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THE COMMONWEALTH OF MASSACHUSETTS AUTO DAMAGE APPRAISER LICENSING BOARD

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MICHAEL DONOVAN, CHAIRMAN
WILLIAM E. JOHNSON
PETER SMITH
CARL GARCIA
VICKY WEI YE

Minutes of the Meeting of the Board held on March 25, 2025 and approved at the Board Meeting held on May 13, 2025; Motion of Board Member William Johnson, Seconded by Board Member Peter Smith, with Chairman Michael Donovan Abstaining. The Motion Passed by a Vote of:4-0, with Chairman Donovan Abstaining.

Minutes of the Board Meeting held on March 25, 2025

The Auto Damage Appraiser Licensing Board (ADALB or Board) held a meeting on March 25, 2025, at One Federal Street, Boston, Massachusetts.

Members Present:

Chairman Donovan
William Johnson
Peter Smith
Carl Garcia
Vicky Ye

Attending to the Board:

Michael D. Powers, Counsel to the Board

Call to Order:

Chairman Michael Donovan called the meeting to order at 9:00AM with a roll call vote and all Board Members responded present.

Approval of the Board minutes for the Board meeting held on January 21, 2025:

Chairman Donovan requested a motion to approve the minutes of the January 21, 2025, meeting. Board Member Carl Garcia made the motion to approve the minutes and the motion was seconded by Board Member William Johnson. Chairman Donovan called for a vote and the motion passed by a Vote of 4-0, with Chairman Donovan abstaining because he votes only to make or break a tie.

Chairman Donovan asked that those recording the proceedings to identify themselves and state with whom they were affiliated. Those responding to the Chairman's request were: James Bates of the MAPFRE/Commerce Insurance Company and Evangelous "Lucky" Papageorg of the Alliance of Automotive Service Providers of Massachusetts (AASP/MA).

In attendance were: Lucky Papageorg, AASP/MA Executive Director along with Don Dowling, owner of Marblehead Collision, Mr. James Steere of The Hanover Insurance Company, Brian

Bernard, AASP/MA Legislative Director At-Large, recently appointed representative as one of the three allotted AASP members to sit on the Auto Body Labor Rate Advisory Board, and owner of Total Care Accident Repair in Raynham, Jeff White, AASP/MA Zone 4 Director and owner of North Andover Auto Body in North Andover, Mike Penacho, AASP/MA Zone 1 Director as well as Fall River's WSAR Radio show host for the entertaining and very informative "The Everything Auto Show with Mike Penacho" heard on 1480AM and 95.9FM Mondays (from 2-3 PM) and owner of Mike's Auto Body in Fall River. Also in attendance were Mr. James Bates, an expert on motor vehicle damage and the Supervisor of Materials Damage for the MAPFRE/Commerce Insurance Company, Rob Torres of the Travelers Insurance Company, Mr. Richard Bardon from AMICA, Larry Bacchus, and Jeff Guyette from MAPFRE/Commerce Insurance Company.

Report by Board Member Peter Smith on the Part-II examination for motor vehicle damage appraiser:

Chairman Donovan requested an update on the recently held Part-II examination for motor vehicle damage appraiser. Board Member Peter Smith stated that the exam took place on Saturday, March 22, 2025, at the Progressive campus in Westwood as scheduled. All of the 68 applicants who were scheduled to attend the exam were present, there were no no-shows, something Mr. Smith stated was a first for him; 65 applicants passed and 3 failed. Board Member Smith noted that the 3 people who failed, completely missed the mark, and those who failed were given Mr. Smith's and Mr. Garcia's contact information. Board Member Smith thanked the host of the event, Progressive Insurance Company and Parker Riley of Progressive for facilitating the exam along with those who assisted administering the exam: Jeff Guyette from MAPFRE/Commerce Insurance Company, Davi Borba of Allstate Insurance Company, the inimitable James "Jim" Steere of the Hanover Insurance Company, Scott Cambray of Quincy Mutual Insurance Company, and Procopio Pires of Pire Brothers Auto Body of Brockton. The next date has not been set, but it is expected to be scheduled at either the end of May or the beginning of June, after about 30 applicants file for the exam the date will be scheduled. Board Member Garcia asked when would the Progressive Insurance Company move from their Westwood facility. Board Member Smith responded that the date was unknown at this time. Mr. Papageorg asked whether the date, once set, would be posted somewhere. Board Member Smith answered that it is posted on the Division of Insurance website and the Auto Damage Appraiser Licensing Board's website.

