I am writing this article on December 20 and, along with literally hundreds of others, am eagerly awaiting new House Speaker Doug Scammon’s announcement of his leadership team – new Committee Chairs and Vice Chairs and member Committee assignments. In politics, to the victors go the spoils!

When the House and Senate come back into Session on January 5, the state of New Hampshire will have a new Speaker of the House, Doug Scammon; a new Governor, John Lynch; and a second-term Senate President, Senator Tom Eaton. The Democrats, as well as picking up the Governor’s seat, picked up two additional seats in the State Senate, for a total of 8, and an additional 28 seats in the House, for a total of 147.

Partisan politics will not go away, but it is my hope that our elected officials will vote according to what is best for the state and not what may be best for the party and the 2006 elections.

What has not changed is the number of bills that are being introduced. As of today, we know there are over 1,000 bills that may be introduced, which are in the form of Legislative Service Requests (LSRs). By the time we get into January, legislators will have signed off on their LSRs, and more than 1,200 bills will be introduced into the 2005 Legislative Session.

The hot topic today has to do with OBD II and safety inspections; and, as a result, there are a number of bills that will be introduced dealing with this issue. In the aftermath of what many consider to be the negative effects of SB 110, it appears that many legislators want to fix the health insurance statutes in New Hampshire. There is a series of bills that will be introduced related to minimum wage, termination of employment, overtime payments, and Workers’ Compensation issues. Last, but not least, as a general category, the Legislature will look at and revise laws concerning gifts from lobbyists.

As of this date, I have been able to identify close to 70 bills in which NHADA will be paying very close
New Members

E.R.C. Wholesale
23 Block Drive
Brentwood, NH 03833
Owner: Emmett Callahan

Monadnock Harley-Davidson
588 Monadnock Highway
East Swanzey, NH 03446
Owner: Thomas J. Simpson

Lovering Volvo of Meredith
251 Daniel Webster Highway
Meredith, NH 03253
Owner: Richard Lovering, Jr.

Auto Exchange, Inc.
87 Plaistow Road
Plaistow, NH 03865
Owner: Donald Reis

Beware – Scams Keep Coming Back!

I would like to amend the old saying, “There are two things in life we can be assured of—death and taxes,” to include “scams.” Be aware that there are scam artists out there seeking to pluck as many dollars as they can from unsuspecting businesses. There is a remedy—and, frankly, it is quite simple: Personnel in dealerships that are responsible for paying bills must constantly be on guard and make certain that they do not fall prey to what could be costly errors. Pay attention, read the fine print, and do the proper research before paying a bill to avoid being “taken.”

We can utilize NHADA’s new Web site to notify members to be on the lookout for specific scams. If you come across a bill that you believe is an attempt at scamming you out of dollars, please give us a call.

NHAEF Center for Automotive Education and Training

Upcoming Seminars – REGISTER ON-LINE (www.nhada.com)

- January 19 - New Hampshire Title Regulations
- February 23 - Workplace Harassment Issues
- March 8 & 9 - F & I Boot Camp
- March 15 - Telephone Skills
- March 16 - Service Cashier Training

Seminar dates are subject to change. Please contact Brendan Perry or Jean Conlon at 800-852-3372 for additional information.
On December 8, NHADA hosted overflowing morning and afternoon seminars, which focused solely on the upcoming OBD II/Safety Inspection program. Representatives of Gordon-Darby brought along with them two of the testing machines, provided a step-by-step explanation of the process, and answered a multitude of questions. While there are certain kinks in the program that need attention and fixing, Gordon-Darby is

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to be commended on what appears to be a well-thought-out program that will enable real-time transmission of data to the State regarding OBD II and safety inspection results.

Recently, there have been a considerable number of articles in the media regarding the positive, as well as the negative, aspects of this new program. The big push for the establishment of this program is the direct result of the federal Clean Air Act, which became law many years ago. Since that time, the Environmental Protection Agency (EPA) has established many rules that impact requirements on states to comply with the various provisions of the Clean Air Act. Certain counties in New Hampshire have been in non-compliance for a number of years; and, quite frankly, New Hampshire has experienced a number of delays in the implementation of a motor vehicle emissions program.

It certainly has appeared to me over the years that if New Hampshire is to be compliant with the EPA and the U.S. Congress, the upcoming OBD II testing program is the least onerous that will allow us to avoid potential penalties that could be issued by the federal government. I suspect there will be continued discussion during the 2005-2006 Legislative Session in Concord on the issue of motor vehicle emission testing.

