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## Michigan Chapter Newsletter / January 2024 Edition



### President's Memo By: Marc Godman



First, I would like to wish you all a very Happy New Year and I hope that you and your family had a wonderful holiday season. Like most of you, I am having a hard time wrapping my head around the fact that it is already 2024. I swear that it feels like just last week, we were holding our 2023 chapter elections and preparing for the year ahead. And what a year it was for our chapter. Just to hit on a few of our highlights from this past year: we had hugely successful spring and fall seminars; our annual networking session returned to Hockeytown Café/Comerica Park, we increased our membership and then the cherry on top, winning the national chapter of the year award in Dallas. And this doesn't even take into account our chapter meetings that provide excellent training as well. All of our success is only possible because of the hard work of not only the board, but every member of our outstanding chapter. I would like to extend my heartfelt thanks and gratitude for all the work that you do to keep this chapter thriving.

With that said, as our industry turns 40 in 2024, we still have challenges ahead in our never ending fight against insurance fraud. Just when we build a better mousetrap, the mice figure out a way to try and get around it. So what new and exciting things await us in the coming year? Will it be something regarding EV's; continued manufactured hail damage; DME's or experimental medical testing? We never know what's around the next corner but you can bet it won't be dull. No matter what challenge it is, your chapter will be here to keep providing cutting edge training (both at our seminars and monthly meetings), we will continue to network with each other and our amazing vendors (without whom, most of what we do wouldn't be possible) and we will continue to fight the good fight.

In closing, I am honored to be writing this as your new president and I promise to give this role 100% effort. I look forward to be working with you and for you and as always, please do not hesitate to sign up to help our chapter in whatever way you are able. And as always "let's be careful out there."

## Counsel's Corner

### **Lasers, Shockwaves and Photobiomodulation: Are New Age Experimental Therapies Fueling Age Old Fraud?**



**By: Frederick V. Livingston of Novara, Tesija, Catenacci, McDonald & Baas**

When you hear of lasers, shockwaves, and photobiomodulation, you may think you're watching a sci-fi movie, an episode of the Jetsons, or something from the mind of Tony Stark. Personally, I certainly would not assume the terms are related to medical treatment for musculoskeletal injuries. However, use of these therapies is exploding across southeast Michigan. We have seen a massive spike in their usage in the last two and a half years for the treatment of injuries following automobile accidents. This kind of treatment is not cheap; a therapy session at a laser or shockwave clinic can range from \$3,500-\$6,000 per session, and home therapy devices are often billed in excess of \$7,000. The meteoric rise in treatment and associated billing has led detractors to claim that the experimental therapies are not effective and are just the newest treatment modalities being utilized to inflate claims, just like P-Stim and PEMF devices in the past. Detractors will also point out that the 2019 no-fault reforms implemented a fee schedule to cap payment for most traditional treatment modalities, forcing providers to look for ways to replace lost revenue. On the other hand, supporters claim that these treatments are non-narcotic therapies that are gaining acceptance within the medical community and lead to more favorable outcomes than opiates and medications. It is far from likely that the opposing schools of thought will ever reach a consensus, leaving the question, are these experimental therapies the future or are they just being used to commit age old fraud?

#### What are Lasers and Photobiomodulation?

Lasers and photobiomodulation consist of low level laser therapies (LLLTT), also known as cold laser therapy, that can be delivered to the patient via facility treatment sessions or through devices for home use, such as the OnLux device. Laser therapy treatment remains unknown to many due to its novelty. The FDA cleared the first low level laser

in 2001, and usage of the treatment for musculoskeletal injuries has increased significantly in the past ten years. The goal of laser therapy is to deliver light energy units from red and infrared laser radiation, called photons, to damaged cells. Then, the photons absorbed by the cells through laser therapy attempt to stimulate the mitochondria to accelerate production of ATP in the cells. An increase in cell energy could help to repair cells and reduce pain.

