

# Claims & Underwriting

## Social Media & Forensic Accounting in Long Term Care Investigations



Scott Henry, FCLA, SCLA  
MetLife

Stephen A. Serfass  
Drinker Biddle & Reath LLP

Ernest Patrick Smith, CPA, CFE, CVA, CFF  
Nawrocki Smith LLP



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# What is social media?



- “Forms of electronic communication (as web sites for social networking and micro blogging) through which users create online communities to share information, ideas, personal messages, and other content (as videos).” Merriam-Webster Dictionary
- NAIC – A common thread running through all definitions is the blending of technology and social interaction for the creation of value

# Social Media Platforms



tumblr.

facebook®

LinkedIn®

myspace

foursquare

twitter

Pinterest

Google+

yelp 

skype™



flickr™

You Tube

GROUPON

Collective Buying Power



# The Expansion of Social Media



The image displays a comprehensive grid of logos for various social media and technology services, organized into several categories:

- Social Marketing Management:** shputlet, SYNAPSE, vitrue, Context Optional, involucr, hootsuite, awareness, tweet, tapli, Flowtown, Spredfast, hear say, MUTUALMIND, SPROUT SOCIAL, Socialware, offerpop, Social Promotion Platforms, Social Amp, Seismic, Strutta, votigo, Fanzilla, SocialAppsHQ, extole, CaunSea, NORTH SOCIAL, Zuberance, BzzAgent, onCoda.
- URL Shorteners:** bity, tiny arrows, TinyURL.com
- Stream Platforms:** UberMedia, TweetDeck, twirl, Aol Lifestream...
- Twitter Apps:** twitpic, tweetmeme, StockTwits, Cadmus, wefollow, flixup!, Listorious, twitvid.
- Facebook Apps:** LIKESTER, BranchOut, SNAP, badoo, smile, causes, booshaka.
- Facebook Gaming:** playfish, zynga, MetroGames, Playdom, BABAR, CrowdStar, ZIPZAP PLAY, socialpoint, EA, URISORT, WILDNEEDLEGAMES, DIGITAL CHOCOLATE, PopCap.
- Social Advertising Platforms:** TBG, Lexity, spruceMEDIA, Adaptly, Clickable, GRAPH EFFECT, BLINQ MEDIA, epic social, SOCIALTYZE, twelfold media, SAM, nanigans, Ybrant DIGITAL, KENSHOO, Marin, Taykey, EfficientFrontier.
- Social Brand Engagement:** socialvibe, mylikes, adly, local response, apps savvy, DYNAMIC SIGNAL, sharethrough.
- Social Commerce Platforms:** Payment, Moontoast, SHOP TAB, live gamer, dotbox, muncom, Moloko, trial pay, Storenvy, FLUID, shop igniter, VendorShop, ecwid, miyoni.
- Social Ad Networks:** OneRiot, rockyou, across, LIFESTREET, radium, XGRAPH, media6degrees, GNP, DATA SIFT, RapLeaf.
- Social Data:** GNP, DATA SIFT, RapLeaf.
- Social Search & Browsing:** Topsy, Wink!, Aardvark, StumbleUpon, greplin, spokeo, WANDS TALKIN.
- Social Intelligence:** PostRank, Trendrr, ATTENUITY, VISIBLE, actionly, viral heat, colligent, synthesio, mysomos, brandprotect, trackur, SECOUT LABS, backtype, ALTERIAN, NETBASE.
- Social Scoring:** KLOUT, empireavenue, PeerIndex.
- Social TV:** PHILLO, Tiplix, miso, GetGlue, clipsync, SnappyTV, INTO\_NOW, tunerfish.
- Social Networks - Other:** Linked in, TAGGED, my, friends@, gaia, plaxo, Path, CLUB ME, Merchant, HABBO, myYearbook, orkut, Google+, #hashable, renren, friend.ly.
- Social/Mobile Apps & Games:** foursquare, waze, TWIX, foodspotting, glu, h5, pelago, playJam, footak.
- Social Shopping:** Giantnerd, Zearly, Zappli, Swipely, LOCKERZ, S V P P L Y, giftki, kaboodle!
- Content Sharing (Reviews/Q&A/Docs):** topix, digg, fotopedia, slideshare, yelp, Angie's list, Quora, Scribd, DocShare.
- Social Referral:** socialleat, SmugMug, fixable, klip, flickr, photobucket, ZangZing, Photo, instagr.
- Photo Sharing:** SmugMug, fixable, klip, flickr, photobucket, ZangZing, Photo, instagr.
- Social Business Software:** pasenger, lithium, jive, telligent, External (Customer) Facing: Ingage, Satisfaction, LeverageSoftware, PLUCK, KickApps, mzinga, Assistly, Internal (Employee) Facing: huddle, acquia, IGLOO, TWiki, cubetree, Watchitoo, yammer, moxie, Socialtext, nmbie, SOCIALCAST.
- Blogging Platforms:** tumblr, posterous, Blogger, WORDPRESS, SQUARESPACE, Joomla!, JUX.
- Community Platforms:** Yki, GROU.PS, KICK APPS, buddyPress, NING, mixxt, GroupSite.
- Plug-ins/Widgets:** tynt, Bazaarvoice, gigya, Badgeville, ShareThis, spinback, jonrain, conduit, clearspring, echo, PowerReviews, Mass Relevance, meebp, Cover It Live, widgetbox, 3333factory.
- Traditional Publishers:** DAILY CANDY, CNN, The New York Times, Glam Media, THE WALL STREET JOURNAL, HEARST corporation, Aol, CONDÉ NAST.