NHADA remains consistent in its policy of not being obstructionists in programs that, if not followed, could impose economic penalties to New Hampshire in terms of business development as well as reduction of federal highway dollars.

We will keep you posted.

Ring in the New Year With a New Safety Inspection Program!

Michelle Marinelli, Program Manager, Gordon-Darby NHOST Services

Along with the New Year, there’s a new Safety Inspection program in New Hampshire!

Gordon-Darby NHOST Services is pleased and excited to help transition the program from a labor-intensive, paper-based system to an electronic database that will automate collection of safety inspection data and implement OBD testing for most 1996 and newer light-duty vehicles.

Overall, the New Hampshire OBD & Safety Testing program (NHOST) is implementing streamlined, efficient methods for the Safety Inspection program, including data integrity, essentially real-time reporting and tools to assist program enforcement. Just as with most new things we encounter, it will take a little time and practice getting used to. We are here to help you through that process and invite you to visit the NHOST Services office to test drive the new equipment every Monday between 1:00 p.m. – 3:00 p.m. and Thursday between 5:00 p.m. – 7:00 p.m.

NHOST Services will equip stations with cutting-edge technology that will be used to enter safety inspection data, perform OBD tests, and provide management tools. These tools include history checks for stickers and inspections, along with a training program that is done right on the unit.

Here’s some information to help stations plan for this program transition:

• NHOST Services has been sending information to stations to assist with this transition. Please complete the Station Agreement package and return to Gordon-Darby as soon as possible to help ensure timely delivery.

• No capital investment is required for stations to be equipped with the NHOST unit. There is a monthly minimum of $50, and consumables, such as
The NE Dodge Dealers are proud sponsors of the New Hampshire Automobile Dealers Association.
The program provides one unit per station. Stations may terminate the agreement with 30 days’ notice in writing. For example, if a station owner plans to retire before the end of the five-year agreement, he/she may cancel with no further obligation. Please see the agreement, page 4, for details related to multiple units or contact us to discuss further.

Stations that have submitted completed agreements will be contacted by NHOST Services to schedule delivery and installation of equipment. Be sure to have your station prepared and ready for equipment setup. Look for the “Station Prep” handout; request a copy if you don’t have one, or obtain a copy from the www.nhostservices.com Web site.

Safety training will still be provided by DMV Highway Patrol & Enforcement, just as is done today. OBD training and testing will be done on the NHOST unit in the privacy of your own facility.

In keeping with the theme of the new program, payments will be done electronically through Direct Payment. This is a safe and efficient billing and payment method, will provide a convenient tool for station accounting, and will reduce cost all-around. Direct Payment is a secure, private electronic payment transfer that will be done once per month. Stations will be provided advance billing notice, through the NHOST unit e-mail, which will include the date and amount of the upcoming transaction.

We are pleased to be a part of this program, appreciate the opportunity to serve you and your business, and look forward to a long and successful relationship. Please feel free to contact the NHOST Services Help Line at 800-383-4124 with any questions.

Gordon-Darby has been in the inspection and maintenance (I/M) industry for over 20 years. We take pride in our service, knowledge, and responsiveness. While not the largest provider in the industry, we proudly consider ourselves the “best” and a leader in our industry. We bring that experience and legacy to serve New Hampshire as Gordon-Darby NHOST Services.

Technicians Must Be Licensed for OBD II

Brendan Perry

As part of the new OBD II/Safety Inspection process, all current licensed inspectors must pass an OBD II examination. The program, which is scheduled to go live in the spring of 2005, adds an emissions component to the current safety inspection process.

The 50-question examination is administered electronically through the New Hampshire OBD & Safety Testing (NHOST) equipment, and inspectors must score 80 percent or higher. Inspectors are allowed three chances to pass the exam at which time a Gordon-Darby representative will contact them to determine the reason for failure. There are no fees associated with the examination, and sample questions are available on the NHOST system.

Inspections - Continued on page 8

Safety Inspections and Motor Vehicle Registration

Daniel B. McLeod

I knew there was a problem but did not know it was as immense as it is until we received responses from well over 200 NHADA members at our December 8 Gordon-Darby Seminars. I am talking about the problems created by town/city clerks who switch registration months with safety inspection months.

Here are two examples of what happens and the conflict it creates:

- A New Hampshire customer without a New Hampshire registration (trade-in) purchases a vehicle from a licensed dealership. The dealership has the month of birth of the first person named on the title application, and the vehicle is inspected to that month. The owner then goes to his/her town or city clerk to register the vehicle; and because there may be a variance in the town tax portion of the registration due to different birth months, the town clerk may register the vehicle, in conflict with the law, in the birth month of someone other than the first named on the title. When this happens, there is a conflict with the number on the windshield and the number on the license plate.

