



Montana Automobile Dealers Association

JULY 2019 NEWS BULLETIN

PRESIDENT'S MESSAGE:

Family Convention Is Just Around the Corner

Summer is in full swing and we are getting closer and closer to our 105th annual family convention. Things have been so busy around here, we didn't even send out a June newsletter! So here's what has been happening since the last time we talked...

In June, we held our 3rd annual trap shoot in Helena, and in my own opinion, it was the best yet! There were over 40 shooters, including dealers, board of directors, legislators and even a few kids. We paid out 4 places and also had a top female category! Thank you to all that came out and supported this event. I'm already looking forward to next year. Save the dates will be going out shortly, so make sure you marked your calendars and plan on attending next year.

Now that the trap shoot is over, we have been focusing all our attention on the convention! So far, we have 34 dealers registered and our goal is 40, so make sure you go to MTADA.com and register! We are all goal orientated, and we need your help to achieve our goals!!

Here is a brief summary of what's happening this year at our convention:

We will kick off our convention with the All Member Meeting

Friday at 1pm. Our All member meeting will be one of the most important meetings of the weekend. We will be introducing you to Vitu. John Brueggeman and his exceptional team

will be discussing how electronic titling could impact your daily transactions. Montana will be the most technically advanced state in the country when it comes to titling a vehicle, and they will be giving you a virtual tour of how the system will work within your dealership! You will not want to miss this discussion. Also, if you missed the Armatus webinar from last month, or if you still have questions, Joe and Jordan will be present during the meeting to explain how Retail Warranty and the new MT Legislation will impact your bottom line. And finally, we will have a legislative panel discussion on everything that happed in February at the State Capital. Also, please bring any topics for discussion – this is the time that we need to start planning the 2021 session!

Right after the meeting, we jump into a fantastic evening cruising along the shores of the Flathead Lake! Following our evening at the lake, we will have a Poker Tournament back at the hotel.



James Johnson
MTADA President

Saturday, Peter Welch – President and CEO of NADA – will start us off for the day. He will update us on what is happening at a national level in the auto industry. Following Peter, we are excited to introduce you to John Iannarelli – FBI Special Agent and Consultant – He will be discussing the effects of Cyber Security and

Continued on **PAGE 9**

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| | <i>and more!</i> |



105TH ANNUAL FAMILY CONVENTION

Mexico Vacation Package Giveaway!

All expense paid vacation to Mexico (valued up to \$6000)

Prize to be given away on Saturday evening during the President's Banquet at Convention

Must be Present to Win!



8 Chances to be Entered into the Drawing:

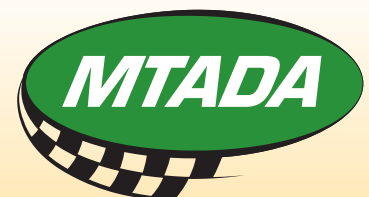
1. One entry for early registration - **register for Convention by April 1st**
2. Attendance at the All Member Meeting
3. Attendance on the Far West Boat Cruise Friday night
4. Attendance at the Poker Tournament
5. Attendance at the Speaker Session Saturday morning
6. Participation in the Vendor Drawing's
7. Participation at the golf scramble
8. Attendance at the president's banquet

There will be a sign-up at each of these locations. Make sure you fill out a ticket to get your name into the drawing!

To Qualify:

- You must be a full time employee, or a spouse of a full time employee, at one of our Member Dealerships
- You must be a registered attendee
- You must be present at the President's Banquet to redeem your prize

Please Register Online at MTADA.Com



Montana Automobile Dealers Association

DIRECTOR'S MESSAGE:

NADA Foundation Wins Two Communicator Awards for its Workforce Initiative

The National Automobile Dealers Association (NADA) Foundation has received two Communicator Awards from the Academy of Interactive and Visual Arts (AIVA) for the Foundation Workforce Initiative to promote dealership service technician careers.

In the association website and online video categories, the NADA Foundation's Workforce Initiative won the academy's 2019 Award of Excellence. The Award of Excellence is AIVA's highest honor.

"I'm thrilled and proud that NADA has been honored for its work in this field," said Charlie Gilchrist, NADA chairman. "This workforce initiative is so important to dealers across the country, and we know that innovative communications efforts to get more students interested in

careers in automotive technology is a key component to our success."

