



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

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GOVERNOR

GILBERT W. COX JR.  
CHAIRMAN

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LIEUTENANT GOVERNOR

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RICHARD STARBAR  
WILLIAM E. JOHNSON  
LYLE M. PARE

**Minutes of Meeting of the Board held on May 17, 2017, Approved by the Board at the June 13, 2017, Board Meeting; Motion of Board Member Richard Starbard and Seconded by Board Member William Johnson. The Motion Passed by a Vote of:4-0, Chairman Cox Abstained.**

May 17, 2017, Minutes of Board Meeting  
Held at 1000 Washington Street, Boston, Massachusetts.

**Members Present:**

Chairman Cox  
Joseph Coyne  
William Johnson  
Richard Starbard  
Lyle Pare

**Attending to the Board:**

Michael D. Powers, Counsel to the Board  
Steven Zavackis, Executive Secretary

**Proceedings recorded by:**

Jillian Bukhenik of the Alliance of Automotive Service Providers of Massachusetts (AASP) (Audio/Video). Joel Gausten of GRECO Publishing (Audio/Photography). Nelson Torres of MAPFRE (Audio/Video). Paul Harden, Hanover Insurance Company.

**Call to Order:**

Chairman Cox called the meeting to order.

**Review of minutes:**

A review of the minutes of the Board Meeting held on April 12, 2017, was taken by the Board, and Chairman Cox called for a motion to approve the minutes. The motion was made by Board Member Richard Starbard and seconded by Board Member Lyle Pare and the motion passed by a vote of: 4-0 with Chairman Cox abstaining.

**Report on the Part-II examination for motor vehicle damage appraiser:**

Board Member Richard Starbard reported that an examination will be held on June 14, 2017, in Westwood, Massachusetts at Progressive Insurance Company's facility. Board Member Starbard reported that there were 50 people scheduled to take the Part-II examination.

**Report by Board Member Joseph Coyne as to the status of potential violations of the ADALB regulation, 212 CMR 2.00 et seq., and enabling act M.G.L. c. 26 § 8G by Access General Insurance Adjusters, LLC a company apparently domiciled in the state of Georgia and doing business as "Access" in Massachusetts:**

Board Member Coyne reported that the company known as Access has apparently been conducting motor vehicle damage appraisals in Massachusetts without licensing of its employees. Board Member Coyne related that he ascertained the name and telephone number for a senior manager for Access and attempted to contact the fellow to no avail. Board Member Coyne on different occasions called the contact number, was left on hold for 30 minutes, and frustrated by the long delays, hung up. Board Member Coyne concluded that the best manner of communicating with Access is by written correspondence and he would draft a letter to the senior manager informing him that Access must follow the law for appraising damaged motor vehicles in Massachusetts.

Chairman Cox suggested that Board Member Coyne send a draft letter to Board Legal Counsel Powers for his review and the matter will be placed on the agenda for the next Board meeting. Board Member Coyne agreed with that procedure.

**Proposal submitted by Board Member William Johnson to change the renewal license for motor vehicle damage appraiser to include a requirement that the appraiser include an email address on the application:**

Board Member William Johnson reported that the renewal application for a motor vehicle damage appraiser license does not currently contain the email address in the application and believed that this information should be added.

Executive Secretary for the Board, Steven Zavackis, informed the Board that he was in contact with Bob Hunter, Supervisor of Producer Licensing for the Division of Insurance, who is reviewing the renewal application and determining whether there is sufficient space on it to insert the email address. The current form has limited space because of the bar-code at the top and Mr. Zavackis said that he would report back to the Board at the next meeting.

Chairman Cox called for a motion to notify Bob Hunter to change the renewal form to add an email address and place the proposed change to the renewal form on the Board's agenda at the next meeting. The motion was made by Board Member Johnson, seconded by Board Member Starbard, and the motion passed by a vote of: 4-0 with Chairman Cox abstaining.

Chairman Cox queried, who will let Bob Hunter know about the proposed change and Steven Zavackis informed the Board that he would work with Mr. Hunter on the matter.

