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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 September 19, 2024, and approved at the Board Meeting held on January 21, 2025; 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 September 19, 2024

The Auto Damage Appraiser Licensing Board (ADALB or Board) held a meeting on September 19, 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: James Bates of Mapfre/Commerce Insurance and "Lucky" Papageorg of the Alliance of Automotive Service Providers of Massachusetts (AASP).

In attendance were: Lucky Papageorg, AASP/MA Executive Director along with Don Dowling, owner of Marblehead Collision. Also in attendance were: James Bates, materials expert from MAPFRE Insurance along with Larry Bacchus and Paul Geotis, Mr. James Steere of The Hanover Insurance Company, Felix Spinazzola and Director Rob Torres from Travelers Insurance Company, Scott Cambray from Quincy Mutual Insurance Company, Parker Riley and Rimi Ponce from the Progressive Insurance Company, Steve Betley, Senior Account Manager, Insurance Solutions at OEC, Massachusetts Insurance Federation's Executive Director, Christopher Stark, and Michael Parsons owner of Source One Financial.

**Approval of the Board minutes for the Board meeting held June 25, 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 of the examination for motor vehicle damage appraiser license (practical portion of the two-part examination). Mr. Smith reported that the examination was held on Saturday September 14, 2024, at the Progressive facility in Westwood. Mr. Smith reported that there were 71 participants of which 66 passed and 5 Failed. Mr. Smith noted that there were 4 no-shows. Board Member Smith stated he reached out to Mr. Robert Hunter of the Division of Insurance Licensing Unit and requested he identify those who failed, so Board Member Smith could follow up and assist them in the process could determine which course they took in preparation for the Part-II examination. Board Member Smith thanked those who assisted in proctoring the examination. Chairman Donovan asked about the representation of people taking the examination comparing those from insurance companies to those working at auto body shops. Mr. Smith responded by stating the ratio was about 10% affiliated with insurance companies and about 90% affiliated with auto body shops. Mr. Garcia suggested that the 90% which are not affiliated with a carrier could end up anywhere. Mr. Smith concluded by stating the next date for the Part-II exam is unknown as they require between 25 and 30 applicants prior to setting a date, and Board Member Smith concluded by stating he would remain in touch with Mr. Hunter to gauge the number of applicants as they come forward.

**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:**

Chairman Donovan requested an update on the progress of the proposed amendments from the Members of the Board. Board Member Peter Smith informed the Board that he would submit proposed amendments but needed to be certain that the "Definitions" section of the Board's Regulation was accurate and suggested the Board begin the process by discussing the definitions which needed discussion. Board Member Smith began by presenting the definition in the Board's Regulation 212 CMR 2.00 et seq. of "Approved Appraisal Forms." Board Member Smith noted that no longer are "forms" in use in the auto body industry but instead platforms are used for motor vehicle damage appraisals which are written with or on them. Board Member Smith suggested replacing the term "forms" with a new term "systems" and Board Member Johnson readily agreed by stating that an "appraisal" should be redefined as "itemizing the cost of repairs." Board Member Smith reminded the Board that electronic appraisals are the most prevalent process in the auto body damage repair industry and the use of them does not require a signature or stamp, as was the case when printed forms were used in the auto body industry.

Board Member Garcia noted that the writer of the document appraising a damaged motor vehicle must be clearly identifiable so that the reader of the document can understand who the responsible party is. Board Member Johnson stated that the term “form” which is no longer in use must be removed from the Definitions section and reference should be made to 212 CMR 2.00 as well as Chapter 26, Section 8G for a definition of “Appraisal”. Board Member Johnson also noted that the definition of “appraisal” indicates “parts & labor” without mentioning “materials.” The consensus of the Board was that the term “appraisal” will omit the reference to the term “form” and reference to M.G.L. c. 26, Section 8G as well as 212 CMR 2.00 will be added. Board Member Smith next addressed the term “Board” and suggested that there be no changes beyond what is currently stated in the Board’s Regulation and continued to the word “Claimant”, and also recommended no changes.

