

AUTO COLLISION REPAIR LICENSING ADVISORY BOARD

Meeting Minutes of February 23, 2011

**Members present: Dave Reynolds, Chairman, Collision
Repair Member**

Tom Broderick, DBR

**Dave Doucet, RISP, Law Enforcement
Member**

**Scott Wendell, Insurance Industry
Member**

Gerry Galleshaw, Public Member

**Members Absent: Louis D'Quattro, Jr. – DBR, Deputy
Director, Division of Regulatory
Standards, Compliance and Enforcement**

Dennis Gamba, Direct Repair Member

Dan Coleman, Glass Industry Member

Chris Hurd, New Car Dealer Member

Others Present: Larry Alan, Nationwide Insurance

Randy Bottella, Reliable Collision Repair

Kim Precious, Implementation Aide

Evelyn Ferrara, Licensing Aide

**Dave Reynolds: Called meeting to order at 10:30 A.M. Motion to
approve minutes of January 2011.**

Tom Broderick: Seconded the motion. All in Favor.

Dave Reynolds: Did everyone get a copy of the distribution of training curriculum & resume for Larry Montanez. He has been an I-Car instructor. I sat through his classes and seminars. Did everyone take a look at Larry Montanez's resume and program? Motion to authorized Larry Montanez to train in RI.

Dave Doucet: Seconded. All in Favor.

Dave Reynolds: Next on agenda. REGULATION 4. Did everyone get a copy of redlined version?

Scott Wendell: I noticed they changed form to state "consumer."

Dave Reynolds: The word consumer may require statutory changes. Look through regulation and Appendix A- the Work Completion form.

Randy Bottella: The last thing I recall was there were only two sections in there. One to show the repairs made and the other stating the repairs weren't made.

Kim Precious: I think we also took out the deductible and the authorized agent sections.

Dave Reynolds: There is a bulletin from DBR acknowledging the fact it exceeds the statutory language and regulation that was passed at the state house. So that was supposed to be out of there a long time ago.

Kim Precious: I have a question on the license types where it says a paint system or access to a paint system. What does access mean?

Dave Reynolds: Access to a paint system means we have a paint system in the shop where we can mix our own paint, or a shop goes to the dealer that sells the paint, and they have it there already mixed.

Randy Bottella: To clarify, he is the paint supplier not the dealer.

Dave Reynolds: Board extends their Congratulations to Mr. Bottella for being the president of the auto body association, again.

Scott Wendell: Would suppliers in RI sell paint to unlicensed people.

Dave Reynolds: Yes they would

Scott Wendell: That shouldn't happen.

Dave Reynolds: Under a number of occasions we put in legislation at

the state house. We are then told they are hobbyist. So they can paint a car. We have serious concerns with this at the state house and have been doing this for years.

Randy Bottella: We have actually put in a proposal at one point that made it mandatory for anyone who purchases paint to show a valid body shop license. If they didn't they were going to have to keep a log to show who bought that paint and what amount and we were going to cap them at a few purchases a year.

Dave Reynolds: We need a regulation from DBR. We as licensees pay a lot of money to maintain our licenses. These are hazardous materials and our question is what do they do with the waste?

Tom Broderick: I wonder if they can they get it from Massachusetts or Connecticut. Or buy it on-line.

Dave Reynolds: Yes they do.

Larry Alan: When you met with the Department on Regulation 4, I was not able to attend. I only have the Sept 7th version from Jina. I noticed some major changes. I did want to ask about them. First: Under definitions on page two a new definition was added for consumer. Why?

Dave Reynolds: We don't know.

Larry Alan: Is there anyone from the department that can answer that?

Dave Reynolds: I believe the department wanted to use the word consumer not to be misconstrued between claimant and insured. We will check on that.

Larry Alan: It has to be more defined than a person or entity whose vehicle is to be repaired. In the new (f) "director or his or her designee". I rarely see that. Is that something the department wanted to add?

Dave Reynolds: We didn't put that there. Everything you see in here is from the Department.

Larry Alan: Are we eliminating chassis in definition (h)? Is that to make it comply with the statutory definitions? Because I thought the statutory definition included chassis?

Dave Reynolds: The statutory definition included chassis. Maybe the Department acknowledges the fact that outside of trucks and very few full size vehicles, right now I can think of only two in existence, one is the big mercury and the other is the big Lincoln. All vehicles are uni-body now days.