- If a customer purchases a new or used vehicle and trades in his/her vehicle with a current New Hampshire registration, that could carry a credit, is the month used on the title application. This could be altered if requested by the customer.

Inspections - Continued on page 8
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Update on Beede Waste Oil

Dan Bennett, NHADA Environmental Specialist

For a great number of us, the mention of the Beede Waste Oil Site/issue sends shivers up our spines. It is a name and occurrence that many of us wish had never happened, want to forget, and hope never does again.

The Beede case is a perfect example of the Resource Conservation Recovery Act (RCRA) and its “cradle-to-grave” approach to dealing with hazardous substances. A generator or producer of a hazardous waste is, ultimately, and may always be, responsible for the proper disposal of that waste (even if it leaves the facility by a registered transporter on a properly completed manifest to an approved destination facility).

Final Fourth Settlement: The government and environmental officials have recently reached a final fourth settlement with municipalities and commercial contributors of hazardous waste to the former oil storage and recycling facility that was in operation from 1920 until 1994 and is now considered a “Superfund” site. The Site released a number of contaminants (PCBs, Lead, and Volatile Organic Compounds, to name a few) into the environment contaminating the ground and water supplies.

There are 276 parties in Massachusetts, New Hampshire, and Rhode Island that have agreed to payments ranging from $2,000 to $140,000 for their share of the cleanup costs. The parties involved in this settlement contributed up to 20,000 gallons of waste to the site. In this fourth round of settlements, roughly one-third of the eligible 775 parties reached a settlement. To date, 1,199 Potentially Responsible Parties (PRPs) have reached settlements with the EPA.

The settlements also release the PRPs from further state and federal cleanup costs as well as offer protection from potential lawsuits for cleanup costs from other contributors.

The EPA and DES have estimated the cleanup of the Site at $48 million. They have also estimated that, so far, Site cleanup work and Site investigation work have totaled $22 million.

The rest of the negotiations, and any further negotiations, regarding the Beede Site will be between the EPA and what they consider to be major contributors.

This Beede situation is, to some, unfortunate and frustrating. It is, however, the nature of the RCRA law and its closely related CERCLA or “Superfund” law to make a generator of a dangerous and hazardous waste ultimately liable. One thing these rules do is encourage and promote source reduction of hazardous waste at facilities, a step everyone should consider. Reducing the source of hazardous waste generation and finding a safer alternative removes a facility from incurring the types of liability mentioned above that can occur.

For further questions, concerns, or information on this article; source reduction of wastes; or other environmental-related issues at your facility, please feel free to contact me at dbennett@nhada.com or at 800-852-3372.
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NHADA’s Ron Godbout Becomes CSP

Ron Godbout, Loss Prevention Consultant with the NHADA Workers’ Compensation Trust (WCT), successfully completed the final examination necessary to obtain the Certified Safety Professional (CSP) designation. The exam, which is 5½ hours long, ranges into areas of safety management, physics, chemistry, and mechanical and environmental engineering.

Obtaining the CSP designation requires passing two 5½ hour exams. In order to sit for the exams, applicants must meet stringent educational and work-experience requirements. The CSP designation is the most prestigious certification available within the safety profession.

Ron joined the NHADA staff in 2001 and has worked in the occupational safety field for over 20 years. He is a veteran of over 24 years of active duty in the Air Force and has worked in industry as a safety professional since his retirement from the military in 1984. He holds a Master’s Degree in Occupational Education and has a good deal of hands-on experience in automotive repair, electronics, and construction.

Ron and his wife, Jean, have two sons, two grandsons, and another grandson due in March. His hobbies include old cars, fishing, woodworking, shooting, and genealogy. He is a charter member of the Granite State Chapter of the American Society of Safety Engineers.

The NHADA WCT is extremely proud of Ron’s accomplishment, and we are excited to have another CSP on the staff! Nice work, Ron! 
The Safety Committee at McFarland Ford in Exeter exemplifies the definition of safety in the workplace. This Committee consists of members from top-level management to front-line employees and representatives from every department. The commitment to safety at McFarland Ford has created a safety culture that is second to none. Safety has become a part of all employees’ day-to-day responsibilities. Their low-incident rate over the past couple of years directly reflects the culture they have created. McFarland Ford’s dedication deserves to be noticed. Because of this, it is my pleasure to highlight McFarland Ford’s Committee as “Safety Committee of the Month.”

