



# THE COMMONWEALTH OF MASSACHUSETTS AUTO DAMAGE APPRAISER LICENSING BOARD

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## AGENDA

**For Auto Damage Appraiser Licensing Board (“Board or ADALB”) Meeting Scheduled for Tuesday, November 26, 2019, 10:00 AM at 1000 Washington Street, Boston, Massachusetts**

- I. Call to order.
- II. Approval of the Board minutes for the Board meeting held on September 24, 2019.
- III. Report by Board Member Peter Smith on the Part-II examination for motor vehicle damage appraiser held on November 6, 2019 at the Progressive Insurance Service Center in Westwood, Massachusetts.
- IV. For approval by the Board as submitted by Magnus P. Carlberg, Director of Producer Licensing for the Division of Insurance, on the proposed change in the application process for Motor Vehicle Damage Appraiser License. The following details the proposed changes:

Prometric is moving to a new mainframe system. The MVDA changes that will be necessary with the new system are minimal. The new MVDA/1660 exam process will mostly be the same as it is today with the exception that the candidates need to create a profile on Prometric’s website. After they create the profile, they can call Prometric to schedule their Part 1 1660 exam (like they do today) or they can schedule their exam online.

The following is a list of the information that will be required for the profile on Prometric’s website:

First Name  
Middle Name  
Last Name  
Suffix  
Address line 1  
Address line 2  
Address line 3  
Address line 4

City  
State  
Zip code  
Primary phone  
Secondary phone  
Fax  
DOB  
SSN  
\*\*field in red are required

Listed below is the full candidate/DOI workflow:

**Proposed Process - Licensing Requirements: Motor Vehicle Damage Appraiser –  
1660 Exam**

Applicant sends an application along with the following 4 items to the Division of Insurance:

1. A work experience letter from a licensed Massachusetts appraiser with whom you have worked for a period of at least three (3) months. This letter must be signed by the appraiser and his seal affixed.
2. A copy of certification received from a [Board approved damage appraiser course](#). PLEASE NOTE: Two years practical work experience writing appraisals, may be substituted for the required course work.
3. If you have had any felony convictions, a transcript from the courts identifying the offense(s) and a letter of explanation should be included.
4. Submit a check for \$100.00 made payable to the COMMONWEALTH OF MASSACHUSETTS for application processing and examination registration to the Auto Damage Appraiser Licensing Board, 1000 Washington St, Suite 810 Boston, MA 02118-6200.

**DOI reviews documents received and if all in order, DOI will enter into Claris. Then email or send candidate a letter that instructs them to go to [Prometric.com](#)**

1. **Select MAINS, which will direct them to CMS**
2. **If they have not created a profile, they can follow the instructions for creating a profile and account. Once this step is complete, answer the question: ‘As of today, I have submitted all required documentation and payment to the DOI’ check box, request approval for the 1660 exam.**
3. **If they have already created a profile, they can log in. On their Dash Board, they will see the 1660 exam and answer the question: ‘As of today, I have submitted all required documentation and**

**payment to the DOI' check box and then request for approval for the 1660 exam.**

**DOI – will receive notification that a candidate has submitted for approval. Approve or Deny.**

**Once approved, the candidate will receive notification by email that they are approved to test and they can then schedule the 1660 exam online. If they choose to call into Prometric to schedule, they will just need to provide their Prometric ID which is generated at time of CMS profile creation.**

If there is yes to a background question, DOI will send all documents to ADALB Legal Counsel for review.

If documents not in order or if some are missing, DOI will document the same in Claris and then DOI will send all documentation back to the applicant with a letter explaining what they need to do to reapply successfully.

- V. For discussion among the Members of the Board, a proposed Advisory Ruling submitted by Board Member William Johnson and Board Member Samantha Tracy the following proposed Advisory Ruling:

TO ALL CONCERNED PARTIES

Re: Advisory Ruling 2019-XXXX

The Auto Damage Appraiser Licensing Board (ADALB or Board) is authorized to oversee all motor vehicle damage appraisers in the Commonwealth of Massachusetts pursuant to M.G.L. c. 26, § 8G and 212 CMR 2.00 et seq. titled, “The Appraisal and Repair of Damaged Motor Vehicles” as promulgated by the ADALB. In relevant part M.G.L. c. 26, § 8G provides, “The board shall after notice and hearing in the manner provided in chapter thirty A adopt rules and regulations governing licenses under this section in order to promote the public welfare and safety.” In addition, 212 CMR 2.01(1) provides, “Purpose and Applicability. The purpose of 212 CMR 2.00 is to promote the public welfare and safety by improving the quality and economy of the appraisal and repair of damaged motor vehicles. Any licensed appraiser, individual or corporate entity who employs licensed appraisers shall be bound by 212 CMR 2.00. 212 CMR 2.00 is intended to be read in conjunction with 211 CMR 133.00 entitled, “Standards for the Repair of Damaged Motor Vehicles.” Under its authority the ADALB is, *inter alia*, authorized to: issue licenses to all motor vehicle damage appraisers in the Commonwealth (licensed appraisers or appraiser) 212 CMR 2.02, regulate the conduct of motor vehicle damage appraisers in the Commonwealth 212 CMR 2.02, regulate the manner of conducting motor vehicle damage appraisals 212 CMR 2.04, and to issue Advisory Rulings pursuant to 212 CMR 2.01(3) and M.G.L. c. 30A, § 8.