The 25th annual Communicator Awards, the largest and most competitive program honoring creative excellence for communications professionals, is an international competition recognizing the best in advertising, corporate communications, public relations and identity work for print, video, interactive and audio.

"It's an honor that AIVA has recognized the NADA Foundation with this award," said Annette Sykora, chairman of the NADA Foundation. "We have such a talented team of individuals



Don Kaltschmidt
NADA Director

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Montana Automobile
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105th Annual Family Convention

AUGUST 9-11, 2019
Hilton Garden Inn | Kalispell, Montana

JOIN US this year for the 105th Annual Family Convention near Glacier National Park

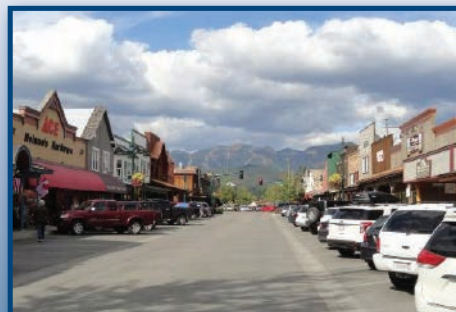
Join us for the **105th Annual Family Convention** in Kalispell to meet, learn and develop connections with your fellow industry leaders, members and vendors. In addition, there are great opportunities to learn from a fantastic group of industry speakers and discuss industry needs with Montana's key political leaders. As always, we feature great daily activities for the enjoyment of attendees and their families.

ACTIVITIES INCLUDE:

- Far West Boat Cruise on Flathead Lake
- Annual President's Banquet
- Texas Hold'Em Poker Night
- 9-Hole Shotgun Style Golf Scramble
- Shopping in Whitefish
- Relaxing at Whitefish City Beach

We encourage all of you to bring your families!
Childcare will be offered at certain times of the day.

Please Register Online at MTADA.Com



CHAIRMAN'S MESSAGE:

Dealer Data and Related Digital Issues are High Priority for NADA



Charlie Gilchrist
2019 NADA Chairman

Dealers don't need to be reminded that the world of dealer data is changing. The volume of information generated and stored has exploded, and that information is more sensitive and more valuable than ever. It's no longer just the dealer generating this information; "big data" companies and data brokers hold vast amounts of data, and vehicles themselves are now generating data about drivers, owners, passengers and others.

At the same time, the number of third parties with whom a dealer must share information has also increased. Take a look at this very basic representation of today's complicated dealer data ecosystem.

The collection, storage, use and sharing of this information raises many complicated legal, regulatory and business issues for dealers, including:

- How can this data be shared securely?
- What information should be shared with whom and how do I know that third parties are not misusing that information?

- Who has the right to control the integration, dealers or dealer vendors?
- Are dealer systems cybersecure, and are they ready for integration with the vehicle?
- What information can an OEM require a dealer to share?
- What "telematics" and other information is your manufacturer sharing with you?
- How can dealers and OEMs accomplish this sharing while meeting their ever-growing legal requirements?

At the same time, dealers must meet long-standing federal privacy obligations while understanding the implications of new laws such as the EU's General Data Protection Regulation (GDPR), state laws like California's Consumer Privacy Act (CCPA) and others. There are also a number of federal legislative proposals that would vastly broaden U.S. federal privacy law. None of these laws are aimed specifically

Continued on **PAGE 8**

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LEGAL UPDATE

Yield Spread Premium Not Violation of UTPA

The United States District Court for the District of Oregon granted Summary Judgment to Lithia Motors, Inc. in a class action suit brought by three plaintiffs alleging, among other claims that the yield spread premium, or the difference between the buy rate and the sell rate on a retail installment sales contract was not a violation of the Oregon Unfair Trade Practices Act (UTPA). The decision is important to Montana dealers as well as the Montana and Oregon UTPA's are very similar.