# A World Connected: Statistics of Social Media Use



- As of 2014, more than 1.8 billion internet users have accessed social networks
- There are currently 1.32 billion active **Facebook** users
  - 72% of online adults visit Facebook at least once a month
  - 1 out of every 9 people in the world have a Facebook account
- Over 1.6 billion total **Google+** users; 540 million monthly active users
  - 22% of online adults visit Google+ once in a month
- Over 300 million total **LinkedIn** users; 187 million monthly active
- Over 1 billion total **Twitter** users; 255 million monthly active twitter users, 500 million daily tweets
- Over 1 billion total **YouTube** users; 6 billion hours of video is watched per month; 100 hours of video uploaded per minute

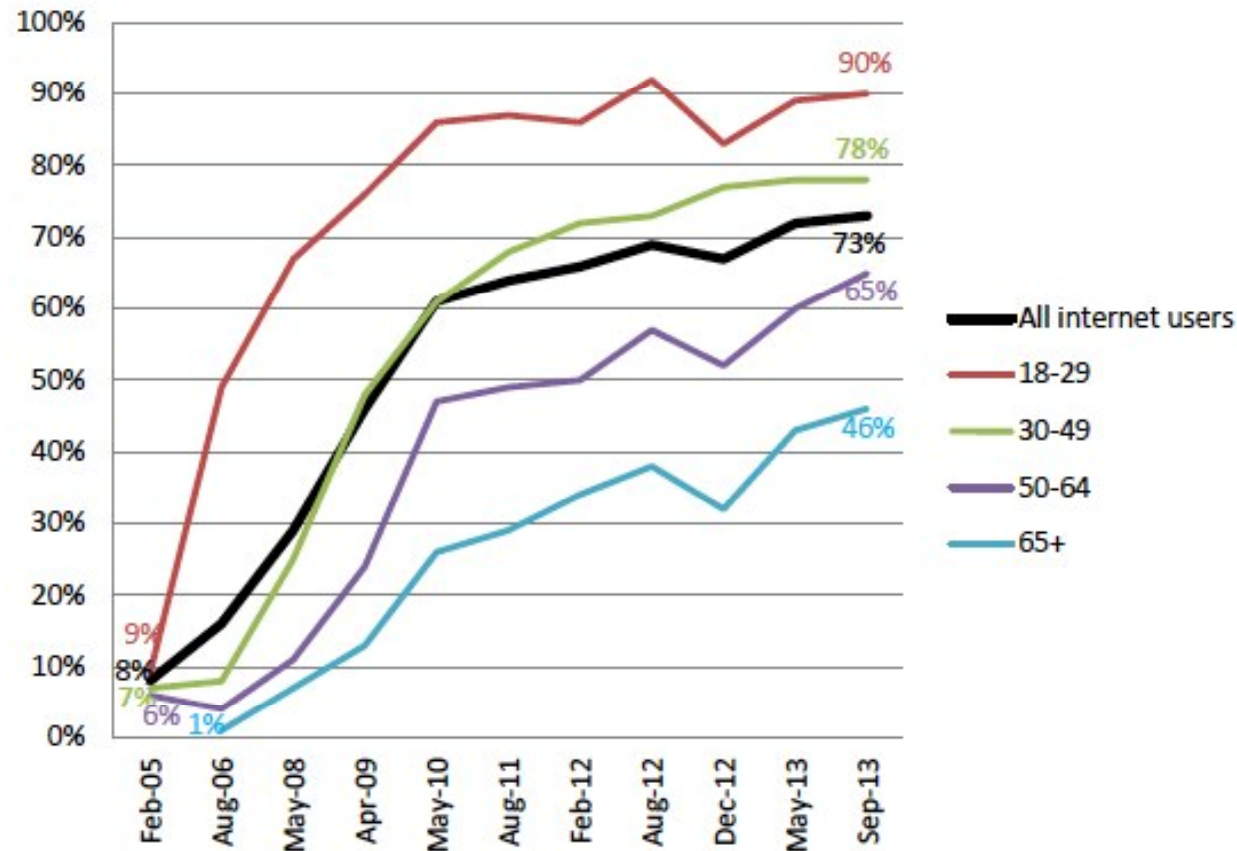


# Perception that social media is for young people



## Social networking site use by age group, 2005-2013

% of internet users in each age group who use social networking sites, over time



Source: Latest data from Pew Research Center's Internet Project Library Survey, July 18 – September 30, 2013. N=5,112 internet users ages 18+. Interviews were conducted in English and Spanish and on landline and cell phones. The margin of error for results based on internet users is +/- 1.6 percentage points.

# Perception that social media is for young people (cont.)



<b>Social Media Website</b>	<b>&lt; 18 Yrs of Age</b>	<b>18-24 Yrs of Age</b>	<b>25-34 Yrs of Age</b>	<b>35-44 Yrs of Age</b>	<b>45-54 Yrs of Age</b>	<b>55-64 Yrs of Age</b>	<b>65+ Yrs of Age</b>
<b>Facebook</b>	17%	7%	14%	21%	25%	12%	4%
<b>LinkedIn</b>	3%	4%	16%	28%	28%	17%	4%
<b>Twitter</b>	10%	9%	19%	28%	21%	10%	3%

