



May 4, 2016

Mr. Gil Cox, Esq., Chairman
Massachusetts Auto Damage Appraisers Licensing Board
1000 Washington Street, Suite 810
Boston, Massachusetts 02118

Dear Chairman Cox and Members of the Board:

On behalf of the 300 members, representing over 500 auto body repairers, of the Alliance of Automotive Services Providers of Massachusetts (“AASP/MA”), I am writing to provide comments to the Massachusetts Auto Damage Appraisers Licensing Board (“ADALB”) relative to proposed changes to 212 CMR 2.00. As the ADALB reviews its regulations to further protect consumers and ensure quality standards for licensed appraisers, we appreciate your consideration of the following items.

A. 212 CMR 2.02(7): Licensing Requirements and Standards for Appraisers.

(7) Conflict of Interest. Paragraph 3, 1st sentence, after the word “for”, please insert the following: - “or on behalf of at a repair shop. Notwithstanding this provision, all drive-in appraisal services must inform consumers of their right to have their vehicle repaired at any licensed repair shop of their choice.”

As you are well aware, Mass. Gen. Laws ch. 26, §8G provides that “[n]o appraiser or insurer shall request or suggest that repairs be made in a specified repair shop.” Commonly known as the anti-steering law, this provision of law prevents insurers or appraisers from directing business to a specific repair shop. Given the formation of new “marketing” techniques including, but not limited to the co-location of insurers and repair shops, it is more important than ever that consumers know their rights to choose a repair shop of their choice. Unfortunately, the anti-steering law is not well known by consumers – something these new “marketing” techniques make more confusing. In an effort to better protect consumers, this simple amendment will protect consumers by further educating them as to their rights during the repair process.

B. 212 CMR 2.04: Procedures for the Conduct of Appraisals and Intensified Appraisals.

(1) Conduct of Appraisals.

(c) Contact with the Claimant and Selection of Repair Shop. Please strike the last sentence: - “The provision of 212 CMR 2.04(c) shall not apply to any direct payment plan pursuant to 211 CMR 123.00.”

As previously mentioned, strengthening anti-steering requirements best serves the Commonwealth’s consumers. Consumers are often not aware of their right to use any repair shop of their choosing during the repair process and that all repair shops must guarantee their work regardless of their relationship to an insurer.

(e) Determination of Damage and Cost Repairs. 2nd to last sentence, 1st paragraph, please amend the language to read: - “Manufacturers recommended repair procedures, I-Car, Tec Cor and paint manufacturer procedures shall also apply.”

The current regulation states that the aforementioned procedures “may” apply in determining the damage and costs of repairs. The fact remains that the procedures listed do apply when determining damages and costs. To better protect consumers, the determination of repair procedures, for purposes of computing the repairs necessary and cost therein, should be as uniform as possible. Striking the word “may” protects consumers by eliminating countervailing interpretations by appraisers for both insurers and repair shops that often leaves consumers without an ability to know what is appropriate and what is not.

(e) Determination of Damage and Cost Repairs. Paragraph 4, Please insert at the beginning of the 1st sentence, the following: “The use of used suspension and steering parts that contain wearable components may affect the operational safety of the vehicle.”

(e) Determination of Damage and Cost Repairs. Paragraph 4, please insert after the 3rd sentence, the following: - “Costs associated with the shipping and handling of parts including cores, shall not be considered overhead costs of the repair shop either and shall be listed on the appraisal.”

According to the regulations, insurers must recommend the use of an aftermarket part. Often times that part simply does not fit the vehicle. If, after determining a requested part does not fit, the onus to return the bad part is on the shop owner. Since the requirement of the part was suggested by the insurer, the costs to return said part should be paid by the insurer and listed on the appraisal. There are also many instances when a new part purchased will have a separate core charge associated with it that the repairer must pay for up front and separately process pickups of the core and supplier credit.

(e) Determination of Damage and Cost Repairs. Paragraph 4, 4th sentence, please amend the sentence as follows: - “With respect to paint, paint materials, body materials and related materials, if the formula of dollars times hours is not accepted by a registered repair shop or licensed appraiser, then a published

database shall to used.”

When this regulation was written, appraisers used a paper manual. With advances in technology, a printed, paper copy of the manual is no longer made or in use by the industry. Instead, it is an electronic manual which is incorporated into the various appraisal software. Additionally, this amendment further protects consumers by creating an easily understood and simple process for computing costs. By striking the phrase “unless otherwise negotiated between the parties”, the ADALB will further create a simpler, more transparent transaction for consumers and licensed appraisers.

(e) Determination of Damage and Cost Repairs. Paragraph 6, please amend the 1st sentence to state- “The appraiser shall fax or electronically transmit the completed appraisal within 3 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 electronically submitted or faxed within 3 business days of the assignment.”

With the advances in technology, the use of mailing forms is antiquated. Communication between appraisers often comes in the form of email or fax. As such, the required five (5) days to return an appraisal simply delays the transaction – resulting in greater costs to consumers (i.e. time without vehicle; etc.); insurers (i.e. costs related to rental vehicles, etc.) and repairers (i.e. time vehicle is on property, etc.). With today’s technology, three (3) business days for transmitting a completed appraisal will improve cycle time and consumer experience.

(h) Supplemental Appraisals. Please strike the 3rd and 4th sentences and replace them with the following: - “The insurer shall assign an appraiser who shall personally inspect the damaged motor vehicle within one business day of the receipt of the such request. If the personal inspection does not occur in one business day, the repair shop has the right to use their supplement, unless otherwise agreed upon. “The appraiser shall have the option to leave a completed copy of the supplement 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 faxed, electronically submitted or hand delivered to the registered repair shop within one business day.”

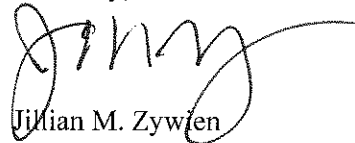
As previously mentioned, with advances in technologies, expedited supplements can be completed in one (1) business day. Expediting this process will benefit all parties, most importantly the consumer, by reducing cycle time and costs.

On a final note, AASP would like to highlight that both consumers, insurers and auto repair businesses will be better served through increased enforcement by the ADALB of the current regulations. As currently written, the regulations, for the most part, provide necessary clarification for both insurers and auto repair shops. In our experience, the areas that can cause confusion and various interpretations of the regulations are limited.

As the ADALB considers the regulations of 212 CMR 2.00 *et. seq.* in light of Governor Baker’s Executive Order 562, it is imperative that consumer safety and high standards of practice are of foremost consideration. The recommendations outlined above will ensure that the Commonwealth’s repair shops operate at the highest standards and, protect the interests of consumers.

I appreciate your consideration of this important matter. AASP looks forward to working with the ADALB during this ongoing process of regulatory review. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jillian M. Zywiec', with a long horizontal flourish extending to the right.

Jillian M. Zywiec
Executive Director

Cc:

Mr. Daniel Judson, Commissioner
Massachusetts Division of Insurance