2004 Unemployment Statistics

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<th>State</th>
<th>Aug</th>
<th>Sep</th>
<th>Oct</th>
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<tbody>
<tr>
<td>United States</td>
<td>5.4%</td>
<td>5.1%</td>
<td>5.1%</td>
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<tr>
<td>New England</td>
<td>4.7%</td>
<td>4.3%</td>
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<tr>
<td>Connecticut</td>
<td>4.6%</td>
<td>4.2%</td>
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<tr>
<td>Maine</td>
<td>3.7%</td>
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<td>Massachusetts</td>
<td>5.3%</td>
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<tr>
<td>New Hampshire</td>
<td>3.7%</td>
<td>3.3%</td>
<td>3.0%</td>
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<tr>
<td>Rhode Island</td>
<td>5.3%</td>
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<tr>
<td>Vermont</td>
<td>3.0%</td>
<td>2.9%</td>
<td>2.7%</td>
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By doing so, you can Request Visits and “FREE” supplies on-line, download sample Safety Programs and other Helpful Forms, check out the list of Free On-Site Trainings, find out about Post-Offer Physicals and Drug Testing, and much more – all offered by NHADA’s WCT Loss Prevention Department.

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In 17 years of defending Workers’ Compensation cases before the New Hampshire Department of Labor, I have handled in excess of 5,000 contested hearings, covering a variety of issues. Without a doubt, the most difficult claims to prevail upon at the New Hampshire Department of Labor are the claims that an injured worker is an independent contractor rather than an employee. These claims have always been difficult to defend and win. However, since a change to the Workers’ Compensation statute in 1997, it has become even more difficult to prove that an injured worker is an independent contractor.

Prior to 1997, the test as to whether an injured worker was an employee and received the benefits of Workers’ Compensation coverage was set forth in Labor Rule 101.05, which provided as follows:

“Employee-Employer Relationship” shall be defined using the following criteria:

(a) The employee is permitted, suffered, required or directed by the employer in consideration of direct or indirect gain or profit to engage in the employment of the employer;

(b) The employer provides the employee with instructions, training or orientation as to when, where and how the work is to be performed to the employer[s] specifications;

(c) The employer supervises the work of the employee;

(d) The employee may submit oral or written reports to the employer regarding work activities;

(e) The work performed by the employee[e] is part of the regular business of the employer;

(f) The employer supplies the employee with the instrumentalities, tools and the place of work without a significant investment by the employee;

(g) The employer pays the employee by the hour, week, month, piece or commission and may pay business and travel expenses;

(h) The employee is prevented from hiring, supervising and paying assistants to complete a specific goal in the manner of a subcontractor;

(i) The employer can discharge the employee with a right to no more than wages already earned or the employee can end the relationship without incurring any liability as in a breach of contract;

(j) The employee[s] shall not present themselves as being a business entity; and

(k) Any other factor which contributes to the nature of the relationship that the parties believe they are creating.

The Labor Department applied the specific facts of the claim to the test set forth above and determined whether an employee-employer relationship existed.

In 1994, a Workers’ Compensation claim went to the Labor Department regarding whether cab drivers for a Manchester cab company were independent contractors or employees. This was a rather unique case in that there was no actual injured worker involved in the claim. The cab company was merely looking for a ruling from the Labor Department that their cab drivers were not employees and that Workers’ Compensation coverage would not apply if a cab driver should become injured. The hearings officer’s decision stated in part that the cab company was in the business of leasing cars to drivers. The drivers were able to keep whatever they earned over the course of their lease. The cab company provided a dispatch service, which the drivers could use or choose to ignore. There was no control over the drivers with regard to dress code, work activities, or any other area of their work. No written, oral, or income reports were required by the cab company; and a written lease agreement between the company and the driver indicated that the driver was an independent contractor. In this case, there was no injured worker or attorney for an injured worker to bring forth any facts in favor of the cab drivers being found employees. All evidence presented was presented by the cab company and was favorable to a determination that the cab drivers were independent contractors. One might guess that the cab company would prevail based on these facts. However, the hearings officer took “judicial notice” of a Manchester city ordinance that noted that drivers would be required to have their own business license in order to be
independent contractors. This ordinance was not presented as evidence at the time of the hearing. The Supreme Court ultimately upheld the Labor Department’s determination that the cab drivers were employees and would receive coverage if an injury should occur. In essence, the defense lost this case to an empty chair as there was no evidence presented contrary to the company’s position that the drivers were not employees. This decision gives one a good sense of the Labor Department’s intent to find injured workers to be employees so as to allow for Workers’ Compensation coverage.