Lithia was sued by Mendoza and others who purchased vehicles from Lithia at its Oregon dealerships in a class action suit alleging several claims including violation of the Oregon UTPA. One of the plaintiffs, Mendoza, purchased a Volkswagen from Lithia's Salem, OR dealership. The dealership arranged for vehicle financing with an interest rate of 3.94% (the sell rate), a higher rate than provided by the lender (the buy rate). In doing so, Lithia retained what plaintiffs' termed a "kickback" in connection with the arrangement of financing. Lithia also sold Mr. Mendoza products and services obtained through third parties. Specifically, Mr. Mendoza paid Lithia \$2,495.00 for a vehicle service contract and \$695.00 for a gap waiver; both amounts exceeded Lithia's actual purchase price. Lithia purchased the service contract for \$995.00 and the gap waiver for \$278.00 and retained the difference as profit. Lithia did not disclose its specific fees associated with the arrangement of financing or the profit margins related to the sale of third-party products and services.

Oregon law requires a "Yield Spread Premium Disclosure," which provides that an auto dealer "shall clearly and conspicuously disclose in writing . . . that the dealer or broker may receive additional compensation from the consumer for arranging the sale of the retail installment contract which may be in the form of a fee or additional loan points [Montana law does not contain such a

requirement]. The Court noted that the "yield spread premium" relates to transactions involving some "difference between a higher interest rate quoted to a consumer by a dealer or broker and the buy rate offered to the dealer or broker by a financial organization. The Court found that provisions of several of Lithia's sales documents provided adequate compliance with the law.

Regarding plaintiffs' complaint that these disclosures do not mirror the statute closely enough, specifically that it is not disclosed that additional compensation would be from the customer or in the form of a fee or additional loan points, the Court notes that strict recitation of the statute is not required to meet the clear and conspicuous standard. The language here discloses to the buyer that the seller may retain a portion of the finance charge or receive other compensation for arranging the financing. This language is substantially similar to the code provision which requires that a dealer must disclose that it "may receive additional compensation from the consumer for arranging the sale of the retail installment contract which may be in the form of a fee or additional loan points." Indeed, the retail installment contract explicitly states that the dealership may retain the right "to receive part of the finance charge.

The Court also held that the existence of a yield spread and retention of part of the premium for the extended service contract and GAP did not violate the Unfair Trade Practices Act which is good news for dealers generally.

The Hon. Ann Aiken the Federal District Judge who presided over the case joined the Court in 1998 after being nominated by President Bill Clinton. Aiken served as chief judge of the Court from 2009 to 2016. ■



R. J. "Jim" Sewell, Jr.
MTADA General Counsel



HEALTH CARE CORNER

What Is a MARA Risk Score?

The Milliman Advanced Risk Adjusters (MARA) tool uses each member’s medical and prescription drug claim history to predict the individual’s relative healthcare cost risk, as compared to an average population risk.

In recent years, traditional medical underwriting has been replaced by the risk-adjustment process. Payers now try to identify high-risk patient populations so they can mitigate the associated costs through various care-management programs. This has created a need for new risk-assessment and risk-scoring tools. EBMS has chosen MARA to complement its data-driven approach to benefit plan evaluation and management.



“MARA can provide us with category risk scores for different health services – like inpatient, outpatient, ER, and prescription,” explains Laura Rookhuizen, a healthcare informatics analyst with EBMS. “This level of detail means we can help our clients make more strategic decisions.”

Laura also points out that risk stratification for care- management purposes can be quite complex. For example, it’s well known that each year, only a small percentage of plan members incur high spending. In fact, the top 5 percent of spenders can account for up to half of all healthcare dollars. However, a 2018 issue brief from the Health Care Cost Institute points out that there is high turnover among these top spenders – it found that, during each year studied, more than three of five top spenders were not top spenders during the previous year.

“That’s why it’s important to use a prospective model of risk scoring,” Laura explains. “We want to focus on predicting which individuals may incur high costs in the near future, because they may benefit from care interventions in the present time.” ■

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Chairman's Message CONTINUED FROM PAGE 5

at the auto industry, but they will have significant effects on dealerships.

For the dealership model to continue to thrive, we must meet these technical and legal challenges.

