



**SINAS DRAMIS**  
PERSONAL INJURY LAW

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MICHIGAN'S ADVOCATES FOR THE INJURED

# Making Smart Choices

A Guide to Buying Insurance  
Under Michigan's No-Fault Law



George T. Sinas  
Stephen H. Sinas  
Thomas G. Sinas

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**George T. Sinas**

georgesinas@sinasdramis.com  
3380 Pine Tree Rd., Lansing MI 48911  
517.394.7500

**Stephen H. Sinas**

stevesinas@sinasdramis.com  
3380 Pine Tree Rd., Lansing MI 48911  
517.394.7500

**Thomas G. Sinas**

tomsinas@sinasdramis.com  
435 Cherry St. SE, Grand Rapids, MI 49503  
616.301.3333

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## ABOUT THE AUTHORS



**George Sinas**

Partner  
Sinus Dramis  
Law Firm  
Lansing, MI

George has advocated for seriously injured individuals across Michigan for more than 40 years. Throughout his career he has secured numerous million-dollar verdicts and settlements and is widely recognized for his expertise in personal injury law.

George's honors include Michigan Lawyer of the Year, Champion of Justice, Respected Advocate, and Lifetime Achievement awards. He has been named a Top 100 Michigan Super Lawyer and featured in *The Best Lawyers in America*® annually since 1989.

In addition to his legal practice, George has authored legal texts and numerous articles on auto no-fault law, serves as General Counsel for the Coalition to Protect Auto No-Fault (CPAN), and has taught as an adjunct professor at Michigan State University College of Law.

## About the Authors



**Stephen Sinas**

Partner  
Sinus Dramis  
Law Firm  
Lansing, MI

Stephen has spent his entire legal career representing people who have been injured or harmed by the negligence or wrongdoing of another person, company, institution, or governmental entity. He also specializes in litigating against insurance companies that have wrongfully denied insurance coverage or benefits to injured people. He has successfully litigated hundreds of personal injury cases in numerous state and federal trial courts across Michigan, and he has handled multiple cases at the Michigan Court of Appeals and the Michigan Supreme Court.

Stephen has served as an adjunct professor at Michigan State University College of Law, where he teaches the course on Michigan Auto No-Fault Insurance Law. He is currently recognized by *The Best Lawyers in America*®, *Super Lawyers*, and *Leading Lawyers* magazines, in the field of Plaintiff's Personal Injury Law.

## About the Authors



**Thomas Sinas**

Partner  
Sinus Dramis  
Law Firm  
Grand Rapids, MI

Tom is an experienced trial lawyer dedicated to representing injured individuals and serving the public. He began his career at a national law firm in Minneapolis, handling serious injury cases, and later served as a special prosecutor for complex financial crimes in Minnesota.

Tom has successfully tried both civil and criminal cases across the Midwest and frequently speaks and writes on trial practice and legal issues.

He has held leadership roles at the Brain Injury Association of Michigan, Grand Rapids Bar Association, Legal Assistance Center, and State Bar of Michigan.

Tom's work has earned him numerous honors, including recognition as a Michigan Super Lawyer, inclusion in The Best Lawyers in America®, and being named one of Michigan's Top 10 Personal Injury Lawyers and a Go-To Power Lawyer by Michigan Lawyers Weekly.

# SINAS DRAMIS LAW FIRM

## **Michigan's Advocates for the Injured**

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Serving all  
of Michigan,  
with offices in:

Lansing  
Grand Rapids  
Kalamazoo  
Metro Detroit  
Ann Arbor

Sinas Dramis Law Firm is a statewide personal injury law firm with offices in Lansing, Grand Rapids, Kalamazoo, Metro Detroit, and Ann Arbor.

The firm was founded in 1951 in Lansing by Thomas G. Sinas and later joined by his friend Lee C. Dramis. Since then, the firm has focused on successfully representing seriously injured individuals and their medical providers across Michigan—especially in cases involving car, truck, motorcycle, bicycle, and pedestrian crashes, as well as no-fault insurance and wrongful death claims.

Throughout the years, Sinas Dramis attorneys have achieved great victories and results for their injured clients. The firm's attorneys have also held key leadership roles in the legal community, and they actively work to educate Michigan citizens about the state's auto no-fault law through writing, teaching, and public speaking engagements.

