



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

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February 13, 2023

Office of State Secretary
Regulations Division
State House
Room 117
Boston, MA 02133

Re: Meeting Notice and Agenda Items for the Massachusetts Auto Damage Appraiser Licensing Board Thursday, February 16, 2023, 10:00AM at 1000 Washington Street, Boston, Massachusetts

Dear Concerned Parties:

In accordance with Massachusetts General Laws Chapter 30A, §§ 18-25 and Governor Charles D. Baker's "ORDER SUSPENDING CERTAIN PROVISIONS OF THE OPEN MEETING LAW, G.L. c. 30A, § 20" issued on March 12, 2020, Chapter 20 of the acts of 2021 "An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency", the Auto Damage Appraiser Licensing Board (ADALB or Board) will hold a public meeting on Thursday, February 16, 2023, at 10:00AM at 1000 Washington Street, Boston, Massachusetts Room 1E. The topics to be discussed during the meeting of the Board will be the following:

- I. Call to order.
- II. Approval of the Board minutes for the Board meeting held on January 17, 2023.
- III. Report by Board Member Peter Smith on the Part-II examination for motor vehicle damage appraiser.
- IV. Discussion of two bills filed in the Massachusetts Legislature that would abolish the current Auto Damage Appraiser Licensing Board. The two bills are the following:

HOUSE DOCKET, NO. 2860

FILED ON: 1/19/2023 HOUSE No. [Pin Slip] [SIMILAR MATTER FILED IN PREVIOUS SESSION SEE HOUSE, NO. 4242 OF 2021-2022.] The Commonwealth of Massachusetts _____ In the One Hundred and Ninety-Third General Court (2023-2024) _____

An Act relative to the licensure of appraisers.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows: SECTION 1. Section 8G of chapter 26 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following new paragraph:

Section 8G. There shall be in the division of occupational licensure an auto damage appraiser licensing board, hereinafter called the board, consisting of seven persons. The governor shall appoint two members who shall be affiliated with the auto body repair industry and two members who shall be affiliated with insurance companies writing casualty insurance within the commonwealth. The attorney general shall appoint one representative of their office and shall appoint one additional person, unaffiliated with their office, an auto body shop or an insurance company, to represent consumers. The commissioner of the division of occupational licensure shall appoint one person who shall not be affiliated with either the auto body industry or the insurance industry and who shall be the chair of the board. No member shall serve for more than 2 consecutive and complete 3 year terms. As the term of the office of a member expires, a successor shall be appointed in like manner for a term of 3 years. A vacancy on the board shall be filled within 60 days from the date of the vacancy.

[SD527 and SD528 create a new board and SD528 places it within the DOL].

HOUSE DOCKET, NO. 3310

FILED ON: 1/20/2023 HOUSE No. The Commonwealth of Massachusetts _____

PRESENTED BY: Michael J. Finn _____ To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled: The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill: An Act relative to the licensure of automobile damage appraisers. _____ PETITION OF: NAME: DISTRICT/ADDRESS: DATE ADDED: Michael J. Finn 6th Hampden 1/20/2023 of HOUSE DOCKET, NO. 3310 FILED ON: 1/20/2023 HOUSE No. [Pin Slip] The Commonwealth of Massachusetts _____ In the One Hundred and Ninety-Third General Court (2023-2024) _____

An Act relative to the licensure of automobile damage appraisers.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows: SECTION 1: Chapter 26 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking section 8G in its entirety and inserting in place thereof the following section:

(a) Any person desiring to act within this state as a motor vehicle physical damage appraiser shall make a written application to the commissioner of insurance for a license and pay a fee of one hundred dollars.

