgate Circle, Suite 202, New Albany, IN 47150
11. Impairment rating(s); body part(s); physician and date of opinion: None. Claimant was still treating and not at maximum medical improvement at the time of his death.
12. I am amending my Form 50/51 in the following manner:

☐ **Mediation**
- ☐a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐b. Mediation is required pursuant to Reg. 67-1802.
- ☐c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- ☐d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to **mediation@wcc.sc.gov.**

I verify the contents of this form are accurate and true to the best of my knowledge.
I certify that I have served this document pursuant to R.67-212 by delivering a copy to: Donald L. Smith, 122 N. Main Street Anderson, SC 29621 on the 17th day of July, 2015 by ☒ first class mail ☐ personal service ☐ certified mail.

Certifier, Trudy R. Sharpless

Signature: J. South Lewis, II, Willson Jones Carter & Baxley, P.A. Email: jslewis@wjlaw.net

Date of hearing: 07/29/2015 Time needed for hearing:

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67- 1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

RESPONDENTS' SUPPLEMENTAL FORM 58

JULY 28, 2015

SUPPLEMENTAL

South Carolina Workers' Compensation Commission
P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 1200349
Carrier File # 003186-000589-wc-01
Carrier Code #
Employer FEIN

James Provins
Claimant's Name — SSN

Address — City — State — Zip

Home Phone — Work Phone

Spirit Construction Services, Inc.
Employer's Name

Address — City — State — Zip

Insurance Company of the State of PA
Insurance Carrier

J. South Lewis, II — 872 S. Pleasantburg Drive, Greenville, SC 29607 — (864) 527-3284
Preparer's Name — Address — Phone #

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
DONALD L. SMITH, ESQUIRE, ATTORNEY FOR CLAIMANT

YOU ARE HEREBY NOTIFIED THAT DEFENDANTS, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the defendants, to wit:

NAME OF PHYSICIAN/OTHER	DATE OF REPORT	PAGE
8. Orthopaedic Associates of Kentuckiana, P.L.L.C.	06/13/13 – 10/07/13	110 – 122
9. Advanced ENT & Allergy	04/24/13	123 – 126
10. Baptistworx	08/28/23 – 10/04/13	127 – 136
EXHIBITS		
A. Emails between J. South Lewis & Don Smith	01/07/14 -03/02/14	137 – 140
B. Emails between J. South Lewis & Don Smith	03/31/15 – 04/06/15	141 – 143
C. Emails between J. South Lewis & Don Smith	06/01/15	144 – 145
D. Correspondence from Don Smith to Dr. David Price, PHD	05/19/15 – 05/26/2015	146 – 147

YOU ARE FURTHER HEREBY NOTIFIED that you have the right to cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the depositions of any of the physicians, whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred to herein, or photocopies received from said physicians/others, are being herewith forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into the evidence on behalf of the employer-defendant.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the defendants: See Pre-Hearing Brief.

J. South Lewis, II
Wilson Jones Carter & Baxley, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607

July 28, 2015

July 29, 2015
(hearing date)

RESPONDENTS' FORM 58
OCTOBER 9, 2015

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739 www.wcc.sc.gov

PRE-HEARING BRIEF
WCC File No: 1200349

Claimant's Name:	James Provins	Employer's Name:	Spirit Construction Services, Inc.
Address:		Address:	3131 Market St.
City:	State: Zip:	City:	Green Bay State: WI Zip: 54304
Home Phone:	Work Phone:	Carrier:	Insurance Company of the State of PA
Preparer's Name:	J. South Lewis, II	Preparer's Phone #:	(864) 527-3284

A claim for workers' compensation benefits is made based on the following grounds:
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $725.47 2. AWW: $ 1,130.51 **Date of Injury:** 1/24/2012
3. Type of injury and body part(s): Right shoulder. **Death allegation denied.**
4. Facts in controversy: (1) Please see attached "Defendants Addendum."
(2) Are Defendants entitled to costs and attorney's fees incurred in defending the death claim?
5. Legal issues involved: §§ 42-9-280; 42-9-290; 42-17-80; 67-614.
6. Unusual aspects:
   (1) Claimant's counsel was provided medical releases as early as January 2014, yet refused to have Mr. Provins sign them. As such, Defendants couldn't obtain Claimant's personal medical records timely. Those releases were finally signed and received by our office on 08/31/2015. Defendants began asking for those records, but to date haven't received them all.
   (2) Claimant has no "medical" evidence justifying a causally-related death. Claimant only obtained an opinion from a Ph.D. on 07/13/15.
   (3) Claimant's prior records (see APA #11) bely the position that his drinking became a problem only after his injury/surgery.
7. Witnesses (designate if expert):* Tony Azusenis; David White.
8. Exhibits:
   (1) Hearing Transcript (08/14/2012).
   (2) Motions to Compel from 2014.
   (3) Emails among attorneys regarding Defendants request to sign medical releases.
   (4) Claimant's previously submitted Form 58 and Pre-hearing Brief (from January 22, 2015, hearing).
   (5) David Price, Ph.D.'s file materials regarding this matter.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): SEE APA SUBMISSION; **Additional records to be submitted upon receipt – the executed medical releases were not obtained until August 31, 2015.**
10. Name, address, and specialty, if any, of the treating physician: Dr. Frank Bonnarens, Orthopaedic Associates of Kentuckiana, P.L.L.C, 3605 Northgate Circle, Suite 202, New Albany, IN 47150
11. Impairment rating(s); body part(s); physician and date of opinion: None. Claimant was still treating and not at maximum medical improvement at the time of his death.
12. I am amending my Form 50/51 in the following manner:

☐ **Mediation**
- ☐a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐b. Mediation is required pursuant to Reg. 67-1802.
- ☐c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- ☐d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to **mediation@wcc.sc.gov.**

I verify the contents of this form are accurate and true to the best of my knowledge.
I certify that I have served this document pursuant to R.67-212 by delivering a copy to: Donald L. Smith, 122 N. Main Street Anderson, SC 29621 on the 9th day of October, 2015 by ☒ first class mail ☐ personal service ☐ certified mail.

Trudy R. Sharpless
Certifier, Trudy R. Sharpless

Signature: J. South Lewis, II, Wilson Jones Carter & Baxley, P.A. Email: jslewis@wjlaw.net

Date of hearing: 10/21/2015 Time needed for hearing:

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as wel as Regulation 67- 1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right t admit expert witnesses at hearings.

RESPONDENTS' FORM 58
OCTOBER 20, 2015

South Carolina Workers' Compensation Commission
P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 1200349
Carrier File # 003186-000589-wc-01
Carrier Code #
Employer FEIN

James Provins
Claimant's Name — SSN

Address — City — State — Zip

Home Phone — Work Phone

Spirit Construction Services, Inc.
Employer's Name

Address — City — State — Zip

Insurance Company of the State of PA
Insurance Carrier

J. South Lewis, II — Preparer's Name
872 S. Pleasantburg Drive, Greenville, SC 29607 — Address
(864) 527-3284 — Phone #

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
DONALD L. SMITH, ESQUIRE, ATTORNEY FOR CLAIMANT

YOU ARE HEREBY NOTIFIED THAT DEFENDANTS, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the defendants, to wit:

NAME OF PHYSICIAN/OTHER	DATE OF REPORT	PAGE
8. Orthopaedic Associates of Kentuckiana, P.L.L.C.	06/13/13 – 10/07/13	110 – 122
9. Advanced ENT & Allergy	04/24/13	123 – 126
10. Baptistworx	08/28/13 – 10/04/13	127 – 136
11. University of Louisville Hospital	07/07/09 – 07/09/09	137 - 175
Supplemental		
12. Amin's Family Practice Associates, P.S.C.	07/31/01 – 09/25/01	176
EXHIBITS		
A. Emails between J. South Lewis & Don Smith	01/07/14 -03/02/14	176 – 179
B. Emails between J. South Lewis & Don Smith	03/31/15 – 04/06/15	180 – 182
C. Emails between J. South Lewis & Don Smith	06/01/15	183 – 184
D. Correspondence from Don Smith to Dr. David Price, PhD	05/19/15 – 05/26/2015	185 - 186

YOU ARE FURTHER HEREBY NOTIFIED that you have the right to cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the depositions of any of the physicians, whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred to herein, or photocopies received from said physicians/others, are being herewith forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into the evidence on behalf of the employer-defendant.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the defendants: See Pre-Hearing Brief.

J. South Lewis, II
Willson Jones Carter & Baxley, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607

October 20, 2015

October 21, 2015
(hearing date)

RESPONDENTS' FORM 58
WITH ADDENDUM
JULY 15, 2016

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739 www.wcc.sc.gov

PRE-HEARING BRIEF
WCC File No: 1200349

Claimant's Name: James Provins	Employer's Name: Spirit Construction Services, Inc.
Address:	Address: 3131 Market St.
City: State: Zip:	City: Green Bay State: WI Zip: 54304
Home Phone: Work Phone:	Carrier: Insurance Company of the State of PA
Preparer's Name: J. South Lewis, II	Preparer's Phone #: (864) 527-3284

A claim for workers' compensation benefits is made based on the following grounds:
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $725.47 2. AWW: $ 1,130.51 **Date of Injury:** 1/24/2012
3. Type of injury and body part(s): Right shoulder. **Death allegation denied.**
4. Facts in controversy: Please also see attached "Defendants' Addendum."
   (1) Is claim barred by claimant's two prior hearing request withdrawals, pursuant to 67-609?
   (2) Compensability of death allegation?
   (3) Defendants' entitlement to costs of defense?
5. Legal issues involved: §§ 42-9-280; 42-9-290; 42-9-60; 67-614; 42-17-80; 67-609
6. Unusual aspects:

   Claimant has withdrawn a Form 50 and a Form 52 previously.

   Claimant's beneficiary alleges that his death, due in large part to alcohol abuse, is attributable to the work injury. Claimant has a long history of alcohol abuse.
7. Witnesses (designate if expert):* None by Defendants.
8. Exhibits:
   (1) Hearing Transcript (08/14/2012).
   (2) Motions to Compel from 2014.
   (3) Emails among attorneys regarding Defendants request to sign medical releases, and seeking evidence in support of death allegation.
   (4) Claimant's Form 58 and Pre-hearing Brief from January 22, 2015, hearing.
   (5) David Price, Ph.D.'s file materials regarding this matter.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): SEE APA SUBMISSION
10. Name, address, and specialty, if any, of the treating physician: Dr. Frank Bonnarens, Orthopaedic Associates of Kentuckiana, P.L.L.C, 3605 Northgate Circle, Suite 202, New Albany, IN 47150
11. Impairment rating(s); body part(s); physician and date of opinion: None. Claimant was still treating and not at maximum medical improvement at the time of his death.
12. I am amending my Form 50/51 in the following manner:

☐ **Mediation**
- ☐a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐b. Mediation is required pursuant to Reg. 67-1802.
- ☐c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- ☐d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to **mediation@wcc.sc.gov.**

I verify the contents of this form are accurate and true to the best of my knowledge.
I certify that I have served this document pursuant to R.67-212 by delivering a copy to: Donald L. Smith, 122 N. Main Street Anderson, SC 29621 on the 15th day of July, 2016 by ☒ first class mail ☐ personal service ☐ certified mail.

Trudy R. Sharpless
Certifier, Trudy R. Sharpless

Signature: J. South Lewis, II, Willson Jones Carter & Baxley, P.A. Email: jslewis@wjlaw.net

Date of hearing: 07/26/2016 Time needed for hearing: 2.0 – 2.5 hours

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as wel as Regulation 67- 1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right t admit expert witnesses at hearings.

4. **Defendants' Addendum**

The procedural history of this case is important. Claimant's right shoulder injury was deemed compensable pursuant to an Order from the Hearing Commissioner and affirmed by the Appellate Panel. As such, Defendants began providing medical treatment with Dr. Bonnarens, as Claimant lives in Louisville, KY. Dr. Bonnarens performed a right shoulder surgery (rotator cuff repair) on May 15, 2013. In follow-up, Claimant had a repeat MRI showing a recurrent tear of the rotator cuff. Defendants sent a questionnaire to Dr. Bonnarens on October 10, 2013, to address whether the recurrent tear was causally-related to the work injury. Dr. Bonnarens would not answer the questionnaire, but would only answer the questions in a deposition setting or phone conference. On December 30, 2013, the parties held a phone conference with Dr. Bonnarens, to address causation. As a result of the information provided by Dr. Bonnarens, Defendants sent medical releases to Claimant's attorney so that Claimant's personal physician/hospital records could be reviewed to determine whether there was indication of a re-injury. Claimant refused to sign the releases, despite his attorney's January 7, 2014, email stating he would "be happy to provide them with the accompanying records from KY." Defendants followed up multiple times with Claimant's attorney about the medical release authorizations, to no avail. Instead, on March 14, 2014, Claimant filed a Motion to Compel (the surgery). Defendants filed their own Motion to Compel on March 25, 2014, seeking execution of the medical releases.

A hearing was set on the Motions on April 24, 2014, before Commissioner Wilkerson. Unfortunately, Claimant died on April 14, 2014; the Death Certificate lists "Acute Respiratory Failure" and "Septic Shock" as the causes of death. Due to Claimant's death, the Motion Hearing was cancelled.

Claimant's attorney filed a Form 50 on November 18, 2014, on behalf of Claimant's widow (Debra Provins). **Notably, there was no allegation of a compensable death claim.** The parties were scheduled for a hearing before Commissioner Susan Barden on January 22, 2015. The issue raised at hearing was whether Claimant had reached maximum medical improvement, and whether Mrs. Provins was entitled to benefits pursuant to § 42-9-280. A review of claimant's Form 58 and APA submissions show that no death allegation was made at that hearing. In fact, an IME from Dr. Jacobus was submitted by Claimant, for the purposes of justifying a rating to the shoulder. **Nothing Dr. Jacobus opined purported to advance a death claim.** After a pre-hearing conference, focusing solely on § 42-9-280, Claimant withdrew the Form 50.

Claimant re-filed the Form 50 on March 18, 2015; again, no death claim was made. The SCWCC told the parties the case was subject to mandatory mediation because the claimant pled "Total" disability in number 8. Defendants assumed this was a clerical error, since permanent and total disability had never been raised. **In response to an email from defense counsel on April 6, following upon the apparent erroneous pleading, claimant's counsel responded "Thank you for reminding me. I will amend the pleading and get it out in the next day or so."** (See Def. Exh. B). However, Claimant's Amended Form 50 on April 13, 2015 not only included the P&T claim, but also for the first time alleged that the injury "ultimately caused his death." Claimant then filed a Form 52 death claim on April 15, 2015. Defendants denied same in the Form 53. Notably, neither Dr. Bonnarens, nor the medical examiner, nor the hospital where claimant died, produced any records in support of claimant's death claim.

Defendants counsel asked Claimant's counsel to provide any evidence that Claimant's death was related to the work injury. (Email of June 1, 2015) The response was "I'll have the necessary evidence to meet my burden." (See Def. Exh. C). Nothing was ever provided to Defendants in support of a death claim, until Defendants received Claimant's pre-hearing brief, which contained a report from David Price, Ph.D., dated July 13, 2015, to support the death theory.

A hearing was scheduled before Commissioner T. Scott Beck on October 21, 2015. At the pre-trial conference, Defendants asserted that Dr. Price's report/opinion was not sufficient "medical" evidence to support a death claim. Defendants further asserted that this death allegation,

which was not pled in the original pleadings (*or even argued at the hearing before Commissioner Barden in January 2015*) was/is made in bad faith and is frivilous. Claimant withdrew the Form 52, after a pre-trial conference.

Subsequently, a new Form 52 was served on or about January 25, 2016. No new evidence arose *prior* to the re-filing of the Form 52 to support a death claim. Defendants asked Claimant's counsel numerous time during the case to provide the evidence upon which the Form 52 death claim was based. (See Def. Exhibits A, B, C, E, F, G). Ultimately, Claimant's counsel produced an "affidavit" from Dr. Thomas Martin supporting his theory. This affidavit was sworn out on June 16, 2016, over two years after Mr. Provins' death. Again, notably, none of the doctors who treated Mr. Provins either before or after his injury gave any medical opinion in support of Claimant's position. There has been no opinion offered from the doctors treating him at the hospital at the time of his death.

Defendants had Dr. James Ballenger, M.D., an internationally known expert in alcohol abuse issues, review Mr. Provins' pre and post-injury records, along with case file materials. His opinion, as set forth in APA # 20, is that claimant's history of alcholism is a primary contributing factor in his death. Essentailly, his is the classic case of an alcoholic killing himself by a lifetime of abuse. While unfortunate, there is no nexus to the work injury. To attribute the willful behavior/activity of a Claimant in abusing alcohol or drugs to a work injury requires speculation/conjecture in this case, and further would lead to absurd conclusions as a matter of policy. Our statute further prohibits compensability of injury or death if caused by intoxication or willful intent on behalf of the Claimant. (§ 42-9-60)

Defendants assert that this death claim is brought in bad faith, and pursued "without reasonable grounds" pursuant to § 42-17-80 and Reg. 67-614. This case was initially a shoulder injury, and after Claimant's death, the case was filed to seek PPD benefits to the shoulder to his beneficiaries. At the initial hearing before Commissioner Barden, the issues were only on the Form 50 for such PPD benefits. After that Form 50 was withdrawn, another was filed in March 2015. It was not until after the SCWCC contacted the parties about mediation that a Form 52 death claim was pled on April 15, 2015 (along with another Form 50, incidentally). No new facts had arisen, and no medical records/opinions supported a death claim. Rather, only after the death claim was filed did Claimant's counsel begin obtaining opinions to support that position. **Defendants respectfully move for costs and attorney's fees for defense of this matter, pursuant to § 42-17-80 and Reg. 67-614.**

South Carolina Workers' Compensation Commission
P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 1200349
Carrier File # 003186-000589-wc-01
Carrier Code #
Employer FEIN

James Provins
Claimant's Name SSN
Address City State Zip
Home Phone Work Phone

Spirit Construction Services, Inc.
Employer's Name
118 Coleman Boulevard, Savannah, GA 31408
Address City State Zip
Insurance Company of the State of PA
Insurance Carrier

J. South Lewis, II | 872 S. Pleasantburg Drive, Greenville, SC 29607 | (864) 527-3284
Preparer's Name | Address | Phone #

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
DONALD L. SMITH, ESQUIRE, ATTORNEY FOR CLAIMANT

YOU ARE HEREBY NOTIFIED THAT DEFENDANTS, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the defendants, to wit:

NAME OF PHYSICIAN/OTHER	DATE OF REPORT	PAGE
10. Amin's Family Practice Associates, P.S.C.	07/30/01 – 09/25/01	113 – 114
11. University of Louisville Hospital	07/07/09	115 - 153
12. Orthopaedic Associates of Kentuckiana	04/15/13 – 10/07/13	154 – 174
13. Integrated Case Management	04/30/13	175 – 177
14. Advanced ENT & Allergy	04/24/13	178 – 182
15. Baptist Health Louisville	05/15/13	182 - 184
16. Baptistworx Physical Therapy	06/02/13 – 12/30/13	185 – 209
17. Jewish Medical Center Southwest	04/10/14	210 – 218
18. St's. Mary & Elizabeth's Hospital	04/10/14 – 04/14/14	219 – 415
19. James C. Ballenger, M.D.	07/15/16	416 – 429
20. Curriculum Vitae – James C. Ballenger, M.D.	N/A	430 – 521
Exhibits		
A. Emails between J. South Lewis, II & Donald L. Smith	01/07/14 - 03/02/14	522 – 525
B. Emails between J. South Lewis, II & Donald L. Smith	03/31/15 – 04/06/15	526 – 528
C. Emails between J. South Lewis, II & Donald L. Smith	06/01/15	529 – 530
D. Correspondence from Donald L. Smith to Dr. David Price, PhD.	05/19/15 – 05/26/15	531 – 532
E. Emails between J. South Lewis, II & Donald L. Smith	02/17/16 – 06/08/16	533 – 535
F. Emails between J. South Lewis, II & Donald L. Smith	02/17/16 – 05/12/16	536 - 538
G. Emails between J. South Lewis, II & Donald L. Smith	02/17/16	539 - 540

YOU ARE FURTHER HEREBY NOTIFIED that you have the right to cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the depositions of any of the physicians, whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred to herein, or photocopies received from said physicians/others, are being herewith forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into the evidence on behalf of the employer-defendant.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the defendants: See Pre-Hearing Brief.

J. South Lewis, II
Willson Jones Carter & Baxley, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607

July 15, 2016

July 26, 2016
(hearing date)

RESPONDENTS' FORM 58
WITH ADDENDUM
NOVEMBER 23, 2016

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739 www.wcc.sc.gov

PRE-HEARING BRIEF
WCC File No: 1200349

Claimant's Name:	James Provins	Employer's Name:	Spirit Construction Services, Inc.
Address:		Address:	3131 Market St.
City:	State: Zip:	City:	Green Bay State: WI Zip: 54304
Home Phone:	Work Phone:	Carrier:	Insurance Company of the State of PA
Preparer's Name:	J. South Lewis, II	Preparer's Phone #:	(864) 527-3284

A claim for workers' compensation benefits is made based on the following grounds:
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $725.47 2. AWW: $ 1,130.51 **Date of Injury:** 1/24/2012
3. Type of injury and body part(s): Right shoulder. **Death allegation denied.**
4. Facts in controversy: Please also see attached "Defendants' Addendum" for more detailed outline
   (1) Compensability of death allegation?
   (2) Defendants' entitlement to costs of defense?
5. Legal issues involved: §§ 42-9-280; 42-9-290; 42-9-60; 67-614; 42-17-80; 67-609
6. Unusual aspects:
   As of date of issuance of Brief, Defendants have not received Claimant's Brief. This may impact numbering of pages herein.
   Claimant's beneficiary alleges that his death, due in large part to alcohol abuse, is attributable to the work injury. Claimant has a long history of alcohol abuse.
7. Witnesses (designate if expert):* None by Defendants.
8. Exhibits:
   (1) Hearing Transcript (08/14/2012).
   (2) Motions to Compel from 2014.
   (3) Emails among attorneys regarding Defendants request to sign medical releases, and seeking evidence in support of death allegation.
   (4) Claimant's Form 58 and Pre-hearing Brief from January 22, 2015, hearing.
   (5) David Price, Ph.D.'s file materials regarding this matter.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): SEE APA SUBMISSION
10. Name, address, and specialty, if any, of the treating physician: Dr. Frank Bonnarens, Orthopaedic Associates of Kentuckiana, P.L.L.C, 3605 Northgate Circle, Suite 202, New Albany, IN 47150
11. Impairment rating(s); body part(s); physician and date of opinion: None. Claimant was still treating and not at maximum medical improvement at the time of his death.
12. I am amending my Form 50/51 in the following manner:

☐ **Mediation**
- ☐a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐b. Mediation is required pursuant to Reg. 67-1802.
- ☐c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- ☐d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to **mediation@wcc.sc.gov.**

I verify the contents of this form are accurate and true to the best of my knowledge.
I certify that I have served this document pursuant to R.67-212 by delivering a copy to: Donald L. Smith, Esq., 122 N. Main Street Anderson, SC 29621 on the 23rd day of November, 2016 by ☒ first class mail ☐ personal service ☐ certified mail.

Trudy R. Sharpless
Certifier, Trudy R. Sharpless

Signature: J. South Lewis, II, Willson Jones Carter & Baxley, P.A. Email: jslewis@wjlaw.net

Date of hearing: 12/05/2016 Time needed for hearing: 2.0 – 2.5 hours

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as w as Regulation 67- 1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right admit expert witnesses at hearings.

4. **Defendants' Addendum**

The procedural history of this case is important. Claimant's right shoulder injury was deemed compensable pursuant to an Order from the Hearing Commissioner and affirmed by the Appellate Panel. As such, Defendants began providing medical treatment with Dr. Bonnarens, as Claimant lives in Louisville, KY. Dr. Bonnarens performed a right shoulder surgery (rotator cuff repair) on May 15, 2013. In follow-up, Claimant had a repeat MRI showing a recurrent tear of the rotator cuff. Defendants sent a questionnaire to Dr. Bonnarens on October 10, 2013, to address whether the recurrent tear was causally-related to the work injury. Dr. Bonnarens would not answer the questionnaire, but would only answer the questions in a deposition setting or phone conference. On December 30, 2013, the parties held a phone conference with Dr. Bonnarens, to address causation. As a result of the information provided by Dr. Bonnarens, Defendants sent medical releases to Claimant's attorney so that Claimant's personal physician/hospital records could be reviewed to determine whether there was indication of a re-injury. Claimant refused to sign the releases, despite his attorney's January 7, 2014, email stating he would "be happy to provide them with the accompanying records from KY." Defendants followed up multiple times with Claimant's attorney about the medical release authorizations, to no avail. Instead, on March 14, 2014, Claimant filed a Motion to Compel (the surgery). Defendants filed their own Motion to Compel on March 25, 2014, seeking execution of the medical releases.

A hearing was set on the Motions on April 24, 2014, before Commissioner Wilkerson. Unfortunately, Claimant died on April 14, 2014; the Death Certificate lists "Acute Respiratory Failure" and "Septic Shock" as the causes of death. Due to Claimant's death, the Motion Hearing was cancelled.

Claimant's attorney filed a Form 50 on November 18, 2014, on behalf of Claimant's widow (Debra Provins). **Notably, there was no allegation of a compensable death claim.** The parties were scheduled for a hearing before Commissioner Susan Barden on January 22, 2015. The issue raised at hearing was whether Claimant had reached maximum medical improvement, and whether Mrs. Provins was entitled to benefits pursuant to § 42-9-280. A review of claimant's Form 58 and APA submissions show that no death allegation was made at that hearing. In fact, an IME from Dr. Jacobus was submitted by Claimant, for the purposes of justifying a rating to the shoulder. **Nothing Dr. Jacobus opined purported to advance a death claim.** After a pre-hearing conference, focusing solely on § 42-9-280, Claimant withdrew the Form 50.

Claimant re-filed the Form 50 on March 18, 2015; again, no death claim was made. The SCWCC told the parties the case was subject to mandatory mediation because the claimant pled "Total" disability in number 8. Defendants assumed this was a clerical error, since permanent and total disability had never been raised. **In response to an email from defense counsel on April 6, following upon the apparent erroneous pleading, claimant's counsel responded "Thank you for reminding me. I will amend the pleading and get it out in the next day or so."** (See Def. Exh. B). However, Claimant's Amended Form 50 on April 13, 2015 not only included the P&T claim, but also for the first time alleged that the injury "ultimately caused his death." Claimant then filed a Form 52 death claim on April 15, 2015. Defendants denied same in the Form 53. Notably, neither Dr. Bonnarens, nor the medical examiner, nor the hospital where claimant died, produced any records in support of claimant's death claim.

Defendants counsel asked Claimant's counsel to provide any evidence that Claimant's death was related to the work injury. (Email of June 1, 2015) The response was "I'll have the necessary evidence to meet my burden." (See Def. Exh. C). Nothing was ever provided to Defendants in support of a death claim, until Defendants received Claimant's pre-hearing brief, which contained a report from David Price, Ph.D., dated July 13, 2015, to support the death theory.

A hearing was scheduled before Commissioner T. Scott Beck on October 21, 2015. Defendants asserted that the death allegation, which was not pled in the original pleadings (*or even argued at the hearing before Commissioner Barden in January 2015*) was/is made in bad faith and is frivilous. Claimant withdrew the Form 52, after a pre-trial conference.

Subsequently, a new Form 52 was served on or about January 25, 2016. No new evidence arose *prior* to the re-filing of the Form 52 to support a death claim. Defendants asked Claimant's counsel numerous time during the case to provide the evidence upon which the Form 52 death claim was based. (See Def. Exhibits A, B, C, E, F, G). Ultimately, Claimant's counsel produced an "affidavit" from Dr. Thomas Martin supporting his theory. This affidavit was sworn out on June 16, 2016, over two years after Mr. Provins' death. Again, notably, none of the doctors who treated Mr. Provins either before or after his injury gave any medical opinion in support of Claimant's position. There has been no opinion offered from the doctors treating him at the hospital at the time of his death.

Defendants had Dr. James Ballenger, M.D., an internationally known expert in alcohol abuse issues, review Mr. Provins' pre and post-injury records, along with case file materials. His opinion, as set forth in APA # 20, is that claimant's history of alcholism is a primary contributing factor in his death. Essentailly, his is the classic case of an alcoholic killing himself by a lifetime of abuse. While unfortunate, there is no nexus to the work injury. To attribute the willful behavior/activity of a Claimant in abusing alcohol or drugs to a work injury requires speculation/conjecture in this case, and further would lead to absurd conclusions as a matter of policy. Our statute further prohibits compensability of injury or death if caused by intoxication or willful intent on behalf of the Claimant. (§ 42-9-60)

A hearing was scheduled before Commissioner Melody James on July 26, 2016. During a pre-trial conference, she ordered the parties to mediate the case. Mediation was held on September 29; the parties did not reach a settlement.

Grounds for Costs & Fees

Defendants assert that this death claim is brought in bad faith, and pursued "without reasonable grounds" pursuant to § 42-17-80 and Reg. 67-614. This case was initially a shoulder injury, and after Claimant's death, the case was filed to seek PPD benefits to the shoulder to his beneficiaries. At the initial hearing before Commissioner Barden, the issues were only on the Form 50 for such PPD benefits. After that Form 50 was withdrawn, another was filed in March 2015. It was not until after the SCWCC contacted the parties about mediation that a Form 52 death claim was pled on April 15, 2015 (along with another Form 50, incidentally). No new facts had arisen, and no medical records/opinions supported a death claim. Rather, only after the death claim was filed did Claimant's counsel begin obtaining opinions to support that position. **Defendants respectfully move for costs and attorney's fees for defense of this matter, pursuant to § 42-17-80 and Reg. 67-614.**

South Carolina Workers' Compensation Commission
P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 1200349
Carrier File # 003186-000589-wc-01
Carrier Code #
Employer FEIN

James Provins			Spirit Construction Services, Inc.				
Claimant's Name		SSN	Employer's Name				
			118 Coleman Boulevard, Savannah, GA 31408				
Address	City	State Zip	Address	City	State	Zip	
			Insurance Company of the State of PA				
Home Phone	Work Phone		Insurance Carrier				

J. South Lewis, II — 872 S. Pleasantburg Drive, Greenville, SC 29607 — (864) 527-3284
Preparer's Name — Address — Phone #

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
DONALD L. SMITH, ESQUIRE, ATTORNEY FOR CLAIMANT

YOU ARE HEREBY NOTIFIED THAT DEFENDANTS, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the defendants, to wit:

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YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the defendants: See Pre-Hearing Brief.

J. South Lewis, II
Willson Jones Carter & Baxley, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607

November 23, 2016

December 5, 2016
(hearing date)

APPELLANTS' AMENDED PRE-HEARING BRIEF
NOVEMBER 25, 2016

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739
www.wcc.sc.gov

AMENDED PRE-HEARING BRIEF
WCC File No: 1200349

Claimant's Name: Debra Provins for James Provins (deceased)
Address:
City: State: Zip:
Home Phone: Work Phone:

Employer's Name: Spirit Construction Services, Inc.
Address: 118 Coleman Blvd.
City: Savannah State: GA Zip: 31408
Carrier: Insurance Company of the PA

Preparer's Name: Donald L. Smith, Esquire
Preparer's Phone #: (864) 642-9284

A claim for workers' compensation benefits is made based on the following grounds:
X Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $725.47 2. AWW: $1,153.37 **Date of Injury:** 01/24/2012
3. Type of injury and body part(s): Right and Left Upper Extremities; Death
4. * Facts in controversy: Whether claimant's death on April 14, 2014 is causally related to the on-the-job-accident that occurred on January 24, 2012; whether claimant's spouse is entitled to death and funeral benefits
5. Legal issues involved: Approval of allocation of benefits; 42-9-110 (presumed dependents); 42-9-120 (determination of dependency); 42-9-130 (div of death benefits); 42-9-280 (remaining TTD benefits); 42-9-290 (comp for death of employee by acc); Due to the nature and severity of McMahan's back injury, the court found it very likely that McMahan would continue to need pain management for the remainder of his life, irrespective of an MMI diagnosis. Accordingly, permanent total disability benefits were warranted. McMahan v. S.C. Dept. of Education, Op. No. 5415 (S.C. Ct. App. filed June 15, 2016)
6. Unusual aspects: Claimant passed away on April 14, 2014. His wife, Debra, has retained the undersigned to resolve this claim on behalf of Mr. Provins' estate. Mr. Provins' sister and two children have waived their rights to any claim of proceeds that this claim may recover, making Mrs. Provins the sole heir.
7. Witnesses (designate if expert):* Debra Provins, Alice Zimmerman, Stephen Gordin, MD*, Gabrielle Linder, PA-C*, Frank Bonnarens, MD*, George Dunn, MD*, Dwight Jacobus, DO*, David Price, PhD*, Thomas Martin, MD*
8. Exhibits: Death Certificate of James Provins; Waiver of Potential Claim of Alice M. Zimmerman, Jessica M. Provins, and Amanda J. Provins; Testimony of Luis Carmon (p. 54-60 of August 14, 2012 Transcript); findings of Fact (p. 5 of September 7, 2015 Decision and Order); Birth Certificates of Jessica and Amanda; Deposition of Dr. James F. Ballenger; Retention Contract; Case Work of Ballenger; Breakdown of Plaintiff/Defendant; email exchange between counsel
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): See Addendum
10. Name, address, and specialty, if any, of the treating physician: See Addendum
11. Impairment rating(s); body part(s); physician and date of opinion: 10-13% to right upper extremity; Dr. Dwight A. Jacobus; January 5, 2015
12. I am amending my Form 50/51 in the following manner:

I verify the contents of this form are accurate and true to the best of my knowledge.

Signature: Email: attorneydonaldsmith@gmail.com

Date of hearing: November 25, 2016 Time needed for hearing: 1 hour

On behalf of X Claimant ☐ Employer

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.
* Commissioners reserve the right to admit expert witnesses at hearings.

ADDENDUM
JAMES PROVINS - 1200349
Date of Loss: January 24, 2012

January 24, 2012-50 year old male presents with c/o shoulder pain right shoulder pain, anteriorly, radiates down to the arm, unable to lift ann. (APAs, p. 1)

His end snapped out of his hand, causing his right arm to fall, he heard a snapping sensation and had immediate pain. (APAs, p. 1)

General Appearance: pleasant, alert, nontoxic, well hydrated, appears uncomfortable, but NAD. Eyes: PERRL, EOMI, lids/conjunctivae normal. (APAs, p. 2)

X ray: Shoulder, right No fracture or dislocation. (APAs, p. 2)

General Appearance: pleasant, alert, nontoxic, well hydrated, appears uncomfortable, but NAD. Eyes: PERRL, EOMI, lids/conjunctivae normal (APAs, p. 2)

January 30, 2012-Patient states he has had no improvement of symptoms. He states he is unable to lift arm above his head and wakes up in the middle of the night if he rolls over onto his shoulder. (APAs, p. 4)

Signs and symptoms suspicious for rotator cuff injury. Will have patient scheduled for MRI of shoulder pending WC approval. (APAs, p. 5)

February 18, 2012-There is a tear of the supraspinatus tendon and likely involving a portion of the infraspinatus tendon. This tear measures approximately 2.8 cm in anterior posterior dimension. This tear extends over the distal 2 to 2.5 cm of the rotator cuff. (APAs, p. 6)

May 14, 2013-He said the pain is 10 out of 10. He said he is quite frustrated by this because he has to learn how to wipe his butt with his left hand, cannot use the right hand after doing it that way for 51 years. (APAs, p. 9)

The patient does have a bulge consistent with a possible rupture of the long head of the biceps on the right side when compared to the left. (APAs, p. 10)

May 15, 2013-The patient was seen to have a massive tear of the rotator cuff. (APAs, p. 16)

...it looked like the supraspinatus, infraspinatus, and the rotator interval were all involved in the rotator cuff tear. (APAs, p. 16)

June 7, 2013-Worse since sx (surgery)
-Nature of Pain: Bum, Throb, Stab, Constant (APAs, p. 48)

June 12, 2013-Doing ok-I guess. Still hurts. (APAs, p. 52)

June 13, 2013-States"high blood pressure" and "I had to go to court again to make them pay for my injury." (APAs, p. 53)

June 14, 2013-out of pain meds. (APAs, p. 54)

June 18, 2013- Right shoulder hurts.
-patient is out of pain meds. (APAs, p. 55)

June 19, 2013- hurting. (APAs, p. 56)

June 21, 2013-"Hurts when I got my arm in certain spots. Ok if it at my side. Pain when raising it." (APAs, p. 57)

June 24, 2013-"notable effort and pain."(APS, p. 58)

June 26, 2013-"Still feel like I can't raise arm. Pain still there."(APAs, p. 59)

June 28, 2013-Right shoulder feels about the same. (APAs, p. 60)

June 28, 2013-Letter to Dr. Bonnarens, 10 sessions of PT
-right shoulder feels same since start
-Still can't raise arm on own without help.
-notable effort and pain reports (APAs, p. 92)

July 3, 2013-"still painful but getting used to it."(APAs, p. 62)

July 5, 2013-"no better with pain and motion no better."
"ALARM -notable ticking. Pain."(APAs. p.63)

July 10, 2013-"hurting"-same and "difficulty moving, standing, sitting."('APAs, p. 65)

July 12, 2013-"poor. Same as yesterday." and "signs of instability." (APAs, p. 66)

July 16, 2013-Complains of persistent shoulder pain. (APAs, p. 67)

July 17, 2013-"still hurts."(APAs, p. 68)

July 19, 2013-"still hurting-still wakes me up every night."
-very slow progress (APAs, p. 69)

July 22, 2013-"fatigued easily." (APAs, p. 70)

July 24, 2013-Same-shoulder still pops and hurts the same.
Patient may be plateauing with program-possible new or re-tear; and, possible new or re-tear. Plan of care-reassess. (APAs, p. 71)

July 26, 2013-It's hurting and popping. (APAs, p. 72)

July 26, 2013-Letter to Dr. Bonnarens, "22 sessions- pt. still hurting a lot & its popping also.
Can't use right arm for much. AROM recent decline.
Signs/sxs of possible re-tear, could be extreme weakness & fatigue. (APAs, p. 47)

July 31, 2013-Hurting
-pain and limited range of motion and, therefore, limited functional use or right upper extremity (APAs, p. 73)

August 5, 2013-Shoulder still hurts.
Still with right shoulder pain complaint. (APAs, p. 75)

August 7, 2013-same-pain & popping
-no notable gains past ... weeks (APAs, p. 76)

August 9, 2013-Right shoulder still hurts-able to raise rum overhead but takes a lot of effort. (APAs, p. 77)

August 13, 2013-I feel like I need more meds. (APAs, p. 78)

August 14, 2013-Continues with moderate pain and limited range of motion (APAs, p. 79)

August 16, 2013-Paint complaints remain ..., as does range of motion limitations (APAs, p. 80)

August 19, 2013-Shoulder still hurts. "Can't raise it as high as you can."(APAs, p. 81)

August 21, 2013-Moderate pain with stretching and limited range of motion
-Reassess for return to MD." (APAs, p. 82)

August 23, 2013-Letter to Dr. Bonnarens, Limited with self-care activities (toileting, dressing, bathing, etc.) due to pain and motion limitations.
Deficits remaining in regards to pain free shoulder movement.
Compliant/Cooperative with rehabilitation efforts.
Please advise after your exam."(APAs, p. 91)

Dwight A. Jacobus, DO
"This is to confirm my opinion that the above-captioned patient, who is now deceased, would have a 10% to 13% disability rating utilizing the shoulder regional grid border of Permanent Impairment, Sixth Edition. It should be noted that it is also my opinion that whether the patient was not deceased and was able to have a second surgery, he would still have a disability percentage of at least 10% to 13% in regard to the findings of pre-operatively, surgically, and post-operatively. (APAs, p. 104)

David Price, PhD
Obviously the process that ultimately led to Mr. Provins' demise appears to have been the injury followed by prolonged pain, financial distress, loss of use of his right arm, impaired activity of daily living, depression, anxiety about his future and his self-medication with alcohol that led to his death. These would appear to be related to his shoulder injury of 01/24/12 as he has no history of pain, anxiety, depression or alcoholism prior to that event. (APAs, p. 108)

Gabrielle Linder, PA-C
That I referred Mr. Provins for an MRI due to the symptomology that he exhibited.
That the carrier in this matter denied my request. (APAs, p. 109)

Thomas Martin, MD
It is clear from the records provided that Mr. Provins suffered from depressive illness and alcohol abuse disorders that preexisted his work-related injury in 2012. Furthermore, it has been stipulated that he suffered from a serious right shoulder injury that required medical and surgical treatment. It is also apparent that while under significant psychosocial stress or in pain, Mr. Provins would self-medicate pain and depression with alcohol. While awaiting professional medical/surgical and pain management after incurring his injury, Mr. Provins used alcohol to cope and self-medicate depressive and pain symptoms, thereby exacerbating a preexisting condition. Following his surgery in 2013, he did not gain significant remediation or pain relief. When medical assistance ceased in latter 2013, Mr. Provins again used alcohol in excess. This further enhanced his neurovegetative symptoms of depression, reclusiveness, and lack of self-care. It is this Examiner's opinion to a reasonable degree of medical and psychiatric certainty that Mr. Provins suffered from depressive disorder due to another medical condition (right shoulder injury), somatic symptom disorder with predominant pain, substance (alcohol) induced depressive disorder, and alcohol use disorder, severe.

10. TREATING PHYSICIANS

1. Redicare/Gabrielle Linder, PA-C
   823 Pearman Dairy Road
   Anderson SC 29625

2. Inmed Diagnostic Services of SC/Stephen Gordin, MD
   1704 E. Main St.
   Duncan SC 29334

3. Baptist Health Louisville/Frank Bonnarens, MD
   4000 Kresge Way
   Louisville KY 40207

4. Baptistworx Physical Therapy
   7092 Distribution Drive
   Louisville KY 40258

5. High Field & Open MRI/George Dunn, MD
   7807 Shelbyville Road
   Louisville KY 40222

6. Oaktree Orthopaedics/Dwight Jacobus, DO
   115 Bushy Creek Road
   Easley SC 29642

7. David Price, PhD
   P.O. Box 27161
   Greenville SC 29616

8. Thomas Martin, MD
   1330 Richland Street
   Columbia SC 29201

9. James F. Ballenger, MD
   192 E. Bay St., Suite 204
   Charleston SC 29401

RESPONDENTS' FORM 58 WITH ADDENDUM
DECEMBER 2, 2016

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739 www.wcc.sc.gov

PRE-HEARING BRIEF
WCC File No: 1200349
AMENDED

Claimant's Name: James Provins
Address:
City: State: Zip:
Home Phone: Work Phone:
Preparer's Name: J. South Lewis, II

Employer's Name: Spirit Construction Services, Inc.
Address: 3131 Market St.
City: Green Bay State: WI Zip: 54304
Carrier: Insurance Company of the State of PA
Preparer's Phone #: (864) 527-3284

A claim for workers' compensation benefits is made based on the following grounds:
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $725.47 2. AWW: $ 1,130.51 **Date of Injury:** 1/24/2012
3. Type of injury and body part(s): Right shoulder. **Death allegation denied.**
4. Facts in controversy: Please also see attached "Defendants' Addendum" for more detailed outline
   (1) Compensability of death allegation?
   (2) Defendants' entitlement to costs of defense?
5. Legal issues involved: §§ 42-9-280; 42-9-290; 42-9-60; 67-614; 42-17-80; 67-609
6. Unusual aspects:
   As of date of issuance of Brief, Defendants have not received Claimant's Brief. This may impact numbering of pages herein.
   Claimant's beneficiary alleges that his death, due in large part to alcohol abuse, is attributable to the work injury. Claimant has a long history of alcohol abuse.
7. Witnesses (designate if expert):* None by Defendants.
8. Exhibits:
   (1) Hearing Transcript (08/14/2012).
   (2) Motions to Compel from 2014.
   (3) Emails among attorneys regarding Defendants request to sign medical releases, and seeking evidence in support of death allegation.
   (4) Claimant's Form 58 and Pre-hearing Brief from January 22, 2015, hearing.
   (5) David Price, Ph.D.'s file materials regarding this matter.
   (6) Dr. Thomas Martin file materials subpoenaed.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): SEE APA SUBMISSION
10. Name, address, and specialty, if any, of the treating physician: Dr. Frank Bonnarens, Orthopaedic Associates of Kentuckiana, P.L.L.C, 3605 Northgate Circle, Suite 202, New Albany, IN 47150
11. Impairment rating(s); body part(s); physician and date of opinion: None. Claimant was still treating and not at maximum medical improvement at the time of his death.
12. I am amending my Form 50/51 in the following manner:

☐ **Mediation**
- ☐a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐b. Mediation is required pursuant to Reg. 67-1802.
- ☐c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- ☐d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to **mediation@wcc.sc.gov.**

verify the contents of this form are accurate and true to the best of my knowledge.
I certify that I have served this document pursuant to R.67-212 by delivering a copy to: Donald L. Smith, Esq., 122 N. Main Street Anderson, SC 29621 on the 2nd day of December, 2016 by ☒ first class mail ☐ personal service ☐ certified mail and by e-mail attorneydonaldsmith@gmail.com.

Jane C. Watkins
Certifier, Jane C. Watkins

Signature: J. South Lewis, II, Willson Jones Carter & Baxley, P.A.
Email: jslewis@wjlaw.net

Date of hearing: 12/05/2016
Time needed for hearing: 2.0 – 2.5 hours

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67- 1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

4. **Defendants' Addendum**

The procedural history of this case is important. Claimant's right shoulder injury was deemed compensable pursuant to an Order from the Hearing Commissioner and affirmed by the Appellate Panel. As such, Defendants began providing medical treatment with Dr. Bonnarens, as Claimant lives in Louisville, KY. Dr. Bonnarens performed a right shoulder surgery (rotator cuff repair) on May 15, 2013. In follow-up, Claimant had a repeat MRI showing a recurrent tear of the rotator cuff. Defendants sent a questionnaire to Dr. Bonnarens on October 10, 2013, to address whether the recurrent tear was causally-related to the work injury. Dr. Bonnarens would not answer the questionnaire, but would only answer the questions in a deposition setting or phone conference. On December 30, 2013, the parties held a phone conference with Dr. Bonnarens, to address causation. As a result of the information provided by Dr. Bonnarens, Defendants sent medical releases to Claimant's attorney so that Claimant's personal physician/hospital records could be reviewed to determine whether there was indication of a re-injury. Claimant refused to sign the releases, despite his attorney's January 7, 2014, email stating he would "be happy to provide them with the accompanying records from KY." Defendants followed up multiple times with Claimant's attorney about the medical release authorizations, to no avail. Instead, on March 14, 2014, Claimant filed a Motion to Compel (the surgery). Defendants filed their own Motion to Compel on March 25, 2014, seeking execution of the medical releases.

A hearing was set on the Motions on April 24, 2014, before Commissioner Wilkerson. Unfortunately, Claimant died on April 14, 2014; the Death Certificate lists "Acute Respiratory Failure" and "Septic Shock" as the causes of death. Due to Claimant's death, the Motion Hearing was cancelled.

Claimant's attorney filed a Form 50 on November 18, 2014, on behalf of Claimant's widow (Debra Provins). **Notably, there was no allegation of a compensable death claim.** The parties were scheduled for a hearing before Commissioner Susan Barden on January 22, 2015. The issue raised at hearing was whether Claimant had reached maximum medical improvement, and whether Mrs. Provins was entitled to benefits pursuant to § 42-9-280. A review of claimant's Form 58 and APA submissions show that no death allegation was made at that hearing. In fact, an IME from Dr. Jacobus was submitted by Claimant, for the purposes of justifying a rating to the shoulder. **Nothing Dr. Jacobus opined purported to advance a death claim.** After a pre-hearing conference, focusing solely on § 42-9-280, Claimant withdrew the Form 50.

Claimant re-filed the Form 50 on March 18, 2015; again, no death claim was made. The SCWCC told the parties the case was subject to mandatory mediation because the claimant pled "Total" disability in number 8. Defendants assumed this was a clerical error, since permanent and total disability had never been raised. **In response to an email from defense counsel on April 6, following upon the apparent erroneous pleading, claimant's counsel responded "Thank you for reminding me. I will amend the pleading and get it out in the next day or so."** (See Def. Exh. B). However, Claimant's Amended Form 50 on April 13, 2015 not only included the P&T claim, but also for the first time alleged that the injury "ultimately caused his death." Claimant then filed a Form 52 death claim on April 15, 2015. Defendants denied same in the Form 53. Notably, neither Dr. Bonnarens, nor the medical examiner, nor the hospital where claimant died, produced any records in support of claimant's death claim.

Defendants counsel asked Claimant's counsel to provide any evidence that Claimant's death was related to the work injury. (Email of June 1, 2015) The response was "I'll have the necessary evidence to meet my burden." (See Def. Exh. C). Nothing was ever provided to Defendants in support of a death claim, until Defendants received Claimant's pre-hearing brief, which contained a report from David Price, Ph.D., dated July 13, 2015, to support the death theory.

A hearing was scheduled before Commissioner T. Scott Beck on October 21, 2015. Defendants asserted that the death allegation, which was not pled in the original pleadings (*or even argued at the hearing before Commissioner Barden in January 2015*) was/is made in bad faith and is frivilous. Claimant withdrew the Form 52, after a pre-trial conference.

Subsequently, a new Form 52 was served on or about January 25, 2016. No new evidence arose *prior* to the re-filing of the Form 52 to support a death claim. Defendants asked Claimant's counsel numerous time during the case to provide the evidence upon which the Form 52 death claim was based. (See Def. Exhibits A, B, C, E, F, G). Ultimately, Claimant's counsel produced an "affidavit" from Dr. Thomas Martin supporting his theory. This affidavit was sworn out on June 16, 2016, over two years after Mr. Provins' death. Again, notably, none of the doctors who treated Mr. Provins either before or after his injury gave any medical opinion in support of Claimant's position. There has been no opinion offered from the doctors treating him at the hospital at the time of his death.

Defendants had Dr. James Ballenger, M.D., an internationally known expert in alcohol abuse issues, review Mr. Provins' pre and post-injury records, along with case file materials. His opinion, as set forth in APA # 20, is that claimant's history of alcholism is a primary contributing factor in his death. Essentailly, his is the classic case of an alcoholic killing himself by a lifetime of abuse. While unfortunate, there is no nexus to the work injury. To attribute the willful behavior/activity of a Claimant in abusing alcohol or drugs to a work injury requires speculation/conjecture in this case, and further would lead to absurd conclusions as a matter of policy. Our statute further prohibits compensability of injury or death if caused by intoxication or willful intent on behalf of the Claimant. (§ 42-9-60)

A hearing was scheduled before Commissioner Melody James on July 26, 2016. During a pre-trial conference, she ordered the parties to mediate the case. Mediation was held on September 29; the parties did not reach a settlement.

Grounds for Costs & Fees

Defendants assert that this death claim is brought in bad faith, and pursued "without reasonable grounds" pursuant to § 42-17-80 and Reg. 67-614. This case was initially a shoulder injury, and after Claimant's death, the case was filed to seek PPD benefits to the shoulder to his beneficiaries. At the initial hearing before Commissioner Barden, the issues were only on the Form 50 for such PPD benefits. After that Form 50 was withdrawn, another was filed in March 2015. It was not until after the SCWCC contacted the parties about mediation that a Form 52 death claim was pled on April 15, 2015 (along with another Form 50, incidentally). No new facts had arisen, and no medical records/opinions supported a death claim. Rather, only after the death claim was filed did Claimant's counsel begin obtaining opinions to support that position. **Defendants respectfully move for costs and attorney's fees for defense of this matter, pursuant to § 42-17-80 and Reg. 67-614.**

South Carolina Workers' Compensation Commission
P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

SUPPLEMENTAL

WCC File # 1200349
Carrier File # 003186-000589-wc-01
Carrier Code #
Employer FEIN

James Provins
Claimant's Name
SSN
Address City State Zip
Home Phone Work Phone

Spirit Construction Services, Inc.
Employer's Name
118 Coleman Boulevard, Savannah, GA 31408
Address City State Zip
Insurance Company of the State of PA
Insurance Carrier

J. South Lewis, II — Preparer's Name
872 S. Pleasantburg Drive, Greenville, SC 29607 — Address
(864) 527-3284 — Phone #

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
DONALD L. SMITH, ESQUIRE, ATTORNEY FOR CLAIMANT

YOU ARE HEREBY NOTIFIED THAT DEFENDANTS, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the defendants, to wit:

NAME OF PHYSICIAN/OTHER	DATE OF REPORT	PAGE
10. Amin's Family Practice Associates, P.S.C.	07/30/01 – 09/25/01	113 – 114
11. University of Louisville Hospital	07/07/09	115 - 153
12. Orthopaedic Associates of Kentuckiana	04/15/13 – 10/07/13	154 – 174
13. Integrated Case Management	04/30/13	175 – 177
14. Advanced ENT & Allergy	04/24/13	178 – 182
15. Baptist Health Louisville	05/15/13	182 - 184
16. Baptistworx Physical Therapy	06/02/13 – 12/30/13	185 – 209
17. Jewish Medical Center Southwest	04/10/14	210 – 218
18. St's. Mary & Elizabeth's Hospital	04/10/14 – 04/14/14	219 – 415
19. James C. Ballenger, M.D.	07/15/16	416 – 429
20. Curriculum Vitae – James C. Ballenger, M.D.	N/A	430 – 521
Exhibits		
A. Emails between J. South Lewis, II & Donald L. Smith	01/07/14 - 03/02/14	522 – 525
B. Emails between J. South Lewis, II & Donald L. Smith	03/31/15 – 04/06/15	526 – 528
C. Emails between J. South Lewis, II & Donald L. Smith	06/01/15	529 – 530
D. Correspondence from Donald L. Smith to Dr. David Price, PhD.	05/19/15 – 05/26/15	531 – 532
E. Emails between J. South Lewis, II & Donald L. Smith	02/17/16 – 06/08/16	533 – 535
F. Emails between J. South Lewis, II & Donald L. Smith	02/17/16 – 05/12/16	536 - 538
G. Emails between J. South Lewis, II & Donald L. Smith	02/17/16	539 – 540
H. Dr. Thomas Martin file materials subpoenaed		541 – 547

YOU ARE FURTHER HEREBY NOTIFIED that you have the right to cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the depositions of any of the physicians, whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred to herein, or photocopies received from said physicians/others, are being herewith forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into the evidence on behalf of the employer-defendant.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the defendants: See Pre-Hearing Brief.

J. South Lewis, II
Willson Jones Carter & Baxley, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607

December 2, 2016

December 5, 2016
(hearing date)

MEMORANDUM OF EMPLOYEE/ APPELLANT'S INITIAL BRIEF JULY 24, 2017

BEFORE THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

SCWCC FILE NO.: 1200349

James Provins
Employee, Claimant,

Appellant,

versus

Spirit Construction Services, Inc.,
Employer, and Insurance Company
of the State of Pennsylvania, Carrier,

Respondents.

MEMORANDUM OF EMPLOYEE/APPELLANT

Donald L. Smith
Attorney for the Appellant
122 N. Main St.
Anderson SC 29621
Telephone: (864) 642-9284
Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com

ISSUES PRESENTED

I. Whether the Single Commissioner erred as a matter of fact and law in finding that Claimant had not died, in part, because of the Employer's bad faith refusal to abide by the Act and provide treatment for Claimant.

II. Whether the Single Commissioner erred as a matter of fact and law in finding that Claimant had not suffered permanent impairment to his right upper extremity prior to his untimely death.

III. Whether the Single Commissioner erred as a matter of fact and law in finding that Claimant's issues with alcohol had returned prior to the on-the-job accident, despite no evidence to substantiate the claim other than employees who maintained their job despite mass layoffs.

IV. Whether the Single Commissioner erred in finding that Defendants' allegation that Claimant prevented their investigation of causation by failing to sign a HIPAA form, when the treating physician had related the second tear of the shoulder to the first tear.

V. Whether the Single Commissioner erred as a matter of fact and law in finding that Claimant's inability to "wipe his ass", maintain his career, earn a living to support his disabled wife and two daughters, necessity of borrowing from everyone to subsist, did not cause the iron worker depression.

VI. Whether the Single Commissioner erred as a matter of fact and law in finding that Dr. Ballenger was credible, despite the fact that he misrepresented his payment for his testimony, the fact that he relied on testimony company employees from the initial hearing which were summarily dismissed by the sitting Commissioner, instructed the undersigned that he was the

expert and knew that clear meaning of Claimant's expert's words were not what he meant with their use, etc.

VII. Whether the Single Commissioner erred as a matter of fact and law in ignoring the findings of Claimant's IME performed by Dr. Dwight Jacobus, M.D.

VIII. Whether the Single Commissioner erred as a matter of fact and law by disregarding public policy, and finding on behalf of the defense who denied, denied, denied, until the Claimant died.

STATEMENT OF CASE

This case is on appeal with the South Carolina Workers' Compensation by the employee, James Provins (deceased), by and through his personal representative, Debra Provins, from an order issued by Commissioner R. Michael Campbell, III, on March 6, 2017. Commissioner Campbell found, based upon all of the evidence presented at the hearing on December 5, 2016, that the employee's death was not causally related to the injury to his right shoulder that was sustained on January 24, 2012. Specifically, the Commissioner found that the claimant's widow did not prove that he died as a result of his employment by a preponderance of the evidence.

HISTORICAL BACKGROUND

At the hearing, Respondent's defense of the case did not include anything that questioned the actual injury. They simply attempted to assassinate his character. Respondents' provided three witnesses. They included the safety manager, the gentlemen who was helping Claimant to carry a piece of deck, when he was injured, and Claimant's former roommate.

It is Respondents' belief that Claimant died of things unrelated to the on-the-job injury of January 24, 2012. Specifically, they focused on alcohol consumption. They did not have any witness testify to anything related to the day of the accident. They did, however, have his roommate testify to times other than the day in question. When questioned about alcohol consumption on that day, James offered the following:

Q. On the day in question were you intoxicated?
A. No.
Q. Under the influence?
A. No.
Q. Did you take a drug test when you went to the doctor?
A. Yes.
Q. Did you pass that test?

A. Yes.

(James Provins, Hrg. Transcript 09/14/2012: 36, 20.25; 37, 1.3).

Earnest McDonald had been with Spirit for eighteen (18) years, nine (9) years of which had been devoted to safety. He had assumed the head safety position with Spirit fourteen (14) months prior. He was responsible for taking James Provins to the company doctor on January 24, 2012. He spoke of how he was James was shaking from the pain in his right shoulder. He testified that he had to sign his name for him. He did not testify to anything related to alcohol, even though he was in his presence for a couple of hours. However, he did offer the following:

Q. Did he have an MRI?
A. Not as I'm aware of, no.
Q. And the story that Mr. Provins gave today is the same one he gave to you and the same one that he gave to the doctor; am I right?
A. Yes.
Q. So that's never changed?
A. No.
Q. In regard to Mr. Provins' work, the quality of his work was okay, wasn't it?
A. Yes, it was.
Q. His attendance was solid?
A. Uh-huh.
Q. He was timely?
A. Yes. Uh-huh.
Q. Mr. Provins is right-handed; is that right?
A. I believe so, yes.
Q. And you signed in for him?
A. Yes.
Q. And since you were safety man, did you have them do a drug test?
A. Yes.
Q. And how did that go?
A. It was good.

(McDonald, Hrg. Transcript, 49, 10.25; 50, 1.8).

Mr. McDonald had absolutely nothing negative to say about Mr. Provins. He did not

offer an iota of negative testimony regarding James Provins. Alcohol was not a term uttered by Mr. McDonald, even on the day of the injury when he spent the afternoon with him at the doctor's office, pharmacy and taking him home.

The second witness for the Respondents was Luis Carrion. Luis was also an iron worker who struggled mightily with the English language. The Commissioner had to go out of his way to ensure that he was capable of testifying. When he actually did testify, it was apparent that had been coached in preparation for his testimony.

Q. Where does he live?
A. I don't know.
Q. What did you talk about on the job?
A. Nothing. We working together. We didn't talk nothing.
Q. Did he work hard?
A. Huh?
Q. Did he work hard?
A. Oh, yeah. When -- when we pick up the first piece, he told me he --
MR. SMITH: Objection. I ask that he answer the question.
THE COURT: He needs to answer the question he was asked.

(Carrion Hrg. Transcript, 09/14/2012: 56, 20.25; 57, 1.8).

Mr. Carron was not on the same crew as Mr. Provins. However, on January 24th, they were teammates as they attempted to move decking. During the course of the morning, Mr. Carrion did not make any observations of Mr. Provins regarding alcohol. In fact, he did not mention anything that could be considered negative with regard to the employment of Mr. Provins.

The third witness that the Respondents offered was Anthony A. Azusenus, Jr. He had been the roommate of Mr. Provins for roughly three months. Mr. Provins had been in a motel when Mr. Azusenis needed to get another tenant for the $1500.00 per month apartment that he

had leased.

Mr. Azusenis did not work on the same crew as Mr. Provins. Mr. Azusenis was not a witness to the accident. Mr. Azusenis made claims about the significant consumption of alcohol by Mr. Provins (after the accident). Mr. Azusenis offered statements regarding the difficulties faced by Mr. Provins regarding his mortgage. Of course, Mr. Provins was a maximum compensation case, so it was likely that he was not getting 2/3 of his wage. It wouldn't have made sense for him to seek out workers' compensation benefits, over his weekly wage. His testimony can best be summarized in the following dialogue:

Q. Spirit had you signed a confidentiality agreement regarding Mr. Provins' injury, didn't they?
A. No.
Q. So if Mr. Provins said that, that would be incorrect?
A. That is incorrect.
Q. You called Mr. Provins in March and told him you were fired, didn't you?
A. I was told by my boss to go home and tell James that he was relieved of his duty due to a reduction of workforce.
Q. Okay. Now, if you could answer my question. With regard to you making a phone call to Mr. Provins in March and telling him that you were fired and that you needed work, do you recall that?
A. No.
Q. What -- what record do you have? Your criminal record, could you share that with us?
A. I have no criminal record.
Q. Never been in trouble?
A. I've had a few DUIs in the past.
Q. So you know all about drinking?
A. Yes, I do.

(Azusenis, Jr, Hrg. Transcript, 09/14/2012: 68, 18.25; 69, 1.15).

When Mr. Azusenis was questioned about the effort that James Provins put forth on

behalf of Spirit. He went further than Mr. McDonald.

Q. What was Mr. Provins' work ethic like?
A. To be honest with you, it was exceptional. He showed up every day, he was on time, and the man would do anything you asked him to do.
Q. Did he work hard?
A. Yeah, he was a hard worker. He wasn't slack by any means.

(Azusenis, Jr, Hrg. Transcript, 09/14/2012: 71, 12.18).

Q. But his work ethic, he was an exceptional worker?
A. Yes. I cannot take that away from him.
Q. With regard to his alcohol consumption, he didn't drink any that day, did he?
A. I cannot answer that.

(Azusenis, Jr, Hrg. Transcript, 09/14/2012: 73, 13.18).

Mr. Azunesis had stated that Mr. Provins put alcohol in jug to take to work. He said that he drank in the morning before work. However, there were no statements offered by Spirit regarding alcohol use at work. There were no infractions for tardiness. There was nothing that substantiated the claims of Mr. Azusenis. It should also be noted that he testified that he knew of no other uses by Mr. Provins of his right upper extremity, outside of the work forum.

Mr. Provins had the opportunity to see Dr. Linder on two separate occasions. He presented to Dr. Linder on the date of injury, January 24, 2012. His appearance was "pleasant, alert, nontoxic, well hydrated, appears uncomfortable." There was no mention of the odor of alcohol, or appearance of alcohol use. His skin was normally colored and was warm to the touch. He weighed 192.5 lbs.

He returned for his follow-up appointment on January 30, 2012. His general appearance was once again "pleasant, alert, nontoxic, well hydrated, appears uncomfortable." His physical

exam offered the same as the previous week.

> Signs and symptoms suspicious for rotator cuff injury. Will have patient scheduled for MRI of shoulder pending WC approval. Patient advsied to stop Voltaren and to start Mobic for inflammation and pain. Can use Robaxin as needed for muscle spasm. Moist heat or ice okay. Continue light duty at work. See scanned form. FU pendin g WC approval of MRI or as needed. Side effects of medications were explained to patient.

On February 18, 2012, Mr. Provins managed to get the MRI that had been requested of the Respondents by Dr. Linder. The MRI was confirmation of Dr. Linder's fears, given the symptomology presented by Mr. Provins. "There is a tear of the supraspinatus tendon and likely involving a portion of the infraspinatus tendon. This tear measures approximately 2.8 cm in anterior posterior dimension. This tear extends over the distal 2 to 2.5 cm of the rotator cuff. Provins had to wait unnecessarily for the treatment that would enable him to return to work. Defendants ignored the fact that their doctor's belief was confirmed when an MRI illustrated a torn rotator cuff. Respondents forced Appellant to try the case.

Upon successful completion of the single commissioner level, Respondent's appealed the sitting commissioner despite the fact that he made a specific finding that Appellant was credible and the only other witness to the accident (Mr. Carrion), was not. The Full Commission unanimously ratified the decision of the sitting commissioner. Respondents waited the full thirty (30) days prior to issuing his TTD check consisting of over thirteen (13) months of back-pay. More importantly, the treatment that he should have gotten a year earlier was ordered.

On May 15, 2013, James Provins "was seen to have a massive tear of the rotator cuff...it looked like the supraspinatus, infraspinatus, and the rotator interval were all involved in the rotator cuff tear. (APAs, p. 16). The injury that had occurred over fifteen (15) month prior, had become more severe based on further tearing and the atrophying of the muscles around it. When

he was seen for the first time following the surgery, it was noted that his pain level was worse since the surgery. (APAs, p. 48). Mr. Provins would ***never*** have an interaction with a care giver again where he was pain-free.

Mr. Provins maintained at every visit to physical therapy, which amounted to thirty (30) visits, that he was hurting and in pain. He religiously attended the sessions. His complaints remained the same. His limitations remained the same. On October 2, 2013, an MRI indicated that he had a large recurrent full thickness tear of the supranatus tendon retracted approximately 25mm. There was mild muscle atrophy associated with this tear. There was also a full-thickness tear of the subscapularis tendon, with the tendon likely scarred in to the rotator intervalus. It involved moderate muscle atrophy. (APAs, p. 100).

Based on the fact that twenty (20) months had passed since James Provins had been injured, and he still could not "wipe his ass", he was crushed. He was worse off at that point than he had been when he originally had gotten hurt. Based on the absolute failure to progress following surgery, it is likely that the surgery did not take. Thus, he went through the physical therapy visits causing further injury to himself.

Despite learning of the re-injury of the rotator cuff on October 2nd, the Respondents continued to delay treatment. A teleconference was had on December 30, 2013, so that the Respondents could explore alternative causation. Dr. Bonnarens stated that the tear was related to the accident injury; and that, re-tears happen often with these types of surgeries.

Once again, the Respondents refused to adhere to the Act and delayed treatment. They used two excuses. First, they said that they were not provided with a release to acquire records and ensure that there had been no intervening cause. Second, they said that claimant was concerned about who would pay. Their phone conference had elicited that the re-tear was

directly related to the initial tear; and, Claimant was told immediately that it would not be his responsibility to pay for the next surgery. Spirit continued to ignore the spirit of the Act.

The undersigned filed a Motion to Compel treatment on April 11, 2014. Mr. Provins died on April 14, 2014. It is his widow's contention that if Respondents had complied with the Act, and provided treatment would have tended to lessen her husband's degree of disability, he would still be here. The fifty-year-old man did not have the elasticity of his younger counterparts. His ability to recover from such a serious injury was directly related to the swiftness in which it was addressed.

The continuous delays were not legitimate. Doctors told them what was necessary as a result of the causation that they deduced. They refused to honor the findings of the treating physicians whom they chose. James Provins died in misery following this clear example of bad faith.

Debra Provins was married to James Provins for over twenty-eight (28) years, but she did not know the date. She is disabled and had not worked since prior to the birth of their children. They had one significant disruption to their marriage at which time she threw Mr. Provins out of the home because she suspected he was having an affair. That circumstance, plus the untimely death of his father, had him on the brink of suicide. Thankfully, he began going to church and toned down the drinking that had been prevalent during this most depressing time period.

Ms. Provins spent greater than half her life with Mr. Provins. They raised two children together. He was a hard worker who was responsible for the financial soundness of his family. As an iron worker, he traveled to the work. She was well aware that he drank on a daily basis.

However, it was not an issue because no issues arose other than the aforementioned crisis in 2009.

She knew her husband as a happy go lucky individual, who was the life of the party. He was happiest when he was helping someone or sitting around having a beer. She saw the decline in his physical health, and the subsequent deterioration in his mental health, following the accident. They lived paycheck to paycheck, which meant greater than $1100.00 per week. When Respondents denied the treatment and TTD checks related to the torn rotator cuff, it was the beginning of the end.

She discussed his depression resulting from the torn rotator cuff that he suffered from in his dominant right upper extremity from the date of the accident until his death, over two years later.

A Yeah, he was right handed. He -- he couldn't even wipe his butt. He couldn't help do anything around the house. He just -- he felt totally useless.
Q What kind of income did you guys have coming in at that time?
A Nothing.
Q Well, how did you --
A No income -- we borrowed, bummed off people, borrowed as much as we could. We were going into foreclosure. We were losing -- we was going in all kinds of trouble trying to stay afloat.

(Debra Provins, Hrg. Transcript, 12/05/2016: 13, 2.13).

She described his demeanor prior to the accident.

