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## Michigan Chapter Newsletter / April 2024 Edition



### President's Memo By: Marc Godman



Well here we are running headfirst into the best part of the year...spring and summer. I don't know about you, but the first quarter has flown by. I was thinking that 2024 was going to bring us issues with EV's (and it still might) but then AI kicked open the door and said "hold my drink". When I got started in this industry 30 years ago, never did I think I would be faced with artificial intelligence nightmares. It is going to give us headaches for us that we never could have imagined. I know that there will be lots of upcoming trainings offered by various sources on this very topic and I urge you all to take advantage of those trainings. (Nashville...hint, hint.)

Your chapter has been hard at work to provide a very exciting 2024 for you. On top of the bi-monthly membership meetings which will provide excellent training opportunities, we will also be holding our Spring Seminar (virtual) on May 16<sup>th</sup> followed by our networking session at Hockeytown Café/Comerica Park on July 30<sup>th</sup> and then rounding out the year with our annual Fall Seminar on October 10<sup>th</sup> at the Vista Tech Center at Schoolcraft College. And if that isn't enough for you, there is also the seminar in Nashville on Aug. 25-28.

As we celebrate the 40<sup>th</sup> anniversary of IASIU, it has never been more important than right now to keep focused on the latest trends in our industry and stay vigilant in our efforts to combat insurance fraud.

And as always, let's be careful out there.

Sincerely,

Marc

## Counsel's Corner

**"BLINDED BY THE LIGHT"**

**HOW TO NOT GET BURNED BY LASER THERAPY TREATMENTS**

**By: Eric M.T. Eisenberg, JD., MBA, Law Offices of Ronald M. Sangster, PLLC**

Since the Michigan No-Fault reforms have taken hold, there has been an upsurge in the use of light therapy to treat soft-tissue injuries. These have taken the form of Low Level Laser Therapy "LLLT" and the newly adapted High Energy Laser Therapy. The difference is more than semantic and needs to be discussed at length.

LASER is an acronym for Light Amplification by the Stimulated Emission of Radiation. Light particles (photons) in normal visible light move in multiple directions and are made up of photons of multiple wavelengths (trough to trough distance within the wave). Variation of wavelength results in the spectrum of visible and invisible colors and in the amount of energy that may be carried in the wave. Lasers concentrate the photons and synchronize them so they are all moving in phase in the same direction. This results in a concentrated light beam that doesn't dissipate much over distance. The FDA classifies lasers by their energy level from Class I to the highest Class IV lasers. The lower energy lasers have become ubiquitous in daily life as bar code scanners, data retrieval devices, surveying equipment and laser pointers. Visible light Class III lasers have been used for years in the entertainment industry and have been the focal point of more than a few Pink Floyd concerts.

In the 1960s, the utility of "LLLT" in the treatment of wounds began to be investigated. LLLT utilizes infrared radiation in the range of 0.005 to 0.5 watts to treat the affected areas near the surface of the skin. Due to the low energy the patient should not feel any warmth or burning sensation from this "cold laser" treatment. The exact mechanism of action of this treatment is unknown. However, it is theorized that the light energy acts to stimulate the injured cells mitochondria (cellular powerplant) to increase their production of ATP (adenosine triphosphate) and therefore increase the amount of energy available to help heal the injured tissue. There are also suggestions that the LLLT increases the microcirculation and production of intracellular antioxidants around the injured tissue in order to speed up healing. Taken together, these processes have been termed photobiomodulation.

Likewise, the utility of high energy lasers has been a staple of James Bond movies; however, the devices are no joke. On the medical front, lasers are utilized to cut, burn and weld tissue. Due to the heat involved there is minimal bleeding as the laser cauterizes as it goes. There is a whole range of dermatological applications

including tattoo removal and dermal resurfacing. They are used to stop bleeding in the eye, correct vision (Lasik) and to help reattach detached retinas. However, this is also one of the main dangers in using the high energy lasers. If proper eye protection is not worn, even scattered light reflected off of the target may damage the eye. In the no-fault world, some of the laser manufacturers have claimed that by increasing the power of the laser, the photobiomodulation effect can penetrate into the deeper areas of injured tissue. Hence the upsurge of Class IV laser use in physical therapy and chiropractic clinics. Medicare has deemed the use of lasers as experimental in regards to these applications.