The next two items on the agenda were the following:

**Draft Letter by Board Member William Johnson responding to House Bill 2964:**

Section 8G of chapter 26 of the General Laws is hereby amended by adding at the end thereof the following paragraph:

Upon a declaration of an emergency in any area of the commonwealth by the governor or upon the declaration by the commissioner of insurance that severe weather conditions or other circumstances have resulted in a claims emergency, and notwithstanding any other provision of this section, an insurer may appoint temporary qualified appraisers to facilitate the prompt resolution of claims arising out of the emergency by notifying the Board either in writing, electronically or by facsimile. An appraiser already licensed in another state or an appraiser who works for an insurer that does business in Massachusetts and who regularly appraises motor vehicles in a state where an appraiser license is not required shall be considered a qualified appraiser. A qualified appraiser so appointed shall be considered licensed for all purposes of this section, that status shall terminate upon a determination by the commissioner of insurance that temporary appraisers are no longer required to facilitate the resolution of claims.

**Draft letter by Board Member William Johnson responding to a letter submitted by the American Road Services Company of Dearborn, Michigan about the requirement that an applicant for a motor vehicle damage appraiser license must fulfill three months of work experience with a licensed Massachusetts motor vehicle damage appraiser prior to taking the examinations for the motor vehicle damage appraiser license:**

Board Member Johnson reported that he did not have time to complete the draft letters and would have them for the next Board meeting. Board Member Johnson had a question pertaining to the manner the Board would consider the work experience requirement fulfilled. He asked whether an applicant's work experience as a motor vehicle damage appraiser in another state would count towards fulfilling the three months work experience requirement.

Board Member Coyne asserted that as long as the work experience is related to motor vehicle damage appraising then it does not matter what state the applicant gains the experience. The consensus of the Board was that the work experience requirement is not required to be performed solely in Massachusetts and that the work experience can be fulfilled as long as the applicant works under a Massachusetts licensed motor vehicle damage appraiser.

It was agreed by the Board that the item would be placed on the agenda for the next Board meeting.

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

Board Member Lyle Pare informed the Board that licensed motor vehicle damage appraisers need direction as to how they can obtain temporary motor vehicle inspection stickers from the Massachusetts Registry of Motor Vehicles (RMV) to be used on those occasions that they must remove the inspection sticker because the damage to the motor vehicle will affect the safe operation of the vehicle and/or violate state emissions standards. Board Member Pare asserted that he had difficulty ascertaining from the RMV the contact information for obtaining the temporary inspection stickers.

Board Member Coyne declared that he could not comprehend the reason that the RMV was charging appraisers \$8 for the temporary inspection stickers when they are required by the law.

Board Member Pare informed the Board that he could provide the RMV contact information which should be posted on the Auto Damage Appraiser Licensing Board's website. Executive Secretary Zavackis said that he would review the matter with the IT department for the Division of Insurance and determine whether they could post the information and where it would be posted.

Board Legal Counsel Michael D. Powers informed Chairman Cox that the John Murphy, Executive Director Massachusetts Insurance Federation, sent a letter to the Board about House Bill 2964 and requested that the letter be discussed at the next Board meeting. Mr. Powers read the following portion of the letter:

At the last meeting of the ADALB, there was some discussion of a proposed bill (H. 2964) that would allow for the temporary licensure of appraisers when the Governor has declared a state of emergency or the Insurance Commissioner has declared that severe weather conditions or other circumstances have resulted in a claims emergency. The Massachusetts Insurance Federation (the "Federation") secured the filing of this legislation and will be advocating for its passage on behalf of Massachusetts consumers."

For example, following the January 2015 snow storms, the ADALB did not take up the issue of temporary licenses until its February 24<sup>th</sup> meeting. In addition to the delay in meeting, the process itself was inadequate. Because the ADALB had not communicated the process for obtaining temporary appointments, only one company was present at the public meeting to request temporary licenses. Also, the Board apparently requires the insurers or someone else on behalf of the applicants for temporary licenses to be physically present at the meeting and then will address each individual applicant separately. Unfortunately, these processes are not spelled out in the ADALB regulations or through any other official guidance nor were companies advised of the process in advance. Another two weeks passed before the Board scheduled a separate meeting on March 10<sup>th</sup> (weeks after the heaviest storms) to take up requests by other companies for temporary license appointments.

Legal Counsel Powers stated that Mr. Murphy concluded his letter by writing, "We believe such a change is necessary in Massachusetts to ensure that consumers can have their damaged vehicles appraised promptly following extreme weather or other catastrophes. We hope that the ADALB will support this legislation and its goal of expediting the licensing of appraisers during emergency situations." [Mr. Murphy's letter is printed at the end of these minutes].