- 65% of adult internet users use a social networking site like MySpace, Facebook or LinkedIn, up from 61% one year ago
- Fastest growing demographic on Facebook is women over 55
  - The number of women over 55 on Facebook grew by 175.3% since the end of September 2009



# What do users do on Facebook?



- On a typical day:
  - 10% of Facebook users update their own status
  - 29% comment on another’s post or status
  - 31% comment on another user’s photos
  - 44% “Like” another user’s content
  - 19% send another user a private message
- Many users say they have posted updates, comments, photos or videos to the sites that they later regret sharing

*6 New Facts about Facebook, Pew Research Center (2014)*

# Social Media Privacy Settings



- There is no significant difference among ages in connection with privacy settings
  - 76% of users ages 18-29 have privacy restrictions (either fully or partially private)
  - 79% of users ages 30-49 have privacy restrictions (either fully or partially private)
  - 76% of users ages 50-64 have privacy restrictions (either fully or partially private)
  - 71% of users ages 65+ have privacy restrictions (either fully or partially private)

*Privacy Management on Social Media, Pew Internet (2013)*

# The Courts and Social Media



- Courts have looked at social media in a variety of contexts that overlap with insurance law and SIU investigations, namely:
  - Use by SIU Units in Effectuating Service of Process
  - Expectations of Privacy and the Discovery of Social Media Content in Litigation
  - Admissibility of Social Media Content in Evidence
- There are also benefits, as well as concerns, to consider when using social media content in investigating claims, both inside and outside of the litigation and regulatory context