Submitted by Board Member Peter Smith, change in the current procedures for filing applications for motor vehicle damage appraiser license:

Board Member Smith summarized the agenda item stating his proposal would update the appraiser license application process by eliminating the need for the signatures of three Massachusetts residents unaffiliated with the industry and known to the applicant. The elimination of this requirement will allow the application process to be completed on-line, and without the need for a manual paper application or the paper check payment process. This would not prevent the applicant from submitting scanned documents supporting other aspects of the application process. The paper application requirement for these three signatures is not required in Massachusetts General Law Chapter 26, § 8G or under the Auto Damage Appraiser Licensing Board's Regulation, 212 CMR 2.06. Mr. Johnson recalled this subject being brought up in the past and wondered what the initial reason for the requirement that applicants obtain these signatures. Board Member Smith noted this change should stand alone from the Regulation changes the Board has been working on, as it is not a requirement spelled out in the current Regulations or statute. Mr.

Garcia asked why the requirement for signatures was initially included in the instructions. Board Member Garcia asked whether Attorney Powers could provide an opinion. Board Counsel Powers responded that the signatures were not a requirement contained in the ADALB's enabling act. Board Member Garcia questioned whether Mr. Smith's proposal is a two-part process, or whether it could be combined into one. Board Member Smith outlined the two sections as: 1) eliminating the need for three signatures, and 2) eliminating the paper application and switching to an on-line only application process. The requirement for a 3-month apprenticeship required by the Board would not change. Board Member Johnson acknowledged the two-part changes and made a motion to remove the requirement of the 3 signatures, and Board Member Mr. Garcia seconded the motion. Chairman Donovan called for a vote on the motion and the motion passed by a Vote of: 4-0, with Chairman Donovan abstaining. Board Member Smith suggested a separate motion was needed to eliminate the paper application process for the motor vehicle damage appraiser license. Board Member Garcia made a motion that the Board require an electronic application process and eliminate the paper process. Mr. Lucky Papageorg asked whether there could be a time period for continuing the paper applications as part of the process and stated that he had students in classes now preparing to complete their applications. Mr. Powers suggested that an amendment to the motion be made to allow for a 90-day effective date from this meeting date. Mr. Garcia made the motion, Board Member Johnson seconded the motion, and the motion passed by a Vote of: 4-0 as amended, with Chairman Donovan abstaining.

For approval by the Board, Montachusett Regional Vocational Technical High School, Fitchburg Massachusetts, an Auto Damage Appraisal class to be conducted at the night school program:

Chairman Donovan described the agenda item and requested a discussion. Board Member Johnson stated that he did not have an opportunity to read the syllabus for the proposed course and stated that he would depend on other Board Members opinions who have reviewed it. Board Member Garcia stated that his only concern was that, of the 10 weeks comprising the course time frame, 9 weeks are devoted to the laws, but only 1 week is devoted to working on conducting appraisals. Board Member Garcia noted that this may be what's needed, and conceded that the syllabus is well written, but worried that more time should be devoted to learning to write a proper estimate or appraisal of the damage. Board Member Garcia suggested that the Board Members make themselves available in a workshop setting, for those teaching the courses to better assist them in their process. Board Member Smith stated that the appraisal course does not bypass the apprenticeship or work experience segments that are required by the Board and it is hoped a better understanding of assessing damage is gathered. Board Member Garcia agreed and made a motion to accept the course description and syllabus as qualified for a course approved by the Board. Board Member Smith seconded the motion, and the motion passed by a Vote of: 4-0, with Chairman Donovan abstaining.