The U.S. government classifies lasers based on their ability to do damage to the eye. The FDA has cleared marketing for some low-level laser devices as pain relieving. However, the FDA hasn't issued final conclusions about the effectiveness of low-level laser therapy due to the need for more comprehensive, large-scale clinical studies. Class 1 and 2 lasers can be purchased online or over the counter. Class 3 and 4 lasers are for professional use and not available for purchase by the public.

The State of Michigan regulates the use of Laser Equipment for medical treatment. Physicians are therefore required to render the treatment, but they can also delegate the use of the equipment to other individuals. The regulations on delegation state:

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

Classification and regulations of these devices alone has not led to providers seeing payment for this treatment, as the efficacy of this treatment for soft tissue injuries or chronic neck and back pain has yet to be definitively established. Medicare, Blue Cross Blue Shield, CIGNA, HAP, Humana and countless other insurance companies have issued position papers and medical policies justifying their refusal to offer coverage for these services. The papers include conclusions such as these which question the actual effectiveness of such treatment:

“Preliminary reports of LLLT to treat carpal tunnel syndrome and other musculoskeletal disorders have been positive but randomized controlled trials have not demonstrated effectiveness of the treatment except in one study by Naeser with only 11 participants.”

“Low level laser therapy is a noninvasive treatment that has been used for many conditions. While researchers have published extensively on LLLT, the trials have generally been small, do not compare LLLT to alternative therapies, and apply a range of treatment parameters. In several trials the placebo control groups have improved as much as active laser groups. Therefore, the evidence has not substantially shown the effectiveness of LLLT.”

### What are shockwaves?

Extracorporeal Shock Wave Therapy (ESWT) applied to a tendon or muscle through the skin to jump-start the body's ability to regenerate new tissue and decrease pain by stimulating the nerves at the site of the injury. Extracorporeal shock wave therapy has been available since the early 1980s for the treatment of renal stones. ESWT uses externally applied shock waves to create a transient pressure disturbance, which disrupts solid structures, breaking them into smaller fragments, thus allowing spontaneous passage and/or removal of stones. There are not specific regulations related to rendering this treatment to patients suffering from musculoskeletal injuries but, similar to low level laser therapy, there is scant evidence of efficacy. Just as with laser therapies, Medicare and all major health insurance carriers have issued position papers and policies refusing to provide coverage for this treatment.

Medicare's coverage determination notes: “the available evidence suggests that further research is needed to establish the efficacy and safety of extracorporeal shock wave therapy in the treatment of musculoskeletal conditions. The uncertainty associated with this intervention is highlighted by the wide clinical diversity and varying treatment doses and protocols as evidenced in the current literature.” Blue Cross Blue Shield of Michigan's medical policy notes, “ESWT for any musculoskeletal indication is considered experimental/investigational. Clinical evidence has not proven that it improves overall health outcomes or is as beneficial as alternative treatments.”

### Is technology outpacing medicine or are these devices being used to inflate claims?

Personally, I suppose it is possible that technology is outpacing medicine and that these devices have some benefits, but that is mainly because anything is possible. And if I suffered from severe back pain that did not respond to traditional therapy, I would want to believe in any new technology that offered a chance to cure my pain. However, when I began to research this treatment online to understand the science and the purported benefits, I kept running into websites with introductions just like this,

**“There’s no question that low-level laser therapy can help boost your practice by providing an added dimension that no other modality can do. And there’s also no question that you can bill for laser therapy—but there are issues that can make the billing process difficult.”**

Most of the marketing pitches seemed to emphasize how this treatment could generate revenue and be a profit center for a practice. I imagine the facilities offering this treatment now throughout southeast Michigan were met with similar marketing pitches from laser and shockwave sales representatives at some point. To be clear, there is nothing unethical or wrong about a medical practice seeking to be profitable so long as proper care is being rendered to patients. Yet the timing in the rise of the use of these treatment modalities for auto accident claims remains curious, as it came after the passage of the 2019 reforms. The 2019 reforms were heavily opposed by medical providers, due to claims that the reforms would decimate revenues.