# INTRODUCTION

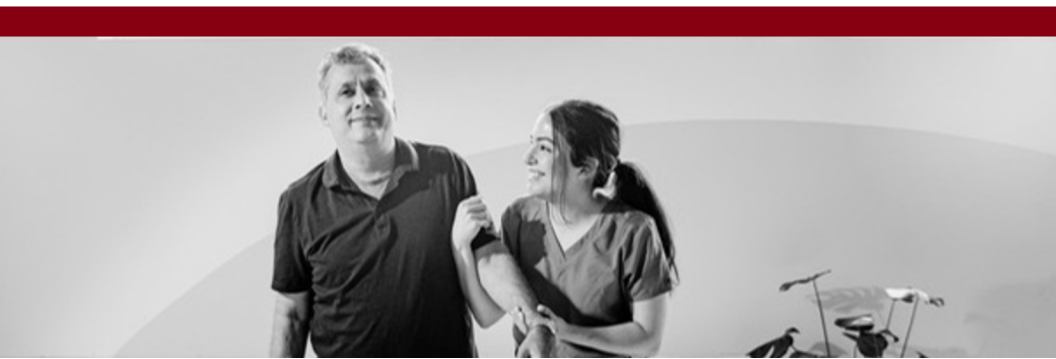
Michigan's no-fault law (MCL 500.3101, et seq) originally went into effect in October 1973. At the time, it was the only law of its kind in the country and considered by many to be a model system for motor vehicle injury cases.

When the law was first adopted, it guaranteed lifetime, uncapped medical and rehabilitation expense coverage to all motor vehicle accident victims, regardless of who was at fault.

In addition, the original law provided that, in most cases, no one could be sued in tort for the medical expenses suffered by another, because those expenses were already covered by the injured person's no-fault insurance. For the most part, the only tort liability at-fault drivers had under Michigan's original no-fault law was the payment of non-economic damages suffered by seriously injured victims.

**In 2019, the Michigan Legislature amended the state's no-fault law, making sweeping changes that continue to affect nearly every Michigan driver today.**

## Introduction



Under the 2019 no-fault amendments, people (with some limited exceptions) no longer have guaranteed lifetime coverage for medical and rehabilitation expenses, unless they purchase such coverage. Moreover, all drivers face increased liability in certain situations for the medical expenses they caused others to incur.

Therefore, to protect against the decreased coverage for a victim's medical expenses and the increased tort liability exposure for the medical expenses of others, every Michigan motorist is now required to make critically important choices about how best to protect themselves and their families.

Sinas Dramis Law Firm prepared this guide to educate consumers so they are able to **make smart choices** when buying auto insurance in Michigan.

# MICHIGAN NO-FAULT LAW BASICS

Michigan's no-fault law requires all owners or registrants of motor vehicles in the state to carry no-fault auto insurance. Failure to purchase this required insurance subjects the owner or registrant of the motor vehicle to criminal prosecution and the loss of certain rights and insurance benefits.

**The basic idea of Michigan's no-fault system is to guarantee payment of a certain level of benefits to all accident victims, regardless of fault.**

However, to fund such a system, the no-fault law imposes certain limitations on the rights of injured accident victims to bring tort liability claims against the at-fault drivers. It is this basic tradeoff that forms the essence of Michigan's no-fault system.

In virtually every motor vehicle crash occurring in Michigan that results in bodily injury, there are potentially two separate and distinct claims:

- No-fault personal injury protection (PIP) claims
- Tort liability claims

## Michigan No-Fault Law Basics

### No-Fault Personal Injury Protection Claims

Auto no-fault PIP claims are benefits an injured victim is entitled to receive regardless of who was at fault for the crash. There are essentially four different types of PIP benefits under Michigan law:

- Allowable expense benefits (see page 11)
- Work loss benefits (see page 13)
- Replacement service expense benefits (see page 13)
- Survivors' loss death benefits (see page 14)

### Tort Liability Claims

Tort liability claims are brought against the at-fault driver to recover two distinct types of damages:

- **Non-economic damages** (i.e., pain and suffering, loss of function, loss of social pleasure and enjoyment)
- **Excess economic loss damages** (i.e., certain out-of-pocket expenses and work loss that are not compensable to the victim with no-fault PIP benefits)

In order to pursue tort liability claims for non-economic damages, the injured person must have sustained a **threshold injury**, which the law defines as serious impairment of body function, permanent serious disfigurement, or death.

