



# THE COMMONWEALTH OF MASSACHUSETTS AUTO DAMAGE APPRAISER LICENSING BOARD

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LYLE M. PARE

## AGENDA

### **For Auto Damage Appraiser Licensing Board (“Board or ADALB”) Meeting Scheduled for June 13, 2017, 9:30 AM at 1000 Washington Street, Boston, Massachusetts**

- I. Call to order.
- II. Approval of the Board minutes for the Board meeting held on May 17, 2017.
- III. Report on the next Part-II examination for motor vehicle damage appraiser.
- IV. 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 domiciled in the state of California and doing business as “Access” in Massachusetts.
- V. Proposal to approve a change to the renewal license for motor vehicle damage appraiser to included an email address on the application.
- VI. 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 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.

- VII. 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.
- VIII. Approval to amend the Board minutes of October 4, 2016, Board meeting and to waive the Attorney/Client Privilege doctrine as enunciated by the Massachusetts Supreme Judicial Court in the case of *Suffolk Construction Co. Inc. v. Division of Capital Asset Management*, 494 Mass. 444 (2007) for that portion of the minutes of the executive session of the October 4, 2016, Board meeting that involved legal advice and the discussion between Board Legal Counsel and the Members of the Board about the legal elements of a proposed Order to Show Cause and to approve and publish the minutes of that part of the executive session during which time these discussion were held. Such publication was ordered by the Division of Open Government in the case of OML 2017-72, and the Board voted on May 17, 2017, not to appeal the decision rendered in that case for the reasons stated in the minutes of the May 17, 2017, Board meeting.
- IX. Approval of the Board, a letter to Robert L. Quinan Jr. Assistant Attorney General Administrative Law Division/Government Bureau informing him of the decision rendered by the Division of Open Government in the matter of OML-2017-72, and requesting that any future revisions of the MANUAL FOR CONDUCTING ADMINISTRATIVE ADJUDICATORY PROCEEDINGS (2012 Edition) include a reference to this decision and guidance to boards, commissions, or agencies as to the manner of complying with it.
- X. Other business – reserved for matters the Chair did not reasonably anticipate at the time of the posting of the meeting and agenda.
- XI. Executive session to review and discuss the background of applicants for motor vehicle damage appraiser test whom have disclosed a criminal conviction on the application. 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, and *Auto Damage Appraisers Licensing Board Matter*, OML 2016-6. 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.

XII. Motion to adjourn.