

AUTO COLLISION REPAIR LICENSING ADVISORY BOARD

MEETING MINUTES FOR SEPTEMBER 3, 2008

Members present: David Reynolds, New Century Auto Inc
Dennis Gamba, Cranston Collision Center
David Doucet, RISP
Richard Berstein, DBR
Kim Precious, DBR

Others Present: Tom Broderick, DBR
Bill Burke, Progressive
Larry Alan, Nationwide
Fred Santaniello, NEIT
Randy Bottella, Reliable Collision

MEETING CALLED TO ORDER AT: 10:39

Dave Reynolds: Any questions on July's minutes? Motion to pass July Minutes. Seconded RB. None Opposed. July Minutes Passed.

Certification of Technician

DR: Asked if any questions on Auto Body tech certifications. Proposed changes last time around made by Randy. E-mail question from Charles Nystedt. "Does insurance carrier have an obligation to decline to deal with body shop that does not have the necessary certified technicians or otherwise report that fact to the Department of Business Regulation."

DR: Believes if shop is licensed they have to work with shop.

Richard Berstein: If the Department of Business Regulation learns that there is an Auto Body Shop without required number of technicians; we have to afford them a hearing process. After the conclusion of the hearing we would likely give them time to get in compliance. If they didn't comply, we would have a revocation hearing. Then if they did lose their license, the insurance company would not be obligated to use that shop. Before we take away a license, we have to give due process. As long as they are ostensibly licensed, insurance companies have to do business with them.

Dennis Gamba: If in fact a shop falls out of compliance. Due process goes through. Bottom line. Will their license be revoked or require them to comply and reissue?

Dave Doucet: There is a hearing process already. Why should this be any different than what is in place for any other violation.

Larry Alan: Is it an Insurance Companies duty to report infractions? A duty is distinct from we will let you know.

DR: It is anybody's duty to report infractions.

LA: So the answer to the two-part question is 1. If there is a valid license on the wall work with that shop. 2. There really is no duty but certainly it would be good for the insurer to let the Department know if they see a violation.

RB: Legal position is that until suspended or revoked they are ostensibly licensed and that we cannot summarily suspend or revoke until there is a hearing process where they get to submit evidence and then if they get suspended or revoked, there is no obligation to deal with.

LA: Insurers cannot make an arbitrary decision by themselves not to do business with the shop.

DR: Asks if there are any other questions on this proposed regulation?

RB: Once board agrees to pass on to Director. Chairman will have to send letter to Director with the recommendation.

DR: Any other questions on this regulation. I make a motion that we pass.

DG: How are you going to put this out to the auto body industry?

DR: Once the director makes a decision on what he wants to do with this regulation then we will get it out.

RB: A public hearing will be held. All interested parties would get notice of the public hearing. Kim may want to list all the auto body shops in RI, and notify them of the public hearing.

DR: Motion to pass. All in favor. None opposed. Passed. We will send up to director.

New Business:

DR: Richard any new business that you would like to let us know about.

RB: The only new business is that he received e-mail from council for **Color-All** and they are going to request to be put on the agenda for the next meeting. They have been here before but have since been turned down. By letter, the Director stated they could re-apply so long as they met certain conditions, including a business plan, fire safety, and other background information, including a summary of litigation with other states. If they have submitted additional information, then they can present evidence at board meeting as to why they should be granted a special use license. It is my understanding that Steve Zubiago sent a letter to Kim Precious with new application, and additional material requested. It may be helpful to have Kim e-mail or scan all supplemental materials they have supplied, to all board members and the board would let them know as soon as practicable when they can be scheduled to appear.

DR: Board requests information be sent to board members, by email, with enough time to digest what is in application and review all paper work prior to them coming back to board. Will not be ready until October meeting. Any other questions on Color-All?

OLD Business

DG: In the near future I would like to bring back an old subject, Dent-Wizard. We can get into some new discovery in reference to what has been going on with this past hailstorm. They are bringing people in from out of the state who are really doing some bad work structurally.

RB: If they are not painting, they don't have a license and are not required to have a license. Our jurisdiction is really not there. So a new regulation or statutory change would be necessary.

DR: Not really. If we fit the criteria of what's considered in the statute as bodywork and you are doing bodywork. You are repairing a vehicle if you are pulling the dent out.

RB: My understanding is, if you are painting only that does not require a license and that is not bodywork.

DR: Any form of painting requires a spray booth.

RB: These places that are presently not licensed: What was the basis for not licensing them?

Randy Bottella: At the time there were all these companies. I believe Dent Wizard was the first one. The only thing they did was to try to work dents out of metal panels.

RB: And they did not paint?

Randy: They did no painting whatsoever. No disassembling whatsoever, the only thing they were doing was massaging the back side of metal panels to get out the dings that were accessible it was viewed that what they were doing didn't construe auto body work. In the time that has gone by since, the business practice has changed, they are now drilling the cars, creating their own access panels, removing interior panels, and are getting involved in pushing on reinforcement panels. The business has greatly changed and a lot of them have added on actual grinding and repairing and painting of outside surfaces that are far different from what it was when originally reviewed over a decade ago versus what is going on today.