## Michigan No-Fault Law Basics

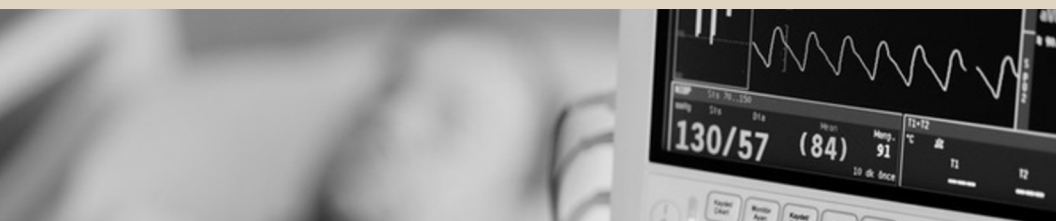
Michigan's 1973 no-fault law was a lifesaver for victims who sustained catastrophic injury. Those victims were guaranteed lifetime, uncapped coverage for all "reasonably necessary" costs for the person's care, recovery, or rehabilitation.

Moreover, because those lifetime benefits were payable regardless of fault, the at-fault driver could not be sued for such claims because those expenses were covered by the victim's no-fault insurance. As a result, all law-abiding Michigan citizens were guaranteed full lifetime medical coverage for their injuries, as well as full protection from virtually any liability for medical expenses incurred by others.

The 2019 amendments to Michigan's no-fault law fundamentally changed those basic concepts.



# PIP BENEFIT COVERAGES



Assuming a victim is otherwise legally qualified to receive no-fault insurance coverage under the entitlement provisions of Michigan's no-fault law [see §3105 and §3113], the law provides for the payment of four specific types of no-fault PIP benefits, briefly summarized below.

## **Allowable Expense Benefits**

Michigan's no-fault law has always required insurance companies to pay "all reasonable charges incurred for reasonably necessary products, services, and accommodations for an injured person's care, recovery, or rehabilitation" [see §3107(1)(a)].

These allowable expense benefits are very broad and include:

- Traditional hospital and medical expenses
- In-home attendant care
- Barrier-free residential accommodations
- Special transportation medical mileage
- Guardianship and conservatorship expenses
- Physical and vocational rehabilitation
- Expenses for an independent case manager

## PIP Benefit Coverages

The 2019 amendments dramatically changed the allowable expense benefit by:

- Allowing consumers to purchase allowable expense benefit coverage and, in some cases, to fully opt out of no-fault PIP allowable expense coverage
- Establishing rules known as **utilization review**, which apply to all no-fault policies and can impact how these allowable expense benefit claims are handled by insurance companies
- Reducing the fee schedule that governs how medical providers are reimbursed
- Subjecting medical providers to certain accreditation rules
- Limiting payment for attendant care rendered by family and friends to 56 hours per week



## PIP Benefit Coverages

### **Work Loss Benefits**

Under Michigan's no-fault law, individuals who cannot work as the result of an injury sustained in a motor vehicle crash are entitled to work loss benefits:

- Payable for up to three years for "loss of income from work an injured person would have performed . . . if he or she had not been injured" [see §3107(1)(b)]
- Payable at the rate of 85% of gross pay
- Cannot exceed the applicable monthly maximum, adjusted every October to keep pace with the cost of living
- Terminate on the third anniversary date of the crash
- Available to those who, at the time of the crash, were "temporarily employed," as further defined in the law

### **Replacement Service Expenses**

Under Michigan's no-fault law, an injured person may also receive reimbursement, not to exceed \$20 per day, for expenses incurred from having others perform reasonably necessary services that the injured person would have performed for the benefit of themselves or their family [see §3107(1)(c)]. These expenses are primarily for domestic-type services, such as housekeeping, lawn work, snow removal, etc.

## PIP Benefit Coverages



### **Survivors' Loss Benefits**

Under Michigan's no-fault law, when a motor vehicle crash results in death, dependents of the decedent are entitled to recover certain survivors' loss benefits:

- After-tax income earned by the decedent
- The value of lost fringe benefits as a result of the decedent's death
- Replacement service expenses

Survivors' loss benefits are payable for three years and are subject to the same monthly maximum benefit ceiling applicable to work loss benefits [see §3108].

Limited benefits are also paid for funeral and burial expenses.

## PIP Benefit Coverages

### Who Pays PIP Benefits?

The general rule is that a victim must first turn to their own auto no-fault insurance (the policy under which they are a named insured), or the no-fault insurance policy of a resident relative [see §3114(1)].

### New Rules for Victims Without Coverage

The 2019 amendments makes important changes in the **order of payment priority rules** controlling which insurance company is legally responsible for paying no-fault PIP benefits to a victim who does not have their own no-fault insurance coverage.