Board Member Johnson responded that the Board has been mindful of the issue about expediting the process for temporary licenses by the proposed changes to the Board's CMR (212 CMR 2.00

et seq.) which would expedite the process for issuing temporary motor vehicle damage appraisers licenses.

Chairman Cox asserted that Mr. Murphy refers to an incident that transpired in 2015. Board Member Johnson replied that the proposed amendment would address this issue raised by Mr. Murphy.

**Decision by the Office of the Attorney General’s Division of Open Government in the case of Auto Damage Appraiser Licensing Board, OML 2017-72:**

Board Legal Counsel Michael Powers informed the Chairman that he received a decision from the Office of the Attorney General on the Complaint filed by James Steere against the Board for violating the Open Meeting Law with the Office of the Attorney General in December of 2016 which was received after the posting of the agenda on May 9, 2016.

Mr. Powers stated that he gave copy of the decision issued by the Office of the Attorney General’s Open Government Division to the Members of the Board – OML 2017-72. Because the decision arrived in the mail after the agenda had been posted, he was adding this item under “New Business”.

Mr. Powers reported that two of the requests that were made by James Steere in his Open Meeting Law Complaint were successfully defeated. In his complaint Mr. Steere requested that the AG, “1. Find that the ADALB intentionally violated the Open Meeting Law as the ADALB was advised about the same issue in OML-2016-6 in January of this year. 2. Nullification of any actions taken during the October 4, 2016, executive session...”

Legal Counsel Powers asserted that, if the A G’s Office had found that the Board intentionally violated the Open Meeting Law the Members of the Board could have been sanctioned according to the Open Meeting Law Guidelines and quoted from the guidelines, “Upon finding a violation of the Open Meeting Law, the Attorney General may impose a civil penalty upon a public body of not more than \$1,000 for each intentional violation. G.L. c. 30A, § 23(c)(4). An “intentional violation” is an act or omission by a public body or public body member in knowing violation of the Open Meeting Law. G.L. c. 30A, § 18. In determining whether a violation was intentional, the Attorney General will consider, among other things, whether the public body or public body member 1) acted with specific intent to violate the law; 2) acted with deliberate ignorance of the law’s requirements; or 3) had been previously informed by a court decision or advised by the Attorney General that the conduct at issue violated the Open Meeting Law. 940 CMR 29.02.” Mr. Powers concluded that the Office of the Attorney General did not find an intentional violation, nor should they have found the Board intentionally violated the law because the Board was following the Office of the Attorney General’s Manual for Conducting Administrative Proceedings. In addition, Mr. Steere’s statement, “that the ADALB intentionally violated the Open Meeting Law as the ADALB was advised about the same issue in OML-2016-6 in January of this year” was not based on the facts of that case. In that case the AG’s Office found:

The first executive session topic discussed by the Board during its June 2, 2015 meeting was appropriate under Purpose 3 because it concerned imminently threatened litigation. See OML 2014-121. The mere possibility of litigation is not sufficient to invoke

executive session Purpose 3. See OML 2012-5; OML 2011- 30. Litigation must be pending, clearly and imminently threatened, or otherwise demonstrably likely. See *Perryman v. School Committee of Boston*, 17 Mass. App. Ct. 346, 352 (1983); OML 2012-43. Here, an individual whose license had been suspended by the Board sent a letter that the Board understood to threaten litigation. Therefore, the Board was permitted to discuss this topic in executive session. G.L. c. 30A, §21(a)(3). However, it appears that the Board Chair failed to make the required public statement prior to entering into executive session, that an open session discussion would have a detrimental effect on the Board's litigating position. *Id.* This violated the Open Meeting Law. See OML 2012-107.

Legal Counsel Powers elaborated, in that decision, the AG found the ADALB had entered the executive session to discuss threatened litigation, which in fact is a legitimate reason for entering the executive session but that the Chairman had not announced the statutory words that stated any discussion in the public session about the threatened litigation could jeopardize the Board's legal position. As a result of that case, the Chairman now reads the specific statutory reason or reasons before entering into an executive session.

Chairman Cox agreed, stating that since that decision he has read the specific statutory reasons before entering an executive session for all of the Board meetings.