DR: The gentleman from New England Tech is here and can attest to what Randy said. We learned in I-Car classes, which we have taken at New England Tech, that when they massage the back of those panels they compromise the corrosion protecting on the back side of those panels and if that is not addressed, it has to be addressed chemically. We've taken some of those panels apart after they have been done, a year or two-years later and you wind up with big giant rust spots on the inside of those panels because you compromised the corrosion.

DG: I think we're going to need to look at some type of limited license and write the scope of that license, so if in fact what they're doing falls in that scope, they will need a license. After this last hailstorm, we've gotten thousands of cars we've actually seen. The Companies who were taking hail damage out of cars and they were actually cutting structural beams and the roofs and the hood panels and I have photos of this stuff.

RB: From a legal standpoint, once this is re-addressed we are going to have to also think about if this would require a statutory change, or whether it would require a mere bulletin defining what Auto Body work is. So there are a lot of issues that would have to be addressed as we proceed in this area.

DR: I believe if you are going to expand the scope of what is considered and if it is auto bodywork, you are going to need statutory clarification. Are there any other questions?

Randy: Where do we stand with the two pending regulations?

RB: The storage rate regulation will not be adopted until code of conduct appraisal regulation is adopted. The good news is that they are both moving. There was a meeting between commercial licensing and insurance recently regarding appraiser conduct and again we are endeavoring to get that done as soon as we can. What we are also trying to do is because the storage regulation does relate to appraisal conduct; we are trying to do it on the same day. We will have a public hearing first for the code of conduct and then, if there is no public comments, we could implement the storage rate regulation. Again, it is our hope that we can get this done in the not to distant future.

DR: Any other questions?

RB: I have one before Mr. Doucet leaves. Tom Broderick, who is doing the auto body inspections, has brought to my attention possible unlicensed activity. I spoke to the gentleman and he felt very apologetic for violating the law and he does intend to come in at the next meeting. So I just want to let you know that this might be a process that as we are finding these people we are going to have them come in and appear before the board and if you can agree to some kind of consent agreement, then we will memorialize it in a document that can be signed by both parties.

RB: Now the other thing is there are two other shops that we can't find. My question for Detective Doucet is whether or not we can involve the state police early on.

DD: Depends. Prior to my time, they did one criminal case of operating a body shop without a license, and since I came on the auto squad in 1996 they did one. Both of those cases were lost and the opinion of the judge was it's not to sanction or punish people that are without a license, but it's to get them in compliance.

RB: What I'll do is I'll handle the ones that I can get them in here to the board and the other ones that I can't reach or that Tom can't find, we will refer to Detective Doucet.

TB: It sounds like he is a back yard mechanic who also does a little bodywork. Do we have to go after him? Is he supposed to be licensed?

RB: What you can do is, you can say to him: You can voluntarily come in and make an agreement with the board or you can apply or you can cease and desist, or if he refuses to do that then you are going to refer to the State Police.

TB: OK. Another Question, this one is regarding another company. I went out there; this is the guy that was in the paper. He is telling me all he does is restore cars. Well, no matter what you call it he is taking vehicles apart almost like a frame of restoration, re-assembling them, the suspension systems and everything. He said well I don't paint, I subcontract the painting, but if I do prime something, I use a shaker can, which he thinks is OK.

Randy B: We have a specific license called restoration, customization. He falls directly into that criteria. That's the license he needs.

TB: I printed out an application before I went out there and gave it to him. He has since called and I don't know where that is.

KP: I told him to send in a letter with exactly what he does and I will send to board members for review at October meeting.

RB: The Department take tips, whether it is anonymous or if it is from a member of the board. We've got the duty to investigate unlicensed activity. So what we are going to do is an informal procedure is Tom, when you get letters of unlicensed activity and when you spot them you are going to encourage these people to contact me or I'll contact them. If I can get them in before the board and we will do consent agreements and do that. But for the ones that won't co-operate at all you will make referrals to Detective Doucet.

RB: Also old business. About Daisy Street. Do we have an update on that in West Warwick?

TB: I called the Chief, and he never called me back.

RB: We've got a problem because there is a place in West Warwick were the landlord (the owner) habitually going back years always rents the place to people doing body work on an unlicensed basis. West Warwick is frustrated. They can't shut him down. They asked us to. We can't do it and we're frustrated.

Randy: I think we've been there, when Jeanne was still here.

DR: Turn the EPA on him. If he is contaminating the premises the landlord is going to be responsible for the clean up.

Randy: I think you call DEM.

TB: I believe I read in my notes that the Department of Environmental Management has been out there.

Randy: DEM has been out there on a separate issue. DEM was there because the back of the property was filled in. There was a similar situation before that we had a location that was repeatedly rented out and used. It was in Coventry and Jeanne went after the owner of the property for it. It was under a felony I believe.

RB: But the AG has declined too. They don't have the staff. I sent it over to Jerry Coyne and Jim Lee and they basically said they don't have the resources and they are not going to prosecute the landlord for having a nuisance. Can we get these tenants to come to a meeting to enter into a consent agreement or we'll bring a formal cease & desist?

Randy: Daisy Street is just at the end of my street. I can take a look at it and see what is going on there, and let you know.

DR: Any other questions?

DD: Motion to adjourn at 11:50 a.m. Seconded, RB, Unanimous.