Q Can you tell us what James Provins' -- what his demeanor was prior to the accident? What kind of person was he?
A Oh, before the accident? Oh, he was happy, jokes around a lot. He used to -- outgoing, willing to help anybody whenever they needed him.
Q How did that change after he got hurt?

A He didn't talk to hardly anybody, stayed at home, never came out of the room, never joked around, real quiet and that's odd for him because he was -- he was normally a real talkative person.

(Debra Provins, Hrg. Transcript, 12/05/2016: 19, 9.19).

Alice Zimmerman was Jamie's older sister (by 10 months). They lived relatively close to each other and had a strong sibling relationship. She was a factory worker in Louisville until becoming an R.N. in 2008.

Q Since you became a nurse where have you worked?
A I worked at -- as a registered nurse in the neonatal ICU at Kosair Children's Hospital in Louisville, Kentucky and I now work at Community Health and Rehab which is a nursing home/rehab facility in Panama City, Florida.
Q What are your responsibilities?
A I am the nursing supervisor.

(Alice Zimmerman, Hrg. Transcript, 12/05/2016: 43, 13.25).

Her life experience, education and occupation, allowed her to offer some information regarding the syncope that her brother had. Syncope is a neurological condition, which is similar to epilepsy. It is something that may have been congenital.

Q Do you know what syncope is?
A Yes I do.
Q What is it?
A It's when you have fainting spells or you black out shortly when you go backwards and you fainted. I suffer them myself.
Q How long have you suffered them?
A During times of stress since I was approximately 15 years old.
Q Did Jamie suffer from them, do you know; or did you see it?
A Yes. Yes he did.
Q Did you ever have occasion to see it happen?
A Yes.

17 Q Was it -- was he drinking a great deal and
18 that was the cause of it?
19 A No, sir.

(Alice Zimmerman, Hrg. Transcript, 12/05/2016: 44, 3.19).

It is important to note that her father also had neurological irregularities.

2 My father suffered seizures
3 which led to strokes.

(Alice Zimmerman, Hrg. Transcript, 12/05/2016: 46, 2.3).

Debra also witnesses Jamie's syncope episodes.

16 A Yes, he's been known to -- he's been known
17 to have little — little episodes where he -- he kind
18 of -- when he gets excited or gets upset kind of eyes
19 roll back in his head and he'll pass out for a minute,
20 but that's — but I've seen that episode when he
21 wasn't when he was drinking or anything.

(Debra Provins, Hrg. Transcript, 12/05/2016: 26, 16.21).

Claimant's family doctor, Dr. Amin, provided discussed the issue of syncope. His notes say

that Mr. Provins told him of five syncope episodes and that he had not been drinking heavily. He noted the family history of diabetes, which is a leading cause of syncope. The explanation of the episodes to him were centered around coughing. The excessive coughing caused an elevation of blood pressure resulting in situational syncope. Of course, the fact that his father was epileptic and his sister suffered from syncope as well, underscore the congenital nature of his syncope.

ARGUMENT

I. The Single Commissioner erred as a matter of fact and law in finding that Claimant had not died, in part, because of the Employer's bad faith refusal to abide by the Act and provide treatment for Claimant.

In a Worker's Compensation matter, for an injury to be compensable, it must arise out of

and in the course of employment. S.C. Code Ann. § 42-1-160 (1985). "Arising out of" refers to the origin of the cause of the injury. *Rodney v. Michelin Tire Corp.*, 320 S.C. 515, 466 S.E.2d 357 (1996). "An injury arises out of employment when there is apparent to the rational mind, upon consideration of all the circumstances, a causal relationship between the conditions under which the work is to be performed and the resulting injury." Id. at 518, 466 S.E.2d at 358. The claimant has the burden of proving facts that will bring the injury within the workers' compensation law, and such award must not be based on surmise, conjecture or speculation. *Sola v. Sunny Slope Farms*, 244 S.C. 6, 135 S.E.2d 321 (1964).

> A symptom which is present and causally connected, but found not to impact upon the claimant's condition at the time of the original award, may later manifest itself in full bloom and thereby worsen his or her condition.

Estridge v. Joslyn Clark Controls, Inc., 325 S.C. 532 (1997) 482 S.E.2d 577.

Here, Claimant/Appellant met this burden when he proved that the Respondents did not provide for the medical help necessary to tend to lessen his period of disability when there was no alternative to the causation explained by him.

> **SECTION 42-15-60. (A) The employer *shall* provide medical, surgical, hospital, and other treatment, including medical and surgical supplies as reasonably may be required will tend to lessen the period of disability as evidenced by expert medical evidence stated to a reasonable degree of medical certainty.** *(emphasis added).*

Original company doctor diagnosed a potential rotator cuff tear when a piece of decking was mishandled. She ordered an MRI based on the explanation of the accident and the accompanying symptomology. Defendants refused to authorize MRI. Claimant was forced to litigate.

As a result of the baseless litigation, and the continued bad faith denial of the no-fault medical coverage provided by the Act, Appellant suffered irreparable damage to his right upper

extremity. He became depressed and the depression caused him to withdraw from his family and go into a black hole from which he never recovered.

If that wasn't enough, Respondents learned of the re-tear of the rotator cuff on October 2, 2013, yet had not provided the authorization to fix it at the time of his death on April 14, 2014. The ok for the surgery had not come despite their own surgeon admitting that the tear was related to the original injury and that he knew of no intervening cause. This was undue delay and the Commissioner erred by not finding that said delay eliminated the possibility of claimant's prospective recovery, and eventually killed him.

The Respondents also played with the payment schedule of the Appellant. The Appellant was forced to contact counsel on several occasions due to missing checks. He went to his grave knowing that they had shorted him. At the very least, they changed the check date on a couple of occasions, causing great strife in his life due to his reduced income via workers' compensation.

> **SECTION 42 9 220. Manner in which compensation paid. Compensation under this title shall be paid periodically, promptly and directly to the person entitled thereto, unless otherwise specifically provided.**
>
> **SECTION 42 9 230. Date on which compensation payable under agreement becomes due. Installments paid weekly must be paid on the same day of the week, installments paid monthly must be paid on the same day of the month, and installments paid on some period other than weekly or monthly must be paid on the same day of each period.**

The violations of these statutes went a long way into driving claimant further and further into despair.

II. The Single Commissioner erred as a matter of fact and law in finding that Claimant had not suffered permanent impairment to his right upper extremity prior to his untimely death.

The Single Commissioner erred in not accepting the findings of Dr. Dwight Jacobus, M.D. who found that Mr. Provins would have a permanent disability regardless of whether he had a second surgery because of the overwhelming damage done due to the delay in proving treatment.

> This is to confirm my opinion that the above-captioned patient, who is now deceased, would have .a 10% to 13% disability rating utilizing the shoulder regional grid border of the upper extremity on Table 15-5, page 403, of The Guides and Evaluation of Permanent Impairment. Sixth Edition. It should be noted that it is also my opinion that whether the patient was not deceased and was able to have a second surgery, he would still have a disability percentage of at least 10% to 13% in regard to the findings of pre-operatively, surgically, and post-operatively. It is my opinion that a second surgery would not relate to a diminished percentage of disability because of the pathology that was present at the time the first surgery was completed.

(APAs, p. 104).

This statement does not even take into account the medicinal therapy that he would have engage so as to reduce the pain related from his injury. It is however, the substantial evidence necessary for the Commission to find that the damage had already been done to James Provins. Essentially, Dr. Jacobus said that any future treatment would do no more that provide for pain relief. He would not lessen his degree of permanent disability.

In *Scruggs v. Tuscarora Yarns, Inc.*, the Claimant was awarded permanent disability when she had not been released by the treating physician. She was still receiving physical therapy. While the claimant believed that her physical therapy would help her get better, her physician did not. Defendants argued that since she was still receiving treatment and, therefore, she was not at MMI, The Court found that, "She may receive physical therapy for the rest of her life, but may never attain a greater medical improvement.". Scruggs v. Tuscarora Yarns, Inc., 294 S.C. 473, 62 S.E.2d 319 (1987). The damage done to the shoulder of Mr. Provins was

substantial. The atrophy in his shoulder would not allow the surgery that was done to be effective. He could only have hoped to maintain.

III. The Single Commissioner erred as a matter of fact and law in finding that Claimant's issues with alcohol had returned prior to the on-the-job accident based on res judicata.

The Commissioner made the following finding of fact regarding allegations of a drinking problem at the initial hearing, which was ratified by the Full Commission (and not appealed), and is the law of the case.

> While the Defendants sought to impugn the Claimant's character with assertions of a drinking problem, that characterization of the Claimant is more than rebutted by testimony from another defense witness, Tony Azusenis, who describes the Claimant's work ethic as exceptional. The Claimant has never filed a Worker's Compensation claim prior to the accident. Moreover, the Claimant testifies that there were no drugs or alcohol in his system on the day of the accident. This claim was not rebutted, and his post-accident drug test was negative on all accounts.

(Compensability Hrg. Finding of Fact 6).

At the time of the hearing, James Provins had been three years removed from his difficulty with alcohol. He was in a good place, personally. His work for the employer was exemplary by all those who spoke. The Commissioner found his very credible, in particular, about this topic. His drinking immediately prior to this accident was not an issue. Therefore, any references to it are barred by res judicata. The issue of alcohol being a factor at the time of the accident was rebutted. Furthermore, it was not appealed.

IV. The Single Commissioner erred in finding that Defendants' allegation that Claimant prevented their investigation of causation by failing to sign a HIPAA form, when the treating physician had related the second tear of the shoulder to the first tear.

Respondents complaint regarding the HIPAA form was disingenuous at best. They didn't authorize the MRI on January 30, 2012. They ignored the MRI which confirmed

Gabirelle Lander's findings, violating the statute which commands employers to provide treatment. They coached an employee who barely knew English to testify at the compensability hearing. They appealed despite not having an issue with which to appeal.

Claimant hurt from the day of the surgery until his death. He made absolutely no progress with regard to this recovery. When Respondents finally allowed him to get an MRI, his injuries were more significant than they had been prior to the surgery. The MRI was completed on October 2, 2013. Their treating surgeon stated on the December 30, 2013, that the injury related back to the accident; and, he had no knowledge of an intervening cause. Respondents wanted to go on a wild goose chase to find something that didn't exist, and delay following the Order of the Commissioner that much more.

V. The Single Commissioner erred as a matter of fact and law in finding that Claimant's inability to "wipe his ass", maintain his career, earn a living to support his disabled wife and two daughters, necessity of borrowing from everyone to subsist, did not cause the iron worker depression.

James Provins nearly succumbed to his depression in 2009. The death of his father and the subsequent separation from his wife, caused him to speak of suicide. That was the only time in his life in which he had suicidal ideations. There was no testimony that spoke of how jolly Mr. Provins was-prior to the accident. As his sister discussed, he appreciated his comparison to Curly of the Three Stooges and enjoyed his life as a jokester, who took care of his family.

The pain from the torn rotator cuff was something that he never escaped. The delays caused his shoulder to become spaghetti by the time that surgery was performed. The doctor didn't have a prayer to perform a successful surgery with a 50-year-man's shoulder, following fifteen months of atrophy. The fact that he couldn't "wipe his ass" was something that he offered to anyone that he came in contact.

The delays and outright disregard for the law as it related to the Respondents' handling of the case was extremely difficult for him. He gave everything that his antiquated body had to give, in a young man's game no less. In turn, they spit on him. As a result, he slipped away in the abyss.

He lost his ability to provide for his family. He lost his ability to be free from pain, He lost his ability to smile. He lost his ability to wipe his ass. He lost his life. This loss of life was a direct result of getting hurt on the job for the benefit of Spirit Construction.

VI. The Single Commissioner erred as a matter of fact and law in finding Dr. Ballenger was credible.

Dr. Ballenger has made a mint representing insurance companies. The breakdown of Defendants versus Plaintiffs that he has represented is 81% to 19%. Of course, he didn't quite remember it that way. He offered that he it was roughly 60/40. That wasn't his only misstep. When he was questioned about his pay for his testimony, he thought that only I had ponied up a retainer. A subpoena to defense counsel showed that in fact he had received $5000.00 from the defense. He performed like he received that money.

His bias was more than clear. It was repulsive. He found that Dr. Amin's finding that Mr. Provins syncope episodes could be related to epilepsy, or diabetes for that matter, were flawed. The Provins lineage included diabetes and neurological discord. Both of which could very easily cause syncope. Ballenger refused to believe anything other than what he was paid to opine. His failure to research the records that supported the findings of Dr. Amin made it impossible for him to make anything but a paid service announcement.

James Provins was not having issues with alcohol at the time of the compensability hearing. He hadn't had any since the 2009 meltdown. This was corroborated by anyone that knew him. There was nothing offered to discount that theory. In fact, the Commissioner made a

specific finding that he was not having any issues with alcohol at the time of the hearing.

Therefore, Ballenger's findings were based on his assumption that Mr. Provins had a drinking problem right up to the accident. This was a fact that had already been litigated. Therefore, he was barred from using this assumption as a basis for his opinions.

Testimony offered from Appellant's wife and sister were honest. They did not refrain from offering negative answers. On the same token, since they were around him, they were in a better position to speak on his life. They knew him as a beer drinker who was always ready to laugh. They knew that other than the brief time in 2009, he was not consumed by alcohol. The testimony for this case is consistent in that regard. His work ethic was exceptional. However, Ballenger was going to be a drunken picture regardless of this actual knowledge.

Ballenger refuted what Dr. Martin had opined. Dr. Martin had recognized the 2009 incident. He had essentially offered that Provins had gotten his act together in 2009; and, he had been free of trouble since that time. Ballenger said that Martin was actually saying that Provins had not been in trouble with alcohol because he had not been drinking. There is no evidence whatsoever that he stopped drinking, even from his loved ones. He simply got back on the right track with moderation. He ignored the plain meaning of the language used by a physician, and made the expert's statement his own.

Dr. Amin's statements about the syncope were challenged Ballenger. In fact, he said that the average, competent would find that blackouts were alcohol related. He refused to attempt to appear non-biased. It appears that he simply takes on case to get paid and conforms his beliefs to fit the facts. His opinions had dollar signs on them.

VII. The Single Commissioner erred as a matter of fact and law by disregarding public policy, and finding on behalf of the defense who denied, denied, denied, until the Claimant died.

The Workers' Compensation Act shifts from the employee to the employer the risk of work related injuries incident to modern industrial activity. In return, it requires the worker, as a condition for receiving the benefits of the Act, to surrender his right to sue at common law. Cook v. Mack's Transfer & Storage, 291 S.C. 84, 352 S.E.2d 296 (1986).

If the dispute concerns an alleged wrongful denial of statutory benefits, the Commission has exclusive jurisdiction to adjudicate the controversy. Whether the denial is willful, in bad faith, negligent, or the result of a good faith difference is immaterial to the question of the Commission's exclusive jurisdiction. Id.

The employees gave up their right to sue in Common Law in exchange for a no-fault based way of remuneration. This theory is based on the good faith participation of the employer. The current theme trumpeted by employers (by and through the insurance carriers) in workers' compensation is to litigate everything. Whereas twenty years ago, if someone was injured and they weren't drunk, or had failed the associated drug test, they would have an appointment to their company doctor. The employer/carrier would then honor the prescriptions or referrals of said physician.

The carriers have replaced the employer in the formula. The employee has no true avenue in which to address their perceived slights. Getting a hearing date is not that easy given the explosion of litigated cases. Suing at common law is starting to look a lot better. However, at the moment, workers' compensation is still the only means of recovery for the employee. The employee's only opportunity to get some semblance of equity is for the application of the Act in its purest form.

Workers' Compensation is for the worker. Therefore, every tie or close call should go to the worker. In the present case, the employer denied coverage at every turn. As a result, the employee was crushed by the inability to take any action to survive. By preventing Debra Provins from getting the death benefits related to her husband's avoidable death, the message would be clear. The message would be to continue to deny every case in hopes that the claimants would simply go away. The only way that the workers' comp ship gets righted, is if the Commission holds the carriers accountable for the ever-increasing denials which are done in bad faith. Debra Provins prays that the Respondents don't get away with the bad faith that cost her and her daughters, their husband and father.

CONCLUSION

The death was the direct result of the bad faith denial of the claim which prolonged treatment that needed to be given as soon as possible to keep further tearing and atrophy at bay. Instead, the refusal of the Respondents to provide the treatment that is the pillar of the Act, created damage that could not be corrected. The incessant pain, absence of hope and inability to wipe his ass, overwhelmed him like an avalanche. He had an MRI on October 2, 2013, which indicated that, in fact, he had the torn rotator cuff. He died in April. I filed a Motion to Compel treatment in April based on my understanding of what the treating surgeon had said. We believe that "but for" the injury; the subsequent bad faith denial of the claim; and, the failure to provide the necessary treatment in a reasonable time; caused his injury to be far more conclusive. It prevented having a single physical therapy visit that was absent a discussion relating to pain. It never -- never went away. He never got to a plateau and as a result it's — it's our contention that he died due to the on-the-job injury, not necessarily directly, but certainly he would not have met

his premature demise without it. The employees of South Carolina yearn for a ruling that keeps carriers in check. Please provide Debra Provins with the benefits related to the causally related death of her husband.

s/Donald L. Smith

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Anderson, South Carolina
Dated: July 24, 2017.

STATE OF SOUTH CAROLINA COUNTY OF ANDERSON	)	BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
James Provins, Claimant,	)	**CERTIFICATE OF SERVICE**
vs.	)	
Spirit Construction Services, Inc. Employer,	)	W.C.C. File No.: 1200349
and	)	
Insurance Company of the PA, Carrier, Defendants.	)	

THE UNDERSIGNED person deposes and says that he served an Initial Brief on Behalf of the Claimant, in this action by email placing copies thereof in envelopes addressed to the parties at the addresses shown below, which envelopes were sealed and postage thereon fully prepaid, and deposited in the United States Mail at Anderson, South Carolina, and that there is regular communication by the United States Mail between the place of mailing and the places addressed as follows:

Anderson, South Carolina
Dated: July 24, 2017.

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BRIEF OF DEFENDANTS/RESPONDENTS
AUGUST 11, 2017

BEFORE THE SOUTH CAROLINA

WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1200349

James Provins, Employee/Deceased Debra Provins, Alleged Dependent, Claimants, vs. Spirit Construction Services, Inc., Employer, and Insurance Company of the State of PA, Carrier, Defendants/Respondents.	BRIEF OF DEFENDANTS/RESPONDENTS

STATEMENT OF THE CASE

This matter has a fairly involved procedural history. The claim was initiated upon the filing of a Form 50 hearing request in which Employee/Deceased James Provins (hereinafter "Provins" or "Employee") alleged injury to the right shoulder on January 24, 2012. Defendants, via Form 51, denied compensability. Subsequently, after an evidentiary hearing before Commission Gene McCaskill (hereinafter "Compensability Hearing"), the claim was found compensable. Defendants timely appealed to the South Carolina Workers' Compensation Commission Appellate Panel, and after oral arguments, an affirmation was issued. Thereafter, Defendants began providing Employee medical treatment for the right shoulder, to include a shoulder surgery.

During the course of medical treatment, Employee filed a Motion to Compel (additional surgery). Defendants also filed their own Motion to Compel, seeking execution of medical releases to obtain out of state medical records. While a motion hearing was pending and scheduled, Employee

died on April 14, 2014. The Death Certificate lists "Acute respiratory failure and septic shock" as causes of death. (See Claimants' Exhibit "R")

Claimants, through Claimant/Alleged Dependent Debra Provins (hereinafter "Claimant" or "Ms. Provins"), filed a Form 50 on November 18, 2014, seeking entitlement to benefits pursuant to 42-9-280. Prior to the scheduled hearing of January 22, 2015, with Commissioner Barden, and after a pre-hearing conference, the Form 50 was withdrawn. Claimants refiled the Form 50 on March 18, 2015, this time seeking permanent and total disability, as well. Subsequently, Claimants filed an Amended Form 50 on April 13, 2015, and additionally filed a Form 52 Death Claim on April 15, 2015. Defendants responded with a Form 53, denying that Employee had sustained a compensable death. A hearing was scheduled before Commissioner T. Scott Beck on October 21, 2015; after a pre-trial conference, Claimants withdrew the Forms 50 and 52.

Claimants refiled only the Form 52 on January 25, 2016. A hearing was scheduled before Commissioner Melody James on July 26, 2016. During the pre-trial conference, Commissioner James ordered the case for mediation. Mediation was held on September 29, at which time the parties did not reach a settlement. This hearing ensued.

At the hearing of December 5, 2016, Ms. Provins asserted that Employee's death resulted from "the bad faith denial of the claim which prolonged his treatment..." Specifically, Claimants' position is that in order to deal with his pain, Employee became dependent on alcohol, which eventually lead to his death.

Defendants denied that there was any "bad faith" denial of the claim. After treatment ensued, to include a surgery, Defendants submitted medical releases to Employee to further investigate causation of a subsequent/new/recurrent rotator cuff tear; however, those releases had not been executed as of the time of his death. As to the death itself, Defendants asserted that the cause of death

was multifactorial, as evidenced by the Death Certificate, with alcohol being a significant contributing factor. However, abuse of alcohol—even if legitimately related to pain—would not justify a compensable death claim. Specifically, Employee/Provins had a significant pre-existing alcohol issue and was an alcoholic prior to the work injury. Defendants relied on the expert testimony of Dr. Ballenger, in support of its position that the work injury did not result in his death.

Furthermore, Defendants raised a Capers[1] defense, based on the documented history that Provins had gone to the hospital even before his work injury, reporting that he was drinking himself to death; as such, Defendants contended that death due to alcohol abuse was not an unexpected or unforeseen event, and, thus, would not meet the standard of "accidental." Finally, Defendants asserted a public policy defense.

ARGUMENTS/DISCUSSION

I.

THE SINGLE COMMISSIONER DID NOT ERR BY FINDING THAT THE PROVINS HAD NOT SUFFERED PERMANENT IMPAIRMENT TO HIS RIGHT SHOULDER.

1. The Single Commissioner did not err in not awarding a permanent partial disability to the right shoulder.

Claimants did not plead a permanent partial disability to the shoulder. While initially asserting a § 42-9-280 claim, that Form 50 was withdrawn in order to pursue a Form 52 death claim. Therefore, the issue of permanent partial disability was not raised in the present pleadings. Further, by Claimants previously withdrawing the Form 50's and instead pursuing a Form 52, there was a clear intention to solely pursue the compensability of the death claim. Thus, the issue of a permanent partial disability to the right shoulder was not, and is not, properly before the court.

2. Claimants did not appeal the Hearing Commissioner's finding that Provins had not reached MMI.

[1] Capers v. Flautt, 407 S.E.2d 248 (1991)

Claimants did not assert that Employee/Provins was at MMI at the time of death on the Form 30. An appellant is required to specifically assert (in the Form 30) each point it thinks was in error. (*See*, S.C. Code Ann. Regs. 67-701 (A)(3)(a): "each question presented must be concise and concern one finding of fact, conclusion of law, or other proposition the appellant believes is in err"). Claimants did not appeal the finding that Employee was not at MMI at the time of his death. Given that Employee had not reached MMI with an impairment rating from Dr. Bonnarens, it would be inappropriate for a permanent partial disability determination. Nonetheless, Claimants attempt to argue otherwise in the Memorandum/Brief in support of the Form 30. Claimants argue that "Single Commissioner erred as a matter of fact and law in finding that Claimant had not suffered permanent impairment to his right upper extremity prior to his untimely death." (See Form 30). In Claimants' brief, it is argued argues the Single Commissioner erred in not accepting the findings of Dr. Dwight Jacobus. (Cl's Brief, p.17). Dr. Jacobus was not the treating doctor. He is a doctor in South Carolina who merely prepared a report – after Provin's death – opining of a 10%-13% impairment rating. Id. However, Dr. Bonnarens, as the authorized treating physician, had not placed Employee at MMI and Commissioner Campbell also specifically found that he had not reached MMI. To reiterate, the MMI finding was not appealed. As such, Claimants are precluded from making such assertion now. Hendricks v. Pickens County, 335 S.C. 405, 517 S.E.2d 698, 703 (Ct. App. 1999); Clark v. Aiken County Government, 366 S.C. 102, 620 S.E.2d 99 (Ct. App. 2005).

Claimants cite Scruggs v Tuscarora Yarns, Inc. to facilitate the argument that one may receive compensation based off an impairment rating before reaching MMI. However, Scruggs and the case at hand are vastly different. In Scruggs, the authorized treating physician had assigned MMI, but Defendants argued that she was not yet at MMI because she was still undergoing and

improving with physical therapy. Scruggs v. Tuscarora Yarns, Inc., 294 S.C. 47, 50, 362 S.E.2d 319, 321 (Ct. App. 1987). The Court held that there was substantial evidence to find that Claimant was at MMI and that the doctor's opinion was consistent with the facts of the case. Id.

In the current case, as noted, Employee was never released from his doctor, and never found to be at MMI. There was no doctor to testify he was at MMI at a deposition, or anywhere for that matter. Therefore, Claimants clearly misconstrued the applicability of Scruggs because the justification for compensation was that Ms. Scruggs was, in fact, already placed at MMI. In our case, Claimants' own arguments indicate that Employee/Provins he was not at MMI (i.e. argues that Provins needed another causally-related surgery). Thus, there is no entitlement to permanent partial disability to the shoulder based on two grounds – Provins had not reached MMI and the finding regarding MMI was unappealed.

II.

THERE WAS NO BAD FAITH DENIAL OF TREATMENT BY THE DEFENDANTS.

Claimants' assertion that there was a "bad faith" denial in providing treatment is simply unfounded. The evidence, including emails among counsel included in Defendants' exhibits, indicate that another surgery had been recommended by Dr. Bonnarens (for a recurrent rotator cuff tear). After that recommendation, Defendants requested medical releases be signed to further investigate causation of same. (Defendant's Exhibit A). Unfortunately, before these medical releases were signed, Employee passed away.

Claimants erroneously assert that Dr. Bonnarens related the recurrent rotator cuff tear to the work injury. However, there is no medical opinion in the record that relates the re-tear to the work injury. There was a phone conversation between Dr. Bonnarens and respective counsel; as a

result of the phone conversation, Defendants sought medical releases to further investigate the causation of this claim. As this court is well aware, obtaining medical records from an out-of-state provider requires execution of medical releases. Provins and his counsel pushed back on executing said releases—as evidenced by the correspondence submitted into the record. (See Defendants' Exhibit A, pp. 522-525).

What's more, in South Carolina, a "bad faith" claim is not recognized in the workers' compensation arena. Cook v. Mack's Transfer & Storage, 291 S.C. 84, 352 S.E.2d 296 (Ct.App.1986). In Cook, a claimant brought suit in civil court against his employer and the employer's workers' compensation carrier for bad faith refusal to pay benefits for his workers' compensation claim. The Court of Appeals held an action for bad faith cannot be brought under the South Carolina Workers' Compensation Act because the Act provides the exclusive remedy for settling claims coming within the terms of the Act. While Cook was a civil action, it supports the proposition that the South Carolina Workers' Compensation Act provides the remedies and reliefs for claimants/employers/carriers, and consequently, Claimants cannot simply made a broad assertion of "bad faith" in justifying their pursuit of this death allegation.

Therefore, because the evidence does not establish that Defendants engaged in "bad faith," coupled with the proposition that South Carolina does recognize a "bad faith" action related to workers' compensation claims, the Single Commissioner did not err in finding that there was no "bad faith" denial of treatment.

III.

THE SINGLE COMMISSIONER DID NOT ERR IN FINDING THAT EMPLOYEE HAD LONGSTANDING ALCOHOL ABUSE ISSUES AND WAS A CONTRIBUTING FACTOR TO HIS DEATH.

1. Claimants' argument that the evidence pertaining to an alcohol problem is barred by res judicata is unfounded.

The central issue before Commissioner Campbell was whether Provins' death was due to his shoulder injury. Notwithstanding, Claimants allege that a finding from the initial Compensability Hearing bars Defendants from asserting that Employee's *death* was caused, at least in part, to his life of alcohol abuse. The specific finding of fact is as follows:

> While the Defendants sought to impugn the Claimant's character with assertions of a drinking problem, that characterization of the Claimant is more than rebutted by testimony from another defense witness, Tony Azusenis, who describes the Claimant's work ethic as exceptional. The Claimant has never filed a Workers' Compensation claim prior to the accident. Moreover, the Claimant testifies that there were no drugs or alcohol in his system on the day of the accident. This claim was not rebutted, and his post-accident drug test was negative on all accounts.

(Compensability Hrg. Finding of Fact 6).

Claimants' assertion that this finding of fact proves that Employee did not have an alcohol problem leading up to his death is off base. Rather, the above finding reflected upon Provins' *character* and *work ethic*—not regarding whether he *used* alcohol or his *level* of alcohol use. That was a vastly different issue than what is being litigated now (i.e., credibility as to underlying compensability versus cause of death).

The finding of fact dealing with Employee's alcohol problem from the Death Hearing reflects the nature of his alcohol abuse and how it impacted upon his early death, which was the sole purpose of the hearing. It does not speak to his character or work ethic, and is thus not inconsistent with any previous findings from prior hearing. Incidentally, this "res judicata" issue was not raised at the Death Hearing.

2. The record is replete with evidence that Employee had a lifelong alcohol abuse problem.

The finding of fact from the present order is as follows:

> Prior to the work injury of January 24, 2012, Employee suffered from a significant alcohol abuse problem. This finding is based upon the medical records which illustrate Employee was a long-suffering alcoholic, and drank excessively, to include beer and liquor, for the majority of his life. These records included history proved by Employee, as well as family members, such as the following:
>
> A. Ms. Provins, Claimant's widow, provided such a history at the time of his hospitalization/death in April 2014. "According to his wife a long history of alcoholism...." (See APA # 18, p. 374)
>
> B. An admission report from April 10, 2014, details a history of a "52-year-old male who is in alcoholic and drinks about half a pint of Vodka every day for most of his life...." (See APA #18, p. 234)
>
> C. On July 7, 2009, Employee's sister, Ms. Zimmerman, called the police and Employee was transported to University of Louisville Hospital with chief complaint of "I'm drinking myself to death." He further reported that "I can't sleep at all unless I get Drunk." It was reported that Employee was a longstanding alcoholic, who consumed 16-18 beers per day and a half a pinto to a pint of liquor per day. (See APA #11, pp. 121-126)
>
> D. When Employee initially began treating with Dr. Bonnarens, on April 15, 2013, he reported drinking 8-10 beers per day, and this was before his shoulder surgery. (See APA #12, p. 154)
>
> E. In none of the post-accident medical reports does it indicate that Employee's drinking habits changed or increased after his work injury or shoulder surgery, which is indicative of someone who simply has been a longstanding user of alcohol, notwithstanding the work injury. The testimony of Employee's widow, Debra Provins, that the drinking only became a problem after his work injury, in response to dealing with this pain, and is not supported by the history she herself provided upon Employees hospital admission on April 10, 2014. (See APA #18, p. 374)

This finding does not rebut that Employee was a hard worker or even that alcohol affected compensability of the underlying incident. It is simply a reflection of the issues with which Provins dealt throughout the course of his adult life with addiction. Unfortunately, it is clear that Provins had a longstanding alcohol abuse problem before (and after) his work injury, and leading up to his death. While Appellants essentially assert that Provins "once" had an issue with drinking, which had resolved, the evidence does not support such. Specifically, as noted above, when he began treating with Dr. Bonnarens, he was reporting extensive daily alcohol use—and this was before he'd ever had a surgery for his shoulder.

Dr. Ballenger, Defendants' expert, when challenged at his deposition about the extent of Provins' alcohol use before the injury, opined that it is clear that Provins was a longstanding alcoholic and that his "pattern" fits that of a longstanding alcoholic. Dr. Ballenger also testified that the absence of any medical visits related to alcoholism between 2009 and his death is not an indication that he'd quit drinking. To the contrary, Dr. Ballenger testified that the records from 2001, 2009, 2012, and 2014 indicate his reporting consuming a "prodigious" amount of alcohol, and that most alcoholics "underreports." (Ballenger Depo., p. 35). Furthermore, Provins' roommate testified at the initial Compensability Hearing that Provins was a daily consumer of liquor; Provins himself admitted that he drank daily at that initial hearing.

The testimony of Ms. Provins that he developed an alcohol problem only after the work injury is not supported by the records, including the very history she relayed to medical providers. She testified that Employee did not drink vodka before the injury...only after. (Hr. Tr., 15.) Inexplicably, Ms. Provins acknowledged at hearing that she was unaware of the alcohol issues Employee himself reported to his physicians as far back as 2001. (Hr. Tr., p. 26-27) Even in 2009, Employee reported drinking daily "1/2 gallon whiskey or vodka; 14-24 beers." (APA #11, p. 127.)

His family members present at the hospital at the time of admission/death provided a history of "a long history of alcoholism" and that he "drinks about half a pint of vodka every day for most of his life." (See APA #18, pp. 234, 374) Incidentally, there is no medical record or other evidence that existed before Employee's death that supports that he developed an alcohol issue only after his shoulder injury. Defendants repeatedly sought out such evidence for consideration—starting in February 2016—after Claimants surprisingly filed the Form 52 death allegation; the response from Claimants' counsel was "I do not possess that which I will be submitting at this juncture. I'm still trying to get things together." (See Def. Exhibits E, F, G) It is evident that the Single Commissioner did not err by finding that the Claimant suffered from a significant alcohol abuse problem before his work accident, after his work accident, and leading up until his death.

IV.

THE HEARING COMMISSIONER CORRECTLY DETERMINED THAT DR. BALLENGER WAS CREDIBLE.

Although the Appellate Panel has the power to make its own findings, it is logical for the Commission which did not have the benefit of observing witnesses to give deference to the Single Commissioner's opinion on the weight of the evidence and the credibility of the witnesses. The credibility and weight of a doctor's testimony is for the trier of facts, and such evidence is weighed similarly to other evidence. Chapman v. Foremost Dairies, Inc., 249 S.C. 438, 154 S.E.2d 845 (1967). McGuffin v. Shumberger-Sangama, 307 S.C. 58, 156 S.E.2d 318 (1967); Fishburne v. ATI Sys. Int'l, S.C. 76, 681 S.E.2d 595 (Ct. App. 2000).

As it is the fact finder's responsibility to determine the weight of a doctor's testimony, the Single Commissioner did so in the present case. The Single Commissioner determined that Dr. Ballenger's expert opinion should be afforded greater weight for multiple reasons, including his credentials, that fact that he did an extensive review of voluminous records including Employee's

medical history, and further explained his onions in his deposition. (Order, Finding of Fact 13, p. 16). Dr. Ballenger is board certified in psychiatry and forensic psychiatry and has been practicing for approximately 40 years. (See APA #19, p. 416). He was a professor and chairman of the Department of Psychiatry and Behavioral Sciences at the Medical University of South Carolina in Charleston, for 17 years. Id. He was Founding Director of the Institute of Psychiatry (1988-2000), and also founded MUSC's substance abuse clinical and research institute, the Center for Drug and Alcohol Programs in 1994, and was its Founding Executive Director until 2000. Id. He is internationally recognized as an expert in psychopharmacology and the anxiety disorders and depression/bipolar illness. Id. In addition, Dr. Ballenger has authored over 350 professional papers and sixteen books. Id.

Quite logically, little weight was given to Dr. Price's opinion, especially when juxtaposed to Dr. Ballenger's opinion. **Dr. Price opined that Claimant had "no history of pain, anxiety, depression or alcoholism prior to the work injury." (Order, Finding of Fact 8, p. 15). Clearly, this is refuted by the pre-injury medicals that demonstrate Claimant has had a long standing alcohol abuse problem for the majority of his life. (See APA #10-11).** It appears, based on the correspondence between Claimants' counsel and Dr. Price, his opinion was outcome oriented, without regard to an examination of a full medical history. (See Def. Exhibit D.)

Claimant seeks to impugn Dr. Ballenger's credibility based on his testimony that he represented defendants 60% of the time and Plaintiffs 40%, but that his estimation was not precise. Even if this is true, this is not indicative of a lie, or Dr. Ballenger being deceptive. More so, Dr. Ballenger *approximated* the allocation of his work. A review of the submitted cases from Dr. Ballenger indicates that Dr. Ballenger does expert consultations on civil, criminal, and workers' compensation matters. With the volume of work that Dr. Ballenger engages in—due to his

credentials—he gave an estimated response, but also testified that it changes over time, depending on current work load. (Ballenger Depo., p. 33-34).

Claimants also assert that Dr. Ballenger was biased in that "He found that Dr. Amin's findings that Mr. Provins syncope episodes could be related to epilepsy, or diabetes for that matter, were flawed." (Cl's Brief p. 20) Claimants further state "The Provins lineage included diabetes and neurological discord. Both of which could very easily cause syncope." Id. Claimants cite this 'medical diagnosis' even though there is no medical opinion in the record regarding these issues. Rather, Claimants offered the testimony of Employee's sister (Ms. Zimmerman) that there is a family history of passing out. Notably, thought, no evidence from Employee's primary care physician, or any other physician for that matter, is offered to support this proposition. Interestingly, Dr. Ballenger testified that those who use alcohol excessively do tend to have passing out episodes. (Ballenger Depo.,.11-17.)

Based on the grounds set forth above, the preponderance of the evidence supports the Single Commissioner's finding that Dr. Ballenger was credible, and should be afforded more deference than Claimants' experts.

V.

CLAIMANTS COUNSEL'S ASSERTION THAT CLAIMANT WAS DEPRESSED IS NOT PROPERLY BEFORE THE COMMISSION; ADDITIONALLY, NO MEDICAL EVIDENCE SUPPORTS A CAUSALLY-RELATED DEPRESSION.

Claimants assert that the Single Commissioner erred as a matter of fact that the Employee's inability to "wipe his ass," maintain his career, and earn a living did not cause him depression. However, depression has never been a compensable part of the claim. What's more, Employee

was never referred for any depression treatment and was not diagnosed with causally-related depression after the work injury. Nor was a claim for depression ever filed.

1. **Claimant seeks compensability for "depression" for the first time on appeal.**

Of course, an issue cannot be raised for the first time on appeal, but must have been raised to, and ruled upon, by the Single Commissioner. S.C. Dept. of Transportation v. First Carolina Corp. of S.C., 372 S.C. 295, 301-02, 641 S.E.2d 903, 907 (2007) (holding that to be preserved for appellate review, an issue must have been "(1) raised to and ruled upon by the trial court, (2) raised by the appellant, (3) raised in a timely manner, and (4) raised to the trial court with sufficient specificity"). Here, it is clear that Claimant has never raised this issue and therefore may not do so on appeal. Therefore, the Single Commissioner did not err by not finding that "Claimant's inability to "wipe his ass", maintain his career, earn a living" caused him depression. Commissioner did not err by not finding that employee has suffered compensable depression.

2. **Claimant was never diagnosed with depression and to claim that he was, in fact, depressed and that same is causally-related is pure speculation.**

Given that no physicians who actually treated Employee before his death diagnosed him with depression, to do so now posthumously would require much conjecture. Ms. Provins admitted at hearing that she never sought to have him treated for any depression after his work injury. (Hr. Tr., 32.) Furthermore, with Employee's history of alcoholism, depression would not be unexpected. In fact, upon questioning by Claimants' counsel, seeking an opinion that Employee must have been depressed, Dr. Ballenger responded:

> "Well, you know, that is speculation. I can tell you as a practicing psychiatrist for 40 something years drinking a half a gallon of liquor every day is much more likely to cause depression than even being unemployed and having trouble in the bathroom. So it is just speculation, one, that it would cause depression and, two, that he was really depressed. We have no evidence. Most people who get

> seriously depressed find their way to the doctor to complain of depressive symptoms and yet he did not."

(Ballenger Depo., 11-17.)

There was never any medical evidence provided by Claimants from personal doctors or treating physicians that would either support a depression finding, or refute Dr. Ballenger's opinion concerning the matter. Claimants only offered an affidavit from Dr. Martin, a psychiatrist who was hired by them to prepare an opinion. As noted, however, Dr. Martin never treated Employee, and much of his report was based on Dr. Price's report, which is considerably flawed, as previously discussed.

CONCLUSION

While Mr. Provins' situation is certainly tragic, viewing the record and totality of the circumstances, Defendants assert there is ample evidence to support all of the Hearing Commissioner's findings/conclusions by a preponderance of the evidence. Based on the foregoing, Defendants respectfully request that the Appellate Panel affirm the Decision and Order of the Hearing Commissioner in its entirety.

Respectfully submitted,

WILLSON JONES CARTER & BAXLEY, P.A.

J. South Lewis, II, Esquire
872 S. Pleasantburg Drive
Greenville, SC 29607
Attorneys for Defendants

Date: August 11, 2017

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1200349

James Provins, Employee/Deceased Debra Provins, Alleged Dependent, Claimants, vs. Spirit Construction Services, Inc., Employer, and Insurance Company of the State of PA, Carrier, Defendants/Respondents.	)	CERTIFICATE OF SERVICE

I, Trudy Sharpless, do hereby certify that I am the Assistant for J. South Lewis, II, Esquire, attorney for the defendants with **WILLSON JONES CARTER & BAXLEY, P.A.** in Greenville, South Carolina, and that on the 11th day of August, 2017 I mailed the foregoing BRIEF OF DEFENDANTS/RESPONDENTS to the following by placing a copy thereof in the United States mail, first class, proper postage affixed thereto:

Donald L. Smith, Esq.
Attorney Offices of Donald Smith
122 N. Main Street
Anderson, SC 29621

Ms. Amy Bracy
Judicial Director
South Carolina Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715

Trudy R. Sharpless

Trudy Sharpless, Assistant to J. South Lewis, II, Esquire
WILLSON JONES CARTER & BAXLEY, P.A.

REPLY BRIEF OF EMPLOYEE/APPELLANT
AUGUST 21, 2017

BEFORE THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

SCWCC FILE NO.: 1200349

James Provins
Employee, Claimant,

Appellant,

versus

Spirit Construction Services, Inc.,
Employer, and Insurance Company
of the State of Pennsylvania, Carrier,

Respondents.

REPLY BRIEF OF EMPLOYEE/APPELLANT

Donald L. Smith
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APPELLANTS MAKE THE FOLLOWING REPLY TO THE RESPONSE OFFERED BY THE RESPONDENTS:

STATEMENT OF CLAIM

The Workers' Compensation Act shifts from the employee to the employer the risk of work related injuries incident to modern industrial activity. In return, it requires the worker, as a condition for receiving the benefits of the Act, to surrender his right to sue at common law. Cook v. Mack's Transfer & Storage, 291 S.C. 84, 352 S.E.2d 296 (1986).

If the dispute concerns an alleged wrongful denial of statutory benefits, the Commission has exclusive jurisdiction to adjudicate the controversy. Whether the denial is willful, in bad faith, negligent, or the result of a good faith difference is immaterial to the question of the Commission's exclusive jurisdiction. Id.

The employees gave up their right to sue in Common Law in exchange for a no-fault based way of remuneration. This theory is based on the good faith participation of the employer. The current theme carried by employers (by and through the insurance carriers) in workers' compensation is to litigate everything. Whereas twenty years ago, if someone was injured and they weren't drunk, or failed the associated drug test, they would have an appointment to the company doctor. The employer/carrier would then honor the prescriptions or referrals of said physician.

The carriers have replaced the employer in the formula. The employee has no true avenue in which to address their perceived slights. Getting a hearing date is not that easy given the explosion is litigated cases. Suing at common law is starting to look a lot better. However, workers' compensation remains the only means of recovery for the employee. The employee's only opportunity to get some semblance of equity is for the application of the Act in its purest

form.

Workers' Compensation is for the worker. Therefore, every tie or close call should go to the worker. In the present case, the employer denied coverage at every turn. As a result, the employee was crushed by the inability to take any action to survive. By preventing Debra Provins from getting the death benefits related to her husband's avoidable death, the message would be clear. The message would be to continue to deny every case in hopes that the the Commission holds the carriers accountable for the ever-increasing denials which are done in bad faith. Debra Provins prays that the Respondents don't get away with the bad faith that cost her and her daughters, their husband and father.

I.

THE SINGLE COMMISSIONER DID ERR BY FINDING THAT PROVINS HAD NOT SUFFERED PERMANENT IMPAIRMENT TO HIS RIGHT SHOULDER

Claimant did not abandon his claim for permanent damage to his shoulder. Defense counsel is mistaken as it relates to his belief that Claimant has suddenly given up the shoulder claim that has brought us to this point. He injured his shoulder while attempting to move a long girder which snapped out of his hand, yanking his arm down, suddenly. Dr. Jacobus did not in any way opine that Claimant had reached MMI at the time of death. He stated that due to symptoms of the initial tearing; the atrophy caused by the inexcusable delay in treatment; and, the second significant tear to the shoulder; his shoulder would never get any better than having a permanent impairment of 10 to 13%. It should be noted that Dr. Jacobus did have two telling MRIs of the shoulder from which he made his findings.

II.

THERE WAS BAD FAITH DENIAL OF TREATMENT BY THE DEFENDANTS

Defendant's denied bad faith in their defense of this case. They did this despite the fact their human resource representative, who took him to the company doctor, attested to the fact that he was in so much pain he had to sign Mr. Provins's name. They did this despite the fact Mr. Carrion, who did not understand the English language, responded to a query about the work ethic of Mr. Provins, by attempting to tell the Commissioner what he allegedly told him about his shoulder, when they picked up "the first piece" that morning. They did this despite Mr. Azusenis, responding to a question about whether he called Mr. Provins in March of 2012 to tell him that he (Mr. Azusenis) had been fired, with the fact that he had told that Mr. Provins that *he* had been dismissed in February of 2012.

It was clear to the Hearing Commissioner that the defense witnesses were incredible. On the same token, he specifically found Mr. Provins to be very credible. At the time of the accident, there was absolutely no allegation that Mr. Provins was drinking excessively other than Mr. Azusenis who was trying to save a job from which he had arguably been fired.

The defense attempted to incorporate the undersigned into their own bad faith. Defense counsel makes a comment regarding the teleconference which he in fact ***did not participate*** on December 30, 2013. He did not hear Dr. Bonnarens state without qualification that re-tears of this sort are common, and that he had no knowledge of any intervening cause. The defense argued that it could have been DTs that re-tore his shoulder. Dr. Bonnarens and I agreed that our undergrad sprees did not cause any ligamentous tears. This was simply a ploy to further delay treatment that he was entitled.

III.

THE SINGLE COMMISSIONER DID ERR IN FINDING THAT EMPLOYE HAD LONGSTANDING ALCOHOL ABUSE ISSUES AND WASS A CONTRIBUTING FACTOR TO HIS DEATH

The defense focused on Mr. Provins "drinking himself to death" in 2009. It is undisputed that the statement occurred when his father died; and his wife, kicked him out of the family residence. Thereafter, he started going to church and returned to being the affable individual that he was.

Mr. Provins suffered from issues with syncope. His sister suffered from bouts with the same issue. Mr. Provins' family doctor, Dr. Amin wanted him tested for epilepsy. He did this because of his family history. A family doctor would have taken a family history, which included a father who suffered from seizures and the aforementioned sister, who suffered from stress-related fainting spells.

IV.

THE HEARING COMMISSIONER INCORRECTLY DETERMINED THAT DR. BALLENGER WAS CREDIBLE

Dr. Ballenger who didn't know that he received a $5,000.00 retainer for his opinions, found that the idea that Claimant's widow and her sister-in-law said that Mr. Provins was highly depressed was speculative. "We have no evidence."

The undersigned does not claim to be a doctor, but the following facts tent to illustrate depression:

1. Mr. Provins was a happy go lucky man who never met a stranger prior to the accident;
2. At the time of the accident, he weighed 192.5 lbs., while he weighed 242.5 at the time of the surgery;

3. He was making roughly $1,100.00 per week at the time of the accident; while the bad faith of the Defendants left him without a comp. check or the inability to ply his trade for 14 months. He was the only breadwinner for his family, which consisted of his wife and two (2) daughters;
4. He had to live in pain for 15 months, and the agony of further injury for 15 months, prior to surgery;
5. Following surgery, he completed a full load of physical therapy, despite the fact that his complaints of pain never waned;
6. When Defendants finally authorized an MRI in October 2013, the injuries to his shoulder were greater than the initial MRI in February 2012;
7. Instead of getting him to surgery immediately, the undersigned was forced to beg for treatment. On December 30, 2013, a teleconference was conducted with Dr. Bonnerens. He stated that he had no alternative causation that the original injury. It should be noted that opposing counsel was not part of the conversation. Third, the defense continued to unjustly deny care;
8. Mr. Provins could not support the ladies in his life with his compensation checks;
9. Mr. Provins had been in pain for greater than two (2) years;
10. Mr. Provins had been given absolutely no hope that he would ever be fixed or free from pain;
11. Mr. Provins died with a urine bottle, that was found in his room following his death, which allowed him to refrain from interacting with people; and,
12. Mr. Provins couldn't wipe his own ass.

Dr. Ballenger shows his true colors by telling us that these facts are not evidence of depression, and that saying so was mere speculation. Seemingly, if the defense would have needed him to say that the moon is made of cheese, he would have done so.

V.

CLAIMANT'S COUNSEL DID ASSERT THAT CLAIMANT WAS DEPRESSED WAS PROPERLY BEFORE THE COMMISSION; ADDITIONALLY, THERE WAS MEDICAL EVIDENCE SUPPORTING A CAUSALLY RELATED DEPRESSION

While Dr. Ballenger's credibility is questionable at best, Dr. Thomas Martin's credibility is unquestioned. He opined the following:

> It is clear from the records provided that Mr. Provins suffered from depressive illness and alcohol abuse disorders that preexisted his work-related injury in 2012. Furthermore, it has been stipulated that he suffered from a serious right shoulder injury that required medical and surgical treatment. It is also apparent that while under significant psychosocial stress or in pain, Mr. Provins would self-medicate pain and depression with alcohol. While awaiting professional medical/surgical and pain management after incurring his injury, Mr. Provins used alcohol to cope and self-medicate depressive and pain symptoms, thereby exacerbating a preexisting condition. Following his surgery in 2013, he did not gain significant remediation or pain relief. When medical assistance ceased in latter 2013, Mr. Provins again used alcohol in excess. This further enhanced his neurovegetative symptoms of depression, reclusiveness, and lack of self-care. It is this Examiner's opinion to a reasonable degree of medical and psychiatric certainty that Mr. Provins suffered from depressive disorder due to another medical condition (right shoulder injury), somatic symptom disorder with predominant pain, substance (alcohol) induced depressive disorder, and alcohol use disorder, severe.

Dr. Martin's opinions were logical conclusions to a very unfortunate situation. The Commissioner erred by literally ignoring his well-reasoned opinions. Dr. Ballenger's opinions related to his payment-period.

Claimant did not seek compensability for depression for the first time on appeal. The basis for Claimant's Form 52 was that his ongoing pain and suffering related to his shoulder injury, and the refusal of the defense to provide treatment, led him to a depressive state which

ultimately led him into a dark spiral downward to his death. In fact, his Form 52 lists his mental health as a cause of death. Claimant brought issue of depression, and related death, in front of Hearing Commissioner. The claim was summarily dismissed. The Commissioner denied that Mr. Provins' death was related to the depression created by his shoulder surgery. It is an appealable issue.

CONCLUSION

Had the defendants acted according to the Workers' Compensation Act, and provided the injured worker with treatment, his shoulder would not have been injured (and atrophied) to the point that it was nothing more than paper mache. His inability to support his family would have been addressed. His exceptional work ethic would have continued, and allowed him to recover financially. He would have been able to wipe his ass. Instead, he suffered needlessly due to the defense employed by the respondents, "Deny! Deny! Deny! He may die!" This defense proved successful in this matter.

Donald L. Smith, (SC Bar# 6699)
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Anderson, South Carolina
August 21, 2017.

CERTIFICATE OF MAILING

I hereby certify that a copy of the foregoing pleading was mailed to all counsel of record in this proceeding this 21st day of August 2017.

Donald L. Smith

APPELLANTS' FORM 30 WITH ADDENDUM
MARCH 20, 2017

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
803-737-5675 www.wcc.sc.gov

WCC File #: 1200349
Carrier File #:
Carrier Code #:
Employer FEIN #:

Claimant's Name: Debra Provins for James (Deceased) SSN:
Address:
City: State: Zip:

Employer's Name: Spirit Construction Services, Inc.
Address: 118 Coleman Blvd.
City: Savannah State: GA Zip: 31408

Home Phone: Work Phone: ( ) -
Insurance Carrier: Insurance Company of the PA

Preparer's Name: Donald L. Smith Law Firm: Attorney Office of Donald Smith Preparer's Phone #: (864) 642 - 9284

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ Claimant ☐ Employer (check one) Date of Injury or Illness: 01/24/2012 (m/d/yyyy)

The undersigned makes application for review of the findings of the Commissioner in the above-captioned case. The request for review is based on the following grounds: (State the grounds of your appeal in the form of questions presented. Each question presented must contain a concise statement of one proposition of law or fact. Refer to evidence by title and exhibit number. Use additional pages if necessary).

Please see attached.

(Check one) Oral argument ☒ is ☐ is not requested. Appellant's request for oral argument is waived if not indicated on this form.

☐ **Mediation**

☐ Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.

Questions regarding mediation may be submitted to **mediation@wcc.sc.gov.**

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to South Lewis, Esquire at S. Pleasantburg SC 29615 on March 20, 2017, with first class postage.

Preparer's Signature | Title: attorney | Email: attorneydonaldsmith@gmail.com | Date: 3/20/2017

Questions about the use of this form should be directed to the Judicial Department at 803.737.5675 or appeals@wcc.sc.gov.

If the claimant appeals and is not represented by counsel, the Judicial Department will properly serve this form pursuant to Reg. 67-607 C. Pursuant to Reg. 67-205 and Reg. 701, the appeal must be postmarked no later than 14 days from the date of service of the Decision and Order of the Hearing Commissioner along with the filing fee. Attach a Form 32, if you are unable to pay the filing fee. Refer to Reg. 67-211 and Reg. 67-701 through 711.

Grounds for Appeal/James Provins/WCC#1200349/Death

1. Whether the Single Commissioner erred as a matter of fact and law in finding that Claimant had not died, in part, because of the Employer's bad faith refusal to abide by the Act and provide treatment for Claimant.
2. Whether the Single Commissioner erred as a matter of fact and law in finding that Claimant had not suffered permanent impairment to his right upper extremity prior to his untimely death.
3. Whether the Single Commissioner erred as a matter of fact and law in finding that Claimant's issues with alcohol had returned prior to the on-the-job accident, despite no evidence to substantiate the claim other than employees who maintained their job despite mass layoffs.
4. Whether the Single Commissioner erred in finding that Defendants' allegation that Claimant prevented their investigation of causation by failing to sign a HIPAA form, when the treating physician had related the second tear of the shoulder to the first tear.
5. Whether the Single Commissioner erred as a matter of fact and law in finding that Claimant's inability to "wipe his ass", maintain his career, earn a living to support his disabled wife and two daughters, necessity of borrowing from everyone to subsist, did not cause the iron worker depression.
6. Whether the Single Commissioner erred as a matter of fact and law in finding that Dr. Ballenger was credible, despite the fact that he misrepresented his payment for his testimony, the fact that he relied on testimony company employees from the initial hearing which was summarily dismissed by the sitting Commissioner, instructed the undersigned that he was the expert and knew that clear meaning of Claimant's expert's words were not what he meant with their use, etc.
7. Whether the Single Commissioner erred as a matter of fact and law in ignoring the findings of Claimant's IME performed by Dr. Dwight Jacobus, M.D.
8. Whether the Single Commissioner erred as a matter of fact and law by disregarding public policy, and finding on behalf of the defense who denied, denied, denied, until the Claimant died.

STATE OF SOUTH CAROLINA COUNTY OF ANDERSON	BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
James Provins, Claimant, vs. Spirit Construction Services, Inc. Employer, and Insurance Company of the PA, Carrier, Defendants.	**CERTIFICATE OF SERVICE BY MAIL** W.C.C. File No.: 1200349

THE UNDERSIGNED person deposes and says that she served a Form 30 on Behalf of the Claimant, in this action by placing copies thereof in envelopes addressed to the parties at the addresses shown below, which envelopes were sealed and postage thereon fully prepaid, and deposited in the United States Mail at Spartanburg, South Carolina, and that there is regular communication by the United States Mail between the place of mailing and the places addressed as follows:

Date: March 20, 2017

Donald L. Smith, Esquire
Attorney Office of Donald Smith
122 N. Main St.
Anderson, South Carolina 29621
Phone: (864) 642-9284
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attorneydonaldsmith@gmail.com

MAILED TO:

South Carolina Workers' Compensation Commission
Judicial Department, Appeals
Attention: Eugenia Hollmon
P.O. Box 1715
Columbia SC 29202-1715

J. South Lewis, II., Esquire
872 S. Pleasantburg Drive
Greenville SC 29607

APPELLANTS' MOTION TO REINSTATE
MAY 31, 2017

STATE OF SOUTH CAROLINA	)	BEFORE THE SOUTH CAROLINA
	)	WORKERS' COMPENSATION COMMISSION
COUNTY OF ANDERSON	)	
James Provins,	)	
	)	
Claimant,	)	**MOTION TO REINSTATE**
	)	
vs.	)	W.C.C. File No.: 1200349
	)	
Spirit Construction Services, Inc.	)	
Employer,	)	
	)	
And	)	
	)	
Insurance Company of the PA,	)	
Carrier,	)	
	)	
Defendants.	)	

Claimant is submitting this this Motion to Reinstate in hopes of being granted the opportunity order to file a brief in support of his Form 30, Request for Review by the Full Commission. The Form 30 was timely filed. Furthermore, Claimant's counsel submitted a Motion to Extend Time to File on May 22, 2017. It was the date the brief was due. Since service is complete upon mailing according to the South Carolina Rules of Civil Procedure, the motion was served on the Court prior to the closure of the time to file.

Unfortunately, the undersigned was overwhelmed with the arduous task of completing the brief and appendix for not one, but two appeals in the 4th Circuit of the United States Court of Appeals. There simply was no time. While it is understood that the request was made at the 11th hour, it was not the objective. It was still believed that it would be miraculously be completed. It was not and a late motion was filed to stave off elimination.

Rule 601 provides that if an attorney of record is called to appear simultaneously in actions pending in two or more tribunals of this State, there is a list of priorities indicating which should be

addressed first. Claimant believes that the same priorities should hold true in this situation. The element of time is not something that is capable of reproduction. Claimant contends that there is only one greater priority in the practice of law-the Supreme Court of the United States.

This case began on January 24, 2012. It is a most challenging fight for the family of the deceased Claimant. All involved have expended a great deal in support of their respective cause. While it is recognized that the defense was unable to consent to the extension of time to file the brief, the case that the defense has prepared will not be prejudiced by the allowing Claimant to submit a brief.

We pray that the fact that the motion to extend was filed prior to the exhaustion of the time to file the brief is sufficient to allow the Commission to grant the extension. Claimant should not suffer due to counsel making the choice that is seemingly supported by the spirit of Rule 601. Please allow Claimant to properly support that which was raised by his Form 30, with a brief.

By copy of this letter to Defendant's attorney, we are hereby serving Mr. Lewis with a copy of said motion by United States mail.

Date: 5/31/2017

Donald L. Smith, Esquire
ATTORNEY OFFICE OF DONALD SMITH
122 N. Main St.
Anderson, South Carolina 29621
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Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com

STATE OF SOUTH CAROLINA	)	BEFORE THE SOUTH CAROLINA
	)	WORKERS' COMPENSATION COMMISSION
COUNTY OF ANDERSON	)	
	)	
James Provins,	)	
Claimant,	)	**CERTIFICATE OF SERVICE**
	)	
vs.	)	W.C.C. File No.: 1200349
	)	
Spirit Construction Services, Inc.	)	
Employer,	)	
	)	
and	)	
	)	
Insurance Company of the PA,	)	
Carrier,	)	
Defendants.	)	

THE UNDERSIGNED person deposes and says that he served the Motion to Reinstate of Respondent/Claimant, in this action by placing a copy thereof in an envelope addressed to the party at the address shown below, which envelope was sealed and postage thereon fully prepaid, and deposited in the United States Mail at Anderson, South Carolina, and that there is regular communication by the United States Mail between the place of mailing and the place addressed as follows:

Date: 5/31/2017

Donald L. Smith, Esquire
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122 N. Main St.
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MAILED TO:

Ms. Euguenia Hollomon
Judicial Director
South Carolina Workers' Compensation Commission
P.O. Box 1715
Columbia, South Carolina 29202-1715

J. South Lewis, II., Esquire
872 S. Pleasantburg Drive
Greenville SC 29607

RESPONDENTS' RESPONSE TO APPELLANTS' MOTION TO REINSTATE
JUNE 9, 2017

BEFORE THE SOUTH CAROLINA

WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1200349

James Provins, Employee, Claimant, vs: Spirit Construction Services, Inc., Employer, and Insurance Compnay of the PA, Carrier, Defendants.	RESPONSE TO CLAIMANT'S MOTION TO REINSTATE

TO: South Carolina Workers' Compensation Commission;
Donald L. Smith, Esquire, Attorney for Claimant:

Defendants here by move for an order denying the Claimant's Motion to Reinstate based on the following grounds:

I.

(1) This case involves an underlying date of incident of January 24, 2012 for a right shoulder injury. On August 14, 2014, Claimant died due to causes unrelated to his January 24, 2012 work injury. His Death Certificate lists "acute respiratory failure" and "septic shock" as the causes of death.

(2) Subsequent to Claimant's death, Claimant's attorney filed a Form 50 on November 18, 2014, with no allegation of a compensable death claim, on behalf of Claimant's widow, Debra Provins. Claimant's attorney eventually filed the matter as a death claim on April 15, 2015.

(3) Since November of 2014, multiple hearings have been scheduled and withdrawn before the hearing that took place on December 5, 2016 before Commissioner R. Michael Campbell, which resulted in this appeal.

A. Claimant filed a Form 50 on November 18, 2014, on behalf of Claimant's widow, Debra Provins. There was no allegation of a death claim at this time. A hearing was scheduled before Commissioner Barden on January 22, 2015. After the pre-hearing conference, Claimant withdrew the Form 50.

B. Claimant re-filed the Form 50 on March 18, 2015; again, no death claim was made. Claimant amended his Form 50 on April 13, 2015 to include a permanent and total disability claim and also alleged for the first time that the right shoulder injury "ultimately caused his death."

C. Claimant filed a Form 52 death claim on April 15, 2015. Defendants denied the same in the Form 53. A hearing was scheduled before Commissioner T. Scott Beck on October 21, 2015. Claimant withdrew his Form 52 after a pre-trial conference.

D. Claimant re-filed a Form 52 on or about January 25, 2016. A hearing was scheduled before Commissioner Melody James on July 26, 2016. The parties were ordered to mediate the case during a pre-trial conference. Mediation was held on September 29, 2016 and the parties did not reach a settlement.

E. Ultimately, a hearing was scheduled on the Forms 52/53 before Commissioner R. Michael Campbell on December 5, 2016. Commissioner Campbell found that Claimants failed to prove by a preponderance of the evidence that the Employee/Deceased's death on April 14, 2014 was causally related to his January 24, 2012 shoulder injury.

F. Claimant filed a Form 30, requesting an appeal of Commissioner Campbell's Decision and Order, on March 20, 2017, the day of the deadline for filing an appeal.

G. An Appellate Hearing was scheduled for June 19, 2017. Claimant/Appellant's brief was due on May 21, 2017.

H. On May 22, 2017, Claimant filed a Motion to Extend Time to File his brief. This was the day of the deadline for filing of the brief.

I. On May 26, 2017, Claimant's Request for Commission Review was dismissed as a result of the appellant's brief not being timely filed pursuant to R. 67-705 H(3).

J. Claimant filed a Motion to Reinstate on May 31, 2017.

(4) Furthermore, Defendants contend that Rule 601, South Carolina Appellate Court Rules, is inapplicable here as it deals with a situation wherein an attorney is "called to *appear* simultaneously in actions pending in two or more tribunals of this State." Rule 601 says nothing about submission of **briefs**.

(5) Defendants contend that Claimant has failed to provide sufficient justification for reinstatement of this appeal.

(6) Furthermore, given the length of time that this case has been going on, and that Claimant was well-informed of the deadline to file his appellate brief in his appeal, Defendants assert that continuance of this matter would unnecessarily prolong an already unnecessarily drawn out matter.

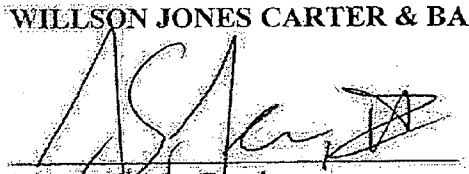
(7) Defendants contend that they would, in fact, be prejudiced by continuance of this matter, which they consider without sufficient basis.

V.

FOR THE FOREGOING REASONS, Claimant's Motion to Reinstate should be dismissed. Defendants are happy to have this Motion to Reinstate heard by way of oral arguments, if deemed necessary.

Respectfully submitted,

WILLSON JONES CARTER & BAXLEY, P.A.



J. South Lewis, Esquire
872 S. Pleasantburg Drive
Greenville, SC 29607
Attorneys for Defendants

Date: June 9, 2017

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1220714

James Provins, Employee, Claimant, vs. Spirit Construction Services, Inc., Employer, and Insurance Compnay of the PA, Carrier, Defendants.	)	CERTIFICATE OF SERVICE

I, Trudy R. Sharpless, do hereby certify that I am the Legal Assistant for J. South Lewis, Esquire, attorney for the defendants with **WILLSON JONES CARTER & BAXLEY, P.A.** in Greenville, South Carolina, and that on the 9th day of June, 2017, I mailed the foregoing RESPONSE TO CLAIMANT'S MOTION TO REINSTATE to the following by placing a copy thereof in the United States mail, first class, proper postage affixed thereto and/or via electronic mail:

Donald L. Smith, Esquire
Attorney Office of Donald Smith
122 N. Main Street
Anderson, SC 29621

Ms. Amy Bracy
Judicial Director
South Carolina Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715

Trudy R. Sharpless
Trudy R. Sharpless
Legal Assistant to J. South Lewis, Esquire
WILLSON JONES CARTER & BAXLEY, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607

APPELLANTS' NOTICE OF APPEAL
JANUARY 26, 2018

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS COMPENSATION COMMISSION

T. Scott Beck, Commissioner

WCC File No.: 1200349

James Provins and Debra Provins, Appellants,

v.

Spirit Construction and Insurance Company and Insurance Company of the State of PA, Respondents,

---

NOTICE OF APPEAL

Appellant Debra Provins, on behalf of deceased Mr James Provins, and in her capacity as a dependent, appeals the decision of the Honorable T. Scott Beck dated January 11, 2018, denying the claims for death benefits. Appellants received a copy of this decision, by and through their counsel of record, on January 11, 2018.

January 26, 2018

Donald L. Smith
122 N. Main St.
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Telephone: (864) 642-9284
Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com
Attorney for the Appellant

Other Counsel of Record:
J. South Lewis, II, Esq.
WILLSON JONES CARTER & BAXLEY, P.A.
872 South Pleasantburg Drive,
Greenville, South Carolina 29607
Attorney for Respondents

RECEIVED
JAN 29 2018
SC Court of Appeals

PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS COMPENSATION COMMISSION

T. Scott Beck, Commissioner

WCC File No. 1200349

James Provins and Debra Provins, Appellants,

v.

Spirit Construction and Insurance Company and Insurance Company of the State of PA, Respondents.

PROOF OF SERVICE

I certify that I have served a copy of the Notice of Appeal and Proof of Service on the above-mentioned case, upon The Honorable Jenny Abbott Kitchings, Clerk, South Carolina Court of Appeals, at PO Box 11629, Columbia SC 29211, Ms. Virginia Crocker Judicial Director, SC Workers' Compensation Commission at PO Box 1715, Columbia, SC 29202-1715, and the Respondents, by and through their counsel of record, Mr. J. South Lewis, II, Esquire at 872 South Pleasantburg Drive, Greenville, SC 29607, by depositing copies of it in the United States Mail, postage prepaid, on January 26, 2018, addressed as follows:

Donald L. Smith, (SC Bar#6699)
122 N. Main Street
Anderson SC 29621
Telephone: (864) 642-9284
Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com
Attorney for Appellant

January 26, 2018

RECEIVED
JAN 29 2018
SC Court of Appeals

TRANSCRIPT FOR COMPENSABILITY HEARING
AUGUST 14, 2012

BEFORE THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1200349

James Provins, Claimant, vs. Spirit Construction, Employer, and Insurance Company of the State of Pennsylvania, Carrier, Defendants.	TRANSCRIPT OF PROCEEDINGS September 14, 2012

This hearing was held before Commissioner Gene McCaskill, reported by Kimberly T. Power, Court Reporter and Notary Public in and for the State of South Carolina; said proceedings were held at the Law Offices of Donald Smith, 210 North Main Street, Anderson, South Carolina, on 2012.

APPEARANCES

ATTORNEYS FOR THE CLAIMANT

LAW OFFICES OF DONALD SMITH
BY: DONALD SMITH, ESQUIRE
210 North Main Street
Anderson, South Carolina 29621

ATTORNEYS FOR THE DEFENDANTS

WILLSON JONES CARTER & BAXLEY, PA
BY: J. SOUTH LEWIS, II, ESQUIRE
872 South Pleasantburg Drive
Greenville, South Carolina 29607

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THE COURT: Today's date is August 14, 2012. This is the case of James Provins vs. Spirit Construction. The Workers' Compensation Commission File Number is 1200349. This claimant is represented by Donald L. Smith. The defendants are represented by J. South Lewis, II. The carrier is Insurance Company of the State of Pennsylvania.

