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OCCUPATIONAL LICENSURE

**Subcommittee on Regulations Meeting Minutes -May 28, 2025**  
**Teams Meeting**

This meeting was open to the public and began approximately at 10:02 AM.

Subcommittee member attendance:

Jeff Dougan (JD)- Chairperson  
Carol Steinberg (CS)- Vice Chair  
Ana Julian (AJ)  
Paul Logan (PL)  
Mike Kennedy (MK)  
Patricia Mendez (PM)  
Elizabeth Myska (EM)  
Deborah Ryan (DR)

Division of Professional Licensure Employees in attendance:

William Joyce –Executive Director (WJ)  
Peter Kelley- Board Counsel (PK)  
Molly Griffin – Program Coordinator (MG)

JD opened the meeting for Roll Call:

CS, AJ, PL, MK, PM, EM, DR

JD notes that he would like to focus on the section 3 language given the testimony that they have received

WJ notes that he prepared draft language for section 202

- CS: notes that she mistakenly missed the last meeting and wants to comment on the meeting that she missed. I am wondering why we are where we are, and why we are doing

this. Anything we do is going to decrease accessibility in the state. I was flummoxed why there was no discussion of accessibility when there was discussion of raising the thresholds. We haven't seen any examples of why this 30% rule is bad, there have been tons of statements and passionate statements, but I haven't seen examples. If a rule that has provided us with accessibility for decades and people want to overturn that rule, they must show us data. What is the effect going to be on accessibility in the state? I just don't understand it. I want direct evidence, and the burden of proof is on them.

- WJ: We are required by law to respond to all of these comments, and this is our third attempt at promulgating these regulations.
- CS: I hear you. I just think we have to keep accessibility in mind at all times
- JD: Thank you for that reminder
- PM: I agree with CS, I was reading the letter from the ILCs and the letter is very compelling to me. They are urging us to keep the 30% rule and the exceptions, and I do agree with their point that the elected officials give us a lot of general information, but not many specific examples or compelling data as to what happened because of the 30% rule.
- DR: I don't think this is an us versus them. I really think that this is trying to get to a solution. The 30% rule has not gone away. The numbers are changing, and the exemptions. I think the Board never intended for someone who wanted to repair their roof to trigger the 30% rule. In terms of accessibility, if a church wants to replace their slate roof and then they trigger the full compliance, that project will fall through, and you will have buildings in disrepair. I fear if the Board does not come up with an agreeable solution, I fear the legislature will pass legislation
- CS: Thank you, DR, I have thought about that, but are we shooting in the dark? And I listened to the conversation last time, and it just seems like there is not enough data. I think we have to be careful of the exemptions pushing accessibility at the bottom of the pile. If we exempt accessibility work, I think we have to write "so long as there is a path of travel"
- JD: Okay, we haven't even gone through the letter yet, which is what I think we have to do. I do think there are some compromises that have to be made, personally.
- WJ: People should read 202.4, which would be new for us, but is lifted from the Feds. As for the lack of data, they would have to prove a negative- how would we measure work that is not performed? I think it may be helpful to look at the draft language and discuss that. I think these exceptions are much more narrowly drawn than people think.
- DR: We have been working on this for quite some time now, and have struggled with all kinds of things. My fear is that every time we put something out, we get a comment, and it sets us back again- if we halt in our tracks every time we will never finish.
- JD: That is initially what I put in my notes, I would like to start closing this out from our perspective to get this to the Board. The disability community has sent something substantial this time, but I think you are right we need to move more judiciously
- CS: I just wanted to address the proving a negative thing. I expected for there to be affidavits saying I was going to build this but now I am not because of the 30% rule. I would like to look at the ILC letter as they are the representatives of the community
- JD: My next step is for WJ to post the draft and then the ILC letter
- CS: Why wouldn't you look at that first?

