



**Independent Glass Association – Michigan Chapter**  
**9981 E. Grand River**  
**Brighton, MI 48116**

**SB 306**  
**House Insurance Committee Testimony**  
**Shari Montgomery, President**  
**August 15, 2012**

Mr. Chairman and members of the Committee, My name is Shari Montgomery. I am the owner/operator of Pollack Glass and I am the President of the Independent Glass Association, Michigan Chapter.

The primary mission of the Independent Glass Association (IGA) is to promote and defend consumer choice in the selection of glass service providers. The Independent Glass Association, Michigan Chapter consists of 130 shops located throughout Michigan.

I am here today to talk about **SB 306 which amends the Insurance Code to establish a Code of Conduct to bring objectivity and transparency to the referral of auto glass repair/replacement claims by Third Party Administrators (TPA), especially those that operate under a conflict of interest model that enables the TPA to refer work to itself without any independent guidelines or oversight.**

I will talk about the concepts of the Code of Conduct as opposed to the specific language of SB 306 because, as passed by the Senate, SB 306 is ineffective. IGA encouraged Senate passage of SB 306 in order to move the issue to the House and to continue the dialogue.

SB 306 does not eliminate or prohibit the conflict of interest model. Rather, SB 306 brings objectivity and transparency to the conflict of interest model to minimize the potential for a TPA to abuse the privilege of self-referral and thereby unreasonably restrict customer choice.

There are 5 concepts embodied in the Code of Conduct: Who it applies to; Access to the Network; Consumer Choice; Rotation of Claims within the Network; and Reporting.

**Who the Code of Conduct Applies To**

SB 306 applies to a person, other than an insurer, who processes or administers payment of automobile glass claims on behalf of an automobile insurer. Persons holding a dealer license under the Motor Vehicle Code are exempt. We are working with the Auto Dealers of Michigan to make certain this exemption is narrowly applied and cannot be used by a TPA simply to avoid compliance with the Code of Conduct.

There are 5 TPAs doing business in Michigan:

1. Great Lakes Claims (Rochester, Michigan)
2. Harmon Solutions Group (HSG) (Eau Claire, Wisconsin)
3. Lynx Services (Fort Meyer, Florida)
4. Quest Software, Inc. (St. Johns, Michigan)
5. Safelite Solutions, (Columbus, Ohio)

**Of the 5, only two operate under the conflict of interest model: Great Lakes Claims and Safelite Solutions. Great Lakes supports SB 306. Safelite, opposes SB 306. Of the remaining 3 TPAs, Quest and Lynx support SB 306.**

Safelite Solutions is the largest of the 5 and provides services for over 2/3 of the auto insurers authorized to do business in Michigan. Safelite Solutions is a member of Safelite Group, a subsidiary of Belron. Belron operates in 32 countries across Europe, North America, South America, Australasia, China, Chile, Finland and Lithuania.



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### Network Access

Insurers and TPAs create and utilize networks of approved glass repair shops as a legitimate means to control cost and quality. Glass repair shops join networks because the network streamlines the claim filing process and because they expect referral of claims from the TPA administering the network.

Admission to a network is completely within the discretion of the TPA. There is no right to join the network and there is no review or appeal of decision to admit or deny admission into a network.

Since a TPA is allowed to admit repair shops it owns, operates or is affiliated with into the network it administers, the TPA should not have unlimited discretion to admit or dismiss competing shops from the network. However, repair shops should not have an automatic right to join a network either.

**Where a TPA has a conflict of interest in allowing glass repair shops into the network to compete with repair shops owned, operated or affiliated with the TPA, there must be objective standards governing the TPA decision making.**

### Customer Choice

The Insurance Code provides that an insurer or its agents shall not unreasonably restrict an insured from using an auto glass repair/replacement shop of the consumers choice (MCL 500.2110b). However, "unreasonably restrict" is undefined.

The Insurance Code also requires an insurer (not agents) shall inform an insured that he/she is under no obligation to use a particular repair/replacement facility.

The Insurance Code further requires an insurer (not agents) shall disclose whether the insurer has an agreement with any repair/replacement facility.

To assure consumer choice is not unreasonably restricted, the Code of Conduct should require:

- The TPA shall ask the insured if the insured has a preferred repair/replacement facility
- When an insured states a preference for a repair/replacement facility that is a network member, the TPA shall immediately honor the consumer's choice and shall make no attempt to influence or dissuade the customer.
- When an insured states a preference for a repair/replacement facility that is not a network member, the TPA may make reasonable effort to cause the insured to utilize a repair/replacement facility in the network; however, the TPA must:
  1. Inform the customer that he/she is under no obligation to use a particular repair/replacement facility (as the insurer is currently required to do) and
  2. Disclose whether the TPA has an agreement with or owns, operates or is affiliated with a repair/replacement facility being recommended by the TPA (as an insurer is currently required to do)

**The TPA is an agent of the insurer. If an insurer is currently held to these requirements to protect customer choice, then the TPA agent of the insurer should be held to the same standards.**

### Rotation of Claims with the Network

Glass repair and replacement facilities join networks because the network offers a streamlined billing process and because of an expectation of referral work from the network administrator – the TPA.



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For a TPA that does not operate under a conflict of interest model (does not refer claims work to itself), that TPA is most likely to fairly distribute claims to all network members based upon an objective rotation system designed to not give preference to any one network member over another.

However, when a TPA does operate under a conflict of interest model and does refer work to repair/replacement facilities it owns, operates or is affiliated with, then that TPA is less likely to distribute claims fairly throughout the network and instead might be tempted to abuse the privilege of self-referral.

Two of the five TPAs in Michigan operate under the conflict of interest model; however, those two operate very differently from each other. One operates as a template for the Code of Conduct and the other does not. I expect you will hear testimony from both of them today.

To assure the privilege of self-referral is not abused and to assure that consumer choice is not unreasonably restricted, the Code of Conduct requires that when a customer does not state a preference for a repair/replacement facility in the network, then a **TPA shall utilize a rotation system based on objective criteria that is designed to distribute work equitably throughout the network and not favor any one facility over another, especially facilities owned, operated or affiliated with the TPA.**

### Reporting

The heart of SB 306 is the effort to preserve customer choice in the selection of repair/replacement facilities. Requiring a TPA to honor customer choice of a network facility and requiring a TPA to equitably refer repair/replacement claims to network members on an objectively designed rotation system are critical steps in assuring customer choice.

**To determine compliance with a Code of Conduct, the TPA should be required to prepare a report comparable to the utilization report it provides to the insurer it works on behalf of.** The report should provide:

- The percentage of claims processed where a customer expresses preference for a network facility.
- The percentage of claims processed through the rotation system when a customer does not state a preferred network facility.
- The rotation methodology.
- The percentage of claims referred to facilities owned, operated, or affiliated with the TPA
- The percentage of claims referred to facilities not owned, operated or affiliated with the TPA

### Conclusion

**The Insurance Code currently authorizes a Third Party Administrator (TPA) to operate with a significant conflict of interest that creates an unfair competitive advantage and threatens the viability of glass repair/replacement facilities that compete with those facilities owned, operated or affiliated with the TPA.**

**SB 306 seeks to bring objectivity and transparency to TPA practices to assure the TPA does not abuse the privilege of self-referral and does not, thereby, unreasonably deny customer choice.**