A proposed Advisory Ruling Submitted by Board Members William Johnson and Peter Smith, for discussion:

Board Member Johnson described the process taken in developing the proposed Advisory Ruling, including previous discussions with Board Member Smith. Board Member Johnson described the resulting compromise as a solution where neither side would be happy with what they got. Board Member Johnson stated that he hoped for stronger language and it was unfortunate the auto body and Insurance Industry did not adhere to this portion of the Board's Regulation, and the Board

need to repeat themselves when it comes to adherence to their Regulation. Board Member Johnson stated that the auto body shops who have the ability to hold insurance carriers to account for delays in their paperwork and asserted that auto body shops should not release any vehicle until the completed paperwork was in-hand. Board Member Johnson concluded that too many auto body shops create their own problems by just releasing the cars. Board Member Garcia noted that the problem seems to have self-corrected in the time it took to prepare the Advisory Ruling. Board Member Johnson announced that he was ready to vote in favor of the Advisory Ruling after it was read aloud and Board Member Smith read the proposed Advisory Ruling. Mr. Papageorg asked to be recognized and asked whether there should be provision for having the reason for a delay detailed in writing. Board Member Johnson agreed, but, maintained that the language Mr. Papageorge is seeking to insert is not currently in the regulations and suggests AASP should devise a “Best Practices” for its membership which would state that, they should not release the car until they’re paid or at least have the paperwork in-hand. Board Member Johnson added that there is just so much the Board can do, auto body shops need to take accountability for themselves as business owners and not be subservient to insurance carriers. Mr. Papageorg stated that he was not seeking to prolong the process, but felt it was necessary to document the reason for a delay so it can be reviewed and/or contested. Board Member Garcia noted that there were two separate manners which cause delays: 1) the delay in an initial inspection, and 2) the delay in not getting the paperwork in a timely manner. Board Member Johnson stated that the latter can be resolved with signed field notes. Board Member Garcia noted that at his auto body shops most staff appraisers now write at the car. Mr. Garcia also noted he has an appointment procedure which is strictly adhered to. Mr. Papageorg asserted that this does not protect the consumer. Board Member Smith made a motion to approve the Advisory Ruling as written, and Board Member Ye seconded the motion. Chairman Donovan called a roll call vote and the motion passed by a Vote of: 4-0, with Chairman Donovan abstaining. The following is the Advisory Ruling:

TO ALL CONCERNED PARTIES Re: Advisory Ruling 2025-1

Pursuant to its authority, the Auto Damage Appraiser Licensing Board voted by a majority vote at the Board’s meeting held on March 25, 2025, to adopt this Advisory Ruling.

ADVISORY RULING

All licensed appraisers are hereby notified regarding the time frames specified in 212 CMR 2.00 et seq. regarding completion of completed appraisals and supplements, specifically the following sections:

For Original Appraisals: 212 CMR 2.04 (1) (e), paragraph 6: The appraiser shall mail, fax or electronically transmit the completed appraisal within five business days of the assignment, or at the discretion of the repair shop, shall leave a signed copy of field notes, with the completed appraisal to be mailed or faxed within five business days of the assignment.

For Supplemental Appraisals: 212 CMR 2.04 (1) (h): The insurer shall assign an appraiser who shall personally inspect the damaged vehicle within three business days of the receipt of such request. The appraiser shall have the option to leave a completed copy of the

supplemental appraisal at the registered repair shop authorized by the insured or leave a signed copy of his or her field notes with the completed supplement to be mailed, faxed, electronically transmitted or hand delivered to the registered repair shop within one business day.

Expedited Supplemental Appraisals: Refer to 212 CMR 2.04 (1) (i): If an insurer, a repair shop and the claimant agree to utilize an expedited supplemental appraisal process, an insurer shall not be required to assign an appraiser to personally inspect the damaged vehicle. In such event, the repair shop shall fax or electronically submit to the insurer a request for a supplemental appraisal allowance in the form of an itemized supplemental appraisal of the additional cost to complete the repair of the damaged vehicle, prepared by a licensed appraiser employed by the repair shop, together with such supporting information and documentation as may be agreed upon between the insurer and the repair shop. The insurer shall then be required to fax or electronically submit to the repair shop within two business days its decision as to whether it accepts the requested supplemental appraisal allowance. Within this same period, a licensed appraiser representing the insurer and a licensed appraiser representing the repair shop may attempt to agree upon any differences. In the event that an insurer does not accept the repair shop's request for the supplemental appraisal allowance, or if the insurer fails to respond to the repair shop within two business days, the insurer and the repair shop shall be obligated to proceed in accordance with 212 CMR 2.04(1)(h), and within the time limits set forth in such provision. In such event, the date of the initial request for a supplemental appraisal allowance shall be the starting date for when the insurer must assign an appraiser to personally inspect the damaged vehicle.