Moreover the commissioner of the Division of Insurance has issued a regulation for the “STANDARDS FOR THE REPAIR OF DAMAGED MOTOR VEHICLES” 211 CMR 133.00 et seq. Specifically 211 CMR 133.04(1) and (2) provide in relevant part:

133.04: Determination of Damage and Cost of Repair

(1) Appraisers shall specify that damaged parts be repaired rather than replaced unless: the part is damaged beyond repair, or the cost of repair exceeds the cost of replacement with a part of like kind and quality, or the operational safety of the vehicle might otherwise be impaired. When it is determined that a part must be replaced, a rebuilt, aftermarket or used part of like kind and quality shall be used in the appraisal unless:

...

(c) a new original equipment part of like kind and quality is available and will result in the lowest overall repair cost;

....

(2) When an insurance company specifies the use of used, rebuilt, or aftermarket parts, the source and specific part(s) must be indicated on the appraisal.

If the repairer uses the source and specified part(s) indicated on the appraisal and these parts are later determined by both parties to be unfit for use in the repair, the insurance company shall be responsible for the costs of restoring the parts to usable condition. If both parties agree that a specified part is unfit and must be replaced, the insurer shall be responsible for replacement costs such as freight and handling unless the repair shop is responsible for the part(s) being unfit, or unless the insurer and repairer otherwise agree. As to such costs, nothing in 211 CMR 133.00 shall preclude an insurer from exercising any available rights of recovery against the supplier.

The ADALB is authorized to enforce the provisions of 211 CMR 133.00 et seq. against licensed motor vehicle damage appraisers for violations of its provisions pursuant to 211 CMR 133.08 which provides “A violation of any provision of 211 CMR 133.00 shall be considered to be an unfair or deceptive act or practice, in violation of M.G.L. c. 176D. An alleged violation of 211 CMR 133.00 by a licensed auto damage appraiser may be reported to and penalized by the Auto Damage Appraisers Licensing Board in accordance with its governing statute and 212 CMR [sic]...” It is the intention of the ADALB to issue an Advisory Ruling consistent with 212 CMR 2.00 et seq. and M.G.L. c. 26, § 8G and 211 CMR 133.00 et seq. to be followed by licensed appraisers.

Pursuant to its authority, the ADALB voted by a majority vote at the Board’s meeting held on ---- to adopt this Advisory Ruling.

**ADVISORY RULING**

Appraisers should continue to follow 211 CMR 133.04(1)(b) and (c), and 212 CMR 2.04, referenced above, on appraisals. If the part(s) that have been specified on the appraisal are unfit for use in the subject repair and must be replaced, as agreed upon by both the repair shop and the insurance company, the parties should attempt to agree on an alternative part and the insurance company shall be responsible for the

replacement costs such as freight and handling or shall be responsible for the costs of restoring the parts to usable condition, unless the parties otherwise agree.

Further the appraisers representing the insurance company and the registered repair shop shall attempt to agree on the estimated cost for such repairs. The registered repair shop must prepare an appraisal for the purpose of negotiation.

Nothing herein is intended to create any obligations in addition to those set forth in 212 CMR 2.00 or 211 CMR 133.00. If anything herein is in conflict with these regulations, the regulations control.

The ADALB stresses 211 CMR 133.04(2) must be followed by all appraisers, and a deviation may constitute a violation of 212 CMR 2.02(8)(c) and 212 CMR 2.02(5)(b) which states in relevant part “The prepared appraisal shall be sworn to under the penalties of perjury....”

This Advisory Ruling shall be effective upon posting on the Auto Damage Appraiser Licensing Board public website. Failure to comply with this ruling could result in penalties as provided by law.

For the ADALB,

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Michael D. Powers, Esq.  
Legal Counsel to the Board

- VI. Other business – reserved for matters the Chair did not reasonably anticipate at the time of the posting of the meeting and agenda.
- VII. Executive session, by motion indicating the Board will adjourn in the executive session and will not re-convene in the public session and by a roll-call vote of the Members of the Board, to review a Complaint filed against a licensed motor vehicle damage appraiser and discuss the background of applicants for motor vehicle damage appraiser test whom have disclosed a criminal conviction on the application. Review and discussion of Complaint: 2019-08 filed against a motor vehicle damage appraiser 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, *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 appraiser requested the matter be heard in the executive session.

VIII. Motion to adjourn.