Mr. Powers continued, none of the cases cited in the AG's decision have anything to do with a board, commission, or agency drafting an Order to Show Cause. While denying Mr. Steere's request for a finding that the Members of the Board intentionally violated the Open Meeting Law, the Attorney General's office wrote, "We decline to find an intentional violation because the Board reasonably but incorrectly applied the quasi-judicial exemption." The reason the Attorney General's office declined to find an intentional violation is because the Board followed the Attorney General's "Manual for Conducting Administrative Adjudicatory Proceedings" which was pointed out in the Board's Reply to the Open Meeting Law Complaint filed by Mr. Steere. That fact was omitted from the decision.

Mr. Powers stated he disagreed with the decision for two reasons: (1) drafting of the Order to show Cause commences the adjudicatory process as stated in Chapter II the Office of the Attorney General's "Manual for Conducting Administrative Adjudicatory Proceedings" which is entitled "COMMENCEMENT OF AN ADJUDICATORY PROCEEDING" and found under Part B. of the Manual, "The Content of the Order to Show Cause", and (2) Chapter VII of the Manual under Section G. "The Open Meeting Law". Mr. Powers then summarized and read from portions of the Manual:

**B. The Content of the Order to Show Cause.**

Good administrative practice and the Adjudicatory Rules require the board to include the following in its Order to Show Cause: and then lists 5 elements that should be included in the Order to Show Cause: (1) Docket Number; (2) Title or Caption of the Case; (3) Notice of Statutory Authority; (4) Factual Allegations; and (5) Sanctions.

Chapter VII of the Manual under Section G. "The Open Meeting Law":

...

The law requires that such boards post notice of their meetings, open their meetings to the public, and keep minutes and records of those meetings. When a board subject to the Open Meeting Law conducts an adjudicatory proceeding, it must follow this law, unless specifically exempted by statute. However, a board is not subject to the Open Meeting Law when meeting to make a decision required in an adjudicatory proceeding brought before it. G.L. c. 30A, Section 18. So while the proceeding must be held during an open meeting or properly convened executive session (see G.L. 30A, Section 21) the decision-making portion of the proceeding may be held outside of public view. There are no requirements that a board provide notice or keep minutes when meeting solely to make a decision in an adjudicatory proceeding.

After reading this section Mr. Powers asserted that the Board followed precisely what is written in the Attorney General's Manual when reviewing elements of the proposed Order to Show Cause at the October 4, 2016, meeting. This Manual was cited in the Board's response to the complaint filed by Mr. Steere and any references to these sections of the Manual were omitted from the decision rendered by the Office of the Attorney General.

While not mentioning the Office of the Attorney Generals "Manual for Conducting Administrative Adjudicatory Proceedings," the office of the Attorney General wrote in the decision "Adjudicatory proceedings begin with the issuance of an Order to Show Cause why a licensee should not be disciplined. See 801 CMR 1.01(6)(a)." Mr. Powers asserted that, this section of the cited regulation provides, "Initiation of Formal Adjudicatory Proceedings. (a) Agency Notice of Action. When an Agency initiates a proceeding against a Person regarding an Agency action or intended action, the Agency shall provide the Person with notice of the action or an order to show cause why the action should not be taken. The notice or order shall state the reason for the action. It shall specify in numbered paragraphs the specific facts relied upon as the basis for the action, the statute(s) or regulations authorizing the Agency to take action, and, in the case of a notice, any right to request an Adjudicatory Proceeding."

Mr. Powers pointed out that the proceeding commences with the drafting of an Order to Show Cause as stated in the Manual and the Standard Adjudicatory Rules of Practice and Procedure. The Office of the Attorney General's Manual for Conducting Administrative Adjudicatory Proceedings and the Massachusetts regulation governing adjudicatory proceeding were followed by the Board to the letter. An Order to Show Cause does not drop down from the sky, a Board must first write one to initiate the adjudicatory proceeding.

Mr. Powers concluded that the Office of the Attorney General's decision makes reference to the case of District Attorney for Plymouth District v. Board of Selectmen of Middleborough 395 Mass. 629 (1985). In that case the court found that the Board had discussed a wide variety of matters during its executive session not covered by exceptions to the Open Meeting law. The Board followed that case to the letter of the law at the meeting held on October 4, 2016. The agenda of the October 4, 2016 meeting of the ADALB, specifically referred to the exemption found in Section 18 of Chapter 30A and discussed the drafting of the Order to Show Cause as instructed by the Attorney General's Manual for Conducting Administrative Adjudicatory Proceedings and the Code of Massachusetts regulations.