The claimant has an average weekly wage of $1,130.51, and it's the max comp rate which is $725.47. The date of this injury is January 24, 2012. This is a denied case.

Are there any objections to jurisdiction, venue, or any APA submissions?

MR. SMITH: No, sir.

MR. LEWIS: None from defense.

THE COURT: All right. Very good. The Commission file becomes a part of the record with the exception of self-serving declarations and unstipulated medical reports.

All right. Mr. Smith, if you could state your client's position for the record, please.

MR. SMITH: It's our position that he was an employee of the Defendant Spirit Construction. While working in that capacity, he tore his shoulder. Following a release from Spirit Construction, he's been

unable to secure steady employment. He has never been released from the company doctor who put him on light duty. Requested an MRI which was denied. A subsequent MRI indicated that he suffered a shoulder tear. And we would ask for the TT benefits that are past due as well as any in the future for the medical treatment. Anything else the Commission finds appropriate.

THE COURT: All right. Mr. Lewis.

MR. LEWIS: Thanks, Commissioner. It's the defendant's position they acknowledge that Mr. Provins was an employee of their company and was working on January 24, 2012. And he did report sometime around lunchtime that he sustained an injury, but it's our position that the evidence does not support his description of what happened. The witnesses here are going to refute his description of what happened. He told people that he had shoulder problems beforehand.

And, finally, it's defendant's position that the medical evidence doesn't support a causation given the APA -- I mean, the questionnaire at APA Page No. 2 which indicates the doctor is unable to state that he suffered the findings in the shoulder on January 24, 2012.

And, furthermore, if you do find it compensable and temporary total benefits are due,

Mr. Provins has worked for four weeks in Kentucky. So we would ask for that to be offset out of the TTD award.

THE COURT: Do we know the dates of those four weeks? Have either one of y'all given me that before?

MR. SMITH: Your Honor, I don't, but I believe it was roughly the month of March.

THE COURT: But everybody is in agreement that he did work four weeks?

MR. SMITH: Yes.

THE COURT: All right. Very good. All right. Mr. Smith, do you want to call your witness? Well, does anybody else have anything else before we move on?

MR. SMITH: I don't.

MR. LEWIS: No, sir.

THE COURT: All right. Mr. Smith, call your witness.

MR. SMITH: May it please the Court, I call James Provins.

THE COURT: All right, sir. We're going to swear you in. The first little direction I give folks, I don't think it's going to be a real problem in here, we need for you to speak loudly enough so the attorneys, the reporter and I can all hear you. Sometimes we're in huge rooms and that is an issue, but I believe we're going to be fine here. And the other is real simple. If you're

asked a yes or no question, please respond with yes or no. Don't say uh-huh or unh-unh because sometimes that gets misunderstood. And if you shake or nod your head, she's got to stop and look to see what she did and enter that into the record and it just takes more time. So if you're asked a yes or no question by either of the attorneys, if you would just answer with a yes or no. Okay. Very good.

(JAMES CURTIS PROVINS, being duly sworn to tell the whole truth and nothing but the truth, testified as follows:)

THE COURT: Please state and spell your full name for the record.

THE WITNESS: James Curtis Provins.

J-A-M-E-S, C-U-R-T-I-S, P-R-O-V-I-N-S.

THE COURT: All right. Thank you, sir. Mr. Smith.

DIRECT EXAMINATION

BY MR. SMITH:

Q. Mr. Provins, what is your date of birth?

A. 6/29/61.

Q. Are you married?

A. Yes.

Q. How long have you been married?

A. Since '84.

Q. Do you have children?
A. Yes.
Q. How many?
A. Two.
Q. Are you responsible for either of them?
A. Yes.
Q. Where do you currently live?
A. Louisville, Kentucky.
Q. Live in a home or apartment?
A. Home.
Q. Is that your home?
A. Yes.
Q. How long have you possessed it?
A. Seven years.
Q. What is your educational background?
A. High school graduate, two.
Q. Do you have any certificates or training beyond high school?
A. Two years welding.
Q. What does your work history consist of?
A. Iron work, boiler making.
Q. How long would you say that history was?
A. Thirty years.
Q. When were you hired by Spirit?
A. June the 21st, 2011.

Q. What were you hired for?
A. Iron worker.
Q. How did you learn of the opening?
A. Word of mouth.
Q. When you went to Spirit, what were your physical responsibilities related to your position?
A. Everything has to do with iron work.
Q. Which includes?
A. Bolt nut, dragging deck, miscellaneous detail work.
Q. Have you ever had a workers' comp claim before?
A. No, sir.
Q. You ever had an auto accident in which you recovered --
A. (Witness shakes head.)
Q. Which is your dominant side?
A. Right.
Q. Prior to this accident had you ever injured your shoulder -- right shoulder?
A. No.
Q. Did you have an accident on your right shoulder?
A. Repeat.
Q. Had an accident which involved your right

shoulder?

A. That day.

Q. Have you ever received any sort of treatment whether it be a medical doctor, chiropractor or any of the sort to your right shoulder prior to this accident?

A. Prior?

Q. Yes.

A. No.

Q. What date did you get hurt?

A. 24th, January.

Q. Of what year?

A. 2012.

Q. When you went to work that day, were you having any issues?

A. Yes.

Q. What were they?

A. Sore from impacting big bolts and bolt nut and hanging from the iron.

Q. All right. Can you please explain that with a little greater detail?

A. Well, wherever iron connectors come together, there will be -- the connector is put in two bolts and the rest of them you have to bolt pin, hammer and beat in bolt pin and finish bolting up. And then you have to come back and impact it, and some of the impact guns are

really big.

Q. Is that considered iron work?

A. Yes.

Q. How long have you been doing this bolting action?

A. Off and on for all my life.

Q. And so what issues were you having with your body again?

A. Always constantly sore, constantly bruised up in my thighs.

Q. And your upper extremities, your shoulders?

A. Yes.

Q. Did you ever tell anybody about your difficulties?

A. Yes.

Q. And what did you say?

A. I told them that my arm was sore -- my right arm was sore, that I couldn't lift it up very high. It's from impacting bolts and bolting up for two weeks and then -- and then going to dragging deck.

Q. Dragging deck, could you explain that process?

A. There would be a bundle of deck landing across the iron by the connectors, and you cut the bands on it and two guys grab a sheet of deck and then they drag it out and put it in place.

Q. What are these decks made of?
A. Galvanized steel.
Q. Are they paper thin?
A. No.
Q. Do you have an idea of how much they might weigh?
A. Hundred-fifty plus.
Q. How long had you been doing that particular job prior to January 24?
A. About four days of dragging deck.
Q. Had that caused any difficulties for you?
A. Yes.
Q. And what was that difficulty?
A. I was sore and stiff. It's a young man's game.
Q. How old are you again?
A. Fifty-one.
Q. Had you had any prior conversations with your supervisors about the fact your shoulder was sore?
A. Not Jeff, but Shannon.
Q. So you made him aware that it was causing you difficulty?
A. Yes. I told him that I was getting too old to be dragging deck and doing the heavy impact, and he told me that they was hiring greeters at Wal-Mart.

Q. With regard to Luis Carrion, did you have a great relationship with him?

A. I don't even hardly speak much to him. I don't speak Spanish. He doesn't speak very good English. He speaks some, but me and him didn't talk.

Q. What was his position?

A. Me and him was working as a partner team dragging deck.

Q. And what would you -- what was your position again? What was it called?

A. Partners dragging deck. Iron workers.

Q. Boiler anchor or anything like that?

A. No, just iron workers, I guess.

Q. Is Mr. Carrion considered an iron worker?

A. I don't know how many years experience he's got, so I couldn't say.

Q. On that particular day did you tell him that your shoulder was sore?

A. Yes.

Q. With regard to this soreness that you spoke of, could you raise your hand -- your right arm above your shoulder?

A. Then, yeah, I could raise it up about that high and it was stiff and sore.

Q. What time did you begin your workday?

A. 7:00, 7:30. I ain't exactly sure. It's been a long time ago.

Q. And what did your morning work consists of?

A. I was shooting down decks, screwing down deck, and then Shannon told me and the other boy the two bundles were laying around backwards and we had to spin them around, put them in right corrugation so they could be fastened down.

Q. And how many of those do you think you moved?

A. Well, the first bundle we moved -- me and him moved on the ends. And then the second bundle one got on one end and one got on the other because it was too far away from the decking from where the deck had already previously been laid. The first bundle was right up against it. We both grabbed it and we shared one end and drug it out and spun it around. Second bundle was out further and there was no decking there to stand on, so we had to drag it down the beam line.

Q. How easy was this -- what kind of ground surface area was it?

A. Well, you're kind of standing on the bundle of deck and you got to get over and then you got to step over onto a truss line and then over onto the decking that's already been laid.

Q. And how long did it take you to move one deck

at a time?

A. One sheet at a time doing it that way, I don't know, it took maybe ten minutes a sheet because once you got it all the way down, then you had to turn around and spin it back around.

Q. Did you -- other than Mr. Carrion and yourself, was there anybody else on the sheets?

A. No. That day it was just me and him. Everybody else was flashing, shooting down deck.

Q. So how long prior to this particular day had you mentioned that the -- moving the sheets was causing you soreness?

A. It probably had been four or five days before when I talked to Shannon, told him, you know, that -- you know, it was hard on me. And he just said -- like I said, he said, "Well, you're an iron worker, ain't you? They're hiring greeters at Wal-Mart." So, I mean, it just didn't do no good, so I just go out there and do it.

Q. Did you have anybody helping you do your job based on your difficulties?

A. No, just he was being my partner. He's doing his share and I'm doing mine.

Q. Was there anything done to make your part -- participation lesser than his?

A. No.

Q. Were you ever sore before that day?

A. Yes.

Q. Going back to January 24th, could you explain the -- what county were you in?

A. Anderson.

Q. And the accident that you're alleging, what time did it occur?

A. About 15 minutes before lunch.

Q. Could you explain the accident in detail?

A. Could I have a piece of paper folded in half? I'll show you. He was on the bundle of deck. He's down this end. I'm at this end. Okay. And then he's jerking up on the sheets and I'm holding on the sheets and we finally get it out of corrugation. And we're walking and I got my back turned and I'm carrying this end of the sheet down here like this, and he drops his end and it pulled my arm down and it popped. It didn't take much to do it, that long of a sheet.

Q. Is moving the -- would you consider it difficulty moving the sheet, the awkwardness of the length of it or the weight of it?

A. It's just what comes with the territory. You know what I'm saying? It's -- they're long and they are awkward, but it's -- it's kind of a young man's game. It's kind of hard on an old guy like me.

Q. What did you do -- what did you feel at that point?

A. I just felt something inside pop. And so then we moved two or three more sheets and then I went -- it was lunchtime. They hollered lunch. I went and got ahold to Shannon and told him that I injured my shoulder. And then he sent me to Jeff and Jeff sent me to Ernie.

Q. And what occurred at that point?

A. Ernie took me to the care center.

Q. And that visit to the doctor, how were you -- what treatment did you receive?

A. They took an x-ray, found nothing was broke. And then she showed me how to do some physical therapy exercises, pushed my hand up a wall and stand there and return around in figure eight.

Q. Did you get any prescriptions?

A. She give me some anti-inflammatory stuff. I don't remember what else.

Q. Did you get anything else to help you with your problem?

A. She give me two different types, but I don't remember what the other kind was called. None of it helped.

Q. Did you get a sling?

A. Yes.

Q. What occurred with regard to work following your visit to the doctor?

A. I came back to work. I talked to Ernie and John Crowe in the job trailer. Then they told me I had -- I was on light duty, but I could only work four days a week. And then John Crowe called me that night at work and told me not to come in the next four days, to wait till Monday morning.

Q. So at first you were supposed to work light duty, but no overtime?

A. Yeah, at first.

Q. And then you were told not to come back in for the rest of the week?

A. Yes.

Q. And what happened on Monday?

A. I was told to report to Ernie every morning before I go down there to make bolts up in the connex for light duty and then report to him in the evenings.

Q. And did you go to the doctor again?

A. Ernie went on vacation and the other safety guy took me to the doctor the second time. I can't remember his name, though.

Q. And what transpired at that visit?

A. The lady examined my arm and seen it wasn't getting no better and she said -- told me that she might

order an MRI, but I didn't know who to tell or anything.

Q. Was it -- was an MRI ever authorized to your knowledge?

A. Not to my knowledge.

Q. And the doctor -- did the doctor ever released you?

A. No. I got laid off a couple weeks later.

Q. What was the reason for the layoff?

A. Tony told me that I was -- there was no more light duty and he didn't hand me an ROF or nothing. He told me to pick my check up on Friday. That's what I did. I couldn't afford to stay here, so I went back home.

Q. Did you attempt to get unemployment benefits?

A. Yes, I did.

Q. And did you tell them of your difficulties?

A. Yes, I did.

Q. How did you tell them?

A. On the computer you've got to punch it in. It will say, Are you capable of working? I put down no. Then you have to put down the reason why. And it just goes to different columns and it asks you yes or no questions. If you answer no, then it would ask for an explanation. If you answer yes, then it goes to the next question. Then I submitted the claim and I never got

my -- it said confirmation on the monitor, but I never got nothing in the mail. Usually get a determination whether or not it's been allowed or disallowed.

Q. So they confirmed that your application was complete and you submitted it?

A. Yes. The application was confirmed, but never heard nothing else back from it.

Q. And you never received any benefits?

A. Never.

Q. Did you also -- did you attempt to get work during this time?

A. Yes. When I first got home, Jack Joyner called me and told me about a three month outage and I went to work for NCS for four weeks.

Q. And what -- what were your duties?

A. I was running a crew of four guys, young boys.

Q. What does running a crew entail?

A. Let them do all the hard work while I showed them what to do.

Q. Did that require any physical labor on your part?

A. Hardly any.

Q. Did you fill out an application to do that job?

A. Didn't have to.

Q. Why not?

A. Because I had worked a nine-day shutdown with them back January the year before, before I come to work for Spirit, and I was already on file.

Q. Did you have to take a physical?

A. No.

Q. How long did you work?

A. Four weeks.

Q. Have you worked since that time?

A. No, can't find a foreman job.

Q. How much money did you make on your -- according to your 2011 taxes?

A. I think it's right around 79. Somewhere around 70, 79, I think.

Q. How has the past seven months been on you?

A. Rough.

Q. How have you supported yourself?

A. Borrowed money off my twin brother.

Q. And your house?

A. It's on a modification program. It went into foreclosure.

Q. What were your work traits? I mean, did you get to work on time?

A. Yes.

Q. How many times did you get written up?

A. None.

Q. How long did you work there?

A. From June the 21st until two weeks after the accident. Two weeks and two days, I think it was.

Q. What's the longest you've ever been unemployed?

A. Maybe three months at the most.

Q. When was that?

A. That's been about three years ago. But before I come to work for Spirit, I was off for one moth. Then I kind of reopened the claim and I only drew like four checks.

Q. Is there any other thing that you could have done to hurt your shoulder?

A. No.

Q. What were your hobbies or are your hobbies?

A. I don't really have none. My hobby was drinking, but I don't do that no more.

Q. You live in Kentucky?

A. Yes.

Q. And do you know anybody in Anderson?

A. In where?

Q. Anderson?

A. Yeah, people from work.

Q. Do you have any family -- you didn't have any

family here?

A. Oh, no, no family here.

Q. So all you did was stay with your co-workers?

A. Yeah.

MR. SMITH: I have nothing further at this time, Your Honor.

THE COURT: All right. Mr. Lewis.

MR. LEWIS: Thank you, Commissioner.

CROSS-EXAMINATION

BY MR. LEWIS:

Q. Mr. Provins, we haven't met in person yet, but I took your deposition over the telephone. Actually, we were in this office here and you were in Kentucky. Do you remember that?

A. Yes, sir.

Q. Now, you mentioned a minute ago one of your hobbies used to be drinking, and I understand you said you quit; is that right?

A. Yes.

Q. But when you were working for Spirit, you would drink every day even before you went to work, wouldn't you?

A. Only in the evenings.

Q. Did you not take alcohol to work in your water jug?

A. No.

Q. So you deny that you ever drank while you were on the job or drank before you went?

A. Yes.

Q. But you drank every evening, correct?

A. Yes.

Q. And so do you really have a clear memory as to what happened on January the 24th?

A. Yeah, I hurt my shoulder.

Q. Okay. And what about Luis, the Hispanic guy that you said was working with you, that's him sitting outside, isn't it?

A. I think so.

Q. Okay. Now, you don't think he would have a better recollection than you as to what happened?

A. No.

Q. Okay. Did you -- didn't you tell Luis before you started working that day that your right shoulder was bothering you and you told him that for the purpose of letting him know you weren't going to be able to do a lot of heavy lifting?

A. Yes.

Q. And the reason you did that, obviously, is because you were already having pain in your shoulder, correct?

A. I had pains all over both shoulders.
Q. I think you said you were sore in your shoulders and your back at that point?
A. Yeah.
Q. And I guess you were sore enough that you asked Shannon Clarke, you didn't even want to drag decking; is that right?
A. Yeah.
Q. And when you were working with Luis, he was actually kind of helping and doing most of the heavy lifting, wasn't he?
A. No, we did the same.
Q. Well, you told him -- there was a reason you told him your shoulder was hurting?
A. Yeah.
Q. You don't just tell him for information. Didn't you tell him so that he would help out and do most of the, quote, heavy lifting or most -- if anything needed to be picked up?
A. No.
Q. So why did you tell him?
A. So that way we don't have to work as fast or wouldn't be hard -- real hard on me.
Q. So your testimony is you told Luis that your shoulder was already bothering you so y'all didn't work

too fast? Is that what you're trying to say?

A. No. I'm trying to say that I told him to where we don't have to work like all out run, where we can just kind of like take it easy.

Q. You said a few minutes ago when you were testifying, you said this is a young man's game. You were upset that they were making you drag decking, weren't you?

A. No, not really upset.

Q. Well, I mean, you've - you've told us that you told Shannon Clarke that you didn't want to drag decking and you said in your deposition you told a guy named Billy?

A. Well, I think I told both of them.

Q. Okay. And the reason you did that is because you thought that the younger guys should be doing the -- dragging the decking, didn't you?

A. Well, I thought I would be more beneficial doing other stuff.

Q. Now, earlier you folded a piece of paper in half and I've got one that's similar to it. Let's -- let's just pretend that this is a piece of decking, and wasn't the decking you guys were moving 20 feet long?

A. Somewhere around there, 20 or 25, I guess. I don't know exactly.

Q. And in terms of width, what is it, three or four feet?

A. Three feet, yeah.

Q. Okay. So it's shaped like a rectangle representative of this piece of paper, correct?

A. Yes.

Q. All right. And they're stacked together; is that right?

A. Yes.

Q. And when you're dragging decking, you and Luis, what y'all would be doing is y'all would be taking a piece and pulling it off the stack and then it would kind of fall down to the floor and then the two of you would drag it over where it goes in place and lay it down, correct?

A. No. We was having to drag it down because it was all turned around. The wrong corrugation was on it. Then we was having to turn it all the way around like this and bring it back out, put it back out there.

Q. But still I guess the point I'm trying to make is you guys were dragging it like so, correct?

A. Yes. When we first started, we were dragging the first bundle like this. And then the second bundle was out further, so we drug it like this.

Q. Okay. So he's on one corner, you're on the

other, the bottom of the decking is still touching the ground and you guys are dragging?

A. Uh-huh.

Q. Okay. And are -- are you facing him?

A. No, I got my back to him.

Q. Why, are you in the front?

A. Yes.

Q. Okay. So you've already got a sore shoulder and are you holding the decking with both hands or just one, your corner? You said you're walking away. You're holding your corner.

A. When I first grabbed it, I had two hands on it. Then when I start walking, I kind of got one and this was more balancing the right hand actually holding it.

Q. So as you're walking, you're holding it with your right hand and you still kind of got your left hand on it too?

A. Not that high. It would be like that. (Witness indicates.)

Q. So you've got your left hand on it as well?

A. Like this. (Witness indicates.)

Q. And your testimony is that Luis dropped his end, like his end went down to the ground?

A. Yes. When his end went down to the ground, it

did this kind of thing like that there and jerked my arm down. Didn't take much.

Q. Now, your shoulder was already sore. How was it you had such a good grip on that piece of decking if he dropped it when your shoulder was already sore?

A. Because it's corrugated. It's kind of like grabbing this cup like this.

Q. Now, that decking, it's kind -- I mean, I know it weighs 100 or so pounds, but doesn't it -- it kind of bends and flexes?

A. It won't bend like this. What it will do, it can bow. But whenever it's dropped, it's kind of like a stack of dominoes. It's going to come down.

Q. So after this happened, you certainly would have turned around and said something to Luis like, what did you do or whatever?

A. I just turned and looked at him.

Q. And did you pick your end up?

A. Yeah, I went back to work.

Q. So you turned and looked at him and didn't say anything to him?

A. No.

Q. No. Why not? I mean, he just dropped his end of the deck and you're the -- you're the veteran guy on the crew and he's -- and he's not doing it right?

A. I didn't know if he spoke very good English or not and I just looked at him like -- didn't think nothing of it, you know, because you got to be tough when you're an iron worker.

Q. You said it was already -- it was almost lunchtime, so you and he had been working together all morning. Surely you had some kind of communication with him?

A. Not much.

Q. So y'all worked together and didn't speak to each other?

A. We didn't have a whole lot of conversation. We was too busy working. Jeff gets mad if you stand around talking.

Q. Now he's a pretty healthy looking --

A. Yeah, yeah.

Q. I mean, he's got big muscles and he's --

A. Yeah.

Q. -- young and strapped, isn't he?

A. Yes.

Q. How would it have been that he just dropped his end and you were able to hold onto yours?

MR. SMITH: Objection. Calls for speculation.

BY MR. LEWIS:

Q. You were there.

A. I don't know. I don't know why he dropped it. I had my back turned.

Q. So you stopped, you looked at him. And when you looked at him, what was his response?

A. He just looked back at me and picked -- picked mine back up and he picked his up.

Q. So you continued working up to lunchtime?

A. Yeah. We moved about two or three more sheets and I couldn't take the pain no more and I went and told Shannon I was injured. I just wanted my shoulder fixed.

Q. Now, you said your shoulder was already sore and had been for quite some period of time?

A. Yes, but I don't think the damage had been done yet.

Q. Okay. So you're saying that your shoulder was sore, but this incident made it worse?

A. Made it worse. Can I say something?

Q. Yes.

A. I think doing the wall exercises and hanging on the door is what did the final trick to it.

Q. You think doing wall exercises while --

A. With a bad shoulder, put your hand up on the door and Ernie and them told me to pull my weight down on it. No pain, no gain.

Q. Okay. Let's go piece by piece. You said --

when you're talking about Ernie, you're talking about Ernie that's sitting right here beside me?

A. Yes.

Q. The safety manager. Okay. And you were working light duty in the bolt -- making bolts?

A. Yes.

Q. And in that room it was you and you had a helper, didn't you?

A. Well, he was the main guy, I guess.

Q. But he was in there with you?

A. Yeah.

Q. And this was a room with a fan in it?

A. Yeah.

Q. You were doing sitdown work?

A. Yeah.

Q. And Ernie would come check on you or his assistant a couple times a day to make sure you were doing your exercises?

A. Yes.

Q. Because the doctor had given you exercises to do with stretches on the wall and such for your shoulder, correct?

A. That's the reason why Ernie told me to do them.

Q. And so Ernie would come in and just encourage

you to do your exercises, correct?

A. Yes.

Q. So today is it your testimony that you say you think you told your shoulder doing the exercise?

A. I think that made it worse, yes. Because when I hung on the top of that door, it wasn't getting no better. It just kept getting worse and worse.

Q. Were the exercises you were doing things the doctor told you or just what Ernie told you to do?

A. It's what the doctor told me, his doctor.

Q. Now, by the time -- this was on January the 24th, 2012. You had been on that job for, what, six, seven months?

A. Yes.

Q. And the job was scaling down a little bit by that time, wasn't it?

A. Yes.

Q. I mean, you had -- before that you had been working like weekends and everything. They had cut out weekend hours by that time, right?

A. Yes.

Q. And they had already laid off a number of people, didn't they?

A. Yes.

Q. You knew your time was coming up for layoff,

didn't you?

A. Never made layoff. Zero was actually going to transfer me to Kentucky. I survived every layoff because of my attendance and my good work record.

Q. Since you've -- since you've left there now, they've had more layoffs, haven't they?

A. I have no idea. I don't live down here.

Q. How many employees were on the job when you were there?

A. I couldn't tell you.

Q. More than 300?

MR. SMITH: Objection. Calls for speculation.

THE WITNESS: I couldn't tell you.

BY MR. LEWIS:

Q. You don't know how many are out there now?

A. I don't know how many are out there now.

Q. Now, you mentioned your house being in foreclosure. Isn't it true your house was already in foreclosure? You would be on the phone with the mortgage company and your roommate, Tony, would hear you? You were already having financial issues with your house, weren't you, before this injury?

A. No, I was only -- I wasn't in foreclosure. I was just a month behind. It didn't get in foreclosure until I got home. We was just having troubles making the

house payments because the hours were cut down.

Q. Were you on the phone with the mortgage company on a regular basis talking about these -- about your finances?

A. They called me, yeah, on a regular basis because I was like one month behind on my payment and then it got two months behind.

Q. Okay. Now, when you -- when you were working with Spirit, did you have health insurance?

A. No. I think I had just had qualified after six months maybe.

Q. You were there for the qualified amount of time. Did you purchase health insurance?

A. I did not purchase it at the time.

Q. Okay. So did you have any health coverage at the time that your shoulder was bothering you?

A. No.

Q. So if the workers' comp insurance wasn't going to pay to get your shoulder treated, you wouldn't have any way to pay for it, would you?

A. If workman's comp don't, I have to figure out some other way to pay for it.

Q. All right. Before I finish, I just want to make sure I'm clear. Your testimony today is that your shoulder and other things were already sore before

January 24th, had been for at least some period of time?

A. Possibly at least four or five weeks, yeah.

Q. Four or five weeks. And on January 24th, your co-worker, Luis, dropped his end of the deck and jerked your arm and that made it worse?

A. It hurt it enough to where I needed it -- that I contacted safety because you're supposed to report an accident.

Q. And that doing arm stretches on the wall during light duty is what you think really like popped your shoulder or snapped it?

A. No, I think it just made it worse. I don't know. I'm not a doctor.

MR. LEWIS: All right. Nothing further, Commissioner.

THE COURT: All right. Mr. Smith?

MR. SMITH: May it please the Court.

REDIRECT EXAMINATION

BY MR. SMITH:

Q. On the day in question were you intoxicated?

A. No.

Q. Under the influence?

A. No.

Q. Did you take a drug test when you went to the doctor?

A. Yes.
Q. Did you pass that test?
A. Yes.
Q. With regard to soreness, what does soreness mean?
A. Well, I guess it means like when you get up in the mornings after working hard all day before and all your joints ache and you're, you know, sore.
Q. As a veteran iron worker, have you dealt with that sort of situation before?
A. Yes, I've always dealt with pain.
Q. With regard to the notice that you gave to Spirit, how many days before the incident did you tell Shannon that you were sore?
A. I couldn't be exact. I say about four or five maybe.
Q. The sheets are made of what?
A. Galvanized steel. I don't know what gauge.
Q. With regard to your -- what is the policy with regard to reporting accidents?
A. You go to your supervisor or foreman and I guess I was working for Shannon. He was the foreman, the closest one. So I asked him where Jeff was so I could go to my supervisor.
Q. How old is Luis?

A. I couldn't tell you.

Q. Where does he live?

A. Huh?

Q. Where does he live?

A. Couldn't tell you.

Q. What does he do?

A. I don't know.

Q. With regard to you said that you felt a popping sensation in your shoulder?

A. Yeah.

Q. Did you ever feel a pop at any other time other than that particular incident?

A. No, I never felt a pop.

Q. With regard to the exercises, did you feel popping in that?

A. One day when I was in there and Ernie had me or the other guy told me to grab the top of the door and pull down, it almost brought tears to my eyes. It hurt real bad right then.

Q. And this was -- did Ernie take you to the doctor the first time?

A. Ernie took me the first time.

Q. Did he talk to the doctor at all?

A. Yes, he was in the room with me when I was being examined.

Q. So he knew what exercise need to be done?
A. Yes.
Q. And he was concerned about you and he made sure you did those?
A. Yes.
Q. So someone was at the doctor when you were prescribed the MRI?
A. The second time that was the other guy.
Q. Were they -- did you get an MRI?
A. No, I didn't get one. I didn't retain an order. Not my place. I come in and talked to him and he said, like, well, what you going to do? I said, I don't know. What are y'all going to do?
Q. Would you have been doing those exercises, sliding your hand up the wall and so forth, had you not been injured on January 24, 2012?
A. No. I still would have been injured, but I just don't -- I think it just complicated matters.
Q. No. My question is, would you have been doing those exercises -- did you do those exercises --
A. Oh, no, no --
Q. -- on January 23rd?
A. -- no, no. I wouldn't never be doing them exercises if it wasn't for the injury.
MR. SMITH: I have nothing further.

MR. LEWIS: A couple follow-up, Commissioner.

RECROSS-EXAMINATION

BY MR. LEWIS:

Q. You mentioned that, you know, you knew what general soreness is. You've done a physical job most of your life, correct?

A. Yeah.

Q. And so it's not uncommon for you to have aches and pains especially in your line of work, correct?

A. Yes. And I've worked with busted ribs before too.

Q. And you consider yourself to be a tough guy, don't you?

A. Used to be.

Q. But, I mean, your discomfort in your shoulder was significant enough before January 24th that you went and asked not to do this deck dragging, correct?

A. Yes.

Q. So it wasn't just a minor ache and pain. It was something significant?

A. It was significant, but that don't mean that you don't get out there and do it because just like Ernie and them say, no pain, no pain. We're iron workers. If you want to go work at Wal-Mart and be a greeter, go do it. And I had to have a paycheck, so I had to get out

there and do it.

Q. I understand. And that's my point. I mean, you're in a tough profession. You're a tough guy. But your shoulder was sore enough before anything on January 24th that you went and asked no less than two people at Spirit if you could not do the deck dragging and you told your co-worker beforehand you wanted to let him know your shoulder was bothering you, didn't you?

A. Yes.

Q. Now, just to make sure we're clear. You talked about doing some other jobs for the company before January 24th you think might have contributed to your soreness. Are you saying that your whole body at work at Spirit has caused your shoulder to be bad or are you saying something specifically happened on January 24th?

A. I'm saying something happened specifically on the 24th, but I think it all led up to being sore.

Q. I don't have --

A. And working extremely hard.

MR. LEWIS: Nothing else, Commissioner.

MR. SMITH: If I may?

THE COURT: Certainly.

FURTHER REDIRECT EXAMINATION

BY MR. SMITH:

Q. Did the aches and pains that Mr. Lewis spoke

of or asked you about, were there ever tears in your shoulder?

A. No.

Q. With regard to your injuries as Mr. Lewis pointed out, you told your supervisor before this incident about the fact that you were sore?

A. Yes.

Q. Other than working, were you doing anything with regard to your shoulder?

A. No, I would sit around and watch TV.

Q. Where did the soreness come from?

A. Probably from hanging and messing around with them big bolts and them giant impact guns and holding them up like this doing overhead ones.

Q. And that was while working, right?

A. Working, yeah. From working. From working hard. I always work hard.

Q. And then the final incident was the popping incident?

A. Yeah.

MR. SMITH: I have nothing further.

MR. LEWIS: Nothing else, Commissioner.

THE COURT: All right. Thank you, sir. Other witnesses?

MR. SMITH: That's it.

THE COURT: That's your case?

MR. SMITH: That's it.

THE COURT: Witnesses?

MR. LEWIS: Yes, sir. I call Ernie McDonald.

(EARNEST MCDONALD, being duly sworn to tell the whole truth and nothing but the truth, testified as follows:)

THE COURT: Please state and spell your full name for the record.

THE WITNESS: Earnest McDonald. E-A-R-N-E-S-T, M-C-D-O-N-A-L-D.

THE COURT: You're speaking loud enough. But remember if it's yes or no, say yes or no. All right. Mr. Lewis.

MR. LEWIS: Thank you, Commissioner.

DIRECT EXAMINATION

BY MR. LEWIS:

Q. Mr. McDonald, you understand first of all that you're under oath today, correct?

A. Yes, sir.

Q. You know Mr. Provins who is sitting in here, don't you?

A. Yeah.

Q. Tell the Commissioner just briefly what your role with Spirit Construction is here in Anderson, what

the job is.

A. The head safety person for Spirit Construction out here at First Quality for Spirit and Vos Electric.

Q. And what is First Quality? Y'all are building a paper machine, correct?

A. Correct. Yes.

Q. All right. And how long -- how long have you been on that job?

A. I've been on this job now for 14 months.

Q. Now, in general how long have you worked for Spirit Construction or one of its related companies as a safety manager?

A. Been with the company for 18 years now and I've been in safety for nine.

Q. And you live in Alabama, correct?

A. Yes, I live in Alabama.

Q. And you go on these jobs all over the country and you basically live in that area for a while?

A. Yes, sir. I've been from Oregon all the way to eastern United States.

Q. And you have an apartment here?

A. Yes.

Q. And is it in the same apartment complex that Mr. Provins lived in for a while?

A. Yes, sir.

Q. And obviously we're here today because he contends he was injured on January 24, 2012, and there's no dispute that he came to you and told you he had been injured, correct?

A. Yes.

Q. And as a result of that, did you drive him to the doctor?

A. Yes, I did.

Q. And tell me what you remember about the ride to the doctor's office.

A. Well, on the way over there he mentioned that, you know, he said his arm was sore. He said it was sore before this accident happened and like the -- the dropping of the deck, he heard a pop and it made it worse.

Q. Okay. And did -- the deck that he's dragging, you've seen some of the demonstration that we've been using with the sheets of paper. Is that accurate in terms of the way these guys drag the deck? One would be on each end and they'll walk it down?

A. Yes, it is.

Q. And where -- when you got to the doctor's office, was it just the two of you?

A. Yes, it was.

Q. All right. And did you wait there with him

the entire time?

A. Yes, I did.

Q. And did you take him home that night?

A. Yes, I did.

Q. And did you then provide him a light duty job?

A. Yes, we did.

Q. And this is, of course, while the case was being investigated. But from your end, is that something you do if somebody is hurt on the job, y'all get them a light duty position?

A. That's right.

Q. Tell the Commissioner what he was doing in the light duty job.

A. The light duty job, like he said, he would come in, we would go through his exercise like the doctor had showed us -- showed me for him to do. He done that. He would go down to the -- what we called a bolt connex, which is just a seat container that they have all the bolts in. And all he had to do was just sit at the table, had a fan on him. He just sit there and just take bolts and put the nuts and washers on them. That's all it is. He'd make them up, throw them in -- throw all the bolts in a bucket, I'm sorry, and that was his job duty all day.

Q. And when you went -- when you would go in

there and check on him and tell him to do his exercises, why were you -- why were you telling him to exercise?

A. Because the doctor had told us -- told me that whenever he was doing the -- during the day to do the exercise two or three times a day. So that's the reason why go we could go in there and check on him just to make sure he would do it.

Q. Okay. Now, how many employees are on that job now?

A. It's less than 100.

Q. And at the time Mr. Provins was there, how many were there?

A. Probably a little over 300 people, 370, something like that.

Q. So the jobs have been scaled down incrementally?

A. Oh, yes.

Q. Is the job going to be coming to an end before too long?

A. Yes.

Q. Now, when you -- when you took Mr. Provins to the doctor's office, you drove him over there, did he ride in the car with you?

A. Yes.

Q. And how did he appear? What did you observe?

A. He was really -- real shaky and stuff, you know. Even when we got to the doctor's office, he was -- he was shaking so bad I actually had to sign him in. Then after that, we left the doctor's office, went by and got his medicine for him, and then that's when I took him home.

MR. LEWIS: All right. Nothing further, Commissioner. Thank you.

THE COURT: Mr. Smith.

MR. SMITH: May it please the Court.

CROSS-EXAMINATION

BY MR. SMITH:

Q. You've been with Spirit for some time?

A. Yes.

Q. And so you're aware of their policy to deny claims, right?

MR. LEWIS: I object. I object to that, Commissioner.

THE COURT: Sustained.

BY MR. SMITH:

Q. You were really concerned about him doing his exercise?

A. I'm always concerned about it, yes. Anybody that's injured in construction under my people, I make sure that they do what the doctor has asked them to do.

Q. So based on that and based on the fact you were involved with Mr. Provins seeing the doctor, you would want him to have an MRI, right?

A. I'm not aware of that.

Q. Aren't you the safety man?

A. Yes, sir. But stuff like that, I was on vacation that week and what happened then, you know, that goes to the Green Bay office. I'm not aware of what happened about the MRI and stuff.

Q. Did he have an MRI?

A. Not as I'm aware of, no.

Q. And the story that Mr. Provins gave today is the same one he gave to you and the same one that he gave to the doctor; am I right?

A. Yes.

Q. So that's never changed?

A. No.

Q. In regard to Mr. Provins' work, the quality of his work was okay, wasn't it?

A. Yes, it was.

Q. His attendance was solid?

A. Uh-huh.

Q. He was timely?

A. Yes. Uh-huh.

Q. Mr. Provins is right-handed; is that right?

A. I believe so, yes.
Q. And you signed in for him?
A. Yes.
Q. And since you were safety man, did you have them do a drug test?
A. Yes.
Q. And how did that go?
A. It was good.
Q. Have you ever told him no pain, no gain?
A. Well, yes, I did.
Q. Did you also tell him that maybe if he stopped masturbating he would get better?
A. That's just construction workers. No harm was meant by that whatsoever.
Q. But you said it?
A. Yes, sir, I did say it.
MR. SMITH: I have nothing further, sir.
THE COURT: Mr. Lewis.

REDIRECT EXAMINATION

BY MR. LEWIS:

Q. Mr. McDonald, just one more question. When you were taking Mr. Provins to the doctor, he also told you in the car that his shoulder was already bothering him before this incident that he alleged, correct?
A. Yes, he did.

Q. And in terms of making decisions about approving MRIs and workers' comp issues, you get them to the doctor, you don't decide all those issues, do you?

A. No, sir, I do not.

MR. LEWIS: Nothing else.

THE COURT: Mr. Smith?

MR. SMITH: I don't have anything further, sir.

THE COURT: All right. Thank you very much. Next witness. Luis, do you speak English?

THE WITNESS: Yeah, I understand pretty good sometimes.

THE COURT: Is your understanding of English better than your speaking ability?

THE WITNESS: Yes, I understand more.

THE COURT: Do you feel comfortable that you can understand the questions that these gentlemen are going to ask you?

THE WITNESS: (Inaudible.)

THE COURT REPORTER: I didn't understand that.

THE WITNESS: Do what?

THE COURT REPORTER: Can you repeat your answer?

THE COURT: This lady is making a record of this, so she needs to understand everything you say.

Okay. I need to understand everything you say because I'm the fact-finder here. Do you feel comfortable answering the questions?

THE WITNESS: What?

MR. LEWIS: He said do you feel comfortable understanding the questions that are going to be asked to you?

THE WITNESS: Yeah.

THE COURT: What I'm going to do here in just a moment is I'm going to swear you in, ask you under oath to tell the truth. Okay?

THE WITNESS: Okay.

THE COURT: Then I need for you to speak up loudly and clearly so that we all can hear you. If you don't understand the question, say you don't understand the question.

THE WITNESS: Okay.

THE COURT: And we will have them restate. You can tell me tell, you can tell whoever is asking you the question. But I want to make sure you clearly understand. If you don't understand the question, don't answer it until you understand it.

THE WITNESS: Okay.

THE COURT: Okay. Because it's very important that the answers you give are the answer to the question

they ask, not just what you maybe thought they asked. Do you follow what I'm saying?

THE WITNESS: Yeah.

THE COURT: Okay. All right. Now, once I swear you in, I need you to state and spell your name. Can you spell in English?

THE WITNESS: Not really. Luis is L-U -- L-U-I-S, Louis. C-I-R-R...

THE COURT: Is it on your APAs?

MR. LEWIS: Yes, sir. That's how it's spelled.

THE COURT: C-A-R-R-I-O-N.

(LUIS CARRION, being duly sworn to tell the whole truth and nothing but the truth, testified as follows:)

THE WITNESS: Can you repeat that one more time?

THE COURT: All right. Let me simplify this. I don't think either one of you will object. The answers you're going to give, do you swear under oath that they are truthful, that you are about to tell us what is true?

THE WITNESS: True.

MR. LEWIS: Do you swear that your answers are going to be truthful? Are you going to tell the truth?

THE WITNESS: Yeah, tell the truth.

THE COURT: Okay. Very good. Is everybody comfortable with that?

MR. LEWIS: (Counsel nods head.)

THE COURT: Mr. Smith, are you comfortable that he's --

MR. SMITH: Yes.

THE COURT: -- appropriately sworn in?

MR. SMITH: Yes, sir.

THE COURT: All right. Mr. Lewis.

MR. LEWIS: All right. Thank you, Commissioner. And I'm going to be brief.

DIRECT EXAMINATION

BY MR. LEWIS:

Q. Luis, do you remember working with Mr. Provins on January -- around January 24, 2012?

A. Yeah.

Q. Okay. And that was like the first time you really had worked with him, right, because he was usually on another crew; is that correct?

A. Yeah.

MR. SMITH: Objection as to leading.

MR. LEWIS: I did lead. Let me ask him another one.

BY MR. LEWIS:

Q. Did Mr. Provins typically work on your crew

with Shannon Clarke?

A. Yeah, he worked one day.

Q. So he worked one day with Shannon's crew?

A. Yeah.

Q. Okay. Now, when you and he -- did y'all drag decking together?

A. No.

Q. You --

A. Yeah, we -- we were up in the decking.

Q. You and Mr. Provins were dragging decking, correct?

A. Yeah.

Q. Did you ever drop your end of the decking?

A. No.

Q. Did he -- did Mr. Provins ever say anything to you or indicate to you that you had dropped your end of the decking?

A. No.

Q. Now, you're -- how old are you?

A. Twenty-three.

Q. And you're a pretty healthy guy. You work out at the gym regularly?

A. Yeah, I go two, three, four days a week.

Q. Two or three or four days a week?

A. Yeah.

MR. LEWIS: That's all the questions I have, Commissioner.

THE COURT: All right. Mr. Smith.

MR. SMITH: May it please the court.

CROSS-EXAMINATION

BY MR. SMITH:

Q. How many times did you have the opportunity to work with Mr. Provins?

A. How many times what?

Q. How many times did you get to work with him?

A. How many times? No, just one. Just one time.

Q. Were you friends, amigos?

A. Yeah, friend. Well, I worked for -- when my -- really were two friends and that's all.

Q. Where -- Mr. Provins, does he live in South Carolina?

A. Who?

Q. Mr. Provins.

A. No.

Q. Where does he live?

A. I don't know.

Q. What did you talk about on the job?

A. Nothing. We working together. We didn't talk nothing.

Q. Did he work hard?

A. Huh?
Q. Did he work hard?
A. Oh, yeah. When -- when we pick up the first piece, he told me he --
MR. SMITH: Objection. I ask that he answer the question.
THE COURT: He needs to answer the question he was asked. If you want to come back and ask him that question, you may.
THE WITNESS: Huh?
THE COURT: Please restate the question, please, Mr. Smith.
MR. SMITH: I withdraw it.
BY MR. SMITH:
Q. If there's an accident at Spirit, what are you supposed to do?
A. Just tell somebody else, my foreman or safety.
Q. Are you a foreman?
A. No.
Q. Mr. Provins, was he supposed to tell you something?
A. No, he didn't tell me something with job.
Q. You still have a job with Spirit?
A. Huh?
Q. You still have a job with Spirit?

A. Yeah.

Q. A lot of people have been laid off?

A. Yeah, some people got laid off.

Q. How much -- how much experience do you have -- how long have you worked with Spirit?

A. Almost 15, 16 months.

Q. What is your position?

A. It's iron worker.

Q. Iron worker?

A. Yeah.

Q. And how long have you been an iron worker?

A. I work two years and a half, something.

Q. The people that have been laid off, how many years have they been working?

MR. LEWIS: Commissioner, I'm going to object to that. I mean, that's --

MR. SMITH: It's cross-examination.

MR. LEWIS: Yeah, but that's not -- that's not a legitimate question. Who is he talking about?

MR. SMITH: It goes to credibility.

MR. LEWIS: There's hundreds of people. How does his seniority go to credibility?

MR. SMITH: He still has a job when you've brought up the fact that there's 100 people now, not 300.

MR. LEWIS: He's in a different state now.

THE COURT: You opened that door.

MR. LEWIS: Okay.

THE WITNESS: I don't know how many got. Some people.

BY MR. SMITH:

Q. Mr. Provins told you his shoulder was sore?

A. Huh?

Q. Mr. Provins told you his shoulder was sore?

A. Yeah, he told me. When we pick up the first piece, he tell me that the shoulder hurt. But I don't know.

Q. Did he do anything differently, I mean, or did he do the same that you did? I mean, you were moving the sheets, right?

A. Yeah. One time he said, My shoulder hurt. My shoulder hurt. He never stopped if he had a problem.

Q. You started moving sheets first thing in the morning?

A. We move like almost -- in the morning like ten o'clock. We move one bundle, the decking bundle.

Q. How many are in a bundle?

A. Bundles are almost 13, 15 piece.

Q. And you started working doing that at eight o'clock?

A. Yeah. We start -- when we -- when we worked

together, we start 10:00.

Q. What were you doing for the other two hours before that?

A. Oh, we do everything. We do the decking.

Q. In order to move this deck, the sheets, takes two people, right?

A. Yeah.

Q. And the two of you did the same job, right?

A. Yeah.

Q. Did he drop his end?

A. No. We never drop it because we never pick up. When we work with him, we slide the piece. We never pick it up. I don't know why he say I drop it.

Q. What?

A. I don't know why he say I drop the piece because we never -- we pick up the piece like this far. We pick it up like this and we slide the piece. (Witness indicates.)

Q. Have you talked to Ernie about this?

A. Yeah.

MR. SMITH: I have nothing further.

THE COURT: Mr. Lewis?

MR. LEWIS: No questions.

THE COURT: All right. Next witness. All right, sir. I'm going to swear you in in just a moment.

I'm going to ask you to do a couple of things for me. I want to make sure you speak loudly enough and clearly enough that everyone in the room can hear you, specifically the two attorneys and me and especially this young lady because she's making a record of this proceeding. Okay?

The other thing is if you are asked a yes or no question, please respond with yes or no. Uh-huh and unh-unh get misunderstood. And shaking and nodding your head requires her to stop to see what you're doing and then has to actually write that down. So if you're asked a yes or no question by either of the attorneys or by me, please answer with yes or no. Okay?

THE WITNESS: Yes.

THE COURT: All right. Very good.

(ANTHONY A. AZUSENIS, JR., being duly sworn to tell the whole truth and nothing but the truth, testified as follows:)

THE COURT: Please state and spell your full name for the record.

THE WITNESS: Anthony A. Azusenis, Jr. A-N-T-H-O-N-Y, A, period, A-Z-U-S-E-N-I-S, J-R.

THE COURT: All right. Mr. Lewis.

DIRECT EXAMINATION

BY MR. LEWIS:

Q. Tony, you worked for Spirit Construction and you worked here in Anderson on that project for some time, didn't you?

A. Yes.

Q. And now where do you work for Spirit Construction?

A. In Shelby, North Carolina.

Q. And Luis, the gentleman who just testified, Mr. Carrion that just left, does he also work in North Carolina with you?

A. Yes, sir.

Q. Now, we're here today obviously dealing with Mr. James Provins, and you worked with him on the job here in Anderson?

A. Yes.

Q. And did he live with you at one point in time?

A. Yes, he did.

Q. Okay. Tell me how that came about.

A. We were working together. I had another roommate by the name of Bill Phillips, and I had a previous roommate by the name of Ryan Martin that moved out. And we were living at Shadow Creek Apartments. We had a three bedroom fully furnished with utilities that was running us about 1500 a month. So we're out of town

to make money. We're not out of town to spend money. So he suggested -- James was looking for a place to live and suggested him as a roommate and I said, fine, since the lease was in my name, and I invited him to move in.

Q. Okay. And when he moved in, did you -- you went and picked him up from wherever he was living and moved his stuff?

A. Yes, I did.

Q. Was he in a hotel before then?

A. Yes, he was.

Q. Now, when he lived with you, did he discuss -- did he ever tell you about any kind of problems he was --

MR. SMITH: Objection. Leading.

MR. LEWIS: That's not leading. I'll rephrase it.

MR. SMITH: I anticipated. I'm sorry.

BY MR. LEWIS:

Q. Now, when you were living with Mr. Provins, did you ever notice anything about him physically something that you directly observed any kind of physical limitations?

A. As far as at home, I would say no. But as far as working with him on the job site, I noticed he had a limited movement of his right arm.

Q. Okay. And why did that stand out to you? Did

it remind you of something or?

A. It reminded me there's a gentleman by the name of John McCain.

Q. You mean the way the shoulder movement?

A. Right. As far as being able to force your hand straight up in the air.

Q. And did you ever have any conversations with him about why he moved his arm in that manner prior to January 24th?

A. At work, no. I mean, he performed his job well and was a hard worker. So, I mean, that was not an issue at that point.

Q. At home conversation with him about it.

A. No.

Q. Now, you drove him to work typically when he lived with you; is that right?

A. Yes.

Q. And you remember the date in question here you didn't take him home that day?

A. No. He was home when I got home I would leave Ernie took care of that.

Q. Ernie take him during the course of time that hi levied with you did you ever hear him have any conversations about his finances?

A. I know he was having difficulty with his

mortgage payments.

Q. And how do you know that?

A. Because I heard him having conversations with his --

MR. SMITH: Objection. He doesn't know who was on the other end of the phone. Speculative.

THE COURT: Do what now?

MR. SMITH: He doesn't know who is on the other end of the phone. It's speculative.

THE COURT: But why can't he tell us what he heard.

MR. SMITH: He was telling us who he was talking to.

THE COURT: You can't do that. You can tell us what you heard, but you can't tell -- you can tell us what you heard as far as what he said, but you can't speculate as to who he might be talking to.

THE WITNESS: Correct, Your Honor.

BY MR. LEWIS:

Q. All right. Tony, you can't tell us who Mr. Provins was talking to if you don't know. Did Mr. Provins ever tell you, Hey, I'm on the phone dealing with the mortgage company or did he identify who he was speaking with?

A. He didn't identify exactly who he was speaking

with, but he said he was on the phone arguing with the mortgage company trying to buy himself some more time.

Q. Okay. And did you hear that conversation more than once?

A. Yes.

Q. More than twice?

A. Yes.

Q. So was it -- would you call it a regular occurrence or --

A. I would say on a weekly basis.

Q. Now, when Mr. Provins lived with you, was he still drinking a lot at that time?

MR. SMITH: Objection.

MR. LEWIS: It's relevant, Commissioner.

MR. SMITH: He hasn't even built a foundation.

MR. LEWIS: We talked about his memory earlier with the alcohol, and this is going to go to his memory. You can make a determination on your own as to whether it impacts his memory, but I think his roommate testifying about this is certainly relevant to his reliability and his memory.

MR. SMITH: He's testifying for him. There's no foundation for this line of questioning.

THE COURT: I actually have an issue with the phraseology of your question, "drinking a lot." I don't

know that there's any way that he knows that.

MR. LEWIS: Okay. I'll try to be brief, but I'll get -- get to it.

THE COURT: Be careful.

BY MR. LEWIS:

Q. Tony, when you lived with Mr. Provins, was he a drinker or a non-drinker?

A. A drinker.

Q. Okay. And how would you characterize the frequency of his drinking? How would you characterize the frequency, how often he drank?

A. Daily.

Q. And what was he drinking? Was it beer or was it some type of whiskey?

A. It was a bourbon.

Q. Okay. And did you ever observe him drinking in the morning before he went to work?

A. To be honest with you, yes.

Q. Did you ever see him take it to work in a jug or any kind of container?

MR. SMITH: Objection. Leading.

MR. LEWIS: That's not leading. It's a question. I've not suggested an answer. It's a yes or no. Did you ever observe --

THE COURT: That's acceptable.

BY MR. LEWIS:

Q. Did you ever observe Mr. Provins putting alcohol in any type of container that he took to work?

A. Yes.

Q. Now, you weren't working with him the day he says he got hurt, correct? In other words, you weren't working on his crew?

A. No.

Q. So you don't have any knowledge exactly of what happened while he was doing what he was saying he was doing?

A. No, no.

MR. LEWIS: Nothing further, Commissioner.

THE COURT: All right. Mr. Smith.

MR. SMITH: May it please the Court.

CROSS-EXAMINATION

BY MR. SMITH:

Q. Spirit had you signed a confidentiality agreement regarding Mr. Provins' injury, didn't they?

A. No.

Q. So if Mr. Provins said that, that would be incorrect?

A. That is incorrect.

Q. You called Mr. Provins in March and told him you were fired, didn't you?

A. I was told by my boss to go home and tell James that he was relieved of his duty due to a reduction of workforce.

Q. Okay. Now, if you could answer my question. With regard to you making a phone call to Mr. Provins in March and telling him that you were fired and that you needed work, do you recall that?

A. No.

Q. What -- what record do you have? Your criminal record, could you share that with us?

A. I have no criminal record.

Q. Never been in trouble?

A. I've had a few DUIs in the past.

Q. So you know all about drinking?

A. Yes, I do.

Q. What did Mr. Provins do that required use of his right shoulder at home?

A. At home? Like I said, I never really acknowledged it at home. I mean, at work I did because of his ability to have to climb or lift heavy stuff and him making the comment that I'm no spring chicken anymore and I'm a little old and a little worn down, to be honest with you.

Q. Did he have any hobbies? Bowling?

A. No.

Q. Did you see him do anything with his right shoulder outside the workplace?

A. To be honest, no.

Q. So all you did was see him use his right shoulder at work; is that right?

A. Correct.

Q. You said that you helped him move stuff from his hotel to your apartment?

A. Yes.

Q. Was there anything heavy in there?

A. No. It took us probably a whole total of three to four minutes.

Q. How long -- how long -- excuse me. I'm sorry. How long did he live at your apartment?

A. About three months, give or take.

Q. You said that he argued with the -- whoever held his mortgage, is that right, or something to that effect?

A. Yeah. He was -- he was concerned about his home going into foreclosure and he was on the phone. I couldn't say he was talking to the bank. But from what he told me, that he was trying to buy himself some more time with his mortgage company.

Q. And how many times did you hear that conversation?

A. I'd say at least a half dozen occasions.
Q. What time did those conversations take place?
A. That I got some money coming in. I'm going to be sending it out to you. I know I'm two months behind. I'm doing the best I can, you know. I'm here in Anderson working and doing the best I can. That's pretty much what it was.
Q. When did these conversations take place?
A. Usually like on a Saturday or early evening.
Q. Early evening about what time?
A. Right when we got home from work, 5:00, 5:30.
Q. What was Mr. Provins' work ethic like?
A. To be honest with you, it was exceptional. He showed up every day, he was on time, and the man would do anything you asked him to do.
Q. Did he work hard?
A. Yeah, he was a hard worker. He wasn't slack by any means.
Q. Is there any question that he needed money?
A. Was there any question?
Q. Was there any question based on what you heard?
A. Yeah. I would say he was very concerned about losing his home. He had so many years invested into it.
Q. As a worker yourself, would you agree that not

having a job would make it even that much more difficult to make your payments?

A. Yes.

Q. You told Mr. Provins to hire me, didn't you?

A. Oh, we were sitting in a pub. He was looking through a magazine and he took notice. He went outside and called.

Q. You told him to get a lawyer because you knew that they were going to wait for him to be released from the doctor and then lay him off, right?

A. False.

Q. How long have you worked with Spirit?

A. Six years.

Q. So you and Luis still working together?

A. Excuse me?

Q. You and Luis still working together?

A. We do not work together. He's in a different department.

Q. Been a lot of layoffs at Spirit?

A. No. Actually, in Shelby there hasn't been no layoffs in the past four months. We've been hiring.

Q. Have you talked to Ernie about this case?

A. No, I have not. I have not seen Ernie since March since I was relocated to Shelby.

Q. Do you have any question that Mr. Provins is

hurt?

A. Excuse me?

Q. Do you believe that he's hurt?

A. I would say he does have an injury. Is it from Spirit directly, I cannot say because I was not there. But did he have a previous injury, yes.

Q. When was that?

A. I couldn't tell you when, but I acknowledged him working prior to his so-called injury with Spirit and having limited ability movement with his -- with his arm.

Q. How did he hurt himself?

A. I couldn't tell you. I wasn't there.

Q. But his work ethic, he was an exceptional worker?

A. Yes. I cannot take that away from him.

Q. With regard to his alcohol consumption, he didn't drink any that day, did he?

A. I cannot answer that.

MR. SMITH: I have nothing further, Your Honor.

THE COURT: Mr. Lewis?

MR. LEWIS: Nothing else, Commissioner.

THE COURT: All right. Thank you, sir. Any other witnesses, Mr. Lewis?

MR. LEWIS: No, sir. That's our case.

THE COURT: All right. That concludes this hearing then.

(The hearing was concluded.)

CERTIFICATE OF REPORTER

I, Kimberly T. Power, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing transcript of proceedings was taken before me on the date and at the time and location stated on page 1 of this transcript; that the witness was duly sworn to testify to the truth, the whole truth, and nothing but the truth; that the testimony of the witness and all objections made at the time of the proceeding were recorded stenographically by me and were thereafter transcribed; that the foregoing transcript of proceedings as typed is a true, accurate and complete record of the testimony and of all objections made at the time to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 20th day of October, 2012, at Richland County, South Carolina.

Kimberly T. Power, Court Reporter
Notary Public, State of South Carolina
My Commission Expires: 07/22/2015

TRANSCRIPT OF SINGLE COMMISSIONER HEARING UNDER COMMISSIONER R. MICHAEL CAMPBELL, II DECEMBER 5, 2016

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1200349

JAMES PROVINS, CLAIMANT, V. SPIRIT CONSTRUCTION, EMPLOYER, AND INSURANCE COMPANY OF THE STATE OF PA, CARRIER, DEFENDANTS.	HEARING BEFORE COMMISSIONER R. MICHAEL CAMPBELL, II **TRANSCRIPT**

COPY

THE WORKERS' COMPENSATION HEARING, TAKEN BEFORE CORA ELLIS BRUTON, A NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA, COMMENCING AT THE HOUR OF 1:22 P.M., MONDAY, DECEMBER 5, 2016, RONALD TOWNSEND GOVERNMENT BUILDING, 2404 NORTH MAIN STREET, ANDERSON, SOUTH CAROLINA 29621.

CORA ELLIS BRUTON
COURT REPORTER
131 BROWNING COURT
LEXINGTON, SOUTH CAROLINA 29073
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EXHIBITS
(No Exhibits Proffered)

THE COURT: Today's hearing date is December the 5th, 2016. This is South Carolina Workers' Compensation Case File Number 1200349. This is the case of the Claimant James Provins who is deceased, represented by Attorney Donald L. Smith. The Employer is Spirit Construction. The Carrier is Insurance Company of the State of Pennsylvania; both represented by Attorney J. South Lewis, II.

The date of accident was January 24th, 2012. There is an average weekly wage of $1,130.51 with a corresponding compensation rate of $725.47.

APAs have been submitted. Are there any objections to APAs, Jurisdiction, venue or any other items?

MR. SMITH: None from the Claimant.

MR. LEWIS: None from the Defendants.

THE COURT: Without objection the Commission file becomes a part of the record with the exception of self-serving declarations and unstipulated medical reports.

Mr. Smith, we're here today on your Form 52, so if you would please put your position on the record and let us know exactly what you're seeking here today, sir.

MR. SMITH: Your Honor, we -- we are seeking to

have the death benefits that would be entitled to Ms. Provins based on a work related death. The death resulted from the bad faith denial of the claim which prolonged his treatment and caused atrophy in his shoulder and further injury to his shoulder which the surgery was successful allegedly and then of course he had a tear. At some point he said that the tear or the pain in his shoulder was the same. He allegedly had the MRI in October 2013 which indicated that, in fact, he had the torn shoulder. He died in April. I filed a Motion to Compel treatment in April based on my understanding of what the treating surgeon had said. We believe that "but for" the injury and the subsequent bad faith denial of the claim and the inability for necessary treatment in a reasonable time, caused his injury to be far greater and it blocked the injury in the manner of getting better, at MMI and getting back to work. Every single physical therapy visit that he had talked about pain. It never -- never went away. He never got to a plateau and as a result it's -- it's our contention that he died as a result of the injury, not necessarily directly, but certainly it was instrumental in the death.

THE COURT: Okay. All right. Thank you. Mr. Lewis:

MR. LEWIS: Thank you. Commissioner. It's the Defendants' position that this was a shoulder injury. Mr. Provins had his shoulder operated on one time. He was in the middle of treating with the authorized treating physician and there was a second surgery that was being discussed. Some medical releases had been sent to Mr. Provins' counsel which were not signed so as to investigate the causation aspect of the new tear in the shoulder. And unfortunately during that time in April of 2014, Mr. Provins passed away. This was always a shoulder case and initially it was brought under 42-9-280 to determine if there was any permanent disability due to the shoulder. It's our position that after that avenue was not going to be successful that this death claim was filed. This claim for death was not filed until over a year after Mr. Provins' death. It had always been understood that it was a shoulder case until such time as that avenue was not going to be successful. It's our position that Mr. Provins' death is not causally related to his work injury. Certainly it's not directly related to the injury. The theory from the Claimant is that -- the Claimant's side is that because of the problems, the pain he dealt with from the injury that he consumed alcohol in excess. I believe the records show that

he's had an alcohol abuse problem the majority of his life quite frankly. Furthermore, the death certificate lists multiple causes of death or at least two; acute respiratory failure and septic shock. It also shows contributing factors of pneumonia, renal failure and alcohol abuse. There's no opinion from any of the doctors who treated Mr. Provins, either in the hospital at the time of his death or even that treated him personally before his death, linking up his death to anything related to the work injury. It's also our position that it would be against public policy to hold that the way a -- an individual responds to pain in using alcohol in excess would be against public policy, no different than we would say somebody who responds to a work injury by getting addicted to heroin that is somehow the responsibility of the Workers' Compensation Carrier and Defendants. Furthermore, Mr. Provins had gone to the hospital before his death and these are in the records, and they reveal that he had had a significant drinking problem. He had even, in fact, said he was drinking himself to death in one particular -- one particular episode and visit to the hospital. And so it's really not unforeseen. Our position is that under the Capers case and the theory of not an accident. It would be

something -- not something that would be unexpected because he knew that these were issues for him and that's how he dealt with his problems afterwards. Finally, there's an expert -- there's two experts in the case that Dr. Martin's the Claimant's expert. Dr. Ballenger is our expert and it's our position that Dr. Ballenger is the more credential qualified and persuasive expert and if you read his deposition testimony and I think that will be borne out. And finally, I know I said finally already one time, you know, we assert that this -- that the death aspect of this claim, not the shoulder itself or the underlying injury, but pushing the death aspect so far removed from the death itself and then going and obtaining evidence after the fact -- after it was filed. There was no evidence to support the death at the time the death claim was filed. We assert that the death pleading is made with unreasonable grounds and in bad faith. Thank you.

THE COURT: Okay. All right. Mr. Smith, anything more?

MR. SMITH: No. I believe that the facts will play out with the testimony.

THE COURT: Okay. All right. Ms. Provins, I have a couple of quick instructions for you. If you

would please speak up and speak clearly so we all hear your responses to the questions and most importantly so this nice lady right here on my right can get them for the record. If you're asked a yes or no question please give us a verbal yes or no answer. You can shake your head yes or no like I do all the time just make sure you accompany that with a verbal yes or no answer. Try and stay away from things like uh-huh and huh-uh. That's just too easily misunderstood for the record. So if you could help us out with that we'd appreciate it. Okay.

THE WITNESS: Yes.

THE COURT: Okay. Please raise your right hand. Do you swear and affirm that the testimony you are about to give is the truth, the whole truth and nothing but the truth?

THE WITNESS: Yes.

THE COURT: Okay. You can put your hand down and please state and spell your name for the record, ma'am.

THE WITNESS: Debra Provins, D-E-B-R-A P-R-O-V-I-N-S.

THE COURT: Okay. Thank you, Ms. Provins. Mr. Smith, your witness.

MR. SMITH: Thank you, Your Honor.

Debra Provins,

Having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SMITH:

Q Ms. Provins, where do you currently reside?

A 125 -- 13 -- 13605 Ken Ross, Louisville, Kentucky.

Q How long have you lived there?

A About eight -- probably eight to ten years. I'm not sure exactly.

Q Who do you live there with?

A My two daughters.

Q How old are they?

A Right now they're 20 and 24.

Q Do you have any more children?

A No.

Q Well, when did you get married to Mr. Provins?

A It was over 20 -- I was married over 28 years. I'm not exactly -- the year or date -- I can tell you the -- the date of the -- September the 4th, but I'm not exactly sure the year. I'm never good with numbers and dates.

Q Yes, ma'am. So you -- so the two of you had two children?

A Yes.

Q Were there any other children by Mr. Provins --

A No.

Q -- over -- no? What's your educational background?

A I finished high school.

Q Okay. What's your work history?

A I worked maybe -- maybe two or three jobs and then I -- I decided to have kids and I stayed home. I didn't work after that. I was -- he wanted me to stay home mother, so I never worked after that; after the kids were born.

Q What do you currently live on?

A I'm on disability.

Q What kind of -- how long were you with James?

A For about 28 years.

Q Right. And during that time what -- what did he work in for the most part?

A Iron work.

Q How was he with regard to making it to work?

A He was always up and ready to go.

Q All right.

A He did it without an alarm clock. He would

just set --

Q Was his -- his work in Louisville?

A It's in different places. Some was in Louisville, some was out of state.

Q And then why did -- why'd he -- why'd he travel so much?

A He'd traveled for the, you know, more money, wherever the jobs, you know, he thought best to help the income of the family.

Q 2009, did you have marital difficulties?

A Yes. I kicked him out of the house there -- because of I was insecure about stuff and thought he was cheating on me, so I kicked him out for a while.

Q Was that the only thing that troubled Mr. Provins that year?

A Yeah. He --

Q Any deaths in the family?

A Oh yeah, it might be when -- I'm not sure when his mom or dad died. One of his parents died.

Q Okay. What was the effect --

A I think it was his Dad.

Q Okay. What was the effect on Mr. Provins?

A It was really hard on him.

Q Okay. And what did he do to address that or deal with it?

A He started drinking.

Q All right. Now, you're not saying that James didn't drink prior to that are you?

A He drank off and on. Yes, he drank off and on there. But not, you know, just regular like social.

Q Okay. What ended up happening in 2009? Did it -- did it change bad to good or how -- how did it play out?

A You mean after I kicked him out or --

Q Yes.

A After I kicked him out he -- we got back together and he got, you know, got his drinking under control and, you know. And he -- he was really good. I mean he was fine.

Q How was he in 2012 when he got injured?

A Oh, when he was injured? He was fine when he first came in and he -- he -- he was fine except for he was hurting and he said everything will get okay, he'd get his arm fixed and he'd be ready back to work.

Q All right. How long had he been in South Carolina? Do you remember?

A I really don't know how long he was.

Q What was his -- what was his big issue with

regard to his injury? Was he right handed?

A Yeah, he was right handed. He -- he couldn't even wipe his butt. He couldn't help do anything around the house. He just -- he felt totally useless.

Q What kind of income did you guys have coming in at that time?

A Nothing.

Q Well, how did you --

A No income -- we borrowed, bummed off people, borrowed as much as we could. We were going into foreclosure. We were losing -- we was going in all kinds of trouble trying to stay afloat.

Q Was Mr. Provins stressed about that?

A He was extremely stressed. He started, you know, he was really stressed out and depressed and he just got withdrawn.

Q When you say withdrawn what does that mean?

A He would - he would stay in his room. Wouldn't -- he'd be quiet. He would have to stay -- we had to stay in separate rooms because of the pain in his arm. I -- I have restless leg, so I'd have to sleep in the other room and then he -- he just wouldn't hardly come out of the room at all and he'd barely talk.

Q Now, when he had the surgery how was he with regard to going to physical therapy and doing what he was supposed to?

A He did everything he -- they told him to do. And he went to all of his therapies and -- and he still was hurting.

Q And did you go with him to therapy?

A I went to some of his therapy things and some of them I didn't.

Q Were you with him whenever he went to see the doctor?

A I think I went once.

Q With regard to --

A Or maybe twice; I'm not positive.

Q With regard to his drinking, after he got -- after he -- before he got hurt, let's see where he -- tell us what -- about his drinking before he got hurt in 2012?

A I know he was drinking, you know, beer and stuff and all the recreational-wise. I mean he wasn't falling down drunk or nothing. He was just, you know, like, you know, drinking socially.

Q All right. And so tell us what happened after he returned home in February of 2012?

A Was that after he got hurt?

Q Yes.

A He would just -- he said -- he said he was fine and -- except he was hurting and everything was going to be okay. I was worried about the bills and he said --

MR. LEWIS: Commissioner, I - objection. She's testifying to what Mr. Provins said. It's hearsay.

THE COURT: Yeah. You can tell me what your understanding about something was but don't tell me what he said. Okay? You can tell what your observations were and what your understanding about things were, but don't tell me what he said. Okay?

A Oh, okay.

THE COURT: All right.

BY MR. SMITH:

Q What was he drinking when he first came home?

A He was drinking beer.

Q All right. At some point did that change?

A Yeah. He started -- after his accident he started drinking vodka.