Board Member Smith moved on to the next definition in the Board’s Regulation, “Independent Appraiser” and began the discussion by asking whether the term should include “self-insurers.” Board Member Johnson noted that the Board does not have jurisdiction over self-insured entities, because they are private businesses that does not involve business from members of the general public. Board Member Garcia pointed out that in his business dealings with self-insured rental companies, there are no “estimates” only final bills. Board Member Smith asked what happens when a complaint comes before the Board involving a self-insured entity. Board Member Garcia responded that the Board would dismiss it, the Board has no oversight over such private business transactions and Board Member Smith agreed to revise the definition. Board Member Smith moved on to the definition of “Insurer” and suggested input should be provided from the Division of Insurance and asked Board Legal Counsel Michael D. Powers who would be the best person to contact at the Division of Insurance and Legal Counsel Powers informed Board Member Smith that attorney Mary Ellen Thompson would be a good source. Board Member Johnson stated that out of state insurers need to be reined in. Board Member Smith moved to the next definition in the Regulation, “Intensified Appraisal” and suggested no changes needed to be made. The next definition in the Regulations is “Staff Appraiser” and Board Member Johnson queried whether he could consider his appraisers as Staff Appraisers and Board Member Smith responded that they are more like “independent appraisers.” Board Member Smith moved to the definition of “Repair Shop” and Board Member Garcia noted that dealerships are not registered repair shops even though insurance carriers regularly make payments to dealerships for insurance claims. Board Member Johnson noted that supplements are not negotiated in those instances. Board Member Garcia asked whether licensed appraisers working for dealerships are still regulated by the Board. Board Member Smith quoted the Board’s Regulation which states in relevant part, “[s]hall not knowingly negotiate with an unlicensed person or unregistered shop.” Lucky Papageorg asked permission to speak, and Chairman Donovan granted permission. Mr. Papageorg stated that it is the insurance company making payment for the cost to repair the damage to the motor vehicle in possession of the dealership. Board Member Carl Garcia noted that it is the insured or customer who is more likely reimbursed for payments made by them to a dealership, not a direct payment from an insurance company to a dealership. Board Member Johnson stated that insurance companies’ Preferred Shops are breaking the law by repairing a damaged motor vehicle as it is written by an insurance carrier, omitting the vehicle owner from the equation. Board Member Smith noted that he felt no changes were needed for

this definition and reported that he will submit the proposed changes in time for review at the next scheduled meeting, which will then proceed with the review of the next section of the Board's Regulation.

**Next meeting date:**

Chairman Donovan requested a consensus on the date for the next meeting and the Board agreed to Chairman Donovan's suggested date of October 22, 2024. Mr. Stark, Executive Director of MIF, asked whether the Division's anticipated move to 1 Federal Street might factor into scheduling the next meeting. Board Legal Counsel Michael D. Powers noted that the move will likely be closer to the end of the year. Chairman Donovan announced the date and reminds those in attendance that the meeting will take place at 10AM, 1000 Washington Street Boston.

**Proposed Advisory Ruling:**

Chairman Donovan requested an updated from Board Member Johnson and Board Member Johnson responded by stating back in March we all agreed that we needed an Advisory Ruling and noted that Board Legal Counsel Powers made some edits to his proposed Advisory Ruling which is printed on the agenda for the meeting today. Mr. Johnson stated that there's nothing earth shattering in the proposed Advisory Ruling and basically states what the rules and regulations are saying "we need to keep defining it for people" and read his proposed Advisory Ruling in its entirety:

ADVISORY RULING: All licensed appraisers are hereby notified regarding the time frames permitted for the viewing of a collision damaged vehicle and the submission of paperwork for original and supplemental requests must adhere to the language as specified in 212 CMR 2.0, specifically the following sections pertaining to original estimates:

212 CMR 2.04 (1) (a): "Assignment of an appraiser shall be made within two business days of the receipt of such claim". Further refer to 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): "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. It should be noted that exceptions should be a rarity and that any delays must be clearly documented, explaining the reason for the delay in writing to the shop owner and the vehicle owner. In the instance where there are appraiser's notes left with the shop, ANY agreed upon delay allowed between the parties MUST be clearly noted in the field notes with the agreed upon completion date indicated.

Failure by any appraiser to adhere to the specified time frames will be the grounds for a complaint to be filed and administrative action to be taken by the BOARD to the full extent allowed by the regulations.

Penalties: Refer to Refer to 212 CMR 2.05 (1): Violations of M.G.L. c. 26, § 8G, and 212 CMR 2.00 may result in penalties including administrative costs, revocation or suspension of license or both. All administrative costs are subject to the discretion of the Board. The administrative costs may be assessed against the appraiser, the appraiser's employer, the insurer, or the repair shop. An alleged violation of 212 CMR 2.00 by a licensed appraiser at the direction of an insurer may be reported to the Division of Insurance which may impose applicable penalties against such an insurer.