As for Mr. Steere's second request, that the Attorney General nullify any action taken during the executive session, the AG's Office denied the request by finding, "With respect to the Board's discussions involving the motor vehicle damage appraiser applicant with the criminal conviction and Complaints 2016-8, 2016-10, and 2016-12, the Board properly met in executive session and afforded the individuals their rights under Purpose 1."

Mr. Powers concluded, the issue raised by Mr. Steere can be avoided going forward when the Board reaches the point of drafting an Order to Show Cause, by Board Legal Counsel contacting Board Members individually to discuss any of the elements of a potential Order to Show Cause. When Board Counsel consults an individual Board Member, there is no need to post a notice of Board meeting, because there is no quorum of Board members meeting to discuss Board business, there are no deliberations being discussed among a quorum of Board Members, and any such discussion is between Board Legal Counsel and an individual Member of the Board. In the future, any discussion of drafting an Order to Show Cause will not be placed on the Board's agenda or discussed during a Board meeting, and, therefore, there will be no issue that could form the basis of an Open Meeting Law complaint.

Mr. Powers stated that the Board should consider changing the Complaint Procedures to reflect a procedure for drafting an order to show cause to be followed by the Board in the future.

Mr. Powers informed the Board that they needed to determine whether the Board wished to pursue an appeal of the decision made by the Division of Open Government of the Office of the Attorney General. He asserted, any appeal would be tied up in the courts for at least a couple of years, and would be a tremendous waste of time and effort; just as responding to the complaint filed by Mr. Steere was a terrific waste of time and effort.

Board Member Johnson stated that it may be a good idea to send a letter to the Office of the Attorney General about the decision and the language currently contained in the Office of the Attorney General's Manual for Conducting Administrative Proceedings. Mr. Powers responded that the author of the Manual, Assistant Attorney General Quinan wrote in the preamble that comments or suggestions for the Manual are invited.

Board Member Johnson made a motion that the Board not file an appeal of the decision made by the Office of the Attorney General's Division of Open Government and send a letter to Assistant Attorney General Quinan advising him about the decision and having the Manual reflect this new procedure, the motion was seconded by Board Member Coyne. The motion passed by a vote of: 4-0 with Chairman Cox abstaining.

**Next scheduled meeting:**

Chairman Cox asked for a date for the next Board meeting. Mr. Powers stated that the date for the next Board meeting should be a separate date than the date scheduled for the administrative hearing. Attorney Gallagher was allowed to speak to the Board and stated that it would be best to discuss a date for the hearing at the pre-hearing conference that was scheduled for the administrative hearing that was scheduled to begin after the Board meeting, and Chairman Cox agreed.

The Board determined that the next regularly scheduled Board meeting would be held on June 13, 2017, at 9:30 AM at 1000 Washington Street, Boston, Massachusetts.

**Executive session:**

Before entering the executive session Chairman Cox made the following statement:

The Board is about to enter the executive session to review and discuss the background of applicants for motor vehicle damage appraiser test who have disclosed a criminal conviction on the application. Review and discussion of Complaint 2016-11, Complaint 2017-1, and Complaint 2017-2 filed against motor vehicle damage appraisers licensed by the Auto Damage Appraiser Licensing Board. Such discussions during the executive session are allowed for 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, and *Department of Public Safety Board of Appeals Matter*, OML 2013-104. 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' attorneys have requested these matters be heard in the executive sessions. At the previous Board meeting the licensed appraisers and their attorneys agreed to attempt mediation with the complainant's and report whether mediation was successful.

Chairman Cox called for a roll-call vote to enter the executive session which included the announcement that the Board would adjourn in the executive session and not return to the public session. The motion to enter the executive session and adjourn in the executive session was made by Board Member Johnson and seconded by Board Pare, the motion passed by a roll call vote of: 4-0 with Chairman Cox abstaining.

**Executive Session:**

Steven Zavackis informed the Board that there were no applicants present for the Board meeting who disclosed a conviction on the application to take the examinations for motor vehicle damage appraiser license.

**Complaint 2017-4:**

Board Member Starbard returned to the meeting. Board Legal Counsel Powers informed the Board that the attorney for the licensed appraiser, John A. Donovan III, was present for the meeting. Mr. Powers reported that the complainant contacted him the day before and reported that he wished to withdraw the complaint after discussions with Attorney Donovan and that he was satisfied with the response to his complaint.

