

COLLISION INDUSTRY GUIDE

PART ONE

REVISED SEPTEMBER 2018

THIS SEGMENT OF THE “COLLISION INDUSTRY GUIDE” WILL DEAL WITH THE RELATIONSHIP BETWEEN THE AUTO BODY REPAIR SHOP, THE BUREAU OF AUTOMOTIVE REPAIR [B.A.R.], THE CUSTOMER AND THE INSURANCE INDUSTRY.

ATTENTION: THIS DOCUMENT IS GENERAL IN NATURE AND DEALS WITH VARIOUS LAWS AND REGULATIONS. IT SHOULD NOT BE CONSIDERED LEGAL ADVICE. IT IS RECOMMENDED THAT YOU SEEK THE ADVICE OF AN ATTORNEY SPECIALIZING IN THIS AREA OF THE LAW IF YOU ENCOUNTER A PROBLEM.

(1) Q. WHAT RELATIONSHIP IS THERE BETWEEN MY CUSTOMER AND THE B.A.R.?

A. THE B.A.R. IS REQUIRED TO PROTECT THE INTEREST OF THE CONSUMER. THIS MAY INCLUDE THE TAKING AND INVESTIGATING OF COMPLAINTS ON AN AUTOMOTIVE REPAIR DEALER, NOTIFYING THE CONSUMER OF SUSPENSIONS AND OTHER RELATED ENFORCEMENT ACTIONS TAKEN AGAINST THE DEALER, AND IN SOME CASES, FILE CHARGES AGAINST A DEALER WHO VIOLATES THE LAW OR REGULATIONS. THE B.A.R. IS A NEUTRAL PARTY VESTED WITH THE RESPONSIBILITY OF OVERSEEING THE AUTO REPAIR INDUSTRY. IN THEIR ROLE, THE B.A.R. SEEKS TO MAINTAIN A LEVEL PLAYING FIELD FOR ALL PARTIES. FREQUENTLY THE B.A.R. WILL SUPPORT THE SHOP IN A REPAIR DISPUTE WITH A CUSTOMER OR INSURANCE COMPANY. [129 B&P CODE]

(2) Q. WHAT RELATIONSHIP IS THERE BETWEEN THE INSURANCE COMPANY AND THE B.A.R.?

A. THE RELATIONSHIP IS THE SAME AS IT IS WITH YOUR CUSTOMER. IN ADDITION, THE INSURANCE COMPANY IS REQUIRED TO ASSIST THE B.A.R. IN ANY INVESTIGATIONS AND PROSECUTIONS THE B.A.R. PURSUES [CA. INS. CODE 1872.4].

(3) Q. WHAT TYPE OF AUTO REPAIR FACILITY MUST BE REGISTERED WITH THE B.A.R.?

A. AN AUTOMOTIVE REPAIR DEALER. THIS MEANS ANYONE, WHO FOR COMPENSATION, REPAIRS OR DIAGNOSES MOTOR VEHICLE MALFUNCTIONS OR ADVERTISES TO REPAIR VEHICLES. REPAIR OF MOTOR VEHICLES INCLUDES MAINTENANCE AND REPAIRS TO MOTOR VEHICLES INCLUDING BODY REPAIR WORK [9880.1 B&P CODE & 3371.1 CA. CODE OF REGS.]

(4) Q. ARE THERE ANY EXEMPTIONS?

A. YES, PROVIDED YOU DON'T ADVERTISE, EITHER PRINTED OR VOICE / VIDEO, YOU DON'T HAVE OUTSIDE SIGNAGE OR USE ANY OTHER MEDIA TO ATTRACT CUSTOMERS. EXAMPLE: YOU MAY DO CONTRACT FLEET WORK, REPAIR AND CHANGE TIRES, LUBE VEHICLES, INSTALL LIGHT BULBS, BATTERIES, AND OTHER MINOR ACCESSORIES WITHOUT B.A.R. REGISTRATION. [B&P CODE 9880.1E - 9880.2 & 3371.1 CA. CODE OF REGS.]