- WJ: It would be helpful to look at the sections they are talking about
- PL: I agree with CS, but I agree that we look at the draft then ILC letter in that order

#### WJ Shares 202 draft

- JD: Have people reviewed this? First raising the costs, our intention here is to meet the current rate of inflation
- WJ: My concern is the subcommittee has been talking in circles, and so it is helpful to have a concrete thing to actually discuss. Reviewing the ILC letter in front of you while looking at the draft on the screen will be helpful
- CS: I just don't have it in front of me
- JD: Okay, let me know when you're set. We will start with Item 1 from the ILC letter
- DR: If we go through what is written in 202, you may end up finding that there is more accessibility than less. It makes sense to me to go through the regs as written and then compare them
- CS: Are you saying that raising \$200,000 will have a negative effect on accessibility?
- WJ: I am saying it would be equivalent to \$100,000 as we are adjusting for inflation
- JD: Why don't we start with 202 and then we come back to those values?
- WJ: I think it will establish a better context to understand the monetary triggers if we discuss the non-monetary triggers
- CS: So, this whole section is new?
- WJ: This is based on what ADAAG has which is very similar to what we have. The only big differences here require more accessibility: we are treating additions as new construction (202.4)
- CS: It would be helpful to see what we have now
- WJ: The only difference is that 202.4 exists and that we treat additions as new construction
- WJ: I think it will be helpful to review 202.4, and I think you'll agree that it is stronger than our current work performed rule
- WJ: 202.3 is the same as our current 3.3.1a, and then there is an exception that it is implicit in our regs, but ADAAG makes explicit. The big change is 202.4 (WJ reads 202.4) which is saying if you are doing work to a primary function area, we are requiring accessible routes. Even if you are doing exempted work, you would still have to comply with 202.2, 202.3, and 202.4 regardless of how little money you are spending
- JD: ADA does define primary function area so this is going to get us without even triggering \$200,000
- WJ: The way our current regs are written for 3.3.1 is that you have to comply with a,b, or c. ADAAG is not written that way, so I structured it that you always have to comply with 202.2 and the relevant subsection, depending on the amount of money you are spending. The rest of 202 is just as if not stronger than the current 3.3
- WJ: What are people's thoughts on 202.3, 202.2, and 202.4?
- JD: I do have a question about 202.4. What happens to the cost for the primary function areas? Are they added to the cost of the project?
- WJ: Theoretically

- JD: So, this is getting us base access
- WJ: If they trigger the money jurisdictions, they have to do that.
- JD: This is a strong addition
- W: It is strong but it also is us harmonizing with ADAAG
- DR: WJ, I was wondering about 202.3, does it belong in the top?
- WJ: I wanted to alter as few ADAAG provisions as possible, especially for people out of state, but I take your point, and it is worth looking at. It could use some clarity, and this would be mentioned in the advisory book we put out when we get there.
- PM: I have a question on 202.4- there is an exception for residential units, why?
- WJ: Because we have an entirely separate set of rules for residential buildings. This exception exists already in ADAAG, but we have significant scoping rules, but I think it is better to handle them in their own section
- CS: I'm just not clear this whole section, is this modifying the work performed section?
- WJ: 202 is the general scoping section, which is where our general jurisdiction provisions will be located
- CS: The problem I am having is that you have a comparison, but there is not one here
- WJ: Because the only meaningful difference between ADAAG and us is 202.4
- CS: Does the exception in 202.4 also mean if a landlord makes a change, they are exempt?
- WJ: Same thing, because we have specific rules about when unit-type alterations get triggered
- CS: I think it is too broad
- PL: I think one thing we need to remember is that WJ said this is non-controversial, if I could ask DR one question, do you see this as non-controversial?
- DR: Yes
- WJ: Again, we are talking about everything outside subsections 202.4 and 202.1
- JD: Can you highlight the things that are different from existing 3.3, or similar to, but not exactly the same?
- JD: Do we have any issues with 202.8? Ok, moving on – 202.6?
- CS: Well, what does it say now?
- WJ: The same thing, just in two sentences
- JD: 202.5, any questions?
- WJ: This is almost exactly identical, I just added explicitly that historic buildings are not exempt
- JD: Okay, we'll go to 202.3
- WJ: So, this is functionally identical to 3.3.1a
- CS: Yes. We were talking about moving that up. Could you reference 202.3 in the general statement in the beginning?
- WJ: Yes, I am still contemplating the least confusing way to structure this, so I will let you all know
- JD: Can you quickly explain the exception?