In 1997, the Workers’ Compensation statute was changed to make it even more difficult to show that a given injured worker is, in fact, an independent contractor. In 1997, RSA 281-A:2, IV was changed to indicate the following:

(b)(1) Subject to the preceding subparagraph, any person, other than a direct seller or qualified real estate broker or agent or real estate appraiser, who performs services for pay for an employer, is presumed to be an employee. This presumption may be rebutted by proof that an individual meets all of the following criteria:

(A) The person possesses or has applied for a federal employer identification number or social security number, or in the alternative, has agreed in writing to carry out the responsibilities imposed on employers under this chapter.

(B) The person has control and discretion over the means and manner of performance of the work in achieving the result of the work.

(C) The person has control over the time when the work is performed, and

the time of performance is not dictated by the employer. However, this criterion does not prohibit the employer from reaching agreement with the person as to completion schedule, range of work hours, and maximum number of work hours to be provided by the person, and in the case of entertainment, the time such entertainment is to be presented.

(D) The person holds himself or herself out to be in business for himself or herself.

(E) The person is not required to work exclusively for the employer.

Under RSA 281-A:2, IV, the claimant or injured worker no longer has the burden to prove that he or she is an employee. Instead, as long as the injured worker “performs services for pay for an employer,” he or she is presumed to be an employee. The employer may rebut this presumption by proof of all of the five subsequent criteria.

Since the enactment of the present statute, there has only been one case that has gone to the New Hampshire Supreme Court regarding employer-employee relationship. In the Appeal of Ann Miles Builder, 150 N.H. 315 (2003), the Supreme Court looked at the legislative history behind the presumption in order to determine the level of proof required by the employer. The Court noted that part of the legislative history specifically addressed the need to “help to protect employees whose employers don’t want to pay for Workers’ Compensation and try to get around it by classifying employees as independent contractors.” The Court noted that the legislative intent of RSA 281-A:2, IV was to prevent abuse of the Workers’ Compensation law by employers that classify employees as independent contractors in order to avoid compensating them if they are injured on the job. The Court went on to hold that the employer had both the burden of producing evidence and the burden of proof on all five of the criteria set forth in the statute. The Court went on to indicate that if the employer carried the burden of proving all five criteria of the statute, then the presumption that the injured worker was an employee disappears and the injured worker then bears the burden of persuasion. In other words, even fulfilling all five statutory criteria does not necessarily require a ruling that the injured worker is an independent contractor.

It is clear that the 1997 statutory change sets forth a considerable legal obstacle to any employer attempting to show that an injured worker is, in fact, an independent contractor. This statute, in conjunction with the New Hampshire Department of Labor’s longstanding predisposition to find an injured worker to be an employee for the purposes of allowing Workers’ Compensation coverage benefits, makes it highly unlikely that an employer will be able to prove that a given injured worker is an independent contractor, rather than an employee.

(Paul L. Salafia, Esquire, a shareholder of the Devine Millimet law firm, specializes in the area of Workers’ Compensation defense. He represents self-insured companies, trusts, and insured employers throughout New Hampshire. Paul has focused his practice on the defense of workplace injuries on the behalf of employers in state and federal administrative agencies and courts.)
To protect the financial stability of the NHAD Services, Inc. – Insurance Division health insurance program and to promote equity among all members, the Board of Directors has adopted the following policy:

As a consequence of the adverse impact on all NHAD Services’ health insurance programs created by members “jumping” in and out of the pool, any member group that has voluntarily terminated from the health insurance program will be prohibited from rejoining the health insurance program for a period of two years from the date of termination of coverage.

The Board may grant waivers to members that have terminated coverage in cases such as:

• when granting the waiver will not have a significant negative impact on other members.

• when an unusual event occurs that was not able to have been anticipated by the terminating member. Examples of this would be an insurance company going out of business or withdrawing from the state of New Hampshire or their specific geographic region.

• when the member is implementing a wellness program.

If you have any questions, please contact me at 800-852-3372 or at dmcleod@nhada.com.
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We have noted that many of our members still choose to utilize their respective area hospital’s emergency room departments, both during and after regular work hours. As each area hospital is a participating provider in our Workers’ Compensation Managed Care network, a referral there is still appropriate. However, did you know that the cost of that emergency room visit is nearly five to ten times that of similar care offered at an area Occupational Health facility? Regardless, a representative from the injured worker’s place of business should still plan to call our office to let us know that your employee needed treatment.