There are two major issues to address when looking at the use of the lasers within the no-fault context. The first issue relates to the supervision of the use of the laser itself. According to the Michigan Department of Licensing and Regulatory Affairs (“LARA”),

“[t]he use of lasers by health professionals constitutes a medical or dental practice and falls within the definition of the practice of medicine.” Since the use of lasers is considered the practice of medicine and the practice of medicine is a learned profession [], corporations and limited liability companies using lasers for medical or dental services may only incorporate or organize as professional service corporations (PCs) [] or as professional service limited liability companies (PLLCs)[].”

The LARA position statement goes on to define physician supervision,

“A physician/dentist may delegate the use of laser equipment to a licensed or unlicensed individual if the delegated individual works under the physician/dentist's supervision. In this context, supervision, as defined by the Public Health Code, requires at least all of the following:

- Acknowledgment by the physician/dentist that the delegated individual has the appropriate education, training or experience to properly use lasers.
- Continuous availability of direct communication in person, or by radio, telephone or other telecommunication, between the physician/dentist and the delegated individual.
- Regularly scheduled availability of the physician/dentist to consult, educate, and review the records and practice of the delegated individual in laser use.
- Development by the physician/dentist of written procedures and protocols to guide the delegated individual's laser use.

Physician/dentists must adhere to these supervision requirements. As the delegated individual works under the authority of a license, the licensed physician/dentist is ultimately responsible for the outcome of the tasks and duties performed by the delegated individual.”

LARA’s stance regarding the use of lasers and the required supervision of same by a physician was codified into MCL 333.16276 which applies to the use of lasers in dermatological procedures. LARA denoting that their use constitutes the practice of medicine makes sense due the risk of injury if the devices aren’t used properly. When encountered with these treatments, some questions to ask may include simply determining who the responsible physician is, how they determined the safety protocols, how they supervise the staff utilizing the laser, and what equipment is on site. Certainly one may argue that if there is no physician supervising the laser treatment, it may be considered illegally rendered under MCL 500.3157 and therefore not compensable.

The second issue to explore comes from the billing for the procedure itself. Many of the clinics are billing for and documenting that they are providing low energy laser treatment under the CPT codes S 8948 and 0552 T. They might even include a disclaimer that there are no other available codes. In my opinion, there is a more accurate code for them to use, CPT 97799, which indicates physical medicine and rehabilitation unlisted procedure. Finally, there is a huge variability in the amounts charged for the procedure. A quick Google search can find treatment with the Class IV laser at around \$100.00 per session at some Metropolitan Detroit physical therapy clinics. However, some of the no-fault clinics are charging \$4,200.00 per session. The Michigan State Senate has partially addressed the issue in SB-0530 which states that the charges are capped for a chiropractor rendering low-level laser treatment “using code S8948, \$25.24 per 15 minutes for Metro Detroit, \$24.61 per 15 minutes for rest of the State.” While the bill passed the Senate, it has not come out of the Michigan House committee. That being said, one can be safe to assume that the question of what is a reasonable charge for the service has not been settled.

No fault reform has spawned a large number of rather unique treatment modalities that may have been brought in specifically to get around the fee schedule. Regardless of the intent, when looking at these services, one should ask; What exactly are they supposed to be doing for the injured party? If there doesn’t seem to be a clear benefit, the service may require a second look. Simply asking the claimant about the service is a good start. Many of the services are likely to be rendered during the pendency of litigation. If so, even better. I have found that a well-taken and thorough deposition goes a long way to clearing up the issues noted above. Feel free to contact me directly if you have any questions regarding my experiences with same.

#### About the Author:



Eric Eisenberg specializes in the defense of first and third-party No-Fault cases. He has worked extensively in medicine and in the financial industry before putting these skills to work as an attorney. He obtained his law degree from the Michigan State College of Law in 2008; working full-time as a paralegal while obtaining his law degree at night. However, Eric began his career as a nurse working in critical care and in the Cardiac Catheterization laboratory. His first-hand medical knowledge has given him the edge in recognizing the fundamental issues supporting claims for damages and to obtain the discovery necessary to defend the claim. He has worked for the Law Offices of Ronald M. Sangster for the past nine years and specializes in the defense of medical fraud cases.