# Benefits of using social media in SIU investigations



- Social media, such as Facebook, can be an effective tool in helping investigate, and prove, fraud
- A review of social media (Facebook, YouTube, Twitter) may allow an investigator to uncover information that would not otherwise be revealed in an examination under oath (EUO), by giving an unprotected glimpse of a claimant
- Social media postings may include evidence regarding financial problems, fears, uncertainties, witnesses, or even trips, parties, or other physical activities of the claimant, which belie their personal injury complaints, portrayed financial condition, etc.
  - Michael G. Gee, *Defending Against Insurance Fraud Claims: Working with your Client to Achieve a Successful Outcome in an Insurance Fraud Case*, 2011 WL 6749905 (2011)





- Courts have looked favorably on the use of social media by SIU units in effectuating service of process:
  - “Guardian [Life Insurance] conducted social media and public record searches, deposed one of Ms. Chairenza's siblings, attempted personal service on Ms. Chairenza five times at four different addresses, attempted to call her on both phone numbers that had been obtained, and attempted service by mail three times at three different addresses. The record demonstrates that Guardian's efforts were exhaustive and that Guardian diligently followed up on each lead it acquired”
    - *Guardian Life Ins. Co. of Am. v. Crystal Clear Indus.*, CIV.A. 11-3062 FSH, 2012 WL 1884003 (D.N.J. May 22, 2012)

## Social Media & The Courts: Use by SIU units in effectuating service of process (con't)



- Use of social media as part of a “diligent” and “exhaustive” investigation of an insurance claim
- In fact, if you have not resorted to social media in investigations (specifically service of process), courts have found a lack of “due diligence”
  - *Cotto v. Universal Underwriters Ins. Co.*, 81 Mass. App. Ct. 1142, 968 N.E.2d 942 review denied, 463 Mass. 1104, 972 N.E.2d 1057 (2012)

- **No Expectation of Privacy in Public Postings**
  - Courts have *repeatedly* held that users of social media profiles such as Myspace, Facebook, and Twitter—when open to the public for viewing—have no reasonable expectation of privacy
    - *Moreno v. Hanford Sentinel Inc.*, 172 Cal. App. 4th 1125 (Cal. Ct. App. 2009); *Dexter v. Dexter*, 2007 WL 1532084 (Ohio Ct. App. 2007)
- **Discoverable in Litigation – Even if Private**
  - Relevant information in the private section of a social media account is discoverable, and not protected from production by any “right to privacy”
    - *Glazer v. Fireman's Fund Insurance Company*, 2012 WL 1197167, \*3-4 (S.D.N.Y. April 5, 2012); *Tompkins v. Detroit Metropolitan Airport*, 278 F.R.D. 387, 388 (E.D. Mich. 2012)



- Some courts have gone as far to say that there is not an expectation of privacy in such social media websites—*regardless of privacy settings*
  - *EEOC v. Simply Storage Mgmt., LLC*, 270 F.R.D. 430, 434 (S.D. Ind. 2010)
  - *Romano v. Steel Case, Inc.*, 907 N.Y.S.2d 650, 656 (N.Y. Sup. Ct. 2010)
  - *Zimmerman v. Weis Markets, Inc.*, No. CV-09-1535 (Northumberland Co. Pa. Com. Pl. 2011)
  - *McMillen v. Hummingbird Speedway Inc.*, 2010 Pa. D. & C. Dec. LEXIS 270 (Jefferson Co. Pa. Com. Pl. 2010)



# Social Media – Control of Information



- Social media is unique because its users cede control over content to others
- Both legal and regulatory principles start with a basic presumption of control
  - Principles of liability
  - Someone is responsible; someone can be blamed
- In the past, mass communication was expensive, limited and highly controlled
  - Newspaper ads, television buys, etc.