Mr. Johnson noted that he is aware that this proposed Advisory Ruling responding to a supplement remains in conflict with 211 language 123.00 [Division of Insurance regulation for Direct Payment Plans], but it will change once the Board amends the Regulation 212 CMR 2.00. Board Member Johnson likened the Advisory Ruling to "Cliffs Notes" stating that no one reads the applicable regulations as thoroughly as the Board members. Mr. Smith suggested that this should be held until a current complaint pending before the Board addressing this very topic has been adjudicated. Board Member Johnson stated that the Advisory Ruling was in response to a prior complaint involving the same parties as is found in the current pending complaint. Board Member Garcia suggested that delaying the issuance of the Advisory Ruling could be construed as a tactic used for perpetual delays in the Board's response to the problem. Board Member Smith stated that his objective was to maintain consistency and noted he needs to review the submitted Advisory Ruling and asked for an opportunity to do so. Mr. Smith commented that he

needed to be sure the language has not been changed as the Ruling needs to be the same as it is stated in the Regulation. Mr. Johnson stated that Mr. Powers had approved the language of the proposed Advisory Ruling. Board Counsel Powers pointed out his role in the review process was limited to spelling and grammar and legal cross checking. Board Member Garcia acknowledged that any Board Member has the right to review any proposal and Board Member Smith stated that he will provide written questions to be reviewed at the next meeting date. Mr. Johnson asserted that all of the language in his proposed Advisory Ruling is from the Regulation. Board Counsel Powers outlined the process for proposed Advisory Ruling which starts with a Board Members first draft, robust discussions among Members of the Board which usually results in proposed amendments, a consensus by Members of the Board and, thereafter, posting on the Board's website the final draft of the proposed Advisory Ruling for comment by interested parties in the auto insurance and auto body industries.

**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 raised an issue about the CCC Information Systems' total loss settlement documents, asserting the Board should know about the situation. Board Member Johnson stated that he has had three customers seeking his assistance in understanding the results of these reports and has found no consistencies between the three reports. Mr. Johnson noted that the CMR's list several things that need to be in the evaluation with a book value, but some have a book value but are not used in the valuation. Board Member Smith asked for clarification as to which CMR's that Mr. Johnson was referring to and Mr. Johnson responded, 211 CMR 133.00. Board Member Smith noted that those Regulations are under the purview of the Division of Insurance and not the Auto Damage Appraiser Licensing Board. Board Member Johnson reminded the Board that 212 CMR 2.00 must be read in conjunction with 211 CMR 133.00. Mr. Johnson asserted that he would write a letter to the Division of Insurance. Chairman Donovan recognized Mr. Michael Parsons, owner of Source One. Mr. Parsons asserted that insurance companies were not offering the proper values for damaged or "totaled motor vehicles." Chairman Donovan suggested that Mr. Parsons outline his concerns in a letter and send it along to Board Counsel Powers so that the Board could take a look at the next meeting.

**Review of Complaints:**

Board Legal Counsel Mr. Powers was asked by Chairman Donovan the number of complaints that were scheduled to be heard. Mr. Powers responded by stating that there were two complaints, one to be heard in the open session of the meeting and the other to be heard in Executive Session.

**Complaint 2024-01**

Legal Counsel Powers continued by stating that the complainant in the open session contacted the Board and stated that they were satisfied and there was no need for further action. Board Member Garcia supported Mr. Powers' description by stating that he was contacted by the complainant as well and the complainant acknowledged the matter has been resolved. Mr. Garcia stated that he understood Board Member Smith was also contacted by the complainant and Board Member Smith agreed. Board Member Garcia moved that the complaint be dismissed, noting that should the situation introduce itself again, the complainants can file a separate complaint, and Board Member

Smith seconded the motion. Chairman Donovan called for a roll call vote and the Vote was: 4-0 to dismiss the complaint, with Chairman Donovan abstaining.

**Motion to enter the Executive Session:**

Board Counsel Powers read the Executive Session agenda item in its entirety and at the conclusion or reading Board Member Garcia made a motion to enter the executive which included adjourning in the executive session. Chairman Donovan requests 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 calls 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:

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.

**Complaint 2024-21**

The Board reviewed the complaint and the response filed to it and after discussion a motion was made by Board Member Peter Smith to dismiss the complaint and the complaint was dismissed 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).