Q Had he been drinking vodka prior to that?

A No. Not that I know of, no.

Q How -- how much vodka did you see come in your house?

A I never actually seen much come in the house. I seen it a few times. I seen a couple of small bottles. I'm not sure what sizes they are, but maybe what do you call them; half pints or pints, something like that. But I didn't see them -- I didn't see that much.

Q Where -- where did you keep alcohol in your house?

A In the refrigerator -- it's beer. All I ever seen normally he'd keep beer in the refrigerator. Now when he started drinking vodka and all -- brought vodka -- you know, I'd see -- I'd come in the room sometimes and I'd see a little bottle laying by the bed.

Q So the -- the vodka that you saw was not in a cabinet or anything like that?

A No. It would be laying on the bed with him.

Q How -- how soon after the accident did you start seeing that?

A It wasn't for a while, a little while after the accident. I think more after he started getting more depressed. He seemed more withdrawn and then that's when I noticed the bottles coming up when he stayed in the room more and I then I happened to go in there and see them. And I never seen it before.

Q With regard to his -- his death, did you know he was sick?

A No. He -- I was sick at the time and he was -- he hid his sickness from me. I didn't -- I -- you know, I knew he was kind of withdrawn a lot, but I mean I -- and all -- and in pain, but no. He hid a lot of that. I'd ask if you're okay all the time and then he, you know, he would just, I'm okay. He was always strong and hid it, you know. He never showed no -- you know, he liked to hide his pain I guess. He was always so strong and tough guy, so.

Q How much did he come out of his room or how much did he stay in his room?

A He stayed in there most of the time. Only I seen him come out, -- you know, he stopped going to the bathroom. He would use a little -- what do you call these little things you use the bathroom in? He kept that in the room. I mean I barely see him come out hardly at all.

Q It was one of those bottles and --

A Yeah. One of those bottles you get in the hospital. He'd go -- you know, when he - when he -- I found out he went to the hospital that was in the room full of blood like

Q Did you -- did you know he went to the

hospital?

A No.

Q How -- what was his relationship with his daughters?

A He was -- he was -- it was a basic father relationship. I mean he'd talk to them and, you know, listen to music with them or something.

Q Did you --

A He didn't -- we didn't see a whole lot of them because he worked so much.

Q All right.

A Well, yeah, baseball (inaudible).

Q How was -- how was the relationship after he got hurt when he was home? Did he spend a lot of time with them?

A At first he did and then -- but and then after a while he stayed in his room so, no, he didn't see too much of them.

Q Do you know of a time after he got hurt that he was pain free?

A No.

Q Did he have health insurance after he got hurt?

A No.

Q Did he have health insurance prior to that?

A No.

Q Did he go to the doctor a lot?

A No.

Q Did he go to the doctor for anything other than his shoulder following the injury?

A Following the injury?

Q Yes.

A Not that I remember, no.

Q Can you tell us what James Provins' -- what his demeanor was prior to the accident? What kind of person was he?

A Oh, before the accident? Oh, he was happy, jokes around a lot. He used to -- outgoing, willing to help anybody whenever they needed him.

Q How did that change after he got hurt?

A He didn't talk to hardly anybody, stayed at home, never came out of the room, never joked around, real quiet and that's odd for him because he was -- he was normally a real talkative person.

Q And you heard -- heard about his excessive drinking; when you first got married what would he drink?

A Beer.

Q Did that -- that change?

A He drank mainly beer. Occasionally he'd

have, you know, a mixed drink, but mainly just beer.

Q When he had his difficulty in 2009 what did he drink then?

A I really don't know. I'm not -- I -- I figure just beer. I really don't know.

Q Is there -- is there any doubt that he would drink excessively at that time?

A At that time, he'd probably drink -- I wasn't around him then, but I -- I kicked him out so I imagine he drank, you know, quite a bit then after I kicked him out.

Q Prior to (inaudible).

A (Inaudible).

Q Prior to kicking him out it -- was alcohol was the reason you kicked him out?

A No. I thought he was cheating on me.

Q So after you guys got back together --

A Everything was fine.

Q -- how much was he drinking when you got back together?

A Nothing basically. He -- he just -- he was doing so good. He wasn't drinking and we were getting -- you know, getting along.

Q Do you know whether he drank when he was out of town?

A I really don't know. He probably drank beers.

Q All right. Do you know of any time after 2009 that he had difficulties doing his job for drinking?

A No, never. He was always -- he was always a good -- I heard was a good worker.

Q You saw him every morning when he worked in Kentucky. Was there a time that he worked in Kentucky?

A Oh, yeah. He worked in Kentucky right close to the house a lot.

Q All right. And how was he about getting to work on time?

A He was always -- always going -- always going in on perfect on time. He was willing to work anytime they wanted him. He was a hard worker.

Q And -- and the alcohol, did it play into his work at all?

A No.

Q All right. What was his condition immediately prior to his death in April of 2014?

A What was his?

Q What was -- what was his -- how did he change after the accident, if he did? Did he change

after the accident?

A Just real quiet and withdrawn like and --

Q Did he take medication for the pain?

A That the doctor's gave him, he took pain medicine - medicine, but it didn't do much for him he said.

Q Okay. Did he -- so at the time he died how much were you seeing him out of every day? Now, you didn't work then, right?

A Yeah. I didn't work.

Q How much did you see him out of every day?

A Time of day I didn't see him maybe -- I'd be good to see him once a day. Once -- one time.

Q He only came out one time? When did he eat?

A He - he'd come out to eat, he'd use the bathroom in there in that little thing. At the time close to he was dying I was sick too, so.

Q How many friends did he have coming over to visit him?

A None.

Q Did he go out to visit friends?

A He did -- he did a little bit at the beginning, but after a while, no. He stayed in his room.

Q When did all of his issues begin? Can you

tell?

A Right after the -- you mean right after his accident? Everything started going downhill. He was fine working otherwise. I mean he was working and never had any problems.

Q After 2009?

A Yeah.

MR. SMITH: Nothing further at this time, Commissioner.

THE COURT: Okay. Thank you. Mr. Lewis?

MR. LEWIS: All right. Thank you, Commissioner.

CROSS EXAMINATION

BY MR. LEWIS:

Q Ms. Provins, I'm going to -- I'm going to ask you a few questions and, you know, I want you to know first off that I'm regretful that we're here today and I'm sorry for the circumstances. Okay?

A All right.

Q And I'm going to ask you some questions and some of them might be difficult for you. I want you to know it's not my intention to speak ill of your late husband or to cause you any more pain than necessary. Okay? You understand that?

A Yes.

MR. LEWIS: Okay. Commissioner, can you -- would

it help if I came around?

THE COURT: Yeah. That's fine. Whatever works best for you is fine.

Q All right. Now Ms. Provins, I think you -- you've testified -- let's just start -- you said you -- you guys were married about 20 some odd years?

A Yeah.

Q Okay.

A Yes.

Q And you -- you don't work, correct? You're on disability?

A Yes.

Q Okay. And what's the nature of your disability?

A It's many factors. Anxiety, depression, rheumatic arthritis --

Q Rheumatoid arthritis?

A That's it.

Q Okay.

A And diticulitis.

Q Okay. And how long has it been since you worked? I mean like just a year or two or --

A 20 -- no, it's been over -- over -- the kids were born, so 20 something years.

Q Okay. You testified that with respect to

your husband that before -- before his work injury essentially is it fair to say you're saying he had a brief period of time in 2009 where you guys were separated and --

A Just for a week.

Q -- he might have -- let -- let me finish the question if you don't mind. Are you saying there was a brief period of time in 2009 where you guys were separated and that maybe he had drank too much during that period of time, but otherwise he did not drink excessively; is that accurate?

A Yes.

Q Okay. Were you guys married in 2001?

A How many years ago -- let's see. Yes.

Q Okay. Do you know who is family doctor was at that time?

A Dr. Amin, I think.

Q Dr. Amin?

A Amin.

Q And did -- did you know that your husband was going to see Dr. Amin for passing out episodes in 2001?

A I'm not sure. I think so.

MR. LEWIS: Commissioner, may I approach Ms. Provins?

THE COURT: Absolutely. Yeah. Absolutely.

MR. LEWIS: Don, I'm at page 113 for your reference. Commissioner, I'm at 113.

THE COURT: Thank you.

Q Ms. Provins, I want to show you an Amin Family Practice record, for the record it's under tab 10, page 113. And I've highlighted a couple of things and could you read -- could you read that? It says patient has -- can you see what that says after?

A I have bad vision. Three --

Q Does that say patient has three black out spells?

A -- black out spells. Okay.

Q Recently, drinks beer, states his eyes roll back in his head.

A Yes, he's been known to -- he's been known to have little -- little episodes where he -- he kind of -- when he gets excited or gets upset kind of eyes roll back in his head and he'll pass out for a minute, but that's -- but I've seen that episode when he wasn't when he was drinking or anything.

Q But he's -- he's had -- been diagnosed with seizures?

A I don't - no, he hasn't been -- I guess what do you call it -- doctor diagnosed it.

Q The doctor diagnosed him with seizures?

A Didn't.

Q Oh, did not.

A Now, I don't know. He don't go to doctors too much.

Q Now, on this same note there's a reference that says "Drinks beer mostly and hard liquor at times." I understood you earlier to say that -- that as far as you know he had only been a beer drinker, but he was actually a hard -- hard liquor drinker in '01 wasn't he?

A If he -- not that I know of. He hid -- if he did he hid it from me.

Q So it -- it's fair to say that you didn't know about everything (inaudible) --

A I don't want to --- yeah, I didn't know about everything, you know. Nobody can know everything about him.

Q No, I understand. And -- and he also -- he worked out of town a good bit did he not?

A Yes.

Q And when he did that he'd be gone all week, right?

A Yes.

Q Sometimes he'd stay over the weekend,

correct?

A Yes.

Q So he had an apartment like in -- this case we're on here today he was living in an apartment here in the Anderson area wasn't he?

A I guess so, yeah.

Q You don't know what his arrangement was?

A I just -- I thought it was motel rooms or, you know.

Q So it's fair to say that you really had no idea when he was away from the house what he was doing in terms of his alcohol consumption behavior, correct?

A Correct.

Q Okay. And would it surprise you to know that at the hearing in this case that your husband testified that he was drinking every day? Would that surprise you?

A Well, beer, no.

Q And in 2009 you and Mr. Provins were separated. Did you know that he went to the University of Louisville Hospital for suicidal type issues?

A I found out later, yes.

Q Okay. You didn't know it at the time?

A No.

MR. LEWIS: And Commissioner, I'm going to reference tab 11.

THE COURT: Okay. Thank you.

Q Was he living with his sister at the time that y'all were separated?

A Yes.

Q Is that the same lady that's outside -

A Yes.

Q -- that's going to testify today?

A Yes.

Q Okay. And I'm going to show you --

MR. LEWIS: Commissioner, I'm at page 121.

THE COURT: Thank you.

Q I've highlighted a couple -- 121 -- I've highlighted some things out of this hospital record. Can you read what's highlighted right there.

MR. SMITH: Do you have a question? Objection. She has to not be able to answer the question for you before you do that, right?

THE COURT: Well, I believe he was going to ask her to just read that. She can - that's fine.

MR. LEWIS: I can have the witness read something that's in the notes.

MR. SMITH: Is there a question?

MR. LEWIS: Well, I'm going to follow up with a

question on it.

BY MR. LEWIS:

Q Ms. Provins, if you could please read what's highlighted there.

A I can't sleep at all unless I get drunk.

Q And if you would go on down and what does it say?

A Heavy alcohol use.

Q And then does it also say that your husband was a longstanding alcoholic 16, 18 beers a today and a half a pint to a pint of liquor?

A It says that, yes.

Q Are you --

A I guess I didn't know that.

Q It's your testimony today that you didn't know that?

A No.

Q And the purpose of that visit was for, it said suicidal thoughts. Did you know at that time if he had gone there threatening suicide?

A I found out later, yes, that he went there for suicide.

Q Okay. And did you know that your -- before reading this note did you know that your husband had been characterized as a longstanding alcoholic?

A No.

Q After -- after your husband's injury working for my clients and he began seeing Dr. Bonnarens in Kentucky is it your testimony that you had gone to some appointments with your husband to see Dr. Bonnarens before?

A I think I went to one or two of them.

Q Was your husband still driving at the time at the end of his life? He was still driving and operating a vehicle wasn't he?

A Yeah. Yes.

Q Did he usually drive himself to his doctor's appointment?

A Yes.

Q When -- when your husband initially started seeing Dr. Bonnarens in April of 2013 there's a medical note that says he was drinking eight to ten beers a day. Did you know that?

MR. LEWIS: Commissioner, I'm at page 154.

THE COURT: Thank you.

Q Did you know he'd been drinking eight to ten --

A I knew he was drinking but I never counted them.

Q Is -- is eight to ten beers a day a little

excessive?

A I really don't know. I -- I guess it depends on the person.

Q Now, before he died you testified that he became withdrawn and I think you used the word depressed. Did -- did he ever go anywhere for any kind of treatment for depression prior to his death?

A No.

Q I'm sorry?

A No.

Q Did you ever -- did you ever take him anywhere to get him treated for any depression; to a mental health facility or his family doctor or anything?

A No.

Q And at the time that he passed I think you answered in response to Mr. Smith's question that he -- he was using pain medications -- he had pain medications from the doctor that he was using?

A I guess at the time. I mean if a doctor gave him some, he didn't have it.

Q Now when -- when Mr. Provins -- when he last went to the hospital that was in April 2014; is that right?

A Yeah.

Q Okay. Did you go with him?

A No. He didn't tell me that he -- I found out through somebody -- his friend who took him called me and told me that, you know, how was James? And I said, I don't know what you're talking about. He goes, I took him to -- dropped him off at the emergency room. And after he called me I called the hospital and then they said they transferred him to a different hospital and that he was bad shape.

Q And then I'm assuming you went up there?

A Yes. Me and the kids went up there.

Q And did you -- are you the one that talked to the doctors and kind of told them about what was going on with him and his history and that sort of thing?

A No. The only thing I talked to them -- only -- they really didn't talk much with me; they talked more to his sister because she's a nurse.

Q Do you know if the -- do you know the information that -- you know on these hospital reports where they get a history, do you know if you gave them that information or was that his sister?

A It might have been her. I don't remember giving the doctor any information to be honest.

Q All right. Did you tell the hospital --

MR. LEWIS: Commissioner, I'm going to reference something on page 234.

THE COURT: Okay. Thank you.

Q Was it you that told the hospital that Mr. Provins was a alcoholic and drank a half a pint of vodka every day for most of his life and that he was having problems breathing?

A No.

Q Did you ever give any information to the folks at the hospital that he had just recently started drinking more?

A You mean after he was dying?

Q No. I'm sorry. When -- when he went into the hospital -- to the extent you talked to anybody up there about his history --

A No, the only --

Q -- did they --

A -- thing I seen him when he had the tell them is that the stuff sticking out of him and they why didn't bring him in sooner. That's the only thing I got to talk to them about. Because they talked more with his sister than me. I was too upset and I told them that he hid everything from me and wouldn't go to the doctor.

Q Now, I asked you a minute ago if you had

ever -- if he had ever gotten any treatment for any depression after -- after this work injury and you said he had not. Was he still of sound mind? I know you said he was withdrawn, but was he still of sound mind and able to make his own decisions for himself?

A I think so, yeah. Yes.

Q Okay. Now did he -- did he make the decisions as to what he wanted to eat?

A Yes.

Q So you don't doubt to -- to the extent he was drinking that he was making those decisions to do so out of his own free will?

A Yes.

Q What other medical conditions did -- did your husband suffer from?

A I really don't know all of his medical stuff. He hid all of his medical stuff from me. He wouldn't tell me anything that was wrong with him.

Q So really the fact is that you really don't know a whole lot about --

A Yes.

Q -- his medical history and --

A Right.

Q -- nor do you know a lot about --

A He talked more about his history with me -

about his medical stuff because he didn't want to scare me.

MR. LEWIS: Just a minute, Commissioner. I'm almost finished.

THE COURT: Sure. Take your time.

Q Did you talk to any doctors or any experts that consulted on this case? Did you talk to any of the doctors that did any reports on behalf of your -- on your behalf?

A I don't know what you mean.

Q Did you -- well, let me ask you specifically, did you ever talk to a guy named Dr. Price?

A I really don't know any -- you mean after he got hurt or when he went --

Q Yeah, after he -- actually after he passed away did you ever talk to any --

A Oh, after he passed away, talk to any do doctors?

Q Yeah, on the phone or anything?

A No.

Q So you -- did you ever talk to either Dr. Price or Dr. Martin, who were experts that provided reports on behalf of your case? Did you ever talk to them on the phone about your husband's alcohol

consumption habits?

A No.

MR. LEWIS: Commissioner, I am -- in the Claimant's Brief, --

THE COURT: Yes.

MR. LEWIS: -- page 105.

THE COURT: Thank you.

Q Ms. Provins, there's a letter in there dated July the 14th of '15 or a report from a Dr. David Price and he said he had interviewed with you and Mary Alice Zimmerman about -- about your husband and what was going on prior to his death. Are you saying you did not talk to him?

A Is that a --

Q If you don't remember, --

A I don't remember. I don't really remember. Now if I did -- if it's right when he was dying and had the tubes and stuff in him I don't -- I don't really remember too much. Now, I might have talked to him -- he might have talked to us a little bit about that, but -- one of the doctors, but I don't -- before he died, but I don't remember. I don't remember a lot about that.

Q Would you agree with -- would you agree with me that -- would you agree with me that based on the

information that you saw from the University of Louisville Hospital from 2009 that said he was a longstanding alcoholic with heavy alcohol abuse, that would be indicative of somebody who's had a longstanding preexisting alcohol problem?

MR. SMITH: Objection. She's not an expert.

THE COURT: You can answer the question. I'll allow you to answer.

BY MR. LEWIS:

A What was the question again?

Q Sure. Would you agree -- you -- you testified today that you didn't know about some of this history that was provided in 2009 to the hospital about heavy alcohol use and longstanding alcoholic, 16 to 18 beers a day and half a pint to a pint of vodka?

A Uh-huh.

Q Would that cause you to change your position that your husband drinking significantly changed after the injuries than before?

A I don't know. Can I say something else on that? That I -- I didn't know. To me he wasn't drink -- he wasn't drink -- I didn't think he was drinking that much.

Q Okay. You wouldn't disagree with the -- whatever is in the records that they're -- they're

factual would you?

A I really don't -- I don't -- I didn't -- you know, I really don't know.

Q And was -- did -- did Mr. Provins, did he have a history of alcoholism in his family like with his father and his brother?

A I think his father might have been an alcoholic, but I'm not positive. He didn't talk too much to me about that. I think his dad was an alcoholic. I'm not positive.

MR. LEWIS: All right. Commissioner, I don't have any more questions. Thank you.

THE COURT: Okay. Mr. Smith?

MR. SMITH: Commissioner.

REDIRECT EXAMINATION

BY MR. SMITH:

Q The hard alcohol that he drank prior to 2009 was it something that you saw on a regular basis or was that the mixed drinks that you spoke of?

A On the what?

Q He drank beer?

A Yeah. All I ever seen -- he'd drink in front of me was beer.

Q When you went out or went to a Christmas party or something did he drink mixed drinks?

A If he went somewhere, yeah like that, he might drink a little bit but not too much because, you know, I didn't like him to drink nothing but beer. I said that's, you know, the only thing I was comfortable with him drinking around me and the kids.

Q Prior to the -- the injury when he came home on the weekends and so forth what kind of alcohol consumption did you see?

A Beer.

Q Okay. And with regard to the activities that took place when he was home was he -- did you guys go anywhere with the kids or anything like that?

A We'd go to eat and stuff like that and he would be drinking beer here and there, but I never seen him drink any liquor then.

Q Would he drink excessively during that time?

A No.

Q When you went to see Dr. Bonnarens was there any discussion about drinking?

A Not that I recall, no.

Q We're talking about the surgeon, right?

A The surgeon.

Q Physical therapy, --

A No.

Q Did you have a discussion about drinking?

A No.

Q Do you know if he ever went hung over when you saw him or went with him?

A When I went with him, no.

Q Okay. You said that he was depressed. What do you mean he was depressed?

A He was really quiet and stayed to himself and he's usually not like that. He's usually really talkative and outgoing and when he gets quiet there's something wrong.

Q How did he take his dad dying?

A He took it hard. He didn't spend enough time with him and it -- it really -- it got to him.

Q Did you ever have an opportunity to see Jamie drinking a bottle of vodka a day?

A No.

MR. SMITH: I have nothing further, Your Honor.

THE COURT: Okay.

MR. LEWIS: Nothing else, Commissioner.

THE COURT: Okay. And ma'am, you can step down. Thank you for your testimony. If you want to go over there and have a seat next to Mr. Smith you're welcome to do so. All right. Ma'am, you can come right around here and have a seat right there, ma'am and make yourself comfortable. I have a couple of quick

instructions for you. If you would please speak up and speak clearly for us so we can all hear your answers to the question. If you're asked a yes or no question please give us a verbal yes or no answer.

THE WITNESS: Yes, sir.

THE COURT: And try and stay away from things like uh-huh and huh-uh. That's just too easily misunderstood for the record. Okay?

THE WITNESS: Yes, sir.

THE COURT: Okay. Please raise your right hand. Do you swear and affirm that the testimony you are about to give is the truth, the whole truth and nothing but the truth?

THE WITNESS: I do.

THE COURT: Okay. And you can put your hand down and please state and spell your name for the record ma'am.

THE WITNESS: My name is Alice Marie Zimmerman, A-L-I-C-E M-A-R-I-E Z-I-M-M-E-R-M-A-N.

THE COURT: Okay. Thank you, Ms. Zimmerman. Mr. Smith, your witness.

MR. SMITH: Thank you.

Alice Zimmerman,

Having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SMITH

Q Ms. Zimmerman, where do you live?

A I live in Panama City Beach, Florida.

Q How long have you been there?

A Almost two years. Not quite two years.

Q Where did you -- where did you live prior to that?

A Louisville, Kentucky.

Q What is -- what is your educational background?

A I have an associate's degree. I'm a registered nurse.

Q How long have you been an RN?

A Since 2008.

Q Prior to that what did you do?

A I was a factory worker for 20 years.

Q Since you became a nurse where have you worked?

A I worked at -- as a registered nurse in the neonatal ICU at Kosair Children's Hospital in Louisville, Kentucky and I now work at Community Health and Rehab which is a nursing home/rehab facility in Panama City, Florida.

Q What are your responsibilities?

A I am the nursing supervisor. I supervise

four LPNs, kitchen staff, housecleaning staff and CNAs, which vary in numbers at times.

Q Do you know what syncope is?

A Yes I do.

Q What is it?

A It's when you have fainting spells or you black out shortly when you go backwards and you fainted. I suffer them myself.

Q How long have you suffered them?

A During times of stress since I was approximately 15 years old.

Q Did Jamie suffer from them, do you know; or did you see it?

A Yes. Yes he did.

Q Did you ever have occasion to see it happen?

A Yes.

Q Was it -- was he drinking a great deal and that was the cause of it?

A No, sir.

Q Does drinking cause syncope?

MR. LEWIS: I object to the -- object to the question. It's asking for a medical opinion and Ms. Zimmerman's not qualified to give that.

THE COURT: Can you rephrase the question please sir?

MR. SMITH: Yes, sir.

BY MR. SMITH:

Q Do you -- did you see him have a fainting spell?

A Yes.

Q And was there alcohol -- was he drinking alcohol at the time?

A No, sir.

Q How did Jamie growing up?

A Fun, normal, very involved in things, just lots of friends. Just, you know --

Q Were you older than him or younger?

A 11 months, two weeks older.

Q When did he get married with regard to after he got out of high school? How long -- how long was it?

A I don't exactly how long it was after high school, but he was with his present wife -- he was with her while he was in high school. They've been together for quite a while.

Q Have you - has your family had any other neurological issues?

A Yes, sir.

Q When -- what are they?

A My mother suffered multiple TIAs which led

to her dementia. She -- that's what they said caused her to be childlike. My father suffered seizures which led to strokes. I was witness to those.

Q Did he -- did he drink?

A My father?

Q Yes.

A Yes, he did.

Q And did he drink a lot?

A At one point yes, sir. He quit drinking probably about ten years before I noticed -- I witnessed his first seizure episode.

Q Was he an alcoholic?

A No.

Q How -- what was his drinking like?

A He would drink after work, drink beer, sometimes go to a bar after work, but he would come home, eat dinner.

Q What was Jamie's drinking like?

A About the same. He would drink, but he would still work. He would drink beer with his friends. He did get drunk occasionally as most people who drink do, but he was functional.

Q What was his drink of choice?

A Beer.

Q How often did you see him with hard liquor?

A Several times, but, you know, -- not a lot. Mostly beer.

Q When did he drink hard -- hard alcohol?

A When he was really depressed, down.

Q Did -- did he ever live with you?

A Yes.

Q When?

A In 2009 he stayed with me.

Q How long did he stay with you?

A A couple of weeks.

Q Do you know what the circumstances surrounding him moving in with you were?

A Yes.

Q What were they?

A His wife and him were having trouble. They weren't getting along. He at the time was out of work. It was a very stressful time with young child -- young child.

Q Okay. When -- when did your father pass away?

A 2009. It was approximately the same time.

Q How did Jamie take that?

A Very hard.

Q How was his drinking at that point?

A Very bad. It -- it increased.

Q Okay. And did it change at any point and what was the cause of the change?

A When Debbie and him split up it got worse. He felt like he was a failure. He was suicidal. He had lost his dad, felt he was losing his wife, his family and it was really hard on him.

Q What did he do to change that?

A He got help. He -- he started going to church. That helped. He quit drinking for quite -- quite some time. I don't know for how long, but he did quit drinking. He got back together with Debbie. He seemed to come to grips with everything.

Q How much church did he go to prior to 2009?

A Not a lot. When we went with my grandparents maybe.

Q So that was when you were young? The -- how often did you see him after 2009?

A He lived about, I'd say, two and a half, three miles from me. I saw him quite frequently.

Q Would you have the opportunity to see whether he was drinking or not?

A Yes.

Q And how was he -- how was he doing with regard to his drinking at that point?

A Drinking beer, working, doing fine. I'd see

him when he was -- I'd see him when he came into town. He worked out of town a lot.

Q Were you aware of anything that he was doing when he was out of town?

A He was working ironwork. I know he was an iron worker. He loved his job.

Q Are you aware of his drinking that he was doing when he was out of town?

A No, I'm not.

Q When he came into town how often did you see him?

A Every time he came into town I'd make it a point to see him. He and I were the closest two even though he had a twin.

Q How much did he drink when he was home?

A It depended. It -- you know, whether he was at a barbecue, whether he was at home. He'd drink beer, a six pack, 12-pack if he was, you know, all day.

Q Do you know of the alcohol giving him ay issues from 2009 on? Did he ever have any legal issues?

A Not that I'm aware of.

Q Did Debbie kick him out of the house?

A When he came to stay with me, then.

Q After 2009?

A No.

Q How was he with regard to his parental activities with his daughters?

A Very involved. He doted on his girls.

Q What kind of worker do you know him -- did you know him to be?

A He always went to work. He didn't miss work. He -- if he was riding with somebody and they were late picking him up he'd say, I'm going to start walking to meet them. He -- he just didn't like to be late to work. He liked to go to work. He didn't like it when he said people would - what did he call it - he had a word for it. They would pack up their stuff and leave. There was a certain word for it, a term that he used when they would just gather all their tools and leave and he'd get mad.

Q Did he want his wife working?

A No.

Q With regard to this case did you have any opportunity to speak to Dr. David Price?

A Yes.

Q Do you know whether Debbie did?

A I believe she did, but I can't swear to it.

Q What was Mr. Provins before he was injured

in January of 2012?

A I like to say he was like Curly on the Three Stooges because he used to emulate him. He was the life of the party. He was fun. He was a giving person. He would do for others and let things of own go. He was a friend that you'd want to have.

Q And do you recall when he returned from South Carolina?

A Yes.

Q And what -- what did you understand his issues to be when he returned?

A He had been injured at work.

Q And what -- why -- what had happened?

A He had gotten a shoulder injury at work from a pipe is what he told me. A pipe had injured his shoulder and he couldn't lift his arm and he was in a lot of pain.

Q How did he address the pain?

A He did what they told him to do. He - he, you know, tried to do therapy and couldn't. He wanted -- he said he needed surgery --

MR. LEWIS: Commissioner, I'm going to object. I didn't object the last couple of times but she continuously is testifying about what -- what Mr. Provins said and I would ask that she be instructed

not to do that, please.

THE COURT: Yes. And you can testify as to what your understanding about something was or what you observed but just don't say what he said. Okay?

A Yes, sir.

THE COURT: All right. Thank you.

BY MR. SMITH:

Q To your knowledge did he ever -- was he ever free of pain to your knowledge?

A No, he was not to my knowledge.

Q What was his drinking like with regard to when he returned until his ultimate demise?

A When he returned it was not that bad. He was pretty much in control. It was beer. As things got worse, as their money problems got worse and the pressures built up it -- it got really bad. He started drinking hard liquor.

Q Was that before surgery or after surgery?

A After surgery.

Q And so when you tell us it was bad, what does that -- what does that mean?

A He would go into his room and he would drink by himself, not come out of his room, and I asked him why.

Q And were you able to bring him out of the

room or did he come out when people came to visit to your knowledge?

A No.

Q With regard to April 2014 who gave him a ride to the hospital?

A One of his friends that he called.

Q Were you aware of his presence in the hospital?

A No, I was not.

Q Where were you when you learned of his presence in the hospital?

A I was actually at the hospital visiting my cousin's husband who was in ICU. I happened to look down in the parking lot and saw my sister-in-law and my brother's van down there, which it was easily recognizable as being a Dodge minivan with a red door -- a gray minivan with a red door -- red back door. In my mind I thought it was her mother in the hospital. I was getting on the elevator and my cell phone rang and it was Debbie. And I couldn't understand her. She was crying and upset. And I -- I finally just said, where are you? And she said, St. Mary's and she was actually one floor below where I was.

Q Did you get an opportunity to talk to your

brother?

A No.

Q The claim here is that work caused the -- caused his death. Do you -- from what you saw is that your belief?

MR. LEWIS: Commissioner, I object. He's asking for a legal -- her to give a legal conclusion.

THE COURT: I'll allow her to testify as to what her opinion is.

A I believe his injury did ultimately lead to his death because he was in constant pain. He changed from - excuse me. He changed from the person he used to be to someone who was a recluse, that was -- stayed by theirself and felt like he was -- that he told me, less of a man. I'm sorry. In my opinion he felt like less of a man. He couldn't provide for his family and that bothered him a great deal.

MR. SMITH: I have nothing further Commissioner.

THE COURT: Okay. Mr. Lewis?

MR. LEWIS: Thank you.

CROSS EXAMINATION

BY MR. LEWIS:

Q Ms. Zimmerman.

A Yes, sir.

Q Is that right, Zimmerman?

A Yes, sir.

Q My name is South Lewis. We have -- have not met before today, but I'm the attorney representing Spirit Construction in this case. I'm just going to ask you a few questions and I want to preface the questions ahead of time by telling you, number one I'm sorry for the loss of your brother. I know that's difficult and I don't want to ask anything to offend you or to cause you more pain than necessary, so - and madam court reporter has handed you some tissues.

A Thank you.

Q For you to use. And I'll let you pull one of those out before we start. Now, Ms. Zimmerman, you're a -- you're an RN, correct?

A Yes, sir.

Q And you moved to Florida? Was that after your brother passed or before?

A After.

Q So you were -- you had an opportunity at least when he was in town when you lived in Kentucky to see him some, correct?

A Yes.

Q But he also traveled a lot for work when he was working did he not?

A Yes.

Q And, in fact, he would be gone for weeks at a time sometimes wouldn't he?

A Yes, he would, usually about two weeks.

Q And now did -- did he ever go anywhere prior to his passing? Did he ever go anywhere for any treatment for depression or mental health issues?

A As far as I know he went to the doctor.

Q Did you go with him? Is that why you say as far as you know?

A No.

Q And you spoke -- you spoke to a Dr. Price a year or more ago in this case; do you remember that?

A Yes, sir.

Q Was that by phone?

A Yes, sir.

Q Dr. Price, in his report, I think said you described your brother as a social drinker?

A Yes, sir.

Q Did you -- are you aware that when your brother went to the hospital in April of 2014 that the history that they got was that he was a "alcoholic who drinks about half a pint of vodka every day for most of his life?"

A I'm not aware that's the history he got, but that's not true.

Q When you got there was -- I mean I know you were already at the hospital, but when you came up on -- the floor he was on or wherever that was -- his -- his wife, Ms. Provins was already there, correct?

A Yes.

Q And in the history on page 234 there's some reference to according to his wife this and another; was she there giving -- had she been giving information to whoever was in-taking him at the hospital?

A I do not know.

Q Is it fair to say that when your brother was out of town you did not know -- you didn't have any personal knowledge of his daily activities?

A Yes.

Q All right. I don't have anything else for you. Thank you.

THE COURT: Okay. Thank you. Mr. Smith?

MR. SMITH: Just a couple.

THE COURT: Sure.

REDIRECT EXAMINATION

BY MR. SMITH:

Q Half a pint of vodka, how often did you see him drink a half a pint of vodka?

A Two, three times at the most.

Q Do you know of anyone that was contacted by him to go to the hospital in April of 2014? Were you contacted?

A For me to take him to the hospital?

Q Yes.

A No, sir.

Q Did he call you about his -- his issue he was having that day?

A No, sir.

Q Were you aware he was that sick?

A No, sir. I spoke to him I don't know how long before that. It was, probably several weeks.

Q Did you often go that long without talking to him?

A I mean spoke to him about his sickness.

Q Oh.

A I urged him to go to the doctor.

Q Did you -- when was the last time you spoke to him; the day before or --

A Two weeks. He became a recluse. He didn't want to talk to anybody. And then it was only a few words at that time.

MR. SMITH: I have nothing further.

THE OCURT: Okay. Thank you. Mr. Lewis?

MR. LEWIS: I have nothing else.

THE COURT: Okay. Ma'am, you can step down and thank you for your testimony. And there being nothing further that concludes today's hearing.

(The hearing concluded at 2:50 p.m.)

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

CERTIFICATE

BE IT KNOWN THAT I TOOK THE FOREGOING WORKERS' COMPENSATION HEARING;

THAT I WAS THEN AND THERE A NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA-AT-LARGE;

THE FOREGOING TRANSCRIPT CONSISTING OF **59** TYPEWRITTEN PAGES REPRESENTS A TRUE, ACCURATE AND COMPLETE TRANSCRIPTION OF THE TESTIMONY SO GIVEN AT THE TIME AND PLACE AFORESAID TO THE BEST OF MY SKILL AND ABILITY;

THAT I AM NOT RELATED TO NOR AN EMPLOYEE OF ANY OF THE PARTIES HERETO, NOR A RELATIVE OR EMPLOYEE OF ANY ATTORNEY OR COUNSEL EMPLOYED BY THE PARTIES HERETO, NOR INTERESTED IN THE OUTCOME OF THIS ACTION.

WITNESS MY HAND AND SEAL THIS 10TH DAY OF FEBRUARY, 2017.

_____
CORA ELLIS BRUTON
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES DECEMBER 31, 2024

TRANSCRIPT OF FULL COMMISSION HEARING
NOVEMBER 14, 2017

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1200349

James Provins,

Claimant,

v.

Spirit Construction Services,

Employer,

and

Insurance Company of Pennsylvania,

Carrier/Defendants.

COPY

FULL COMMISSION HEARING

****

Tuesday, November 14, 2017
2:55 p.m. - 3:14 p.m.

The Full Commission Hearing was heard before Commissioners Melody L. James, Gene McCaskill and Aisha Taylor at the Workers' Compensation Commission, 1333 Main Street, Suite 500, Columbia, South Carolina, on the 14th day of November, 2017, before Roderick S. Fitzgerald, Court Reporter and Notary Public in and for the State of South Carolina.

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EXHIBITS

(There were no exhibits marked during the hearing.)

STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the Administrative Procedures Act and the South Carolina Rules of Civil Procedure.

CALL TO ORDER:

COURT REPORTER: Today is Tuesday, November 14th, 2017. This is South Carolina Workers' Compensation Case Number 1200349. This is the case of James Provins, the Claimant, versus Spirit Construction Services, Employer, and Insurance Company of Pennsylvania, Carrier. The Appellant is the Claimant represented by Donald L. Smith. The Respondent is represented by J. South Lewis. Each side is allowed ten minutes for oral argument and the Appellant three minutes in reply. You are requested to argue the grounds of exception and stay within the record.

MADAM CHAIR: All right. Mr. Smith.

APPELLANT'S ARGUMENT:

MR. SMITH: May it please the Court, ladies and commissioner -- ladies and gentlemen, we brought this appeal based on the fact and it's our contention the Mr. Provins's death was directly related to the injury and our contention is based on the fact that Mr. Provins was injured January 2012. He went to the doctor, company doctor, immediately, and, of course, he found that she had given him

conservative treatment for a week, come back and see what's going on. He came back and she saw that it -- that it was a torn rotator cuff, his inability to raise his arm, and because of that she asked for an MRI, and this is where his demise started, and -- in my estimation. He didn't get an MRI until -- I got him an MRI like a week later based on the fact that the company would not pay for the MRI, and the MRI, of course, indicated that he did have a rotator -- a torn rotator cuff just as the company doctor had believed based on the -- his radiculopathy or his issues with his shoulder, and so it was a denied case regardless of the fact that the company doctor called it and the proof was there with the radiography. We went to a hearing in August 2012 wherein the commissioner filed that it was compensable and the defense, of course, appealed, took us to January, February. Mr. Provins didn't have a surgery until may of 2015. 15 months had past and during that time, obviously, he's continuing to tear, continuing to injure his dominant right side, and it's well-document that he couldn't wipe his ass, which may seem

to be trivial, but clearly it wasn't for Mr. Provins. Mr. Provins had a wife and two children. The wife was disabled so he was the bread winner. And while he did have marital difficulties, in 2009, which came right when his father died, which he took extremely hard, he had rebounded with his wife, everything was fine and he had progressed. Well, the injury, of course, the 15 months gave him a lot of free time, he wasn't able to get better, he's over 50 years old, so he's having difficulty recovering anyway. We finally get to that surgery and he goes to every single physical therapy appointment, tells them in every single record, he tells them about his pain and there's no -- there was no reduction in pain and he stated that it felt like the same. Well, he finally got an MRI in October. The MRI was -- if you read it, it seems as if it's worse than the first one. It makes one think of whether he -- wonder whether he had a surgery or not. All this time the pain, the pain, the pain, the continued tearing, and when he found out that the shoulder had once again -- or was once again torn, his -- he didn't

know if he was ever going to get better. I mean, he's not working, he's begging this one and that one for money and just -- life just spiraled down, down, down. The deposition testimony of his -- his wife and his sister talked about how he was gregarious and so forth and that -- that came to an end. And, in fact, he was -- he had like a urine bottle that he -- stayed in is bedroom. The depression, the lack of ability to earn for his family and begging people, it was just very demoralizing. And the phrase that I said earlier ties into that perfectly. The bottom line is, had he got his surgery right off the top and got the -- got the shoulder fixed without allowing 15 months to pass with the degeneration of the -- of the ligament and so forth, we contended, of course, he would still be here. There was no reason for them to deny the case and he got hurt when he was pulling their -- their piece. And when we had the hearing, the commissioner saw that the -- the Spanish coworker that testified on behalf of the Spirit Construction, he didn't know the language but he -- he knew that Mr. Provins's shoulder hurt before that. Well,

Mr. Provins had sore shoulders, but he never had anything like the injury he suffered. The question that I had asked the young man was whether he knew where Mr. Provins was from and that, of course, of the statement that he was -- he had hurt his shoulder before, something to that effect. They -- deny, deny, deny and maybe he'll die, and, in fact, that's what happened here. There was no reason to deny the claim, I mean, it's worker's compensation, it's for the worker, he was injured the company doctor saw that true and requested an MRI, it was denied. And even after we got the MRI that indicated that he was injured, they still didn't do anything. So by April of 2014 he had suffered for 27 months with the torn shoulder, and unfortunately he just -- he was just a small shadow of himself based on that. And if there is no compensability for the death, then it -- then it would appear that that would be the perfect defense, just deny cases until -- see if -- see what goes on, maybe the guy will get in trouble or maybe the woman will pass away, and while that sounds sad really, that's the fact. I mean, the -- maybe ---

MADAM CHAIR: Mr. Smith.

MR. SMITH: Yes?

MADAM CHAIR: Mr. Smith, is there any medical evidence that causally relates any depression or suicidal thoughts to the work-related injury, like is there any medical evidence upon -- or to link the two up?

MR. SMITH: Dr. Martin -- in the APAs Dr. Martin is a doctor and he ties it in.

MADAM CHAIR: Okay. What -- which -- can you cite an APA number on that?

MR. SMITH: I want to say like 105. I know that's not -- that's not good, but ...

MR. LEWIS: Don, it's 110.

MR. SMITH: 110, thank you. And obviously, the defense had their expert as well who opined that regardless of whether Mr. Provins ripped his shoulder that day and had two -- had his surgery and so forth that failed, he would have died the same exact day, which is, well, unbelievable. And Dr. Ballenger wasn't aware that he received a $5,000 retainer and Dr. Ballenger has made a career of representing defendants, and he did in this particular setting as well telling us that Dr. Martin who

had given his expert opinion didn't know what he was saying, and the words that he used meant something entirely different, and that's -- that's in the deposition -- or he says that he's an expert and that's why he knows what Dr. Martin meant by the fact that he -- he wasn't having difficulties with alcohol. After 2009 life was good, there's no record of him having -- missing work or having any alcohol-related incidents, but alcohol had -- had been an issue in 2009 and ---

MADAM CHAIR: Weren't there some -- you said there's some incidents or anything at work, but weren't -- weren't there medical records that indicated during the period of time past 2009 that he was still consuming every day?

MR. SMITH: There's no doubt he'd be drinking, no doubt. I -- that's not been -- I don't -- I don't believe that's been stated. In fact, Mr. Provins stated in front of the commission that he drank. I -- it wasn't an issue and -- and he was functional, or whatever. I mean, I -- I saw him -- well, not relevant. He had -- alcohol was just part of his life. And in 2009, you know, that -- the statement he made

that he was killing himself with alcohol was probably true. I mean, he had lost his dad and now he's losing his family; however, he recovered from that and the family testimony was that everything was fine. While they weren't with him 24 hours a day, there was -- there was nothing to substantiate he had alcohol issues, I mean, it's all relative, and he was doing fine according to society because no one -- no one heard any bad things, so he dealt with it.

MADAM CHAIR: Okay. Thank you, sir.

MR. SMITH: Thank you, ma'am.

MADAM CHAIR: All right. Mr. Baker.

COMMISSIONER MCCASKILL: That's Mr. Lewis.

MADAM CHAIR: I'm sorry. Mr. Lewis. Brad was on the last case.

COMMISSIONER MCCASKILL: Still on the last case. But before you ---

MR. LEWIS: Oh, okay.

COMMISSIONER MCCASKILL: Before you begin, Mr. Smith, I didn't want to interrupt you because I didn't want to throw you off of your presentation on behalf of your client, which I wanted you to do as well as you could, but if you have to refer

to your client wiping himself again, please do not use the word that you used at that podium. There are ladies present and I don't think that's appropriate parlance at a hearing. Okay?

MR. SMITH: Yes, sir.

COMMISSIONER MCCASKILL: Thank you. All right.

MADAM CHAIR: Mr. Lewis.

RESPONDENT'S ARGUMENT:

MR. LEWIS: Thank you. May it please the commissioners, good to see you today. And I just want to tell you before we -- I got Mary -- Kate Little John from our Greenville office here to observe, so this is her first time seeing one of these, so.

MADAM CHAIR: Okay.

MR. LEWIS: The issue in this case is -- is pretty straightforward. This case was brought -- the reason we had the hearing with Commissioner Campbell that brings us here today was on a Form 52, a death claim. There's no question that Mr. Provins had a shoulder injury at work. It was initially denied. We had a compensability hearing before Your Honor, in fact, and it was found compensable. And Mr.

Provins then began receiving medical treatment with a doctor, he lived in Louisville, so my clients arranged for his medical treatment in the area of Louisville where he lived. It was always only a shoulder injury. There was never an allegation of depression or any type of psychological claim either at the initial hearing or anything brought subsequent, there had never been a mention in any of the medical notes from any of the treating doctors, physical therapist, Mr. Provins's own family doctors that he was having depression related to his pain. During the course of his treatment, of course, the reason we're here unfortunately is, he passed away on April 14th, 2014. This was, you know, about almost two and a half years or two years and three months after his injury. The file is pretty thick as you can -- as you've seen and the specific citations are in my brief and so I won't go through all of them for time efficiency sake; however, it's clear that when he went into the hospital, when Mr. Provins went into the hospital, in April 2014, there was no indication in there -- there was no reference

whatsoever about him having had a shoulder injury and this hospitalization in any way being linked to his shoulder injury. In fact, the history was given to the hospital by it says, Mr. Provins's own family members that were present. And what does it say? It says, He was a lifelong alcoholic who drank over a -- like a half a gallon of vodka a day and X amount of beers. And our purpose here today isn't to try to, you know, dump on his character, but that's -- that's what we're dealing with here. History ---

MADAM CHAIR: Now, I'm going to stop you. It's half a pint. Did you misspeak with ---

MR. LEWIS: Did I say ---

MADAM CHAIR: You said gallon.

MR. LEWIS: Did I say -- I'm so sorry.

MADAM CHAIR: That's fine.

MR. LEWIS: Yeah, half a pint.

MADAM CHAIR: Okay.

MR. LEWIS: Excuse me. But at Page 234, this patient is a 52-year-old male who is an alcoholic and drinks a half a pint of vodka every day for most of his life. And then when you go over to the other notes, Past medical --

at Page 264, Past medical history of alcoholism. He drinks a -- and then at 264 it does say gallon, He drinks a half of gallon of vodka or bourbon daily. So there's conflicting reports, but certainly it was a prodigious amount of alcohol that he was consuming, and he was doing that -- the Claimant's position, or his -- the Provins's family position would be that, well, he was doing that but that's just in response to his pain. Well, the records are replete with references before the work injury and then after the work injury that he'd had this drinking problem his whole live. There's records in there from 2001 where he talks about that. So to link the fact that he drank more, so to speak, after this injury I just don't think is supported by the evidence. It's certainly not supported by the medical evidence. Commissioner Taylor, you asked Mr. Smith whether there was any medical evidence linking up this depression, and he pointed out Dr. Martin. Well, Dr. Martin is a psychiatrist who, you know, evaluated the records at Mr. Smith's request. And you've heard Mr. Smith talk down Dr. Ballenger and evidently he

talks him down because Dr. Ballenger was paid $5,000 to serve as an expert in this case. There were hundreds and hundreds of pages of records. Dr. Ballenger is an expert. One of his expertises is in substance abuse alcohol issues. Compare that to Dr. Martin, the expert that the Claimant would have you rely on, under Tab H of the records are -- of our exhibits, excuse me, Pages 541 forward, you'll see that Mr. Smith is -- there's e-mails here, he says, quote, Is -- Dr. Martin, is it by chance I found you and it could be a monumental twist of fate. I had a workers' comp case in which my guy tore his rotator cuff and then died two years later. I'm attempting to tie them together. And then there's some e-mails that go on where they're negotiating a price. Joy, I'm used to IMEs being $750. You aren't expecting more than 2,500, are you? So Mr. Smith is seeming to -- I mean I don't think it's any news to all this that when you retain an expert, you have to pay for them. So it's no different from Dr. Ballenger as from Mr. Smith's expert. I think the bottom line is, this was initially a shoulder claim. After

Mr. Provins died, this was filed as a 429280 case. We went to Commissioner Barden for a hearing, there was never a death allegation made until we had a pretrial conference and he withdrew the Form 50. Our position, of course, being he was still treating, had not reached MMI and nobody gets a 280 award. It was only subsequent to that time that a death claim was then filed, and we submit that it, frankly, was not done in good faith. What really happened was, the commission after he withdrew the 50 the first time, the commission then -- when he refiled it, he checked the permanent and total disability box and the commission sent it back, and I've put the e-mails in the file, commission sent it back and said, This qualifies for mandatory mediation. And you'll see I e-mailed them back and said, There must just be a mistake. This a 429280 case, this person is -- you know, unfortunately died. Mr. Smith responded, Thank you for pointing that out to my attention, I'm going to correct my pleadings. But he didn't correct his pleadings. He filed a death claim. And then I subpoenaed the records, and there's e-mails

in there from that saying, show me what evidence you have that his death is related to the work injury. And the response I got from him was basically, I'm gonna get the evidence, I'll go find the evidence. And that's what he ended up doing, he ended up going -- finding Dr. Martin, Hey, I found you on the Internet, this could be a monumental twist of faith and I need you to link these two things up. Dr. Martin's report is actually flawed in that it contains a number of inaccuracies. Well, it talks about him having drank some in the past. It doesn't ever account for the fact that he had -- he had been reported to being a lifelong alcoholic. In fact, if you read Dr. Martin's report, it makes it sound like the guy quit drinking until he injured his shoulder again. When Mr. Provins went to see Dr. Bonnerance(phonetic), the orthopaedic that we provided treatment for. The first time he ever saw him, this is before he ever even had a surgery shoulder Bonnerance about the prodigious amount of alcohol he drank, and it's in the records. He was telling him he was drinking X amount of beers and liquor per day.

So this isn't somebody who had a drinking problem in the past and then quit and then after this work injury in response to pain he developed a drinking problem. It's just an unfortunate situation, but the issue here is a limited one, is his death causally related to this work injury? And the hearing commissioner that heard this, he reviewed the expert report, he saw the witnesses, the witnesses were Mr. Provins's widow Ms. Provins and his sister. She testified that, oh, after this -- essentially, she said, He used to drink a lot of beer and then he started drinking liquor after this injury. Well, then when she was cross-examined, she acknowledged she really didn't know much about his health history at all. He traveled all the time, she did know what he did when he was away from home. And so, you know, as unfortunate as the situation it is, the issue is, compensability of a death claim. And that was the only thing that was pled, compensability of a death claim. There was never an MMI or a rating from the doctor. And when this case initially was pled as a 280 claim three years ago, that's out the door.

We're here today on a Form 52, a death claim, and the psychological aspect had never been a part of the case. And so I would submit to you that the hearing commissioner correctly waived the evidence and determined that to a preponderance of the evidence -- to a preponderance of the evidence there wasn't sufficient justification to find a causal link between the work injury and the death. In fact, I think it's pretty clear when you look at the death certificate and then read the reports at the hospital and Dr. Ballenger's report and his deposition testimony, Mr. Smith questioned him pretty vigorously, and Dr. Ballenger explained, Look, this is just the -- this guy fits the typical pattern of a lifelong alcoholic, you know. And finally, I'll point out one other thing that -- despite Mr. Provins having a family doctor in Kentucky and having been admitted to the hospital in April 2014 where he subsequently died, there's not one piece of evidence from one doctor whoever treated him while he was alive to support his case, not one, not a family doctor, not his treating ortho, not any of the doctors who

treated him at the hospital, because all of this was something that was somewhat concocted after the fact, after he died. So we'd ask for a full affirmation.

MADAM CHAIR: All right. Thank you, sir.

MR. LEWIS: Thank you so much.

MADAM CHAIR: All right. Mr. Smith, you have three minutes in rebuttal.

APPELLANT'S REPLY:

MR. SMITH: Yes, ma'am. Thank you. May it please the Court, he's dead, that's not a concoction. The -- if he had alcohol issues prior, certainly this injury exacerbated the situation. Mr. Provins had full health insurance while working his employer and, of course, that went by the wayside as he waited for the surgery to be ordered because they didn't address it themselves. With regard to the death and how it came and so forth, the explanation by Dr. Martin is logical and reasonable. The idea that Dr. Ballenger says that the tear in the shoulder that was continuously giving this man pain and then trying to shave with that thing is unbelievable from a personal standpoint. And the idea that

he had that ongoing for two years, over two years, constant pain, constant tearing atrophy, the whole thing -- there was -- there was no light at the end of the tunnel for Mr. Provins and -- and that is why the depression became an issue. It wasn't an issue in the -- to begin with, you know, I'll get surgery, I'll come back to work. Well, he got his surgery finally after 15 months and low and behold he's going to physical therapy working on his shoulder and he's -- he's -- his shoulder is torn, so the pain that he had was even worse than usual. April 11th, I believe, I filed a motion to compel treatment because we had a phone conference with the orthopaedic doctor they sent him to and he said that it was ---

MR. LEWIS: Commissioner I'm going to address ---

MR. SMITH: --- directly related.

MR. LEWIS: --- because I'm going to object. He can't -- he can't put information in from a phone conference with a doctor that's ---

MADAM CHAIR: That's ---

MR. LEWIS: Yeah, that's sustained.

MR. SMITH: Okay. Well, there was ---

MADAM CHAIR: Limit to the record that's before us.

MR. SMITH: Right.

MADAM CHAIR: Okay.

MR. SMITH: Right. There was no -- there was nothing with regard to the possibility of causing the second injury or what have you. They just used that in order to withdraw the treatment, to keep the treatment from him. I -- and so I had to file a motion to compel just to get the treatment that he was entitled to. And, of course, he had died by that point. He wasn't functional. He was functional this whole time working, had a great work ethic according to his coworker, but he wasn't functional at the end because he had totally lost himself with regard to everything involved with not working and in pain and so forth. Dr. Bonnerance, he went to see him and he talked about alcohol the first time with Dr. Bonnerance, he never ever mentioned it again, nobody ever -- no physical therapist ever said, gosh, he smells like alcohol, he's stumbling, there's none of that. But the first visit that Dr. Bonnerance, the surgeon, he tells him about his drinking which seems rather, I don't know, ironic, I guess is the word.

MADAM CHAIR: Okay. All right. Thank you, sir. All right. Thank, y'all very much.

MR. SMITH: Thank you.

MR. LEWIS: Thank you very much.

(There being nothing further, the full commission hearing concluded at 3:14 p.m.)

CERTIFICATE

This is to certify that the within hearing consisting of twenty three (23) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenotype with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on May 9, 2018.

Roderick S. Fitzgerald
Court Reporter

Notary Public for South Carolina
My Commission Expires: May 12, 2020

APA SUBMISSIONS AND HEARING EXHIBITS

Appellants' Submissions
APA pages 1-112

Reason for Appointment
1. WC for Spirit Construction shoulder injury with post accident UDS.
2. Pain in right shoulder following a lifting injury 1 hour ago.
3. No PCP

History of Present Illness
Shoulder/Upper arm:

50 year old male presents with c/o shoulder pain right shoulder pain, anteriorly, radiates down to the arm, unable to lift arm. c/o direct trauma patient was lifting a piece that was long and about 150 pounds, when someone dropped one end of it, his end snapped out of his hand, causing his right arm to fall, he heard a snapping sensation and had immediate pain. c/o weakness.

Denies: radiation of pain, fall, redness, previous injury, tingling/ numbness.

Patient has had 800mg of Ibuprofen but no other medications at this time.

Current Medications
None

Past Medical History
Denies

Surgical History
Tonsillectomy

Family History
Non-Contributory

Social History
no Smoking.
no Recreational drug use.
Alcohol: socially.
Occupation: Construction .

Allergies
N.K.D.A.

Hospitalization/Major Diagnostic Procedure
Denies Past Hospitalization

Review of Systems
Eating and drinking well, no nausea/vomiting/abdominal pain, no cough/cold/congestion, no CP, no SOB, no fever, no rash. See HPI.

Vital Signs
BP 170/100, Temp 98.8, Repeat BP 165/120, HR 104, O2sat 97, RR 16, Wt 193.

Examination

Urgent Care Examination:

General Appearance: pleasant, alert, nontoxic, well hydrated, appears uncomfortable, but NAD. Eyes: PERRL, EOMI, lids/conjunctivae normal. Head, Neck, Thyroid: supple, non-tender, normal inspection, no lymphadenopathy. Musculoskeletal/Extremities: decreased ROM of right upper extremity, inability to abduct above 90 degress, forced posterior motion of arm okay, tenderness to palpation over the lateral aspect of the shoulder, normal strength bilaterally. Skin: color normal, no rash, warm, dry.

Assessments

1. Sprain of shoulder NOS - 840.9 (Primary)

Treatment

1. Sprain of shoulder NOS

Start Voltaren enteric coated tablet, sodium 75 mg, 1 tab(s), orally with food, BID, 10 days, 20, Refills 0
XR shows no dislocation. Dr. Purcell examined patient and agrees that there is no dislocation. Start Voltaren BID for inflammation and pain. Patient placed in an arm sling today for support. Can ice shoulder as needed for pain. Shoulder strengthening exercises demonstrated today. Light duty at work with no heavy lifting or overuse of the right arm for 1 week. Follow up in 1 week for recheck or sooner if necessary. See scanned form.

2. Others

BP elevated in office. Patient advised to monitor BP and FU with PCP.

Diagnostic Imaging

X ray : Shoulder, right No fracture or dislocation. Linder,Gabrielle N. 1/24/2012 6:56:51 PM >

Procedure Codes

73050 X-RAY EXAM OF SHOULDERS

Follow Up

1 Week

glinder

Electronically signed by Gabrielle Linder , PAC on 01/24/2012 at 06:57 PM EST

Electronically co-signed by Jerry Purcell on 03/23/2012 at 04:27 PM EDT

Sign off status: Completed

Redi Care
823 Pearman Dairy Road
Anderson, SC 29625-2617
Tel: 864-225-7878

redi CARE
Need Care. We're Redi.

Provins, James C

Guarantor: Spirit Construction Insurance: Worker's Compensation
Appointment Facility: Redi Care

01/30/2012 Progress Notes: Gabrielle Linder, PA-C

Reason for Appointment
1. Recheck shoulder
2. Pt. states that he keep his arm in the sling until Friday and that he has tried to to his exercices and he is unable to move his arm at all and that is hurts alot.
3. No pcp

History of Present Illness
General:
Patient presents for WC recheck of injury to right shoulder last week. He had normal XRs in our office and was started on Voltaren for inflammation. He was given a sling to wear and shoulder exercises to try at home. He states work sent him home after 2 days of light duty because they did not have anything for him to do. Patient states he has had no improvement of symptoms. He states he is unable to lift arm above his head and wakes up in the middle of the night if he rolls over onto his shoulder.

Current Medications
Voltaren sodium 75 mg enteric coated tablet 1 tab(s) BID
Medication List reviewed and reconciled with the patient

Past Medical History
Denies

Surgical History
Tonsillectomy

Family History
Non-Contributory

Social History
no Smoking.
no Recreational drug use.
Alcohol: socially.
Occupation: Construction .

Allergies
N.K.D.A.

Hospitalization/Major Diagnostic Procedure
Denies Past Hospitalization

Review of Systems
Eating and drinking well, no nausea/vomiting/abdominal pain, feels well, no cough/cold/congestion, no CP, no SOB, no fever, no rash. See HPI.

Vital Signs
BP 170/100, Temp 97.4, HR 96, O2sat 97, RR 16, Wt 192.5.

Examination

Urgent Care Examination:

General Appearance: pleasant, alert, nontoxic, well hydrated, appears uncomfortable, but NAD. Eyes: PERRL, EOMI, lids/conjunctivae normal. Head, Neck, Thyroid: supple, non-tender, normal inspection, no lymphadenopathy. Musculoskeletal/Extremities: decreased ROM of right upper extremity, inability to abduct above 90 degress, forced posterior motion of arm okay, tenderness to palpation over the lateral aspect of the shoulder, normal strength bilaterally. Skin: color normal, no rash, warm, dry.

Assessments

1. Sprain of shoulder NOS - 840.9 (Primary)

Treatment

1. Sprain of shoulder NOS

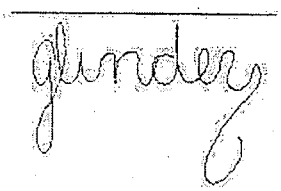
Stop Voltaren enteric coated tablet, sodium 75 mg, 1 tab(s), orally with food, BID, 10 days, 20
Start Mobic tablet, 15 mg, 1 tab(s), orally, QD, 10 days, 10, Refills 0
Start Robaxin-750 tablet, 750 mg, 2 tab(s), orally, TID, PRN MUSCLE SPASM, 25, Refills 0
PE is the same here today. Signs and symptoms suspicious for rotator cuff injury. Will have patient scheduled for MRI of shoulder pending WC approval. Patient advsied to stop Voltaren and to start Mobic for inflammation and pain. Can use Robaxin as needed for muscle spasm. Moist heat or ice okay. Continue light duty at work. See scanned form. FU pending WC approval of MRI or as needed. Side effects of medications were explained to patient.

2. Others

BP elevated in office. Patient advised to monitor BP and FU with PCP.

Follow Up

prn



Electronically signed by Gabrielle Linder , PAC on 01/30/2012 at 06:37 PM EST
Sign off status: Completed

Redi Care
823 Pearman Dairy Road
Anderson, SC 29625-2617
Tel: 864-225-7878
Fax: 864-225-7863

InMed

Diagnostic Services of S.C., LLC

PATIENT NAME: JAMES PROVINS
DOB:
MR# 515597
DATE OF STUDY 2/18/12
REFERRING PHYSICIAN: BRIDGES

MRI RIGHT SHOULDER

HISTORY: Shoulder pain.

TECHNIQUE: Coronal and sagittal T2 sequences supplemented by T2 weighted sequence and coronal T1 sequence.

FINDINGS: There is a tear of the supraspinatus tendon and likely involving a portion of the infraspinatus tendon. This tear measures approximately 2.8 cm in anterior posterior dimension. This tear extends over the distal 2 to 2.5 cm of the rotator cuff. The teres minor appears to be grossly intact. There appears to be a tear involving the subscapularis tendon as well. The long head of the biceps tendon appears grossly unremarkable. No evidence for glenoid labral avulsion is noted. There is no significant lateral down slope to the acromion. There are only mild degenerative changes at the acromioclavicular joint. No significant anterior down slope to the acromion is noted. Moderate sized joint effusion appears present. No fracture or bone bruise is seen on the study. The surrounding muscles grossly appear unremarkable.

IMPRESSION: There is a fairly extensive tear of the supraspinatus tendon and likely involving the infraspinatus. There also appears to be a tear involving the subscapularis tendon although there is no evidence for biceps dislocation. There is a small joint effusion noted.

Stephen J. Gordin, M.D.

SJG/lm

1704 E. Main Street
Duncan, S.C. 29334
T: (864) 486-8595 F: (864) 486-8433

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1000A

BAPTIST HEALTH LOUISVILLE

ADMISSION/ENCOUNTER FACESHEET

PROVINS, JAMES C
9981174001 05/15/13
06/29/61 51Y M 9981174

9981174001

Patient Information: PROVINS, JAMES C [redacted]	DOB: Age 51Y Sex M MS M Race W SSN: [redacted] Religious Preference NONE Phone: [redacted] County JEF	Admit Date/Time 05/15/13 0 Clerk MH4 Referral Source CLINIC/PHY Class S Re-Admit N Unit Room/Bed Service OSC FC W Pt Type S
Insurance Plan 1 Insured Information COB 1 REL 01 PROVINS, JAMES C 003186000589 SPIRIT CONSTRUCTION 118 COLEMAN BLVD SAVANNAH, GA 31408 EMPLOYER: SPIRIT CONSTRUCTION PLAN PHONE: 912/748-8055 EFF DATE: KENPAC: MED A: PRECERT: MED B:	**Next of Kin/Emergency Contact** PROVINS, DEBRA 502/995-3624 SPOUSE **Patient Employer Information** SPIRIT CONSTRUCTION 118 COLEMAN BLVD SAVANNAH, GA 31408 912/748-8055	Admitting Physician Name Number BONNARENS, FRANK O 29483 Attending Physician Name Number BONNARENS, FRANK O 29483 Admitting Diagnosis: OSC Admitting Comments: NLA ADNN **ISOLATION:**
Insurance Plan 2 Insured Information COB REL EMPLOYER: PLAN PHONE: EFF DATE: KENPAC: MED A: PRECERT: MED B:	**Guarantor Information** REL 01 PROVINS, JAMES C 13605 KINROSS BLVD LOUISVILLE, KY 40272 502/995-3624	Primary Care Physician Consulting Physician Consulting Physician
Insurance Plan 3 Insured Information COB REL EMPLOYER: PLAN PHONE: EFF DATE: KENPAC: MED A: PRECERT: MED B:	**Guarantor Employer Information** SPIRIT CONSTRUCTION 118 COLEMAN BLVD SAVANNAH, GA 31408 912/748-8055	Consulting Physician Consulting Physician Consulting Physician

Accident Place & Brief Description: WORK SHOULDER INJURY
Accident Date/Time: 01/21/12 12:00
Accident Code: 4

Principal Diagnosis:

Secondary Diagnosis:

Principal Procedure:

Other Procedures:

Physician Signature:

Patient Account #: 9981174001

1000A0005 Revised 05/16/01 OPTIO PAGE 1 of 1

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1300A

PROVINS, JAMES C M
BONNARENS, FRANK O
05/15/13 51Y

BAPTIST HEALTH LOUISVILLE

HISTORY & PHYSICAL UPDATE

Per Joint Commission Standards

- PC.2.120.2 – A medical history and physical examination are completed no more than 30 days prior to or within 24 hours after inpatient admission.
- PC.2.120.6 – For a medical history and physical examination that was completed within 30 days prior to inpatient admission, an update documenting any changes in the patient's condition is completed within 24 hours after inpatient admission or prior to surgery.
- IM.6.30.10 – The history and physical examination and the results of indicated diagnostic tests are recorded before the operative or other high-risk procedures.

Patient is scheduled for _____ which is an **INPATIENT ONLY**

PROCEDURE per Medicare guidelines. Inpatient admission status on _____

☑ H&P reviewed – no changes

☐ H&P Reviewed with the following changes

History Update

_____

_____

Exam Update _____

Heart _____

Lungs _____

Other Findings _____

_____

_____ 5/15/13 9A

Signature of Physician Date Time

1300A0071 Revised 7/2011 OPTIO PAGE 1 of 1

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ORTHOPAEDIC ASSOCIATES of KENTUCKIANA, P.L.L.C.
3605 Northgate Circle, Suite 202
New Albany, Indiana 47150
502-585-4376
OAdocs.com

PROVINS, JAMES C
BONNARENS, FRANK O.
05/15/13 51Y

fax 502-581-1274 appointments 502-562-0346

Date: May 15, 2013 (Updated H&P)

Name: PROVIN, JAMES Age: 52 Birth Date:

HISTORY: The patient is a 52-year-old white male who presents complaining of pain in his right shoulder. He is an iron worker. He was down in South Carolina a year ago. He was helping to move steel decking that is used to pour concrete. He describes this as being approximately 35 feet long piece of corrugated steel. He and another person were dragging it across the ridges that were making up the floor. The other guy dropped his. It ended up twisting in the patient's hand forcing the right arm down. He said the left arm did not have this happen. It is just the right side. He had immediate onset of pain. He tried finishing work, but was not able to do that. He went to have it evaluated, was placed on light duty work. They did not have light duty work available for him. He has been out of work since. He said the pain is 10 out of 10. He said he is quite frustrated by this because he has to learn how to wipe his butt with his left hand, cannot use the right hand after doing it that way for 51 years. He is not using any medicines and he has no other problems requiring over-the-counter medicines.

ALLERGIES: He has no known allergies.

PAST MEDICAL HISTORY: Indicates general state of health is good. Childhood illness is positive for measles, mumps, and chickenpox. Last tetanus shot was four years ago.

PAST SURGERIES: No prior surgery.

PAST FRACTURES: No prior fractures.

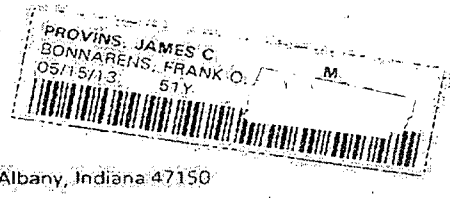
SOCIAL HISTORY: Indicates no use of coffee. He drinks 8 to 10 beers a day. No use of drugs or tobacco products.

FAMILY HISTORY: Family history is negative for diabetes and high blood pressure.

BACKGROUND HISTORY: The patient has worked as an iron worker.

REVIEW OF SYSTEMS: Indicates usual weight is 220 lbs. His right ear has had an infection. He said it smells like a dead dog when he smells the Q-tip. The patient understands that that needs to be addressed prior to surgery.

ORTHOPAEDIC ASSOCIATES
of KENTUCKIANA, P.L.L.C.



3605 Northgate Circle, Suite 202, New Albany, Indiana 47150

Date: May 15, 2013 (Updated H&P)

Name: PROVIN, JAMES Age: 52 Birth Date:

EXAM: Physical examination shows height is 5'7", weight is 240 lbs, and respirations 12, well developed, well nourished, oriented x 3. Has appropriate mood and affect. Passive range of motion is good. Significant weakness with abduction and external rotation against resistance, questionable belly-press test weakness. The patient does have a bulge consistent with a possible rupture of the long head of the biceps on the right side when compared to the left. Neuro is intact. Pulses are present. No evidence of lymphadenopathy. No warmth, erythema, or drainage is present. Numerous scars are present on the frontal side of his body and arms consistent with burns from being a welder.

IMPRESSION: Overall impression is that we are dealing with a tear of the rotator cuff and possible tear of the long head of the biceps.

PLAN: Pros and cons of both operative and non-operative treatments were explained. The patient understands risks, benefits, and potential complications associated with surgery including but not limited to infection, loss of motion, recurrence, and death. Further understands no guarantees or warrantees are given. The patient's questions were answered to his satisfaction. Surgery will be scheduled at his convenience once we have clearance on that right ear.