Under Michigan's original no-fault law, such victims could turn to either the no-fault insurer of the vehicle they were occupying at the time of the crash; or, if the victim was injured as a pedestrian or bicyclist, they could turn to the no-fault insurer of the striking vehicle.

**Under the 2019 amendments, victims without their own no-fault policy (with some limited exceptions) must now receive benefits from the Michigan Assigned Claims Plan (MACP).**

[see §3114(4)]

## PIP Benefit Coverages

Unfortunately, under the 2019 amendments, the vast majority of people claiming allowable expense benefits through the MACP are subject to a \$250,000 cap on those benefits. This is a major reduction in coverage for Michigan citizens who do not have their own no-fault policy and do not reside in a household where there is no-fault insurance.



### **Motorcyclists**

People who are injured while operating or occupying a motorcycle continue to be able to receive no-fault PIP benefits if they are injured in a crash involving a motor vehicle (e.g., car, truck). Motorcyclists will, in most cases, receive their no-fault PIP benefits from the insurer of the motor vehicle involved in the accident. However, the PIP benefit coverage available to such motorcyclists depends entirely on the amount of

## PIP Benefit Coverages

coverage purchased by the insurer of the involved motor vehicle. If the involved motor vehicle has no insurance, the motorcyclist will recover PIP benefits from the motorcyclist's no-fault insurer or the MACP [see §3114(5) and (6)].

### New Consumer Choices

Under the 2019 amendments, every motorist must now decide what level of PIP allowable expense coverage they want to purchase [see §3107c]. Policies no longer automatically provide lifetime, uncapped coverage. Now, consumers must choose coverage from one of the options listed below and on pages 18-22. For a sample of the PIP coverage form provided by the Michigan Department of Insurance and Financial Services (DIFS), scan the QR code at the right.



### Lifetime, Uncapped PIP Allowable Expense Coverage

Today, consumers can elect to purchase lifetime, uncapped PIP allowable expense coverage. This is similar to what was automatically available to Michigan consumers under the 1973 no-fault law.

## PIP Benefit Coverages

### **\$500,000 Benefit Level Coverage**

Consumers can elect to purchase \$500,000 of lifetime PIP allowable expense coverage. This option is available to any person without limitation (DIFS form, option #2).

### **\$250,000 Benefit Level Coverage**

Consumers can elect to purchase \$250,000 of lifetime PIP allowable expense coverage. This option is available to any person without limitation (DIFS form, option #3).

### **\$50,000 Medicaid Benefit Level Coverage**

A limited group of consumers have a \$50,000 allowable expense benefit option available to them only when:

- The named insured is covered under Medicaid; and,
- The spouse and resident relatives of the named insured are also covered under Medicaid, have other “qualified health insurance,” or have auto PIP coverage through a different policy.

This coverage option applies to the named insured, that person’s spouse, or any resident relative (DIFS form, option #5).

## PIP Benefit Coverages

### **\$250,000 Opt-Out PIP Exclusion**

Some consumers with other health and accident insurance coverage available to them may be able to completely opt out of any PIP allowable expense benefit coverage, subject to the following conditions:

- The named insured, their spouse, and all resident relatives who desire such an opt-out must have other health and accident coverage that extends to auto-related injuries; and,
- The policy must provide for the payment of \$250,000 of lifetime PIP benefits for all resident relatives of the named insured who do not have other qualifying health and accident coverage (DIFS form, option #4).

Any person who selects this option is not eligible for any PIP allowable expense benefit coverage for medical and rehabilitation expenses if they are injured while occupying a motor vehicle. However, if such opt-outers are injured as non-occupants of a motor vehicle, they may be entitled to limited allowable expense benefits from the MACP.

Moreover, anyone purchasing the \$250,000 opt-out exclusion and who subsequently experiences a lapse in their applicable health or accident coverage, has only 30 days following the lapse to select another level of PIP coverage. Failure to act within that 30-day period will result in having no PIP coverage

## PIP Benefit Coverages

whatsoever, until PIP coverage is later selected and purchased. If the lapse in other health and accident coverage occurs after a person has been injured, it raises a serious question about whether they will be eligible for any no-fault PIP allowable expense coverage.

### **Medicare Opt-Out PIP Exclusion**

The 2019 amendments allow for a complete opt out from all no-fault allowable expense benefits for those persons who are covered under both Medicare Parts A and B, as well as the spouses and any resident relatives of those who have Medicare coverage, other “qualified health coverage,” or other no-fault PIP coverage under a separate policy.