Eric M.T. Eisenberg, JD., MBA

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## Upcoming Michigan Chapter Events

04/27/24: Join us as we walk to raise funds for the Shades of Pink Foundation which supports individuals going through breast cancer treatment from 7 am – noon at the Detroit Zoo. To register under the MI IASIU team, visit:

<https://shadesofpinkfoundation.goodworldnow.com/c/michigan-iasiu>

05/16/24: Spring Seminar (Virtual Only Event). An invite has been emailed to all current members of MI IASIU. If you did not receive an email and are a member of our chapter, contact Jeanne Strick at [strijc3@nationwide.com](mailto:strijc3@nationwide.com)

07/30/24: Michigan IASIU Chapter Networking session. Join us for a pre-party at Hockey Town Café followed by the Detroit Tiger's v. Cleveland Gaurdians game at 1 PM. Registration forthcoming.

09/19/24: General Membership meeting and training located at Hanover Insurance in Howell, MI from 9:30 AM – 11:00 AM. Speaker topic TBD.

10/10/24: Michigan IASIU Chapter Fall Seminar at Schoolcraft College in Livonia, MI. Registration forthcoming in August 2024.

11/21/24: General Membership meeting and training located at Frankenmuth Insurance in Frankenmuth, MI from 9:30 AM – 11:00 AM. Speaker topic TBD.

## Other Michigan Industry Events

04/18/24: The NICB will be hosting a dialogue meeting starting at 9 AM at Hanover Insurance in Howell, MI. This is a NICB Members ONLY event.

04/18/24: The Michigan Anti-Car Theft (ACT) under the leadership of Michigan Association of Michigan Association of Vehicle Theft Investigators (MAVTI) will host their meeting starting at 1 PM at Hanover Insurance in Howell, MI.

04/29/24 – 05/02/2024: Annual NCRC/IAATI Training Seminar will host their annual seminar in Grand Rapids, MI. The cost for this event is \$310 for members and \$365 for non-members. To register for this even, visit: [www.Linkedin.com/NCRC](http://www.Linkedin.com/NCRC). For those traveling, book your room at: [Available Rooms - Embassy Suites by Hilton Grand Rapids Downtown](#)

## ETHICS AND BEST PRACTICES FOR FRAUD INVESTIGATIONS

By: Shelly Lee Griffin, Esq., Plunkett Cooney / of Counsel for MI IASIU

Ensuring integrity in insurance fraud investigations is crucial to maintaining trust and credibility in the insurance industry. Here are some key ways to ensure integrity in insurance fraud investigations:

1. Professionalism: Investigators should always conduct themselves professionally and treat all individuals involved in the investigation with respect and courtesy. They should refrain from using deceptive or unethical tactics to gather information and should be transparent about their identity and purpose when conducting investigations.
2. Privacy: Investigators should respect the privacy of the individuals involved in the investigation. They should only collect information that is relevant to the claim and ensure that any personal information gathered is kept confidential and secure. This includes both verbal and written communications. Otherwise, the carrier could face potential libel and slander allegations.
3. Fairness: Investigators should conduct investigations in a fair and unbiased manner. They should not make assumptions or jump to conclusions without sufficient evidence. The best questions begin with Who, What, When, Where, and Why with appropriate follow-up. It is also important to be mindful of any accommodations that a policyholder may require. For example, if English is not the policyholder's first language, enlist an interpreter to aid in any communications with the policyholder. Likewise, make accommodations for policyholders with disabilities when appropriate.
4. Authorization: Investigators should obtain written authorization signed by the policyholder. For example, authorization to inspect a loss location should be obtained from the property owner to avoid any claims of trespass. Similarly, consent to remove or collect evidence should be obtained from the property owner. This will further help with establishing chain of custody if needed in subsequent litigation. Even a general authorization will help alleviate concerns by third parties that may be otherwise reluctant to speak with investigators about general matters.
5. Documentation and record-keeping: Maintain detailed records of all investigative activities, including evidence collected, interviews conducted, and documents received. Proper documentation helps ensure accountability and transparency in the investigation process. It is best to document claim file close in time to the activity whenever possible. Entries should contain objective, not subjective details. For example, if a policyholder is demanding or unreasonable show this by documenting, I spoke to Insured for 30 minutes, Insured yelled at me and repeatedly used profanity, I attempted to explain procedure to Insured and asked if any questions, Insured did not respond and hung up on me.
6. Collaboration and oversight: Foster collaboration and communication among investigators, legal teams, and other stakeholders involved in fraud investigations. The actions of third parties retained by the investigator are a reflection on the carrier. Use due diligence in selecting vendors. Implement oversight mechanisms to review and monitor investigative activities to ensure compliance with ethical standards.
7. Request and Share Information: The Michigan Insurance Code provides for the release of information by an insurer for any information that is considered important relating to suspected insurance fraud upon written request by an authorized agency, insurer or an agent authorized by an insurer. MCL 500.4507. Carriers can obtain information from other carriers about prior claims concerning suspected or completed insurance fraud, when acting without malice and will otherwise be immune to civil liability for libel, slander, or another tort. MCL 500.4509. Requests for information and responses thereto should be in writing. This applies to law enforcement as well.

