

# **AUTO COLLISION REPAIR LICENSING ADVISORY BOARD**

## **MEETING MINUTES FOR OCTOBER 29, 2008**

**Members Present: Dave Reynolds, Auto Body Chairman**

**Richard Berstein, Executive Counsel, DBR**

**Charles Nystedt, MetLife Auto & Home**

**Dennis Gamba, Cranston Collision**

**Paul Kiernan, Pat Masse**

**Dan Coleman, Fournier & Coleman Auto Glass**

**Others Present: Kim Precious, DBR**

**Tom Broderick, DBR**

**Randy Bottella, ABARI**

**Larry Alan, Nationwide**

**Rep. Bruce Long, House of Representatives**

**Steve Zubiago, Nixon Peabody**

**Jodi Nourse Bourque, Nixon Peabody**

**Bruce Nash, ColorAll**

**Sean Bryton, RedStar Auto Works**

**Members Absent: Gerry Galleshaw, Represent the People**

**Corporal Dave Doucet, RISP**

**MEETING CALLED TO ORDER AT: 10:44**

**Motion to pass September 24, 2008 minutes by Dave Reynolds.  
Seconded by CN. All in favor.**

### **Board Compliance Standards**

**RB: All DBR board meetings need to be held in accordance with compliance standards, including the Open Meetings Law, R.I.G.L. §42-46-1. As such if there is an investigation we need to discuss in executive session. The board also needs to be aware of record retention requirements, and needs operating guidelines.**

**DR: Board members have to vote that they want to go into executive session. Board members also have to be aware of the fact that once we go into executive session, everybody on this board could be fined by the Attorney General's department if there is a problem.**

**Randy: The first line of R.I.G.L. §42-46-5 states Purposes for which meeting "may" be closed... May is an elective word, not mandatory.**

**DR: Who is going to be the voting member beside you for DBR?**

**RB: It may be Kim. But the Director is in the process of discussing what the Governor's Office recommendation is. Kim is our recording secretary at this point. There are two licensing related matters before**

**the board. Investigative proceedings, regarding civil or criminal misconduct, like conducting auto bodywork without a license is an allegation of civil misconduct. Investigations should be held in Executive Session because the investigation may prove that the person did nothing wrong.**

**DR: There is no formal complaint against this gentleman. We are not going to ask him any private questions. Sean Bryton, Red Star Auto Works: Are you doing bodywork?**

**SB: No, I am not a body shop.**

**DR: Are you doing any painting?**

**SB: No painting. Unless, does a spray can count?**

**DR: If it is in a closed area and you are doing it constantly, day in and day out. That is something that you would have to take up with the fire marshall.**

**SB: I do mechanical work and I sub contract all my paint and body work out to a body shop.**

**DR: If your not doing any painting then you have no business before this board.**

**RB: Ok. Then he can be dismissed.**

**DR: Next -John Franco – John's Auto Body Service?**

**TB: He never responded. I talked to him a couple of times on the phone. He said he'd sign a document stating that he's not going to do any bodywork anymore.**

**DR: Ok. We can send him a letter that if he is doing auto bodywork or if he is advertising as an auto body service he has to cease and desist.**

**RB: An investigation provides the facts to determine if a show cause order should be issued. You do the investigation first, if there is palpable evidence that there is civil misconduct, (unlicensed activity), then what happens is a show cause order is issued, a show cause order to why a cease and desist order should not be entered against you for practicing unlicensed activity, and then, the Department assigns a prosecutor and a hearing officer to the case, and a decision is made. That decision then goes to the Director and he can agree, disagree, or modify, the findings of the hearing officer.**

## **OLD BUSINESS**

**RB: There is going to be hearing at the Department of Labor in**

**building 73 on November 21st for the complementary regulations on code of conduct. I believe Insurance may be first at 10AM and then Commercial Licensing at 11AM.**

**DG: The sub-committee, worked for weeks to put together the standards. It was brought up as a package that is why both parties sat at the table and negotiated that this is what we were going to submit. It has changed dramatically favoring the insurance industry.**

**LA: In my review of commercial licensing regulation 15 and the proposed amendments to regulation 42, the department addressed issues that the sub-committee did not. One of which was to create a definition of conduct. I checked it word for word and they have not amended the standards or proposals to 42. What they did was add elements that were not discussed by the sub-committee. I have some concerns and you will hear my comments on the 21st.**

**Randy: There have been changes made which is a requirement that all body shops should require an e-mail address for appointments. I know a bunch of body shops that don't even have e-mail. It is totally impractical. It doesn't make any sense and it actually makes the two industries less conducive to doing business with each other.**

**RB: The committee and the sub-committee are an advisory committee only. My understanding was that both the Insurance Division and the Commercial Licensing Division met with the Director**

**to discuss the regulations. What came out reflects modifications by the Director. If anyone in the public disagrees with anything in these regulations they can speak at the public hearing.**

### **Technician Certification Update**

**DR: Regulation went up to the Director, I hand delivered it on October 21, 2008, and e-mailed everybody. We have not seen any changes yet.**

### **Color-All**

**RB: Mr. Chairman, I have got to leave shortly- There is information about hazardous materials and again my recommendation would be that based on the statute that I referenced, this board would be well-advised, from a legal standpoint to go into Executive Session which would mean that for all individuals to leave the room, except board members.**

**DR: There is not going to be any questions asked of Color-all that has to do with any of their conduct, or the proprietary nature of their application. I am going to ask a couple of quick questions, and then depending on where those questions go, we may go into executive session.**

**Did you get the MSDS sheet on Color-All? When did you get that? I**

**never got that.**

**KP: I think it was last week sometime. I emailed a copy to board members. It was a big email, delivery was not accepted by everyone's computer.**