- WJ: In current 3.3.1a, the work you are doing has to comply; this is basically making explicit that you do not have to do work on things you don't touch unless you trigger something else
- JD: So, with 202.3 and the exceptions are there questions?
- CS: I still am not getting the exception
- WJ: You do not have to touch things you don't touch, unless you are affecting a primary function area
- WJ: What we say now is: the work you are performing has to comply. So, this is just functionally identical to what is implicit in our regulations, but this is explicit
- CS: I am just not sure the exception is necessary
- WJ: It exists in ADAAG, and in my opinion, it will reduce confusion
- AJ: WJ, it (defining primary function area) is under 202.4 in an advisory
- WJ: We should definitely define it
- CS: I think I am against the exception the way it is
- JD: So, a bathroom is typically not a primary function area unless we are looking at a rest stop
- WJ: removing this exception would be a major change – this is meant to cover that this is structured differently than 521
- CS: I don't agree that it is an addition
- WJ: I can tell you that as the regs are currently enforced, 3.3.1a would trigger an accessible route to the thing you are working on, unless you are working on the accessible route
- JD: Any other comments
- CS: I am against it

Motion to Adopt 202.3 and the exception by DR

2<sup>nd</sup> by PL

Roll Call Vote

DR- yes

EM- yes

PM- yes

PL- yes

MK- yes

AJ- yes

CS- no

JD- yes

7 yes, 1 no, 0 abstentions- Motion Passes

- JD: 202.3.1 and 202.3.2 are what we have, right?
- WJ: It is exactly the same
- JD: Okay 202.3.2 any questions? Okay, hearing none, it is okay as is
- JD: Okay, 202.2 – questions/concerns?
- PL: Sounds good
- WJ: This is stronger, as this treats additions as new buildings

- JD: Okay, 202.1, we know we have to do some language change, that will be discussed at the next meeting- any concerns other than what we already talked about?
- PL: Should we approve 202.1 and 202.2?
- WJ: My recommendation would be for the subcommittee to wait until I make the changes- are there any other changes you would like for me to make?

Motion to Adopt 202.2, 202.3.1, 202.3.2, 202.5, 202.6, and 202.8 by PM

2<sup>nd</sup> by PL

Roll Call Vote

JD- yes

CS- yes

AJ- yes

MK- yes

PL- yes

PM- yes

EM- yes

DR-yes

8 yes, 0 no, 0 abstentions- Motion Passes

10 minute break at 11:31 AM

Resume at 11:41 AM

- JD: So, I think we can start with 202.1 and 202.2
- CS: I am just looking at the ILC letter and I think we should consider the ILC letter when we discuss the exemptions, and I liked DR's idea about the shortened lookback time
- JD: I do know that there were concerns about increasing to \$200,000 mentioned in the ILC letter, but we charge that up to inflation. They argue these changes reduce what we already require.
- WJ: The lookback discussion last timewas, do we want a lookback to clarify?
- JD: The ILC recommended a longer lookback at 4 years, and we currently have 3 years?
- WJ: From an enforcement perspective, I am not in love with the longer lookback- like why 4 years instead of 3 years? The technical purpose of the lookback is to prevent people from playing structural games- it will create paperwork headaches
- DR: I agree with what WJ just said, the more you extend it, the more you defeat the process. We went from 2-3 already, and I think going to 4 is unnecessary
- CS: I think that the reason they proposed it, is because something results in reduced accessibility and they want to mitigate that if it happens
- JD: The whole point of this was to be a little bit more fair, as \$100,000 does not get you much these days. The discussion last time was, do we want to look at extending 3-4 years?
- WJ: If the subcommittee wants to pursue a different amount, they can, but they should not do so through the lookback- that is there to prevent structural games, you should just change the amount