Medicare opt-outers will have no allowable expense benefit coverage if they are injured while occupying a motor vehicle. Rather, they must rely solely on the limited reimbursement provisions of the Medicare laws or other applicable qualified health coverages in the household.

However, if such opt-outers are injured as non-occupants of a motor vehicle, they may be entitled to limited allowable expense benefits from the MACP.

## PIP Benefit Coverages

### **Coordinated / Uncoordinated No-Fault PIP Coverage**

In addition to the previously discussed options, consumers also need to decide whether to buy a no-fault policy that is:

- Coordinated with applicable health and/or disability insurance; or,
- Uncoordinated with respect to any applicable health and/or disability insurance [see §3109a].

If a **coordinated policy** is purchased, the no-fault insurance company will only be required to pay benefits that are not paid by health or disability insurance.

However, if the consumer purchases an **uncoordinated no-fault policy**, the no-fault insurance company will be required to pay benefits in the primary pay position, regardless of whether health or disability insurance might also pay benefits for an auto crash injury.

Typically, coordinated no-fault policies are sold at a reduced premium because they significantly limit the auto insurance company's potential exposure. However, the premium reduction may not be worth the disadvantages of purchasing a coordinated no-fault policy.

## PIP Benefit Coverages

One such disadvantage may be that health insurers who pay benefits on behalf of crash victims may argue they are entitled to seek reimbursement from the victim's liability settlement. Ultimately, the issue of whether to coordinate or not coordinate no-fault coverages is a complicated question that requires careful thought.

### **Managed Care Option**

The 2019 amendments allow insurance companies to sell managed care no-fault policies. In most cases, this option limits the victim to a network of medical providers chosen by the insurance company and requires them to follow the insurance industry's rules and decisions.

### **Medical Expenses Exceeding Allowable Benefit Coverages**

Unfortunately, the reality is that many people who purchase limited benefit coverage will sustain a severe injury in a motor vehicle crash, resulting in medical and rehabilitation expenses that exceed their chosen coverage. This can lead to harsh financial consequences. However, as explained in the following section, when a victim is injured due to the negligence of another, the victim has important rights to pursue against the at-fault driver, which includes the right to recover damages for their care needs going forward.

## PIP Benefit Coverages

### Consequences for the Victim

A victim who incurs medical and rehabilitation expenses in excess of the their allowable expense coverage has the following options:

- Sue the at-fault driver (if there is one) for excess medical expenses, which will, for all practical purposes, depend upon the amount of the at-fault driver's liability insurance
- Pay excess medical expenses out of the victim's personal financial assets
- Go bankrupt
- Attempt to qualify for medical coverage through private health insurance or a government program such as Medicaid

### Consequences for the At-Fault Driver

At-fault drivers who cause victims to incur medical expenses in excess of the victim's no-fault PIP coverage will be personally financially liable for all excess medical expenses. This liability did not exist under Michigan's original no-fault law because all victims had full coverage for their medical expenses.

**Today, the only way drivers can protect  
against this new tort liability  
is by purchasing as much liability insurance  
coverage as they can afford.**

# LIABILITY INSURANCE COVERAGE CHOICES

Before 2019, motorists were only required to purchase liability insurance coverage in the amount of \$20,000 per person/\$40,000 per occurrence. Now every person who purchases no-fault insurance must carry liability insurance in the minimum limits of \$250,000 per person/\$500,000 per occurrence. The only exception is if the insured elects to opt-out of this default minimum requirement and purchase liability insurance coverage in amounts at least equal to \$50,000 per person/\$100,000 per occurrence (see MCL 500.3009).

When deciding what amount of liability insurance coverage to purchase, it is imperative to keep in mind that every single motorist now has a significantly higher risk of being held liable for a victim's unreimbursed medical expenses. Therefore, consumers must decide how much liability insurance coverage they can afford and whether they want to supplement that liability coverage with optional umbrella coverage.

**Umbrella insurance is a special form of liability coverage that provides additional liability protection beyond an individual's auto liability insurance policy.**

# SMART CHOICES FOR ALL CONSUMERS

The choices many people make today are dictated by the harsh economic reality of cost. People can only buy what they can afford. However, buying less than what can be afforded will only invite disaster if the policyholder suffers catastrophic injury that exceeds the selected PIP coverage levels or causes another person to suffer such an injury.