# Effect of handing out electronic megaphones



- The end of forgetting – all communication is permanent, and there are data points on everything you ever did online
  - These data points can be mined to create a profile of an individual based only on what the internet contains about that individual
- Social media – everyone talks, everyone remembers, and your failure to speak is just as relevant as what you say
- Blurring of the lines between personal and professional, private and public

## Benefits

- Cost-effective
- Less intrusive than interviewing or surveillance
- A review of social media can be conducted from anywhere
- Potential for data aggregation and modeling

## Three Main Concerns:

- Reliability of Data
- Privacy
  - What information can an insurer look at without informing the applicant?
- Public Relations Issues



# Reliability of Data



- Incorrect or inaccurate data gathered from social media may undermine benefits of using social media
- Natural tendency to exaggerate or embellish information posted on social media
- Posting incorrect data to bolster claim
- In the context of personal injury litigation, plaintiffs are often advised by attorneys to delete social media



- Difficult to verify that the account-owner/individual posted the content without testimonial confirmation
  - Can have other individuals verify that they saw the posting, but that does not eliminate the problem
- Some courts have required technical verification that connects the social media profile to the individual in question
- Absent technical verification, courts also consider circumstantial factors, including whether access to social media account is secure or whether biographical information on the profile is extensive and accurate
  - 4 Bus. & Com. Litig. Fed. Cts. § 41:7 (3d ed.)

- Privacy
  - What information can an insurer look at without informing the applicant?
  - What information is deemed publicly available?
  - Is it appropriate to “friend” a claimant to gain access to more social media data?
  - What are people’s perceptions of privacy on social media? Are those perceptions in line with the law?

- How do people perceive their social media presence?
  - Many people have a perception that what they post on social media is personal, will be seen only by “friends” and will not be “used against them”
- Should insurers disclose the fact that claims investigations may involve a review of social media?

# What is forensic accounting?



Association of Certified Fraud Examiners'  
(ACFE) Definition:

“Forensic Accountants combine their accounting knowledge with investigative skills, using this unique combination in litigation support and investigative accounting settings.”

# What is forensic accounting (con't)?



## AICPA's Definition:

The AICPA has recognized forensic accounting services to generally involve:

- The application of specialized knowledge and investigative skills possessed by CPAs.
- Collecting, analyzing and evaluating evidential matter.
- Interpreting and communicating findings in the courtroom, boardroom or other legal/administrative venue.

(Durkin and Ueltzen, 2009)

# What is forensic accounting (con't)?



Forensic Accountants use their accounting knowledge, auditing skills and investigation skills to perform financial investigations and analysis.

“Look beyond the numbers and determine what and why something happened”



# Who retains forensic accountants?



- Attorneys
- Insurance Companies
- Government Regulatory Bodies and Agencies
- Banks
- Courts
- Business Community

# What does a forensic accountant do?



- Perform research and analysis related to financial matters.
- Interpret and summarize complex financial matters.
- Provide findings that are both understandable and supported.
- Report back to a client, attorney, court or municipality.
- Potentially testify on your opinions and findings.

# What is “day to day” of a forensic engagement?



- Meet with the client and assess the engagement.
- Request and obtain the documentation necessary to perform engagement.
- Perform a detailed analysis of the financial and other documentation provided.
- Prepare report of findings.
- Support and advocate your opinions.

## What type of engagements do forensic accountants perform?



- Criminal Investigations
- Shareholders Disputes
- Personal Injury Claims/Wrongful Death Claims
- Employee Thefts
- Matrimonial Matters
- Estate Matters
- Insurance Claims

# Long Term Care Insurance



If unable to perform 2 or more of ADLs, will pay a benefit for...

“Incurring Covered Expenses for Qualified Long Term Care.”

Most policies are reimbursement policies.

Must provide written proof of loss to support the LTC expenses.

# Types of Benefits & Services Provided:



- Home & Community Care Benefit
- Home Assistance Benefit (Equipment, Modifications & Training)
- Nursing Facility Benefit
- Residential Care Facility Benefit
- Bed Reservation Benefit
- Hospice Care Benefit
- Respite Care Benefit
- Privileged Care Coordination Services
- International Coverage Benefit
- Waiver of Premium Benefit

# Documentation to support qualified LTC expenses



- Itemized bills/invoices from caregivers/providers
- Cancelled checks/bank statements from claimant
- Medical Billing Statements
- Explanation of Benefits (EOBs) Statements from Medicare, Medicaid, insurers, etc.
- Documentation of services/LTC provided
  - Treatment plans
  - Patient charts/progress notes/services log
  - Hospital records, nursing home records
  - Treatment log/record of home care services



# Providers (want to make sure they are reputable)



## Typical Credentialing for Health Insurance:

- Name, Address, Website
- Curriculum Vitae
- Tax Identification Number (W9-Request for Tax Id)
- National Provider ID (NPI)
- Active Location(s)
- Specialty
- State License(s) Number
- Malpractice Insurance
- DEA Certifications (Current Controlled Substance Registration)
- Privileges/Affiliations with Hospitals
- American Board Certifications

# How can a forensic accountant help?



## LTC Provider Analysis

Help determine if reputable provider with active business and proper licensing, education and training.

