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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

**Minutes of the Meeting of the Board held on May 14, 2024, and approved at the Board Meeting held on May 14, 2024; Motion of Board Member William Johnson, Seconded by Board Member Carl Garcia 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 May 14, 2024

The Auto Damage Appraiser Licensing Board (ADALB or Board) held a meeting on May 14, 2024, at 1000 Washington 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 10:00AM with a roll call vote and the other four Board members responded present.

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: Jim Steere of The Hanover Insurance Company and "Lucky" Papageorg of the Alliance of Automotive Service Providers of Massachusetts (AASP).

In attendance were: Lucky Papageorg, AASP/Mass. Executive Director, Jim Steere from Hanover, Eric Doyle, from AMICA, Larry Konstant from Metropolitan Appraisal Service, Patrick Murphy, owner of Mass Ave Towing, Pit-Stop Auto Solutions and Half Moon Mods LLC, and James Bates, Materials Damage Claims expert from Mapfre/Commerce Insurance Company. Also, in attendance was Massachusetts Insurance Federation Executive Director, Christopher Stark and Mr. Nelson Andrade a special guest of Board Member Peter Smith.

**Approval of the Board minutes for the Board meeting held March 12, 2024:**

Chairman Donovan requested a motion to approve the minutes, Board Member William Johnson made the motion to accept the minutes as presented, and Board Member Carl Garcia seconded the motion. The motion passed by a roll call Vote of: 4-0, with Chairman Donovan abstaining.

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

Chairman Donovan requested Board Member Peter Smith provide a report about the Part-II portion (practical portion of the two-part examination) of the examination for motor vehicle damage appraiser license. Mr. Smith reported that the exam held on Saturday, March 23, 2024, at the Progressive facility in Westwood was successful. Of the 51 participants for the examination, 49 passed and only 2 failed. Board Member Smith noted that there were 11 no-shows, and it was determined to be out of state applicants who were employed by one insurance carrier. Board Member Carl Garcia noted that the success rate for the Part-II examination was an improvement over previous exams and said that understanding the appraisal concept is what the examiners were looking for when grading the applicants. Board Member Smith asserted that the successful applicants have the fundamentals for appraising motor vehicle damage and announced, the next Part-II exam would be held on June 22, 2024, and there were 36 applicants. Board Member Smith stated he expected the number of applicants to increase after the date of the exam was announced.

**Request to approve a course of instruction for motor vehicle damage appraisals by Lucky Papageorg, Executive Director of the Alliance of Automotive Service Suppliers of Massachusetts:**

Chairman Donovan read the agenda item and Board Member Carl Garcia asked whether the Blue Hills course was already approved, because the Blue Hills Regional Technical School course is the same as the one Mr. Papageorg submitted. Mr. Papageorg responded that the course was approved, but the school closed down their course. Board Member Garcia asked whether the Blue Hills course was removed from the Board's website, which directs those interested to the mandatory appraiser classes. Board Member Smith stated that he would check into it. Board Member Garcia stated that he was contacted by Southeastern School of Auto Appraisal who discovered that they are no longer listed on the website. Board Member Smith responded by stating that Blue Hills school is still listed, but Southeastern was not. Mr. Garcia asked Mr. Powers to look into it and Mr. Powers responded he would and asked to be sent an email with the details. Mr. Garcia asked whether Mr. Papageorg had a presentation for the Board, and Board Member Ye asked whether there were any documents for the Board to review. Mr. Papageorg stated they were sent to Mr. Powers in an email. Mr. Johnson stated that the documents he sent to Mr. Papageorg were ones used in the 2017 approval for the Springfield Technical Community College program. Board Member Carl Garcia requested further information before the approval would be given by the Board. Mr. Papageorg stated that he was seeking the Board's approval of the syllabus and documents to enable the Board to list AASP/MA's class on their website. Mr. Smith asked to have the documents provided to the Board for their review. Mr. Johnson suggested that it's not the course that the Board needs to approve, as the Board approved it through several different entities, it's the notification to the Board that AASP/MA will be teaching this course and a request for the Board's approval and listing on their website. Board Member Garcia stated the next steps for Mr. Papageorg to take with assistance from Mr. Smith. The matter was tabled until the next meeting so the necessary documents could be obtained and reviewed by the Members of the Board.

