



THE COMMONWEALTH OF MASSACHUSETTS AUTO DAMAGE APPRAISER LICENSING BOARD

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LYLE M. PARE

AGENDA

For Auto Damage Appraiser Licensing Board (“Board or ADALB”) Meeting Scheduled for April 12, 2017, 9:30 AM at 1000 Washington Street, Boston, Massachusetts

- I. Call to order.
- II. Approval of the Board minutes for the Board Meeting held on March 1, 2017.
- III. Report on the next Part-II examination for motor vehicle damage appraiser.
- IV. Report by Board Member Joseph Coyne as to the status of potential violations of the ADALB regulation, 212 CMR 2.00 et seq., and enabling act M.G.L. c. 26 § 8G by Access General Insurance Adjusters, LLC a company domiciled in the state of Georgia and doing business as “Access” in Massachusetts.
- V. Review and vote on an amendment to the ADALB’s complaint procedure by clarifying the manner of conducting an administrative hearing before the full Board of the ADALB when an order to show cause is issued by the Board.
- VI. Review and vote on the amended Order to Show Cause submitted by Scott Peary, Chief Enforcement Counsel for the Division of Insurance, enforcement counsel in the matter of: the Auto Damage Appraiser Licensing Board versus The Hanover Insurance Company, licensed appraisers James Steere, and Paul Horton.
- VII. Review and vote on proposed Advisory Opinion 2017-1 submitted by Board Member William Johnson requiring licensed motor vehicle damage appraisers to personally inspect damaged motor vehicles after reviewing photographic or videography depictions of damaged motor vehicles displaying apparent damage for a claim submitted by a consumer that falls below the \$1,500 damage threshold, (212 CMR 2.04 (1)(a) mandates a written appraisal of motor vehicle damage in excess of \$1,500 less

any deductible) and the appraiser determines that a motor vehicle is or may be damaged such that: (a) it may no longer meet the safety standards established by the registrar of motor vehicles under section seven A of chapter ninety; or (b), it may no longer comply with the motor vehicle emission standards established by the commissioner of the department of environmental protection under section 142M of chapter one hundred and eleven, the appraiser may not conclude the appraisal based on the photographs or video, but shall continue the appraisal by conducting a personal inspection of the damaged motor vehicle to determine if the damage affects the safe operation of the motor vehicle and/or violates the emissions standards the inspection sticker shall be removed. The appraiser shall immediately notify the owner that the motor vehicle is unsafe to drive and/or violates the emission standards.

VIII. Submitted by Board Member Richard Starbard, for discussion by the Board, House Bill 2964:

Section 8G of chapter 26 of the General Laws is hereby amended by adding at the end thereof the following paragraph:

Upon a declaration of an emergency in any area of the commonwealth by the governor or upon the declaration by the commissioner of insurance that severe weather conditions or other circumstances have resulted in a claims emergency, and notwithstanding any other provision of this section, an insurer may appoint temporary qualified appraisers to facilitate the prompt resolution of claims arising out of the emergency by notifying the Board either in writing, electronically or by facsimile. An appraiser already licensed in another state or an appraiser who works for an insurer that does business in Massachusetts and who regularly appraises motor vehicles in a state where an appraiser license is not required shall be considered a qualified appraiser. A qualified appraiser so appointed shall be considered licensed for all purposes of this section, that that status shall terminate upon a determination by the commissioner of insurance that temporary appraisers are no longer required to facilitate the resolution of claims.

IX. Review of letter submitted by the American Road Services Company of Dearborn, Michigan about the requirement that an applicant for a motor vehicle damage appraiser license must fulfill three months of work experience with a licensed Massachusetts motor vehicle damage appraiser prior to taking the examinations for the motor vehicle damage appraiser license.

- 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 Complaints 2016-11 and 2017-4 filed against motor vehicle damage appraisers licensed by the Auto Damage Appraiser Licensing Board. Such discussions during the executive session are 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. 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.
- The licensed appraisers’ attorneys have requested the matters be heard in the executive session.

- XII. Motion to adjourn.