**DG: I have so many questions that I would certainly need more time to digest this and prepare my questions. §5-38-1- Auto body repair shops defined- Auto body shops here and after are to be referred to as an auto body shop, shall include any establishment, garage or work area enclosed within a building where repairs are made or cause to be made to a motor vehicle body.**

**DR: I think that was the intent when they drafted § 5-38. When the last application was voted down I sent a letter up to the director outlining that I believe § 5-38 specifically specified that an auto body shop was a facility enclosed and confined in a specific location. But the Director shot that argument down.**

**DR: How is paint waste transported and stored?**

**BN: Color-All does not generate paint waste. Paint is mixed in one-tenth pint increments and in the rare instances that a small quantity is left over after the repair is completed then that remaining paint is stored in a small container and identified by a code.**

**DR: You do clean your spraying equipment even when you use water-born based paint. The paint waste that you are accumulating from cleaning your equipment is considered a hazardous waste.**

**BN: No, it is not.**

**DR: It is less hazardous than the solvent based waste but it is still a hazardous waste. According to the EPA.**

**BN: Not true. It only becomes a waste when you declare it as a waste. We don't declare it as a waste because we recycle it continuously.**

**DR: If something is a hazardous waste, it's a hazardous waste if you declare it or not. Why does your technician wear a respirator when he is spraying it if its not hazardous?**

**BN: He is not spraying waste.**

**DR: But he is spraying a hazardous substance that is atomized in a spray gun.**

**BN: Actually he is not.**

**DR: I read the bag sheets on it, and the relation of water-born.**

**BN: We don't use water-born, only in California.**

**DR: Then you are using solvent based.**

**BN: We are.**

**DR: Then that is even more hazardous.**

**BN: Because we spray in the open air we are not required by any agency.**

**DR: There is a restriction to spraying in the open air except for a hobbyist. When you classify yourself as a business that is going to be spraying 10-15 or more components in the course of a day, you can't classify yourself as a hobbyist.**

**BN: I can provide a report with written evidence that we do not require a technician to wear a spray hood. They may choose to wear a spray hood. If I were a technician then I would wear one. Then they would have to go through fit testing.**

**DR: You are dealing with high ionic that if they have been ingested into your lungs not only do irreparable damage to your lung tissue they also do irreparable damage to your nervous system.**

**SZ: The EPA said they don't consider it a waste. It is all on the**

**application.**

**DR: Then we have conflicting statements from the EPA because I've got documentation to show you that EPA says it is hazardous waste. In the conversations we had prior to today you said you were using water-born paint, but not in Rhode Island. So you are using solvent based paint in Rhode Island. Rhode Island's B.O.C system is going to be just as stringent in a very short time.**

**DG: What do you mean when you are saying you are reusing it? Isn't there at some point some waste? You can only reuse it so many times.**

**BN: The process is that we are using a water-based solvent that is recyclable.**

**DG: You did not say you were using water based.**

**DR: You are using a water-based solvent to clean solvent-based paint? But everything you are spraying is solvent based?**

**BN: You are used to using regular thinner or some similar product in a probably enclosed compound. Eventually it gets to a point where it is not effective, you are probably using fresh thinner every time they are cleaned out, and then that product gets disposed of properly. You need a manifest, you need an EPA ID number.**

**DR: Explain to me how you know.**

**BN: We use to do it that way and we used to have a contract with a safety corporation. We ran a recycling program. We were introduced to this product and we found it was very beneficial because the EPA gave us a letter of accommodation for using a green product and the fact that we don't any longer have to keep an EPA number, don't have to keep a manifest because we don't create a hazardous waste. The product is recycled every time you use it. When it gets to a point it is to murky then we use another substance, which dissipates through the product and is a fluffing agent and that fluffing agent allows it to dry in the open air. I have documentation from the EPA and then we dispose of that.**

**DR: I'll need a copy of the letter from the EPA, because everything he is spraying in the 7000 series, is hazardous to the environment.**

**Randy: Your question is in reference as to what they were spraying on the part, and Mr. Nash's response was to what was used to clean the spraying equipment.**

**DR: are you spraying urethane clear over the base coat to finish off your product?**

**BN: Yes.**

**DR: You don't put that back in the can and reuse it.**

**BN: Everything we mix we spray out.**

**DG: Would it be reasonable to say that he would stock some inventory.**

**BN: The only place paint would be is in their truck.**

**DR: According to your file, you perform a service to as many as 10-15 cars a day. 8 ounces is not going to spray 10 black bumpers your technician is going to be running back and forth to the store a couple of times during the course of the day.**

**BN: A lot has got to do with the transfer of efficiency in the sprayer.**

**DR: I was curious because the transfer of water-born is probably twice that of solvent bases.**

**BN: 98% transfer efficiency.**

**DR: 98% transfer because the other 2% is going to drop off. You cannot spray urethane based clear coat in 98% efficiency outside in the open air, because it will be on the ground. And that is a fact.**

**BN: I think you need to see a demonstration. We can bring one right here.**

**CN: A member of the board should go through the application materials plus this technical stuff and reduce to a written form. We as a board at some point have to say yes we have gone through this stuff, and this is where it is deficient, and give him an opportunity to respond to those stated deficiencies.**

**DR: Absolutely. But we have got to make sure we do our homework.**

**BN: In reviewing the MSDS sheets don't expect to see anything unusual. The only one, that you probably have never seen before is the MSDS sheet for aqua 50.**

**DR: I am familiar with the aqua 50.**

**Motion to adjourn by Dave Reynolds, seconded by CN. All in favor, none apposed. Meeting Adjourned at 12:18 p.m.**