**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 will begin 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:**

Chairman Donovan reminded the Board that Board Members Smith, Garcia, and Ye have been working on proposed amendments to the Board's Regulation and requested an update on their progress. Board Member Smith responded by stating that he and Mr. Garcia have agreed that they should start with properly identifying the "Definitions" section of the Regulation to limit any confusion along the way in making the needed changes. Board Member Smith noted changes in the application and renewal process as the new process is electronic, and the process no longer requires mailing renewals. Board Member Garcia agreed, providing an example of the definition of an "Appraiser" and pointed out that there are several sub-definitions of "Appraiser". Board Member Garcia stated that the Board will be provided with a presentation of the proposed changes in the "Definitions" section at the next meeting. Board Member Garcia made a motion to table the item until the next meeting, Board Member Smith seconded the motion, Chairman Donovan conducted a roll call, and the motion passed by a Vote of: 4-0, with Chairman Donovan abstaining.

**Next Board meeting date:**

Chairman Donovan suggested a date of June 25<sup>th</sup> for the next meeting, and it was agreed by the Board Members. Chairman Donovan announced the date and reminded those in attendance the meeting would be held at 10AM, at 1000 Washington Street, Boston.

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

Chairman Donovan requested an update on the Insurance Commissioner's position and asked whether Commissioner Anderson left the position, and the date a replacement would be announced. Legal Counsel Powers responded by stating Commissioner Anderson resigned his position as the Massachusetts Insurance Commissioner in April to take the position as the Chief Executive Officer of the National Association of Insurance Commissioners (NAIC). Mr. Powers pointed out that in his new role as the Chief Executive Officer of the NAIC, Gary Anderson will direct the Insurance Regulators in the United States which is made up of all insurance commissioners in the 50 states and 6 U.S. territories, and he will play a key role with the International Association of Insurance Supervisors (IAIS) which is headquartered in Basel, Switzerland and has over 150 members around the world. Legal Counsel Powers noted that former Commissioner Anderson was the Chair of the NAIC's G-Committee, which is their International Committee and, in that role he led the way protecting the interests of major insurance companies domiciled in the United States (in particular Internationally Active Insurance Groups or "IAIGs") against the imposition of the IAIS's proposed capital standard, known as ICS Version 2.0. Because of former Commissioner Anderson's great efforts, IAIGs in the U.S., (there are about 12 or 14 companies that fit the category including Massachusetts domiciled insurance companies Liberty Mutual, potentially MassMutual and John Hancock's

primary owning entity Manulife of Canada), with about 28 worldwide, can retain a separate comparable standard known as the “Aggregation Method” and will not have to comply with the more onerous capital standards required in ICS Version 2.0 as currently proposed by the IAIS. While Commissioner of the Massachusetts Insurance Division, Gary Anderson led the way during the COVID-19 pandemic, issuing the second most COVID-19 Bulletins addressing a wide variety of problems with Health Insurance coverages and auto insurance premiums. Many of Commissioner Anderson’s Bulletins were adopted by other states in the United States. Commissioner Anderson had an impressive record of accomplishment nationally and internationally – the reason his colleagues at the NAIC sought him out and asked him to become their Chief Executive Officer. Legal Counsel Powers concluded, the NAIC is very fortunate to have Commissioner Anderson as their Chief Executive Officer.

Board Member Johnson asked whether there was any new information on the on-line renewal process for motor vehicle damage appraiser license, asserting that he was contacted by several appraisers who were unable to make changes of their employer on their renewal application. Board Member Smith responded that he was in contact with Mr. Robert Hunter of the Division of Insurance Producer Licensing Section, and they were attempting a resolution to the problem. Board Member Johnson stated that many appraisers did not update their new license numbers and are still using their legacy numbers.