## **Coverage We Strongly Recommend**

### **Lifetime, Uncapped PIP Allowable Expense Benefit Coverage**

Pay a little extra on the premium to continue receiving lifetime, uncapped allowable expense benefit coverage.

### **High Liability Insurance Limits**

All of us now have increased liability for a victim's catastrophic medical expenses; therefore, we urge consumers to purchase as much auto liability insurance coverage as possible. We suggest a minimum of \$500,000 of auto liability coverage plus an optional umbrella policy that will provide additional liability coverage beyond that amount.

### **Uninsured and Underinsured Motorist Coverages**

This provides additional protection for oneself and one's family if they become victims of serious injury caused by the fault of another driver who has inadequate or no insurance.

## Smart Choices

If the at-fault driver has no insurance and the victim has **uninsured motorist coverage**, that coverage will step in and compensate the victim—up to the policy limits—as if the at-fault driver had been insured.

If the at-fault driver has liability insurance coverage but not in an amount to fully compensate the victim for damages suffered, and the victim has purchased **underinsured motorist coverage**, that coverage will provide additional benefits, up to the policy limits purchased, for those types of damages that the victim could have recovered from the at-fault driver, had that driver been more fully insured. This underinsured motorist coverage is critically important today, given the low liability insurance limits purchased by many motorists.



## Smart Choices



### **Coverage to Avoid**

#### **Step-Down Policies**

A few insurance companies in Michigan insert clauses in their insurance policies which provide step-down coverage. These policies should be avoided at all costs.

Step-down coverage policies state that if the claimant is a relative of the insured person's household, that claimant can recover only limited liability damages under the policy, which, in many situations, are far less than what total strangers would be entitled to recover under that same policy.

Simply put, step-down clauses discriminate against family members of the insured person. For more information about these ill-advised step-down policies, contact Sinas Dramis Law Firm.

### **Managed Care Options**

Due to the current uncertainty as to the details of managed care option policies and the probable limitations on the rights of patients to choose their medical providers, we recommend that consumers not purchase any managed care option.

### **Conclusion**

#### **Protect Yourself Now in the Event You're Ever Seriously Injured in a Motor Vehicle Crash**

As a result of the 2019 amendments, crashes causing serious injury are now much more complicated than they ever were under the original law. If a victim has purchased limited coverage that is not enough to pay for the victim's medical expenses, the victim must consider promptly pursuing a tort liability claim against the at-fault driver to recoup some of the excess loss.

Such liability claims will typically involve an analysis of **fault allocation**. This means the victim will only be able to recover the portion of their excess medical expenses that corresponds to the percentage of fault allocated to the other driver. These fault allocation issues can be complicated and frequently require the attention of an experienced attorney.

In addition, there will be disputed liability situations where both drivers incur excess medical expenses and are making a

## Smart Choices

a claim against one another for the uncompensated losses. These situations create complexities beyond the scope of this summary. Suffice it to say, however, that the 2019 amendments ushered in an era of complicated questions that require all victims to proceed with great caution and with a full understanding of their legal rights.

**One thing is clear:  
If there is any uncertainty, don't go it alone.  
Consult a personal injury attorney.**



## Resources

### FREE PUBLICATIONS

Sinas Dramis Law Firm publishes free literature to help consumers understand Michigan's no-fault law. To request one of the following publications, scan the QR code at the right ([sinasdramis.com/ free-michigan-law-literature](https://sinasdramis.com/free-michigan-law-literature)).

***Protecting the Injured: A Summary Guide to the New Auto No-Fault Law***

Provides consumers, medical providers, and auto accident victims with useful information about the extensive rights and benefits available under Michigan's no-fault law.

***Navigating the Chaos: The New No-Fault Legislation***

This analysis of Michigan's 2019 amended law explains how it differs from the original 29173 law and presents a detailed discussion of the various coverage options available.



## **SPEAKERS BUREAU**

Sinas Dramis Law Firm attorneys are respected experts on the Michigan's no-fault law and frequently give presentations to educate the public about this important law that affects all Michigan citizens.

If your organization, association, or business would like to request a presentation to educate your members or employees, contact the **Sinas Dramis Speakers Bureau** by emailing [\*\*sinasdramis@gmail.com\*\*](mailto:sinasdramis@gmail.com).

These presentations are offered at no charge, as a public service. Sinas Dramis Law Firm is dedicated to ensuring Michigan citizens understand how the law impacts their daily lives and the choices available to them.









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PERSONAL INJURY LAW

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[sinasdramis.com](http://sinasdramis.com) | 866.758.0031

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