Applications for registration as licensed motor vehicle damage appraisers signed and sworn to by the applicants, shall be made upon forms furnished by the commissioner. Each applicant who shall furnish the commissioner with satisfactory proof that they are eighteen years of age or over and of good moral character, that they possess the educational qualifications required for graduation from high school or that they possess relevant work experience deemed satisfactory by the commissioner, shall, upon payment of one hundred dollars, be examined by a written test, and if found qualified by the commissioner, be registered as a licensed appraiser of motor vehicle physical damage and entitled to a numbered certificate in testimony thereof, signed by the commissioner. The commissioner may, at the commissioner's discretion, designate an independent testing service to prepare and administer such examination, provided any examination fees charged by such service shall be paid by the applicant. An applicant failing to pass an examination satisfactory to the commissioner shall be allowed to review the examination.

Each licensed appraiser shall be issued a numbered license by the commissioner. All auto damage reports prepared shall include the license number. No licensed appraiser shall include the appraiser's license number on any motor vehicle damage reports unless the license is in full force and unless the appraiser is the sole author of such motor vehicle damage reports.

No appraiser shall complete an auto damage report unless duly licensed. Auto damage reports require an itemization of parts, labor and services necessary for repairs thereof, and shall be sworn to under the penalties of perjury and shall also include the appraiser's signature, license number, fee charged and date the motor vehicle was examined.

No person licensed under this section shall refuse to prepare and deliver a motor vehicle damage report.

On or about March first of the renewal year, the commissioner shall mail to each licensed appraiser an application for renewal. Such application shall be completed and returned to the commissioner on or before the following first day of June. Each such application shall be accompanied by a renewal fee of one hundred dollars. After verification of the facts stated on the renewal application the commissioner shall issue a certificate of bi-annual registration dated July first, and which shall expire on June thirtieth of the second year following. Any holder of a certificate of registration who fails to renew the application within sixty days after notification by the commissioner that the license has expired, shall before again engaging in the practice of a licensed appraiser within the commonwealth, be required to re-register, pay a fee of fifty dollars, and may be required by the commissioner to be reexamined.

A new license to replace such license lost, destroyed or mutilated, shall be issued by the commissioner upon payment of a fee of twenty dollars, and such license shall be stamped or marked "duplicate".

A roster showing the names and last known places of business of all licensed appraisers shall be prepared by the commissioner during the month of November of each year. Copies of such roster shall be placed on file with the state secretary and furnished to the public on request.

The appraiser shall provide a legible copy of the appraisal with the repair shop selected to make the repairs, which appraisal shall contain the name of the insurance company ordering it, if any, the insurance file or claim number, the number of the appraiser's license and the proper identification number of the vehicle. All unrelated or old damage should be clearly indicated on the appraisal.

If the appraiser for the insurer and the repair shop fail to agree on a price for repairs, the insurer shall furnish to the insured or claimant a written statement containing the following disclosure:

“Under Massachusetts law, you are always entitled to use the repair shop or facility of your choice. Unfortunately, we have been unable to agree on price with the facility you have chosen. In this situation, our payment for repair cost may be limited to the price available from a recognized and conveniently located repair shop or facility registered by the Division of Standards, that is willing and able to repair the damaged motor vehicle within a reasonable time. You may be responsible for the difference between our payment and the price charged to you by the facility you have chosen. Upon your request, we will furnish the name of a repair shop reasonably convenient to you that is able to repair your vehicle for the price in your appraisal.”

No appraiser or insurer shall request or suggest that repairs be made in a specified repair shop, unless requested by the insured or claimant.

Every appraiser shall reinspect damaged motor vehicles when supplementary allowances are requested by repair shops within five days of a request. When the repair shop and insurance company or employee agree, supplementary allowances requests may be conducted virtually or through the use of photographs, videos, telephone calls, or other electronic measures agreed upon by both parties.

No insurance company or employee, agent or insurance agency or representative thereof shall coerce or use any tactics the purpose of which is to prevent insureds or claimants from seeking damage reports on repairs from their own repair shop rather than utilizing a company appraisal facility.

No person licensed under this section shall have any interest in any damage report prejudicial to or in conflict with the professional interest therein.

