

# SHIELD

a quarterly publication from Protective Insurance

Platooning Technology

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Benefits of a  
Return-to-Work Program

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Scammers and Ransomware  
and Phishing, Oh My!

We are all footing the bill:

# **PRESCRIPTION DRUG FRAUD**

SUMMER 2019





 **PROTECTIVE**  
INSURANCE

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# NEWS & NOTES

## ALASKA WEST EXPRESS NAMED ALASKA'S SAFEST TRUCK FLEET FOR 2018

Alaska West Express received the 2018 Alaska Safe Truck Fleet of the Year Award from the Alaska Trucking Association (ATA) at its annual meeting in April. Alaska West Express also received the award in 2016, 2014, and 2013. The carrier was recognized for its safety performance in 2018, including accident frequency rates; Compliance, Safety and Accountability (CSA) scores and OSHA recordable injuries.

The ATA sponsors this prestigious safety award with ConocoPhillips to recognize and reward carriers who operate safely on the highway and in the workplace. CSA is a major safety measurement and reporting initiative of the Federal Motor Carrier Safety Administration (FMCSA).

"This award demonstrates the dedication and hard work of our entire team of transportation professionals," says Alaska West Express President Eric Badger. "Our drivers, maintenance personnel, operators, dispatchers, supervisors, managers and administrators all share in this success. Their efforts to continually identify safety improvements in our extremely challenging conditions is the cornerstone of our program. The safety of our people, the environment and our equipment are our most important objective each day."

"Alaska West Express clearly demonstrates to themselves, their management and the general public that the trucking industry can and does operate safely. Safety is our number one priority. ATA is proud that Alaska West Express is a member" said Aves Thompson, Executive Director of the Alaska Trucking Association.

Alaska West Express provides truckload transport of liquid- and dry-bulk products throughout the U.S. and Canada and specializes in trucking to Alaska with terminals in Anchorage, Fairbanks and Tacoma, Washington. It also operates a training center and offers classes in hazardous materials transport, emergency response and workplace safety.

## NEW RESEARCH ON MARIJUANA-IMPAIRED DRIVING

The American Transportation Research Institute (ATRI) has published research detailing issues and solutions related to marijuana-impaired driving, a top safety research priority identified by ATRI's Research Advisory Committee (RAC) in 2018. With more states legalizing both recreational and medical marijuana, professional truck drivers are more likely to be sharing the roadway with other drivers operating under the influence of marijuana.

ATRI's research sought to document the most promising methods to identify and deter marijuana-impaired driving. The study recommends: increased data collection on the frequency and impacts of marijuana-impaired driving; public education and information on the risks of impaired driving; better equipping law enforcement and the court system to intercept and ultimately prosecute impaired drivers; and targeting tax revenue generated from marijuana sales to fund these activities.

"It is extremely concerning to motor carriers and our drivers that recreational marijuana is legal in so many states, yet as the ATRI report documents, a valid and widely accepted breathalyzer-type test is not available to law enforcement," said Mike Card, Combined Transport, Inc. President. "ATRI's study clearly defines a role for federal and state leaders to support law enforcement and others in keeping the roadways safe from those who choose to drive high."

In particular, the report highlights the importance of training law enforcement to identify and collect evidence of marijuana-impaired driving, particularly through the development of more drug recognition experts (DREs).

"As ATRI's research identifies, a key tool for combating drugged drivers is deploying additional drug recognition experts," said Mark Savage, Deputy Chief of the Colorado State Patrol. "A DRE can bring critical evidence to prosecutors that other tests simply cannot measure."

The full report is available on the ATRI website – [truckingresearch.org](https://truckingresearch.org).

## SAVE THE DATE!



The 2019 Claims + Safety Seminar will take place October 9 – 10 in Indianapolis. This event is a great chance to learn from sought-after subject matter experts on trends and challenges facing today's fleet executives regarding safety and loss prevention management. Attendees will also have time to meet and interact with Protective's Loss Prevention and Claims Leadership Teams.

Contact [lossprevention@protectiveinsurance.com](mailto:lossprevention@protectiveinsurance.com) to learn more!