Marta Robbins, RN, NHADA’s Managed Care Nurse Case Manager, is available to offer further assistance regarding additional treatment or specialty-care referrals.

Please plan to give the NHADA Workers’ Compensation Trust department a call at 800-852-3372 and let us know if any additional information or assistance is needed. We hope that everyone enjoyed a happy and safe Holiday Season.

Healthy Hints - Continued on page 18

The Workers’ Compensation slip-and-fall season has arrived, and the number of claims for back injuries is on the rise. The question we hear often in the WCT Claims Department is, “What is the difference between physical therapy and chiropractic treatment, and which one should I try?”

When an employee is injured on the job and the injury is not life threatening, it is required that the employer and/or employee call us here at the NHADA WCT for assistance with an in-network referral. At this time, a “triage” of the injury is done; we ask questions regarding the nature of the injury and the symptoms the injured worker is experiencing. Also, options for treatment are discussed.

After a discussion with the injured worker regarding his/her symptoms and requests for treatment, it is often determined that the best first step for treatment of a back injury is a thorough medical evaluation. This may occur at an occupational health provider or orthopedic specialist’s office. After the diagnostic phase is complete, there is discussion regarding treatment. Back injuries are complex, and the treatment is varied based on the diagnosis and severity of the symptoms.

Chiropractic care and treatment may be suggested for the treatment of back pain when it has been determined to be a safe option based on the symptoms and diagnosis. Usually, we see that not all injured workers are open to this type of treatment. However, if the injured worker is willing, chiropractic treatment may provide relief for acute or chronic back pain.

Chiropractic care involves adjusting the spine and other joints to improve function and reduce pain. This may be done through manipulation, massage, or other techniques. Chiropractic care is often recommended for patients with back pain, neck pain, and other musculoskeletal conditions. The goal of chiropractic care is to improve the patient’s overall health and function, allowing them to return to their daily activities more quickly.

Healthy Hints - Continued on page 18
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ESOP – An Alternative Approach in Dealerships’ Succession Planning

Fifty percent of the 20,000 U.S. dealerships are owned by individuals who are over 55 years of age, and most do not have an exit strategy to liquidate their dealerships. The value of dealerships has substantially increased over the last ten years, which makes it very difficult to find buyers who have the financial ability to purchase a dealership. The public companies confine their interest to the very large dealerships, while the local consolidators are usually looking for a bargain purchase. An ESOP (Employer Stock Ownership Plan) provides the dealer with an alternative form of sale over a period of time.

The ESOP enjoys a number of tax and financial advantages not enjoyed by other types of buyout alternatives, including the following:

- The fair market value of the dealership is determined by outside appraisers, and the ESOP trust pays for the stock based on the appraisal amount.
- The dealer does not have to sell the entire amount of the stock. He may only sell a 30 percent ownership in the beginning and still keep control of the dealership.
- The ESOP can borrow the funds to complete the transaction. There are many banks that specialize in ESOP financing.
- The owner does not have to relinquish control of the company until he/she is ready to fully retire.
- If 30 percent or more of the company’s outstanding stock is sold to the ESOP, the owner can defer the capital gains tax by reinvesting the funds in replacement securities.
- The owner can take care of his/her loyal employees by providing them with ownership in the ESOP. This incentive can produce positive benefits to the company’s profits. National studies reveal that the average ESOP-run company tends to be 10 percent more profitable than a non-ESOP counterpart.
- An ESOP enables the dealer to provide for business continuity for the dealership he/she has grown and nurtured over the years. Unlike a sale, the ESOP enables the dealership to retain its separate identity rather than become a division of a larger company.
- The dealer can keep the real estate of the dealership and lease it to the ESOP at fair rental value.
- Once the company is 100 percent purchased by the ESOP, it pays no federal taxes.

The ESOP approach provides the owners of the dealership an opportunity to exit the company over an orderly time period without having to sacrifice the identity of their dealership, jeopardizing the jobs of valued employees, or relinquishing control of the company they own.

(This article was provided by Downey & Company, LLP. For more information, please call Jim Downey or Paul McGovern at 800-849-6022.)
Four Tips to Consider When Reviewing Commission Plans:

1. The plan must be in writing and should specifically address any draw against commission arrangement.
2. The employee should sign the plan to acknowledge receipt, but there should be language stating that this is not a contract of employment.
3. The plan should clearly explain when and how a commission is earned, including how commissions will be paid when an employee terminates employment.
4. Employees must be paid at least minimum wage in every pay period.