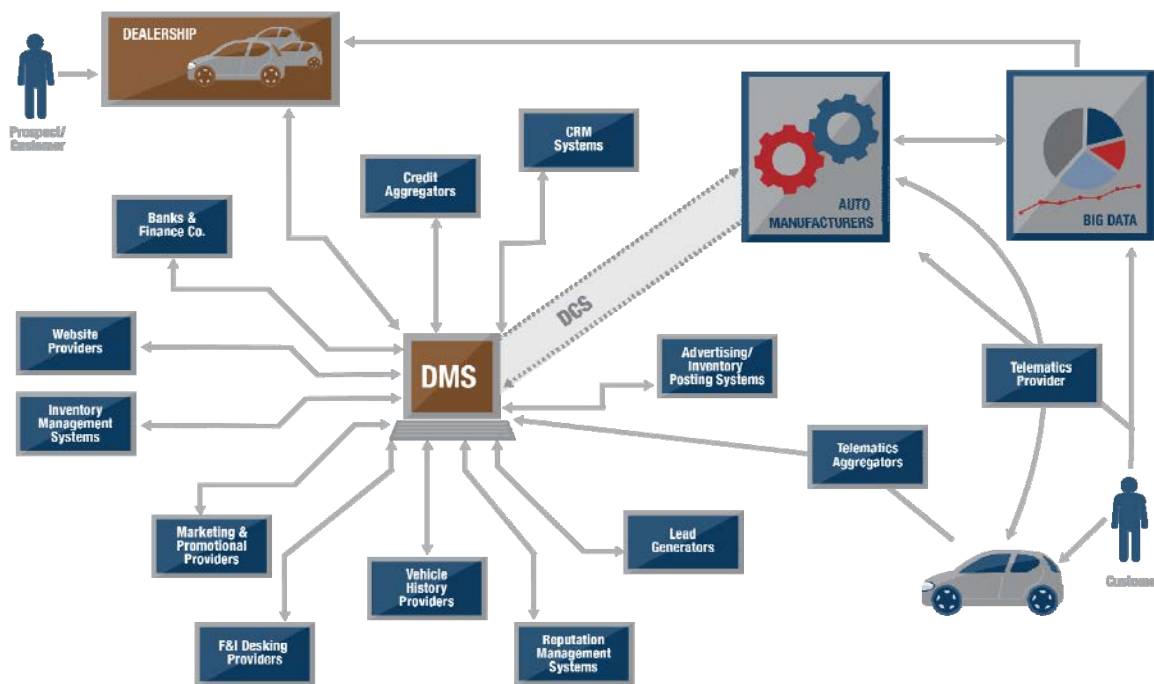
Dealers should know that One NADA is here for you! As chairman, I can assure you this is a top priority at NADA. For many years, we have worked closely with regulators, manufacturers, dealer vendors and others to ensure that dealers have the tools they need to comply with the law and are ready for the technical, cybersecurity, and data challenges for the future. Those efforts continue today.

You can help by prioritizing these issues at your store. Double down on compliance efforts. Talk to your manufacturer about these issues and let them know how

important they are to you and your business. Work with your vendors to ensure you know and understand how your customer information is handled and shared. Remind your employees how important it is that this information is treated with the utmost care.

Simply put, the data you maintain is at the heart of your customer relationship, your reputation and the value of your business. We dealers are swimming in increasingly challenging waters, but with the help and guidance of NADA, we stand ready to exceed expectations, providing our customers with world-class products and services as well as cutting-edge technology and privacy protections. ■

Charlie Gilchrist is president of Gilchrist Automotive in the greater Dallas-Fort Worth.



Chairman's Message CONTINUED FROM PAGE 5

at NADA who produced these great promotional items, which have helped tremendously in spreading the word about our workforce initiative and career opportunities at dealerships.”

This year, more than 6,000 entries were received from ad agencies, interactive agencies, production firms, in-house creative professionals, graphic designers, design firms and public relations firms.

Award of Excellence past winners include ESPN Films, Forbes Media, PepsiCo, Scorpion, WWE and Publicis Sapient.

The AIVA is an invitation-only member-based organization of leading professionals from various disciplines of the visual arts dedicated to embracing progress and evolving traditional and interactive media. Current membership includes communications professionals from top media, advertising and marketing firms. ■



President's Message CONTINUED FROM PAGE 1

how to manage it within your dealership. We've heard him before and you will not be disappointed!