Verification of services rendered and normal and customary fees were charged

- Analyze treatment plans, patient charts/progress notes/services log, hospital records, nursing home records, treatment log/record of home care services and billing statements.

## How can a forensic accountant help (con't)?



- Analyze supporting documentation to verify payment was made for qualified LTC expense. Assess the validity and reliability of the documents provided.
  - Billing statements
  - Cancelled check (front & back)
  - Bank statements

# How can a forensic accountant help (con't)?



Sort through and analyze the various forms of documents identified early to make sure only covered qualified LTC expenses are reimbursed and that all exclusions and non-duplication of expenses are found:

## – Types of Exclusions

- Services by immediate family unless a benefit is stated in policy
- Expenses of comfort and convenience (i.e. transportation, TV, telephone, beauty care, guest meals and entertainment)
- Expenses which no charge is normally made absence of insurance
- Necessary home modifications only; does not include repairs and remodeling, pools, spas, etc.

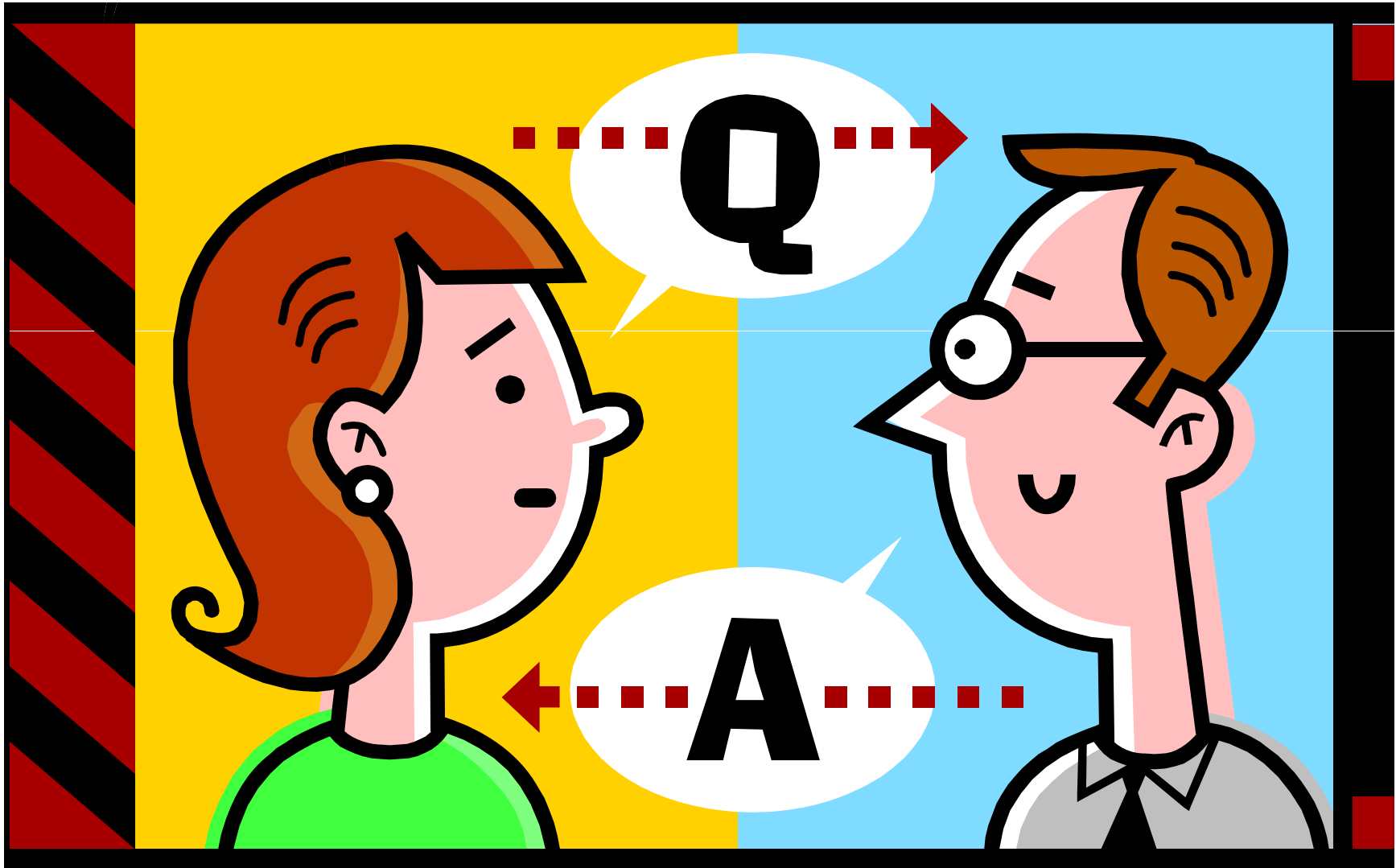
# How can a forensic accountant help (con't)?