The case of the patient was discussed in detail with the nurse case manager whose questions were answered to her satisfaction. The requirement for the ENT clearance first to make sure we do not have any infection in the right ear before proceeding with the right shoulder was explained.

FOB/hba

main phone 502-585-4376 fax 502-581-1274 appointments 502-562-0346 web site OAdocs.com

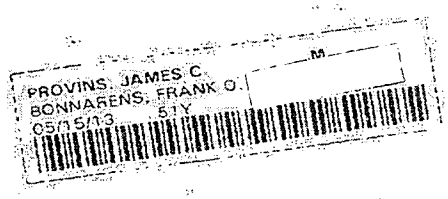
ORTHOPAEDIC ASSOCIATES
of KENTUCKIANA, P.L.L.C.

3605 Northgate Circle, Suite 202, New Albany, Indiana 47150

Date: April 15, 2013

Name: PROVIN, JAMES Age: 52 Birth Date:

X-RAYS: Significant AC joint arthropathy is seen on the four-view x-rays taken today. Humeral head does not appear to be high riding on the AP, internal and external rotation views, supraspinatus outlet view and axillary view taken because of the pain today.



main phone 502-585-4376 fax 502-581-1274 appointments 502-562-0346 web site OAdocs.com

History and Physical

Patient Name:	James Provins	**Visit Date:**	April 24, 2013
Patient ID:	438968	**Provider:**	Gorden T. McMurry, MD
Sex:	Male	**Location:**	Dupont Office
Birthdate:		**Location Address:**	4004 Dupont Circle, Louisville, KY 40207-4819
		Location Phone:	(502) 893-0159

Chief Complaint

- Ear Infection

History Of Present Illness

"James" is a 51 year old male who is an adult. He is seen at the request of REFERRING DOCTOR for the evaluation of a history of an infection and and HX of right sided ear trauma involving welding sparks in the right ear. The onset of this condition has been gradual. The symptoms may be associated with recurrent drainage and smell from right ear. He stated he needs clearance for his shoulder surgery for a workers comp claim and has to have his ear looked at first. No alleviating factors have been identified. The patient has no additional complaints. He denies ear pain, vertigo, and dizziness.

Past Medical History

Disease Name	Date Onset	Notes
-no significant medical history	--	--
Abnormal auditory perception, unspecified, WNL hearing	04/24/2013	--
deviated nasal septum right, with 50% obstruction	04/24/2013	--
Otorrhea	04/24/2013	--

Past Surgical History

Procedure Name	Date	Notes
Tonsillectomy	@ 20 yrs old	--

Allergy List

Allergen Name	Date	Reaction	Notes
NO KNOWN DRUG ALLERGIES	--	--	--

Family Medical History

Disease Name	Relative/Age	Notes
-No reported Family History	/	--

Social History

Finding	Status	Start/Stop	Quantity	Notes
alcohol use	--	--/--	--	--
Alcohol, daily	--	--/--	--	--
Tobacco	Unknown	--/--	--	--

Review of Systems

Constitutional
- o **Denies** : chills, fatigue, fever

Eyes
- o **Denies** : changes in vision, double vision

Cardiovascular
- o **Denies** : chest pain, irregular heart beats

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Respiratory
- **Denies** : cough, coughing up blood, hoarseness, shortness of breath

Gastrointestinal
- **Denies** : abdominal pain, constipation, diarrhea, dysphagia, heartburn, nausea, vomiting

Genitourinary
- **Denies** : difficulty voiding

Integument
- **Denies** : new skin lesions, rash

Neurologic
- **Denies** : seizures, speech difficulties

Musculoskeletal
- **Denies** : joint pain, joint swelling, muscle cramps, muscle pain

Endocrine
- **Denies** : cold intolerance, excessive sweating, heat intolerance, decreased libido, hot flashes, loss of hair, weight gain, weight loss

Psychiatric
- **Denies** : anxiety, depression

Heme-Lymph
- **Denies** : easy bleeding, easy bruising

Allergic-Immunologic
- **Denies** : currently on allergy shots, sinus allergy symptoms

All Others Negative

Vitals

Date	Time	BP	Position	Site	L\R	Cuff Size	HR	RR	TEMP(°F)	WT	H.T	BMI kg/m²	BSA m²	O2 Sat	HC
04/24/2013	10:39 AM	131/76	Sitting				68 - R	16		240lbs 0oz					

Physical Examination

Constitutional
- **General Appearance** : well-developed, well nourished, alert, oriented, in no acute distress, cooperative with examination
- **Communication Ability / Voice Quality** : communication ability normal, normal voice quality

Head
- **Inspection** : normocephalic, no lesions , atraumatic
- **Palpation** : no tenderness on palpation, no masses on palpation, TMJ nontender with normal range of motion bilaterally

Face
- **Inspection** : normal appearance, no lesions , no evidence of trauma
- **Palpation** : frontoethmoidal sinus nontender, maxillary sinuses nontender to palpation, no masses
- **Facial Strength** : facial motion symmetric, normal eye closure strength bilaterally
- **Parotid Glands** : no tenderness on palpation, no swelling , no palpable masses

Eyes
- **Ocular Motility/Alignment** : ocular alignment normal, ocular motility normal, no nystagmus , no proptosis
- **Pupils and Irises** : pupils equal, round and reactive to light

Ears
- **Hearing** : hearing to conversational voice intact A.U.
- **External Ears** : right moist debirs and pus removed form the right canal with cotton applicator
- **Otoscopic Exam** : tympanic membranes normal, no lesions, no perforations, no fluid present behind tympanic membranes, middle ear cavities appear normal without obvious fluid or masses A.U.

Nose / Nasopharynx
- **External Nose** : appearance normal, no tenderness on palpation, no nasal discharge , no deformities, no evidence of trauma, nostrils patent without discharge
- **Intranasal Exam** : left deviated nasal septum with 50% obstruction
- **Nasopharynx** : nasopharynx mirror exam: within normal limits, adenoids within normal limits, posterior choanae patent

Oral Cavity / Oropharynx
- **Lips** : upper and lower lips pink and moist

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- **Teeth** : *multiple caries , poor dentition, multiple upper and lower missing teeth present*
- **Gums** : gingivae healthy
- **Oral Mucosa** : oral mucosa moist, no lesions
- **Floor of Mouth** : floor of mouth within normal limits, salivary ducts patent
- **Tongue** : tongue moist and without lesions
- **Palate** : soft and hard palates within normal limits
- **Oropharynx** : appearance within normal limits, tonsils normal in appearance, peritonsillar regions within normal limits

Hypopharynx / Larynx

- **Hypopharynx** : normal general appearance, no lesions
- **Larynx** : normal general appearance, epiglottis within normal limits, arytenoid cartilage within normal limits, vocal cord appearance normal

Neck

- **Inspection and Palpation** : appearance normal, no masses or tenderness on palpation
- **Thyroid** : size of gland normal, no tenderness, nodules or masses on palpation, position midline
- **Submandibular Glands** : normal size, nontender to palpation
- **Lymph Nodes** : no lymphadenopathy

Chest / Respiratory

- **Respiratory Effort** : breathing unlabored

Cardiovascular

- **Extremities** : no cyanosis, no edema

Skin and Subcutaneous Tissues

- **Skin** : normal coloration and skin turgor, no rashes, no lesions

Neurological/Psychiatric

- **Cranial Nerves** : CN II-XII intact
- **Cerebellum** : no ataxia, fine coordination within normal limits
- **Gait** : gait normal

Assessment

- Right Otorrhea 388.60
- Right Otitis Externa, Acute 380.22

Plan

Orders

- Culture- Ear RIGHT (CULTR) -- 04/24/2013

Medications

- CIPRODEX Otic Drops, Suspension 0.3-0.1 %
  SIG: Instill 3 drops into affected ear by otic route 3 times per day for 10 days.
  DISP: (1) 7.5 ml drop btl with 0 refills
  Prescribed on 04/24/2013

Instructions

- 4-24-2013- James presents for check of his right ear for clearance for open shoulder surgery due to possible risk of infection. He has had a recurrent issues with am odor and some drainage from the right ear. He has a HX of injury to the right ear due to metal welding entering the ear. The exam today revealed some moist debris which were removed with cotton applicator as well as a culture collected. Discusssed stoping q tip use and water prevention. He stated he has had hearing loss since the right ear injury during welding 5-6 yrs ago. The hearing test today revealed bilteral sensorineural hearing loss. There was no evidence of perforation today though. Placed on ear drops and use strict water precautions. ADDENDUM>>>>>>> 5-10-2013- Discussed surgical clearance with ortho office baout shoulder surgery for pt. The culture results were reviewed with them and were noted to be pseudomonois which was suseptiable to the ciprodex drops he was placed on. He should now be clezred for shoulder surgery after use of ciprodex ear drops for ear drianage.

Disposition

- Transcribed by Kristen Brown MA

Electronically Signed by: Gorden T. McMurry, MD -Author on May 10, 2013 02:50:02 PM

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OSC - Baptist Health Louisville

PROVINS, JAMES
9981174
Date of Birth: 06/29/1961
Dictating Surgeon: Frank O. Bonnarens, M.D.*
Primary Care Physician:
Date of Operation:

PREOPERATIVE DIAGNOSES
1. Rotator cuff tear.
2. Impingement of AC joint.
3. Degenerative joint disease.
4. Tear of the long head of the biceps.

POSTOPERATIVE DIAGNOSES
1. Rotator cuff tear.
2. Impingement of AC joint.
3. Degenerative joint disease.
4. Tear of the long head of the biceps.

PROCEDURE(S) PERFORMED
1. Right shoulder rotator cuff repair
2. Acromioplasty/Mumford procedure.
3. Debridement of the biceps stump and labral tears.
4. Insertion of bone graft.

SURGEON
Frank O. Bonnarens, M.D.

ASSISTANT
Sampson.

ANESTHESIA
General.

DESCRIPTION OF PROCEDURE
The patient was brought to the operating room. After obtaining the appropriate consent, general anesthesia was induced. The arm was cleaned and prepped in the usual manner and sterilely draped. Standard posterior portal was made and the arthroscope was inserted. Biceps tendon was seen to be torn, the stump remaining. Anterior portal was located and the shoulder was systematically examined. The patient was seen to have a massive tear of the rotator cuff. The patient was seen to have a tear of the lung into the biceps with the stump remaining. The stump was debrided. Minor labral tears anterior and posterior were debrided. Articular cartilage showed mild degenerative changes. No evidence of loose bodies, but it looked like the supraspinatus, infraspinatus, and the rotator interval were all involved in the rotator cuff tear. The subacromial space was entered. Hypertrophied bursal tissue present and resected. A standard arthroscopic acromioplasty with release of the coracoacromial ligament was carried out. The rotator cuff was then mobilized utilizing converging sutures. Both EL and the U component of a rotator cuff tear were closed. Bone marrow aspirate had been obtained for grafting purposes with particular graft, and the marrow contents was concentrated on the back

table for later reimplantation. The anchor was then placed. Standard watertight closure of the rotator cuff was accomplished. Once this had been completed, electrocautery was used to isolate the distal centimeter of the clavicle. Soft tissue was resected within the AC joint. Distal centimeter of the bone resected. Entire area was reevaluated and no additional pathology was noted. So the concentrated bone marrow with particular graft was then reinserted at the interface between the rotator cuff and the underlying bone to act as a scaffolding. The incisions were closed. A dry sterile dressing was applied and the patient was brought to recovery without incident.

Frank O. Bonnarens, M.D.
FOB:eb
D: 05/15/2013 13:42:41
T: 05/16/2013 19:07:50
Job ID: 29968590
Document ID: 25094491
Rev: 0
cc:
Authenticated by DR. FRANK BONNARENS on 06/04/2013 09:28:16 AM

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PROVINS, JAMES C
Baptist Hospital East
FROM: 05/12/13 10:46 TO: 05/13/13 10:46
ROOM: ADM:
AGE: 51Y SEX: M MD: BONNARENS, FRANK O
DOB IIC: 9981174001 MR: 0009981174
REQUESTED: 05/13/13 10:46 (1TH9)
OPT OUT:

Order Conf Rpt - **PROVINS, JAMES C**
DEPT: **CC_PRE** ROOM: - MR: **0009981174**
Ordered by: MD BONNARENS, FRANK O
Entered by: RN HAWKINS, TARA T - 05/13/13 10:46
Order mode: Written - Session Id:34052836

ALLERGY

Charted	Allergy name	Type	Reaction	Severity	Comment
05/13 10:45	No Known Allergies	Miscellaneous Allergy			

DIAGNOSIS

OSC

EKG

Ord#	Action	Order Name	Freq	Priority	Duration	Start	Stop
1	Started	EKG PAT	ONCE	ROUTINE	1 Time	05/13 10:46	05/13 10:46

LAB

Ord#	Action	Order Name	Freq	Priority	Duration	Start	Stop
2	Started	Comprehensive Metabolic Panel (CMP)	ONCE	ROUTINE	1 Time	05/13 10:46	05/13 10:46
3	Started	Hemoglobin and Hematocrit ROOM 8	ONCE	ROUTINE	1 Time	05/13 10:46	05/13 10:46

MD Signature (date) __/__/__ : _____

LAST PAGE

Page 1 PERM

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PROVINS, JAMES C
Baptist Hospital East
FROM: 05/12/13 11:11 TO: 05/13/13 11:11
ROOM: - ADM:
AGE: 51Y SEX: M MD: BONNARENS, FRANK O
DOB: [redacted] ID: 9981174001 MR: 0009981174
REQUESTED: 05/13/13 11:11 (ORH)
OPT OUT:

Order Conf Rpt - PROVINS, JAMES C
DEPT: CC PRE ROOM: - MR: 0009981174
Ordered by: MD BONNARENS, FRANK O
Entered by: RN HAYDEN, CHERYL R 05/13/13 11:11
Order mode: Written - Session Id:34053644

ALLERGY

Charted	Allergy name	Type	Reaction	Severity	Comment
05/13 10:45	NO Known Allergies	Miscellaneous Allergy			

DIAGNOSIS
OSC

LAB

Ord#	Action	Order Name	Freq	Priority	Duration	Start	Stop
4	Started	CBC NO Differential	ONCE	ROUTINE	1 Time	05/13 11:11	05/13 11:11

MD Signature (date) __/__/__ :_____

LAST PAGE

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PROVINS, JAMES C
Baptist Hospital East
FROM: 05/14/13 08:28 TO: 05/15/13 08:28
ROOM: - ADM: 05/15/13 07:41
AGE: 51Y SEX: M MD: BONNAPENS, FRANK O
DOB: F ID: 9981174001 MR: 0009981174
REQUESTED: 05/15/13 08:28 (EDGO)
OPT OUT:

Order Conf Rpt - PROVINS, JAMES C
DEPT: CC OUTPT ROOM: - MR: 0009981174
Ordered by: ANESTHESIA, DOCTOR
Entered by: NAT GLINES, EDITH D 05/15/13 08:28
Order mode: Written Session Id:34101723

ALLERGY

Charted	Allergy name	Type	Reaction	Severity	Comment
05/13 10:45	No Known Allergies	Miscellaneous Allergy			

DIAGNOSIS
RT SHLDR ARTHRO

HEODEPT

Ord#	Action	Order Name	Freq	Priority	Duration	Start	Stop
18	Started	PATIENT SPECIFIC DATA	CONTIN	ROUTINE		05/13 11:22	Indefinite
		Patient's weight (kgs or lbs): 109.905					
		Instructions: weight: 109.905kg/242.31b;					
19	Started	PATIENT SPECIFIC DATA	CONTIN	ROUTINE		05/13 11:22	Indefinite
		Patient's height (cms or ins): 170.18					
		Instructions: height: 170.18cm/67.0in;					

LAB

Ord#	Action	Order Name	Freq	Priority	Duration	Start	Stop
20	Started	Alcohol Blood (Ethanol)	ONCE	STAT	1 Time	05/15 08:27	05/15 08:27

MD Signature (date) __/__/__ :_____

LAST PAGE Page 1 PERM

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PROVINS, JAMES C. Cpr Out
BHE
Comp Orders Report
From: 05/13/2013 10:44 To: 05/15/2013 14:40
Rm-Bed: Admit Dt: 05/15/2013 07:41
Age: 51 yr Gender: M MD: Bonnarens, Frank O, MD
DOB: [redacted] Acct: 9981174001
MRN: 0009981174
Requested: 05/16/2013 05:40 Page 1 of 14

INDEX SECTION:

Name	Order#	Original Entry DT	Start DT/TM	End DT/TM
Cardiovascular				
EKG PAT	1	05/13/2013 10:46	05/13/2013 10:46	05/13/2013 10:46
East Pharmacy				
Famotidine [PEPCID] INJECTION	5	05/14/2013 13:16	05/14/2013 14:00	05/15/2013 14:40
Scopolamine [TRANSDERM-SCOP] PATCH	6	05/14/2013 13:16	05/14/2013 14:00	05/15/2013 14:40
Lidocaine-Tetracaine [SYNERA] PATCH	7	05/14/2013 13:16	05/14/2013 14:00	05/15/2013 14:40
Glycopyrrolate [ROBINUL] INJECTION	8	05/14/2013 13:16	05/14/2013 14:00	05/15/2013 14:40
Metoclopramide [REGLAN] INJECTION	9	05/14/2013 13:16	05/14/2013 14:00	05/15/2013 14:40
Midazolam [VERSED] IV INJECTION	10	05/14/2013 13:16	05/14/2013 14:00	05/15/2013 14:40
Fentanyl [FENTANYL] INJECTION	11	05/14/2013 13:16	05/14/2013 14:00	05/15/2013 14:40
Diazepam [VALIUM] TABLETS	12	05/14/2013 13:16	05/14/2013 14:00	05/15/2013 14:40
LIDOCAINE (XYLOCAINE) PF 1% INJ (VIAL)	13	05/14/2013 13:16	05/14/2013 14:00	05/15/2013 14:40
Hydromorphone [DILAUDID] Injection	14	05/14/2013 13:16	05/14/2013 14:00	05/15/2013 14:40
Ondansetron [ZOFRAN] INJECTION	15	05/14/2013 13:16	05/14/2013 14:00	05/15/2013 14:40
Promethazine [PHENERGAN] INJECTION	16	05/14/2013 13:16	05/14/2013 14:00	05/15/2013 14:40
Cefazolin 2GM [KEFZOL] Infusion	17	05/14/2013 14:16	05/14/2013 15:00	05/15/2013 14:40
Lorazepam 1MG [ATIVAN] TABLET	21	05/15/2013 08:41	05/15/2013 09:00	05/15/2013 14:40
Lorazepam 0.5MG [ATIVAN] TABLET	22	05/15/2013 08:43	05/15/2013 09:00	05/15/2013 14:40
HEODEPT				
PATIENT SPECIFIC DATA	18	05/15/2013 08:28	05/13/2013 11:22	
PATIENT SPECIFIC DATA	19	05/15/2013 08:28	05/13/2013 11:22	
Laboratory				
Comprehensive Metabolic Panel (CMP)	2	05/13/2013 10:46	05/13/2013 10:46	05/13/2013 10:46
Hemoglobin and Hematocrit	3	05/13/2013 10:46	05/13/2013 10:46	05/13/2013 10:46
CBC WO Differential	4	05/13/2013 11:11	05/13/2013 11:11	05/13/2013 11:11
Alcohol Blood (Ethanol)	20	05/15/2013 08:28	05/15/2013 08:27	05/15/2013 08:27

BODY SECTION:

Cardiovascular

Order 1 - Version 1

EKG PAT ONCE ROUTINE 1 Times

Start: 05/13/2013 10:46 **End:** 05/13/2013 10:46 **Originally Entered:** 05/13/2013 10:46 **Last Modified:** 05/13/2013 10:46	**Ordered By:** BONNARENS, FRANK O MD **Entered By:** HAWKINS, TARA T RN **Modified By:** HAWKINS, TARA T RN **Source:** Written	**Action:** Ordered
	Application Source: HEO **Performing Dept:** CARDIOLOGY **Order Group:** Cardiovascular **Placer Number:** 517097882	

Order 1 - Version 2

EKG PAT ONCE ROUTINE 1 Times

PROVINS, JAMES C: Opt Out:
BHE
Comp Orders Report
From: 05/13/2013 10:44 To: 05/15/2013 14:40
Rm-Bed: Admit Dt: 05/15/2013 07:41
Age: 51 yr Gender: M MD: Bonnarens, Frank O., MD
DOB: Acct: 9981174001
MRN: 0009981174
Requested: 05/16/2013 05:40 Page 2 of 14

Cardiovascular (Continued)

Order 1 - Version 2 (Continued)

Start: 05/13/2013 10:46 End: 05/13/2013 10:46 Originally Entered: 05/13/2013 10:46 Last Modified: 05/13/2013 21:32	Ordered By: BONNARENS, FRANK O MD Entered By: HAWKINS, TARA T RN Modified By: HAWKINS, TARA T RN Source: Written	Action: Completed
	Performing Dept: CARDIOLOGY Order Group: Cardiovascular Placer Number: 517097882	

East Pharmacy

Order 5 - Version 1

Famotidine [PEPCID] INJECTION 20 MG IV SURGPRN ROUTINE UNK DILUTE TO 10 ML TOTAL;PUSH OVER 2 MIN		
Start: 05/14/2013 14:00 Originally Entered: 05/14/2013 13:16 Last Modified: 05/14/2013 13:16	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Ordered
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16 Confirmed By: COWLES, KELLY L, RN Confirmed Date: 05/15/2013 08:32	Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413271	

Order 5 - Version 2

Famotidine [PEPCID] INJECTION 20 MG IV SURGPRN ROUTINE 25 Hours DILUTE TO 10 ML TOTAL;PUSH OVER 2 MIN		
Start: 05/14/2013 14:00 End: 05/15/2013 14:40 Originally Entered: 05/14/2013 13:16 Last Modified: 05/15/2013 14:40 D.C.: 05/15/2013 14:40	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Future Discontinued
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16	Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413271	

Order 6 - Version 1

Scopolamine [TRANSDERM-SCOP] PATCH 1.5 MG TOPL SURGPRN ROUTINE UNK		
Start: 05/14/2013 14:00 Originally Entered: 05/14/2013 13:16 Last Modified: 05/14/2013 13:16	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Ordered

PROVINS, JAMES C. Opt Out:
BHE
Comp Orders Report
From: 05/13/2013 10:44 To: 05/15/2013 14:40
Rm:Bed: Admit Dt: 05/15/2013 07:41
Age: 51 yr Gender: M MD: Bonnarens, Frank O., MD
DOB: [redacted] Acct: 9981174001
MRN: 0009981174
Requested: 05/16/2013 05:40 Page 3 of 14

East Pharmacy (Continued)

Order 6 - Version 1 (Continued)

Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16	Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413272

Order 6 - Version 2

Scopolamine [TRANSDERM-SCOP] PATCH 1.5 MG TOPL SURGPRN ROUTINE 25 Hours		
Start: 05/14/2013 14:00 End: 05/15/2013 14:40 Originally Entered: 05/14/2013 13:16 Last Modified: 05/15/2013 14:40 D.C.: 05/15/2013 14:40	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Future Discontinued
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16	Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413272	

Order 7 - Version 1

Lidocaine-Tetracaine [SYNERA] PATCH 70 MG TOPL SURGPRN ROUTINE UNK		
Start: 05/14/2013 14:00 Originally Entered: 05/14/2013 13:16 Last Modified: 05/14/2013 13:16	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Ordered
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16	Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413273	

Order 7 - Version 2

Lidocaine-Tetracaine [SYNERA] PATCH 70 MG TOPL SURGPRN ROUTINE 25 Hours		
Start: 05/14/2013 14:00 End: 05/15/2013 14:40 Originally Entered: 05/14/2013 13:16 Last Modified: 05/15/2013 14:40 D.C.: 05/15/2013 14:40	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Future Discontinued
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16	Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413273	

Order 8 - Version 1

Glycopyrrolate [ROBINUL] INJECTION 0.2 MG IV SURGPRN ROUTINE UNK		
Start: 05/14/2013 14:00 Originally Entered: 05/14/2013 13:16	Ordered By: ANESTHESIA, DOCTOR	Action: Ordered

East Pharmacy (Continued)

Order 8 - Version 1 (Continued)

Last Modified: 05/14/2013 13:16	Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413274

Order 8 - Version 2

Glycopyrrolate [ROBINUL] INJECTION 0.2 MG IV SURGPRN ROUTINE 25 Hours		
Start: 05/14/2013 14:00 End: 05/15/2013 14:40 Originally Entered: 05/14/2013 13:16 Last Modified: 05/15/2013 14:40 D.C.: 05/15/2013 14:40	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Future Discontinued
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413274

Order 9 - Version 1

Metoclopramide [REGLAN] INJECTION 10 MG IV SURGPRN ROUTINE UNK		
Start: 05/14/2013 14:00 Originally Entered: 05/14/2013 13:16 Last Modified: 05/14/2013 13:16	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Ordered
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413275

Order 9 - Version 2

Metoclopramide [REGLAN] INJECTION 10 MG IV SURGPRN ROUTINE 25 Hours		
Start: 05/14/2013 14:00 End: 05/15/2013 14:40 Originally Entered: 05/14/2013 13:16 Last Modified: 05/15/2013 14:40 D.C.: 05/15/2013 14:40	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Future Discontinued
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413275

24

358

PROVINS, JAMES C. Opt Out:
BHE
Comp Orders Report
From: 05/13/2013 10:44 To: 05/15/2013 14:40
Rm-Bed: Admit Dt: 05/15/2013 07:41
Age: 51 yr Gender: M MD: Bonnarens, Frank O., MD
DOB: Acct: 9981174001
MRN: 0009981174
Requested: 05/16/2013 05:40 Page 5 of 14

East Pharmacy (Continued)

Order 10 - Version 1

Midazolam [VERSED] IV INJECTION 0.5-2 MG IV SURGPRN ROUTINE 14Days		
Start: 05/14/2013 14:00 End: 05/28/2013 13:59 Originally Entered: 05/14/2013 13:16 Last Modified: 05/14/2013 13:16	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Ordered
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16 Confirmed By: COWLES, KELLY L, RN Confirmed Date: 05/15/2013 08:32		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413276

Order 10 - Version 2

Midazolam [VERSED] IV INJECTION 0.5-2 MG IV SURGPRN ROUTINE 14 Days		
Start: 05/14/2013 14:00 End: 05/15/2013 14:40 Originally Entered: 05/14/2013 13:16 Last Modified: 05/15/2013 14:40 D.C: 05/15/2013 14:40	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Future Discontinued
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413276

Order 11 - Version 1

Fentanyl [FENTANYL] INJECTION 25-50 MCG IV SURGPRN ROUTINE 14Days ** CAUTION - LOOK ALIKE/ SOUND ALIKE -DRUG ALERT; PLEASE READ THE LABEL **		
Start: 05/14/2013 14:00 End: 05/28/2013 13:59 Originally Entered: 05/14/2013 13:16 Last Modified: 05/14/2013 13:16	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Ordered
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16 Confirmed By: COWLES, KELLY L, RN Confirmed Date: 05/15/2013 08:32		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413277

Order 11 - Version 2

Fentanyl [FENTANYL] INJECTION 25-50 MCG IV SURGPRN ROUTINE 14 Days ** CAUTION - LOOK ALIKE/ SOUND ALIKE -DRUG ALERT; PLEASE READ THE LABEL **		
Start: 05/14/2013 14:00 End: 05/15/2013 14:40 Originally Entered: 05/14/2013 13:16	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST	Action: Future Discontinued

PROVINS, JAMES C. Opt Out:
BHE
Comp Orders Report
From: 05/13/2013 10:44 To: 05/15/2013 14:40
Rm-Bed: Admit Dt: 05/15/2013 07:41
Age: 51 yr Gender: M MD: Bonnarens, Frank O, MD
DOB: [redacted] Acct: 9981174001
MRN: 0009981174
Requested: 05/16/2013 05:40 Page 6 of 14

East Pharmacy (Continued)

Order 11 - Version 2 (Continued)

Last Modified: 05/15/2013 14:40 D.C.: 05/15/2013 14:40	Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	
Pharmacy Verified: Y Verified By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX25413277

Order 12 - Version 1

Diazepam [VALIUM] TABLETS 5-10 MG ORAL SURGPRN ROUTINE 14Days		
Start: 05/14/2013 14:00 End: 05/28/2013 13:59 Originally Entered: 05/14/2013 13:16 Last Modified: 05/14/2013 13:16	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Ordered
Pharmacy Verified: Y Verified By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX25413278

Order 12 - Version 2

Diazepam [VALIUM] TABLETS 5-10 MG ORAL SURGPRN ROUTINE 14 Days		
Start: 05/14/2013 14:00 End: 05/15/2013 14:40 Originally Entered: 05/14/2013 13:16 Last Modified: 05/15/2013 14:40 D.C.: 05/15/2013 14:40	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Future Discontinued
Pharmacy Verified: Y Verified By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX25413278

Order 13 - Version 1

LIDOCAINE (XYLOCAINE) PF 1% INJ (VIAL) 0.1-2 ML INTRADERMAL SURGPRN ROUTINE UNK		
Start: 05/14/2013 14:00 Originally Entered: 05/14/2013 13:16 Last Modified: 05/14/2013 13:16	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Ordered
Pharmacy Verified: Y Verified By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16 Confirmed By: COWLES, KELLY L, RN Confirmed Date: 05/15/2013 08:51		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX25413279

PROVINS, JAMES C. Opt Out:
SHE
Comp Orders Report
From: 05/13/2013 10:44 To: 05/15/2013 14:40
Rm-Bed: Admit Dt: 05/15/2013 07:41
Age: 51 yr. Gender: M MD: Bonnarens, Frank O, MD
DOB: [redacted] Acct: 9981174001
MRN: 0009981174
Requested: 05/16/2013 05:40 Page 7 of 14

East Pharmacy (Continued)

Order 13 - Version 2 (Continued)

LIDOCAINE,(XYLOCAINE) PF 1% INJ (VIAL) 0.1-2 ML INTRADERMAL SURGPRN ROUTINE 25 Hours

Start: 05/14/2013 14:00 End: 05/15/2013 14:40 Originally Entered: 05/14/2013 13:16 Last Modified: 05/15/2013 14:40 D.C.: 05/15/2013 14:40	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Future Discontinued
Pharmacy Verified: Y Verified By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16	Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413279	

Order 14 - Version 1

Hydromorphone [DILAUDID] Injection 0.25-0.5 MG IV SURGPRN ROUTINE 14Days ** PER MEDICAL EXECUTIVE COMMITTEE -DOSING GUIDELINES, THE ORDERED DOSE -HAS BEEN CHANGED TO 0.5MG -Q2H; HIGHER DOSES MAY BE ORDERED IF -PHYSICIAN DOCUMENTS OPIOID TOLERANCE -** -*** HIGH RISK ALERT - 1MG HYDROMORPHONE -IS EQUIVALENT TO 7MG MORPHINE; USE

Start: 05/14/2013 14:00 End: 05/28/2013 13:59 Originally Entered: 05/14/2013 13:16 Last Modified: 05/14/2013 13:16	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Ordered
Pharmacy Verified: Y Verified By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16	Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413280	

Order 14 - Version 2

Hydromorphone [DILAUDID] Injection 0.25-0.5 MG IV SURGPRN ROUTINE 14 Days ** PER MEDICAL EXECUTIVE COMMITTEE -DOSING GUIDELINES, THE ORDERED DOSE -HAS BEEN CHANGED TO 0.5MG -Q2H; HIGHER DOSES MAY BE ORDERED IF -PHYSICIAN DOCUMENTS OPIOID TOLERANCE -** -*** HIGH RISK ALERT - 1MG HYDROMORPHONE -IS EQUIVALENT TO 7MG MORPHINE; USE

Start: 05/14/2013 14:00 End: 05/15/2013 14:40 Originally Entered: 05/14/2013 13:16 Last Modified: 05/15/2013 14:40 D.C.: 05/15/2013 14:40	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Future Discontinued
Pharmacy Verified: Y Verified By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16	Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413280	

Order 15 - Version 1

Ondansetron [ZOFRAN] INJECTION 4 MG IV SURGPRN ROUTINE UNK FOR NAUSEA/VOMITING

Start: 05/14/2013 14:00 Originally Entered: 05/14/2013 13:16 Last Modified: 05/14/2013 13:16	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST	Action: Ordered

PROVINS, JAMES C Opt Out:
BHE
Comp Orders Report
From: 05/13/2013 10:44 To: 05/15/2013 14:40
Rm-Bed: Admit Dt: 05/15/2013 07:41
Age: 51 yr Gender: M MD: Bonnarens, Frank O., MD
DOB: [redacted] Acct: 9981174001
MRN: 0009981174
Requested: 05/16/2013 05:40 Page 8 of 14

East Pharmacy (Continued)

Order 15 - Version 1 (Continued)

	Source: Written	
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413281

Order 15 - Version 2

Ondansetron [ZOFRAN] INJECTION 4 MG IV SURGPRN ROUTINE 25 Hours FOR NAUSEA/VOMITING		
Start: 05/14/2013 14:00 End: 05/15/2013 14:40 Originally Entered: 05/14/2013 13:16 Last Modified: 05/15/2013 14:40 D.C.: 05/15/2013 14:40	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Future Discontinued
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413281

Order 16 - Version 1

Promethazine [PHENERGAN] INJECTION 5-25 MG IV SURGPRN ROUTINE UNK ADMINISTER VIA LARGE-BORE VEIN (NOT -HAND OR WRIST) THROUGH RUNNING IV LINE -AT PORT FURTHEST FROM PATIENT'S VEIN; -** FOR IV ADMINISTRATION, MUST -DILUTE IN NORMAL SALINE TO 20 ML AND -GIVE SLOW IVP OVER 3-5 MINUTES** -FOR NAUSEA/VOMITING		
Start: 05/14/2013 14:00 Originally Entered: 05/14/2013 13:16 Last Modified: 05/14/2013 13:16	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Ordered
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413282

Order 16 - Version 2

Promethazine [PHENERGAN] INJECTION 5-25 MG IV SURGPRN ROUTINE 25 Hours ADMINISTER VIA LARGE-BORE VEIN (NOT -HAND OR WRIST) THROUGH RUNNING IV LINE -AT PORT FURTHEST FROM PATIENT'S VEIN; -** FOR IV ADMINISTRATION, MUST -DILUTE IN NORMAL SALINE TO 20 ML AND -GIVE SLOW IVP OVER 3-5 MINUTES** -FOR NAUSEA/VOMITING		
Start: 05/14/2013 14:00 End: 05/15/2013 14:40 Originally Entered: 05/14/2013 13:16 Last Modified: 05/15/2013 14:40 D.C.: 05/15/2013 14:40	Ordered By: ANESTHESIA, DOCTOR Entered By: MOORE, COURTNEY L PHARMACIST Modified By: MOORE, COURTNEY L PHARMACIST Source: Written	Action: Future Discontinued
Pharmacy Verified: Y Verfied By: MOORE, COURTNEY L Verified Date: 05/14/2013 13:16		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26413282

PROVINS, JAMES C. Opt Out:
BHE
Comp Orders Report
From: 05/13/2013 10:44 To: 05/15/2013 14:40
Rm-Bed: Admit Dt: 05/15/2013 07:41
Age: 51 yr Gender: M MD: Bonnarens, Frank O., MD
DOB: [redacted] Acct: 9981174001
MRN: 0009981174
Requested: 05/16/2013 05:40 Page 9 of 14

East Pharmacy (Continued)

Order 17 - Version 1 (Continued)

Cefazolin 2GM [KEFZOL] Infusion 2 GM IVPB SURGPRN ROUTINE UNK		
Start: 05/14/2013 15:00 Originally Entered: 05/14/2013 14:18 Last Modified: 05/14/2013 14:18	Ordered By: BONNARENS, FRANK O MD Entered By: HICKMAN, CASSANDRA PHARMACIST Modified By: HICKMAN, CASSANDRA PHARMACIST Source: Written	Action: Ordered
Pharmacy Verified: Y Verfied By: HICKMAN, CASSANDRA Verified Date: 05/14/2013 14:18	Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26414646	

Order 17 - Version 2

Cefazolin 2GM [KEFZOL] Infusion 2 GM IVPB SURGPRN ROUTINE 24 Hours		
Start: 05/14/2013 15:00 End: 05/15/2013 14:40 Originally Entered: 05/14/2013 14:18 Last Modified: 05/15/2013 14:40 D.C.: 05/15/2013 14:40	Ordered By: BONNARENS, FRANK O MD Entered By: HICKMAN, CASSANDRA PHARMACIST Modified By: HICKMAN, CASSANDRA PHARMACIST Source: Written	Action: Future Discontinued
Pharmacy Verified: Y Verfied By: HICKMAN, CASSANDRA Verified Date: 05/14/2013 14:18	Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26414646	

Order 21 - Version 1

Lorazepam 1MG [ATIVAN] TABLET 2 MG ORAL SURGPRN ROUTINE 14Days ** CAUTION - LOOK ALIKE/ SOUND ALIKE -DRUG ALERT; PLEASE READ THE LABEL **		
Start: 05/15/2013 09:00 End: 05/29/2013 08:59 Originally Entered: 05/15/2013 08:41 Last Modified: 05/15/2013 08:41	Ordered By: BONNARENS, FRANK O MD Entered By: HICKMAN, CASSANDRA PHARMACIST Modified By: HICKMAN, CASSANDRA PHARMACIST Source: Written	Action: Ordered
Pharmacy Verified: Y Verfied By: HICKMAN, CASSANDRA Verified Date: 05/15/2013 08:41 Confirmed By: COWLES, KELLY L, RN Confirmed Date: 05/15/2013 08:49	Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX25419808	

Order 21 - Version 2

Lorazepam 1MG [ATIVAN] TABLET 2 MG ORAL SURGPRN ROUTINE 14 Days ** CAUTION - LOOK ALIKE/ SOUND ALIKE -DRUG ALERT; PLEASE READ THE LABEL **		
Start: 05/15/2013 09:00 End: 05/15/2013 14:40	Ordered By: BONNARENS, FRANK O MD	Action: Future Discontinued

PROVINS, JAMES C. Opt Out:
BHE
Comp Orders Report
From: 05/13/2013 10:44 To: 05/15/2013 14:40
Rm-Bed: Admit Dt: 05/15/2013 07:41
Age: 51 Gender: M MD: Bonnarens, Frank O, MD
DOB: Acct: 9981174001
MRN: 0009981174
Requested: 05/16/2013 05:40 Page 10 of 14

East Pharmacy (Continued)

Order 21 - Version 2 (Continued)

Originally Entered: 05/15/2013 08:41 Last Modified: 05/15/2013 14:40 D.C.: 05/15/2013 14:40	Entered By: HICKMAN, CASSANDRA PHARMACIST Modified By: HICKMAN, CASSANDRA PHARMACIST Source: Written	
Pharmacy Verified: Y Verified By: HICKMAN, CASSANDRA Verified Date: 05/15/2013 08:41		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26419808

Order 22 - Version 1

Lorazepam 0.5MG [ATIVAN] TABLET 2 MG ORAL SURGPRN ROUTINE 14Days ** CAUTION - LOOK ALIKE/ SOUND ALIKE -DRUG ALERT; PLEASE READ THE LABEL **

Start: 05/15/2013 09:00 End: 05/29/2013 08:59 Originally Entered: 05/15/2013 08:43 Last Modified: 05/15/2013 08:43	Ordered By: BONNARENS, FRANK O MD Entered By: LARCARA, LAURA PHARACIST Modified By: LARCARA, LAURA PHARACIST Source: Written	Action: Ordered
Pharmacy Verified: Y Verfied By: LARCARA, LAURA Verified Date: 05/15/2013 08:43		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26419830

Order 22 - Version 2

Lorazepam 0.5MG [ATIVAN] TABLET 2 MG ORAL SURGPRN ROUTINE 14 Days ** CAUTION - LOOK ALIKE/ SOUND ALIKE -DRUG ALERT; PLEASE READ THE LABEL **

Start: 05/15/2013 09:00 End: 05/15/2013 14:40 Originally Entered: 05/15/2013 08:43 Last Modified: 05/15/2013 14:40 D.C.: 05/15/2013 14:40	Ordered By: BONNARENS, FRANK O MD Entered By: LARCARA, LAURA PHARACIST Modified By: LARCARA, LAURA PHARACIST Source: Written	Action: Future Discontinued
Pharmacy Verified: Y Verfied By: LARCARA, LAURA Verified Date: 05/15/2013 08:43		Application Source: RX Performing Dept: Pharmacy Order Group: East Pharmacy Placer Number: RX26419830

HEODEPT

Order 18 - Version 1

PATIENT SPECIFIC DATA CONTIN ROUTINE Until Discontinued

Start: 05/13/2013 11:22 Originally Entered: 05/15/2013 08:28 Last Modified: 05/15/2013 08:28	Ordered By: ANESTHESIA, DOCTOR Entered By: GLINES, EDITH D NAT Modified By: GLINES, EDITH D NAT Source: Written	Action: Ordered

PROVINS, JAMES C. Opt Out
BHE
Comp Orders Report
From: 05/13/2013 10:44 To: 05/15/2013 14:40
Rm-Bed: Admit Dt: 05/15/2013 07:41
Age: 51 yr Gender: M MD: Bonnarens, Frank O., MD
DOB: [redacted] Acct: 9981174001
MRN: 0009981174
Requested: 05/15/2013 05:40 Page 11 of 14

HEODEPT (Continued)

Order 18 - Version 1 (Continued)

Patient's weight (kgs or lbs): 109.905 Instructions: weight: 109.905kg/242.3lb;	
	Application Source: HEO Performing Dept: HEO Order Group: HEODEPT Placer Number: 516771164

Order 19 - Version 1

PATIENT SPECIFIC DATA CONTIN ROUTINE Until Discontinued		
Start: 05/13/2013 11:22 Originally Entered: 05/15/2013 08:28 Last Modified: 05/15/2013 08:28	Ordered By: ANESTHESIA, DOCTOR Entered By: GLINES, EDITH D NAT Modified By: GLINES, EDITH D NAT Source: Written	Action: Ordered
Patient's height (cms or ins): 170.18 Instructions: height: 170.18cm/67.0in;		
		Application Source: HEO Performing Dept: HEO Order Group: HEODEPT Placer Number: 516771165

Laboratory

Order 2 - Version 1

Comprehensive Metabolic Panel (CMP) ONCE ROUTINE 1 Times		
Start: 05/13/2013 10:45 End: 05/13/2013 10:46 Originally Entered: 05/13/2013 10:46 Last Modified: 05/13/2013 10:46	Ordered By: BONNARENS, FRANK O. MD Entered By: HAWKINS, TARA T RN Modified By: HAWKINS, TARA T RN Source: Written	Action: Ordered
		Application Source: HEO Performing Dept: LABORATORY Order Group: Laboratory Placer Number: 517097887

Order 2 - Version 2

Comprehensive Metabolic Panel (CMP) ONCE ROUTINE 1 Times		
Start: 05/13/2013 10:46 End: 05/13/2013 10:46 Originally Entered: 05/13/2013 10:46 Last Modified: 05/13/2013 11:12	Ordered By: BONNARENS, FRANK O. MD Entered By: HAWKINS, TARA T RN Modified By: STAFFID, IFE Source: Written	Action: Ordered
		Performing Dept: LABORATORY Order Group: Laboratory Placer Number: 517097887

Order 2 - Version 3

Laboratory (Continued)

Order 2 - Version 3 (Continued)

Comprehensive Metabolic Panel (CMP) ONCE ROUTINE 1 Times		
Start: 05/13/2013 10:46 End: 05/13/2013 10:46 Originally Entered: 05/13/2013 10:46 Last Modified: 05/13/2013 11:58	Ordered By: BONNARENS, FRANK O MD Entered By: HAWKINS, TARA T RN Modified By: STAFFID, IFE Source: Written	Action: Completed
	Performing Dept: LABORATORY Order Group: Laboratory Placer Number: 517097887	

Order 3 - Version 1

Hemoglobin and Hematocrit ONCE ROUTINE 1 Times ROOM 8		
Start: 05/13/2013 10:46 End: 05/13/2013 10:46 Originally Entered: 05/13/2013 10:46 Last Modified: 05/13/2013 10:46	Ordered By: BONNARENS, FRANK O MD Entered By: HAWKINS, TARA T RN Modified By: HAWKINS, TARA T RN Source: Written	Action: Ordered
	Application Source: HEO Performing Dept: LABORATORY Order Group: Laboratory Placer Number: 517097896	

Order 3 - Version 2

Hemoglobin and Hematocrit ONCE ROUTINE 1 Times ROOM 8		
Start: 05/13/2013 10:46 End: 05/13/2013 10:46 Originally Entered: 05/13/2013 10:46 Last Modified: 05/13/2013 11:11	Ordered By: BONNARENS, FRANK O MD Entered By: HAWKINS, TARA T RN Modified By: HAYDEN, CHERYL R RN Source: Written	Action: Canceled
	Application Source: HOM Performing Dept: LABORATORY Order Group: Laboratory Placer Number: 517097896	

Order 4 - Version 1

CBC W/O Differential ONCE ROUTINE 1 Times		
Start: 05/13/2013 11:11 End: 05/13/2013 11:11 Originally Entered: 05/13/2013 11:11 Last Modified: 05/13/2013 11:11	Ordered By: BONNARENS, FRANK O MD Entered By: HAYDEN, CHERYL R RN Modified By: HAYDEN, CHERYL R RN Source: Written	Action: Ordered
	Application Source: HEO Performing Dept: LABORATORY Order Group: Laboratory Placer Number: 517100055	

Order 4 - Version 2

PROVINS, JAMES C. Opt Out:
BHE
Comp Orders Report
From: 05/13/2013 10:44 To: 05/15/2013 14:40
Rm-Bed: Admit Dt: 05/15/2013 07:41
Age: 51 yr Gende: M MD: Bonnarens, Frank O., MD
DOB: Acct: 9981174001
MRN: 0009981174
Requested: 05/15/2013 05:40 Page 13 of 14

Laboratory (Continued)

Order 4 - Version 2 (Continued)

CBC W/O Differential ONCE ROUTINE 1 Times		
Start: 05/13/2013 11:11 End: 05/13/2013 11:11 Originally Entered: 05/13/2013 11:11 Last Modified: 05/13/2013 11:12	Ordered By: BONNARENS, FRANK O MD Entered By: HAYDEN, CHERYL R RN Modified By: STAFFID, IFE Source: Written	Action: Ordered
	Performing Dept: LABORATORY Order Group: Laboratory Placer Number: 517100055	

Order 4 - Version 3

CBC W/O Differential ONCE ROUTINE 1 Times		
Start: 05/13/2013 11:11 End: 05/13/2013 11:11 Originally Entered: 05/13/2013 11:11 Last Modified: 05/13/2013 11:34	Ordered By: BONNARENS, FRANK O MD Entered By: HAYDEN, CHERYL R RN Modified By: STAFFID, IFE Source: Written	Action: Completed
	Performing Dept: LABORATORY Order Group: Laboratory Placer Number: 517100055	

Order 20 - Version 1

Alcohol Blood (Ethanol) ONCE STAT 1 Times		
Start: 05/15/2013 08:27 End: 05/15/2013 08:27 Originally Entered: 05/15/2013 08:28 Last Modified: 05/15/2013 08:28	Ordered By: ANESTHESIA, DOCTOR Entered By: GLINES, EDITH D NAT Modified By: GLINES, EDITH D NAT Source: Written	Action: Ordered
	Application Source: HEO Performing Dept: LABORATORY Order Group: Laboratory Placer Number: 518771206	

Order 20 - Version 2

Alcohol Blood (Ethanol) ONCE STAT 1 Times		
Start: 05/15/2013 08:27 End: 05/15/2013 08:27 Originally Entered: 05/15/2013 08:28 Last Modified: 05/15/2013 08:38	Ordered By: ANESTHESIA, DOCTOR Entered By: GLINES, EDITH D NAT Modified By: STAFFID, IFE Source: Written	Action: Ordered
	Performing Dept: LABORATORY Order Group: Laboratory Placer Number: 518771206	

Order 20 - Version 3

Alcohol Blood (Ethanol) ONCE STAT 1 Times		
Start: 05/15/2013 08:27 End: 05/15/2013 08:27	Ordered By: ANESTHESIA, DOCTOR Entered By: GLINES, EDITH D NAT	Action: Completed

PROVINS, JAMES C. Out Out
BHE
Comp Orders Report
From: 05/13/2013 10:44 To: 05/15/2013 14:40
Rm-Bed: Admit Dt: 05/15/2013 07:41
Age: 51 yr Gender: M MD: Bonnarens, Frank O., MD
DOB: [redacted] Acct: 9981174001
MRN: 0009981174
Requested: 05/16/2013 05:40 Page 14 of 14

Laboratory (Continued)

Order 20 - Version 3 (Continued)

Originally Entered: 05/15/2013 08:28 Last Modified: 05/15/2013 09:05	Modified By: STAFFID, IFE Source: Written	
		Performing Dept: LABORATORY Order Group: Laboratory Placer Number: 516771206

2900A

PROVINS, JAMES C
9981174001 51 Y M 5/15/2013
9981174

9981174001

BAPTIST HEALTH LOUISVILLE
OUTPATIENT SURGERY CENTER

PHYSICIAN'S ORDERS/POSTOPERATIVE NOTES

PHYSICIAN'S ORDERS

☒ Discharge Home when meets Phase II discharge criteria

Prescription(s):
☐ Given to patient/called to patient pharmacy *prior* to day of surgery
☒ Placed on chart
☐ Given to family

Patient may have first dose of:

OOW
RTC Monday
no chet
Ultram prn

5-15-13
1420

Physician Signature
Physician # 29483 Date 5/15/13 Time 9A

PROGRESS NOTES

POSTOPERATIVE NOTE:
PRIMARY SURGEON:
ASSISTANTS: SAmpson
PREOP DIAGNOSIS: PCT

POSTOPERATIVE DIAGNOSIS:
☒ Same as Preop Diagnosis
☐ Other:

SURGICAL PROCEDURE:
See op note

SURGICAL FINDINGS: Ø

SPECIMENS REMOVED:
☒ None
☐ Other:

ESTIMATED BLOOD LOSS:
☒ Minimal < _____ cc's ☐ Other: Amount

COMPLICATIONS: Ø

Physician Signature
Physician # 29483 Date 5/15/13 Time

2900A2709 Revised 5/2009 OPTIO PAGE 1 of 1

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2900A

PROVINS, JAMES C
9981174001 51Y M 5/15/2013
9981174

9981174001

BAPTIST HOSPITAL EAST
PHASE I / PHASE II

RECOVERY ORDERS

PHYSICIAN'S ORDERS

•Continue O_2 administration.
☐Ventilator Settings: FIO2____TV____ cc PEEP____ R____ Mode____
☐Wean and/or extubate per O_2 policy unless otherwise ordered by MD.
Minineb: ☐ Unit Dose Ventolin ☐ Unit Dose Atrovent ☐ Duoneb ☐ Unit Dose Racemic Epinephrine
Stat Lab Work: ☐ABG ☐Electrolytes ☐PT/PTT ☐BMP ☐CBC w/o Diff ☐T&C____units
☐Glucometer Check; Call Dr. _____ for glucose <____ or >____
☐Stat portable CXR
☐Stat 12 lead ECG
•Continue IV fluids from OR
☐See Routine Orders for Analgesia-Epidural
For ***PAIN*** give:
1 Fentanyl ☑ 25-50 mcg IV q 5min prn up to 100 mcg ☐ ___ mcg IV q 5min prn up to ___ mcg If pain not relieved or allergic, then give Hydromorphone
2 Hydromorphone ☑ 0.25-0.5 mg IV q 5-10 min prn up to 2 mg ☐ ___ mg IV q 5-10 min prn up to ___ mg. If pain not relieved or allergic, then give Morphine Sulfate
3 Morphine Sulfate ☐ 1-4 mg IV q 5 min prn up to 10 mg ☐ ___ mg IV q 5 min prn up to ___ mg
Adjunctive Non-opioids ☑ Ketorolac 30 mg IV x1 ☐ Acetaminophen 120 mg PR ☐ Acetaminophen 320 mg PR
☐ Acetaminophen 1000mg IV
Outpatients may have P.O. meds per practitioner's post-op prescription or per anesthesiologist (circle choice) 1-2 tabs x1/Pain
•Percocet 5/325mg •Percocet 7.5/325 •Percocet 10/325 •Oxy-IR 5mg •Oxy-CR 10mg
•Lortab 5/325 •Lortab 7.5/325 •Lortab 10/325 •Lortab Elixir •Oxy-CR 15mg
•Vicoprofen 7.5 mg •Phenergan 25 mg (1 tab for nausea)
•Tylenol 500mg •Tylenol # 3 •Tylenol with Codeine Elixir •Capital with Codeine
Pain unrelieved &/or escalating despite interventions ordered - notify the ordering anesthesiologist
For *Anxiety*: ☑Midazolam HCL 2 mg IV q 5 min up to 5 mg
For *Shivering*: ☐Meperidine 12.5 mg IV. Repeat x 1 in 15min.
For *Itching*: ☐Diphenhydramine HCL 12.5 mg IV. Repeat x 1 in 15-30min.
For ***Nausea*** Give: # 1 Promethazine ☑ 5mg IV q 5-10min prn up to 25 mg ☐12.5 mg IM ☐ 25 mg PR ☐ 25 mg PO
☐ #___ Dexamethasone SP 4 mg IV ☐ #____Ondansetron 4 mg IV ☐ #___Metoclopramide HCL 10 mg IV
For ***Hypertension***: Systolic > 190 and/or Diastolic > 100 treat with
☑ # 1 Labetalol HCL 5 mg IV q 5-10 min for max of 20 mg - hold if HR <60
☐ #____ Enalaprilat(Vasotec) ____ mg IV
☑ # 2 Hydralazine 5 mg IV q 10-20 min up to 10 mg
•For Hypotension, bradycardia or any acute change in patient's condition, notify anesthesiologist immediately
•Once DC criteria to floor met, follow surgeon's orders
Additional Anesthesia Orders:

Physician Signature _____ Date 5/15/13 Time 1045 CRNA Anesthesia CRNA Date 5/15/13 Time 1120
AA Hospital Cell Phone Number:

Phase I/Phase II/Floor Additional Orders: ☐ Continue O2 _____ Wean per O2 protocol
☐ 24 hour continuous pulse oximetry

Physician Signature _____ Date _____ Time _____

2900A2460:Revised 7/2012 OPTIO PAGE 1 of 1

2900A

BAPTIST HOSPITAL EAST
SURGICAL SERVICES
INTRAOPERATIVE ORDERS

PROVINS, JAMES C
9981174001 51 Y M 5/15/2013 9981174
9981174001

PHYSICIAN'S ORDERS

- ☐ ABG's x_____
- ☐ ACT x_____
- ☐ Other Labs_____
- ☐ Type & Screen
- ☐ Type & Crossmatch_____units of_____
- ☐ FFP x_____
- ☐ Packed Cells x_____
- ☐ Whole Blood x_____
- ☐ Platelets x_____
- ☐ Albumin x_____
- ☐ Cryo x_____
- ☐ Cultures_____
- ☐ PRP
- ☐ Cell Saver
- ☐ X-ray_____
- ☐ Foley Catheter_____
- ☐ Straight Catheter_____
- ☐ Autopsy for External Exam for Fetal Parts if needed
- ☐ FCD (Foot compression device)
- ☐ CCD (Calf compression device)

Medications to Field
- 1 cc epinephrine + 3000 cc x 4
- 5,000 units Thrombin + 10% NaCl

Other

Ordered by:_____
Read and Verified by: A. Schuyler RN
Date/Time 05/15/13
Physician Signature_____
Physician #_____ Date/Time_____
Authenticated by
DR. FRANK BONNARENS
On 05/04/2013 09:29:01 AM

PROGRESS NOTES

BIOMET SPORTS MEDICINE
REF 912029
LOT 136780 EXPIRY DATE 2018-04
AFFIX TO PATIENT RECORDS

2900A

PROVINS, JAMES C.
9981174001
A 51 Y M 5/15/2013
9981174

9981174001

BAPTIST HOSPITAL EAST
OUTPATIENT SURGERY CENTER

PREOPERATIVE ANESTHESIA ORDERS

FAXED

PHYSICIAN'S ORDERS

- ☐ H & H
- ☐ CBC ☐ w Diff
- ☐ PT
- ☐ PTT
- ☐ Serum HCG ☐ Urine HCG Pregnancy
- ☐ BMP ☐ CMP
- ☐ Potassium
- ☐ Accucheck
- ☐ EKG
- ☐ Urinalysis
- ☐ Metoclopramide 10mg IVPB
- ☑ Famotidine 20mg IV
- ☐ Glycopyrrolate 0.2 mg IV

For Anxiety:

- ☒ Midazolam 1mg IV-2mg IV may repeat x1 after 10 min
- ☐ Diazepam 5mg PO

For Pain:

- ☐ Fentanyl 25 mcg IV. May repeat after 10 min x 2.

- ☐ Nasal O_2 PRN if R.A. sat < _____
- ☐ Nausea and Vomiting Protocol
  - ☐ Female ☐ Hx PONV/Motion Sickness
  - ☐ Nonsmoker ☐ Postoperative Opioids

	Sum	Level	% Risk	# of Prophylactic
☐	0-1	low	10-20%	0
☐	2	mod	40%	1
☐	3	severe	60%	2
☐	4	very severe	80%	3

1. _____
2. Ativan 1mg PO
3. _____

- ☐ Scopolamine 1.5 mg Patch/Transdermal

IV Orders

- ☐ 1000cc LR @ KVO
- ☑ Lidocaine 1% 10mg/ml SC/ID up to 1ml to IV site pm pain avoidance
- ☐ Lidocaine 70mg/Tetracaine 70mg (Synera) Patch/ Transdermal to IV site
- ☐ 1000cc/500cc NS
- ☐ No IV

- ☐ Hold Beta Blocker due to _____

Other

- ☐ _____
- ☐ _____

Physician Signature _____
Physician # _____ Date 5/15/13 Time _____

PROCEDURAL ORDERS

- ☐ Fentanyl _____ mcg IV
- ☑ Midazolam _____ mg IV
- ☑ Nasal O2
- ☐ Other _____

Physician Signature _____
Physician # _____ Date _____ Time _____

PROGRESS NOTES

FAXED
Dr to Pharm 5-15-13 0815

PREOPERATIVE ANESTHESIA ORDERS - OUTPATIENT SURGERY CENTER

For Postoperative Admissions or Observation Patients
(BHE Main OR, BHE OSC)

TEST	INDICATION
No tests	Healthy individuals <18 yrs
CBC	All Adults and females <18 who have started mense. CBC w diff if documented need ie. hematologic disorder, recent chemo, etc.
BMP	Individuals with HTN, ASCVD, Diabetes, renal failure, or individuals on diuretics or multiple meds Repeat K+ AM of OR if PAT K is < 3.0 or >5.0
CMP	Individuals with history of Hep B or C, liver disease, or excessive alcohol intake
PT/PTT	Individuals on anticoagulant therapy (coumadin), history of liver disease, and excessive ETOH use
K	Repeat AM of surgery if K level is < 3.0 or > 5.0
Accucheck	AM of surgery on all diabetics
EKG	On ALL patients > 60 years of age Individuals with HTN, CAD, h/o arrythmias, recent chest pain not worked up, Diabetes on medication, SOA on minimal exertion, Sleep Apnea (diagnosed), Morbid obesity (BMI >30), and h/o Murmur (based on APRN judgement) ***EKG done within prev 6 months acceptable if pt history unchanged!**
CXR	Individuals with h/o COPD, severe asthma, recent pulmonary disease (i.e. pneumonia etc), CHF
Serum HCG	All females with intact uterus from menses to menopause. Can be done up to 6 days prior to surgery, otherwise do urine AM of surgery.
ABG's	Individuals with SaO2 <90%
C-spine X-rays	Individuals undergoing general anesthesia with a h/o rheumatoid arthritis on steroids, and individuals with Down Syndrome. Check with ARNP or AA if questions.

For Patients Having Outpatient Surgery
(BHE Main OR, BHE OSC)

TEST	INDICATION
No tests	Healthy individuals <18 yrs.
H & H	H/O anemia in past year Any patient having a surgery that could experience a significant blood loss Any patient with significant cardiac and/or pulmonary disease All patients with h/o hematologic disorder
K	Day of surgery if on diuretics and not previously measured. Repeat day of surgery if <3 or >5
BMP	Patients with CAD, Diabetes, Renal failure, or patients on diuretics or multiple meds.
CMP	History of Hep B or C, liver disease, or excessive ETOH intake
PT/INR	Patients on anticoagulant therapy (coumadin), h/o liver disease, excessive ETOH intake
Accucheck	All diabetics day of surgery
EKG	On ALL patients > 60 years of age, HTN, CAD, h/o arrythmias, recent chest pain not worked up, h/o diabetes on medication, SOA w/ minimal exertion, PVD, Sleep apnea (diagnosed), morbid obesity (BMI>30), h/o valvular disease that requires treatment. * EKG within past 6 months acceptable if no change in pt history
CXR	Individuals w/ h/o COPD, severe asthma, recent pulmonary disease, CHF
Serum HCG	ALL females menses to menopause with intact uterus. Do within 6 days of surgery, or do urine HCG day of surgery
ABG's	Individuals with SaO2 <90%

BAPTIST HOSPITAL EAST
Dr. Frank Bonnarens
PREOPERATIVE ORDERS

FAXED

PROVINS, JAMES C M
BONNARENS, FRANK O.
05/15/13 STY 9981174001

PHYSICIAN'S ORDERS	PROGRESS NOTES
1. Cefazolin 1 gm IV pre-op for weight < 175 lbs Cefazolin 2 gms IV preop for weight ≥ 175 lbs 2. If allergic to PCN give **weight based** Vancomycin 750 mg IV for weight < 154 lbs 1 gm IV for weight 154 lbs thru 219 lbs 1250 mg for weight ≥ 220 lbs 3. Femoral sciatic blocks on all knees 4. Calf compression device on non-operative leg 5-15-13 Physician Signature Physician # Date/Time	

2900A Revised / new 2/2013 PRINT SHOP PAGE 1 of 1

05/14/2013 09:29 TO:15022594209 FROM:8773201956 Page: 2

APR-02-2013 10:39 OSC 502 259 4209 P.01

2900A

BAPTIST HOSPITAL EAST

Poor original

PROVINS, JAMES C M
BONNARENS, FRANK O
05/15/13 51Y 9981174001

SURGERY ORDER

☐ PREADMISSION TESTING (Fax: 259-5937) ☐ MAINOR (Fax: 897-8872) ☒ OSC (Fax: 259-4209)

SURGERY DATE: 5/15/13 SURGERY TIME: _____ PATIENT ARRIVAL TIME: 8:50A

PATIENT NAME: provins (LAST) James (FIRST) _____ (MIDDLE INITIAL) DOB: 6/29/61

PHYSICIAN: Bonnarens

Diagnosis: pain

For Permit: Specify surgical sites with laterality. Please indicate Right, Left or Bilateral. For surgical sites with level, digit, teeth or lesion, please indicate specific site. Abbreviations are not to be used on permit.

Permit/ Primary Procedure: right shoulder arthroscopy, rotator cuff tear, mumford

Permit/ Secondary: _____

Permit/ Additional Procedure: _____

PREADMISSION TESTING APPOINTMENT: DATE: _____ TIME: _____

Pre-Admission Orders

☑ Implement Anesthesia orders day of surgery
☐ Implement Surgeon's orders day of surgery
☑ Other: BMA

5-15-13 ons

PHYSICIAN SIGNATURE: Bonnarens DATE: 5/14/13 TIME: 1160

2900A2695 Revised 4/2011

PAGE 1 of 1

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375

5/15

FRANK O. BONNARENS, M.D.
ORTHOPAEDIC ASSOCIATES

Jewish Outpatient Care Center
225 Abraham Flexner Way, Ste 403
Louisville, KY 40202
Telephone: (502) 583-4376

Preston Medical Center
2926 Preston Highway, Ste 103
Louisville, KY 40219
Telephone: (502) 969-2302

Northeast
2401 Tern Crossing Blvd, Ste 40
Louisville, KY 40243
(502) 585-4376

Name: James Provins Date: 05/10/2013

5/13/13 2 1120
CBC, CMP, EKG
Rx Already & 10H done
[illegible]

DOB:
Anesthesia guidelines
Surgery: 05/15/2013
PPT: 05/13/2013

Refill NR 1 2 3 4 5

Surgery date:
Park towers

Bonnaren md
Bonnarens

Prescription is for 1 more that one (1) prescription is written per blank

PROVINS, JAMES C
BONNARENS, FRANK O.
05/15/13
517
M
99811740O1

Jdawkins
1102
5/13/13

Document ID: 1255622

5/15

FRANK O. BONNARENS, M.D.
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7926 Preston Highway, Ste 103
louisville, KY 40219
Telephone: (502) 969-2302

Northeast
2401 Tern Crossing Blvd, Ste 40
louisville, KY 40245
(502) 585-4376

PROVINS, JAMES C 9981174001 ****174 37 of 41

Name James Provins Date: 05/10/2013

DOB
Anesthesia guidelines
Surgery: 05/15/2013
PPT: 05/13/2013

Refill NR 1 2 3 4 5

Surgery date: Bonnaren' ind Bonnarens
Park towers

Prescription is void if more that one (1) prescription is written per blank

PROVINS, JAMES C
BONNARENS, FRANK O.
05/15/13
51Y
9981174001

Final Discharge Cumulative Report
Printed: 05/16/2013 23:32
Run: R1313607

Baptist Health Louisville Laboratoryy
4000 Kresge Way, Louisville, Kentucky 40207
Christopher M. Kauffmann, M.D. Laboratory Medical Director
John A. Lloyd, M.D. Respiratory Medical Director

Patient: PROVINS, JAMES C
Acct: 9981174001
Location: E OPS Center
Adm Physician: Bonnarens, Frank O, MD

Hematology

Blood Collected	05/13 10:55		
Released	05/13 11:34	Reference	Units
Ord Physician	Bonnarens, Frank C, MD		
WBC	5.71	4.50-10.70	K/Cumm
RBC	5.16	4.60-6.00	Million
Hemoglobin	15.3	13.7-17.6	g/dL
Hematocrit	43.6	40.4-52.2	%
MCV	84.5	79.8-96.2	fL
MCH	29.7	27.0-32.7	pg
MCHC	35.1	32.6-36.4	g/dL
RDW	13.4	11.5-14.5	%
Platelet	212	140-500	K/Cumm

Patient: PROVINS, JAMES C
/M
Location: EOSC
Admit: 05/15/2013
Printed: 05/16/2013 23:32
Page: 1 of 3

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Final Discharge Cumulative Report
Printed: 05/16/2013 23:32
Run: R1313607

Baptist Health Louisville Laboratoryy
4000 Kresge Way, Louisville, Kentucky 40207
Christopher M. Kauffmann, M.D. Laboratory Medical Director
John A. Lloyd, M.D. Respiratory Medical Director

Patient: PROVINS, JAMES C
Acct: 9981174001

Location: E OPS Center
Adm Physician: Bonnarens, Frank O, MD

Chemistry

Blood Collected	05/15 08:29	05/13 10:55		
Released	05/15 09:05	05/13 11:58	Reference	Units
Ord Physician	ANESTHESIA, DOCTOR	Bonnarens, Frank O, MD		
Glucose		**138 H**	74-106	mg/dL
BUN		10	6-20	mg/dL
Creatinine		0.71	0.70-1.20	mg/dL
Sodium		**132 L**	136-145	mmol/L
Potassium		3.8	3.5-5.0	mmol/L
Chloride		**92 L**	98-107	mmol/L
Carbon Dioxide		23	22-29	mmol/L
Calcium		9.4	8.6-10.0	mg/dL
Total Protein		7.7	6.4-8.3	g/dL
Albumin		4.4	3.5-5.2	g/dL
ALT		**128 H**	5-41	U/L
AST		**141 H**	5-40	U/L
Alkaline Phos		60	40-129	U/L
Bilirubin,Total		0.6	0.1-1.2	mg/dL
Est MDRD GFR		>60		ml/min/1.732
Alcohol,Ethyl	<10		0-10	mg/dL

GFR Normal	>60
Chronic Kidney Disease	<60
Kidney Failure	<15

45

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Final Discharge Cumulative Report
Printed: 05/16/2013 23:32
Run: R1313607

Baptist Health Louisville Laboratoryy
4000 Kresge Way, Louisville, Kentucky 40207
Christopher M. Kauffmann, M.D. Laboratory Medical Director
John A. Lloyd, M.D. Respiratory Medical Director

Patient: PROVINS, JAMES C
Acct: 9981174001

Location: E OPS Center
Adm Physician: Bonnarens, Frank O, MD

Cancelled Tests

Collection Date	Specimen	Test Name	Reason
05/13/2013 10:46	Blood	Hgb and Hct	Canceled by Patient Ordering System

Patient: PROVINS, JAMES C Y/M
MRN: 9981174

Location: EOSC
Admit: 05/15/2013
Printed: 05/16/2013 23:32

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9981174 PROVINS, JAMES C 13-May-2013 11:18:47
Male
Dept. PAT
Room: -
Oper: MR

HR	81	[SR]	. SINUS RHYTHM
		[NPT]	* NO PRIOR TRACING AVAILABLE FOR COMPARISON
PR	176	[NSSTT]	* NON-SPECIFIC ST-T WAVE CHANGES
QRSD	88		
QT	360		
QTc	418		

-- AXIS --
P 78
QRS 79
T 56

- NORMAL ECG -

Order #: 517097914
Enc ID: 9981174001

Standard 12
Requested By: BONNARENS, FRANK

Baptist Healthcare System - Baptist East (1-00-17) Edited Confirmed by: Rogers, Paul, MD 13-May-2013 21:28:27

Device: PAT Speed: 25 mm/sec Limb: 10 mm/mV Chest: 10 mm/mV F 60~ 0.5-100 Hz W PH090A b L P?