## PROTECTIVE'S CLAIMS DEPARTMENT Outstanding service saves you money

4:1

Claims adjuster supervisor ratio of 4:1 ensuring claims move along productively

18%

Adjuster case load is 18.4% lower than industry average allowing more time for quality investigations, timely decision and exceptional customer service

40%

Every claim is reviewed by our subrogation team which has a recovery rate more than 40 percent higher than the industry average

The information in these articles was obtained from various sources. While we believe it to be reliable and accurate, we do not warrant the accuracy or reliability of the information. These suggestions are not a complete list of every loss control measure. The information is not intended to replace manuals or instructions provided by the manufacturer or the advice of a qualified professional. Protective Insurance makes no guarantees of the results from use of this information. We assume no liability in connection with the information nor the suggestions made.



# Water *Rest* Shade

LEARN HOW TO STAY SAFE IN THE HEAT

MOST HEAT-RELATED HEALTH PROBLEMS CAN BE PREVENTED, OR THE RISK OF DEVELOPING THEM CAN BE REDUCED.

## Engineering Controls

The best way to prevent heat-related illness is to make the work environment cooler. A variety of engineering controls can reduce indoor workers' exposure to heat:

- Air conditioning (such as air-conditioned crane or construction equipment cabs, air conditioning in break rooms).
- Increased general ventilation.
- Cooling fans.
- Local exhaust ventilation at points of high heat production or moisture (such as exhaust hoods in laundry rooms).
- Reflective shields to redirect radiant heat.
- Insulation of hot surfaces (such as furnace walls).
- Elimination of steam leaks.

## Work Practices

- Employers should have an emergency plan in place that specifies what to do if a worker has signs of heat-related illness, and ensures that medical services are available if needed.
- Employers should take steps that help workers become acclimatized (gradually build up exposure to heat), especially workers who are new to working in the heat or have been away from work for a week or more. Gradually increase workloads and allow more frequent breaks during the first week of work.
- Workers must have adequate safe drinking water close to the work area, and should drink small amounts frequently.
- Rather than being exposed to heat for extended periods of time, workers should, wherever possible, be permitted to distribute the workload evenly over the day and incorporate work/rest cycles.
- If possible, physical demands should be reduced during hot weather, or heavier work scheduled for cooler times of the day.
- Rotating job functions among workers can help minimize overexertion and heat exposure.
- Workers should watch each other for symptoms of heat-related illness and administer appropriate first aid to anyone who is developing a heat-related illness.
- In some situations, employers may need to conduct physiological monitoring of workers.

## Personal Protective Equipment

Workers should be aware that use of certain personal protective equipment (e.g., certain types of respirators and impermeable clothing) can increase the risk of heat-related illness.

In some situations, special cooling devices can protect workers in hot environments:

- In some workplaces, insulated gloves, insulated suits, reflective clothing, or infrared reflecting face shields may be needed.
- Thermally conditioned clothing might be used for extremely hot conditions; for example:
  - A garment with a self-contained air conditioner in a backpack.
  - A garment with a compressed air source that feeds cool air through a vortex tube.
  - A plastic jacket whose pockets can be filled with dry ice or containers of ice.

## Training

Workers and supervisors should be trained about the hazards of heat exposure and their prevention. Topics should include:

- Risk factors for heat-related illness.
- Different types of heat-related illness, including how to recognize common signs and symptoms.
- Heat-related illness prevention procedures.
- Importance of drinking small quantities of water often.
- Importance of acclimatization, how it is developed, and how your worksite procedures address it.
- Importance of immediately reporting signs or symptoms of heat-related illness to the supervisor.
- Procedures for responding to possible heat-related illness.
- Procedures to follow when contacting emergency medical services.
- Procedures to ensure that clear and precise directions to the work site will be provided to emergency medical services.

Source: OSHA.gov

# Platooning Technology

*“Working together, you’re able to handle the road better. These are significant driver teamwork, driver empowerment tools, and we’re excited about them.”*

— Steve Boyd, Vice President of External Affairs, Peloton



Truck platooning is the linking of two or more trucks in convoy using connectivity technology and automated driving support systems. The trucks maintain a set distance between each other. The lead truck sets the pace and the truck behind reacts and adapts to changes in the lead truck's movements.

Peloton, one of several companies developing platooning technology, grounds their system in best-in-class safety technology. Their focus is to make each truck safer at all times by requiring collision avoidance and lane departure warning systems, air disc brakes, electronic stability control, continuous safety monitoring and predictive maintenance. Added to this are vehicle-

to-cloud connectivity and vehicle-to-vehicle communications.

Platoons in the program are limited to two trucks with a driver in each truck who is steering and in command at all times. They share a dedicated radio link and real-time video. Each driver can see the blind spots of the other's truck and look out for each other.