Of course, advances in medical treatment through new technology should be celebrated because it is the only way medicine will continue to evolve. However, the celebration can only come after the treatment has been proven as safe and effective. For instance, the Supreme Court addressed this “push and pull” between efficacy and evolution in its opinion in *Krohn v. Home-Owners*, 490 Mich. 145 (2011):

“If medical treatment is experimental and not generally accepted within the medical community, an insured seeking reimbursement for this treatment must, at a minimum, present **objective and verifiable medical evidence establishing that the treatment is efficacious**. A treatment or procedure that has not been shown to be efficacious cannot be reasonable or necessary under the no-fault act. An insured’s subjective belief that medical treatment is efficacious, reasonable, and necessary is not enough to create a question of fact.”

While the principles articulated in *Krohn* are formidable, in practice even the thinnest showings of efficacy may create a question of fact, allowing a litigant to survive dismissal and present their arguments to a jury.

So, once again, we are faced with the question of how a jury can determine whether these experimental therapies the future or useless treatment being used to inflate auto accident claims. There is certainly ample evidence that the therapies offer little to no benefit to the patient; the manufacturers market these therapies as vehicles to enhance profitability and revenue that can only come from billing injury claims as no other insurance will cover the service. Only time will tell if jurors are willing to award damages for these alternative therapies but, one thing is certain, medical technology will continue to advance. Only vigilant and thorough investigation will prevent carriers from falling victim to providers using new age experimental therapies to commit age old fraud.

### **About the Author:**

Frederick focuses his practice on insurance defense litigation, with an emphasis on premise liability matters, automobile negligence cases, workers' compensation, and First-Party No-Fault cases, many of which involve fraud and excessive medical treatment. He is known for aggressively defending his clients in litigation while always communicating to his clients any obligations that may be owed to an injured party.

He has a long history of outstanding successes from successful motion practice that has saved clients millions of dollars along with successfully trying several cases to verdict.

Frederick is regularly invited to speak at industry events on topics such as fraud and medical provider investigations. He has been invited to present before the International Association of Special Investigative Units (IASIU), the Michigan Catastrophic Claims Association (MCCA), the Department of Insurance and Financial Services (DIFS) Fraud Unit among many others.

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# **Surveillance – One Size Does Not Fit All**

**By: John Wichmann of PhotoFax, Inc.**

Investigation techniques have advanced throughout the years. 30 years ago, cameras used to be the size of a small child, the internet did not exist, and A.I. was a robot killer played by Arnold Schwarzenegger. In our wonderful industry of investigations, it feels like it takes forever for something to change but then suddenly everything is different. That's why when I hear someone say that they never get good results from surveillance, it makes me wonder what type of surveillance they're utilizing.

Surveillance is not a one size fits all. In fact, there are so many different types of surveillance and techniques out there I could write an entire book about it (and smarter people than me have). It's important to understand what is available at your disposal in your vendor toolbelt because different situations need different solutions and that's especially true when you're assigning surveillance.

## **Manned Surveillance**

Traditional manned surveillance is the most common type of surveillance. What is manned surveillance, though? It's a licensed investigator who works on an assignment to obtain film of a subject. Seems simple enough, but if you're not getting film from your surveillance provider then you need to start digging a little deeper. There are hundreds of PI companies and each one has their own business model that suits their needs, but it's important to know if their model suits YOUR needs. Here are a few questions that may help you understand your providers better.

**Are the investigators you're using full time W2 employees, part time employees, or are they subcontractors?**

**Are your investigators utilizing their personal vehicles or are they in company provided surveillance vehicles? Ask for a picture.**

**What type of camera equipment are they using?**

**Is the company local, regional, or national?**

There's no right or wrong answer to the above questions. It all depends on what you as the client, or the one assigning surveillance, are comfortable with. If the answers to the questions above align with how you believe surveillance should be handled and you're still not getting good results, I would ask the following questions.