Following our speaker sessions, is our Exhibitor event and lunch – remember this is the perfect opportunity to talk face to face with our sponsors, partners and industry experts. I guarantee you will learn something new and make a new connection that will help your dealership!!

We are ending our evening and convention with our President's Banquet. We will be honoring our Time Dealer of the Year, the Eagle Award Recipient and we also have a special guest speaker to wrap things up.

I strongly encourage you to attend this year's convention. The staff at MTADA has been working hard to make this convention a worthwhile experience, not only with the venue and events, but they have put a lot of thought into the quality of speakers that you will be listening to.

Here is the LINK to register!! We can't wait to see you in August ■

James Johnson is the Dealer Principle at High Plans Motors, Inc. in Wolf Point, Montana

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American Financial Receives Multiple Honors in the 2019 Dealers' Choice Awards

American Financial & Automotive Services, Inc. was voted among the top industry providers in the 2019 Dealers' Choice Awards. This F&I development company received honors under a record six different categories by their dealer partners, as well as Auto Dealer Today and F&I Showroom readers. American Financial was the top Multiple Category Winner for the second year in a row with these six awards.

- ✓ *F&I Product Training – Diamond Level*
- ✓ *Compliance Training – Diamond Level*
- ✓ *Special Finance Training – Diamond Level*
- ✓ *F&I Training – Platinum Level*
- ✓ *Sales Training – Platinum Level*
- ✓ *Service Training – Gold Level*

Arden Hetland, President of American Financial, stated, "Our philosophy for the past 40 years has remained the same, take care of the customer or someone else will. This is why American Financial has always taken great pride in being able to offer our dealer partners the best in training, development services, and product administration. Thank you for these top honors."

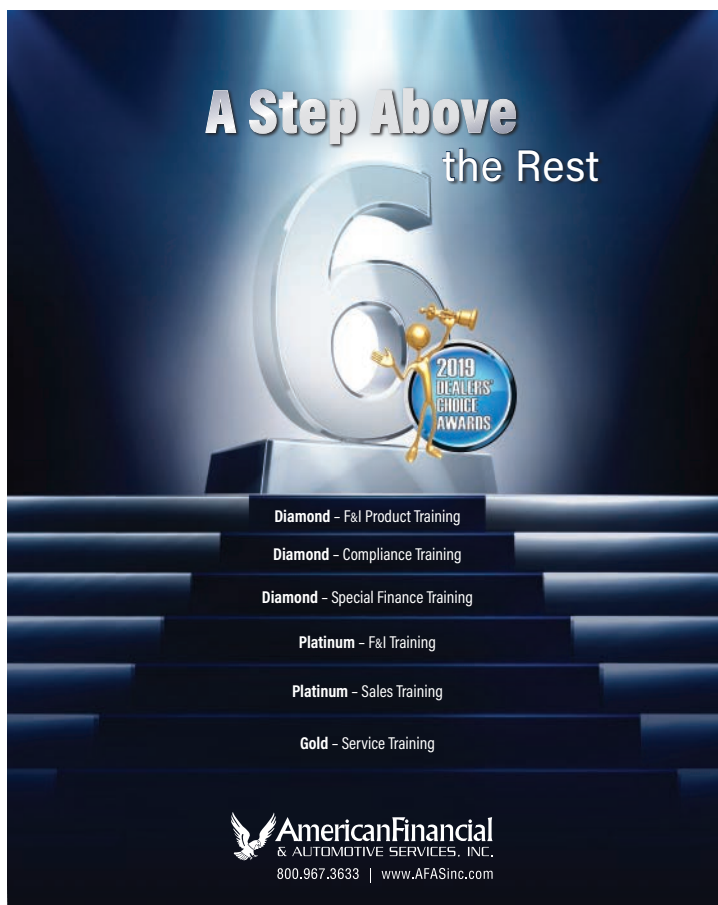
The team of F&I professionals at American Financial assists dealers in maximizing profits legally, ethically, and compliantly. Through extensive development services, exceptional customer service, and award-winning training from the Automotive Training Academy and F&I University, American Financial can be trusted to create growth in all areas of the dealership.