A close, safe following distance is automatically maintained as the lead driver is accelerating and braking for both trucks. Reaction time is reduced to a tenth of a second compared to a driver's reaction time of two seconds. The trucks are ordered by braking ability,

with the longer stopping distance placed in the lead, reducing the chance of a rear-end collision within the platoon.

The operations cloud limits platooning to multi-lane, divided, limited-access highways during moderate to low traffic conditions. Platooning is discontinued during bad weather conditions, steep grades and construction zones, along with other specialized areas such as lower capacity bridges.

“In our initial operations with very large customers, we have seen excellent fuel savings, high utilization and a perfect safety record,” Peloton CEO Josh Switkes said. “Over the last five years, as we have developed platooning to commercial readiness, we have found that to get the benefits our customers seek, the system must combine the right functionalities around Vehicle-to-Vehicle (V2V) communication, cloud supervision and coordination, and the right driver experience.”

Real-world use of the system has resulted in improved fuel savings, safety and fleet management. The verified combined fuel savings of 7.25 percent was achieved at a 40 foot following distance at 65 mph. The payback for typical regional or long-haul trucks was less than one year. Fleets also were safer, and obtained high-quality data and improved analytics.

Varying state regulations have an impact on the viability of platooning. While no states have enacted bans against platooning, current laws were written before this technology was conceived. The regulations most in the spotlight are following-distance laws. Twenty-four states specify a minimum gap; 26 mandate a “reasonable and prudent” distance between vehicles.

Among the states with a minimum gap, several have updated their laws to allow platooning. Seventeen states with a mix of regulations have passed laws that specifically allow platooning.

Sources: Peloton, CCJ, tnews.com, dot.gov

# PRESCRIPTION DRUG

# FRAUD

Insurance fraud is big business. Many view it as a victimless crime; a low-risk, high-reward harmless prank. In reality, we are all footing the bill and can all be a part of combating the problem.

## Big target

The insurance industry consists of more than 7,000 companies that collect more than \$1 trillion in premiums each year. The massive size of the industry contributes significantly to the cost of insurance fraud by providing more opportunities and bigger incentives for committing illegal activities. Fraud is the second most costly white-collar crime in America behind tax evasion.

While prescription drugs which are legitimately prescribed by doctors serve an important role in health care, when used incorrectly, they can become dangerous and addictive. Too high of a dose or interaction with other drugs or alcohol may prove deadly.

- Drugs kill one person every 14 minutes
- In recent years, more people died from the abuse of prescription drugs than died in traffic accidents
- Opioid painkillers cause more overdose deaths in the U.S. than overdoses from heroin and cocaine combined

Drug diversion is a medical and legal concept involving the transfer of any legally prescribed controlled substance from the individual for whom it was prescribed to another person for any illicit use. In short, drug diversion is any criminal act involving a prescription drug and it has a massive impact. More than 40 people die every day from misuse of painkillers and more than one million people a year are seen in ERs due to improper painkiller use.

Drug diversion drains health insurers of up to \$72.5 billion a year, including up to \$24.9 billion annually for private insurers. This includes insurance schemes and the expensive hidden costs of treating patients who develop serious medical problems from the abuse of narcotics obtained through diversion.

There are a number of schemes used to perpetuate drug diversion.

- Phantom patients and/or phantom injuries
- Doctor shopping
- Getting the same prescription too often or too soon
- Stolen prescription pads
- Signing or changing a prescription
- Stealing or buying medications from others

An employee caught up in drug diversion costs your

company in several ways. Not only is their life at risk, but the longer that employee is off work, the less likely they are to return to work resulting in a new person being hired and trained. A missing employee means someone else must complete that work. In the long run, fraud will result in higher insurance premiums.

## Case of Note

On May 6, 2019, the Department of Justice and the U. S. Attorney's Office for the Northern District of Alabama issued a news release regarding 10 defendants charged in a 103-count indictment related to prescription drug fraud. The release said, in part,

"Health care fraud continues to impact the cost of health care in America and is amplified when trusted professionals abandon their ethical code in the name of greed. These unethical practices are damaging the lives of individuals and families throughout this country," said Thomas J. Holloman, Special Agent in Charge for IRS Criminal Investigation. "IRS CI will continue to work closely with our law enforcement partners in an effort to prosecute those abusing our health care system for profit."