By following these best practices and principles, insurance companies can help ensure that fraud investigations are conducted with integrity, professionalism, and respect for all parties involved. This not only helps protect the interests of policyholders and insurers but also upholds the reputation and credibility of the insurance industry as a whole. More importantly, it protects the investigation from challenges should litigation ensue.



**Michigan IASIU presents the Virtual Spring Seminar**



This event will be hosted virtually.

When: 5/16/2024 at 8:30 am-12:30 pm – 4 hours and certificates available for attendees upon request.

Sign up: <https://forms.office.com/r/KZRKiHNx09>

This event is free to all members.

Please welcome our speakers:

Lisa Janeczek Partner of Hewson & Van Hellemont, P.C. Lisa has specialized in aggressive insurance defense litigation for the past 20 years and specializes in automobile negligence, personal protection insurance and premises liability. Lisa will be presenting on premises liability in the changing court landscape, what to know, and what investigative steps can Special Investigators do to provide the evidence in support claims and customer defense.

Robert Abramson Partner of Novara Law is known as an industry leader for fraud fighting. He will be presenting with industry heavyweights, Anmar Gappe Claims Special Investigation Unit Manager at AAA and Board Member of MI IASIU; Jason Keller tenured special investigator at Farm Bureau Insurance specializing in auto theft, fire, physical damage and repair fraud, along with serving on the board of Michigan Association of Vehicle Theft Investigators (MAVTI) and past President of MI IASIU; and Kimberly Downey of Complete Investigations who specializes in technology forensics including cellular phone and WiFi router reviews. She has been a designated expert by both State and Federal courts. Together they will discuss tactics for attacking fictitious stolen vehicle claims and the interplay of lawyer, Special Investigator and choosing the right vendor for the job.

Mike Jolet Co-Managing Partner and President of Hewson & Van Hellemont is known for his passion and aggressive, no-nonsense approach to cases. Frederick Livingston Partner at Novara Law is known for his nuanced approach and aggressive defense of his clients. Together they will be presenting a demonstration of a new product produced by the Michigan Defense Trial Counsel available soon to Special Investigators with approval.



Join Michigan IASIU for A Walk at the Zoo In support of Shades of Pink Foundation



To register go to: <https://shadesofpinkfoundation.goodworldnow.com/c/michigan-iasiu>

Sign up for team Michigan IASIU

Early bird registration ends 2/14/2024 at \$35.00

After 2/14/2024 registration cost is \$45.00

Where: Detroit Zoo 7:00 am - Noon

When: April 27, 2024

Who are Shades of Pink? Shades of Pink is a Michigan based non-profit specifically designed to help defer the costs individuals suffering from Breast Cancer face. Every year more than 8000 Michigan residents are diagnosed with breast cancer, 3200 will face significant difficulty paying healthcare costs, 2460 will have problems affording necessary cancer medications, forcing 1840 patients to cut pills in half or skip doses. 2000 will use up all their person savings for medical bills and 800 will be forced to file for bankruptcy. Grants from Shades of Pink cover the everyday living expenses that aren't covered by most other support organizations, including rent/mortgage payments, utilities, childcare, food assistance, breast cancer support equipment, hospital co-pays, medication costs, and transportation costs, back credit card payments, and any other bill a family not in treatment might have.

Come join MI IASIU for this family friendly event and stay all day at the zoo for added fun and support Shades of Pink!