**Are they starting at the exact same time every morning or are they switching up the times if there was no activity the first day?**

**Do the investigator's vehicles have GPS on them so they can confirm they were there the entire day?**

**Has it been the same investigator on the assignment or have they been switching it up?**

These questions may give you some answers to why you're not receiving the results that you're expecting.

## **Unmanned Surveillance**

If you're not getting results with manned surveillance, it may be time to ask your vendor about unmanned surveillance options. Unmanned surveillance, also known as remote surveillance, is a tool that gives you certain abilities that manned surveillance just cannot provide. There are different versions of unmanned surveillance, but most of them allow for 24/7 recording at a much lower cost than it would be to have a manned investigator sitting on a house all day or night. Unmanned cameras do not sleep, they do not eat, they do not need bathroom breaks, and they do not get bored. This gives unmanned an advantage over manned surveillance when you're just watching a house or a single location.

What are the different types of unmanned surveillance? The two most common types are below.

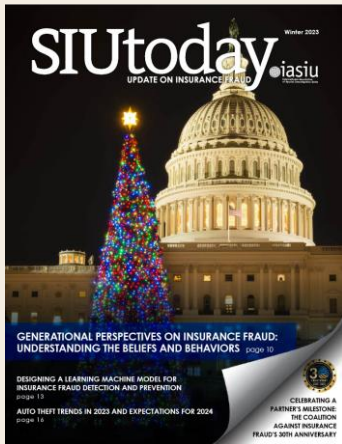
**Unmanned Surveillance Vehicle** – This type of unmanned surveillance has a camera, or multiple cameras, hidden in a vehicle that is legally parked on the street. For carriers who are conscious about the legality of unmanned, this helps ease their worries knowing that the vehicle is parked on a street just like manned surveillance.

**Drop Cameras** – These can be anything from a construction cone, electrical box, bird house, or even a fake rock. These are typically used for tough rural setups where you may not be able to position a vehicle.

Once you've figured out what type of unmanned surveillance you want to utilize on a case, I recommend asking these questions to your vendor.



Winter 2022: Q4 2022 edition of SIU today



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://mydigitalpublication.com/publication/?i=809309>

02/22/24: The new and upgraded ACT meeting is scheduled for February 22, 2024 at 1-3 PM at the Novi PD training center.

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)

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Meet our 2023 MI IASIU Chapter Chris Olson Memorial Investigator of the Year Award recipient:



Andrew Norton,  
USAA Insurance

(Pictured with Chapter President, Marc Godman)

**Is anyone monitoring the camera from a live feed that can be viewed by the client?**

**Can the camera pan, tilt, and zoom or is it a fixed image?**

**How long can the camera run?**

**Is the recording continuous or just motion activated?**

Once you have the basic questions answered, here are a few good situations where I would recommend utilizing unmanned surveillance.

**Suspicious Claimants** – If they're suspicious of manned, then try unmanned to switch it up.

**Cul-De-Sac** – If the claimant lives on a cul-de-sac it makes it difficult to position on the house with a manned investigator without causing suspicion on the street.

**At Home Care** – If a claimant is getting at home care treatment and you're suspicious of the billing hours, I highly recommend utilizing unmanned so you can monitor what is going on at the residence over several days so you can confirm the bills you are receiving from the care provider.

### **The Future**

Every year cameras get better, investigators get smarter, and the technology gets more advanced. The same thing can be said about fraudsters as well. They're using better technology, they're smarter, and they know the game better because there is so much information out there. If you're not getting results that meet your expectations in surveillance, then it might be time to start asking some questions.