- CS: I think it makes sense to raise it due to inflation, and I think they are offering the lookback as a mitigation to capture the project we potentially lose
- WJ: But that is not the purpose of the lookback if we think we will lose too many projects, then you should change the value
- PM: I agree with WJ, and I think it is a good explanation
- PL: Same here
- WJ: The inflation calculator we are using is CSI, provided by the BLS
- DR: Some historical perspective: from '75-'96 it was 25% and \$50,000; in '96, it went from 25% to 30% and doubled the \$50,000 to \$100,000; and we are now proposing not changing the 30%, just doubling the \$100,000
- JD: I am thinking we should move forward

Motion to Adopt 202.1.1 by DR

2<sup>nd</sup> by PL

Roll Call Vote

DR- yes

EM- yes

PM- yes

PL- yes

MK- yes

AJ- yes

CS- no

JD- yes

7 yes, 1 no, 0 no – Motion Passes

- JD: So, the only change was the inflation cost
- WJ: Yes, the work performed is in a separate section
- JD: Ok, now for 202.1.2, right now, this is not considering a change to the 30% language
- WJ: There is one small language change for clarity
- WJ: You may want to vote on this separately for the exceptions

Motion to Approve 202.1.2 excluding exceptions by PL

2<sup>nd</sup> by DR

Roll Call Vote

JD- yes

CS- yes

AJ- yes

MK -yes

PL- yes

PM- yes

EM- yes

DR- yes

8 yes, 0 no, 0 abstentions- Motion Passes

- WJ: Okay, now we can go to exception 1
- JD: There were some concerns from the ILC letter
- DR: I don't remember talking about the \$1,000,000
- WJ: That is just \$500,000 adjusted for inflation
- JD: Disability advocates are concerned with things being exempted up to the \$1,000,000 mark
- CS: This will reduce accessibility and places accessibility at the bottom of the list. I think at the very least, the 50% recommended by ILCs should be considered
- DR: my concern is a major project coming in and all of this stuff would be exempt. Maybe in number 1, we add "and not as part of a larger project"
- CS: And what if we took out "in combination with each other?"
- WJ: One point of concern is that some of these are impossible to do without each other
- PM: CS, I wanted to clarify, referring to the letter, when they talk about the 50%, they are talking about the accessibility upgrades. Ok so, I agree with the letter's suggestion that we already made changes on the triggering money amount, so we do not need to make a lot of concessions in the exceptions
- CS: Thank you for pointing that out
- WJ: I just want to slightly push back- the 30% rule is the thing we have gotten the most comments about, if we don't address this in some fashion, I do not think these will promulgate
- JD: So, CS kind of hinted at a two-pronged system. I think having a cut off would make sense when there are a number of projects- I would like to open it up to everybody what are thoughts on a two-tiered approach?
- CS: I like that idea
- PM: I am happy to hear again about the two-tiered approach- I would support further discussion
- MK: Same as PM, the two-prong approach, I agree that way we can move forward
- AJ: DR, you were mentioning to add something to the first exception
- DR: Yes, that this work cannot be part of a large renovation project and exempt these things, and most of these things are repairs, but I do not have any problem with them alone or in combination
- AJ: Yes, I agree with that
- CS: How is renovation project defined?
- DR: Exactly
- JD: I don't want to discount comments from both sides
- PM: I agree with putting curb cuts at the end and not part of the repair exceptions
- JD: How do people think? We are going to start looking at the two-prong approach and see what that would affect
- CS: Why wouldn't it be in with exception 2?
- WJ: 2 only applies if no other work is being performed
- DR: I think the bigger question is, if you repair a curb cut what would it trigger?
- JD: Right
- DR: Does it trigger across the street?