381

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BAPTISTWORX

PROVINS, JAMES

Physical Therapy Initial Evaluation
Special Report

HISTORY

M.D.: Bonnaring

DIAGNOSIS: R SHOM AGE:

BACKGROUND

DATE OF INJURY / SURGERY? 1/2012 / 3-4 wks ago INSIDIOUS? Y / (N)

MECHANISM OF INJURY? Dragging R Delt - S HOM pulling

Sx PCP - 2 months

OTHER HEALTH CARE INTERVENTION? Sx ; PT ? w/ SC ~ Sx ; out of sling

PAST MEDICAL HISTORY: HTN (no meds)

ANY KNOWN ALLERGIES? NKDM LATEX Y / (N)

CURRENT MEDICATIONS? Lortab 7.5

RHD

LIFE STYLE

OCCUPATION: 30 yrs. Iron worker - Good exp

ADL'S / REGULAR PHYSCIAL ACTIVITIES? Q outside nl

RECENT DIAGNOSTIC TESTS? (MRI) CAT SCAN (X-RAY)

OTHER

RESULTS? 2 Large Tears

PER MD OR PATIENT

PAIN

COURSE OF PAIN: Worse Some Sx

PRIMARY COMPLAINT / LOCATION: whole SHOM

NATURE: CRAMP ACHE SHOOT (BURN) (THROB)

(STAB) SORE NAGGING

OTHER:

RADICULAR SYMPTOMS:

NUMBNESS / TINGLING:

PAIN RATING: (CONSTANT) INTERMITTENT

0 1 Mod 2 3 4 5 6 7 8 9 10 Worst pain ever

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BAPTISTWORX

Nar PROVINS, JAMES

Physical Therapy Shoulder Evaluation Special Report Dat RE

Observation/posture: Guarding [illegible] ; incision scars at mid front shoulder

Palpation: Ant Aspect GHJ (R)

ROM:	Patient position	L A/P	R A/P	Comments
Shoulder flexion:			~90°	
Extension:				
External rot:			26° In Neutral	
Internal rot:			52° (to Abdomen)	
Abduction:			~100°	
Elbow:				
Cervical:				

MMT:	Patient position	L	R	Comments
Shoulder flexion:				
Abduction:				
ER:				
IR:				
Extension:				
Elbow flexion:			Upper	
Extension:				
Upper trap:				
Middle trap:				
Lower trap:				
Rhomboids:				
Supraspinatus:				
Serratus:				
Other:				

Reflexes:	NT									
	Biceps	L:	0	1	2	3	R:	0	1	2	3
	Brachioradialis	L:	0	1	2	3	R:	0	1	2	3
	Triceps	L:	0	1	2	3	R:	0	1	2	3

Sensation: Intact? Yes No	L	R
Light touch		
Sharp/dull		
Proprioception		

Grip strength: NT	L	R	Comments
Position I II III IV V			
Position I II III IV V			
Position I II III IV V			

BAPTISTWORX | PROVINS, JAMES

DOB

Physical Therapy Initial Evaluation
Special Report

AGGRAVATED BY: Rollover on it, push up, move it

DECREASED BY: Rest

24 HOUR PATTERN:

DISRUPT SLEEP (Y) / N

SLEEP POSITION? SIDELYING R (L) SUPINE PRONE

PILLOWS? propped up

JOINT CHARACTERISTICS: (POPS) CATCHES LOCKS SWELLS GIVES AWAY DISLOCATES

PATIENT GOALS? Get better

PATIENT PARTICIPATED IN PLAN OF TREATMENT AND GOAL SETTING? (Y) / N

O: SEE OBJECTIVE DATA ON ATTACHED SHEET

ASSESSMENT & PLAN:

SEE PLAN OF TREATMENT FORM FOR ASSESSMENT, GOALS AND PLAN.

SIGNATURE [signature] DPT OCS #79603

6/7/13

5D

BAPTISTWORX

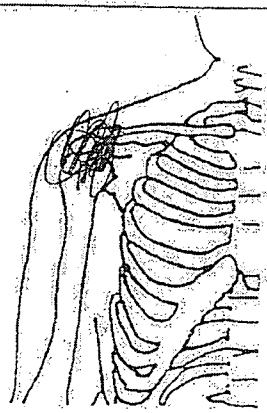
Physical Therapy Shoulder Evaluation Special Report

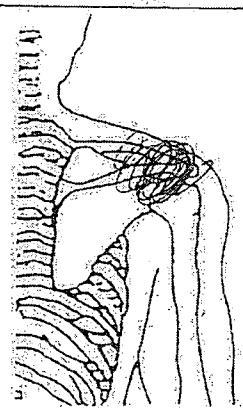
HERE

PROVINS, JAMES

Special tests:				Comments
Drop arm test	+	-	NT	
Empty can test	+	-	NT	
Speed's test	+	-	NT	
Yergason's test	+	-	NT	
Impingement sign	+	-	NT	
Painful arc	+	-	NT	
Thoracic outlet	+	-	NT	
A/C mobility	+	-	NT	
Scapular mobility	+	-	NT	
Apprehension sign	+	-	NT	
Clunk test	+	-	NT	
Sulcus sign	+	-	NT	
Capsule mobility	+	-	NT	
O'Brien's test	+	-	NT	
A/P/MD instability	+	-	NT	
Other	+	-	NT	

Ant	Post





Treatment: ___ MH x ___ min to _____; Ice x 15 min to ECS

___ US (cont/pulsed ___%) ___ MHz @ ___ wts/cm2 x ___ min to _____

___ Iontо ___ mA/min @ ___ mA to _____

___ Estim ___ IFC ___ Pre-mod ___ combo to (P) 5HTM

10 Patient positioned ___ supine ___ prone ___ sidelying L R

___ Other Prone AA FHE @ 5HTM ER/IR. FE, ABD, GH/SC Oscillation Bilat

Exercises: ATHM + CANE - ER variation X10, Pendulum X10 cane

TABLE SLIDES X10 SCAP PUSH X10 Pulley FF X10

Education: Anat Sx, Prog, Rationale + POC

Signature: _____ MOS #3609 Date: 6/7/13

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: Powers, Tonya
Patient #: 9356
Date: 6/12/13

Time In: 2:20 Time Out: 3:14

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
Doing OK I Guess - Stiff knee

OBJECTIVE: Observation/Posture/Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: ES Paraffin 97018: Vasopneumatic 97016: Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☑ HVGS Max mAmp:
RX Minutes: Supervised 97014 15 Constant Attend 97032 UNattended G0283
Location / Electrode Placement / Other: Quad

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz W/s/cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour-pad
Location:

Traction 97012: RX Minutes: S/I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140, 11 Ther Exercise 97110, 23 NMR 97112, Ther Act 97530, Gait Training 97116,
Other Procedure CPT Minutes

See Attached Flow Sheet(s) (Exercise and Manual PT)
☐ TM
☐ UBE
☑ Bike: 7 GAIT PWRS SCAP EXS (P)
Pain to DC Quad
EC Board

Timed Code Treatment Minutes 34 Minutes Total Treatment Time: 54 Minutes

PATIENT EDUCATION:
☑ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☑ Other

ASSESSMENT: Good improvement ROM from c AA/PRom but still c notable hold for extending + pain

PLAN:
☐ Progress per Plan Of Care
☐ Progress strengthening / stabilization / functional activity i.e. Cont to focus on P/AROM & STG as tol
Other:

SIGNATURE: DATE: 6/12/13

Kim Abell, PT, OCS 3609 Stacy Johnson, PTA-A11181

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: Rivers, Dave
Patient #:
Date: 11 June 13

Time In: Time Out:

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
pt vague hx/dx per / reluctant communicator initially eventually states "high blood pressure" & "I had to go to court again to see them pay for my (injury)"

OBJECTIVE: Observation/ Posture/ Gait: Dishelved / sticking Tram Type presentation

Palpation:

AROM: WNL Strength: NT Special Tests: BP taken x 2 ~ 130/88 pt advised to monitor

Asprin ~ 75 mg qday

PROCEDURES & MODALITIES

MH: Ice Cyclesm Paraffin 97018: Vasopneumatic 97016: Rx Minutes: Location / Other:

Electrical Stimulation: IFC, ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp: 17
RX Minutes: Supervised 97014 Constant Attend 97032 UNattended G0283
Location / Electrode Placement/ Other: Suprad & Shd

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz W/s/ cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour -pad
Location:

Traction 97012: RX Minutes: S/T Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140, Ther Exercise 97110, 35 NMR 97112, Ther Act 97530, Gait Training 97116,
Other Procedure CPT Minutes

☐ **See Attached Flow Sheet(s) (Exercise and Manual PT)**
☐ TM
☑ UBE → 97110 – Cont'd & consult other c mvt exercise technique was required as pt is very erratic c his exercise technique. Addl supervision required for pt's safety bc erratic dec as pt repeatedly demonstrates Valsalva Sx c ↑ BP type "theory" etc etc as pt repeatedly altered dec delay breath while training. Cat all other exercise activities subsequent to pt's el
☐ Bike:

NO MANUAL – 97140

Timed Code Treatment Minutes: 35 Minutes Total Treatment Time: 62 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☑ Other

ASSESSMENT:
1) Pt mvt excessive bc upper ext mvmt, lacks rhythm
2) Obvious signs of ETOH abuse hx presentation (eg tremors, yellow-red eyes, erratic agitated el)
3) Overall he did comply c PT but recovery may be prolonged

PLAN:
☐ Progress per Plan Of Care
☑ Progress strengthening / stabilization / functional activity i.e. CoA mon thru per 1° PT
Other:

SIGNATURE: DATE: 11 June 13

Craig Smith, PT 1314 Kim Abell, PT, OCS 3609 Scott Miller, PTA A1181

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: James Provins
Patient #: 8356
Date: 6/14/13

Time In: 2:06 Time Out: 2:52

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
Out of pain pills but no Hydro (R) Rt but amount stiffness

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: ES Paraffin 97018: Vasopneumatic 97016 Rx Minutes: Location / Other:

Electrical Stimulation: ☑ IFC ☐ Pre-Mod ☑ FES ☑ HVGS Max mAmp: _____
RX Minutes: Supervised 97014 _____ / ES Constant Attend 97032 _____ UNattended G0283 _____
Location / Electrode Placement/ Other: R Quad

Ultrasound 97035: RX Minutes: _____ Combo Rx 97032: Minutes: _____ Parameters: % 1.0 / 3.3 MHz W/s/ cm²
Location:

Iontophoresis 97033: RX Minutes: _____ x _____ milliamps _____ MA/min *Dexamethasone used:* _____ Lg / Med / Sm / Butterfly / 24 hour pad
Location:

Traction 97012: RX Minutes: _____ S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: _____ / _____ Hold _____ / Relax _____ Progression _____ / Regression _____

RX Minutes: Manual PT 97140, 10 Ther Exercise 97110, 17 NMR 97112, _____ Ther Act 97530, _____ Gait Training 97116 _____
Other Procedure CPT: _____ Minutes

☑ **See Attached Flow Sheet(s) (Exercise and Manual PT)** Bosu Bow Rack
☐ TM
☐ UBE:
☐ Bike:
Grad ROM (R) SLR + Abd
from tol Chair Up, Fr, ff, HHS

Timed Code Treatment Minutes: 27 Minutes Total Treatment Time: 46 Minutes

PATIENT EDUCATION:
☑ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☑ Other

ASSESSMENT: Good ex Plan, SF + HHD still tight but improving
ROM most tight; Pain not consistent now

PLAN:
☐ Progress per Plan Of Care Ther Ex
☐ Progress strengthening / stabilization / functional activity i.e. Core (Scapular)
Other:

SIGNATURE: [signature] DATE: 6/14/13

Craig Smith, PT 1214 Kim Abell, PT, OCS 3609 Sam Miller, PTA A1181

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name [illegible]
Patient #
Date: 6/18/13

Time In: 2:45 Time Out: 4:10

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
(R) shoulder, better mobility after HEP. 0/4 of pain meds, after PT

OBJECTIVE: Observation/ Posture/ Gait:
observe pt's c/o arm pain / in to work - with R shoulder pain - decreased @ IT
Palpation:

AROM:	pain	pain	Strength:	Special Tests:
(R) shoulder flex	135°	130°		
abd	45°	45°		
IR (behind back)	→	60° (to belly)		
ER (behind back)	→	45°		

PROCEDURES & MODALITIES

MH: Ice Paraffin 97018: Vasopneumatic 97016: Rx Minutes: Location / Other: pain in arm @ shoulder
Electrical Stimulation: IFC Pre-Mod FES HVGS Max mAmp:
RX Minutes: Supervised 97014 20 (20) Constant Attend 97032 UNattended G0283
Location / Electrode Placement/ Other: @ shoulder ant/post R UT/levator
Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/ cm²
Location:
Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour -pad
Location:
Traction 97012: RX Minutes: S / I Position: Program:
Lumbar Cervical Weight: / Hold / Relax. Progression / Regression

RX Minutes: Manual PT 97140, 25 Ther Exercise 97110, 20 NMR 97112, Ther Act 97530, 16 Gait Training 97116
Other Procedure CPT Minutes

See Attached Flow Sheet(s) (Exercise and Manual PT)

TM
UBE:
Bike:

manual therapy x 25 min
- pain @ R shoulder, levator
- STM into posterior shoulder I / II @ R
- pain limiting ROM in R shoulder, levator

NMR
STM to R shoulder / UT / levator / scapular region

Timed Code Treatment Minutes: 61 **Minutes.** 225 **Total Treatment Time:** 85 **Minutes**

PATIENT EDUCATION:
Purpose of Rx Orthotic/ Splint Usage
Proper body mechanics Posture
Compliance with HEP Other

Importance of pacing
Ventilated heat
cues to relax & improve exercise technique

- posture
- continue to perform HEP
- RTC precautions, ROM on techniques

ASSESSMENT:
Good tolerance to PT session during manual therapy, able to relax & ventilate tissues. Pt noted R shoulder pain limiting ROM and has difficulty with lifting/carrying tasks @ work. Ventilated tissues and encouraged proper exercise performance

PLAN: Continue manual therapy techniques to R shoulder
Progress per Plan Of Care
Progress strengthening / stabilization / functional activity i.e. Progress with existing as appropriate
Other:

SIGNATURE: [signature] PTA 1181 **DATE:** 6/18/13

Craig Smith, PT 1314 Kim Abell, PT, OCS 3609 Sean Sullivan, PTA, ATC 1181

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: James Powers
Patient #: 8356
Date: 6/19/13

Time In: 10:51 Time Out: 11:50

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
Hamstring

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: 20's Paraffin 97018: Vasopneumatic 97016 Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014 15 Constant Attend 97032 UNattended G0283
Location / Electrode Placement/ Other: (R) Sciatic

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz W/s/cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour-pad
Location:

Traction 97012: RX Minutes: S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140 16 Ther Exercise 97110 24 NMR 97112 Ther Act 97530 Gait Training 97116
Other Procedure CPT Minutes

See Attached Flow Sheet(s) (Exercise and Manual PT)
☐ TM
☐ UBE:
☐ Bike:
Gr II Mobs – GHS + Scapula (R)
Prone hs tool FF, ABD Iscentran, Ins/ex

Timed Code Treatment Minutes 40 Minutes Total Treatment Time: 59 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT: ER Pain improving nicely but cont c knowledge tightness & others, responding c IR & ABD, Scapular mm tightness as well

PLAN:
☐ Progress per Plan Of Care
☐ Progress strengthening / stabilization / functional activity i.e. UT + Cervical Stretching
Other:

SIGNATURE: DATE: 6/19/13

Craig Smith, PT 1314 Kim Abell, PT, OCS 3609 Sean Sullivan, PTA A1181

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: James Provins
Patient #: 03356
Date: 6/21/13

Time In: 2:39 Time Out: 3:42

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
Hurts when I get my arm in certain spots - OK
C arm at side - pain C raising it

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: 15 Paraffin 97018: Vasopneumatic 97016: Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014: 15 Constant Attend 97032: UNattended G0283:
Location / Electrode Placement/ Other: Posterior

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1:0 / 3:3 MHz W/s/ cm²
Location:

Iontophoresis 97033: RX Minutes: X milliamps MA/min *Dexamethasone used* L g / Med / Sm / Butterfly / 24 hour -pad
Location:

Traction 97012: RX Minutes: S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140: 17 Ther Exercise 97110: 26 NMR 97112: Ther Act 97530: Gait Training 97116:
Other Procedure/CPT: Minutes:

☐ **See Attached Flow Sheet(s) (Exercise and Manual PT)** Added Strengthening
☐ TM
☐ UBE:
☐ Bike:
Ex II mobs @ C/T/L + GHJ
Prone lying full ER, abd/scaption, IR, ER
Cont ER strengthening as tol

Timed Code Treatment Minutes: 43 Minutes Total Treatment Time: 43 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT: Cont c significant pain at min tightness (anterior) Rom, Pain most limited testing c ER + IR + Pain ABD ER + scaption improving

PLAN:
☐ Progress per Plan Of Care
☐ Progress strengthening / stabilization / functional activity i.e. Cont c focus on Strengthening + Rom
Other:

SIGNATURE: MD OS DATE: 6/21/13

Craig Smith, PT 1314 Kim Abell, PT, OCS 3609 Sean Sullivan PTA A1181

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Pat. Name: Jones Phyllis
Patient #: 8356
Date: 6/24

Time In: 2:51 Time Out: 3:52

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
NSAM

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: 35 Paraffin 97018: Vasopneumatic 97016: Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☑ HVGS Max mAmp:
RX Minutes: Supervised 97014: 15 Constant Attend 97032: UNattended G0283:
Location / Electrode Placement/ Other: (R) Shldr

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/ cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24-hour -pad
Location:

Traction 97012: RX Minutes: S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140, 17 Ther Exercise 97110, 25 NMR 97112, Ther Act 97530, Gait Training 97116
Other Procedure CPT: Minutes:

☐ **See Attached Flow Sheet(s) (Exercise and Manual PT)**

☐ TM
☑ UBE: (R) Scap Mobs
(R) GHJ Grade III Mobs
Pain in Thr: Inf, Ant, Post/Sup Thr
Grade III and IV Dir/Sum
☐ Bike: UT + LSD Stretches

Timed Code Treatment Minutes: 42 Minutes Total Treatment Time: 60 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT: Pt c/o mobile tightness Progressed with Scapular strengthening GHJ mobility, pain free ROM, pain free strength + pain

PLAN:
☐ Progress per Plan Of Care: Progress Scapular mobility as well as GH mobility
☐ Progress strengthening / stabilization / functional activity i.e.
Other:

SIGNATURE: MW, OCS DATE: 6/24/08

MW, ATC, PT, OCS 3609 Sara Smith PTA ATC 18

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: Jones, Penny
Patient #
Date: 6/26/13

Time In: 2:30 Time Out: 3:50

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
Still feel like I can't raise arm. Pain still there all the time. Aches

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

(R) Sh
flex 130° 145° pain
abd 98° 120° pain
IR (low back) 65° 80° pain
ER (low back)

PROCEDURES & MODALITIES

MH: (Ice) Paraffin 97018 Vasopneumatic 97016 Rx Minutes: Location / Other:
pain supp (R) shld

Electrical Stimulation: ☑ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014 Constant Attend 97032 UNattended G0283
Location / Electrode Placement/ Other: (R) shld

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/ cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24hour-pad
Location:

Traction 97012: RX Minutes: S/I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold /Relax Progression / Regression

RX Minutes: Manual PT 97140, 20 Ther Exercise 97110, 28 NMR 97112, Ther Act 97530, 5 Gait Training 97116
Other Procedure CPT Minutes

See Attached Flow Sheet(s) (Exercise and Manual PT)

☐ TM
☐ UBE
☐ Bike:

pain tx
pain (R) shld, trap
- ROM (flex/ER), pulleys, ladder
- pain stretching (R) shld
- pain stretching (R) shld
- scap mobs

Timed Code Treatment Minutes 53 Minutes Total Treatment Time: 80 Minutes

PATIENT EDUCATION:
☑ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT:
Pt presents c pain/ impairments limiting activity tol. Pain to (R) shld
Last treatment. Adaptive equipment as described. Gd response to tx

PLAN: Maintain skilled PT, reached goals, can progress

☐ Progress per Plan Of Care
☐ Progress strengthening / stabilization / functional activity i.e:
Other:

SIGNATURE: Sean Sullivan PTA DATE: 6/26/13

Craig Smith, PT 1314 Kim Abell, PT, OCS 3609 Sean Sullivan PTA A1181

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name James Pruss
Patient #
Date: 6/28/13

Time In: 1:45 Time Out: 2:40

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
Pt reports about the same since last PT/LA appt. No pain @ the moment. Still has pain with ADL's

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM:		Strength:	Special Tests:
Flex 143°	98° (goal = 120)	Abd to 63°	
Abd 145°	80°	Add to 60°	
IR (to thigh) 80°	80°	Flex thumb to buttock	
ER (to side) 52°	45°	Flex thumb to ear	

PROCEDURES & MODALITIES

MH:	Ice:	Paraffin 97018:	Vasopneumatic 97016:	Rx Minutes:	Location / Other:

Electrical Stimulation: ☐ IFC ☒ Pre-Mod ☐ FES ☐ HVGS Max mAmp: ____ ☐ Unattended G0283 ____
RX Minutes: Supervised 97014 ____ Constant Attend 97032 ____
Location / Electrode Placement/ Other:
Ultrasound 97035: RX Minutes: ____ Combo Rx 97032: Minutes: ____ Parameters: % 1.0 / 3.3 MHz Wts/ cm²
Location:
Iontophoresis 97033: RX Minutes: ____ x ____ milliamps ____ MA/min *Dexamethasone used* ____ Eg / Med / Sm / Butterfly / 24 hour -pad
Location:
Traction 97012: RX Minutes: ____ S/I. Position: Program:
☐ Lumbar ☐ Cervical Weight: ____ Hold ____ / Relax ____ Progression ____ / Regression ____

RX Minutes: Manual PT 97140, 15 Ther Exercise 97110, 25 NMR 97112, ____ Ther Act 97530, 13 Gait Training 97116 ____
Other Procedure CPT ____ Minutes

See Attached Flow Sheet(s) (Exercise and Manual PT)
☐ TM
☒ UBE: Standing for approximately 3 min per level
☐ Bike:

Manual Therapy
- Manual PROM for shoulder flexion
- Manual stretching to IR, ER, flexion, abduction
- Soft tissue mobilization/ techniques
- Scapular mobilization

Timed Code Treatment Minutes: 53 Minutes Total Treatment Time: 55 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT: Progressing well
See MD letter

PLAN: To see MD 7/1 Begin functional exercises
☐ Progress per Plan Of Care
☐ Progress strengthening / stabilization / functional activity i.e.
Other:

SIGNATURE: [signature] PT DATE: 6/28/13

Craig Smith, PT 1314 Kim Abell, PT, OCS 3609 [illegible] PTA A1181

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: James Ross
Patient #:
Date: 7/2/13

Time In: 3:15 Time Out: 4:25

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
Returned referred to outside PT.

OBJECTIVE: Observation/ Posture/ Gait:
Palpation:
AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice Paraffin 97018: Vasopneumatic 97016: Rx Minutes: Location / Other:

Electrical Stimulation: IFC Pre-Mod FES HVGS Max mAmp:
RX Minutes: Supervised 97014 15 Constant Attend 97032 UNattended G0283
Location / Electrode Placement/ Other:

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour pad
Location:

Traction 97012: RX Minutes: S/I Position: Program:
Lumbar Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140 28 Ther.Exercise 97110, 20 NMR 97112, Ther.Act 97530, 5 Gait Training 97116
Other Procedure CPT Minutes

See Attached Flow Sheet(s) (Exercise and Manual PT)

TM
UBE:
Bike:

Timed Code Treatment Minutes 53 Minutes Total Treatment Time : 75 Minutes

PATIENT EDUCATION:
Purpose of Rx Orthotic/ Splint Usage
Proper body mechanics Posture
Compliance with HEP Other

ASSESSMENT:
Still with decreased movement pattern of R calcaneus activities + decreased pain with activity as such as better able to relax + PRom + PAM Mobility. Able to advance HEP for 3x/week month.

PLAN:
Progress per Plan Of Care goals met and goals
Progress strengthening / stabilization / functional activity i.e. goals added to maintain good ROM

Other:

SIGNATURE: DATE: 7/2/13

Craig Smith, PT 1314 Kim Abell, PT, OCS 3609 [illegible], PTA-AT181

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name [illegible]
Patient #
Date: 7/3/13

Time In: 1:20 Time Out: 2:30

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10

Pt feeling a little better, still painful but getting up & [illegible]

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice Paraffin 97018 Vasopneumatic 97016 Rx Minutes: Location / Other:

Electrical Stimulation: ☒ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:

RX Minutes: Supervised 97014 15 (97) Constant Attend 97032 UNattended G0283

Location / Electrode Placement/ Other: [illegible]

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/ cm²

Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour pad

Location:

Traction 97012: RX Minutes: S/L Position: Program:

☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140, 25 Ther Exercise 97110, 20 NMR 97112 Ther Act 97530 Gait Training 97116

Other Procedure CPT Minutes

See Attached Flow Sheet(s) (Exercise and Manual PT)

☐ TM
☐ UBE
☐ Bike

- Manual therapy (R) knee
- Pain management/education, HEP, TENS
- Pain mgmt/education, HEP, TENS
- Stretches/strengthening, activity progression
- Pain mgmt, HEP, TENS

Timed Code Treatment Minutes: 17 Minutes **Total Treatment Time:** 70 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT:

Pt improving well, knee remains painful, ROM not yet achieved. Increase progress short term. Complete / complete 6 more visits per POC

PLAN:
☐ Progress per Plan Of Care

Progress pain & ROM, [illegible] pain mgmt

☐ Progress strengthening / stabilization / functional activity i.e.

Other:

SIGNATURE: [signature] PTA 11181 DATE: 7/3/13

Craig Smith, PT 1314 Kim Abell, PT, OCS 3609 Scanlon [illegible] PTA 11181

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: James Prowitt
Patient #: 9356
Date: 7/5/13

Time In: 1:15 Time Out: 2:15

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
No Better c Pain c Moved No Better

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

Pain Flex 140° ABD 150°
ER 90° IR 67°
IR ~60° ABD

PROCEDURES & MODALITIES

MH: Ice: Est Paraffin 97018: Vasopneumatic 97016: Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014 15 Constant Attend 97032 UNattended G0283
Location / Electrode Placement/ Other: (1) Shldr

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/ cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps: MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour pad
Location:

Traction 97012: RX Minutes: S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140, 24 Ther. Exercise 97110, 16 NMR 97112, Ther. Act 97530, Gait Training 97116
Other Procedure/ CPT Minutes

☐ See Attached Flow Sheet(s) (Exercise and Manual PT)
☐ TM:
☐ UBE:
☐ Bike:
(2) Scap Mobs Grade II/III
(2) Gait Mobs Grade II
Pain As Tol

Timed Code Treatment Minutes 40 Minutes Total Treatment Time: 60 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT: Very slow progression c Pain but full Limits AROM c Notable Hitching, When fatigued Pain and more, New Goals x 4 wks: — (1) Pain FF + ABD ≥ 160° (2) AROM FF + ABD ≥ 120° c min substitution (3) IR + ER Reach ≥ WFL (4) Strength ≥ 4/5 (Non-Painful) (5) Pain ≤ 4/10 c ADLs

PLAN:
☐ Progress per Plan Of Care Manual Therapy Mobs, Stretching, Pain
☐ Progress strengthening / stabilization / functional activity i.e. Cont c Therex - progress As / new Hs
Other: Modalities prn

SIGNATURE: DATE: 7/5/13

Craig Smith, PT 1314 Kim Abell, PT, OCS 3609 Sean Shivers, PTA A1181

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name JAMES PROVINS
Patient # 8356
Date: 7/8/13

Time In: 1:07 Time Out: 2:10

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
~ SAME ↓ ↓ MOVEMENT

SEE RE-EVAL

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: C STIM Paraffin 97018: Vasopneumatic 97016 Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014 15' Constant Attend 97032 UNattended G0283
Location / Electrode Placement/ Other: (T2) SHD
Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/ cm²
Location:
Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour -pad
Location:
Traction 97012: RX Minutes: S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140, 25 Ther Exercise 97110, 28 NMR 97112, Ther Act 97530, Gait Training 97116,
Other Procedure CPT Minutes

See Attached Flow Sheet(s) (Exercise and Manual PT)
☐ TM
☐ UBE
☐ Bike:

MANUAL: SCAP MOBS GR II / III
GH JT: AROM, GR III - IV JT MOBS IN ALL PLANES

Timed Code Treatment Minutes: 48 53 new Minutes **Total Treatment Time:** 63 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☑ Other SCAPULAR MOBILITY

ASSESSMENT: SEE POC / RE-EVAL

PLAN:
☐ Progress per Plan Of Care
☑ Progress strengthening / stabilization / functional activity i.e.
Other:

SIGNATURE: [signature] PT, DPT **DATE:** 7-8-13

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Craig Smith, PT 1314 Kim Abell, PT, OCS 3609 Sean Sullivan, PTA A1181

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: James Powers
Patient #: 6356
Date: 7/10/13

Time In: 1:07 Time Out: 2:10

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
"Hurting" - Same, Can't push off R as much getting out of Bed & still difficult even standing / sitting but more movement Laying Down

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests: (+) Apley's Scratch (Impingement)

PROCEDURES & MODALITIES

MH: Ice: ES Paraffin 97018: Vasopneumatic 97016: Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014 15 Constant Attend 97032 Unattended G0283
Location / Electrode Placement/ Other: @ Shoulder
Ultrasound 97035: RX Minutes: Combo Rx 97032 Minutes: Parameters: % 1.0 / 3.3 MHz W/s/cm²
Location:
Iontophoresis 97033: RX Minutes: x milliamps MA/min Dexamethasone used Lg / Med / Sml / Butterfly / 24 hour pad
Location:
Traction 97012: RX Minutes: S / I Position Program:
☐ Lumbar ☐ Cervical Weight: Hold /Relax Progression /Regression

RX Minutes: Manual PT 97140, 24 Ther Exercise 97110, 20 NMR 97112, Ther Act 97530, Gait Training 97116
Other Procedure/ CPT Minutes

☑ See Attached Flow Sheet(s) (Exercise and Manual PT)
☐ TM
☐ UBE:
☐ Bike:
Scap mobs Grade III
GH III/IV GIJ mobs
Pec Ms, Teres Major
Low Lat Stretches

Timed Code Treatment Minutes 44 Minutes Total Treatment Time: 63 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☑ Compliance with HEP ☐ Other

ASSESSMENT: Cont c mobs to Pec Major and Teres Major (limiting GH IR) movement
ER Pain w/ hold c ER Pain - Pt c/o pain Thigh but improving
IR most limited

PLAN:
☑ Progress per Plan Of Care Aggressive Stretching as tol - Work Pec Major more
☐ Progress strengthening / stabilization / functional activity i.e. ABD & Brace a wise work
Other:

SIGNATURE: [signature] DATE: 7/10/13
Chris Abell, PT, OCS 3600 Scott [illegible] PTA A1181

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Pat. Name Frances Parrish
Patient # 8356
Date: 7/12/13

Time In: 1:15 Time Out: 1:59

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
Continues to IN Pain Some Soreness

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: STAND ABD ~ 90° Strength: Special Tests: + Ant Reserve for INSTABILITY
Supine Flex ~ 120°

PROCEDURES & MODALITIES

MH: Ice: NV pt request Paraffin 97018: Vasopneumatic 97016 Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☒ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014: Constant Attend 97032: UNattended G0283:
Location / Electrode Placement/ Other:
Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/ cm²
Location:
Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour -pad
Location:
Traction 97012: RX Minutes: S/I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold /Relax Progression /Regression

RX Minutes: Manual PT 97140: 23 Ther Exercise 97110: 19 NMR 97112: Ther Act 97530: Gait Training 97116:
Other Procedure CPT: Minutes:

☑ See Attached Flow Sheet(s) (Exercise and Manual PT) ABD ~ 90° & Bike on Low Torque + Pole up Wall
☐ TM
☐ UBE
☐ Bike
Scap mobs & STM
Ball + CKC strengthening
Sleeper Stretch
GR TF GHJ mobs
Prone ABs tol

Timed Code Treatment Minutes: 42 Minutes Total Treatment Time: 44 Minutes

PATIENT EDUCATION:
☑ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other:

ASSESSMENT: Cont c Very Limited ABD/Abd c WORK Hardening; Prone ABD
Still limited ABD but improving; Begin Sx of INSTABILITY

PLAN:
☐ Progress per Plan Of Care
☑ Progress strengthening / stabilization / functional activity i.e. CKC Prone ABs tol
Other:

SIGNATURE: DATE: 7/12/13

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name James Cowan
Patient #
Date: 7/16/13

Time In: 12 pm Time Out: 1 pm

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
C/o plantar R foot pain

OBJECTIVE: Observation/ Posture/ Gait:
wide BOS B UE cane use, rounded shoulder posture/posturing, clavicles (R) > (L)
Palpation:

AROM: Strength: Special Tests:
R shoulder WFL
R hip WFL
R knee 95° (135° norm)
L knee (supine) 82°
L ankle (supine) 42° tight/pain

PROCEDURES & MODALITIES

MH: Ice Paraffin 97018 Vasopneumatic 97016 Rx Minutes Location / Other:
Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014 Constant Attend 97032 UNattended G0283
Location / Electrode Placement/ Other: soleus use as tol
Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz W/s/ cm²
Location:
Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour -ped
Location:
Traction 97012: RX Minutes: S/I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold /Relax Progression /Regression

RX Minutes: Manual PT 97140 25 Ther Exercise 97110 15 NMR 97112 Ther Act 97530 5 Gait Training 97116
Other Procedure CPT Minutes:

See Attached Flow Sheet(s) (Exercise and Manual PT)

☐ TM
☐ UBE
☐ Bike:

manual therapy X25 min
- (R) sh PROM flexion, abd, IR, ER
- (R) sh PROM scaption, abd, IR, ER
- gluteus, soleus stretches (R) LE
- R knee LE/ankle stretches, straight mobility

TE US x 4 min soleus

Timed Code Treatment Minutes 45 Minutes Total Treatment Time : 50 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

- verbal/tactile cues to improve technique/ performance/posture

ASSESSMENT:
Continues (R) sh pain complaints, reports ↓ Continues to benefit from verbal & tactile cues to improve technique/performance/posture. Also has some tightness from full scaption ROM. Notes improved GW mobility.

PLAN:
☐ Progress per Plan Of Care
Cont ther ex & manual therapy (R) sh program
☐ Progress strengthening / stabilization / functional activity i.e.
Other:

SIGNATURE: [signature] PT 1181 DATE: 7/16/13
PT, OCS, ATC Shawn Swift, PTA, ATC 1181

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: James Downs
Patient #:
Date: 7/17/13

Time In: 1:13 Time Out: 2:20

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
No new reports/changes

OBJECTIVE: Observation/Posture/Gait:

Palpation:

~~AROM~~ Strength: Special Tests:
Pain c
flex 154°
ABD 140°
ER 84°
IR 56°

PROCEDURES & MODALITIES

MH: Ice Paraffin 97018: Vasopneumatic 97016 Rx Minutes: Location/Other:

Electrical Stimulation: ☐ IFC ☐ ~~Pre-Mod~~ ☐ PES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014: Constant Attend 97032: UNattended G0283:
Location/Electrode Placement/Other: Scapulae / Low Back

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz. Wts/cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg/Med/Sm/Butterfly/24 hour -pad
Location:

Traction 97012: RX Minutes: S/I: Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold /Relax Progression /Regression

RX Minutes: Manual PT 97140: 25 Ther Exercise 97110: 20 NMR 97112: Ther Act 97530: 5 Gait Training 97116:
Other Procedure CPT: Minutes

☒ **See Attached Flow Sheet(s) (Exercise and Manual PT)**

☐ TM
☐ UBE:
☐ Bike:

manual therapy 25 min
- [illegible]
- [illegible]
- [illegible]
- [illegible]

Timed Code Treatment Minutes 50 Minutes **Total Treatment Time:** 67 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT:
Pain inhibiting but still limited by pain/guarding/[illegible]

PLAN: Continue plan to include GWJ mobs
☒ Progress per Plan Of Care [illegible]
☒ Progress strengthening/stabilization/functional activity i.e. [illegible]
Other:

SIGNATURE: [signature] DATE: 7/17/13

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: James Prawls
Patient #: 85356
Date: 7/19/13

Time In: 1:16 Time Out: 2:15

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
Still hunting - still wakes me up some nights

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: Paraffin 97018: Vasopneumatic 97016: Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ TES ☒ HVGS Max mAmp:
RX Minutes: Supervised 97014: Constant Attend 97032: UNattended G0283:
Location / Electrode Placement/ Other:
Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/cm²
Location:
Iontophoresis 97033: RX Minutes: milliamps: MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour -pad
Location:
Traction 97012: RX Minutes: S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: Hold /Relax Progression /Regression:

RX Minutes: Manual PT 97140: 24 Ther Exercise 97110: 31 NMR 97112: Ther Act 97530: Gait Training 97116:
Other Procedure/ CPT: Minutes:

☒ See Attached Flow Sheet(s) (Exercise and Manual PT)
☐ TM
☐ UBE
☐ Bike

→ Passive ER + Cross Stretch
Scap Mobs
GH II/III GHJ Mobs (Post, Inf, Ant Inf)
Scapular Stretch
Prone As the 6th Clock (Ft + Abd)
Or Diagonal Prone
NWW → RS 90° Ft surface c 2# 2x30"

Timed Code Treatment Minutes: 55 Minutes Total Treatment Time: 59 Minutes

PATIENT EDUCATION:
☒ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT: Very slow progress - Cont c mod c/o pain c ROMs + Pain ; very tight Pectoralis minor

PLAN:
☐ Progress per Plan Of Care: Cont Mobs + Therex to ↑ ROM
☐ Progress strengthening / stabilization / functional activity i.e. TRX Wire Wings or Band Rows as pain
Other:

SIGNATURE: CMA-OCS DATE: 7/19/13

Craig Smith, PT 1314 Kim Abell PT OCS 3609 Sarah Bolin PTA A1181

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: JAMES PROVINS
Patient #:
Date: 7/22/13

Time In: 1:02 Time Out: 1:55

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
NOTHING NEW (NTO 7/24)

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: Paraffin 97018: Vasopneumatic 97016 Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☑ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014: Constant Attend 97032: UNattended G0283:
Location / Electrode Placement/ Other:

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/ cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour -pad
Location:

Traction 97012: RX Minutes: S/T Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140: 24 Ther Exercise 97110: 20 NMR 97112: Ther Act 97530: Gait Training: 97116:
Other Procedure CPT: Minutes:

☐ **See Attached Flow Sheet(s) (Exercise and Manual PT)** — Δ ISOM to ISOTONIC

☐ TM
☐ UBE:
☐ Bike:

Passive ROM + LSU Stretches
Scap pinches
GHJ pinches RT bil
Prone ABD bil
Scaption Stretch
D2 Diagonals 2 x 45"
PS 90° 2# 50

Timed Code Treatment Minutes: 50 Minutes **Total Treatment Time:** 53 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT: Improved tolerance to ISOTONICS VS ISOMETRICS but fatigued easily, cont to need facilitation

PLAN:
☐ Progress per Plan Of Care Cont to progress as Plan
☑ Progress strengthening / stabilization / functional activity i.e. ROM
Other:

SIGNATURE: [signature] DATE: 7/22/13

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: James Provins
Patient #:
Date: 7/24/13

Time In: 1010 Time Out: 1112

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
same - shoulder still pops + stiffness but same

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: IR to post LAT HIP Strength: Special Tests: (+) Drop Arm
(no significant limits functionally) (Scott Hall Pain)

ER = 60° ABD 47°

PROCEDURES & MODALITIES

MH: Ice: Paraffin 97018: Vasopneumatic 97016 Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☒ HVGS Max mAmp:
RX Minutes: Supervised 97014: Constant Attend 97032: UNattended G0283:
Location / Electrode Placement/ Other:
Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz W/s/ cm²
Location:
Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg./ Med / Sm. / Butterfly / 24 hour pad
Location:
Traction 97012: RX Minutes: S/I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140: 17 Ther Exercise 97110: 26 NMR 97112: Ther Act 97530: Gait Training 97116:
Other Procedure CPT: Minutes:

☐ **See Attached Flow Sheet(s) (Exercise and Manual PT)**
☐ TM
☐ UBE
☐ Bike:

Ex as noted
Gtts as noted
Pain / Stiffness @ end

Timed Code Treatment Minutes: 43 Minutes **Total Treatment Time:** 56 Minutes
(Other time to other pt in clinic)

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT: pt can be discharged c Program - Possible New or Re-Eval

PLAN:
☐ Progress per Plan Of Care Remains for next to MD
☐ Progress strengthening / stabilization / functional activity i.e.
Other:

SIGNATURE: **DATE:** 7/24/13

Craig Smith, PT 1314 Kim Abell, PT, OCS 3609 Sarah Wilson PTA A1181

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: James Prowse
Patient #: 9356
Date: 7/26/13

Time In: 1:02 Time Out:

SUBJECTIVE: Pain 0 1 2 3 4 (5) 6 7 8 9 10
It's Hamstrings & popp

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: FF 75° ABD 48° Strength: Hamstrings IR 4/5 Special Tests: 7 0 Ohm Ampere 1st
Standing ER 60° IR 40° ER 90° ABD ER 4/5 @ " " 2nd

Prone Standing ER - Full (R 70°
FF 156° ABD 140° c pain

PROCEDURES & MODALITIES

MH: Ice: x 15 min Paraffin 97018: Vasopneumatic 97016 Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014 Constant Attend 97032 UNattended G0283
Location / Electrode Placement/ Other:

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour -pad
Location:

Traction 97012: RX Minutes: S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold /Relax Progression /Regression

RX Minutes: Manual PT 97140, 13 Ther Exercise 97110, 20 NMR 97112, Ther Act 97530, 12 Gait Training 97116,
Other Procedure CPT Minutes

☐ **See Attached Flow Sheet(s) (Exercise and Manual PT)**
☐ TM
☐ UBE:
☐ Bike:

Gr II oscillations / mobs
Pain in the
Lt Hip strengthening
Slow moves

Timed Code Treatment Minutes: 45 Minutes Total Treatment Time: 49 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT:
Slow mvts

PLAN:
☐ Progress per Plan Of Care
☐ Progress strengthening / stabilization / functional activity i.e.
Other:

SIGNATURE: DATE: 7/26

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: Flowers, Charles
Patient #: 8356
Date: 7/31/13

Time In: 7:55 Time Out: 8:41

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
Hamstring

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: Paraffin 97018: Vasopneumatic 97016: Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014 Constant Attend 97032 UNattended G0283
Location / Electrode Placement/ Other:

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz W/s/cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour pad
Location:

Traction 97012: RX Minutes: S/I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140, 15 Ther Exercise 97110, 29 NMR 97112, Ther Act 97530, Gait Training 97116,
Other Procedure CPT Minutes

See Attached Flow Sheet(s) (Exercise and Manual PT) 80 bpm pain and 0 bpm at time

☐ TM
☐ UBE:
☐ Bike:

→ Ex: HEP reviewed
Oscillations for pain
Scar mobs
Prone & supine HR (LE, IR, ER, ABD)

Timed Code Treatment Minutes 44 Minutes Total Treatment Time: 46 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT: Pt c pt complaints of pain & limited motion & flexibility c limited functional use of RUE

PLAN:
☐ Progress per Plan Of Care
☐ Progress strengthening / stabilization / functional activity i.e. ↑ AROM
Other:

SIGNATURE: DATE: 7/31/13

Craig Smith, PT 1313 Kim Abell, PT, OCS 3609 Scott Sullivan, PTA A1181

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: James Ivins
Patient #
Date: 8/21/17

Time In: 10:12 Time Out: 11:35

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10

No new GI complaints

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: Paraffin 97018: Vasopneumatic 97016: Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ TES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014: Constant Attend 97032: UNattended G0283:
Location / Electrode Placement/ Other:
Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/cm²
Location:
Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour -pad
Location:
Traction 97012: RX Minutes: S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140: 25 Ther Exercise 97110: 32 NMR 97112: Ther Act 97530: 8 Gait Training 97116:
Other Procedure CPT: Minutes:

☐ **See Attached Flow Sheet(s) (Exercise and Manual PT)**

☐ TM
☐ UBE:
☐ Bike:

manual therapy x 25m
- pain goniometry (pain) WNL
- pain prom ext, rotation, abd, flex WNL
- mild scapular dyskinesis, slightly painful
- pain with flexion, abduction, scaption WNL
- tightness of pecs, lats, biceps WNL

Timed Code Treatment Minutes: 57 62 **Minutes.** **Total Treatment Time:** 80 **Minutes**

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

Verbal/Tactile cues to improve posture/ therapeutic exercise performance

ASSESSMENT:

Pt demonstrates decreased pain with flexion as well as abnormal scapular movement. Responds well with verbal/tactile cues to improve posture & scapular position during therapeutic exercises

PLAN: Continue manual PT to address pain & decreased strength

☐ Progress per Plan Of Care

☒ Progress strengthening / stabilization / functional activity i.e.

Other:

SIGNATURE: [signature] **DATE:** 8/21/17

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Pat. Name: JAMES PROVINS
Patient #:
Date: 8/5/13

Time In: 9:15 Time Out: 10:35

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
Sh stuck [illegible]

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: (R) Strength: Special Tests:
Sh Flex 140°
ABD 110°
[illegible]
[illegible]

PROCEDURES & MODALITIES

MH: Ice: Paraffin 97018: Vasopneumatic 97016 Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp: _____
RX Minutes: Supervised 97014 _____ Constant Attend 97032 _____ UNattended G0283 _____
Location / Electrode Placement/ Other:
Ultrasound 97035: RX Minutes: _____ Combo Rx 97032: Minutes: _____ Parameters: % 1.0 / 3.3 MHz W/s/cm²
Location:
Iontophoresis 97033: RX Minutes: _____ x _____ milliamps _____ MA/min *Dexamethasone used* ____ Lg / Med / Sm / Butterfly / 24 hour pad
Location:
Traction 97012: RX Minutes: _____ S/I Position: Program
☐ Lumbar ☐ Cervical Weight: _____ / Hold _____ / Relax _____ Progression _____ / Regression _____

RX Minutes: Manual PT 97140: 15 Ther. Exercise 97110: 30 NMR 97112: _____ Ther. Act 97530: 15 Gait Training 97116 _____
Other Procedure CPT _____ Minutes _____

~~See~~ **See Attached Flow Sheet(s) (Exercise and Manual PT)**

☐ TM
☐ UBE
☐ Bike: L2

prone ext (B) UE x 15
prone "[illegible]" (B) UE x 15
prone scaption (pendulum plane) x [illegible]

manual therapy
x [illegible]
- Pain (B) UE flexion, ABD, ER/IR
- Pain [illegible] (B) UE
- [illegible]

Timed Code Treatment Minutes: 60 Minutes Total Treatment Time: 60 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

- Verbal / tactile cues
[illegible]

ASSESSMENT:
Cooperative / compliant c therex / activity. Still c (R) shoulder pain
Continues ASHD perform prone UE's & scaption. Limited by weakness,
discomfort c prone scaption to ~0-35°. Requires V/V/T cues for proper scapular
[illegible] / positioning
c therex.

PLAN: Re-eval per 1° PT next visit.
☐ Progress per Plan Of Care
☐ Progress strengthening / stabilization / functional activity i.e.
Other:

SIGNATURE: [illegible] PTA LAT DATE: 8/5/13

409

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: JAMES PROVINS
Patient #:
Date: 8/7/13

Time In: 10:07 Time Out:

SUBJECTIVE: Pain 0 1 2 3 4 (5) 6 7 8 9 10
Some - Pain + popping

OBJECTIVE: Observation/ Posture/ Gait: Guarding Rt ↑ care ↓ popping
Palpation:
AROM: Rt flex 55° ABD 46° Strength: Rt 4-/5, lt 4/5 Special Tests: (+) Obers Ant hip tite Rt
decreased compliance to posterior hip in Neutral
Pain Rt flex 152° ABD 153° w/ Rt scap
Rt ER 72° ↓ lt ER 40°
90° ABD

PROCEDURES & MODALITIES

MH:	(Ice)	E-S	Paraffin 97018:	Vasopneumatic 97016:	Rx Minutes:	Location / Other:

Electrical Stimulation: IFC ☐ Pre-Mod ☒ FES ☒ HVGS Max mAmp:
RX Minutes: Supervised 97014 15 Constant Attend 97032 UNattended G0283
Location / Electrode Placement/ Other: Rt shoulder / Rx
Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz W/s/cm²
Location:
Iontophoresis 97033: RX Minutes: x milliamps: MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour -pad
Location:
Traction 97012: RX Minutes: S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold /Relax Progression /Regression

RX Minutes: Manual PT 97140, 14' Ther Exercise 97110, 27' NMR 97112, Ther Act 97530, 6' Gait Training 97116
Other Procedure CPT: Minutes:
☐ See Attached Flow Sheet(s) (Exercise and Manual PT)
☐ TM
☐ UBE:
☐ Bike:
SCAP series
GH & TH GHJ Post mobs, inf mobs
Pain to tol

Timed Code Treatment Minutes 47 Minutes Total Treatment Time: 67 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT: No restrictive barriers Post complex mobs - Rom ↑'d c soreness + ↑'d c others - Control but Pain c Obers Arm, Stab c mod Pain - New Goals x 4wks - ① ↑'d AROM Rt flex + ABD to ≥90° ② IR functional reach to post waist + ER to sides ③ Pain c ex/ADLs ≤ 4/10 ④ all Pain ≥ 75% wnl

PLAN:
☐ Progress per Plan Of Care Cont c Manual, Therex / Act, Stab + Mobility pain
☐ Progress strengthening / stabilization / functional activity i.e. SCAP STAB + PC as tol
Other:

SIGNATURE: DATE: 8/7/13

Chris Smith, PT, DPT, OCS Kim Abell, PT, OCS, 3600 Adam Hill PTA, A1181

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: JAMES PROVINS
Patient #:
Date: 8/9/13

Time In: 10:06 Time Out: 11:25

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
(R)Sh stiff, hurts. Able to move arm above head but
hurts a lot after

OBJECTIVE: Observation/ Posture/ Gait:
Crepitus / pain (R) > (L) Shoulder

Palpation:

AROM: Strength: Special Tests:
Shoulder - 90° flex, abd
- 80° abd
(R)

PROCEDURES & MODALITIES

MH: Ice: Paraffin 97018: Vasopneumatic 97016: Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014: Constant Attend 97032: UNattended G0283:
Location / Electrode Placement/ Other:
Ultrasound 97035: RX Minutes: Combo Rx 97032/ Minutes: Parameters: % 1.0 / 3.3 MHz Wts/cm²
Location:
Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour -pad
Location:
Traction 97012: RX Minutes: S/I: Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140: 25 Ther Exercise 97110, 30 NMR 97112, Ther Act 97530: 5 Gait Training 97116:
Other Procedure CPT: Minutes:

See Attached Flow Sheet(s) (Exercise and Manual PT)

☐ TM
☐ UBE:
☐ Bike:
Manual therapy x25 min
- Supine PROM/AAROM (R) shoulder flex, abd, ER
- Supine scapular series (R) shoulder flex, abd, ER
- Standing wall slides, pendulums (R) shoulder flex, abd, ER
- Scapular mobs

Timed Code Treatment Minutes: 60 Minutes **Total Treatment Time:** 75 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☑ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other
- Verbal / tactile cues re: posture, arm positioning & scapular stability & elevation & lowering

ASSESSMENT:
Complex / Cooperative & demonstrates activity. AROM remains limited & PT continues to require verbal / tactile cues to ensure proper performance, pacing & adaptation process. Pt will benefit from continued PT to address deficits & achieve functional activity goals.

PLAN:
☐ Progress per Plan Of Care
Cont. therex/activity progression as appropriate; Continue manual therapy to (R) shoulder
☐ Progress strengthening / stabilization / functional activity i.e.
Other:

SIGNATURE: DATE: 8/9/13

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: [redacted]
Patient #:
Date: 8/13/13

Time In: 9:40 Time Out:

SUBJECTIVE: Pain 0 1 2 3 4 (5) 6 7 8 9 10
I feel like I need more meds

OBJECTIVE: Observation/ Posture/ Gait:

Palpation: TP (R) infraspinatus tender

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: Paraffin 97018: Vasopneumatic 97016 Rx Minutes: Location / Other

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014: Constant Attend 97032: UNattended G0283
Location / Electrode Placement/ Other:

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used.* Lg / Med / Sm / Butterfly / 24 hour pad
Location:

Traction 97012: RX Minutes: S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140: 30 Ther Exercise 97110: 15 NMR 97112: Ther Act 97530: Gait Training 97116:
Other Procedure CPT: Minutes:

See Attached Flow Sheet(s) (Exercise and Manual PT)

☐ TM
☐ UBE:
☐ Bike:

Manual therapy
posterior release to biceps and subscapularis, STM to pecs, UT biceps and thoracic muscles, glenohumeral and scapular mobs
(R) arm pulls, posterior capsule glides

Timed Code Treatment Minutes: 45 Minutes **Total Treatment Time:** 50 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other:

ASSESSMENT: Instructed prone scapular strengthening + assistance required for proper technique. Manual stretches addressed limited glenohumeral and scapular mobility. Updated HEP

PLAN: Cont POT

☐ Progress per Plan Of Care
☐ Progress strengthening / stabilization / functional activity tle:
Other:

SIGNATURE: Phoebe Lowell PT **DATE:** 8/13/2013

Craie Smith, PT 1314 Kim Abell, PT, OCS 3609 Sean Sullivan PTA A1181

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: James Prowse
Patient #: 9356
Date: 8/14/13

Time In: 10:15 Time Out: 10:55

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
Doing New Ex At Home - Feeling Heart
Sore from massage yesterday

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: Paraffin 97018: Vasopneumatic 97016 Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014: Constant Attend 97032: UNattended G0283:
Location / Electrode Placement / Other:

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz W/s/cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour pad
Location:

Traction 97012: RX Minutes: S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: Hold / Relax Progression /Regression

RX Minutes: Manual PT 97140: 12 Ther Exercise 97110: 26 NMR 97112: Ther Act 97530: Gait Training 97116:
Other Procedure CPT: Minutes:

☑ See Attached Flow Sheet(s) (Exercise and Manual PT) to new
☐ TM
☐ UBE
☐ Bike:

SCAP + GHJ mobs
Prone to fol c HR

Timed Code Treatment Minutes: 38 Minutes Total Treatment Time: 40 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic / Splint Usage
☐ Proper body mechanics ☐ Posture
☑ Compliance with HEP ☑ Other:

ASSESSMENT: Improved Posture tracking noted p Manual Rx
Pt cont c moderate pain + tenderness Anter

PLAN:
☐ Progress per Plan Of Care
☑ Progress strengthening / stabilization / functional activity i.e. SCAP STABILIZERS
Other:

SIGNATURE: [redacted] MOCS DC 8/14/13

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: James Brown
Patient #:
Date: 8/16/13

Time In: Time Out:

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10

New complaints Pain A report

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: Paraffin 97018: Vasopneumatic 97016: Rx Minutes: Location / Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ IES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014: Constant Attend 97032: UNattended G0283:
Location / Electrode Placement/ Other:

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz W/s/cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour -pad
Location:

Traction 97012: RX Minutes: S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140, Ther Exercise 97110, NMR 97112, Ther Act 97530, Gait Training 97116
Other Procedure CPT Minutes

See Attached Flow Sheet(s) (Exercise and Manual PT)

☐ TM
☐ UBE:
☐ Bike:

Manual therapy
X Ray
- Pain @ the knee, status
- Pain status @ the hip/SIJ/LB } same/similar
- Central right technique
- Pain radiating to calf
- Pain status @ the ankle, status (R/L/B), ortho/splint

Timed Code Treatment Minutes: Minutes **Total Treatment Time:** Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT:

Pain complaints remain elevated as does pain limiting ADL's. Continues to benefit from skilled PT services to improve proper scapular position and strength. Good improvement. GHJ limitations remain present & pain upon

PLAN: Continue current plan of care to improve GHJ strength, movement, posture

☐ Progress per Plan Of Care

☐ Progress strengthening / stabilization / functional activity i.e.

Other:

SIGNATURE: DATE: 8/16/13

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name: [illegible]
Patient #:
Date: 8/15/13

Time In: Time Out:

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10

[illegible]

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: Paraffin 97018: Vasopneumatic 97016 Rx Minutes: Location / Other:

Electrical Stimulation: ☑ IFC ☑ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014 Constant Attend 97032 UNattended G0283
Location / Electrode Placement / Other:

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz W/s/cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour pad
Location:

Traction 97012: RX Minutes: S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140: Ther Exercise 97110: NMR 97112: Ther Act 97530: Gait Training 97116:
Other Procedure CPT: Minutes:

☑ See Attached Flow Sheet(s) (Exercise and Manual PT)

☐ TM
☐ UBE
☑ Bike:

manual therapy x25 min @ 1#
- [illegible]
- [illegible]
- [illegible]

Timed Code Treatment Minutes: Minutes Total Treatment Time: Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☑ Other:

ASSESSMENT:

[illegible]

PLAN: [illegible]
☐ Progress per Plan Of Care
☐ Progress strengthening / stabilization / functional activity i.e.
Other:

SIGNATURE: [illegible] DATE: 8/15/13
Craig Smith, PT 1314

BAPTIST PHYSICAL THERAPY
Daily Progress Note

Pati... Name: Jones Phyllis
Patient #: 9356
Date: 9/21/13

Time In: 10:15 Time Out: 11:00

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10
NSMA

OBJECTIVE: Observation/ Posture/ Gait:

Palpation:

AROM: Strength: Special Tests:

PROCEDURES & MODALITIES

MH: Ice: Paraffin 97018: Vasopneumatic 97016: Rx Minutes: Location / Other:

Electrical Stimulation: ☑ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014 Constant Attend 97032 UNattended G0283
Location / Electrode Placement/ Other:

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/ cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour -pad
Location:

Traction 97012: RX Minutes: S / I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression

RX Minutes: Manual PT 97140: 10 Ther Exercise 97110: 25 NMR 97112: Ther Act. 97530: Gait Training 97116:
Other Procedure CPT: Minutes:

See Attached Flow Sheet(s) (Exercise and Manual PT) 1 x 4 green Band to RAD

☐ TM
☐ UBE:
☐ Bike:

GHJ + SCAP MOBS
PROM & STRETCHING

Timed Code Treatment Minutes: 45 Minutes Total Treatment Time: 45 Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT: Improved GHJ & SCAP Mobility Soft Cont & moderate PROM & STRENGTH + Limited by SOB ARom

PLAN:
Progress per Plan Of Care Reassess for PT TOMS
☐ Progress strengthening /stabilization / functional activity i.e.
Other:

SIGNATURE: [signature] MOCS DATE: 9/21/13

Craig Smith PT 1314 [illegible] PT OCS 2600

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BAPTIST PHYSICAL THERAPY
Daily Progress Note

Patient Name James Downs
Patient #
Date: 8/23/13

Time In: 1038 Time Out: 1145

SUBJECTIVE: Pain 0 1 2 3 4 5 6 7 8 9 10

@ Sh feels about the same since LA mob/LAT PT intervention. Mvts ABC's more easy a little better (touched, reached) but still hurts & sneezy, coughing (taking @ hand) & lying on left side ~10/10 upon rest

OBJECTIVE: Observation/ Posture/ Gait:
Head, shoulder protraction, scapular protraction/winging, elbow flexion @ rest/sit

Palpation:

AROM:	Pain	Strength:	Special Tests:
Sup @ s	Sup @ s	Sup @ s	
flex 131°	153°	90°	
abd 124°	154°	68°	
ER (90 abd) 78°			
IR (90 abd) 40°			

PROCEDURES & MODALITIES

MH: Ice: Paraffin 97018: Vasopneumatic 97016 Rx Minutes: Location/ Other:

Electrical Stimulation: ☐ IFC ☐ Pre-Mod ☐ FES ☐ HVGS Max mAmp:
RX Minutes: Supervised 97014 Constant Attend 97032 UNattended G0283
Location / Electrode Placement/ Other:

Ultrasound 97035: RX Minutes: Combo Rx 97032: Minutes: Parameters: % 1.0 / 3.3 MHz Wts/cm²
Location:

Iontophoresis 97033: RX Minutes: x milliamps: MA/min *Dexamethasone used* Lg / Med / Sm / Butterfly / 24 hour -pad
Location:

Traction 97012: RX Minutes: S/I Position: Program:
☐ Lumbar ☐ Cervical Weight: / Hold / Relax Progression / Regression:

RX Minutes: Manual PT 97140: Ther Exercise 97110: NMR 97112: Ther Act 97530: Gait Training 97116:
Other Procedure CPT: Minutes:

☐ **See Attached Flow Sheet(s) (Exercise and Manual PT)**
☐ TM
☐ UBE
☐ Bike:

Timed Code Treatment Minutes Minutes **Total Treatment Time :** Minutes

PATIENT EDUCATION:
☐ Purpose of Rx ☐ Orthotic/ Splint Usage
☐ Proper body mechanics ☐ Posture
☐ Compliance with HEP ☐ Other

ASSESSMENT:
See MD letter

PLAN: To MD clinic. Avoid further aggravation
☐ Progress per Plan Of Care
☐ Progress strengthening / stabilization / functional activity i.e.
Other:

SIGNATURE: Sam Littrell PTA DATE: 8/23/13

TREATMENT FLOW SHEET

Facility: | Physician: Bunnmeyer

Patient Name: Jones Irvins | Diagnosis: (B) ACL – S/P Recon

Date of Birth: 8356 | Precautions:

Ther. Procedure/Exercise	Tx. Type	Date 7/31	Date 8/2	Date 8/5	Date 8/7	Date 8/9	Date 8/13	Date 8/14	Date 8/16	Date 8/19	Date 8/21
(B) FF Standing ō Cable		5"x10	x15	✓	x5 ✓	x15		x15		x15	5" Ang x10 ✓
Wall F/R		2'/2'	3'/3'	3F/3F	✓	3F 3R	3F/3R	3F/3R	✓	3F 3R	2'/2' ✓
ABD (Scapl) ō Cable		5"x10	x15	✓	✓	x15		x15		x15	✓ ✓
Wall Walk ABD + FF		x5	✓	x5	FF x5	x5		NT			—
LPD's		Blue x15	✓	blue x15	✓	blue x15		Blue x15		blue x15	✓ ✓
Scap Ret		Blue x20	✓	✓	✓	blue x15	Purple x20	Blue x15		blue x15	✓ ✓
SHDR Rolls		Blue x20	✓	✓	✓	blue x15		|		blue x15 ✓ ✓
IR ō Band		Yellow x15	Blue x20	✓	✓	blue x15		|		blue x15 ✓ ✓
Triceps		Yellow x15	✓	✓	✓	yellow x15		Yellow x15		yellow x15	Red x15 ✓
Ext ECR (to 1HP)		Yellow x15	✓	✓	✓	yellow x15		|		Red x15 ✓
Bicep		Yellow x15	✓	✓	✓	yellow x15		|		Red x15 ✓
S/L ER		1# x15	x17	✓	✓	1# x15	1# x20	1# x20		1# x20	✓ ✓
Band CIRCLES (45° Increments) cw/ccw		x10	20 cw/ccw	x20 cw/ccw	✓	x20		x20		x20	✓ ✓
SB ABD Scaps		5"x10	x20	x20	✓	x20		x20		x20	—
SB FF Scaps		5"x10	↓	↓	✓	x20		x20		x20	5"x10 ✓
Pulley 3 way		x20	x20	x20	✓	x20		x20	✓	x20	✓ ✓
Pulley ō SB Scaps		x10	x10	x10	✓	x10		x10		x10	x15 ✓
Prone Rows					DW x10	Reagan x10	x10	x10		x10	—
prone t's thumbs down							x10	x10	✓	x10	x10 ✓
Prone W's							x10	x10	✓		x10
prone retractions							x10	x10	✓		x10
peers							x10	x10	✓		x10
Provider Initials (See Provider Key)		KV	SD	SD	KV	SD		KV	SD	SD	KV SD

ABBREVIATIONS KEY: G = Group Therapy; Min = Minutes; Rep = Repetitions; ✓ = Same as Prior Entry; – = Not Done
TA = Therapeutic Act; NR = Neuromuscular Reed.; TE = Therapeutic Exercise

PROVIDER KEY:

KV Kim Vervill, PT, OCS

SD – MD

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KV 7/00

TREATMENT FLOW SHEET

Facility:

Physician: Bowmans

Patient Name: James Powers

Diagnosis: (R) RCT - S/P RCR

Date of Birth:

Precautions:

Ther. Procedure/Exercise	Tx. Type	Date 7/5	Date 7/8	Date 7/10	Date 7/12	Date 7/16	Date 7/17	Date 7/19	Date 7/22	Date 7/24	Date 7/26
pendulum		2# x20	2# x20	✓	✓		✓	✓	2# x20	✓	—
pulley 3 way		x15 each	x15 each	✓	✓	x15 each Flex/Scar/Abd	✓	x20	x20	✓	x15
ball roll on table		x25	x25	✓	x20	x20	✓	x20	x20	✓	x20
shoulder rolls		blue x25	blue x25	✓	✓		✓	x25	x25	✓	blue x20
scap ret		x25	x25	Blue x20	Blue x20		✓	x20	x20	✓	Blue x20
supine AAROM flex (cane)		x20	x20	cane	x20		✓	✓	x20	✓	x10
standing AAROM		x20	x20	x15	✓		✓	✓	x20	✓	x20
AAROM cane ER		x20	x20	x10	✓	x15	✓	✓	x20	✓	—
sidelying ER		x20	x20	✓	✓	1# x10 0# x10	1# x10 0# x10	✓	1# x10 0# x10	✓ ✓	1# x20
isometrics flex/abd		x10	x10	✓5	5" x5		✓	✓	—	—	—
(sidelying) ext		x10	x10	✓	5" x10		✓	✓	—	—	—
IR / ~~ER~~		x10	x10	✓	5" x10		✓	✓	—	—	—
PULL + LEV stretches		4x20	4x20"	✓	✓	✓	✓	4x20	Home	—	—
mandala stretch		5x10"		✓	✓	✓	✓	5"10"	Home	—	—
TBE F/R		2# 2R	2# 2R	2'/2'	2.5/2.5	3#/3R	✓	3# 3R	✓	✓	2'/2'
Scaption Abd Rotation c Band					x10	x20	✓	x10	x10	✓	x10
SB Rock up arm					x5	10	✓	10	✓	✓	—
SB Abd Rock up arm									x10	NT	—
IR c Band									yellow x10	✓	y x15
ER c Band									yellow x10	✓	y x15
Triceps									yellow x10	✓	y x15
Biceps									yellow x10	✓	yellow x15
Provider Initials (See Provider Key)		KV		KV	KV	SJ	SJ	KV	KV	KV	KV

ABBREVIATIONS KEY: G = Group Therapy; Min = Minutes; Rep = Repetitions; ✓ = Same as Prior Entry; - = Not Done
TA = Therapeutic Act.; NR = Neuromuscular Reed.; TE = Therapeutic Exercise

PROVIDER KEY:

KV - Kim Abell, PT, OCS

SJ - Sarah Jo

KV-7/10

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TREATMENT FLOW SHEET

Facility: | Physician: Bowmens

Patient Name: James Prowns | Diagnosis: (R) ACL

Date of Birth: | Precautions:

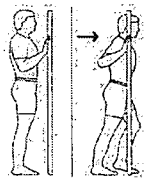
Ther. Procedure/Exercise	Tx. Type	Date 6/12	Date 6/14	Date 6/17	Date 6/19	Date 6/21	Date 6/24	Date 6/26	Date 6/28	Date 7/2	Date 7/5
Ice/Stim		2# 2x10	✓	1# 20min ice	✓	2# 2x10	2# x20	2# x20	✓	✓	2# x20
Ankle ROM CKC	UE	5" x10	x15	x10	✓ x20	—	—	—	x15	✓	
FF SLR -Sciba		3" x10	x15	x20	✓	✓	x20	x20	✓	✓	x20
SCAP RET		x10	✓	x20	✓	✓	x20	x20	✓	✓	x20
Step Ups (Post)		x10	✓	6" x20	✓	Red x20	Red x20	Red x20	blue x20	✓	blue x20
Ankle - 3 way		x10ea	✓	✓	✓	✓	x10ea	x10	x10ea	✓	x10ea
UBE F/R		2'/2'	2'/2'	2F/2R	2'/2'	2'/2'	2F4R	2F2R	✓	✓	✓
Bike Pedal on Table			x10	x20	✓	✓	x20	x20	x20	✓	x20
Sp Rom flex				x10	x20	x10	x10	x20	✓	✓	x20
ER & Abd				x10	✓	Strap x10	x10	x20	✓	✓	x20
(R) LE + UE Stretching						20"x4	4x20"	4x20"	✓	✓	4x20"
(B) Rotation Stretch						10"x5	10"x5	10"x5	✓	✓	5x10"
Shldr Hand 2 Abd/ABD	CKC						x10	x10	✓	✓	x20
Shldr Flex										2x5	2x10
Shldr Press										x10	x10
ext										x10	x10
Tr										x10	x10
Provider Initials (See Provider Key)		KA	KA	(S)	KA	KA		(S)	(S)	(S)	(S)

ABBREVIATIONS KEY: G = Group Therapy; Min = Minutes; Rep = Repetitions; ✓ = Same as Prior Entry; - = Not Done
TA = Therapeutic Act; NR = Neuromuscular Reed.; TE = Therapeutic Exercise

PROVIDER KEY: KA = Kim Abell, PT, OCS
(S) = Sean Sills PTA

This program was Emailed To: ssullivan@bhsi.com

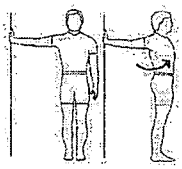
1. Exercise: Stretch Pectoral standing bil at door



Perform 1 set of 4 Repetitions, twice a day.