The indictment describes a multi-faceted health care fraud and mail fraud conspiracy and scheme in which the defendants billed for medically unnecessary drugs. Aspects of the scheme included:

- paying prescribers to issue prescriptions;
- directing employees to get medically unnecessary drugs for themselves, family members and friends, to be filled and billed by Global Compounding Pharmacy and other related pharmacies;
- altering prescriptions to add non-prescribed drugs including controlled substances such as Tramadol and Ketamine;
- automatically refilling prescriptions—often as many as 12 times—regardless of patient need;
- routinely waiving and discounting co-pays to induce patients to obtain and retain medically unnecessary drugs;
- and billing for drugs without patients' knowledge and hiding that conduct from patients by mailing the drugs to an employee's home.

According to the indictment, when prescription drug administrators attempted to police this fraudulent conduct, the defendants evaded and obstructed those efforts by providing false information in response to audits and diverting their billing through affiliated



pharmacies. In executing the scheme, the defendants billed health insurance plans and their prescription plan administrators over \$200 million and were paid over \$50 million.

### Protecture's Special Investigations Unit

Within the Claims Department at Protective Insurance is a Special Investigations Unit. This group has received extensive training in identifying the red flags that may indicate fraud. Protective also employs in-house nurses who assist with reviewing claims. Fraud red flags can include:

- Medical treatment and prescriptions that continue for an unusually long period of time
- More than one provider is billing for the same medication
- Exam results do not indicate the need for prescription medications
- Over the course of the treatment plan, medications do not change
- Provider only prescribes highly addictive drugs
- The first dosage for the prescription is high compared to the recommended starting dose for the medication
- Injured worker isn't offered any other options as an alternative to the medication

If you suspect some type of fraud is in play, contact your Protective Insurance adjuster who will refer the case to the Special Investigations Unit. They can review the file to make sure your employee is being treated properly.



# WHAT IS FRAUD?

In basic terms, fraud occurs when someone knowingly lies to obtain a benefit to which they are not otherwise entitled.

When someone provides false information to an insurance company in order to gain something of value that he or she would not have received if the truth had been told, they have committed insurance fraud.

In order to have insurance fraud, you must have a lie.

The lie does not have to be something that was told to the adjuster, doctor, investigator, attorney or other party. It can be something that the individual should have said.

### Fraud Defined: Got M.I.L.K.?

- Misrepresentations made must be **MATERIAL** to the case
- The false information must have been represented **INTENTIONALLY**
- A **LIE** must have been presented to prove, validate, affirm or deny a claim for injury or loss payment or to obtain insurance coverage
- The information must have been presented **KNOWINGLY**

The misrepresentation is deemed material if the false information presented would have altered, changed or modified the manner the claim was handled, investigated, evaluated or settled.

## Naloxone in the Workplace



**Opioid misuse and overdose deaths from opioids are serious health issues in the United States. Naloxone is a very effective drug for reversing opioid overdoses.**

The National Institute for Occupational Safety and Health (NIOSH), part of the Centers for Disease Control and Prevention (CDC), has developed information to help employers decide if they should establish a workplace naloxone availability and use program.

A number of factors may influence whether a workplace program is needed or feasible. These include:

- If the state in which the workplace is located allows the administration of naloxone by non-licensed provider
- Liability and legal considerations including “Good Samaritan” laws
- The risk of opioid overdose in your geographic location

Considerations for establishing a program include a workplace risk assessment, storage issues, records management and training.

More information is available at [cdc.gov/niosh/topics/opioids](https://www.cdc.gov/niosh/topics/opioids).

# The Benefits of a Return-to-Work Program

Your workers, including drivers, are your most valuable assets. When they sustain injuries, it can have a significant impact on productivity, overall morale and your company's bottom line. The Bureau of Labor Statistics estimates that only 50 percent of employees who are off work for more than six months ever return to employment. It's in everyone's best interest to have injured workers return to work as soon as possible. Return-to-work programs facilitate this transition while benefiting both you and your workers.

Return-to-work programs, sometimes referred to as light duty, provide alternative tasks for injured employees during their recovery until they are approved by a doctor to return to their regular job responsibilities. These programs are typically low cost to implement. According to the Job Accommodation Network, more than half of the accommodations cost employers no money. Of those that do cost, the typical one-time expenditure averages \$600. Additionally, return-to-work programs can reduce claims costs by up to 70 percent.