Larry Alan: So you had some input this in?

Dave Reynolds: That was done in an open hearing. Because we have talked about that when we talked about some after-market part issues before the department on a number of occasions. We brought to their attention and the attention of this board that vehicles are no longer chassis vehicles.

Scott Wendell: Component/Chassis? Component would cover whether it was uni-body or frame?

Larry Alan: The search here is for accuracy.

Dave Reynolds: They would have to acknowledge the fact there is a uni-body vehicle. Motor vehicle body means the part of the vehicle mounted on the chassis or frame or uni-body.

Larry Alan: Page 6. The reference to 27-10.1-9. We had a lot of discussion as to whether or not Commercial Licensing can even reference Insurance Division Regulations?

Dave Reynolds: The argument there, was expounded upon by Jeanne McCarthy on a number of occasions, we overlap in regulation 73 and 42 and 43.

Larry Alan: Would it be appropriate to replace the reference to the Insurance Statute with a clearer reference to Commercial Licensing Regulation that addresses that issue?

Dave Reynolds: So you want to reference Commercial Licensing Regulation 15.

Larry Alan: I am just saying it makes more sense for a Commercial Licensing Regulation to reference another Commercial Licensing Regulation. Again that is something for the DBR Legal Division to decide. Another question I have is on page 8. The elimination of sub-section c, section 8. On Page 8. On the very top of the page you have b, all files except the recordance. Then in previous section c was a fully and complete executed section was eliminated.

Dave Reynolds: I understand the department's stand on that was they didn't want to burden the body shops to maintain paperwork for insurance companies.

Larry Alan: You are not maintaining paperwork for the insurance companies. You are maintaining for yourselves. There is a requirement that you retain it.

Dave Reynolds: If there is a complaint against a body shop that warrants a hearing or subsequent actions, you are asking a body

shop to give information knowing that the insurance company may be pursuing criminal action against them.

Larry Alan: That is a very narrow definition. This is a conversation that we had in detail. We may be conducting an anti-fraud review of the customer. Our SIU Unit might want to have that in their hands and the only place they can get it is from you.

Dave Reynolds: If you are conducting an anti-fraud review and it was of the consumer, I don't understand how that would work.

Larry Alan: It's a public document.

Dave Reynolds: Its not a public document because I am under strict rules and regulation on private disclosure pertaining to customer private information. If a customer comes into my shop and you call me up and ask to see the address and phone number of that customer. That is private information.

Larry Alan: But that is public information.

Dave Reynolds: Not if he has an unlisted number.

Larry Alan: Rhode Island already has a statute to protect private information.

Dave Reynolds: Yes. But I would not give you any information until I checked with the customer.

If the state police or local law enforcement came into my shop and asked me to pull the file on that customer's car I would like to see exactly what you did with it because there is something going on right now. I probably would hand over the folder at that stage of the game. But legally I might be doing something I am not suppose to be doing by allowing information to go to someone that is investigating somebody and their attorneys will have a problem with that.

Larry Alan: How did it get eliminated?

Dave Doucet: By the Insurance Division by Paula Palozzi unrelated to this and this came up and that was one of the things that she mentioned was that they had a problem with what the body shops maintain.

Dave Reynolds: There is a question about what you can and cannot reveal in an investigation.

Larry Alan: There was an effort to remove us, from the process, in order to stream line it. Now there is an effort to remove us from getting any information at all.

Dave Reynolds: But there also was an effort that most of the insurance companies didn't even want to have this work completed

form.

Larry Alan: They didn't want to be part of the process when it was mailed. That doesn't mean that they don't want it when they need it. That is a different issue.

Dave Reynolds: See, now you want us to hold the documents and be your filing cabinet.

Larry Alan: Isn't DBR asking you to retain it? That form is no longer going back to us. You know Randy how much time we spent on that issue. Including the last time it involved specific requests from Law Enforcement. We talked and you agreed to add it and now it is gone.

Randy Bottella: It was suppose to be you guys can get it when you request it.

Larry Alan: Yeah. But now it is gone. Now we don't even have any right to request it. I want that back in the regulation. That was the whole point of that discussion. If it's the Insurance Division I will take it up with them.

Dave Reynolds: I would imagine the legal department looked at this. The department said they were going to review it and they were going to do a redlined version and they were going to send it to us.