Identify non-duplication expenses such as:

- Covered expenses in excess of Medicare and any other federal (i.e. Veteran Administration unless valid charge to you or your estate), state or government health or long term care program (except Medicaid)
- Payment from worker compensation
- Payment from motor vehicle accident (no-fault laws)
- Care related to alcoholism, drug addiction, attempted suicide or psychiatric services

# Questions



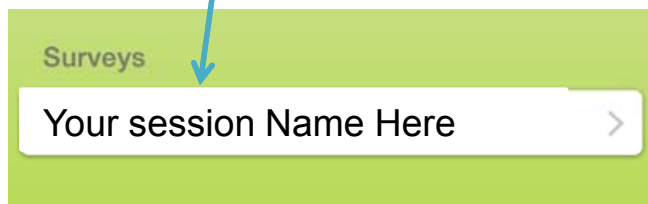
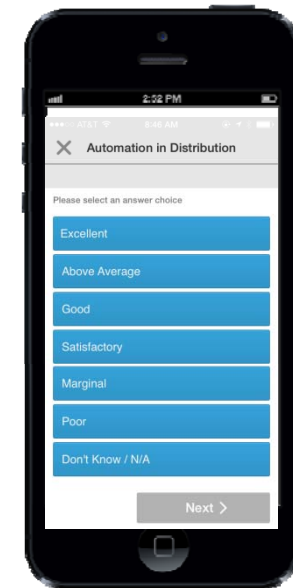
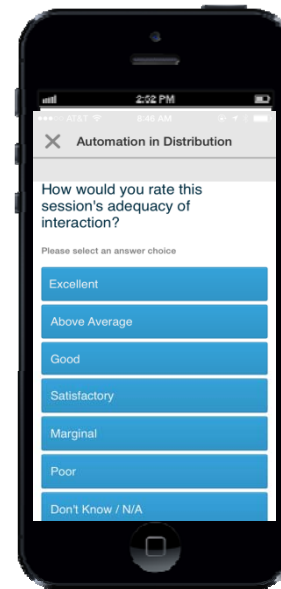
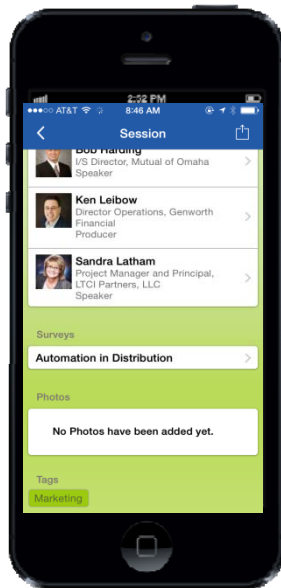
# Don't forget to fill out the survey



1<sup>st</sup> you must have download the ILTCI Mobile App  
- Go to your app store; search ILTCI. It's free.



1. Find the session
2. Scroll to the bottom
3. Tap on the session name below the survey



Tap on the answer you wish to submit

Click Next