You benefit from return-to-work programs in several ways. These programs decrease the likelihood of lingering or false workers' compensation claims and can minimize prolonged disability expenses by speeding up worker recovery through the physical and mental stimulation of light duty. Return-to-work programs also retain the use of valued workers, and minimize the cost of hiring and training replacement employees. You also benefit from the productivity of workers who otherwise would not be doing any work while out due to an injury.

Return-to-work programs help workers because they are useful, contributing members of the team. They stay mentally and physically conditioned to a regular work schedule and maintain social contact with their fellow employees, which can encourage a faster return to full duty. Return-to-work programs also minimize financial losses incurred due to time lost while recovering.

Establish a written policy before implementing a return-to-work program. The Office of Disability Employment Policy (ODEP) has a toolkit for creating a policy and implementing a return-to-work program, available at [www.dol.gov/odep/return-to-work](http://www.dol.gov/odep/return-to-work). ODEP also has a list of relevant employment laws, which vary by state.

As part of your policy, include modified job descriptions that list light duty tasks injured workers will be asked to perform during the return-to-work program. Ask injured workers' doctors to review job descriptions and approve tasks the workers can complete based on the severity of their injuries. Be careful to adhere to doctors' restrictions to avoid re-injury and prolonged recovery.

## Light duty tasks often include:

- Paint
- Sweep floors
- Sort mail
- Answer phones
- Inspect trucks
- Check driver logs
- Wash windows
- Dust office furniture
- Clean tools for mechanics
- Attend orientation again
- Check inventory & order supplies
- Check paperwork of drivers entering and exiting the lot
- Watch safety videos & create quiz questions
- Create an injury prevention presentation or handout based on the injury they sustained

Be sure to consult with the workers' physicians first to determine the extent and type of work they can safely perform.

Companies without an office or those that have workers who live far away from the office should look into having workers perform light duty at a charitable organization. The company would pay workers for the hours they work at a selected charity. Companies could also make arrangements at a local hotel for workers who live too

far away. This would permit company management to monitor the injured worker and still give the worker an opportunity to perform light duty work at the office.

Keep in mind that return-to-work policies will be implemented differently based on the state you are in and the types of injuries your workers sustain. Be proactive and put a return-to-work policy in place to facilitate the recovery of injured workers, maintain productivity, boost morale and protect your bottom line.

## The following are some of the reasons why a return-to-work program could benefit your business:

- 1 Increase the likelihood of employees returning to work.** Injured employees who remain off work longer than six months have only a 50 percent likelihood of ever returning to their job. That likelihood decreases to less than 10 percent if time lost exceeds one year.
- 2 Injured employees return to work up to 50 percent sooner.** In companies that have well-managed return-to-work programs including light duty, up to 90 percent of injured employees go back to work within four days of the injury.
- 3 Reduce claims costs up to 70 percent.** Not only are lost-time days reduced, but studies show medical costs are also reduced.
- 4 Faster recovery period.** Good return-to-work programs treat work as therapy to help the employee recover up to three times faster than if they stayed at home.
- 5 Reduce award costs.** The potential for an employee to become totally and permanently disabled is greatly decreased.
- 6 Reduce contentious litigation.** Employees are less likely to feel their rights have been violated causing them to engage a lawyer.
- 7 Avoid hiring and training a replacement worker.** Temporary labor can be expensive, especially when the new worker must be trained.
- 8 Reduce fraud.** Return-to-work programs demonstrate that sustaining an injury doesn't necessarily mean getting paid for being out of work.
- 9 Increase employee morale.** Return-to-work programs are a testament that employees are a valuable company asset rather than a disposable resource.
- 10 It's effective.** More than 90 percent of employers using return-to-work programs say they are effective.





# Court Cases Reveal Secret Litigation Networks for Trucking Accidents

In September 2017, an office runner from Spine Center Atlanta delivered a box of donuts with a letter to the break room of Atlanta-based law firm McMickle, Kurey & Branch.

The delivery was made by accident but served an important purpose. The contents of the letter may explain why insurance premiums for motor carriers have been rising drastically over the past few years.

“To Our Valued Attorney Business Associates,” the letter began, making it immediately obvious to law partners Kevin Branch and Mike Johnson that the delivery was intended for someone else.

At the time, Zach Matthews, another partner in the firm, was defending a real estate company in a slip-and-fall injury case. He was in the midst of a heated discovery battle with Spine Center Atlanta and its co-founder Dr. James Chappuis. The plaintiff received medical treatment from the clinic following the incident.