For more information, contact Meredith P. Cook (603) 629-4511 MCook@Wiggin-Nourie.com
2004 Professional Growth Workshop Takes Instructors Back to School

Some things get better with time, and the annual NHAEF Automotive Technology Professional Growth workshop is no exception. Seventeen automotive instructors, representing 14 programs from throughout New Hampshire, spent two action-packed days learning the latest in hybrid technology from Ford Motor Company service experts.

The all-expense-paid event was made possible thanks to the generosity of NHAEF as part of the Foundation’s initiative to assist automotive programs in their quest to obtain industry certification.

Beginning in the early hours of December 9, instructors boarded two vans that took them to the Ford training facility in Southborough, Massachusetts. For eight hours, factory-training specialists educated the high school instructors on the Ford Escape’s unique engine control system, powertrain, and brake and steering systems.

Throughout the day, Ford specialists challenged instructors with a number of hands-on and problem-solving exercises, each designed to show the rapid advancement of technology while driving home the importance of continuing education. The session was intense and left all instructors with an appreciation of an industry in which many of their students will be working in the not-so-distant future.

Day two featured more diagnostics and a closer look at the Escape’s electrical system and Ford’s tire-pressure monitoring system. The day was topped off with a test drive of the vehicle and an opportunity for passengers to view the hybrid operating system on the vehicle’s radio.

As the event wound down, several of the instructors made a point to acknowledge the support given by the dealer community and vowed to continue to promote the viability of a career in the automotive service industry with their students.
Mike Parker, GM-ASEP Automotive Instructor/Coordinator at New Hampshire Community Technical College-Laconia, joined 36 other top automotive industry professionals receiving national recognition for outstanding Automotive Service Excellence (ASE) scores. In addition to top ASE scores, recommendations from associates were required.

Mike’s sponsor for the award was the National Automotive Technician’s Educational Foundation (NATEF), and the awards were presented in Las Vegas on November 19, 2004.

Previously, Mike worked as a GM/Saab technician at Forest City Chevrolet in Portland, Maine, before joining the faculty of New Hampshire Technical College in 1991. Mike completed his Associates Degree from New Hampshire’s College for Lifelong Learning in 1992 and his Bachelors Degree in 2002. Mike was promoted to Associate Professor in 1992 and took over the GM-ASEP Coordinator’s slot upon my retirement in 2002.

Hat's off to Laconia’s Huot Technology Center and Automotive Technology Instructor Steve Snow in receiving ASE’s National Automotive Technician Education Foundation (NATEF) Certification.

After months of hard work and effort on behalf of Mr. Snow, his Advisory Committee, Career and Technical Education Director Scott Davis, Automotive Youth Education Systems (AYES) State Affiliate George Dykstra, and the New Hampshire Automotive Education Foundation, the school became the eighth program in the state to be recognized for excellence in automotive education.

NATEF Certification requires a school to teach secondary-level competencies to students in four ASE areas, including engine performance, electronic systems, steering and suspension, and brakes. Students participating in NATEF programs are assured a standardized curriculum and essential laboratory skills, which are current with today’s automotive industry.

NATEF Certification is significant to NHADA members for several reasons, including linkage between the school and the member, student cooperatives and job-shadowing relationships, higher-quality technical skills for students, and enhanced professionalism within the industry.

Berlin, Concord, Dover, Exeter, Pinkerton, Salem, and Somersworth are the other NATEF-Certified schools in the state. There are 19 automotive programs in New Hampshire; most are expected to achieve the NATEF designation before the spring of 2006.

The key to getting a program certified is member involvement at the local level. For more information on where your high school automotive program is in the NATEF Certification process, please contact me at 800-852-3372 or at bperry@nhada.com.
As of this writing, according to NADA projections, we are on track for 2004 to tie 2002 as the fourth-best sales year in automotive retail history with 16.8 million units sold. Although sales of truck-based SUVs softened and amid higher gas prices, the market for car-based crossover utility vehicles is stronger than ever, according to NADA’s chief economist, Paul Taylor. As for the New Year, we can look forward to even more new models, new initiatives, and a new NADA Convention and Exposition packed with “A World of Opportunity.”

Other positive news: NADA and USA Today kicked off the new Dealer Innovation Awards competition, and we look forward to honoring one of you as the award winner at a special event held in conjunction with the New York International Auto Show in April 2005. The topic for this year is consumer finance education, which has been a top priority for NADA Chairman Charley Smith. If you have developed innovative ways to increase public understanding of auto financing, then you should submit your nomination. The deadline to enter is February 19. All information and a brief, interactive entry form are at www.nada.usatoday.com.