Larry Alan: What drew my attention is that it is not redlined out. It is just gone.

Dave Reynolds: OK, any other questions?

Dave Doucet: I have one; It says all files kept in accordance with this regulation will be available for inspection during regular business hours. My question is inspection by whom?

Dave Reynolds: It is assumed by the DBR. That could mean anybody. If you look in section 9. Complaints and hearings - All complaints from consumers or law enforcement officials against licensees or persons. It doesn't say anything about an insurance company either.

Larry Alan: You might want to specify that. Because we do not have the right.

Dave Reynolds: If you do not have the right to file a complaint than why have the right to information.

Larry Alan: Because we may need it for other purposes. Not for filing a complaint. The obvious reason would be if we were doing an SIU investigation of the customer.

Dave Reynolds: If you are doing an investigation on the consumer

why are you coming to me for information?

Larry Alan: Because you are the one who is holding a piece of paper that they signed.

Dave Reynolds: Isn't the normal procedure for investigations to go to the people you are investigating and if they have an Attorney that is representing them on an Investigation, then you go through the Attorney.

Larry Alan: Sure.

Dave Reynolds: Why would you want to go to the Third Party that fixed his car? You are putting me in a spot; you are asking me to divulge information on that person without asking permission.

Larry Alan: The whole point of it being in the regulation is that you are then complying with the Regulation. So that if we have a right to get it under the Regulation and you give it to us then you have followed the regulation. You are not breaking any laws.

Dave Reynolds: OK. Anything else?

Dave Doucet: Page 8, Section 9 the first paragraph. Complaints against licensees may be investigated by the department. Furtherance thereof the department may notify the consumer.

My other question is why did they change it from “shall” to “may”.

Dave Reynolds: Yes I noticed that to. It doesn't say must.

Dave Doucet: Well for me to do an investigation should it be required to notify the consumer.

Dave Reynolds: Yes.

Larry Alan: I think they approach it as a resource issue. They don't want to be required every time.

They want to be able to make a judgment. They may have an investigation. But if they do, then they shall notify the consumer. So the second “may”, must be returned back to “shall”. In furtherance thereof means they are doing an investigation. That is how I would take it.

Dave Reynolds: Any other questions on regulation 4.

Randy Bottella: Under page 4, section c. Application requirements for all body shop licenses line 6. A Certificate for EPA number. Then there is nothing after that. There is now a requirement for a Body Shop to fill out a notification of existence to the EPA. They have to fill out the certification form that says they are acknowledging their

existence and they meet the criteria the EPA has put forward. Someone who just opened a body shop has no knowledge of it. It's a federal requirement that has to be done. I don't see how we can fail to acknowledge it.

Kim Precious: Should it be on the Application or Affidavit? Is that something that should be on the renewal too? Is it renewed or just one certificate?

Dave Reynolds: Probably on the application.

Randy Bottella: You have to go to their website. You have to download it, fill it out and mail it to where they say. That is why I am saying if you don't list this. These people are not going to know that they would be in violation of a Federal Regulation that says every new body shop or existing body shop has to notify them of their existence. It is not just about the chemical stripping part. It is also about the filtration certification of their painter. To make sure the painter has been certified. So there is a list that 100% applies to every body shop in existence so not only do they have to register to get rid of their hazardous waste. They also have to be registered for this. But they do not issue a number for it.

Dave Reynolds: Anyone else have any other questions?

Randy Bottella: Notice we put they have to be in compliance with the

State Fire Marshal. Was that intentional to say State Fire Marshal or should it say State Fire Code. Wouldn't it make more sense to list it as the State Fire Code? I am not implying that is wrong. I am merely asking?

Kim Precious: We will have our regular board meeting the week after you guys meet with the Fire Marshal. So we will know if you want to change it before you send it up.

Dave Reynolds: Yes.

Randy Bottella: The only ones who are not going to be required to have a spray booth would be the ones that are under the special use and specifically state they are not painting. Any license other than that has to have a letter from the State Fire Department stating they meet the compliance with the Fire Code requirements or spray booth. That is why it has to be clear that they were inspected for paint spraying.

Dave Reynolds: Any other questions? Is there any New Business? Then I make a motion to adjourn. It is 11:29

Gerry Galleshaw: Seconded. All in favor