**Save the Date JULY 30, 2024**

IASIU invites you to the July 30 1pm Tigers VS Guardians game.

The \$40 ticket includes your seat at the game and a \$15 food voucher.

Come network with other industry fraud fighters and their families!  
\*Families are welcome.

A registration form is coming soon to register and pay.

Limited seats available, to secure your ticket you will need to download the MLB app to get the tickets transferred.

Questions? Reach out to Stella Grablick or Missy Comini  
[estella.grablick@fmjns.com](mailto:estella.grablick@fmjns.com) [mjcomini@acg.aaa.com](mailto:mjcomini@acg.aaa.com)  
\*More information to come on a pregame get together\*



Did you know IASIU revamped the CIFI program to include improved training and a diversified exam covering more topics for SIU investigations? Join the Certification Team for a FREE 1-hour live training webinar designed to prepare you to earn your CIFI designation and enhance your knowledge as a SIU Investigator. During this live training session, you will learn topic areas to supplement your SIU experience to best prepare you for success on the CIFI exam. If you are considering taking the CIFI exam, you do not want to miss this training event on 5/15/24. BONUS: Current CIFI holders may attend this training and earn a 1-hour credit towards their CIFI Recertification requirement! Visit <https://www.iasiu.org/events/EventDetails.aspx?alias=5-15-24> Webinar to sign up!

If you are interested in testing for your CIFA, CIFI or CIFR certification? Learn more @ <https://www.iasiu.org/page/Certifications>. If you are interested in testing for the exam in person, our Chapter will proctor the exam for you. For more information, contact Stella Grablick at [estella.grablick@fmins.com](mailto:estella.grablick@fmins.com)

**NOMINATIONS NOW BEING ACCEPTED FOR THE 2024 CHRIS OLSON  
MEMORIAL INVESTIGATOR OF THE YEAR...**

Nominations are currently being accepted for the 2024 Chris Olson Memorial Investigator of the Year Award by the MI Chapter of IASIU. To be eligible for the award, nominees must be active members of the Michigan Chapter of IASIU at the time the investigation was conducted and when the award is presented. The investigation for which the nominee is being considered must have taken place within the designated "award year," unless certain circumstances apply. These circumstances include involvement in criminal/civil litigation, in which case the nomination must be submitted within one year of the conclusion of the litigation, or if the investigation was discontinued by NICB, Law Enforcement, or the insurance company, the nomination must be submitted within one year of the case discontinuance. The current "award year" is from October 1, 2023, to September 30, 2024, aligning with the Michigan IASIU Fall Seminar where the award will be officially presented.

To nominate an investigator for the award, please submit a completed and signed copy of this form along with a written summary of the investigation for which they are being nominated. Please ensure that any confidential information is omitted from your writing. In your summary, focus on showcasing the investigator's efforts and what made the investigation exceptional.

Nominations are due no later than September 30, 2024 and can be sent to Tessa Phillips, Awards Committee Chairperson, at [tPhillips@hanover.com](mailto:tPhillips@hanover.com).



2024 Nomination Form.pdf

**Additional Continuing Education Opportunities**

Read SIU today! Once you've read past issues you can take quizzes to gain two (2) CE credits good towards your CIFA, CIFI or CIFR designation(s).

Quizzes are only available for the four (4) most recent issues. For the most up to date version of the magazine, visit: <https://www.iasiu.org/page/SIUTodayLibrary>



06/03/24 – 06/04/24: Coalition Against Insurance Fraud Midyear Meeting being held in Kansas City, MO. To register for this event, visit: [https://insurancefraud.org/login/?redirect\\_to=https://insurancefraud.org/&redirect\\_to=https%3A%2F%2Finsurancefraud.org%2Fupcoming-meetings%2F](https://insurancefraud.org/login/?redirect_to=https://insurancefraud.org/&redirect_to=https%3A%2F%2Finsurancefraud.org%2Fupcoming-meetings%2F)



06/10/24 – 06/12/24: The 2024 IASIU European Seminar will be held in the Cultrual City of Rome, Europe. To register for this event, visit: <https://iasiu-europe.com/seminar/>



08/25/24 – 08/28/24: IASIU annual conference being held in Nashville, TN. For more information, visit: [www.iasiu.org](http://www.iasiu.org)