The letter mentioned a cloud-based software the clinic uses to maintain secret communications with plaintiff attorneys and other doctors in the area. Matthews soon discovered that a litigation finance company was involved in the business network. The same network, it turned out, was also steering the litigation of truck accidents.

Matthews subsequently provided legal counsel to trucking fleet insurance companies, who are the big targets with policies that typically have liability coverages of between \$1 million and \$10 million per accident.

It is not unusual for attorneys and doctors to be lien holders in accident claims, since they do not get paid until settlements are reached, but the involvement of litigation finance companies has been a recent discovery.

“Anytime you add an interested third-party to the mix, injury claims can get more expensive. In the case of medical finance companies, that increase can be significant,” says Nathan Lundquist, vice president of

commercial auto claims for Protective Insurance, a fleet trucking insurance provider. “The more you peel back the covers, the more you understand the pervasiveness of medical finance involvement.”

## ***Bundling claims***

Matthews was able to gain access to the database of Spine Center Atlanta by order of a federal court. He found a log of activity between Dr. Chappuis, plaintiff attorneys and a medical funding company, ProMed Capital.

This and other recent court cases have exposed what legal experts say is an unethical practice. Non lawyers, namely doctors and finance companies, are steering the litigation for accident claims. In the past, plaintiff attorneys were the only ones behind the wheel and put aside money in a “war chest” to fund the risk of their contingency cases, says Ben Dyches, an attorney in Utah who specializes in defending doctors from malpractice suits.

“Now there’s a whole industry built around third-party case evaluation and actuarial appraisals. If the odds are good, but the war chest is a little short, they bring on an investor and roll the dice together,” he says.

Medical funding companies traditionally have advanced funds to plaintiffs while cases are in litigation to cover medical bills and lost wages, for example. The companies collect on these receivables when the cases are settled.

In the lawsuit with Spine Center Atlanta, Matthews discovered that Dr. Chappuis was billing at 2.5 to 3.5 times more than average market rates for medical procedures. More alarming was the clinic marketing to other doctors in the area and plaintiff lawyers to bundle their claims.

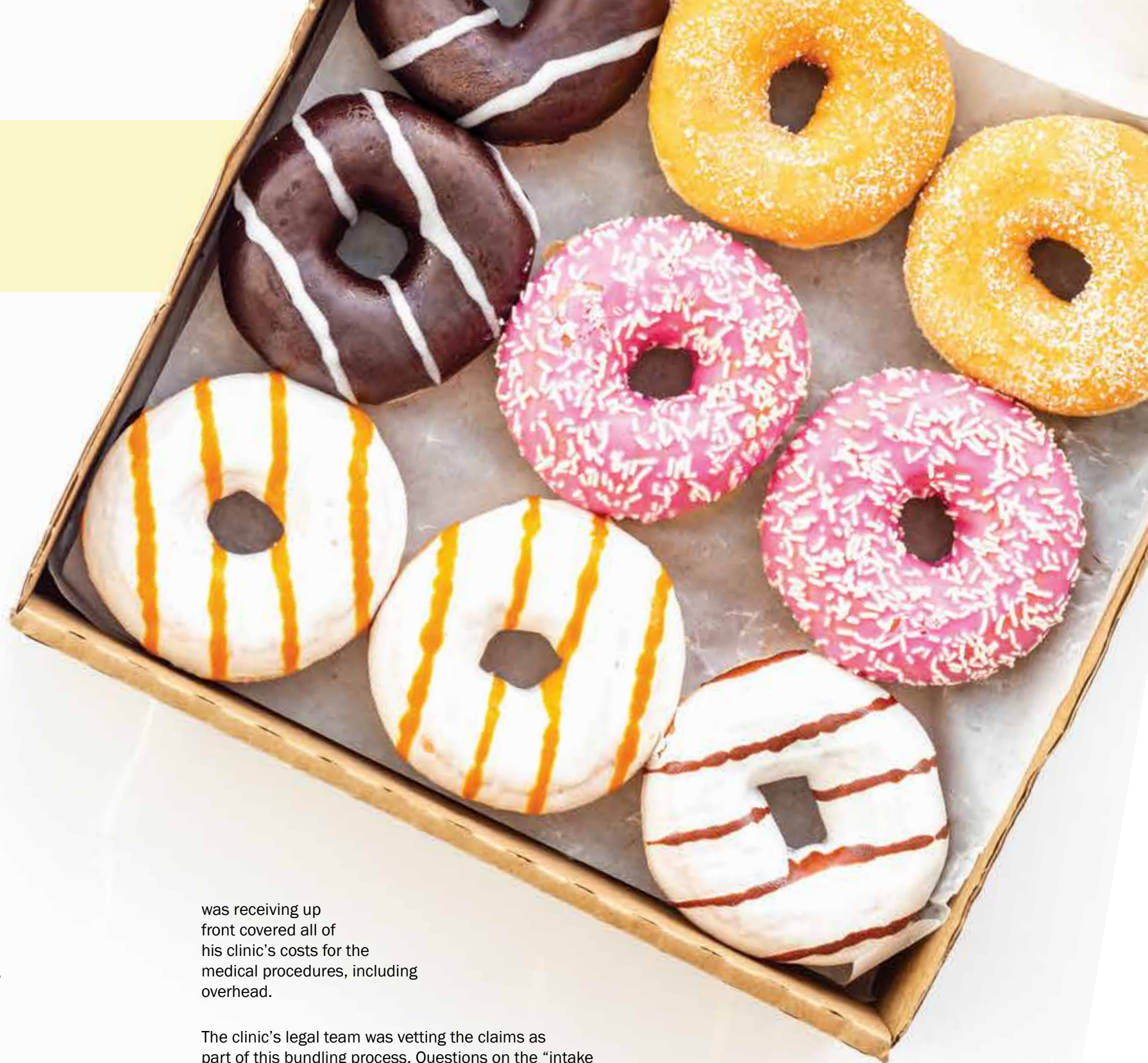
The clinic presented the bundles in packages of 10 to ProMed Capital to finance as accounts receivables. The finance company was advancing payments to the doctors for a discount fee on the receivables. It stands to reason, Matthews says, that the money Dr. Chappuis