Hold exercise for 15 Seconds. Rest 30 Seconds between sets.

2. Exercise: Stretch Pectoral standing uni



Perform 1 set of 4 Repetitions, twice a day.

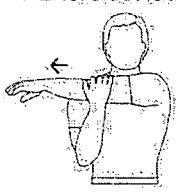
Hold exercise for 15 Seconds. Rest 30 Seconds between sets.

3. Exercise: Stretch shld capsule inferior

Perform 1 set of 4 Repetitions, twice a day.

Hold exercise for 15 Seconds. Rest 30 Seconds between sets.

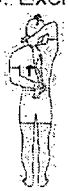
4. Exercise: Stretch shld capsule posterior w/arm



Perform 1 set of 4 Repetitions, twice a day.

Hold exercise for 15 Seconds. Rest 30 Seconds between sets.

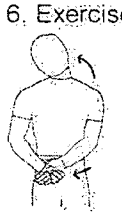
5. Exercise: Stretch shld IR w/towel



Perform 1 set of 4 Repetitions, twice a day.

Hold exercise for 15 Seconds. Rest 30 Seconds between sets.

6. Exercise: Stretch Trapezius upper



Perform 1 set of 4 Repetitions, twice a day.

Hold exercise for 15 Seconds. Rest 30 Seconds between sets.

Issued By: Phoebe Powell PT Signature:_____

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87

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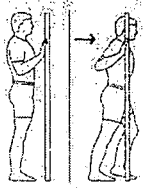
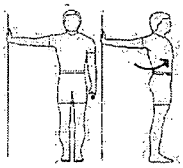
1. Exercise: Stretch Pectoral standing bil at door



Perform 1 set of 4 Repetitions, twice a day.

Hold exercise for 15 Seconds. Rest 30 Seconds between sets.

2. Exercise: Stretch Pectoral standing uni



Perform 1 set of 4 Repetitions, twice a day.

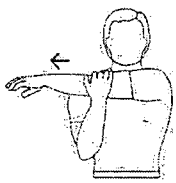
Hold exercise for 15 Seconds. Rest 30 Seconds between sets.

3. Exercise: Stretch shld capsule inferior

Perform 1 set of 4 Repetitions, twice a day.

Hold exercise for 15 Seconds. Rest 30 Seconds between sets.

4. Exercise: Stretch shld capsule posterior w/arm



Perform 1 set of 4 Repetitions, twice a day.

Hold exercise for 15 Seconds. Rest 30 Seconds between sets.

5. Exercise: Stretch shld IR w/towel

Perform 1 set of 4 Repetitions, twice a day.

Hold exercise for 15 Seconds. Rest 30 Seconds between sets.

6. Exercise: Stretch Trapezius upper

Perform 1 set of 4 Repetitions, twice a day.

Hold exercise for 15 Seconds. Rest 30 Seconds between sets.

Issued By: Phoebe Powell PT Signature: _____

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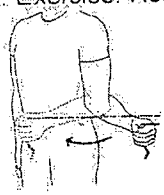
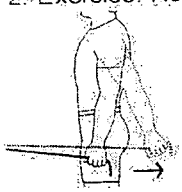
1. Exercise: Resist shld IR uni w/elastic



Perform 1 set of 15 Repetitions, once a day.

Perform 1 repetition every 4 Seconds.
Use yellow Elastic.
Rest 1 Minute between sets.

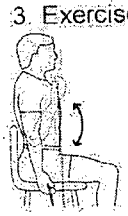
2. Exercise: Resist shld ext uni stand w/elastic



Perform 1 set of 15 Repetitions, once a day.

Perform 1 repetition every 4 Seconds.
Use yellow Elastic.
Rest 1 Minute between sets.

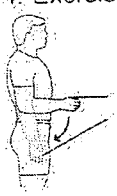
3. Exercise: Resist elbow flx uni w/elastic



Perform 1 set of 15 Repetitions, once a day.

Perform 1 repetition every 4 Seconds.
Use yellow Elastic.
Rest 1 Minute between sets.

4. Exercise: Resist elbow ext w/elastic



Perform 1 set of 15 Repetitions, once a day.

Perform 1 repetition every 4 Seconds.
Use yellow Elastic.
Rest 1 Minute between sets.

Issued By: Kim Abell, PT, OCS **Signature:**_____

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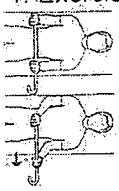
1. Exercise: AAROM shld ER bil supine w/cane neutral



Perform 1 set of 10 Repetitions, three times a day.

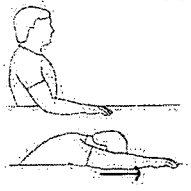
Perform 1 repetition every 4 Seconds.
Use Cane.
Rest 1 Minute between sets.

2. Exercise: AAROM shld flx uni w/pulley self high level

Perform 1 set of 10 Repetitions, three times a day.

Perform 1 repetition every 4 Seconds.
Use Pulley.
Rest 1 Minute between sets.

3. Exercise: Stretch shld flx uni sit slide



Perform 1 set of 10 Repetitions, three times a day.

Hold exercise for 15 Seconds.
Rest 30 Seconds between sets.

4. Exercise: AROM shld pendulum

Perform 1 set of 10 Repetitions, three times a day.

Rest 1 Minute between sets.

5. Exercise: AROM shld retract bil stand arms at side

Perform 1 set of 10 Repetitions, three times a day.

Perform 1 repetition every 4 Seconds.
Rest 1 Minute between sets.

Issued By: Kim Abell, PT, OCS Signature: _____

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BAPTISTWORX
Physical Therapy

7092 Distribution Drive
Louisville, KY 40258
502-935-9970

Kim Abell, PT, OCS
Physical Therapist
KY License #3609

Sean Sullivan, PTA
Physical Therapy Assistant
KY License #A01181

Craig Smith, PT
Physical Therapist
KY License #1314

Date: 8/23/13
To: Dr. Bonnarens
From: Sean Sullivan PTA
Re: Jamey Provins

Mr. Provins has attended 12 additional sessions of PT since last MD follow-up, 34 times overall. Treatment has included ther-ex, A/PROM and manual stretching techniques.

S: States that he can move arm a little better (raise it, touch hand to head) but still limited with self care activities (toileting, dressing, bathing, etc) involving right UE.. Rates self 5/10 on average and 8-9/10 with certain movement/positions/activities on pain scale.

O: Patient Demonstrates:

1. ROM:

	Supine A	Supine P	Seated A
Flexion	131 deg	153 deg	90 deg
Abd	124 deg	154 deg	68 deg
IR(90)	40 deg	46 deg	thumb to R buttock
ER(90)	78 deg	80 deg	thumb side of head

2. Strength: in available range flexion/abduction 3-, IR/ER 4-/5.

3. Function: Performing ROM, stretching and scapular exercises for affected musculature.

A. Compliant/Cooperative with rehabilitation efforts. Subjectively, he reports still limited ability to perform self care/ADL with right UE due to pain and motion limitations. Objectively his motion has improved vs. last measurement but deficits remain in regards to pain free active shoulder movement. GHJ tightness and scapular dyskinesis remain present right UE.

P: Please advise after your exam!

Thank you for this referral.

BAPTISTWORX

Physical Therapy

7092 Distribution Drive
Louisville, KY 40258
502-935-9970

Kim Abell, PT, OCS
Physical Therapist
KY License #3609

Sean Sullivan, PTA
Physical Therapy Assistant
KY License #A01181

Craig Smith, PT
Physical Therapist
KY License #1314

Date: 6/28/13
To: Dr. Bonnarens
From: Sean Sullivan PTA
Re: Jamey Provins

Mr. Provins has attended 10 sessions of PT since initial start date of 6/7/13. Treatment has included ther-ex, PROM and manual stretching techniques, prn modalities and patient education.

S: Reports right shoulder feels about the same since start of PT/last seeing MD. States that he "still can't raise arm on own without help". Rates self 0/10 at rest and 5/10 with movement on pain scale.

O: Patient Demonstrates:

1. ROM:

	Supine			Seated
	A	AA	P	A
Flexion	90 deg	120 deg	143 deg	63 deg
Abd	80 deg		145 deg	60 deg
IR(60)	80 deg		80 deg	thumb to R buttock
ER(60)	45 deg		52 deg	thumb to R sh

2. Palpation: diffuse tenderness right GHJ.

3. Strength: not tested due to recent surgery

4. Function: Instructed in home pulleys and ROM activities as well as postural and scapular strengthening exercises.

A. ROM improved right shoulder vs. initial evaluation but still with notable effort and pain reports. Decreased postural and positional awareness of right shoulder with notable tightness that affects proper glenohumeral motion. Should benefit from continued PT efforts.

P: Please advise after your exam!

Thank you for this referral.

BAPTISTWORX
Physical Therapy

7092 Distribution Drive
Louisville, KY 40258
502-935-9970

Kim Abell, PT, OCS
Physical Therapist
KY License #3609

Craig Smith, PT
Physical Therapist
KY License #1314

Date: July 26, 2013
To: Frank Bonnarens, MD
From: Kim Abell, PT, OCS
Re: **James Provins**

Mr. Provins has attended 22 sessions of PT. Treatment has included ther-ex as tolerated, a HEP, manual PT for flexibility/ROM, modalities prn and patient education.

S: Says his shoulder is still hurting a lot and it is popping also. Says he likes it when it pops. Can't use his right arm to do much at home. Rates his pain at 5/10 today.

O: Patient Demonstrates:

1. AROM: FF 75°; ABD 48°; supine with ~ 90° ABD ER is 60° and IR 64°; functional IR reach to post-lat hip and very limited ER reach towards head
   PROM supine: FF 156°; ABD in plane of scap 140°; ER full; IR 70°
2. Palpation: tender sup/post GHJ
3. Strength: in neutral IR and ER 4/5
4. Special Tests: Drop Arm was + last visit (tested after exercises) but negative today when tested before exercises
5. Function: NT in clinic due to notable limitations with movement and pain

A: AROM has shown a recent decline. He continues to report moderate pain and limited use of the RUE. Signs/sxs of possible re-tear but could be just extreme weakness and fatigue as tests vary pre and post exercises.

P: Please advise.

Thank you for this referral.

Orthopaedic Associates

Frank Bonnarens, MD

Orthopaedic Surgeon

LIC #: 29483 • DEA #: _____

NPI #: 1821021783

☐ 3001 Kresge Way, Suite 330
Louisville, KY 40207
Tel: 502-585-4376 • Fax: 502-581-1274

☐ 2410 Ring Road, Suite 500
Elizabethtown, KY 42701
Tel: 270-763-0238 • Fax: 502-581-1274

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Order # 10284694-1

Name Jamey Provins DOB

Address Date 7/1/13

℞ Physical Therapy Rt shoulder
2-3x/wk x 4wks focus on GH motion

1 - 24	☐
25 - 49	☐
50 - 74	☐
75 - 100	☐
101 - 150	☐
151 & over	☐

RX_2_KY_H

Refill: NR 1 2 3 4 5 VOID AFTER _____

FC Bonnarens MD MD

SCRIPT# 1905

PRESCRIPTION IS VOID IF MORE THAN ONE (1) PRESCRIPTION IS WRITTEN PER BLANK.

94

FRANK O. BONNARENS, M.D.
ORTHOPAEDIC ASSOCIATES

Jewish Outpatient Care Center
225 Abraham Flexner Way, Ste 403
Louisville, KY 40202
Telephone: (502) 585-4376

Preston Medical Center
7926 Preston Highway, Ste 103
Louisville, KY 40219
Telephone: (502) 969-2302

Northeast
2401 Terra Crossing Blvd, Ste 401
Louisville, KY 40245
(502) 585-4376

Name James Prain Date 7/29/13

Physical Therapy

2-3x wk x 4-6wks

(R) shoulder

FOBonnarens MD/kn

Prescription is void if more that one (1) prescription is written per blank.

95

FRANK O. BONNARENS, M.D. 935-9970
ORTHOPAEDIC ASSOCIATES

Jewish Outpatient Care Center
225 Abraham Flexner Way, Ste 403
Louisville, KY 40202
Telephone: (502) 585-4376

Preston Medical Center
7926 Preston Highway, Ste 103
Louisville, KY 40219
Telephone: (502) 969-2302

Northeast
2401 Terra Crossing Blvd, Ste 401
Louisville, KY 40245
(502) 585-4376

Name James Provin Date 6/3/13

Physical Therapy — Rt shoulder

2-3x/wk x4wks

F O Bonnarens MD/NVS

Prescription is void if more that one (1) prescription is written per blank.

RTO 4wks July 1st

96

BAPTIST HEALTH

Name: James Provins Pt#:
Date: 7/8/13 PLACE LABEL HERE

Physical Therapy Plan of Treatment

Diagnosis: s/p R rotator cuff, LHB, AC decompression repair **Physician**: Dr. Bonarrens

Therapy Assessment: Patient presents to clinic with R shoulder pain and dysfunction following surgery. He presents with: 1. Decreased R shoulder/scapular ROM, 2. Decreased R scapular/shoulder strength 3. Inability to perform essential job duties 4. Pain with any movement 5. Poor scapular mobility and GH joint mobility

Rehab Potential: Good

Plan of Treatment: Ultrasound Electrical Stimulation Heat/Cold Manual Treatment Therapeutic Exercise Patient Education Work Simulation HEP

Frequency of visits: 3 x/week

Expected Duration of Treatment: 4 weeks

Short Term Goals: met by ____ weeks____			**Long Term Goals:** met by 4 weeks		
Independent with HEP	Y	N	AROM to 90 deg in sitting without substitution	Y	N
Decreased postural guarding	Y	N	No signs/symptoms of impingement at low level elevation	Y	N
Shoulder PROM to ≥ 120 deg in flex/abduction	Y	N	Pain will not awaken patient for 5 hour span	Y	N
Pain with ex and light ADL's ≤5-6/10 at worst	Y	N		Y	N

PT Signature: NWilliams PT, DPT **Date Treatment Initiated:** 7/8/13

Nicole Williams, PT, DPT KY lic #004979

Initial Certification / 30 Day Recertification **Certification Period:** 7/8/13-8/8/13

I certify that the therapy services are furnished while this patient is under my care. The services outlined above are required by this patient, and will be reviewed every 30 days.

M.D.: _____ **Date:** _____

Please sign and return via fax to 935-9577. Thank you, Baptist Health Physical Therapy

Discharge Summary from Physical Therapy

Dates Seen: _____ Number of Visits: _____ Final Diagnosis: _____

Treatment: _____

Discharge Status of Patient: _____

Goals: All Met Partially Met Not Met Prognosis: _____

Comments: _____

_____ _____

PT SIGNATURE DISCHARGE DATE

BAPTISTWORX

PROVINS, JAMES

Physical Therapy Plan of Treatment

Diagnosis: R RCT – s/p repair Physician: F. Bonnarens, MD

Therapy Assessment: 51 yo M presents 3-4 wks after repair to dominant shdr with: 1. very limited ROM; 2. obvious weakness due to injury and sx; 3. current pain mild to intense; 4. dec tol for ADLs involving any use of the RUE away from body

Rehab Potential: Excellent **Good** Fair Guarded

Plan of Treatment: Ultrasound Iontophoresis **Electrical Stimulation** **Heat/Cold** **Manual Treatment** **Therapeutic Exercise** Traction **Patient Education** Work Simulation **HEP** Other

Frequency of visits: QD **TIW** **BIW** WEEKLY One time only

Expected Duration of Treatment: 2-3 mos

Short Term Goals: met by 3 wks	Y	N	Long Term Goals: met by D/C	Y	N
1. tol initial ex	Y	N	1. (I) with HEP and body mech for prevention	Y	N
2. decreased postural guarding			2. AROM ≥ WFL with min to no pain and strength > 4+/5 for improved ADLs		
3. demonstrates cont progress with P/AAROM	Y	N	3. no signs/sxs of impingement	Y	N
4. pain with ex and light ADLs ≤ 5-6/10	Y	N	4. demos tol for ret to prior levels ADLs with min to no restriction	Y	N

PT Signature: _____ OCS #3609 Date Treatment Initiated 6/7/03

Kim Abell, PT, OCS KY LIC # 3609

Initial Certification / 30 Day Recertification **Certification Period:** _____

I certify that the therapy services are furnished while this patient is under my care. The services outlined above are required by this patient, and will be reviewed every 30 days.

M.D.: _____ **Date:** _____

Please sign and return via fax to 935-9577. Thank you, BaptistWorx Physical Therapy

Discharge Summary from Physical Therapy

Dates Seen: _____ Number of Visits: _____ Final Diagnosis: _____

Treatment: _____

Discharge Status of Patient: _____

Goals: All Met Partially Met Not Met Prognosis: _____

Comments: _____

PT SIGNATURE DISCHARGE DATE

6/2005

BAPTISTWORX

PROVINS, JAMES

Physical Therapy Plan of Treatment

Diagnosis: R RCT – s/p repair

Physician: F. Bonnarens, MD

Therapy Assessment: 51 yo M presents 3-4 wks after repair to dominant shdr with: 1. very limited ROM; 2. obvious weakness due to injury and sx; 3. current pain mild to intense; 4. dec tol for ADLs involving any use of the RUE away from body

Rehab Potential: Excellent Good Fair Guarded

Plan of Treatment: Ultrasound Iontophoresis **Electrical Stimulation** **Heat/Cold** **Manual Treatment** **Therapeutic Exercise** Traction **Patient Education** Work Simulation **HEP** Other

Frequency of visits: QD **TIW** **BIW** WEEKLY One time only

Expected Duration of Treatment: 2-3 mos

Short Term Goals: met by 3 wks

	Y	N
1. tol initial ex		
2. decreased postural guarding		
3. demonstrates cont progress with P/AAROM		
4. pain with ex and light ADLs ≤ 5-6/10		

Long Term Goals: met by D/C

	Y	N
1. (I) with HEP and body mech for prevention		
2. AROM ≥ WFL with min to no pain and strength > 4+/5 for improved ADLs		
3. no signs/sxs of impingement		
4. demos tol for ret to prior levels ADLs with min to no restriction		

PT Signature: MACS #3609 Date Treatment Initiated: 6/7/13

Kim Abell, PT, OCS KY LIC # 3609

Initial Certification / 30 Day Recertification **Certification Period:**

I certify that the therapy services are furnished while this patient is under my care. The services outlined above are required by this patient, and will be reviewed every 30 days.

M.D.: Date: 6/14/13

Please sign and return via fax to 935-9577. Thank you, BaptistWorx Physical Therapy

Discharge Summary from Physical Therapy

Dates Seen: Number of Visits: Final Diagnosis:

Treatment:

Discharge Status of Patient:

Goals: All Met Partially Met Not Met Prognosis:

Comments:

PT SIGNATURE DISCHARGE DATE

6/2005

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7807 Shelbyville Road, Louisville, KY 40222 5227 Dixie Highway, Louisville, KY 40216

Patient Name: PROVINS, JAMES

Patient No: 181765
Accession #: 369857
Interpreting Rad: Dunn, George M.D.

Exam: Shoulder (R) ARTHROGRAPHY MRI
DATE OF EXAM: 10/02/2013
Referring Physician: Bonnarens, Frank O M.D.

HISTORY: 52 year-old male with right shoulder pain. History of previous rotator cuff repair, subacromial decompression and biceps tendon debridement and May, 2013.

DISCUSSION: MRI of the right shoulder was performed on a 1.5 Tesla system. Axial and coronal T1 fat suppressed and T2 fat suppressed series; coronal T1 and T2-weighted series and sagittal T1 series acquired. Imaging performed following adequate intra-articular distention with 10 cc dilute MultiHance. Arthrography performed by Dr. Robinson, utilizing 13 seconds of fluoroscopy.

Rotator cuff: There is a large recurrent full thickness tear at the supraspinatus tendon insertion, measuring approximately 20 mm in AP width. The tendon is retracted approximately 25 mm. There is mild supraspinatus muscle atrophy.

There is full-thickness tearing of the majority of the subscapularis tendon. The tendon has retracted cephalad and is likely scarred in to the rotator interval capsule. There is moderate subscapularis muscle atrophy.

There is mild tendinopathy of the infraspinatus, without tearing. The teres minor is intact.

Glenoid labrum and long head biceps tendon: There is mild blunting of surface irregularity of the superior labrum, without detachment. The posterior labrum is blunted as well. There is no para labral cystic change. The long head biceps tendon is not present within the field-of-view.

Bony structures and articular surfaces: There is an anchor tract within the lateral humeral head consistent with history of previous rotator cuff repair. There is mild glenohumeral arthritic spurring. There is no significant cartilage defect identified. There are multiple small filling defects within the glenohumeral joint space likely representing underlying synovitis.

The acromioclavicular joint is intact. Subacromial space is preserved. Contrast extravasates from the glenohumeral joint into the subacromial space.

IMPRESSION:
1. There is a large recurrent full thickness tear of the supraspinatus tendon insertion, with the tendon retracted approximately 25 mm. There is mild supraspinatus muscle atrophy.
2. Full-thickness tearing of the subscapularis tendon, with the tendon retracted cephalad and likely scarred in to the rotator intervalule. This likely represents a chronic injury, and there is moderate subscapularis muscle atrophy.
3. Nonvisualization of the long head biceps tendon, consistent with history of previous surgical debridement.
4. Glenohumeral synovitis.

Thank you for referring PROVINS, JAMES to High Field and Open MRI.
If you have any questions or would like to speak to one of our Radiologists regarding this exam, please call (502) 429-6500.

Dictated by: George Dunn MD
Signed: Oct 3 2013 12:43AM
RAD LOC 10

This report is preliminary unless signed by a physician.

OAKTREE ORTHOPAEDICS

115 Brushy Creek Road
Easley, SC 29642

Phone: 864-855-1633 Fax: 864-855-1323

December 23, 2014

Don Smith, Attorney-At-Law

RE: Patient: James Provins

Dear Mr. Smith:

In regard to your communication concerning patient by the name of James Provins, I am responding to your communication and aspect of information concerning injuries that occurred to his right shoulder. This patient was not able to be examined because he is deceased, but in regard to the history that was obtained in my review of his MRIs that were done, the following is offered.

As you are aware, this patient had an injury to his right shoulder which resulted in a rotator cuff tear, subacromial decompression, and changes along the labrum. This occurred in January of 2012. The patient then had surgery on May 16, 2013 because of noted loss of motion increasing pain and change in his every day functional activity associated with his right shoulder. Post-operatively, the patient's repair allowed him to begin increasing his activity levels; however, he had increasing pain and discomfort and loss of function and further degenerative changes that occurred. The patient had a second MRI done in October of 2013 and that MRI that was done of the right shoulder revealed a large recurrent full thickness tear of the supraspinatus tendon. I personally did review this MRI and there was a tear of the supraspinatus border affective the rotator cuff and labrum of the right shoulder. There was also supraspinatus muscle degenerative changes and atrophy noted. The long head of the biceps tendon had increased irritation at the areas, but it was not visualized very well radiographically. Synovitis was present.

In regard to that, a second surgery was recommended to be done, but before there could be follow through of the second surgery, the patient died.

I have reviewed the history and it is a history of painful injuries with residual symptoms. The MRI confirmed symptomatic changes of the rotator cuff and labrum. The operative findings reestablished the objective noted rotator cuff injury by history. Again, a second surgery was recommended, but was not done because of the death of the patient.

As you may be aware, the shoulder is comprised of the mid-humeral bone border going to the area of the scapular thoracic region. This includes all of the bone, the joint, the ligament structures, and soft tissue structures.

Continued...

Most the impairments are based on the diagnostic-based impairment in which impairment class is determined by the diagnosis and specific criteria and then this is then adjusted into the upper extremity factor for disability related to *The Guides and Evaluation of Permanent Impairment.* Generally, the impairment rating that I use is through the Sixth Edition. It should be noted that it is important that not only history is completed, but that physical examination is carried through and that is compared to the clinical studies that have been done. This percentage of disability that we are completing today is based only on the MRI findings and has not been compared with physical examination other than as historically completed.

This patient's history that was done does show consistent findings of rotator cuff pathology as documented as a full thickness tear and also associated with the labral border. These findings radiographically would lead to a 10% to 13% disability rating utilizing the shoulder regional grid border of the upper extremity on per Table 15-5, page 403, of *The Guides and Evaluation of Permanent Impairment, Sixth Edition.*

If further information would be requested or possible further review of historical aspect of this patient's care, that can be carried through.

Sincerely,

Dwight A. Jacobus, D.C.
Board Certified Orthopedist

DAJ:ats12
Voice File: 1223.048
Audio Position: 0:00

OAKTREE ORTHOPAEDICS

115 Brushy Creek Road
Easley, SC 29642

Phone: 864-855-1633 *Fax: 864-855-1323*

January 5, 2015

Don Smith, Attorney-At-Law

RE: Patient: James Provins

Dear Mr. Smith:

This is to confirm my opinion that the above-captioned patient, who is now deceased, would have a 10% to 13% disability rating utilizing the shoulder regional grid border of the upper extremity on Table 15-5, page 403, of *The Guides and Evaluation of Permanent Impairment, Sixth Edition*. It should be noted that it is also my opinion that whether the patient was not deceased and was able to have a second surgery, he would still have a disability percentage of at least 10% to 13% in regard to the findings of pre-operatively, surgically, and post-operatively. It is my opinion that a second surgery would not relate to a diminished percentage of disability because of the pathology that was present at the time the first surgery was completed. If I can be of further assistance to you, please do not hesitate to contact my office.

Sincerely,

Dwight A. Jacobus, D.O.
Board Certified Orthopedist

DAJ:ats12
Voice File: 0106.199
Audio Position: 0:00

The Forensic NETWORK®

July 14, 2015

Donald Smith, Esquire
122 North Main Street
Anderson, South Carolina 29621

re: James C. Provins

Dear Mr. Smith:

Thank you for referring this case to me for review. In arriving at my opinions, I have reviewed the following records and documents:

Records Reviewed:

Baptist Community Health Services
- Fax Transmission/Information Sheet - Undated, 07/01/13

Baptist Health Louisville
- Admission/Encounter Facesheet 05/15/13
- History and Physical Update 05/15/13
- Operative Note 05/15/13
- Order Conf Report 05/13/13
- Comp Orders Report
- Physician's Orders 05/15/13
- Recovery Orders 05/15/13
- Intraoperative Orders
- Preoperative Anesthesia Orders
- Preoperative Orders
- Surgery Order 05/14/13
- Lab Results
- ECG 05/13/13
- Nicole Williams, PT, DPT
  - Physical Therapy Plan of Treatment 07/08/13

Baptist Physical Therapy
- Daily Progress Note 06/11/13, 06/12/13, 06/14/13, 06/18/13, 06/19/13, 06/21/13, 06/24/13, 06/26/13, 06/28/13, 07/02/13, 07/03/13, 07/05/13, 07/08/13, 07/10/13, 07/12/13, 07/16/13, 07/17/13, 07/19/13, 07/22/13, 07/24/13, 07/26/13, 07/31/13, 08/02/13, 08/05/13, 08/07/13, 08/09/13, 08/13/13, 08/14/13, 08/15/13, 08/16/13, 08/21/13, 08/23/13

Mailing Address:
P.O. Box 27161
Greenville, SC 29616

Office Address:
304 W. Stone Ave.
Greenville, SC 29609

864/232-0856
800/355-4989
FAX 864/232-0859
http://www.forensicnetwork.com

Records reviewed: (cont.)
Baptistworx Physical Therapy
- Discharge Check List
- Therapy Evaluations and Re-Evaluation
- Body Parts Service
- Physical Therapy Initial Evaluation Special Report
- Physical Therapy Shoulder Evaluation Special Report
- Physical Therapy Re-Evaluation/Brief Evaluation Special Report
- Treatment Plan Flow Sheet
- Exercise Sheet
- Sean Sullivan, PTA
  - to Dr. Bonnarens Memo 06/28/13, 08/23/13
- Kim Abell, PT, OCS
  - to Frank Bonnarens, M.D. Memo 07/26/13
  - Physical Therapy Plan of Treatment 06/07/13
- New Injury Patient Information 06/07/13
- Urgent Care Medical & Health History Form 06/07/13
- Occupational Health and Wellness Conditions and Consents
- Fax Transmission Cover Sheet 07/05/13, 07/10/13, 07/26/13, 08/23/13

Commonwealth of Kentucky Department of Workers' Claims
- Medical Waiver and Consent

Court Documents
- Notice of Witnesses and Written Report(s)/Physician or Other Evidence to be Introduced on Behalf of Claimant James Provins 01/06/15
- Waiver of Potential Claim of Alice Marie Zimmerman 07/23/14
- Waiver of Potential Claim of Jessica Mae Provins 07/23/14
- Waiver of Potential Claim of Amanda Jean Provins 07/23/14

High Field & Open MRI
- Arthrography MRI Shoulder (R) 10/02/13

InMed Diagnostic Services of S.C., LLC
- MRI Right Shoulder 02/18/12

Kentucky Registrar of Vital Statistics
- Certificate of Death 04/14/14

Gorden T. McMurry, M.D.
- History and Physical 04/24/13

Oaktree Orthopaedics
- Dwight J. Jacobus, D.O.
  - To Don Smith 12/23/14, 01/05/15

Orthopaedic Associates of Kentuckiana, P.L.L.C.
- Frank O. Bonnarens, M.D.
  - Note 05/15/13
  - Prescription Note 05/10/13, 06/03/13, 07/01/13, 07/29/13

Redi Care
- Gabrielle Linder, PA-C
  - Note 01/24/12, 01/30/12

Interviews:

Alice Marie Zimmerman
Debra Ann Provins

OVERVIEW:

As you know, Mr. Provins was injured at work on 01/24/12 while in employment as an ironworker with Spirit Construction Company. While he originally complained of shoulder pain and difficulty in the use his arm, he was initially treated for a sprain and was prescribed Voltaren. A week later his medication was changed to Mobic and Robaxin.

An MRI on 02/18/12 as interpreted by Stephen Gordin, M.D. indicated that on his right shoulder he had a fairly extensive tear of the supraspinatus tendon, likely involving the infraspinatus. Also, Dr. Gordin noted that there appeared to be a tear involving the subscapularis tendon. There was no evidence of bicep dislocation. He was initially put on light duty but since his employer did not have light duty, he was let go. Ultimately, on 05/15/13, Frank O. Bonnarens, M.D. diagnosed him with a rotator cuff tear, impingement of the AC joint, degenerative joint disease and tear of the long head of the biceps. Dr. Bonnarens noted on 05/15/13 that his overall impression was that they were dealing with a tear of the rotator cuff and a possible tear of the long head of the biceps. On 05/15/13, Dr. Bonnarens performed a right shoulder rotator cuff repair, acromioplsty/Mumford procedure, debridement of the biceps stump and labral tears, and insertion of bone graft. Unfortunately, this surgical procedure was not a success and a second MRI done in October of 2013, revealed a large recurrent full thickness tear of the subspinatus tendon, a tear of the subspinatus border affecting the rotator cuff and labrum of the right shoulder. There was also subspinatus muscle degenerative changes and atrophy noted. A second surgery was recommended, however, prior to that surgical procedure being done, on 04/14/14, Mr. Provins died. His certificate of death indicated that he died as a result of an acute respiratory failure, septic shock, pneumonia, renal failure and alcohol abuse.

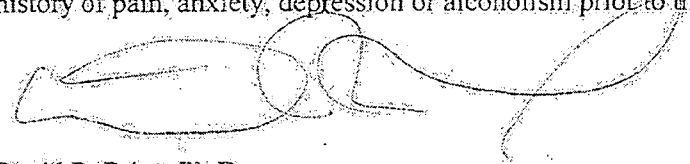
Interestingly, interviews with his wife, Debra Ann Provins and his sister, Mary Alice Zimmerman (who is a nurse), indicated that accompanying this injury Mr. Provins had developed pain, depression, and anxiety. An indication of the progression of his depression may well be reflected in his weight going from 193 pounds in 2012 to 242 pounds at the time of surgery in May of 2013. He also developed an Alcohol Abuse problem as related to his pain and suffering. This was noted on his death certificate. The Baptist Physical Therapy noted on 06/11/13 that there were "Obvious signs of ETOH abuse in his presentation (e.g., tremors, yellow/red eyes...)". Mrs. Provins noted that her husband was in pain for going on three years and had fought Workers' Compensation for treatment. Mrs. Provins reported that he was depressed, that he would stay in his home and in his bedroom. Mr. Provins would talk about suicide, death and dying. She reported that her husband did not want their children to see him dying. She said that he was progressively more depressed and just laid in bed. Then he started drinking until he would pass out. She described him as a severely depressed gentleman in pain who had developed an Alcohol Abuse problem secondary to his injury.

An interview with Ms. Zimmerman was illuminating. Ms. Zimmerman is a registered nurse who currently serves as a shift supervisor at a hospital in Florida. Ms. Zimmerman reported that Mr. Provins' became more depressed following his injury. She said he worried about not having any insurance and not being able to afford for any health care. He began to withdraw and would not communicate with his family. She tearfully reported that he "changed overall". Ms. Zimmerman said Mr. Provins could not do anything he used to do and became very reclusive. Ms. Zimmerman reported that by the time he went to the emergency room for care it was too late and he ultimately succumbed to the flu, pneumonia, sepsis and his organs began shutting down.

Historically, Ms. Zimmerman reported that Mr. Provins had previously smoked but quit years ago. She reported that pre-injury he had been a social drinker but had not consumed alcohol the way he did following his injury. She reported that he withdrew from his family to the extent that he started staying in a separate bedroom. He would stay in bed and not get up. She estimated that he had crying spells four to five times a week. Irritability was a problem. He became increasingly nonverbal. The symptoms of depression she specifically reported were pessimism, withdrawal, reports of malaise and sadness. He became increasingly hopeless. He reported feeling worthless. He had hypersomnia, sleeping long hours. He isolated himself and began to become overly dependent upon alcohol as an escape and a self-medication. She said that following his injury he became progressively depressed and she said he became unlikeable. Ms. Zimmerman reported she was at the hospital when he died. She actually extubated him from the ventilator.

These records would reflect that subsequent to Mr. Provins' shoulder injury he developed pain and suffering as well as a loss of income and an ability to use his right arm. Mr. Provins then likely developed a Somatic Symptom Disorder With Predominant Pain (DSM-5™ V30.82), a Major Depressive Disorder, Single Episode, Severe, Without Psychotic Features (DSM-5™ 296.23) and a moderate to severe Alcohol Use Disorder (DSM-5™ 303.9).

Obviously the process that ultimately led to Mr. Provins' demise appears to have been the injury followed by prolonged pain, financial distress, loss of the use of his right arm, impaired activity of daily living, depression, anxiety about his future and his self-medication with alcohol that led to his death. These would appear to be related to his shoulder injury of 01/24/12 as he had no history of pain, anxiety, depression or alcoholism prior to that event.



David R. Price, Ph.D.
Licensed Clinical Psychologist
The Forensic Network PA

PHYSICIAN'S ASSESSMENT STATEMENT

YES	NO	
X	____	1. I have had the opportunity to treat Mr. James C. Provins for difficulties that he had with his right shoulder following an on-the-job accident on January 24, 2012.
X	____	2. It is my understanding that Mr. Provins was working construction for Spirit, Inc.
X	____	3. It is my understanding that Mr. Provins injured his right shoulder when someone dropped the other end of a 150 lb. piece that they were lifting.
X	____	4. It is my understanding that Mr. Provins heard a snapping sensation and immediate pain.
X	____	5. That I referred Mr. Provins for an MRI due to the symptomology that he exhibited.
X	____	6. That the carrier in this matter denied my request.
____	X	7. It is my understanding that the employer let Mr. Provins go prior to my last visit with him on January 30, 2012.
UNABLE	____	8. I have since been provided with an MRI report which indicates that Mr. Provins has a fairly extensive tear of the supraspinatus tendon and involving the infraspinatus.
UNABLE	____	9. This finding supports the symptomology exhibited on January 24, 2012 when I saw Mr. Provins, and subsequently referred him for an MRI.
UNABLE	____	10. It is my belief that Mr. Provins suffered the tear in the on-the-job accident of January 24, 2012.

All of my analysis and subsequent conclusions are to a reasonable degree of medical certainty.

glinder PA-C 6/1/12

Gabrielle Linder, PA-C Date

109

STATE OF SOUTH CAROLINA	)	BEFORE THE SOUTH CAROLINA
COUNTY OF ANDERSON	)	WORKERS COMPENSATION COMMISSION
James Provins,	)	W.C.C. File No. 1200349
Claimant	)	
vs	)	AFFIDAVIT OF THOMAS V. MARTIN, M.D.
Spirit Construction Services, Inc.	)	
Employer	)	
and	)	
Insurance Company of the PA.	)	
Insurance Carrier.	)	
Defendants	)	

I, Thomas V. Martin, M.D., am a licensed physician (psychiatrist) in the state of South Carolina. I am Board Certified in General and Forensic Psychiatry by the American Board of Psychiatry and Neurology and the American Board of Forensic Psychiatry. My practice is located at 1330 Richland Street, Columbia, SC. My practice includes the care and treatment of patients from childhood to geriatrics. I have been qualified to testify in numerous counties in South Carolina as well as the United States Federal Courts. My practice of twenty five years includes the care and treatment of patients from childhood to geriatrics. I have been qualified to testify in Criminal, Family, Juvenile, and Federal Courts in numerous counties in South Carolina as well as other parts of the United States. Areas of testimony include diagnoses of major mental illnesses, personality disorders, substance abuse, as well as evaluations of competency to stand trial and criminal responsibility.

Being duly sworn I do swear and affirm the following:

1) A posthumous forensic psychiatric evaluation of Mr. James Curtis Provins (W.C.C. File No. 1200349) was requested by the deceased Claimant's attorney, Mr. Donald L. Smith, Esq. on May 18, 2016. Specifically requested was an opinion as to whether Mr. Provins' past psychiatric history, work-related injury on January 24, 2012, and manner of timely medical/surgical treatment contributed to his eventual demise on April 11, 2014.
2) Records reviewed included: Records from BaptistWorx Physical Therapy, Various Affidavits, Transcript of Testimony of Luis Carrion, Death Certificate of James Provins, Records from Orthopaedic Associates of Kentuckiana, P.L.L.C., Baptist Hospital Records, Records from Amin's Family Practice, Neuropsychological Examination Report by David Price, M.D., Records from High Field & Open MRI, InMed, and RediCare, Records from KentuckyOne Health Hospital Admission, SCWCC Pre-Hearing Brief dated October 2015, and a brief synopsis of events by Donald Smith, Esq.
3) At the time of his death, Mr. Provins was a 52-year-old, married man, formerly employed in Kentucky by Spirit Construction Services, Inc. as an Iron Worker. In 2001, he had a psychiatric history of "syncope" following the excessive consumption of alcohol. Mr. Provins reportedly used alcohol as a form of self-medication for stress.
4) Depressive illness and suicidal ideation plagued Mr. Provins in 2009 surrounding present-time marital discord and financial problems. As in the past and according to medical records, Mr.

MARTIN PSYCHIATRIC SERVICES, PC

Provins coped by drinking excessively in an effort to medicate his depressive symptoms. Still his overuse of alcohol led to his termination from employment. His prior struggle with alcohol use also led to one DUI and three Public Intoxication charges. Mr. Provins was stabilized at the University of Louisville Hospital in Louisville, KY and diagnosed with "alcohol dependence." Subsequent to his hospital release, there was no record or evidence provided to suggest that Mr. Provins suffered from ongoing alcohol or mood related issues. He returned to the workforce, reunited with his family, and reportedly, reintegrated into the community unfettered by his 2009 bout with alcohol and depression.

5) Mr. Provins was on an out-of-state construction assignment in South Carolina with Spirit Construction Services, Inc. when he incurred a work-related injury to his right shoulder on January 24, 2012. According to Mr. Provins' attorney, no MRI of the shoulder was authorized or approved through Workers' Compensation and the attorney made arrangements for the imaging study. In subsequent medical and court documents, it was stipulated that Mr. Provins' shoulder injury was legitimate and serious. The initial MRI and later orthopedic surgical records indicated that Mr. Provins sustained tears to tendons and rotator cuff in his right shoulder that significantly compromised his range of motion, strength and left him in persistent pain. Although "light duty" was recommended, no such position was available and Mr. Provins was relieved of his position at Spirit Construction Services, Inc.

6) Mr. Provins was medically evaluated immediately following the injury and he filed a Workers' Compensation case within approximately one month. According to Mr. Provins' attorney, Mr. Provins received no financial medical aftercare until the spring of 2013. In May 2013, Mr. Provins underwent orthopedic surgery by Frank Bonnarens, M.D. to remediate his condition. This was followed by opiate pain medication and physical therapy (PT) where after more than 30 PT sessions, notes indicated there was nearly no amelioration of Mr. Provins' pain or mobility. These PT notes appeared in direct contrast to Dr. Bonnarens report of Mr. Provins' range of motion was "good," rotation was "strong," and his condition was "progressing." Dr. Bonnarens further opined that Mr. Provins would have limited use of his right arm at his place of employment and that he would likely reach Maximum Medical Improvement (MMI) by November 2013. An MRI in October 2013 indicated that Mr. Provins' condition persisted and a second surgery was contemplated but no further treatment was provided on the injured shoulder.

7) According to Mr. Provins' attorney, by December 2013 Mr. Provins' medical/surgical support ended. According to family reports, Mr. Provins became increasingly depressed suffering insatiable pain and returned to alcohol as a form of self-medication. He became reclusive and nearly unreachable by friends and family. With persistent pain and lack of management, Mr. Provins' psychiatric condition took a downward spiral course. By all accounts, he drank alcohol excessively and sunk into a severe depressive condition and failed to maintain or seek any self-care.

8) On April 10, 2014, Mr. Provins' medical and psychiatric condition was so dire, he was emergently admitted to the St. Mary and Elizabeth Hospital. He was admitted with a myriad of multi-organ decompensated illnesses. He was not able to be medically stabilized and was not a candidate for surgical intervention. Mr. Provins was intubated, later extubated, and was eventually placed on palliative care. Mr. Provins died in the hospital on April 14, 2014. His Death Certificate sited causes of death: "acute respiratory failure, septic shock, pneumonia, acute renal failure, and alcohol abuse."

MARTIN PSYCHIATRIC SERVICES, PC

9) A posthumous psychological evaluation were requested by Mr. Provins' attorney. Psychologist, David R. Price, Ph.D. in his July 14, 2015 report opined that Mr. Provins suffered from "Somatic Symptom Disorder with Predominant Pain; Major Depressive Disorder, Single Episode, Severe, without Psychotic features; and moderate to severe Alcohol Use Disorder." He further opined that Mr. Provins' "injury followed by prolonged pain, financial stress, loss of the use of his right arm, impaired activity of daily living, depression, anxiety about his future and his self-medication with alcohol that led to his death."

10) It is clear from the records provided that Mr. Provins suffered from depressive illness and alcohol abuse disorders that preexisted his work-related injury in 2012. Furthermore, it has been stipulated that he suffered from a serious right shoulder injury that required medical and surgical treatment. It is also apparent that while under significant psychosocial stress or in pain, Mr. Provins would self-medicate pain and depression with alcohol. While awaiting professional medical/surgical and pain management after incurring his injury, Mr. Provins used alcohol to cope and self-medicate depressive and pain symptoms, thereby exacerbating a preexisting condition. Following his surgery in 2013, he did not gain significant remediation or pain relief. When medical assistance ceased in latter 2013, Mr. Provins again used alcohol in excess. This further enhanced his neurovegetative symptoms of depression, reclusiveness, and lack of self-care. It is this Examiner's opinion to a reasonable degree of medical and psychiatric certainty that Mr. Provins suffered from ***Depressive Disorder due to Another Medical Condition (right shoulder injury), Somatic Symptom Disorder with Predominant Pain, Substance (alcohol)-Induced Depressive Disorder, and Alcohol Use Disorder, severe***. These psychiatric conditions oftentimes lead to the reclusive, depressive and apathetic persona of individuals where self-care and maintenance of activities of daily living are seriously compromised, especially after prolonged lack of treatment. This likely contributed to Mr. Provins' medical, multi-organ decompensation requiring emergency hospitalization in 2014.

Further affiant sayeth not.

Sworn to before me this 16th of June, 2016

Thomas V. Martin, M.D.

Joy G. Covington Grimsley
A Notary Public for South Carolina
My Commission Expires: 12-15-2017

Respondents' Submissions

APA pages 113-547

Amin's Family Practice Associates, P.S.C.

Name James Aronica Allergies

DOB Age 40

DATE 2/20/01

TEMP 97.6

BP 120/80 28372

cc – Quit Smoking X 1 mo.
– ↑ coughing on hand.
↑ drainage
she ? passed out. Gives vague
drinks beer mostly –
↑ hand injury @ times
– coughing up dark sputum
from
– Hands tingles @ times
– Has Cramps ↑ Tender
Hands pains @ times

(+) DM – mother
(–) CA
(–) Smoking

Pt has had 3 blood assist spells
recently. Denies Beer, Pt
states he's exposed lost in his
head.

Fasting BMP, A1C

Refer to neurologist

Rx. Nasonex (2 sprays)
1 puff daily
Hydrin

Do. Symptoms explained, + possible causes discussed
↑ Yeast Infection
Plan/Plan

AMINS FAMILY MED CNT 502 937 0632 >>

P 9/18

2015-10-16 10:20

Amin's Family Practice Associates, P.S.C.

Name _____ Allergies _____

DOB _____ Age _____

9/25/01 - Pt does not want to see Neurologist referral S. Brammer.

7/30/01. JAMES C. PROVINS

S: The patient comes in saying that he has passed out five t[illegible] Drinks a fair amount of beer. This does not usually occur when he drinks heavier. The patient states that people tell him his eyes roll back and he is out for one or two minutes and does not recall what happens. Patient also has a family history of sugar.

O: Physical Exam Heart regular sinus rhythm without murmur. Lungs clear. Head, ears, eyes, nose and throat negative.

A: (1) Syncopal episodes. (2) Possible seizures.

P: Will refer to a Neurologist. The patient will come in for a fasting basic metabolic panel. DS/rlb BMP

7/31/01 Lab work only
SMP

7/31/01. JAMES PROVINS

S: The patient is here for lab only; BMP JSB/rlb

AMINS FAMILY MED CNT 502 937 0632 >> p 18/18

2015-10-16 14:18 449

Incident # 4520 Date 7/7/09 **BULLITT COUNTY EMS** Patient Name Provins, James

Airway ☒ Patent ☐ Obstructed ☒ Self ☐ Oral ET mm:____ Time:____ ☐ Nasal ET mm:____ Time:____ ☐ B.V.M. ☐ Suction

Breathing L ☒ Normal ☐ Absent ☐ Decreased ☐ Rales ☐ Rhonchi ☐ Wheezes **Resp Effort** ☒ Normal ☐ Increased
R ☒ Normal ☐ Absent ☐ Decreased ☐ Rales ☐ Rhonchi ☐ Wheezes ☐ Decreased ☐ Absent

Carotid Pulse L ☒ Present ☐ Decreased ☐ Absent **Skin Color** ☒ Normal ☐ Pale ☐ Cyanotic ☐ Flush ☐ Ashen
R ☒ Present ☐ Decreased ☐ Absent **Skin Condition** ☒ Normal ☒ Warm ☒ Dry ☐ Moist ☐ Hot ☐ Cool

Neuro. Responds To: ☒ Alert ☐ Voice ☐ Pain ☐ Unresponsive
Oriented To: ☒ Person ☒ Place ☒ Time ☐ Event ☐ Other:

Head ☒ Normocephalic ☐ Other:

Pupils L ☒ Normal ☐ Dilated ☐ Constricted ☒ Reactive ☐ Non-React
R ☒ Normal ☐ Dilated ☐ Constricted ☒ Reactive ☐ Non-React

Neck ☒ Unremarkable ☐ J.V.D. ☐ Pain ☐ Tracheal Deviation ☐ L ☐ R ☐ Deformity
☐ Other:

Chest / Back ☒ Asymmetrical ☐ Crepitus ☐ Guarding ☐ Unknown ☐ Flail Segment ☐ Accessory Muscle Use
☐ Deformity ☐ Other:

Abdomen ☒ Normal ☐ Distended ☐ Tender ☐ Rigid ☐ Guarding ☐ Pain ☐ Nausea ☐ Vomiting
☐ Other:

Abd Sounds ☐ Normal ☐ Increased ☐ Decreased ☐ Absent

Pelvis ☒ Unremarkable ☐ Pain ☐ Crepitus ☐ Other:

Extrem. LU ☒ Normal ROM ☐ Decreased ROM ☒ Pulse ☒ Sensation Cap Refill ☒ < 2sec ☐ >2sec
☐ Other:

RU ☒ Normal ROM ☐ Decreased ROM ☒ Pulse ☒ Sensation Cap Refill ☒ < 2sec ☐ >2sec
☐ Other:

LL ☒ Normal ROM ☐ Decreased ROM ☒ Pulse ☒ Sensation Cap Refill ☒ < 2sec ☐ >2sec
☐ Other:

RL ☒ Normal ROM ☐ Decreased ROM ☒ Pulse ☒ Sensation Cap Refill ☒ < 2sec ☐ >2sec
☐ Other:

Time	1437	1445
B/P	115/78	159/100
HR	77	98
Resp.	20	20
Temp.	98-95	98-95
GCS	15	15

BG Chemstrip: 84 Trauma Score:

Oxygen ☐ Cannula @ ____ LPM ☐ Mask @ ____ LPM ☐ B.V.M. @ ____ LPM

☐ I.V. ☐ I.O. Fluid / Rate / Gauge / Location / Volume In / Time / Initial

EKG Interpretation / Lead

☐ Countershock / ☐ Cardiovert
____ x @ ____ Joules
____ x @ ____ Joules
____ x @ ____ Joules
____ x @ ____ Joules

Medication / Dose / Route / Time / Initial

PROVINS, JAMES
1209903 48 M
42609495 07/07/09

Physician # ____ ☐ Phone / ☐ Radio Orders Requested:

48 y/o M found sitting in a chair. Pt. admits to ingesting large quantities of ETOH. Pt. is having suicidal thoughts. Pt. denies wanting to hurt anyone else. Pt. vitals assessed. Pt. BG assessed. Pt. → to Unit. Pt. care → to staff. Gina OA. (END)

Report Prepared By: [signature] Received By: [signature]

Date 7/7/09 License # 1613 **BULLITT COUNTY EMS** Response # 4520 Unit # 21

0113 — 1501 WEAVERS Run Road — Scene Address / City / State / Zip — 100220 — Vol L — Destination

Warning Equip. Used: To Scene ☐ Lights ☐ Siren ☒ None; From Scene ☐ Lights ☐ Siren ☒ None

	Times	Mileage
Unit Notified	1355	228254
Unit Enroute	1355	XXXXXXXXXXXXXX
Arrived Scene	1424	228267
Enroute Dest.	1424	XXXXXXXXXXXXXX
Arrived Dest		228297
Back In Service		228311
ALS Arrival		XXXXXXXXXXXXXX

Crew ID
1 Driver / Attendant [illegible] Certification # 56265
2 Driver / Attendant KNARR 47470
3 Driver / Attendant

Name (Last, First, MI) PROVINS JAMES C

Address

City St Zip

DOB / Age 48 yrs mos Sex M F

SSN Phone 624

☐ Hispanic ☐ White ☐ Asian / P.I. ☒ Unk.
☐ Non-Hispanic ☐ Black ☐ Alaska Nat.
☒ Unk. ☐ Other ☐ Amer. Ind.

Run Type: 2 Dispatch (1- Emergency) 1 Transport (2- Non-Emergency)

Response Type
01 Emerg. Dispatch 03 Sched. Trans 05 Standby
02 Interpt./Assist 04 Non-Emergency 99 N/A

Destination Determined By
01 Closest Fac. 04 Protocol 07 Law Enf.
02 Patient 05 M.D. on Scene 08 Managed Care
03 Patient M.D. 06 Medical Control 99 N/A

Circumstance Codes
01 Weather 05 Infect. Exper. 09 Veh. Collision
02 Crowd Control 06 Lang. Barrier 10 Veh. Problems
03 Ext. > 20 min. 07 Road Cond. 11 Unsafe Scene
04 Haz-Mat 08 Traffic 99 N/A
00 Other

Patient Disposition
01 Trtd.,Trans 05 No Trmt. Req. 09 Call Cancelled
02 Trtd.,Trsfr Care 06 Trmt. Refused 98 Unknown
03 Trtd.,Trsfr./POV 07 Obv. Deceased 99 N/A
04 Trtd.,Released 08 No Pt. Found

Aid Before Arrival
01 Bystander 03 ALS 1st Resp. 99 N/A
02 BLS 1st Resp. 98 Unknown 00 Other

Other Responders
01 EMS/BLS 04 Fire Dept. 08 Coroner
02 EMS/ALS 05 Rescue Sqd. 09 Law Enf.
03 EMS/AIR (ALS) 06 Medical Resp. 99 N/A
07 Haz-Mat 00 Other

Restraints Used
YES NO Reason:

Medical Necessity
XB Bedridden XC Stretcher Only XD Restrained XE L.O.C./Shock XG Susp. Fracture XI Stroke / M.I. XJ Sev. Hemorrhage XL No Bed Avail. XM Surg./Test @ 2nd Hosp XO Trans. to Approved Dialysis Clinic
Reason :

Primary Impression- 45 **Signs / Symptoms** **Chief Complaint-** 45

01 Abdo. Pain	17 Chills	33 Hyperthermia	
02 Airway Obstr.	18 Confusion	34 Hypothermia	49 Seiz./ Convlsn.
03 Allergic React.	19 Cough	35 Shock/Hypovol.	50 Sexual Assault
04 Altered LOC	20 Obvious Death	36 Hemor./Bleeding	51 Smoke Inhal.
05 Anxiety	21 Dehydration	37 Inhalation Inj.	52 Sting / Bite
06 Asthma Attack	22 Diabetic Emerg.	38 Myocard. Inf.	53 Stroke / CVA
07 Back Pain	23 Diarrhea	39 Naus./ Vom.	54 Syncope / Faint
08 Behavior Disorder	24 Dizziness	40 Numbness	55 Tachycardia
09 Bloody Stool	25 Ear Pain	41 Palpitations	56 Trauma
10 Bradycardia	26 Electrocution	42 Paralysis	57 Unresponsive
11 Burning Sens.	27 Eye Pain	43 Poison / Drug	58 Vaginal Hemm.
12 Cardiac Arrest	28 Flank Pain	44 Preg./ O.B. Del.	59 Vent. Fibrillation
13 Cardiac Comp.	29 Fracture (Narr.)	45 Psych. Eval.	60 Weakness
14 Car. Rythm. Dist.	30 Gen. Sickness	46 Resp. Arrest	88 Unknown
15 Chest Pain	31 Headache	47 Resp. Distress	99 N/A
16 Chest Tightness	32 Hypertension	48 Rib Pain	00 Other (Narrative)

Injury Matrix

00 Head	07 Flank	00 Amputate	07 GSW
01 Face	08 Arm/Shoulder	01 Blunt	08 Laceration
02 Neck	09 Hand	02 Burn	09 Pain
03 Thorax	10 Leg	03 Crush	10 Puncture
04 Abdomen	11 Hip/Pelvis	04 Dislocate	11 Swelling
05 Spine	12 Foot	05 Frac. Open	12 Abrasion
06 Back	13 External	06 Frac. Closed	13 Contusion

Cause of Injury

01 Aircraft	08 Drug Poison	15 Knife	22 Rad. Exposure
02 Assault	09 Electrocution	16 Lightning	23 Rape/Sex Assault
03 Bicycle	10 Excess Heat	17 Machinery	24 Smoke Inhal.
04 Blunt Object	11 Excess Cold	18 Mac. Gulfoost.	25 Sting / Bite
05 Watercraft	12 Fall or Jump	19 M/Veh. Traf.	26 Work Related
06 Chem. Poison	13 Firearm	20 M/Veh. Other	98 Unknown
07 Drowning/ N.D.	14 Fire / Flames	21 Ped., Traf	99 N/A
			00 Other

Intent of Injury ☐ Accidental ☐ Self ☐ Other ☐ Unknown

Medical History

01 Asthma	04 Cardiac Dis.	08 Renal Dis.	12 Tobacco	99 N/A
02 Behav. Dis.	05 Diabetes	09 Seizures	13 Tracheostomy	00 Other (Narrative)
03 Cancer	06 Emphys/COPD	10 Stroke/CVA	14 Tuberculosis	
	07 Hypertension	11 Subst. Abuse	15 Unknown	

Allergies & Medications ☒ NKDA ☒ No Regular Meds ☐ Listed in Narrative

Safety Devices

01 Air Bag	03 Shldr Belt Only	06 Eye Protection	09 Lap Belt Only
02 Lap/Shldr. Belt	04 Helmet	07 Protect. Cloth.	98 None/ Unknown
	05 Child Car Seat	08 Float Device	00 Other (See Narr.)

Suspected Use/Abuse ☒ Alcohol ☐ Drugs ☐ Both ☐ Unknown ☐ None

Cardiac Arrest Witnessed By ☐ Bystander ☐ BLS ☐ ALS ☐ Unknown ☒ None

CPR Provided By: ☒ N/A ☐ Unknown ☐ BLS ☐ ALS ☐ Bystander

Time of Cardiac Arrest **Time CPR Initiated**

Pt Condition at Dest. ☒ Unchanged ☐ Better ☐ Worse ☐ Expired ☐ Unknown ☐ N/A

Treatment Procedure Codes

	01 Airway, Oral	09 Cold/Hot Applied	16 MAST/PASG	23 Short Bd/K.E.D.
	02 Airway, Nasal	10 CPR Initiated	17 OB Care/Del.	24 Splint, Arm
B	03 Asst. Ventilation	11 Defib.,Auto	18 Oxygen, Mask	25 Splint, Leg
L	04 Bandage/Dress.	12 Extrication	19 Oxygen, Cannula	26 Splint, Traction
S	05 Bleeding Control	13 O.C.B. (E.V.M.)	20 Position/Elev.	27 Suction Airway
	07 Burn Care	14 IV Maintenance	21 Revised Trauma Scr	28 Vital Signs
	06 C-Collar Applied	15 Long Bd/Scoop	22 Ped. Trauma Scr	00 Other BLS
A	50 Admin. Medication	54 Chest Decomp.	58 Glucose, Blood	62 Intravenous Access
L	51 Cardiac Pacing	55 Cricothyrotomy	59 Gastric Tube	63 Pulse Oximetry
S	52 Cardioversion	56 Defib., Manual	60 Intubation	00 Other ALS
	53 Capnometry	57 ECG Monitoring	61 Intraosseous Access	

Time / Crew I.D. / Procedure (Attempts/Success) | Time / Crew I.D. / Procedure (Attempts/Success)

PROVINS, JAMES
1209903 48 M
42609495 07/07/09

Signature of Representative of Facility Assuming Care: X

UofL Health Care
University Hospital

Emergency Department
530 S. Jackson Street
Louisville, Kentucky 40202

SSN	Height	Weight	Treatment Room
	' "		EPS-03

Patient Name	Triage Date	Triage Time	DOB	Age	Sex	Patient Number	MR Number
PROVINS ,JAMES	07/07/09	15 : 27		48	M	42609495	1209903

cc:SUICIDAL

Allergies: No Known Allerg No Known Drug A No Known Food A

More Allergies?

PHYSICIAN ORDERS

Triage Vitals: Temp °F HR RR B/P SaO2 %

☐ CBC ☐ BMP ☐ CMP ☐ Amylase ☐ Lipase ☐ GGT ☐ U/A ☐ Old Chart
☐ PT/PTT ☐ BNP ☐ BSM x3 ☐ ECG ☐ BSM EKG x3 ☐ D-Dimer
☐ BHCG Qual ☐ BHCG Quant ☐ T & S ☐ T & C ☐ KOH/Wet Prep ☐ GC/CHLAM ☐ ABG
☐ Unk Tox ☐ Acet ☐ ASA ☐ ETOH ☐ UCOC ☐ UAMP ☐ UOP ☐ UTHC
☐ DAU ☐ UBAR ☐ UBZP ☐ UPPX ☐ STCA ☐ SBAR ☐ SBZP ☐ Dilantin ☐ Rapid Strep

Initial/ Order #

Time	RADIOLOGY	REASON	TIME	ADDITIONAL ORDERS	REASON
	☐CXR ☐ PA/Lat ☐ Portable			☐	
	☐5V C-spine			☐	
	☐CT without HEAD			☐	
	☐CT C-spine			☐	
	☐CT with IV/PO Abd/Pelvis			☐	
	☐CT Chest PE Protocol			☐	
	☐CT Abd/Pelvis Renal Stone			☐	
	☐CT Chest Abd/Pelvis			☐	
	☐CT Chest Abd/Pelvis w/ T/L Recon			☐	

OBSERVATION ORDERS / TEST:
☐ Admitted to EPC Date: __/__/__ Time: ____
NPO after: ____

CONSULTS/TIME:

☐ Monitor ☐ BP Monitor ☐ Pulse Ox ☐ IV Access ☐ ACCUCHECK ____
☐ URINE DIP ☐ URINE PREGNANCY POS NEG
☐ SECURITY HOLD

Time	Order	Nurse Signature / Time	Time	Order	Nurse Signature / Time
	1.			6.	
	2.			7.	
	3.			8.	
	4.			9.	
	5.			10.	

Dischcharge: ☐ Date: __/__/__ Time:
Transfer to: ☐ L&D ☐ EPS ☐ Dialysis

Follow-up with Dr(s):

INSTRUCTIONS:

Rx / Meds:

PT Admit ☐ Date __/__/__
BSS Time:
Type Bed:
Admit Bed:

☐ CHARGES DONE
Left ED Date: __/__/__
Left ED Time:

Discharge Nurse Signature: Time:

MS or Intern Signature: Date: __/__/__ Time:

Attending/Resident Signature: Date: 7/9/09 Time:

Orange Sticker Registered

Green Security Sticker Hold

IMPRESSION:
1.
2.
3.
4.

Page 1 of 2

University of Louisville Hospital
James Graham Brown Cancer Center
Psychiatric Institute
534 South Jackson Street | Louisville, KY. 40202

PROVINS, JAMES
1209903 | 048 M
42609495 | 07/07/2009

EMERGENCY PSYCHIATRY EVALUATION
PHYSICIAN SUMMARY

Initial Physician Assessment

Date: 7/7/09 Time: 1548 Dr. Ali

☐ Reviewed VS 166/102 96 16 166/102 96 16 @3:11 am 7/7/09

☐ Pain/Physical Complaints + HTN, ϕ pain, ϕ DM, ϕ thyroid dz, ϕ heart dz, ϕ seizure hx

☐ Reviewed Medical History/Medical Illnesses had had episodes of syncope (4 episodes in 2 months time 2yrs ago, none since) Reports SI x 2 months

☑ Surgeries/Traumas Tonsillectomy / ϕ

☑ Substance Abuse: ☐ YES ☐ NO ☑ ETOH 10 beers/day quarter whiskey today vodka 16-18 beers/day, ½ pint - 1 pint last drank today drinks daily 7yrs

☑ Illicit Substances Cocaine 2 yrs ago, ☑ Tobacco quit 10 yrs ago, used dip snuff 3 yrs ago smoking 4 yrs

CURRENT MEDICATIONS	DOSAGE	LAST USE
None		

☐ Medications Reviewed ☑ Medications Reconciled

☑ Past Medications Ativan 2 ½ tabs estimations

☑ NKDA ☑ Allergies Sulfur

☐ LABS ordered

☐ BHCG	☐ BMP	☑ Serum Etoh BAL	☐ UA	☐ EKG	☐ CT of (with/without contrast)
☑ CBC	☑ CMP	☑ Urine tox DAU	☐ CXR	☐ TSH	☐ Level

☑ Medications Ordered Ativan, Folate, Thiamine

☑ Other Orders ϕ

Security Hold

Hold at Triage ☑ Meets Criteria Continue Hold ☐ Drop Security Hold
Voluntary at Triage ☐ Continue as Voluntary ☐ Add Security Hold

J. H. Ali
Physician Signature

Plan

☐ Ready for LCSW Evaluation ☐ Transfer to ER for further Medical Evaluation/Treatment ☑ Other BAL given 7

UL779200 (04/09) Page 1 of 3

University of Louisville Hospital
James Graham Brown Cancer Center
UofL Health Care
530 South Jackson Street | Louisville KY 40202

PROVINS, JAMES
1209903 48 M
42609495 07/07/09

EMERGENCY DEPARTMENT SECURITY DETENTION

AUTHORIZATION

Ordered By: _____ Signature of Physician Released by: _____ Signature of Physician

Service: ☐ EMERGENCY MEDICINE ☐ EMERGENCY PSYCHIATRY Initiated by: _____ Signature of RN

RATIONALE

☐ Suicidal/Homicidal Threats or Attempts
☐ Combativeness
☐ Assaultive Behavior
☐ Agitation
☐ Treatment Interference/Inability to Recognize or Identify Objects with Intact Sensory Function
☐ Sedation/Unconscious
☐ Falls Potential/Wandering/Unsteady
☐ Disorientation: Person, Place and Time
☐ Confusion or Psychosis

SECURITY ORDERS (Unless otherwise specified, order covers up to 24 hours. A face to face reassessment must be done by an RN at least every 2 hours to determine need for continuation.)

DETENTION (HOLD)

Placed 7/7/09 (Date) 1530 (Time)
Released: _____ (Date) _____ (Time)
Order Covers: _____ TO _____
RN/MD in Attendance: Kathy Magner

ROOM 4 SECLUSION

Placed _____ (Date) _____ (Time)
Released: _____ (Date) _____ (Time)
Personal Property: ☐ None: ☐ Disposition: _____ ☐ Returned to Patient ☐ N/A
Order Covers: _____ TO _____
RN/MD in Attendance: _____

RESTRAINTS

Placed _____ (Date) _____ (Time)
Released: _____ (Date) _____ (Time)
Order Covers: _____ TO _____
RN/MD in Attendance: _____

TYPE OF RESTRAINTS

☐ Chest Strap ☐ Velcro
☐ Knee Strap ☐ Vest
☐ Hard ☐ Mittens
☐ Soft

DETENTION (HOLD)

Placed _____ (Date) _____ (Time)
Released: _____ (Date) _____ (Time)
Order Covers: _____ TO _____
RN/MD in Attendance: _____

ROOM 4 SECLUSION

Placed _____ (Date) _____ (Time)
Released: _____ (Date) _____ (Time)
Personal Property: ☐ None: ☐ Disposition: _____ ☐ Returned to Patient ☐ N/A
Order Covers: _____ TO _____
RN/MD in Attendance: _____

RESTRAINTS

Placed _____ (Date) _____ (Time)
Released: _____ (Date) _____ (Time)
Order Covers: _____ TO _____
RN/MD in Attendance: _____

Criteria for Patient's Early Release From Restraints

☐ Patient no longer dangerous to self
☐ Patient no longer dangerous to others
☐ Other (specify): _____

UL780225 (03/08)

ED0190

University of Louisville Hospital
James Graham Brown Cancer Center

PROVINS, JAMES

1209903 6/29/1961 M

42609495 7/7/2009

ADVANCE DIRECTIVE INFORMATION

LIVING WILL AND ADVANCE DIRECTIVE INFORMATION

Does the patient have a Living Will or other advance directive?

☐ Yes ☒ No ☐ UNABLE TO ANSWER BECAUSE _____

If Yes, does the patient have a copy with them?

☐ Yes (make a copy for the chart)

☒ No (ask the patient or representative to deliver a copy to the Inpatient Nursing Unit)

If No, does the patient desire additional information about an Advance Directive?

☐ Yes (Nursing to call a consult to Social Services to Social Services at (562-3008)

☐ No

Advance Directive Information Completed By	Registration Staff or Nurse Signed by ESTEP, BEATRICE on 07-Jul-2009 16:04:33 -0400	Date 7/7/2009

Clinical Report - Nurses
U of L Healthcare
Emergency Department
530 S. Jackson St., Louisville, KY 40202
502-562-3015
07/07/2009 15:27

Patient: PROVINS, JAMES
MRN: 1209903 Encounter: 42609495
Sex: M DOB: [redacted] Age: 48y
Room: HBU-01

TRIAGE
Initial Assessment
Acuity: LEVEL 3.
Chief Complaint: SUICIDAL THOUGHTS.
BP: 166 / 102. HR: 96. RR: 16. Alert. No acute distress. --7/7/09 15:41 Kathleen Magnuson, RN.

Medications
None. --1531 (07/07/09) Kathleen Magnuson, RN.

Allergies
NKA. --1531 (07/07/09) Kathleen Magnuson, RN.