The Automotive Training Academy (ATA) works with automotive professionals throughout the dealership to give them the knowledge needed to prosper in today's retail market. Customized in-dealership training and regional workshops guide dealerships on how to utilize current technology to modernize the vehicle purchasing process. The ATA's unique hands-on training approach provides various techniques and skills that can be applied as soon as attendees return to the dealership, creating an immediate impact.

American Financial's F&I University (FIU) provides cutting-edge F&I curriculum and online continuing education for business managers of all levels. FIU is at the forefront of digital solutions to streamline the business office and is proud to offer Automotive Compliance Education (ACE) certification within their F&I curriculum.

American Financial's Compliance Management Program helps dealerships navigate through industry regulations and policies. The web-based system can be customized to complement the procedures and functions currently utilized within the dealership. In addition, American Financial has developed a Compliance Officer Certification course that arms your dealership with the resources, tools, and expertise your compliance officer needs.

For more information on American Financial, please visit www.AFASinc.com. ■



IT Security Tip: Another City Falls Prey to a Phishing Email Scam!

The City of Burlington, Ontario, revealed Thursday that it fell prey to “a complex phishing email” that cost the City \$503,000. Few details have yet been released. “To maintain the integrity of ongoing investigations, the City will not be commenting further at this time,” it announced.

Although the City describes the incident as a phishing fraud, it bears all the hallmarks of the business email compromise (BEC) type of phishing scheme.

“On Thursday, May 23, the City of Burlington discovered it was a victim of fraud. A single transaction was made to a falsified bank account because of a complex phishing email to City staff requesting to change banking information for an established City vendor,” the announcement reads. “The transaction was in the form of an electronic transfer of funds made to the vendor in the amount of approximately \$503,000 and was processed on May 16.”

Neither the name of the member of staff nor the department he or she worked in has been revealed, although it is clear this position has enough seniority to authorize large payments on behalf of the City.

Burlington mayor Marianne Meed Ward commented, “This was a case of online fraud with falsified documents at a level of sophistication not typically seen and we are taking the necessary steps to prevent it from happening in the future. This stresses just how important it is that we are all vigilant and recognize the signs of online fraud, phishing and other scams, and report them to the proper authorities -- so that no one becomes a victim of this type of criminal activity.” ■



Erin Dickey
IT Services Director
DIS Technologies

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NATIONAL SAFETY MONTH: Fatigue at Work, on the Road Can be Deadly

People often make light of how little sleep they get on a regular basis; an over-worked, over-tired condition has become the norm for many. But a

good night's sleep is not just a novelty, it's a necessity. The effects of fatigue are far-reaching and can have an adverse impact on all areas of our lives.

Work often requires us to override those natural sleep patterns. More than 43% of workers are sleep-deprived, and those most at risk work the night shift, long shifts or irregular shifts. Following are a few facts for employers:

- Safety performance decreases as employees become tired
- 62% of night shift workers complain about sleep loss
- Fatigued worker productivity costs employers \$1,200 to \$3,100 per employee annually
- Employees on rotating shifts are particularly vulnerable because they cannot adapt their "body clocks" to an alternative sleep pattern

Drowsy driving is impaired driving, but while we wouldn't allow a friend to drive drunk, we rarely take the keys away from our tired friends or insist they take a nap before heading out on the road. NSC has gathered research that shows:

- You are three times more likely to be in a car crash if you are fatigued
- More than 5,000 people died in drowsy-driving related crashes in 2014
- Losing even two hours of sleep is similar to the effect of having three beers
- Being awake for more than 20 hours is the equivalent of being legally drunk

Sleep is a vital factor in overall health. Adults need an average of seven to nine hours of sleep each night, but 30% report averaging less than six hours, according to the National Health Interview Survey.

Chronic sleep-deprivation causes depression, obesity, cardiovascular disease and other illnesses

- Fatigue is estimated to cost employers \$136 billion a year in health-related lost productivity
- More than 70 million Americans suffer from a sleep disorder

Americans receive little education on the importance of sleep, sleep disorders and the consequences of fatigue, but industry leaders recently have been drawing attention to this issue. Employers, too, are in an ideal position to educate employees on how to avoid fatigue-related safety incidents. Change begins with the individual. ■



Fatigue

70 MILLION AMERICANS SUFFER FROM A SLEEP DISORDER. DO YOU?



NATIONAL SAFETY MONTH 2019

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