In the instance of an original or supplemental request, a reasonable extension of time is permissible when intervening circumstances such as the need for preliminary repairs, severe illness, failure of the parties other than the insurer to communicate or cooperate, or extreme weather conditions make timely inspection of the vehicle and completion of the appraisal impossible. This Advisory Ruling shall be effective upon posting on the Auto Damage Appraiser Licensing Board public website. Failure to comply with this ruling could result in fines and penalties as provided for by law.

Discussion about the Auto Body Labor Rate Advisory Board created under Governor Healey's "Mass Leads Act" Section 292 of Chapter 238 of the acts of 2024, which provides:
SECTION 292:

Chairman Donovan requested Board Legal Counsel Michael D. Powers provide a report about the recently enacted law. Legal Counsel Powers reported that the Legislature enacted a new law at the end of 2024 as part of the Governor's "Mass. Leads Act" and read the law:

There is hereby established an auto body labor rate advisory board to address any issues related to auto body labor rates. The advisory board shall consist of: 1 person appointed by the commissioner of insurance, who shall serve as co-chair; 1 person appointed by the attorney general, who shall serve as co-chair; 1 person appointed by the director of standards; 3 persons selected from the auto insurance industry by the Automobile

Insurers Bureau of Massachusetts; 3 persons selected from the auto repair industry from different geographic regions of the commonwealth by the Alliance of Automotive Service Providers of Massachusetts, Inc.; 1 person selected by the Massachusetts State Automobile Dealers Association, Inc.; 1 person selected by the Massachusetts Association of Insurance Agents, Inc.; and 3 persons to be appointed by the co-chairs, 1 of whom shall be from a consumer advocacy group, 1 of whom shall be from a group representing the business community and 1 of whom shall be an economist with expertise on the insurance industry.

The advisory board shall be responsible for creating, implementing and overseeing a survey given to relevant auto body shops. The advisory board shall collect industry data including, but not limited to: (i) labor rates in neighboring states; (ii) auto body shop costs; (iii) total labor costs; (iv) inflation data; (v) work force data; (vi) vocational-technical school trends; (vii) insurance premiums; and (viii) any additional information as requested by the advisory board. The results of the survey and the data collected shall be reviewed and analyzed by the advisory board.

Not later than December 31, 2025, the advisory board shall make recommendations to the division of insurance for a fair and equitable labor rate and file a report of its findings, conclusions and recommendations with the clerks of the senate and house of representatives, the joint committee on financial services, the senate and house committees on ways and means and the division of insurance.

Legal Counsel Powers reported that all but one member [*The representative of the Business Community*] had been selected and that the Board's task of collecting pertinent data will commence. Legal Counsel Powers, as Co-chair of the Advisory Board, commended the appointments made to date and was looking forward to an introductory virtual meeting to be held sometime in the next three weeks. One goal is to set up a public hearing, hopefully to take place at the State House in June. The last Special Commission Report of 2022 was limited to public input but was unable to collect any data to make recommendations. Mr. Powers noted that the data that will be sought by this Auto Body Labor Rate Advisory Board will include surrounding states, including Rhode Island, which has laws that have been enacted with Legislative support for a robust rate review process. Legal Counsel Powers suggested that there must be someone in the Massachusetts Legislature with an appetite for progress following the posting of labor rates as is done in Rhode Island given the formulation of the Auto Body Labor Rate Advisory Board. Mr. Johnson took the opportunity to scold the auto body shop industry and described a survey he took whereby he sent his employees to area body shops seeking their "Posted Rates". Mr. Johnson was surprised to learn most shops either didn't have a posted rate (they took what the carriers paid) or didn't even know what a posted rate was. Mr. Johnson described it as a "Broken Shop Syndrome".