was receiving up front covered all of his clinic’s costs for the medical procedures, including overhead.

The clinic’s legal team was vetting the claims as part of this bundling process. Questions on the “intake sheets” for claims asked about the presence or absence of cameras and video event recorders, for example, and insurance policy limits.

The clinic and its legal team was deciding whether or not to work with patients based on the strength of their legal case, he says.

Matthews also found evidence the clinic had bundled 700 cases in the Atlanta area in one year. On average, each claim had a projected settlement of \$100,000, he says, which equated to approximately \$70 million in annual revenue.





### The Collateral Source Rule

As a rule of thumb for rewarding verdicts, Matthews says juries will triple the cost of the medical bills. The doctor takes one third, the plaintiff lawyers takes one third and the plaintiff gets the remainder.

In many states, juries are permitted to only see what the doctor billed, not what a plaintiff’s medical insurance paid as part of a negotiated rate. This practice is an application of the Collateral Source Rule, explains Mathews.

“In Georgia, for example, that rule prevents the jury from learning that an individual had medical insurance — or what the insurance rate would have been for a given procedure if they did not happen to have insurance,” he says.

Medical finance companies have become a more pervasive influencer of civil suits because of this rule. As the litigation financiers they have “figured out that they can fund these cases, which will be presented to the jury at an exceptionally inflated ‘uninsured’ billing rate that is far higher than anyone is ever actually asked to pay,” he says. “The difference between the fictitious charges being black-boarded to the jury and the actual, much lower charges the funder is actually being asked to pay creates a huge profit margin.”

In the Spine Center Atlanta case, a deposition revealed that Dr. Chappuis was collecting 60 percent of the medical bill, on average, at the settlement of an accident claim. This left ProMed with plenty of margin to extract its fees. Even if the plaintiff attorneys settled with the defense at lower rates than the verdict amounts, the doctors and finance company were making very large profits, he says.

### Quarterbacking litigation

What is happening in Georgia with litigation funding is no less prevalent in other places in the United States, Matthews says.

Litigation funders are often involved in quarterbacking litigation by offering “legal referral services” to plaintiffs and helping them find doctors who will “play ball,” he says.

“These so-called ‘legal referral services’ often have databases of communications flowing back and forth, which [medical finance companies] are very loathe to reveal in discovery. In some prominent cases, the doctors themselves are becoming the nexus of the relationship and are keeping those communications in special fire-walled sections of their medical records software.”

Protective Insurance has been working with Matthews. The company has had favorable rulings when it is successful in bringing medical finance companies into the mediation process for accident claims.