Speaking of consumer finance education, there’s a wealth of it for you – free – located at www.nada.org/finance and from www.nada.org under “Find a Car” and then “Safety,” “Service and Parts,” or “More Shopping Tools.”

And NADA has produced “An Insider’s Guide to Car Financing,” a comprehensive booklet for customers that highlights the advantages of dealer financing and dispels the myths so popular in the media today. Copies of the Guide, which appeared in the November 3 edition of Time magazine, are available from nadainfo@nada.org or by calling 703-827-7411.

That issue of Time also included a full-page ad promoting the good work of the National Automobile Dealers Charitable Foundation. The Foundation’s Frank E. McCarthy Memorial Educational Fund joyfully presented its first grant to Canine Companions for Independence, which used the funds to train and place an assistance dog with an eight-year-old disabled child, Johanna Benthal. Johanna is delighted with her new yellow Labrador retriever, “Taffy II,” who provides mobility assistance and companionship and expands Johanna’s opportunities. See photographs at www.nada.org under “Beyond the Headlines.” This early holiday gift is bringing great joy to Johanna and her family.

Preliminary results from a new survey by Wirthlin Worldwide, sponsored by Automotive Retailing Today, indicate that while dealers in general still rank low in public trust, when asked about “my own automobile dealership,” the same people ranked their specific dealer high on the list, on par with law enforcement and firefighters.

This is good news, but now is no time to be complacent. Make sure you’re in compliance with ever-changing government regulations. Visit www.nada.org and choose Government Affairs under Member Services for more information on the following (text in parentheses refers to the government agency involved to help with your search.):

- The reduction for small-business expensing of sport-utes that went into effect December 1 (Legislation)
- Why you may have to replace high-intensity headlamps at no charge (NHTSA)
- Complying with the Americans with Disabilities Act if you employ persons with intellectual difficulties (EEOC)
- When you have to pay salaried personnel overtime (DOL)
- The new, simplified service station dealer exemption for used oil (EPA)
- What dealers need to do regarding consumer credit “fraud alert” reporting (FTC and FACT Act)
Where to find the current Fuel Economy Guide (DOE)

When “listed transactions” are and are not considered “abusive tax shelters” (IRS)

How often you need to download the National Do-Not-Call Registry for telephone solicitations (FCC)

The new date for implementing the new, restrictive fax rules (FCC)

There will be nearly 50 educational workshops at the NADA Convention in New Orleans on January 29 to February 1. In addition, the Convention will feature topical franchise meetings; a sold-out Exposition; top speakers; the suspense of the Time Magazine Quality Dealer Award presentation (good luck to Larry Foss); relaxation and excitement at the Lifestyle Center; networking; informative daily coverage on NADA-TV and www.autoexec.com; and all the sass, style, and southern hospitality of New Orleans. Go to www.nada.org/convention for everything you want to know and more.

Don’t forget to attend the special “Dessert Reception” for New Hampshire dealers on Sunday, January 30, from 9:00 p.m. – 11:00 p.m. at the Beauregard-Keyes House on Chartres Street.

Women dealers should plan to attend a special breakfast event, January 29, from 7:30 a.m. – 9:30 a.m., at the Plimso11 Club in the World Trade Center of New Orleans. Keynote speaker Ann S. Moore, Chairman and CEO of Time Inc., will share key insights gained from running the world’s leading magazine publishing company.

Please let me know how NADA can better serve you now and in the upcoming year. Contact me at 888-0550 or at jack@tulley.com. Let’s all keep the men and women serving so bravely in our armed forces in your thoughts and prayers during the new year.

New NADA Convention Booth Will Host Federal Regulators

NADA will have a “regulatory outreach” booth on the exhibit floor of the upcoming Convention in New Orleans where attendees can meet and ask questions of more than a dozen regulatory specialists. Agencies represented include the Federal Trade Commission, Federal Communications Commission, Internal Revenue Service, Department of Labor, Department of Transportation, Occupational Safety and Health Administration, National Highway Traffic Safety Administration, and the Office of Foreign Assets Control. Dealers and managers can get valuable guidance on federal marketing restrictions, tax laws, environmental requirements, worker health and safety issues, and many other topics of concern.
# 2005 Association Partners

(as of 12-22-04)

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<td>ADESA Boston Aftermarket Specialists/Buyer’s Choice</td>
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New Hampshire Department of Safety, Division of Motor Vehicles

**Title Statistics Report Month Ending: 11/30/04**

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