Update on status of proposed amendments to the ADALB's Regulation, 212 CMR 2.00 et seq. The newly constituted Board, with new Board Members Carl Garcia and Vicky Ye and Peter Smith (reappointed) appointed by Governor Maura Healey, will consider proposed amendments to the Board's Regulations 212 CMR 2.00 et seq. The process began by the Board reviewing the proposed amendments that were approved by the previously constituted Board that concluded at the Board meeting held on July 19, 2022:

Board Member Smith stated he was still in the process of reconciling the changes discussed at the last meeting on conflicts of interest and revocation/suspension of licenses and requested that this agenda item be carried over into the next meeting. Board Member Smith asked Mr. Powers where the Board stands with the Ethic Committee's review of the remaining Board members. Mr. Powers suggested that Mr. Smith put forth a recommendation that the Board can bring to the Ethics Commission for review and approval. Mr. Powers commended Board Member Smith's work and stated that it looked good, was very well done, and believed the Ethics Commission would defer to the Board's judgement. Board Member Garcia stated that he understood the Board was close to the end of the process and it would only be a few meetings away from a conclusion.

Next meeting date:

The consensus of the Board was that the next meeting would be held at One Federal Street, Boston on May 13, 2025, at 10:00AM.

Other business – reserved for matters the Chair did not reasonably anticipate at the time of the posting of the meeting and agenda:

Board Member Johnson suggested that AASP/MA draft their own version of an Advisory Ruling on the matter of the delay in receiving insurance carrier paperwork requiring documentation to support any delays and submit it to the Board for their review. Board Member Johnson noted that Board Member Garcia tells insurance carriers how it is and by doing so insurance carriers companies comply with the Board's Regulation.

At the conclusion of the meeting Mr. Papageorg informed the Board Members that they were invited to the AASP/Mass annual General Membership meeting and extended written invitations to each of the Board members to join AASP/MA's General Membership meeting to learn about AASPMA and how it operates.

Motion to enter the Executive Session:

Board Counsel Powers read the Executive Session agenda item in its entirety and at the conclusion or reading the item, Board Member Garcia made a motion to enter the executive which included adjourning in the executive session. Chairman Donovan requested a discussion on the motion, and Mr. Papageorg asked whether the Board would give some description of the people involved with the complaint. Board Member Smith suggested it would be inappropriate to any of the parties involved to divulge any aspect of the complaint. Board Member Garcia suggested one could have deduced the information from the discussion held among the members of the Board. Chairman Donovan called for a roll call vote and the motion passed by a Vote of: 4-0, with Chairman Donovan abstaining.

Board Counsel Powers read the Massachusetts law for entering an Executive Session in and stated such a review was allowed under the following provision of the law:

Review of complaint in the executive session filed against a licensed appraiser. Such discussion during the executive session is allowed under M.G.L. c. 30A, §21(a)(1) and in accordance with the Office of the Attorney General's Open Meeting Law (OML) decisions such as Board of Registration in Pharmacy Matter, OML 2013- 58, Department of Public Safety Board of Appeals Matter, OML 2013-104, and Auto Damage Appraisers Licensing Board Matter, OML 2016-6 and

Auto Damage Appraisers Licensing Board Matter, OML 2019-50. Section 21(a) states “A public body may meet in executive session only for the following purposes: (1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights: i. to be present at such executive session during deliberations which involve that individual; ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session; iii. to speak on his own behalf; and iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense. The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

Executive Session:

The Board reviewed Complaint 2024-22. A discussion was held, the complainant did not provide additional information about the complaint and Board Member Johnson requested the matter be tabled to the next meeting and if the complainant did not supply any additional information by that meeting the Board could entertain a motion to dismiss the complaint at that time. The complaint was tabled to the following meeting.

Motion to Adjourn:

Chairman Donovan called for a motion to adjourn, and Board Member Smith made the motion to adjourn, the motion was seconded by Board Member Garcia, Chairman Donovan called for a roll-call vote, and the motion passed by a Vote of: 4-0, with Chairman Donovan abstaining.

Whereupon the Board’s business was concluded.

The form of these minutes comports with the requirements of M.G.L. c. 30A, §22(a).