



# **THE COMMONWEALTH OF MASSACHUSETTS AUTO DAMAGE APPRAISER LICENSING BOARD**

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## **AGENDA**

### **Auto Damage Appraiser Licensing Board Meeting**

**April 26, 2016, 9:30 AM, 1000 Washington Street, Boston, Massachusetts**

- I. Call to order.
- II. Report on the Part-II examination for motor vehicle damage appraiser license held on March 16, 2016.
- III. Discussion about Licensed Appraisers being present for appraisals conducted by trainee appraisers.
- IV. Letter from Jillian Zywiec, Executive Director of the Alliance of Automotive Service Providers of Massachusetts about Legislation filed with the Massachusetts House of Representatives, H778.
- V. Discussion of Board's Complaint Procedure when a complaint is filed against a licensed appraiser.
- VI. Topic of Board Members filing complaints and /or addressing violations that they personally witness.
- VII. Discussion of time and manner for setting the Board's agenda so that proper notice can be sent to the Office of the State Secretary, Secretary of A&F, and posted by IT Services on the ADALB website.
- VIII. Discussion about the number of Board Members conducting the Part-II examinations and Board Members participation at Prometric's review of the Part-I examination, as advised by the Office of the Attorney General.
- IX. Discussion about amending the ADALB regulation 212 CMR 2.00 et seq. The Board will discuss proposed amendments to the ADALB's regulation and an upcoming

Special public session of the Board. The Special public session of the Board will be held in advance of considering draft changes and implementing the formal regulatory amendment process, and the Board will welcome interested members of the public to attend the Special public session scheduled for Wednesday May 4, 2016, at 1000 Washington Street, Boston, Massachusetts, to provide input with regards to topics and any possible changes the public would like the Board to consider addressing in the next regulation review.

- X. Other business – reserved for matters the Chair did not reasonably anticipate at the time of the posting of the meeting and agenda.
- XI. Executive session to review and discuss the background of applicants for motor vehicle damage appraiser test who have disclosed a criminal conviction on the application. Review and discussion of: Complaint-2016-1, Complaint 2016-2, and Complaint 2016-3 filed against motor vehicle damage appraisers licensed by the Auto Damage Appraiser Licensing Board. Such discussions during the executive session are allowed for 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, and *Department of Public Safety Board of Appeals Matter*, OML 2013-104. 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.

On March 28, 2016, all of the Licensed Appraisers named in the complaints were provided with notice of the complaints, their rights, and the scheduled meeting for April 19, 2016. All responded through their attorneys that they requested the matter to be heard in the executive session. The April 19, 2016, meeting was cancelled on April 15, 2016, because of a protest filed by AASP of Massachusetts that the agenda was not posted until Friday, April 15, 2016 on the ADALB website, and because of the Patriots Day Holiday on April 18, 2016, the posting of the agenda would not be sufficient to satisfy the 48 hour requirement of the Open Meeting Law. The Board agreed to reschedule the meeting to April 26, 2016. The Licensed appraisers' attorneys were notified and the attorney representing the Licensed Appraisers in Complaints 2016-1 and 2016-3 requested the matter be postponed until the following Board meeting.