The commissioner, after due notice and hearing, shall revoke any license issued by it and cancel the registration of any person who pleads guilty to or is convicted of a fraudulent automobile damage report as a result of a court judgment and said license shall not be reinstated or renewed nor shall said person be relicensed or employed by a license holder. The commissioner, after due notice and hearing, shall cancel for a period not exceeding one year, any license issued by it to, and cancel the registration of, any person who has been shown at such hearing to have been guilty of fraud, deceit, gross negligence, or willful misconduct or conflict of interest in the preparation or completion of any motor vehicle damage report. Any such person shall, before again engaging in the practice of licensed appraiser within the commonwealth, be required to re-register and pay a fee of fifty dollars and be re-examined by the board.

Whenever a licensed appraiser, whether employed by a registered motor vehicle repair shop, employed by a licensed insurer or acting as an independent appraiser, determines that a motor vehicle is 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, then the appraiser shall provide notice, in a format and containing such information as shall be prescribed by the registrar of motor vehicles, to the owner of the motor vehicle that the vehicle no longer meets such safety or emissions standards. The notice shall direct the owner of the motor vehicle to have the vehicle repaired so that it may pass the safety and emissions standards and to obtain a new certificate of inspection. The registrar of motor vehicles shall periodically, but not less frequently than annually issue specific guidelines on the safety or emissions items that require the prescribed notice to and shall publish such guidelines in the Massachusetts Register. The registrar of motor vehicles shall establish rules and regulations promulgated pursuant to chapter 30A for the implementation and enforcement of this paragraph.

The commissioner may issue temporary auto damage appraiser licenses to individuals that hold an equivalent license in another state or have worked as an auto

damage appraiser in a state that does not require an equivalent license for a period of 90 days after submission of an application and fee of fifty dollars.

- V. Next meeting date.
- VI. Discussion by the Board about continuing review of 100 complaints filed against motor vehicle damage appraisers licensed by the Auto Damage Appraiser Licensing Board brought by the same licensed appraiser who also owns an auto body shop, most of the complaints have been brought against 2 insurance companies and their authorized appraisers. The complaints were filed by the same licensed appraiser and auto body shop owner, against the same auto body appraisal company and/or the same appraiser employed by the company. The review by the Board will be conducted in accordance with the Auto Damage Appraiser Licensing Board's "Complaint Procedures" to determine whether: the Board lacks jurisdiction, the complaints are based on frivolous allegations, lack sufficient evidence, lack legal merit or factual basis, no violation of the regulation is stated, or other basis. During the review, the Board will not discuss the named appraisers or the named companies the complaints have been filed against. During prior meetings of the Board, the Board voted to move specific complaints, out of the 100 that were filed, to the next step. The Board will discuss the next step to be followed under the ADALB's Complaint Procedures for the following Complaints: 2022-19, 25, 26, 28, 29, 36, 43, 44, 45, 50, 54, 88, 96, 97, 116.
- VII. Other business – reserved for matters the Chair did not reasonably anticipate at the time of the posting of the meeting and agenda.
- VIII. Executive session to review a complaint filed against a licensed motor vehicle damage appraiser. Such discussion during the executive session is allowed under M.G.L. c. 30A, § 21(a)(5).
- IX. Motion to adjourn.

Auto Damage Appraiser Licensing Board,
By its Attorney,

Michael D. Powers

I certify that, this Notice was sent by email to the Massachusetts Office of Administration and Finance, to the Office of the Secretary for the Commonwealth and forwarded by e-mail to the IT Services for the Commonwealth.

Michael D. Powers
Counsel to the ADALB

Date

Reasonable accommodations for people with disabilities are available upon request. You can make a request by sending an email to Michael D. Powers at: Michael.d.powers@mass.gov. Please include your name and contact information, and the type of accommodation you will need, including as much detail as you can. Please be advised that while we will try our best to grant requests received after the Friday before the meeting, they may not be possible to fulfill, so please make your request as soon as you know you will need it.

DRAFT