### **Questions? Contact the Author:**



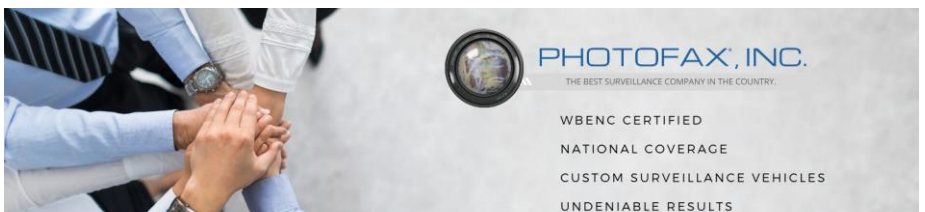
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PhotoFAX®, Inc. is a nationally recognized leader in Surveillance, Remote Surveillance, and Investigative Services. Our highly reliable solutions create a formidable first line of defense in Workers Compensation, Liability, and Long Term Disability claims. We provide a complete line of fraud detection services that save our clients millions of dollars each year.



## *In Memory:*

It is with great sadness that we share the news of the passing of John Guzik, AAA Insurance CSIU Field Investigator, on 12/24/23.

John was an outstanding investigator and his dedication to AAA CSIU greatly impacted the results on countless investigations since he joined the company in 2014.

More importantly, John was a wonderful man and a dear friend. He was kind, funny, thoughtful, and always willing to go the extra mile for his AAA CSIU family that he held so dear. He was well loved by everyone in AAA CSIU and will be deeply missed.



We ask that you please keep John's wife, children, and grandchildren in your thoughts during this difficult time.

His obituary details are listed at the link listed below. Under this link you can also share words/photos of inspiration and comfort:

<https://merklefh.com/tribute/details/11002/John-Guzik/obituary.html>

## 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 27, 2023

IASIU invites you to the July 27 1pm Detroit Tigers VS Los Angeles A's

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, deadline June 20.

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

Questions? Reach out to Stella Grablick ([estella.grablick@fmins.com](mailto:estella.grablick@fmins.com)) or Missy Comini ([MJComini@acg.aaa.com](mailto:MJComini@acg.aaa.com))



Are you 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 Jeanne Strick @ [strij3@nationwide.com](mailto:strij3@nationwide.com)

## Meet Your 2023 Michigan IASIU Chapter CIFA, CIFI & CIFR Designees

- Sandy Cook, CIFR  
Claims Representative III, Accident Fund Insurance Company of America
- Timothy Cyrus, CIFI  
Special Investigator – Field, National General Insurance
- Kimberly Galloway, CIFR  
Claims Representative, Accident Fund Insurance Company of America
- Jean Kluisza, CIFR  
Sr. Claims Representative II, Accident Fund Insurance Company of America
- Amy L. Krause, CIFR  
Claims Representative III, Accident Fund Insurance Company of America
- Nick Kwiecinski, CIFI & CIFA  
SIU Analyst, Auto-Owners Insurance Company
- Christopher Lieb, CIFA  
SIU Senior Analyst, Auto-Owners Insurance Company
- Erin Linn, CIFI  
Fraud Investigator, Michigan Department of Insurance & Financial Services
- Tara Parisian, CIFA  
SIU Analyst, Auto-Owners Insurance Company of America
- Sharon Phillips, CIFR  
Sr. Claims Representative II, Accident Fund Insurance Company of America
- Summer Rose, CIFR  
Sr. Claims Representative I, Accident Fund Insurance Company of America
- Lynn Schrems, CIFR  
Claims Representative II, Accident Fund Insurance Company of America
- Casey Shearer, CIFI  
Investigator III, Cincinnati Insurance Company

### Upcoming Michigan Chapter Events

01/18/24: General Membership meeting and training located at AAA Insurance in Dearborn, MI from 9:30 AM – 11:00 AM.

In the month of January, we welcome Bruce Jacobs of LeakingTheTruth.com to present on Behavioral Analysis.

Board elections will take place during this meeting. One vote can be cast per membership company. Your company representative must be present to vote.

03/21/24: General Membership meeting and training located at Meemic Insurance in Auburn Hills, MI from 9:30 AM – 11:00 AM.

In the month of March, we welcome Shelly Lee Griffin of Plunkett Cooney to present on Ethics. This training will meet your IASIU designation(s) ethics requirements for the year 2024.

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 will be forthcoming to all current members of MI IASIU.

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. Location and 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. Location and speaker topic TBD.