“Our goal is to have fair and reasonable settlements. The goal is not to save money on a claimant’s injury.”

“Our goal is to have fair and reasonable settlements. The goal is not to save money on a claimant’s injury,” Lundquist says. “Protective Insurance does not need to fund a finance company’s lifestyle.”

Medical finance companies will go to great lengths to conceal their business dealings with doctors and attorneys, he says.

“Some finance companies are very well funded and represented. We expect aggressive opposition during the discovery process. It can be an uphill battle, but we know what we are signing up for when we dig in,” Lundquist continues.

A legal defense strategy is to expose the connection between doctors, lawyers and litigation finance companies to show juries that doctors have a bias, intent and motive to perform procedures that the patient may not even need, Matthews says.

For instance, if a truck driver has a rear-end collision the injured party may go to a doctor who is connected to the litigation-funded world to get treatment they do not really need. The result is an inflated claim.

“It happens all the time,” Matthews says. But is the world of litigation funding big enough to explain the rising cost of truck insurance?

“Absolutely. There is no question whatsoever,” Matthews adds. “It is hard to believe this stuff is really happening.”

Source: Commercial Carrier Journal, June 27, 2019, by Aaron Huff.

# Scammers and Ransomware and Phishing, Oh My!

By Jeffrey Chalkley  
Information Security Program Analyst III  
at Protective Insurance



Ransomware and phishing are two of the most common cyber-attacks in the world today, yet they are also some of the most misunderstood. Phishing (pronounced “fishing”) is the practice of sending fraudulent emails from what appear to be websites that you may trust (such as banks, social media, email providers, even the IRS), then asking the recipient to reveal personal information such as passwords, bank account information or credit card numbers.

Ransomware is software that is downloaded or installed on a device, then asking the victim to pay a ransom in exchange for the return of stolen data or personal information. In essence, both cyber-attacks are a form of digital blackmail, which is why with a combination of the two, phishing ransomware attacks are some of the nastiest threats to both personal and professional information.

Phishing ransomware attacks begin with what seems like a legitimate email, making it hard to identify as malicious. It may look like it is from a familiar sender, often personally addressed to the victim. They include attachments, which draw attention, urging the victim to open a file or click on a link. Once the attachment or link has been opened, the scammer gains access to data and the computer, and will distribute the malicious payload. Sometimes, the attachment even looks legitimate – with a familiar company’s logo on the header – so the victim remains unsuspecting. If this happens to a computer attached to your business’ network, it can spread to other devices in the background until all of your computers and servers are no longer accessible and a ransom demand is displayed.

In March 2018, the creators of the SamSam ransomware launched an attack on the infrastructure of the city of Atlanta, Georgia. The attack affected many of the city’s essential municipal functions. Among those affected were citizens’ ability to pay water bills or parking tickets. The ransomware demand was \$51,000 (unpaid) while the recovery costs were estimated at \$17 million. Atlanta spent more than \$5 million to rebuild their infrastructure after the ransomware attack.

### How can you protect yourself and your business?

There are a few technical ways to protect your data.

First, keep your devices and programs updated. There are new exploits being found every day and software companies often release updates to their software to fix “Security Issues.” In fact, most of the big attacks that made the national news, such as WannaCry, could have been easily prevented as it was only able to attack systems that were not up to date.

Another way to protect your data is to have a firewall and an anti-virus program installed and regularly updated. Modern anti-virus programs can warn you when you try to access a malicious website.

Finally, a major way to protect your data is to make regular backups, and store them offline and off-site. This is your fail-safe. No matter what goes wrong with your systems, you should always have a way of restoring your data.

Technology is not the only solution. Training yourself and employees is essential to protect your assets. What good is another fancy lock on the door if your child will let in anyone who knocks?

#### SOME OF THE BEST THINGS YOU CAN DO ARE EASY:

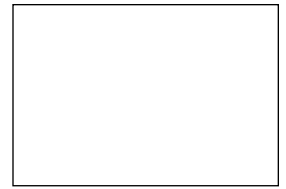
- **SLOW DOWN!** Think before you click or take action. Scammers use the sense of urgency to get you to follow their instructions.
- **LOOK AT WHAT YOU ARE CLICKING ON.** Hover your mouse pointer over hyperlinks in email messages on a computer to display the real URL.
- **GET A SECOND OPINION** if something doesn’t feel right. Don’t be afraid to ask your trusted coworkers if the email doesn’t seem right.





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