Board Member Johnson made a motion that the legacy number can be used until further notice from the Board to allow a smoother transition to the new numbers, and Board Member Smith seconded the motion. Chairman Donovan called for a roll call and the motion passed by a Vote of: 4-0, with Chairman Donovan abstaining.

Board Member Johnson requested an update on the Ethics Commission request for opinion for three of the Board Members and Counsel Powers stated that he must first prepare a questionnaire for all the Board Members to respond to before he submitted the request for an opinion letter. He informed the Board that the process would take several months, as it did when Board Member Smith requested and received an opinion from the Ethics Commission.

**Executive Session:** Chairman Donovan requested Legal Counsel Powers to read the Executive Session agenda item in its entirety. Legal Counsel Powers read the following:

Executive Session to review Complaint 2024-1, 2024-2, 2024-4, and 2024-7. The review will be conducted on the written complaint that was submitted by the complainant to determine whether the Board will move to the next step in the Board’s “Complaint Procedures.” The Board reviewed the initial complaint in the public session and passed a motion that the licensed appraiser complained against file a written response. The licensed appraiser’s attorney requested the matter be heard in the executive session and sent a written response. 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 review and discuss whether the complaints should be dismissed or whether the complaints will proceed to the next step of the ADALB's Complaint Procedures.

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.

The licensed appraisers have requested the matter be heard in the executive session.

A Motion was made by Board Member Carl Garcia and Mr. Papageorg asked whether it would be possible to get the Board to describe the complaints being heard in Executive Session, beyond the case numbers. Board Member Garcia responded that there was a motion on the floor which needed to be seconded and after that was accomplished, there would be an opportunity for a discussion. Board Member Smith seconded the motion and Chairman Donovan opened discussion on the motion. Mr. Papageorg asked whether the Board could provide an overview of the four complaints. Board Member Peter Smith asked to be recognized and stated that the Board could not engage in public discussions about these four complaints now that they have been moved forward, and that could jeopardize the Board's position as well as those who are answering the complaints. Mr. Smith requested a vote on the motion including that the Board will adjourn from Executive Session. Mr. Papageorg noted that the four complaints being heard are dated 2024 and asked whether all prior complaints are still active or if they've been handled and asked if there are any complaints in the queue waiting to be addressed. Chairman Donovan asked Legal Counsel Powers how many complaints were awaiting a review by the Board. Mr. Powers responded by stating not many. Chairman Donovan called a roll call vote and the motion passed, which included the Board would adjourn in the executive session, by a Vote of: 4-0, with Chairman Donovan abstaining.

#### **Executive Session:**

##### **Complaint 2024-01.**

A discussion was held by the Board and a motion was made by Board Member Carl Garcia to send a letter to the appraiser and request if the appraiser agrees with the statemen that things were worked out by the parties, the motion was seconded by Board Member Johnson and the motion passed by a Vote of: 4-0, with Chairman Donovan abstaining.

##### **Complaint 2024-02.**

Attorney Owen Gallagher requested additional time to respond to the complaint on behalf of the licensed appraiser and Board Member Carl Garcia made a motion to table the matter, the motion was seconded by Board Member Peter Smith and the motion passed by a Vote of: 4-0, with Chairman Donovan abstaining.

##### **Complaint 2024-04.**

Board Member Johnson stated that the appraiser's response was not appropriate because he admitted that he violated the regulation and Board Member Johnson made a motion to move to the next step, Board Members Johnson, Garcia, and Chairman Donovan voted yes, Board Members Peter Smith and Vickey Ye vote no. The motion passed by a Vote of 3-2.

##### **Complaint 2024-07.**

After discussion by the Board, Board Member Carl Garcia made a motion to dismiss, the motion was seconded by Board Member Peter Smith and the motion passed by a Vote of: 4-0, with Chairman Donovan abstaining.

#### **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).