- WJ: That's in the scoping section we have not discussed yet
- JD: My original thought was to say if b ,c, d, or e were done alone it would not trigger, but then if you do any combination of them, they have to meet some higher percentage, maybe not 30%, but something - I feel some of this larger work should trigger more than an entrance
- PM: I think this is going to the middle
- CS: I agree, and I think that would be getting there, but I am thinking about how to write it
- DR: I think an exception is an exception, so I think none of this work applies to accessibility, I really don't think it will affect accessibility
- CS: That's not the question
- DR: An exception generally does not have an exception
- DR: My opinion is, you cannot do all of this work and add all this up, and then try to take those out of the project, and say you are under 30%. I do want to see people be able to repair their roof, and if they have to repair their roof and repoint their bricks and it amounts to over 30%, I want to be able to see them do that work
- JD: I thought if they could do exception c, it is an exempted category, but if you do exception c and e, my thought is there should be a cap before you trigger accessibility requirements
- DR: I guess I need to see it, and it depends on what percentage is
- JD: I am thinking 50-60%
- DR: I think there was something floating around 75%. I can live with that, but I just think things are cleaner when an exception is an exception
- WJ: Part of the reason the subcommittee moved towards this exception structure is because we frequently see schools doing roof repairs and necessary repair work, where the schools are 75-100 years old, and then MSRB steps in, so they give you enough to make sure the school does not collapse, but no money for anything else, and then they come to us with these huge disastrous variance packages- so I think we need to be careful with how we craft this, because this was the most compelling argument
- WJ: The more complex you make it, the more people are going to misread it
- CS: I am just thinking in light of what WJ just said, to say something about emergency or safety, I would love to try my hand at wordsmithing before the next meeting
- JD: I want to make sure we get public comments

Motion to Approve Minutes with edits April 23, 2025, by PL

2<sup>nd</sup> by CS

Roll Call Vote

JD- yes

CS- abstain

AJ- abstain

MK- yes

PL- yes

PM- yes

EM- yes

DR- yes  
6 yes, 2 abstentions, 0 no- Motion Passes

WJ: People should come prepared with draft language, otherwise we talk in circles- send it to me and you can talk about it at the meeting you just cannot talk about it to a quorum of subcommittee members directly or indirectly

**Public Comment:**

**Michael Muehe (BCIL):** 202.1.2 BCIL supports the ILC letter. We support a threshold 50% cap on exemptions. Under 202.2 I would suggest the definition of primary function area should always include restrooms. For 202.3.1, I would suggest allegations of using disused elements should not be calculated. In 202.4 I would suggest replacing the phrase “maximum extent feasible” with “maximum extent practicable.” In 202.5, I would suggest instead of “on the basis of,” I would add “partially or fully on the basis of.” Under 202.7, I would support the 48 month period. I think the existence of computerized record keeping would make record keeping much more feasible

**John Nunnari (AIA):** This seems positive, but I am concerned about the discussion regarding exceptions. We have made some proposals. I will reiterate the point that DR and WJ have been making, that this proposal needs to move forward. The legislature has made it clear that they are watching, and they would step in [if no action is taken], and I am certain that you would not be happy with that result. I would strongly encourage by the next meeting that you wrap up this section so that you can get this to the Board and into public hearing and regulatory review process.

**Andre Leroux (Gateway Cities):** I would like to endorse what John was just saying. We have mayors and municipal leaders who care a lot about accessibility but recognize other issues going on. Let’s not make it more complicated, and I would endorse what John posted in the chat, and we cannot pass regs that are up to someone’s interpretation. We would also like to see thresholds adjusted for inflation on a regular basis. I do want to express some concern about requiring the MHC letter as it makes the process more complex.

Motion to Adjourn by PL  
2<sup>nd</sup> by CS  
Roll Call Vote  
JD- yes  
CS- yes

PL- yes

PM- yes

EM- yes

5 yes, 0 no, 0 abstentions- Motion Passes