Attorney Donovan appeared before the Board and requested to be heard and Chairman Cox granted permission. Attorney Donovan skillfully summarized his client's position, informed the Board that he had discussions with the complainant who agreed to withdraw the complaint.

Board Member Coyne made a motion to dismiss the complaint which was seconded by Board Member Johnson and the motion passed by a vote of: 4-0 with Chairman Cox abstaining.

**Motion to adjourn:**

Board Member Pare made a motion to adjourn which was seconded by Board Member Johnson, and the motion passed by a vote of: 4-0, with Chairman Cox 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).

**List of Documents provided at the Board meeting:**

- 1. Letter dated May 11, 2017, from John Murphy, Executive Director of the Massachusetts Insurance Federation, to Chairman Gilbert W. Cox Jr.**
- 2. Letter from Office of the Attorney General dated May 5, 2017, OML 2017-72.**

**Via email to Mike Powers**

May 11, 2017

Mr. Gilbert W. Cox  
Chair  
Auto Damage Appraisers Licensing Board  
Suite 810  
1000 Washington Street  
Boston, MA 02118-6200

**RE: H.2964, An Act Providing for Temporary Emergency Licensing of Appraisers of Motor Vehicle Damage Covered by Auto Insurance Policies**

Dear Mr. Cox:

At the last meeting of the ADALB, there was some discussion of a proposed bill (H. 2964) that would allow for the temporary licensure of appraisers when the Governor has declared a state of emergency or the Insurance Commissioner has declared that severe weather conditions or other circumstances have resulted in a claims emergency. The Massachusetts Insurance Federation (the "Federation") secured the filing of this legislation and will be advocating for its passage on behalf of Massachusetts consumers.

The Federation serves as the leading voice of the property and casualty insurance industry in Massachusetts. Its member companies write approximately 80% of the private passenger auto insurance in the Commonwealth.

During the past several years, Massachusetts has experienced a number of severe weather events. In these instances, insurers have found it necessary to bring in appraisers from other states to handle the tremendous volume of claims arising out of these extraordinary circumstances. Unfortunately, the existing statutory framework does not provide for an expedited licensing process at the ADALB and this resulted in unnecessary delays and unwarranted consumer frustration.

For example, following the January 2015 snow storms, the ADALB did not take up the issue of temporary licenses until its February 24<sup>th</sup> meeting. In addition to the delay in meeting, the process itself was inadequate. Because the ADALB had not communicated the process for obtaining temporary appointments, only one company was present at the public meeting to request temporary licenses. Also, the Board apparently requires the insurers or someone else on behalf of the applicants for temporary licenses to be physically present at the meeting and then will address each individual applicant separately. Unfortunately, these processes are not spelled out in the ADALB regulations or through any other official guidance nor were companies advised of the process in advance. Another two weeks passed before the Board scheduled a separate meeting on March 10<sup>th</sup> (weeks after the heaviest storms) to take up requests by other companies for temporary license appointments.

These are not the only occasions where there have been significant delays in the Board scheduling meetings to make appointments of temporary licensees. In fact, after every major weather event requiring insurers to bring in appraisers from other states, the Board has not been able to address the problems in a prompt and efficient way. As a result, many drivers with damaged vehicles were forced to wait weeks, in some cases, to have their vehicles appraised and repaired. Clearly, the current process can be improved to deal with emergency situations.

H.2964 adds language to the ADALB statute that will ensure the prompt licensing of appraisers when a claims emergency arises. Based on a Rhode Island law that has worked well, the proposal would allow insurers to inform the ADALB and automatically appoint temporary, qualified appraisers following the declaration of an emergency in any area of the Commonwealth by the Governor or by the declaration of a claims emergency by the Commissioner of Insurance. These appointments are temporary and terminate upon a determination by the Commissioner that their services are no longer needed to facilitate the resolution of claims.

We believe such a change is necessary in Massachusetts to ensure that consumers can have their damaged vehicles appraised promptly following extreme weather or other catastrophes. We hope that the ADALB will support this legislation and its goal of expediting the licensing of appraisers during emergency situations.

Very truly yours,

A handwritten signature in black ink, appearing to read "John P. Murphy". The signature is written in a cursive style with a large, sweeping flourish at the end.

John P. Murphy  
Executive Director

cc: Gary Anderson, Acting Commissioner of Insurance