History
Onset (about 2 months). Pain level now: 0/10. The patient describes feelings of depression. Has been feeling agitated. The patient has had sleeping difficulties ("I can't sleep at ALL UNLESS I GET DRUNK"). Admits to having hallucinations (FOR THE LAST TWO MONTHS I'VE BEEN DRINKING HEAVILY AND I'VE HEARD SOME SHIT").
PAST MEDICAL HX: Hypertension (Untreated for elevated bp.).
SOCIAL HX: Heavy alcohol use. Last drink was 1 hours ago. Patient is a longstanding alcoholic (16 to 18 beers a day, 1/2 pt to 1 pint, Client said he drank both beer and liquor today.). Nonsmoker. A potential harm assessment was performed. The patient answered "yes" to the question "Are you here because you tried to hurt yourself?" and "Have you recently had thoughts about killing yourself?" and "no" to the question "Have you ever tried to hurt yourself before today?" and "Have you recently had thoughts about harming or killing others?". Functional assessment: no impairments noted. The nutritional risk assessment revealed no deficiencies. No report of abuse. No infectious disease exposure.
Historian: patient. Arrived in police custody (from sister's house).
--7/7/09 15:41 Kathleen Magnuson, RN.

Interventions
Fall risk assessment completed. No fall risk identified. TOR. --7/7/09 15:41 Kathleen Magnuson, RN.

PHYSICAL ASSESSMENT
Alert. Oriented X 3. Patient's speech is loud. The patient describes suicidal thoughts ("I wanted to either jump off the bridge or blow my brains out"). Appears anxious, sad and suicidal. The patient appears moderately overweight. Patient appears unkempt. Respirations not labored. Skin is warm. Skin rash (Client is a welder and has evidence of old burns on arms and upper chest.). --7/7/09 15:45 Kathleen Magnuson, RN.

NURSING PROGRESS NOTES
16:14. (LYING ON LONG CHAIR IN EPS TREATMENT OBSERVATION ROOM.). --7/7/09 16:14 Mary Clay, RN

Regular diet offered. --7/7/09 16:46 Kathleen Magnuson, RN

Patient ID band checked for patient name: patient confirmed. Blood samples drawn from the left antecubital space with 21g by nurse per protocol ; labeled in presence of the patient and sent to lab: red, green and purple top. --7/7/09 16:56 Kathleen Magnuson, RN

18:07. The patient reports no complaints and the patient is calm and resting quietly. --7/7/09 18:07 Mary Clay, RN

21:30. BP: sitting L arm auto 203 / 104. HR: 67. RR: 18 regular. (Pt tremulous, and complains of headache.). --7/7/09 21:30 Masterson, Amanda, RN

21:35. (Dr. Campbell, and Dr. Roberts notified of elevated blood pressure. Pt now resting in HBU bed #1.). --7/7/09 21:35 Masterson, Amanda, RN

21:43. (Pt given 0.1 mg Clonidine orally, and 1 tablet multivitamin orally. Pt declined a snack at this time.). --7/7/09 21:44 Masterson, Amanda, RN

2144. (Folic acid and thiamine given per order.). --7/7/09 21:47 Green, Rhonda, RN

23:27. BP: 151 / 82 lying L arm auto. HR: 70. RR: 16 regular. --7/7/09 23:28 Masterson, Amanda, RN

01:09. (Snoring loudly in HBU bed # 1). The patient reports no complaints and the patient is calm and sleeping. --7/8/09 01:09 Masterson, Amanda, RN

0230. (In talking with Social Worker). --7/8/09 02:42 Masterson, Amanda, RN

0326. (Pt given 2 mg Ativan orally at this time per Dr. Igbal for tremors.). --7/8/09 03:27 Masterson, Amanda, RN

0400. The patient reports no complaints and the patient is calm and resting quietly. --7/8/09 05:50 Moore, Susan, RN

0530. The patient is calm and resting quietly. --7/8/09 06:54 Green, Rhonda, RN

(In hbu 1,). The patient is resting quietly. --7/8/09 06:56 Green, Rhonda, RN

BP: 134 / 68 lying R arm. HR: 58. --7/8/09 07:06 Green, Rhonda, RN

Regular diet offered; patient consumed 100% and tolerated well. --7/8/09 08:09 Kathleen Magnuson, RN

0837. BP: 168/98. HR: 71. RR: 16. Temp: 96.7 oral. (TREMULOUS IN BILATERAL UPPR EXTREMITIES. ATIVAN 2 MG ORALLY GIVEN FOR S/S OF ETOH WITHDRAWAL.). --7/8/09 08:59 Mary Clay, RN

09:18. (To treatment team meeting, ambulatory, gait steady). --7/8/09 09:18 Urton, Sarah, RN

BP: 149 / 101. HR: 100. --7/8/09 09:58 Kathleen Magnuson, RN

(Given Librium 50 mg po per orders for elevated bp and pulse. Continues to rest in HBU bed #1.). --7/8/09 10:25 Kathleen Magnuson, RN.

Locked/Released at 07/08/2009 11:24 by Kathleen Magnuson, RN

.....

Patient: PROVINS, JAMES OrderSheet
MRN: 1209903 U of L Healthcare
VisitID: 42609495 530 S. Jackson St., Louisville, KY 40202 502-562-3015
48y, M Registration Date/Time: 07/07/2009 15:28

ORDER SHEET

Allergies: NKA

GENERAL ORDERS:

MEDICATION ORDERS:

IV FLUIDS:

ORDER SHEET NOTES:

This document has not been locked and should not be saved in the medical record.

University of Louisville Hospital
James Graham Brown Cancer Center

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REGISTRATION FORM

Patient Number		Room	Adm. Date	Adm. Time	Attn Phys No.	Attending Physician	Dept	Med Rec.
42609495	ER	HBU-01	07/08/09	11:27	237883	ALI, JERMAINE A.	EMR	1209903

Patient Name and Address	S.S. Number	Status	P T	FC	Date of Birth	Sex	Mar. Sts
PROVINS ,JAMES		EA	Z	R	48	M	M

Telephone	Maiden Name	Religion	Race	Admit By	Source
		NON	1	PW8033	EO

Patient's Employer	Telephone	Next of Kin	Relation
UNEMPLOYED		ZIMMERMAN ,ALICE	SIBLING

Guarantor Name and Address	Relation	Guarantor's Employer	Telephone
PROVINS ,JAMES	S	UNEMPLOYED	

Carrier No.	Name	P	Insured	Rel	Precert. No.		Cert. Policy HIB #
R10	JEFFERSON	1	PROVINS ,JAMES	S			400

Nature of Accident	On Job	Where	Date	Time
			07/07/09	00:00

Chief Complaint	Comments
ALCOHOL DEPENDENCE	NO PP OR MC PER HDX..PT UPDATE

Primary Language	Primary Care Physician
ENGLISH	ASSOCIATES, E D

Comments/Notes:

Physican's Copy

RG0030

University of Louisville Hospital
James Graham Brown Cancer Center
530 South Jackson Street | Louisville KY 40202

PROVINS, JAMES
1209903 048 M
42609495 07/07/2009

APPLICATION AND REQUEST FOR VOLUNTARY ADMISSION (FOR ADULT PERSONS)

(Pursuant to KRS 202A and 202B)

☐ MENTAL ILLNESS ☐ MENTAL RETARDATION
☑ ALCOHOL ☐ DRUG DEPENDENCE

I, James Provins KRS 202A.060 (1)(B), residing at 13605 Lot 104 (CITY), 40272 (COUNTY), Kentucky make application for admission on a voluntary basis to Ep 3 hospital/facility, located at _____, Kentucky for such care and treatment individualized for my needs, as may be determined by authorized medical/professional staff to be necessary.

I understand that I should participate in my individualized treatment plan which may include, but is not limited to: diagnosis, evaluation, group and individual therapy, and general medical, psychiatric and dental care.

I agree to remain in the herein-named hospital/facility voluntarily until I am discharged by the medical staff, or until I make written request to the medical staff. I understand that a request for my release, made by a person or persons other than myself, must be acceptable and agreed to by me.

Date 7-8-09 Signature James Provins

Witnessed by:

1) _____ Date 7/8/09

2) _____ Date 7/8/09

UL656217 (02/09)

BH0020

U of L Health Care ~ University Hospital

U of L Health Care
University Hospital
Louisville, Kentucky 40202

EMERGENCY PSYCHIATRY SERVICES

☐ Previous Medical Record Reviewed

ULH Medical Record # 01209903
Patient Name James Provins
Seven Counties ID# 406948356
Date: 07/08/2009
Time: 2:15am

Social Worker Evaluation

Legal Status When First Seen Security Hold (V) **Referral Source** Law Enforcement (33)
Informant(s) ☒ Patient ☐ Family ☐ Friend ☐ Therapist ☐ M.D. ☒ Law Enforcement ☐ Other
Identifying Data
Date of Birth: Age: 48 Sex: ☒M ☐F Race: 01 - White / Caucasion ☐ Hispanic
Deaf or Hard of Hearing ☒ No ☐ Yes Marital Status: Married (2)
Comments:
Contact Person's Name: Alice Zimmerman Relationship to Patient: sister
Telephone Number: 922-0399
Chief Complaint "I'm drinking myself to death"
Presenting Problem(s) / Reason for referral

Patient was brought to EPS by police following call from patient's sister who reported patient made comments of wanting to kill himself. Patient reported he is depressed due to losing his job, hes been drinking daily and agreed that when intoxicated he makes comments about wanting to die. Patient is a union iron worker , was fired from his job June 2009 for suspicion of alcohol / drug use on the job, one week a go a fellow ironworker completed suicide by hanging"he had just lost his job too". Patient was visbly u upset when discussing his friend's death. patient is separated from his wife and living with his sister, reported daily alcohol usage . Patient stated he wants help but doesn't know if he wants to stop drinking.

Past Psychiatric History	Severe Mental Illness ☐ No ☐ Yes		
INPATIENT FACILITY	**DATES**	**MD/THERAPIST (If known)**	**DX (If known)**
none			
CURRENT OUTPATIENT PROVIDER	**DATES**	**MD/THERAPIST (If known)**	**DX (If known)**
none			
PAST OUTPATIENT PROVIDER	**DATES**	**MD/THERAPIST (If known)**	**DX (If known)**
none			

Living Arrangements In Own Home (22) Employment Status / Occupation Unemployed /
Education HS Graduate/GED (12) Special Education ☐ Yes ☐ No Religion Christian
Military 0 - No Military Service Branch, Dates, Type of Discharge:

PROVINS JAMES
1209903 48 M
42609495 07/07/09

03.15.09

U of L Health Care ~ University Hospital

Patient Name / Medical Record # PROVINS, JAMES 1209903 48 M 42609495 07/07/09

Family

Family history of Mental Illness: denied

Family history of Alcohol/Substance abuse: father recovering alcoholic paternal uncles

Family history of Suicide: denied

Does patient have children? ☒ Yes ☐ No Ages: 17,13

Child care arrangements during hospitalization: ☐ N/A ☒ Yes with his wife

Alcohol/Drug Use

Substance	Amount/Frequency	Duration of Use	Last Use
Alcohol	daily 1/2 gallon whiskey or vodka, 14-24 beers	age 16	07-07-09

Comments: Patient reported blackouts, loss of control becoming more depressed when drinking physical and psychological withdrawal symptoms

Abuse		DATES/DURATION	ABUSER(S)
Physical Neglect or Abuse	☐ Yes ☒ No		
Sexual Abuse	☐ Yes ☒ No		
Emotional Neglect or Abuse	☐ Yes ☒ No		
Other Traumatic Experience	☐ Yes ☒ No		

Comments:

Legal (Arrests, DUIs, Probations, Pending Charges)

☐ Patient has never been arrested ☐ Pending charges:

☒ Patient has been arrested. What charges: 1 DUI 3 PI's

☐ Patient has been convicted. What charges:

☐ Patient is currently on probation/parole. Who is probation officer?:

Comments:

History of Violence

☐ Y ☒ N Recent violence ☐ Person ☐ Property (explain)

☐ Y ☒ N Past Violence ☐ Person ☐ Property (explain)

Comments:

U of L Health Care – Un

PROVINS,JAMES
1209903 48 M
42609495 07/07/09

Patient Name / Medical Record # ____

Suicidal Ideation? ☒ No ☐ Yes If yes, describe denied

☐ Has a PLAN to attempt suicide (describe): denied

☐ Plan is specific ☐ Method is lethal ☐ Firearms available
☐ Means to complete plan are available ☐ Little or no chance of rescue

☐ Current suicide attempt

Previous Attempts? ☒ No ☐ Yes, If yes, how many			
	When	Method	Outcome
#1			
#2			
#3			
If more that 3 attempts, summarize history			

☐ REVIEWED RISK FACTORS and MODERATION FACTORS LISTED BELOW

Current Status	
☐ Possession and/or direct access to firearms	☐ Humiliation or perception of failure
☐ Sees situation as hopeless	☐ Withdrawn or isolated from others
☐ Recovering from a deep depression	☐ Preoccupation with death
☒ In a current state of depression	☐ Ideas of "reuniting with a loved one"
☐ Aggressive behavior	☐ Experiencing severe anxiety
☐ Highly impulsive	☐ Severe insomnia
☒ Acute ETOH/drug intoxication (BAL ____)	☐ Current psychotic episode
☒ Withdrawing from drugs/alcohol	☐ Command auditory hallucinations
☐ Refusing help	☐ Recent psychiatric hospital discharge
☐ Inconsistent reporting	
Stressors	
☐ Domestic violence / current sexual or physical abuse	☐ Mental illness
☐ Sexual orientation conflict	☐ Suicide / suicide attempts of family member or friend
☒ Interpersonal relationship turmoil	☒ History of substance abuse (past or present)
☐ Medical / physical problems	☐ Minimal social support
☒ Recent or impending personal loss	☐ Other (describe):
☒ Work / academic problems	
Historical / Demographics	
☐ Geriatric/adolescence	☒ Substance abuse co-morbid with depression
☐ History of suicide ideation/behavior	☐ History of sexual abuse
☐ Family history of suicidal ideation/behavior	☐ White/Male/Unmarried
	☐ Cluster B traits
Moderating Factors (may decrease a person's risk for suicide)	
☐ Good support systems	☐ Religious/ethical beliefs that prohibit suicide
☐ Children	☐ Built-in rescue plan
☐ Strong coping skills in the past	☐ Future orientation/planning

Comments:

03.15.09

page 3 of 6

U of L Health Care – University Hos

PROVINS, JAMES
1209903 [redacted] 48 M
42609495 07/07/09

Patient Name / Medical Record #: _____

Mental Status Exam

☐ Alert ☒ Other groggy but able to provide relevant answers to questions!

Orientation Person yes Place yes Time

Appearance/Behavior unkempt malodorous, shaking tremors, cooperative congenial talkative

Speech normal cadence Mood reported as depressed

Affect congruent with mood Thought Process

Sleep ☒ Poor ☐ Fair ☐ Good due to alcohol use

Appetite ☒ Poor ☐ Fair ☐ Good

Thought ☐ Suicidal ideation ☐ Intent ☐ Plan denied

Content ☐ Homicidal ideation denied (Intended victim's name)

Hallucination(s) denied

Delusions(s) denied

Judgment fair Insight adequate

Attention adequate Concentration adequate

Memory ☒ Immediate Recall ☒ Recent ☒ Remote

Other

Intellectual Functioning average

Comments:

GUIDE FOR SUICIDE RISK ASSESSMENT AND INTERVENTION

☐ **NO SIGNIFICANT CURRENT RISK** ☒ **LOW RISK** ☐ **MEDIUM RISK** ☐ **HIGH RISK**

Rationale for risk: Patient denied current suicide ideation or plan but admitted when drinking ETOH he has thoughts of suicide and recently had fellow coworker complete suicide by hanging which affects thoughts when drinking.

Plan to reduce risk: *Evaluation by MD for suicide risk. i*

Collateral Information (Contact with therapist, family members, significant others) ☐ if SCS client, therapist or on-call clinician contacted

Patient does not want family members contacted, :"don't want them to be bothered"..

Diagnostic Impressions

Axis I: Alcohol Dependency continuous

Axis II Deferred

Recommendations: ☐ Duty to Warn to phone #

Admit to HBU for stabilization, refer to inpatient JADAC when stable.

Carolyn Ruddle LCSW

Social Worker's Signature, Credentials, Date
Seven Counties Services, Inc.

03.15.09

page 4 of 6

U of L Health Care ~ Uni PROVINS JAMES
1209903 C [redacted] 48 M
42609495 07/07/09

Patient Name / Medical Record :

PAYOR/INSURANCE INFORMATION

Date 07/08/2009 **Clinician Name:** Carolyn Ragsdale LCSW **Employee ID#** 0005078
Patient SSN or Ins. Policy #: [redacted] **Patient DOB:** [redacted]

PAYOR SOURCE (Basic Information)

☒ NO PAYOR SOURCE (Use Activity Code 900 on your SAL)
☐ PRIMARY PAYOR SOURCE None Policy # _____
☐ SECONDARY PAYOR SOURCE None Policy # _____
☐ ADDITIONAL PAYOR SOURCE None Policy # _____

ADDITIONAL PAYOR SOURCE REMARKS

~IF THE PATIENT HAS ONLY MEDICAID OR MEDICARE, PLEASE STOP HERE~

PRIVATE INSURANCE SECTION

Is the patient the policy holder? ☐ Yes ☐ No Policy holder's SSN (*if different from patient*) #: _____

If the patient is NOT the policy holder, please complete following:

Name of Policy Holder _____ The Policy Holder is the Patient's N/A

AUTHORIZATION INFORMATION

Always refer to the back of the insurance card for correct numbers. If you do not have an insurance card, refer to the numbers given below.

(**TIP:** Always ask for a CPT Code of **90801**. The description of a "90801" is *"Psychiatric diagnostic interview examination. Psychiatric diagnostic interview examination includes a history, mental status, and a disposition, and may include communication with family or other sources."*)

Choose the Insurance Company:	Mental Health Company Choices:
☐ Humana	☐ Corphealth (800-659-0349) ☐ Cigna Behavioral Health – GE Retired only (800-442-4227)
☐ Anthem BC/BS	☐ Anthem Behavioral Health (866-582-2293, option 2) ☐ Magellan– Federal Employee Program (877-782-2368 or 800-456-3967) ☐ Other plans (800-880-2583) ~ out of state plans usually require no authorization for a 90801.
☐ Aetna Healthcare	☐ Value Options (800-435-1006) ☐ Magellan Behavioral Health (800-424-5955) ☐ UPS Solutions/Value Options – UPS Employees (800-336-9117 or 800-237-0575)
☐ United Healthcare	☐ United Behavioral Health (800-468-2111)
☐ Alternative Health	☐ Cigna Behavioral Health (800-444-2294)
☐ Tricare	877-874-2273 *additional info:*
☐ Other Insurance	Who is the mental health carrier? Phone #:
AUTHORIZATION NUMBER:	
BILLING ADDRESS:	

If you were unable to get authorization, please complete:

Name of Representative you talked with:
If you did not talk to a representative, please explain why: N/A
Did the representative note your call in the system? ☐ Yes ☐ No ☐ Didn't ask
Notes/Explanation:

☐ **Final Authorization Obtained by** _____ **Date** _____
Representative that gave authorization _____ **Telephone #:** _____
Notes:

U of L Health Care – University Hospital

Patient Name / Medical Record #: PROVINS, JAMES 48 M
1209903
42609495 07/07/09

Follow up Needed by Social Worker before Discharge: (Include p

D/C to Healing Place via Cab

Discharge Plan

- ☐ Patient's family notified
- ☐ Petitioner notified of MIW outcome
- ☐ Transportation arrangements discussed with discharge facility
- ☐ Educational material provided

(describe):

- ☐ Other

Brenda James LCSW 1-9-09
Carolyn Ragsdale LCSW

Social Worker's Signature, Credentials, Date
Seven Counties Services, Inc.

03.15.09

page 6 of 6

University of Louisville Hospital
James Graham Brown Cancer Center
530 South Jackson Street | Louisville KY, 40202

PROVINS, JAMES
1209903 048 M
42609495 7/07/2009

EMERGENCY PSYCHIATRY EVALUATION
PHYSICIAN SUMMARY

303.90

Differential Diagnosis
I Alcohol dependance, rule out Substance Induced mood disorder DSM IVR code
II deferred DSM IVR code
III none
IV drug dependance
V less than thirty

Medical Plan for Treatment/Discharge/Safety **Time Disposition Made:** 3:30 am

Pt at this point contracts for safety. He is willing to get help with alcohol dependance. Discussed option of inpatient JADAC treatment. Pt agreeable to this will have him wait in our ER and referral to JADAC after reevaluation by treatment team in am.
- on alcohol withdrawl protocol benj monitored for safe detox

Legal disposition upon discharge ☐ 72 Hour Hold ☐ MIW ☐ Voluntary
If sent to the HBU, what is the diagnosis category:
☐ ETOH only (1) ☐ Drug Only (2) ☐ Psych only (3) ☐ Psych and ETOH (4) ☐ Psych and Drug (5)
☐ **Collateral Contacted** ☐ **Patient started on medication**

Valerie Fauss — Physician Signature — 82009 — Physician ID # — 7/8/2009 — Date

Attending Note: ☑ *Patient agrees to the presence of all visitors in the Morning Treatment Team.*
EPS Attending; Pt Seen & evaluated Chart Reviewed D/W Tx team
Pt is a 48yo WM Hx of Etoh Dependence - Heavy Daily Drinker
Presented by police 2° SI - Intoxicated on arrival - 231. Pt. denies SI - reports that stopped. Reports interest in substance tx
MSE: A'OX3, Cooperative, nl Speech, euthymic, congruent, goal directed, ØSI, ØHI, J/I intact
DDX: Etoh Dependence
Plan: Refer to JADAC, Ø beds today, will make intake appt:

C Butler MD — 37410 — Physician ID # — 7/8/09 — Date

Ativan 2mg PO x 2 - 3:26 am, 8:31 am

UL779200 (04/09) Page 3 of 3 — 96.7 16 71 168/98 VS this A.M. - 8:30 am — ED0150

University of Louisville Hospital
James Graham Brown Cancer Center
Univ. Health Care
530 South Jackson Street | Louisville KY, 40202

PROVINS, JAMES
1209903 048 M
42609495 07/07/2009

EMERGENCY PSYCHIATRY EVALUATION
PHYSICIAN SUMMARY

Physician Evaluation (Initial) H. I

Date 7/8/09 Time 3:30am Dr. IBBAL

Discussed with: ☑ Social Worker ☐ Attending MD ☐ Other

Pt is a 48 year old Caucasian male with a long history of alcohol dependence who presented to EPS after he made statement saying he was SI under influence of alcohol. BAC 235. Pt currently denies SI and says he makes such statements when "Im too drunk". He recently loss his job (was found drinking at work) and had a friend who recently completed suicide after he lost his job similarly. He report drinking vodka 1/2 gallon and 10-14 beers/day (increased recently) over the last 20 plus years. He had one period of sobriety of 9 months but has later been into a drug rehab program. He has an extensive family hx alcohol abuse. no recent changes in appetite/sleep. No evidence of mania/psychosis observed.

Mental Status Exam

☑ Alert ☐ Other

Orientation Person ✓ Place ✓ Time ✓

Appearance/Behavior in hand cuffs, alert and cooperative

Speech Clear + fluent Mood depressed

Affect Flat Thought Process Coherent

Thought Content ☐ Suicidal Ideation ☐ Intent ☐ Plan denies

☐ Homicidal Ideation denies (intended victim's name)

Hallucination (s) none

Delusion (s)

Other: none

Judgement limited Insight: impaired

Attention fair ~~poor~~ Concentration ~~none~~ fair

Memory ☐ Immediate Recall ✓ ☐ Recent ✓ ☐ Remote ✓

MMSE Exam Details

Lab Results

BAC = 235. X CBC w/d + + AST 194 ALT 50 ↑ Glucose nml

University of Louisville Hospital
James Graham Brown Cancer Center
530 South Jackson Street | Louisville KY, 40202

PROVINS, JAMES
1209903 | 048 M
42609495 | 07/07/2009

EMERGENCY PSYCHIATRY SERVICES
PHYSICAL EXAMINATION

Temp	Pulse	Resp	B/P	Weight	Height	Date	Time
98 oral	96	16	141/102			7/7/09	1155

General Observations
48 yo WM, Tremulous

Review of Systems nausea, diarrhea, weak, chills, reports bright red and dark (appears for time) blood in stools, cough, less frequent urination, legs feel restless + tingling (MMP input last few days)

Skin
multiple small scars from burns on arms + chest from occupation

Head ATNC | **Scalp** clear | **Face** Symmetric

Ears
Right ear could not be visualized due to wax, L EAC patent TM clear, white/dull

Nose
erythema, discharge (B)

Eyes/Pupils/Sclera
EOMI, PERRL

Fundi
NOT performed

Throat/Mouth
intact dentition, No erythema, No edema

Neck
supple, Ø LAD, Ø thyromegaly

Heart
RRR normal S_1S_2, NO murmur, gallops, or rubs

Lungs
wheeze heard (B) at end of exhale throughout lung fields

Abdomen
soft, NT, ND +BS ØHSM Ømasses

Spine/Back
straight

Extremities
Ø cyc/e

Nervous System | **Strength** 5/5 global

Tone Good | **Atrophy** Ø

Rapid Alternating Movement	Finger to Nose	Heel to Shin
done slowly	Tremor, Fall backwards	done w/o fall but unsteady
Babinski	**Station/Gait**	**Romberg**
present (B)	Stable	Drift backward

Abnormal Movement (e.g. Chorea, Tardive Dyskinesia, Tremors, Extra Pyramidal Symptom)
Tremors (B) globally

Deep Tendon Reflexes
absent in L arm biceps (B) triceps present, all other DTRs present

Sensory
loss of soft touch to L arm

Cranial Nerves		
1	Denies olfactory complaints	2, 3, 4, 6 EOMI, No visual complaints
5, 7	face Symmetrical, facial sensory and motor equal	8 (B) reports hearing loss in R ear
9, 10	palate rise equal, uvula midline	11 shoulder shrug equal, tongue midline

Student Signature

Physician Signature

7/8/09 — Date

11:28 — Time

A1626 — Physician ID Number

UL779161 (04/09)

ED0160

University of Louisville Hospital
James Graham Brown Cancer Center
Digital Health Care
530 South Jackson Street | Louisville KY, 40202

PROVINS, JAMES
1209903 048 M
42609495 07/07/2009

PATIENT PROGRESS NOTES

ALL SEPARATE ENTRIES REQUIRE A DATE, TIME, SIGNATURE AND PHYSICIAN'S ID #

7/9/09. 10 Am. Attending w MD & AM Team

48 y.o. (W)-c PMHx EtOH dependence. Now drinking large volume. LFT's ↑ 4 EtOH 23. Pt wants to stop EtOH. In HBU overnight

A, Ox3 Speech: well-modulated mood: anxious. Affect: approp. Behav: coop. TC: ⊖ SAS - TP: coherent goal-directed - No thought DD. No psychosis. Insight-fair ↓ Judgment & occ Central Cognition: intact

Assess: Alcohol Dependence

Plan: Librium 50 mg now

Rpt w treatment plan

D — Edgar

PROGRESS NOTES

UL600016 (04/09)

PN0040

135

470

UofL Health Care
University Hospital

University of Louisville Hospital - Emergency Services
530 S. Jackson St., Louisville, KY 40202 – (502) 562-3015
Date: 07/09/2009 Time: 11:10
Patient: James Provins, Medical Rec. No: 1209903

→ Patients with orthopedic (bone and muscle) injuries whose insurance coverage includes Drs. Seliqson and Roberts as participating providers may contact them at (502) 629-5460 for possible follow-up care.

If you experience difficulty obtaining a timely Clinic appointment with any Clinic other than the Orthopedics Clinic, call 561-8811 for assistance.

Cigarette Smoking

If you smoke, this is clearly your greatest health problem! The facts are clear that cigarette smoking will shorten your life. It will cause a great deal of illness along the way. If you need help quitting, talk to your regular doctor.

Seatbelts

There is no doubt that seatbelts save lives. Every day in the Emergency Department we see how people without seatbelts are more severely hurt. We always buckle up! Please do the same!

Air Bag Warning

Air bags can save lives, but you should also be aware that they can cause death or serious injury if your head, chest, or arms are on or are close to the Air Bag module cover when the Air Bag deploys.

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UofL Health Care
University Hospital

University of Louisville Hospital - Emergency Services
530 S. Jackson St., Louisville, KY 40202 – (502) 562-3015
Date: 07/09/2009 Time: 11:10
Patient: James Provins, Medical Rec. No: 1209903

Discharge Instructions

IMPORTANT: We examined and treated you today on an emergency basis only. This was not a substitute for, or an effort to provide, complete medical care. In most cases, you must let your doctor check you again. Tell your doctor about any new or lasting problems. We cannot recognize and treat all injuries or illnesses in one Emergency Department visit. If you had special tests, such as EKG's or X-rays, we will review them again within 24 hours. We will call you if there are any new suggestions. After you leave, you should follow the instructions below.

You were treated today by Rif El Mallakh, MD.

YOU HAVE BEEN SEEN BY THE DOCTOR TODAY AND THE DOCTOR HAS DETERMINED THAT YOU ARE SAFE TO LEAVE THE HOSPITAL AND RETURN HOME. BY SIGNING THIS YOU AGREE THAT YOU DO NOT HAVE SUICIDAL OR HOMICIDAL THOUGHTS AND WILL REMAIN SAFE. ALL BELONGINGS HAVE BEEN RETURNED TO YOU.

THIS INFORMATION IS ABOUT YOUR FOLLOW UP CARE

FOLLOW-UP WITH AA MEETINGS

THIS INFORMATION IS ABOUT YOUR DIAGNOSIS

Today your diagnosis is Behavioral Health. Behavioral health problems can be caused from any number of physical, emotional, or mental conditions. Most of these problems can be treated effectively with continued counseling and medications.

Your behavioral health problem, along with your examination and lab tests did not show a harmful situation at this time. However, serious situations can arise from less serious conditions. If you feel your symptoms are getting worse, you have new symptoms, or are not feeling better in two days, call your therapist or doctor.

YOU ARE THE MOST IMPORTANT FACTOR IN YOUR RECOVERY. Follow the above instructions carefully. Take your medicines as prescribed. Most important, see a doctor again as discussed. If you have problems that we have not discussed, call or visit your doctor right away. If you cannot reach your doctor, return to the Emergency Department.

"I have received this information and my questions have been answered. I have discussed any challenges I see with this plan with the nurse or physician."

X _____
James Provins or Responsible Person

James Provins or Responsible Person has received this information and tells me that all questions have been answered.

_____
RN Staff Signature

_____

********WE VALUE YOUR OPINION********

Shortly after your visit, you will receive a survey in the mail. We ask that you complete the survey and return it to us. We appreciate your participation in making us better!

_____

If you have any questions or concerns about your care, please call (502) 562-3015 and ask for the Charge Nurse. We hope you are satisfied with our services. We appreciate your comments regarding your care during your Emergency Services visit. Thank you for choosing University of Louisville Hospital for your emergency care!

FIRST CARE is a service that is available to treat quickly and efficiently the medical needs of our patients who have minor injuries or illnesses. FIRST CARE is open six days a week, Monday through Saturday, from 9:00AM to 11:00PM, and on Sundays from 1:00PM to 9:00PM. It is staffed by Nurse Practitioners or Physician Assistants under the supervision of Emergency Medicine attending physicians. During the hours of operation, the triage nurse will determine if your condition is appropriate for FIRST CARE treatment and will refer you directly to that area. If your insurance (HMO, Kenpac) requires you to have your primary doctor's approval before coming to FIRST CARE, be sure to contact him/her.

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1

UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY CPOE EMAR
START DATE RANGE: 07/07/09 THRU 07/09/09
PROVINS ,JAMES M 48 HBU-01 EMR PT#: 42609495
ATN DR: 237883 ALI, JERMAINE A. ER
ADM DT: 07/06/09 EA DISCH DT: 07/09/09 ISOL: MR#: 1209903
MEDICATION ADMINISTRATION RECORD * =MED NOT ADMINISTERED

ORDER INFORMATION	07/07	07/08	07/09	07/10	07/11
ROUTINE ORDERS					
THIAMINE 100. MG ORAL QAM ORDER # 6 ONE DOSE NOW 07/07 09:00 TO / :	2058SM4476	0831MC0999	0843KM5491		
CHROMAGEN 1. CAPSULE ORAL QAM ORDER # 7 ONE DOSE NOW 07/07 09:00 TO / : DISCONTINUED: 07/07 21:31	*2120AR4668	0831MC0999 **** DISCONTINUED ORDER ***			
FOLIC ACID 1. MG ORAL QAM ORDER # 8 ONE DOSE NOW 07/07 09:00 TO / :	2058SM4476	0831MC0999	0843KM5491		
CLONIDINE 0.1 MG ORAL NOW SEVERE HTN ORDER # 9 07/07 21:36 TO 07/07 21:36	2136SM4476				

11:25 07/09/09 FROM @04C,OCMARDF1
AWTK8483 PAGE 001 OF 005

1

UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY CPOE EMAR
START DATE RANGE: 07/07/09 THRU 07/09/09
PROVINS ,JAMES M 48 HBU-01 EMR PT#: 42609495
ATN DR: 237883 ALI, JERMAINE A. ER
ADM DT: 07/08/09 EA DISCH DT: 07/09/09 ISOL: MR#: 1209903
MEDICATION ADMINISTRATION RECORD * =MED NOT ADMINISTERED

ORDER INFORMATION	07/07	07/08	07/09	07/10	07/11
MULTIVITAMIN 1. TABLET ORAL NOW ORDER # 10 07/07 21:40 TO 07/07 21:40	2140SM4476				
CHLORDIAZEPOXIDE 50. MG ORAL NOW NAUSEA/VOMITING ORDER # 12 07/08 10:06 TO 07/08 10:06		1023KM7823			
FAMOTIDINE 20. MG ORAL NOW ORDER # 24 07/09 00:35 TO 07/09 00:35			0130AR4668		
CHLORDIAZEPOXIDE 50. MG ORAL NOW ALCOHOL WITHDRAWAL ORDER # 25 07/09 10:09 TO 07/09 10:09			1035KM5491 D=50 MG		
PRN ORDERS					
LORAZEPAM 2. MG ORAL Q4H PRN WITHDRAWAL SYMPTOMS ORDER # 5 07/07 20:42 TO / :		0326AR4668 D=2 MG 0831MC0999 D=2 MG			

11:25 07/09/09 FROM @04C,OCMARDF1
AWTK8483 PAGE 002 OF 005

1

UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY CPOE EMAR
START DATE RANGE: 07/07/09 THRU 07/09/09
PROVINS ,JAMES M 48 HBU-01 EMR PT#: 42609495
ATN DR: 237883 ALI, JERMAINE A. ER
ADM DT: 07/08/09 EA DISCH DT: 07/09/09 ISOL: MR#: 1209903

MEDICATION ADMINISTRATION RECORD * =MED NOT ADMINISTERED

ORDER INFORMATION	07/07	07/08	07/09	07/10	07/11

NURSE IDENTIFICATION

SM4476	SUSAN	MOORE	RN	MC0999	MARY L	CLAY	RN
KM5491	KIMBERLY	MCMAHON	RN	AR4668	AMANDA	MASTERSON	RN
KM7823	KATHY T	MAGNUSON	RN				

PATIENT ALLERGIES

No Known Food Allergies

Sulfa (Sulfonamide Antibiotics)

1

UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY CPOE EMAR
START DATE RANGE: 07/07/09 THRU 07/09/09
PROVINS ,JAMES M 48 HBU-01 EMR PT#: 42609495
ATN DR: 237883 ALI, JERMAINE A. ER
ADM DT: 07/08/09 EA DISCH DT: 07/09/09 ISOL: MR#: 1209903
MEDICATION ADMINISTRATION RECORD: REASON/EFFECT AND CHARTING HISTORY

CHARTING REASON AND EFFECT

THIAMINE 100. MG ORAL QAM				100. MG	PO	QAM	DAILY	ROUTINE
07/07	2058	SM4476	EFFECT: .					
07/08	0831	MC0999	EFFECT: .					
07/09	0843	KM5491	EFFECT: .					
CHROMAGEN 1. CAPSULE ORAL QAM				1. CAA	PO	QAM	DAILY	ROUTINE
07/07 0900	2120	AR4668	REASON: REFUSED					
07/08	0831	MC0999	EFFECT: .					
FOLIC ACID 1. MG ORAL QAM				1. MG	PO	QAM	DAILY	ROUTINE
07/07	2058	SM4476	EFFECT: .					
07/08	0831	MC0999	EFFECT: .					
07/09	0843	KM5491	EFFECT: .					
CHLORDIAZEPOXIDE 50. MG ORAL N				50. MG	PO	NOW	DAILY	ROUTINE
07/08	1023	KM7823	EFFECT: .					
FAMOTIDINE				20. MG	PO	NOW	DAILY	ROUTINE
07/09	0130	AR4668	EFFECT: .					
LORAZEPAM 2. MG ORAL Q4H PRN W				2. MG	PO	Q4	DAILY	PRN
07/08 0326		AR4668	REASON: WITHDRAWAL SYMPTOMS					
07/08 0831		MC0999	REASON: WITHDRAWAL SYMPTOMS					

NURSE IDENTIFICATION

SM4476 SUSAN	MOORE	RN	MC0999 MARY L	CLAY	RN
KM5491 KIMBERLY	MCMAHON	RN	AR4668 AMANDA	MASTERSON	RN
KM7823 KATHY T	MAGNUSON	RN			

PATIENT ALLERGIES

No Known Food Allergies
Sulfa (Sulfonamide Antibiotics)

11:25 07/09/09 FROM @04C,OCMARDF2
AWTK8483 PAGE 004 OF 005

1

UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY CPOE EMAR
START DATE RANGE: 07/07/09 THRU 07/09/09
PROVINS ,JAMES M 48 HBU-01 EMR PT#: 42609495
ATN DR: 237883 ALI, JERMAINE A. ER
ADM DT: 07/08/09 EA DISCH DT: 07/09/09 ISOL: MR#: 1209903
IV MEDICATION ADMINISTRATION RECORD * =MED NOT ADMINISTERED

ORDER INFORMATION	07/07	07/08	07/09	07/10	07/11

NO QUALIFYING ORDERS FOUND

11:25 07/09/09 FROM @04C,OCIVARF1
AWTK8483 PAGE 005 OF 005

1 UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY ADMISSION ASSESSMENT
PROVINS ,JAMES M 48 / EMR Pt#: 42609495 Page: 1
Atn Dr: 237883 ALI, JERMAINE A. ER
Adm Date: 07/08/09 EA Disch Dt: Isol: MR#: 1209903 FINAL REPORT

ASSESED TIME / BY	GEN PT INFO	
07/08/09 11:47 MC0999	Informant	Patient
07/08/09 11:47 MC0999	Admit From	Home

ASSESED TIME / BY	PT HIST	
07/08/09 11:47 MC0999	Reason for Admission	
	ALCOHOL DEPENDENCE	
07/08/09 11:47 MC0999	Circumstances of Admission	
	intoxicated,suicidal	
07/08/09 11:47 MC0999	Readmission within 30 Days	No
07/08/09 11:47 MC0999	Recurrent Illness	No
07/08/09 11:47 MC0999	Previous Transfusion	No
07/08/09 11:47 MC0999	Language Spoken	
	English	

ASSESED TIME / BY	ADVANCE DIR	
07/08/09 11:47 MC0999	Executed Advance Directive	No
07/08/09 11:47 MC0999	Person Able to Grant Consent	
	alicezimmerman	
07/08/09 11:47 MC0999	Phone Number	
	922-0399	
	995-5351	
07/08/09 11:47 MC0999	Relationship to Patient	
	Other	

ASSESED TIME / BY	HABITS HX				
07/08/09 11:47 MC0999	Alcohol				Yes
		Last used	Amount	Frequency	Used for Longest w/o
		yesterday	10 or >	per Day	
07/08/09 11:47 MC0999	Withdrawal from Drinking				Yes
07/08/09 11:47 MC0999	Need to CUT DOWN Drinking				Yes
07/08/09 11:47 MC0999	ANNOYED by Critics of Drinking				No
07/08/09 11:47 MC0999	GUILTY about Drinking				Yes
07/08/09 11:47 MC0999	Drink for EYE OPENER				Yes
07/08/09 11:47 MC0999	Tobacco				Denies
07/08/09 11:47 MC0999	Caffeine				Denies
07/08/09 11:47 MC0999	Drugs/Substances				Denies

ASSESED TIME / BY	SLEEP PROBLM	
07/08/09 11:47 MC0999	Problems Getting to Sleep	Yes
07/08/09 11:47 MC0999	Insomnia	Yes
07/08/09 11:47 MC0999	Nightmares	Yes
07/08/09 11:47 MC0999	Average # Hours Slept	03

ASSESED TIME / BY	EDUCATION HX	
07/08/09 11:47 MC0999	Highest Level Education	
	High School Graduate	
07/08/09 11:47 MC0999	Knowledge of Illness/Injury	
	Good	
07/08/09 11:47 MC0999	Learning Preference	
	Discussion/Explanation	

=========GROUP CONTINUED=========

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1 UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY ADMISSION ASSESSMENT
PROVINS ,JAMES M 48 / EMR Pt#: 42609495 Page: 2
Atn Dr: 237883 ALI, JERMAINE A. ER
Adm Date: 07/08/09 EA Disch Dt: Isol: MR#: 1209903 FINAL REPORT

ASSESSED TIME / BY	EDUCATION HX CONT	
07/08/09 11:47 MC0999	Readiness to Learn	
	Cooperative	
ASSESSED TIME / BY	NUTRITION HX	
07/08/09 11:47 MC0999	#Meals a Day	1
07/08/09 11:47 MC0999	Last Meal Date	07/08/09
07/08/09 11:47 MC0999	Last Meal Time	1130
07/08/09 11:47 MC0999	Diet Restrictions	None
07/08/09 11:47 MC0999	Nutritional Risk Factors	None
ASSESSED TIME / BY	HX OF PAIN	
07/08/09 11:47 MC0999	PAIN 1:	...
07/08/09 11:47 MC0999	Location	
	abdomen and legs	
07/08/09 11:47 MC0999	Onset of Symptoms Date:	07072009
07/08/09 11:47 MC0999	Verbal	2
07/08/09 11:47 MC0999	Pain Tolerance	2
07/08/09 11:47 MC0999	Description	Aches
07/08/09 11:47 MC0999	Description	Sharp
07/08/09 11:47 MC0999	Description	Throbs
07/08/09 11:47 MC0999	Worsened by Other:	
	withdrawal from etoh	
07/08/09 11:47 MC0999	Effects Appetite	Yes
07/08/09 11:47 MC0999	Effects Concentration	Yes
07/08/09 11:47 MC0999	Effects Physicial Activity	Yes
07/08/09 11:47 MC0999	Effects Sleep	Yes
ASSESSED TIME / BY	PRESSURE ULC	
07/08/09 11:47 MC0999	History of Pressure Ulcers:	
	No Pressure Ulcers Present on Admission	
ASSESSED TIME / BY	HEENT HX	
07/08/09 11:47 MC0999	Denies HEENT Problems	Yes
ASSESSED TIME / BY	NEUROMUSC HX	
07/08/09 11:47 MC0999	Seizures	Yes
07/08/09 11:47 MC0999	Arthritis	Yes
	Osteo	
ASSESSED TIME / BY	PSYCHIAT HX	
07/08/09 11:47 MC0999	Denies Psychiatric History	Yes
ASSESSED TIME / BY	RESPIRATORY	
07/08/09 11:47 MC0999	Denies Respiratory Problems	Yes
ASSESSED TIME / BY	CARDIOVASCUL	
07/08/09 11:47 MC0999	Hypertension	Yes
07/08/09 11:47 MC0999	Angina	Yes

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1 UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY ADMISSION ASSESSMENT
PROVINS ,JAMES M 48 / EMR Pt#: 42609495 Page: 3
Atn Dr: 237883 ALI, JERMAINE A. ER
Adm Date: 07/08/09 EA Disch Dt: Isol: MR#: 1209903 FINAL REPORT

ASSESED TIME / BY		
	ENDOCRINE HX	
07/08/09 11:47 MC0999	Denies Endocrine Problems	Yes
ASSESED TIME / BY	GI HX	
07/08/09 11:47 MC0999	Inflammatory Bowel Disease	Yes
ASSESED TIME / BY	IMMUNE HX	
07/08/09 11:47 MC0999	Denies Immune Problems	Yes
ASSESED TIME / BY	GU HX	
07/08/09 11:47 MC0999	Denies Genitourinary problems	Yes
ASSESED TIME / BY	CANCER HX	
07/08/09 11:47 MC0999	Family Hx Cancer	.
07/08/09 11:47 MC0999	Family Member	Father
07/08/09 11:47 MC0999	Type Cancer	
	unknown	
ASSESED TIME / BY	FALL RISK HX	
07/08/09 11:47 MC0999	Risk Factors:	...
07/08/09 11:47 MC0999	No Risk Identified	No Risk
07/08/09 11:47 MC0999	Safety:	...
07/08/09 11:47 MC0999	ID Bracelet	Yes
07/08/09 11:47 MC0999	Bed Lowest Position/Wheels Lock	Yes
07/08/09 11:47 MC0999	Non-Skid Footware	Yes
ASSESED TIME / BY	OTHER MED HX	
07/08/09 11:47 MC0999	Assessed By:	CLAY
	CLAY ,MARY L - RN	
	**********	

==========END OF REPORT==========
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1 UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY SHIFT ASSESSMENT
PROVINS ,JAMES M 48 / HBU-01 EMR Pt#: 42609495 PAGE: 1
Atn Dr: 237883 ALI, JERMAINE A. ER
Adm Date: 07/08/09 EA Disch Dt: 07/09/09 Isol: MR#: 1209903

ASSESED TIME / BY	ASSESSMENTS
07/08/09 11:15 MC0999	
	----------VALUABLES----------
07/08/09 11:15 MC0999	Clothing Yes
07/08/09 11:15 MC0999	Jewelry No
07/08/09 11:15 MC0999	Dentures No
07/08/09 11:15 MC0999	Hearing Aid No
07/08/09 11:15 MC0999	Admission Focus Charting 48 Y/O W/M ADMITTED WITH DIAGNOSIS OF ALCOHOL DEPENDENCE.A&O X 3.DENIES CURRENT SI/HI AND VERBALLY CONTRACTS FOR SAFETY.COOPERATIVE WITH ASSESSMENT. CHANGED INTO HOSPITAL GARB.ADMITTED TO HBU# 1.
07/08/09 11:15 MC0999	Assessed by CLAY CLAY ,MARY L - RN **********
07/08/09 11:30 MC0999	Pt Care Focus Charting RECEIVED LUNCH.
07/08/09 11:30 MC0999	Assessed by CLAY CLAY ,MARY L - RN **********
07/08/09 11:47 MC0999	Assessed by CLAY E CLAY ,MARY L - RN **********
07/08/09 11:47 MC0999	Assessed by CLAY E CLAY ,MARY L - RN **********
07/08/09 11:47 MC0999	Assessed by CLAY E CLAY ,MARY L - RN **********
07/08/09 11:47 MC0999	Assessed by CLAY E CLAY ,MARY L - RN **********
07/08/09 11:47 MC0999	Assessed by CLAY E CLAY ,MARY L - RN **********
07/08/09 11:47 MC0999	Assessed by CLAY E CLAY ,MARY L - RN **********
07/08/09 11:47 MC0999	Assessed by CLAY E CLAY ,MARY L - RN **********
07/08/09 11:47 MC0999	Assessed by CLAY E CLAY ,MARY L - RN **********
07/08/09 11:47 MC0999	Assessed by CLAY E CLAY ,MARY L - RN **********
07/08/09 11:47 MC0999	Assessed by CLAY E CLAY ,MARY L - RN **********
07/08/09 11:47 MC0999	Assessed by CLAY CLAY ,MARY L - RN

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1 UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY SHIFT ASSESSMENT
PROVINS ,JAMES M 48 / HBU-01 EMR Pt#: 42609495 PAGE: 2
Atn Dr: 237883 ALI, JERMAINE A. ER
Adm Date: 07/08/09 EA Disch Dt: 07/09/09 Isol: MR#: 1209903

ASSESSED TIME / BY	ASSESSMENTS CONT			
07/08/09 11:47 MC0999	Assessed by	CLAY		
	**********			
07/08/09 12:00 MC0999	Pt Care Focus Charting			
	RESTING QUIETLY ABED.			
07/08/09 12:00 MC0999	Assessed by	CLAY		
	CLAY ,MARY L - RN			
	**********			
07/08/09 12:03 MC0999	HR/Pulse	74	/MIN	RAD
07/08/09 12:03 MC0999	Resp. Rate	16	/MIN	
07/08/09 12:03 MC0999	Temperature	97	F	ORAL
07/08/09 12:03 MC0999	Blood Press	145/93	MM HG	
07/08/09 12:03 MC0999	SAO2	94		
07/08/09 12:10 MC0999	.			
	==========DIAGNOSES/PROBLEMS==========			
07/08/09 12:10 MC0999	Diagnosis/Problem			
	Date:07/08/09			
	Problem: INAPPROPRIATE COPING INDIVIDUAL			
	Goal:PATIENT WILL REMAIN DURING HOSPITAL STAY			
	User:MC0999**********			
07/08/09 12:10 MC0999	Diagnosis/Problem			
	Date:07/08/09			
	Problem: POTENTIAL FOR WITHDRAWAL			
	Goal:PATIENT WILL WITHRAW FROM ETOH SAFELY			
	User:MC0999**********			
07/08/09 12:12 MC0999	.			
	==========DIAGNOSES/PROBLEMS==========			
07/08/09 12:12 MC0999	Diagnosis/Problem			
	Date:07/08/09			
	Problem: INAPPROPRIATE COPING INDIVIDUAL			
	Goal:PATIENT WILL REMAIN DURING HOSPITAL STAY			
	User:MC0999**********			
07/08/09 12:12 MC0999	Diagnosis/Problem			
	Date:07/08/09			
	Problem: POTENTIAL FOR WITHDRAWAL			
	Goal:PATIENT WILL WITHRAW FROM ETOH SAFELY			
	User:MC0999**********			
07/08/09 13:17 KM7823	Pt Care Focus Charting			
	Resting in bed.			
07/08/09 13:17 KM7823	Assessed by	MAGNUSON		
	MAGNUSON ,KATHY T - RN			
	**********			
07/08/09 13:29 MC0999	Pt Care Focus Charting			
	PATIENT IS RESTING QUIETLY BAED.			
07/08/09 13:29 MC0999	Assessed by	CLAY		
	CLAY ,MARY L - RN			
	**********			

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1 UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY SHIFT ASSESSMENT
PROVINS ,JAMES M 48 / HBU-01 EMR Pt#: 42609495 PAGE: 3
Atn Dr: 237883 ALI, JERMAINE A. ER
Adm Date: 07/08/09 EA Disch Dt: 07/09/09 Isol: MR#: 1209903

ASSESED TIME / BY	ASSESSMENTS CONT
07/08/09 14:00 SU7962	Pt Care Focus Charting
	Abed, resting quietly w/o complaint. respirations even and unlabored
07/08/09 14:00 SU7962	Assessed by URTON
	URTON ,SARAH K - RN
	**********
07/08/09 14:30 SU7962	Pt Care Focus Charting
	Abed resting, snoring at intervals
07/08/09 14:30 SU7962	Assessed by URTON
	URTON ,SARAH K - RN
	**********
07/08/09 15:00 SU7962	Pt Care Focus Charting
	Resting abed w/o complaint
07/08/09 15:00 SU7962	Assessed by URTON
	URTON ,SARAH K - RN
	**********
07/08/09 15:30 SU7962	Pt Care Focus Charting
	watching tv
07/08/09 15:30 SU7962	Assessed by URTON
	URTON ,SARAH K - RN
	**********
07/08/09 16:09 SU7962	Pt Care Focus Charting
	Client attempting to assist with peers. Otherwise resting in HBU bed #1.
07/08/09 16:09 SU7962	Assessed by URTON
	URTON ,SARAH K - RN
	**********
07/08/09 16:17 SU7962	HR/Pulse 86 /MIN RAD
07/08/09 16:17 SU7962	Blood Press 133/98 MM HG
07/08/09 17:15 KM7823	Pt Care Focus Charting
	Resting after dinner.
07/08/09 17:15 KM7823	Assessed by MAGNUSON
	MAGNUSON ,KATHY T - RN
	**********
07/08/09 18:19 KM7823	Pt Care Focus Charting
	Resting at present.
07/08/09 18:19 KM7823	Assessed by MAGNUSON
	MAGNUSON ,KATHY T - RN
	**********
07/08/09 18:55 KM7823	HR/Pulse 76 /MIN MONTR
07/08/09 18:55 KM7823	Blood Press 143/95 MM HG LYING
07/08/09 18:55 KM7823	Noninvasive +
07/08/09 18:55 KM7823	Mean Arterial Pressure 111 MM HG
07/08/09 19:30 AR4668	Shift Summary Focus Charting
	PT LAYING IN BED QUIETLY WATCHING T.V. NO COMPLAINTS VOICED AT THIS TIME.
07/08/09 19:30 AR4668	Assessed by MASTERSO
	MASTERSON ,AMANDA - RN
	**********
07/08/09 20:00 AR4668	Shift Summary Focus Charting
	PT LAYING IN BED QUIETLY WATCHING T.V. NO COMPLAINTS VOICED AT THIS

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1 UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY SHIFT ASSESSMENT
PROVINS ,JAMES M 48 / HBU-01 EMR Pt#: 42609495 PAGE: 4
Atn Dr: 237883 ALI, JERMAINE A. ER
Adm Date: 07/08/09 EA Disch Dt: 07/09/09 Isol: MR#: 1209903

ASSESED TIME / BY	ASSESSMENTS CONT		
07/08/09 20:00 AR4668	Shift Summary Focus Charting TIME.		
07/08/09 20:00 AR4668	Assessed by MASTERSON ,AMANDA - RN	MASTERSO	
	**********		
07/08/09 20:30 AR4668	Shift Summary Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.		
07/08/09 20:30 AR4668	Assessed by MASTERSON ,AMANDA - RN	MASTERSO	
	**********		
07/08/09 21:00 AR4668	Shift Summary Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.		
07/08/09 21:00 AR4668	Assessed by MASTERSON ,AMANDA - RN	MASTERSO	
	**********		
07/08/09 21:10 AR4668	HR/Pulse	72 /MIN	MONTR
07/08/09 21:10 AR4668	Resp. Rate	18 /MIN	
07/08/09 21:10 AR4668	Temperature	98.2 F	ORAL
07/08/09 21:10 AR4668	Blood Press	153/95 MM HG	
07/08/09 21:30 AR4668	Shift Summary Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.		
07/08/09 21:30 AR4668	Assessed by MASTERSON ,AMANDA - RN	MASTERSO	
	**********		
07/08/09 22:00 AR4668	Shift Summary Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.		
07/08/09 22:00 AR4668	Assessed by MASTERSON ,AMANDA - RN	MASTERSO	
	**********		
07/08/09 22:30 AR4668	Shift Summary Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.		
07/08/09 22:30 AR4668	Assessed by MASTERSON ,AMANDA - RN	MASTERSO	
	**********		
07/08/09 23:00 AR4668	Shift Summary Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.		
07/08/09 23:00 AR4668	Assessed by MASTERSON ,AMANDA - RN	MASTERSO	

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1 UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY SHIFT ASSESSMENT
PROVINS ,JAMES M 48 / HBU-01 EMR Pt#: 42609495 PAGE: 5
Atn Dr: 237883 ALI, JERMAINE A. ER
Adm Date: 07/08/09 EA Disch Dt: 07/09/09 Isol: MR#: 1209903

ASSESSED TIME / BY	ASSESSMENTS CONT			
07/08/09 23:00 AR4668	Assessed by	MASTERSO		
	**********			
07/08/09 23:17 AR4668	HR/Pulse	76	/MIN	MONTR
07/08/09 23:17 AR4668	Resp. Rate	18	/MIN	
07/08/09 23:17 AR4668	Temperature	98	F	ORAL
07/08/09 23:17 AR4668	Blood Press	143/100	MM HG	
07/08/09 23:24 AR4668	Shift Summary Focus Charting			
	DR. KHAN NOTIFIED OF ELEVATED BLOOD PRESSURE.			
07/08/09 23:24 AR4668	Assessed by	MASTERSO		
	MASTERSON ,AMANDA - RN			
	**********			
07/08/09 23:30 AR4668	Shift Summary Focus Charting			
	PT LAYING IN BED QUIETLY.			
07/08/09 23:30 AR4668	Assessed by	MASTERSO		
	MASTERSON ,AMANDA - RN			
	**********			
07/09/09 00:00 AR4668	Shift Summary Focus Charting			
	PT REQUESTING SOMETHING FOR INDIGESTION. DR. KHAN NOTIFIED.			
07/09/09 00:00 AR4668	Assessed by	MASTERSO		
	MASTERSON ,AMANDA - RN			
	**********			
07/09/09 00:30 AR4668	Shift Summary Focus Charting			
	PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.			
07/09/09 00:30 AR4668	Assessed by	MASTERSO		
	MASTERSON ,AMANDA - RN			
	**********			
07/09/09 01:00 AR4668	Shift Summary Focus Charting			
	PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.			
07/09/09 01:00 AR4668	Assessed by	MASTERSO		
	MASTERSON ,AMANDA - RN			
	**********			
07/09/09 01:14 AR4668	HR/Pulse	80	/MIN	MONTR
07/09/09 01:14 AR4668	Resp. Rate	18	/MIN	
07/09/09 01:14 AR4668	Blood Press	142/101	MM HG	
07/09/09 01:18 AR4668	Shift Summary Focus Charting			
	DR. KHAN NOTIFIED OF ELEVATED BLOOD PRESSURE.			
07/09/09 01:18 AR4668	Assessed by	MASTERSO		
	MASTERSON ,AMANDA - RN			
	**********			
07/09/09 01:30 AR4668	Medication Focus Charting			
	PT GIVEN 20 MG FAMOTIDINE FOR INDIGESTION.			
07/09/09 01:30 AR4668	Assessed by	MASTERSO		
	MASTERSON ,AMANDA - RN			
	**********			
07/09/09 02:00 AR4668	Shift Summary Focus Charting			
	PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND			

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1 UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY SHIFT ASSESSMENT
PROVINS ,JAMES M 48 / HBU-01 EMR Pt#: 42609495 PAGE: 6
Atn Dr: 237883 ALI, JERMAINE A. ER
Adm Date: 07/08/09 EA Disch Dt: 07/09/09 Isol: MR#: 1209903

ASSESED TIME / BY	ASSESSMENTS CONT		
07/09/09 02:00 AR4668	Shift Summary Focus Charting UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.		
07/09/09 02:00 AR4668	Assessed by MASTERSON ,AMANDA - RN	MASTERSO	
07/09/09 02:30 AR4668	Shift Summary Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.		
07/09/09 02:30 AR4668	Assessed by MASTERSON ,AMANDA - RN	MASTERSO	
07/09/09 03:00 AR4668	Shift Summary Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.		
07/09/09 03:00 AR4668	Assessed by MASTERSON ,AMANDA - RN	MASTERSO	
07/09/09 03:14 AR4668	HR/Pulse	77	/MIN MONTR
07/09/09 03:14 AR4668	Resp. Rate	18	/MIN
07/09/09 03:14 AR4668	Temperature	97.3	F ORAL
07/09/09 03:14 AR4668	Blood Press	127/90	MM HG
07/09/09 03:30 AR4668	Shift Summary Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.		
07/09/09 03:30 AR4668	Assessed by MASTERSON ,AMANDA - RN	MASTERSO	
07/09/09 04:00 MB5019	Shift Summary Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.		
07/09/09 04:00 MB5019	Assessed by BEETS ,MARY - RN	BEETS	
07/09/09 04:01 AR4668	Shift Summary Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.		
07/09/09 04:01 AR4668	Assessed by MASTERSON ,AMANDA - RN	MASTERSO	
07/09/09 04:30 AR4668	Shift Summary Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.		

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1 UNIVERSITY OF LOUISVILLE HOSPITAL LOUISVILLE, KENTUCKY SHIFT ASSESSMENT
PROVINS ,JAMES M 48 / HBU-01 EMR Pt#: 42609495 PAGE: 7
Atn Dr: 237883 ALI, JERMAINE A. ER
Adm Date: 07/08/09 EA Disch Dt: 07/09/09 Isol: MR#: 1209903

ASSESED TIME / BY	ASSESSMENTS CONT			
07/09/09 04:30 AR4668	Assessed by MASTERSO MASTERSON ,AMANDA - RN **********			
07/09/09 05:00 AR4668	Shift Summary Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.			
07/09/09 05:00 AR4668	Assessed by MASTERSO MASTERSON ,AMANDA - RN **********			
07/09/09 05:09 AR4668	HR/Pulse	77	/MIN	MONTR
07/09/09 05:09 AR4668	Resp. Rate	18	/MIN	
07/09/09 05:09 AR4668	Temperature	96.3	F	ORAL
07/09/09 05:09 AR4668	Blood Press	118/88	MM HG	
07/09/09 05:30 AR4668	Pt Care Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.			
07/09/09 05:30 AR4668	Assessed by MASTERSO MASTERSON ,AMANDA - RN **********			
07/09/09 06:02 AR4668	Pt Care Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.			
07/09/09 06:02 AR4668	Assessed by MASTERSO MASTERSON ,AMANDA - RN **********			
07/09/09 06:30 AR4668	Shift Summary Focus Charting PT RESTING IN BED QUIETLY WITH EYES CLOSED. BREATHING EVEN AND UNLABORED. NO S/S OF DISTRESS NOTED. NO COMPLAINTS VOICED AT THIS TIME.			
07/09/09 06:30 AR4668	Assessed by MASTERSO MASTERSON ,AMANDA - RN **********			
07/09/09 08:04 CJ4748	HR/Pulse	80	/MIN	
07/09/09 08:04 CJ4748	Resp. Rate	18	/MIN	
07/09/09 08:04 CJ4748	Blood Press	161/99	MM HG	
07/09/09 09:49 CJ4748	Pt Care Focus Charting Pt resting in bed			
07/09/09 09:49 CJ4748	Assessed by JARRETT JARRETT ,CHERYL - CLINICAL ASSISTANT **********			
07/09/09 10:40 KM5491	Pt Care Focus Charting Pt given Librium 50 mg PO x 1 dose now per MD orders for withdrawal symptoms.			
07/09/09 10:40 KM5491	Assessed by MCMAHON MCMAHON ,KIMBERLY - RN **********			

==========END OF REPORT==========

Printed By: JD3618 "+' denotes present "E" denotes erroneous data
11:25 07/09/09 FROM @04C,UMCADMF4

487

11:28 07/08/09 FROM @06A,NRSORDN1

***** NURSING ORDER NUMBER: 22 *****

PATIENT NAME: PROVINS ,JAMES ROOM: EPS / HBU-01
MED REC #: 1209903 ACCOUNT#: 42609495 AGE: 48 DOB:
HOSP SERVICE: EMR PATIENT TYPE: E

ORDER : REQUEST CHANGE TO OBSERVATION ROUTINE 11:27
ROUTINE

EFFECTIVE
DATE/TIME : 07/08/09 11:27 ADMIT/OBS
DATE/TIME:
DISCHARGE DATE/TIME CHANGE:
REQUESTED NEW PATIENT TYPE: Z ATT PHY CHANGE:
ADMIT REASON: ALCOHOL DEPENDENCE
COMMENT : 23 HOUR OBSERVATION

ORDERING PHYSICIAN 237883 ALI, JERMAINE A.

FROM: @06A BY : KM7823

ORTHOPAEDIC ASSOCIATES of KENTUCKIANA, P.L.L.C.
3605 Northgate Circle, Suite 202
New Albany, Indiana 47150
502-585-4376
OAdocs.com

fax 502-581-1274 appointments 502-562-0346

Date: April 15, 2013

Name: PROVIN, JAMES Age: 52 Birth Date: [redacted]

HISTORY: The patient is a 52-year-old white male who presents complaining of pain in his right shoulder. He is an iron worker. He was down in South Carolina a year ago. He was helping to move steel decking that is used to pour concrete. He describes this as being approximately 35 feet long piece of corrugated steel. He and another person were dragging it across the ridges that were making up the floor. The other guy dropped his. It ended up twisting in the patient's hand forcing the right arm down. He said the left arm did not have this happen. It is just the right side. He had immediate onset of pain. He tried finishing work, but was not able to do that. He went to have it evaluated, was placed on light duty work. They did not have light duty work available for him. He has been out of work since. He said the pain is 10 out of 10. He said he is quite frustrated by this because he has to learn how to wipe his butt with his left hand, cannot use the right hand after doing it that way for 51 years. He is not using any medicines and he has no other problems requiring over-the-counter medicines.

ALLERGIES: He has no known allergies.

PAST MEDICAL HISTORY: Indicates general state of health is good. Childhood illness is positive for measles, mumps, and chickenpox. Last tetanus shot was four years ago.

PAST SURGERIES: No prior surgery.

PAST FRACTURES: No prior fractures.

SOCIAL HISTORY: Indicates no use of coffee. He drinks 8 to 10 beers a day. No use of drugs or tobacco products.

FAMILY HISTORY: Family history is negative for diabetes and high blood pressure.

BACKGROUND HISTORY: The patient has worked as an iron worker.

REVIEW OF SYSTEMS: Indicates usual weight is 220 lbs. His right ear has had an infection. He said it smells like a dead dog when he smells the Q-tip. The patient understands that that needs to be addressed prior to surgery.

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3605 Northgate Circle, Suite 202, New Albany, Indiana 47150

Date: April 15, 2013

Name: PROVIN, JAMES Age: 52 Birth Date:

EXAM: Physical examination shows height is 5'7", weight is 240 lbs, and respirations 12, well developed, well nourished, oriented x 3. Has appropriate mood and affect. Passive range of motion is good. Significant weakness with abduction and external rotation against resistance, questionable belly-press test weakness. The patient does have a bulge consistent with a possible rupture of the long head of the biceps on the right side when compared to the left. Neuro is intact. Pulses are present. No evidence of lymphadenopathy. No warmth, erythema, or drainage is present. Numerous scars are present on the frontal side of his body and arms consistent with burns from being a welder.

IMPRESSION: Overall impression is that we are dealing with a tear of the rotator cuff and possible tear of the long head of the biceps.

PLAN: Pros and cons of both operative and non-operative treatments were explained. The patient understands risks, benefits, and potential complications associated with surgery including but not limited to infection, loss of motion, recurrence, and death. Further understands no guarantees or warrantees are given. The patient's questions were answered to his satisfaction. Surgery will be scheduled at his convenience once we have clearance on that right ear.

The case of the patient was discussed in detail with the nurse case manager whose questions were answered to her satisfaction. The requirement for the ENT clearance first to make sure we do not have any infection in the right ear before proceeding with the right shoulder was explained.

FOB/hba

ORTHOPAEDIC ASSOCIATES
of KENTUCKIANA, P.L.L.C.

3605 Northgate Circle, Suite 202, New Albany, Indiana 47150

Date: April 15, 2013

Name: PROVIN, JAMES Age: 52 Birth Date: [redacted]

X-RAYS: Significant AC joint arthropathy is seen on the four-view x-rays taken today. Humeral head does not appear to be high riding on the AP, internal and external rotation views, supraspinatus outlet view and axillary view taken because of the pain today.

ICM

May 22, 2013

Dr. Frank Bonnarens
148 Dr Arla Way
Hillview, KY 40229

Re: Employee: James Provins
DOB: [redacted]
DOI: 01/24/2012

Dear Dr. Bonnarens,

Thank you for allowing me to attend James Provins's appointment today. To recap the treatment to date, you decided that Mr. Provins should undergo shoulder surgery and that was completed on 05/15/13 and the initial post-operative evaluation completed on 05/20/13.

I look forward to working with you in order to assist in coordinating the medical care for James Provins. I will be attending appointments, obtaining medical notes and discussing the ongoing treatment plan with you.

- Surgical procedure per operative report was right shoulder rotator cuff repair, acromioplasty/Mumford procedure, debridement of the biceps stump and labral tears and insertion of bone graft.
- Current evaluation finding? Cont w/ pain Ron Ambl
- Further treatment plan? PT @ Riverwoods PT Hydrocodone refilled
- Work status currently? No use of arm (R)
- When do you feel Mr. Provins will be able to RTW in a modified duty capacity and what would the restrictions that Mr. Provins should adhere to 24 hrs a day for optimal recovery?
- When do you feel Mr. Provins will be able to RTW in a full duty capacity? No use of (R) Arm
- When do you estimate that Mr. Provins will attain maximum medical improvement following treatment? to MMI

Copies of all office notes and diagnostic procedure reports may be faxed to me at 678-533-5801.

Integrated Care Management
3440 Preston Ridge Road, Suite 300 - Alpharetta, GA 30005 - 770-730-8400 - Fax 678-942-9563 - 800-500-3270
www.integratedcare.com

Should you have any questions or concerns you wish to discuss regarding James Provins, you may contact me at 502-649-3026.

Sincerely,

Cynthia Dilamarter, RN, CCM
Case Manager
Phone: 502-649-3026

cc: Sharon West
Donald Smith, Attorney

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3605 Northgate Circle, Suite 202
New Albany, Indiana 47150
502-585-4376
OAdocs.com

fax 502-581-1274 appointments 502-562-0346

Date: June 03, 2013

Name: PROVIN, JAMES Age: _____ Birth Date: [redacted]

Address: _____ Home Phone: [redacted]

Occupation: _____ S.S.#: _____

Refered by Dr.: _____ X-Ray #: _____

HISTORY: The patient returns today in followup on his right shoulder. Surgical pathology was explained. Wound care instructions were given. We are going to get him going with the post rotator cuff repair protocols, renew the Lortab. He is out of work. We will see him return here in four weeks' time.

Discussion was carried out with the nurse case manager whose questions were answered to her satisfaction. The patient is allowed to return to work, no use of the right arm, and he will be doing his physical therapy over at BaptistWorx, River Port.

FOB/hba