(5) Q. MUST I POST MY LABOR RATES?

A. NO, ONLY OFFICIAL SMOG CHECK STATIONS ARE REQUIRED TO POST THEIR RATES. [3307D CA. CODE OF REGS.]

(6) Q. ARE THERE SPECIAL EQUIPMENT REQUIREMENTS FOR AUTO BODY REPAIR SHOPS?

A. YES. EXAMPLES ARE: CORROSION PROTECTION APPLICATION EQUIPMENT FOR STANDARD AND UNIBODY VEHICLES. IF DOING STRUCTURAL REPAIRS, YOU MUST HAVE REPAIR, MEASURING, TESTING EQUIPMENT, AND CURRENT REFERENCE MANUALS NECESSARY TO DIAGNOSE, SECTION, REPLACE OR REPAIR STRUCTURAL DAMAGE. A THREE DIMENSIONAL MEASURING SYSTEM. A FOUR POINT ANCHORING SYSTEM. EQUIPMENT CAPABLE OF MAKING MULTIPLE PULLS. A M.I.G. WELDER OF AT LEAST 110 AMPS FOR UNIBODY REPAIRS AND 200 AMPS FOR CONVENTIONAL FRAME REPAIRS. [3351.5 CA. CODE OF REGS.]

(7) Q. WHO IS THE CUSTOMER, THE OWNER OF THE VEHICLE, THE INSURANCE COMPANY, OR BOTH?

A. THE CUSTOMER IS THE PERSON AUTHORIZING REPAIRS TO A MOTOR VEHICLE. **NOT THE INSURANCE COMPANY.** THE CUSTOMER IS DEFINED AS "THE PERSON AUTHORIZING REPAIRS TO A MOTOR VEHICLE" [3303-J CA. CODE OF REGS.] [9880.1-J B&P CODE]. THE AUTO REPAIR DEALER

PROVIDING REPAIR SERVICES ON THE VEHICLE OR AN INSURER INVOLVED IN A CLAIM THAT INCLUDES THE VEHICLE BEING REPAIRED SHALL NOT BE CONSIDERED A "CUSTOMER". SECTION 9884.9 OF THE B & P CODE ALLOWS THE CUSTOMER TO DESIGNATE ANOTHER PERSON TO ACT ON HIS/HER BEHALF TO AUTHORIZE REPAIRS OR ADDITIONAL REPAIRS OR PARTS [SUPPLEMENTS]. **ONLY ELGIBLE DESIGNEES MAY BE USED.**

INELGIBLE DESIGNEES INCLUDE THE AUTOMOTIVE REPAIR DEALER PROVIDING REPAIR SERVICES AND AN INSURER INVOLVED IN A CLAIM THAT INCLUDES THE MOTOR VEHICLE BEING REPAIRED, AND EMPLOYEES AND AGENTS AND PERSONS ACTING ON BEHALF OF THE DEALER OR INSURER.

THE DESIGNATION MAY BE A SEPARATE FORM BY ITSELF OR IT MAY BE INCORPORATED INTO THE REPAIR DEALER'S WORK ORDER. THE WORDING OF THE DESIGNATION, WHETHER A SEPARATE FORM OR INCORPERATED IN THE EORK ORDER SHALL BE AS FOLLOWS:

DESIGNATION OF PERSON TO AUTHORIZE ADDITIONAL WORK OR PARTS

I HEREBY DESIGNATE THE INDIVIDUAL NAMED BELOW TO AUTHORIZE ANY ADDITIONAL WORK NOT SPECIFIED OR PARTS NOT INCLUDED IN THE ORIGINAL WRITTEN ESTIMATED PRICE FOR PARTS AND LABOR:

NAME OF DESIGNEE: _____ PHONE NUMBER: _____

FAX NUMBER: _____ E-MAIL ADDRESS: _____

NAME OF CUSTOMER : _____ WORK ORDER NO: _____

DATE: _____ CUSTOMER'S SIGNATURE: _____

THE DESIGNATION FORM SHALL BE COMPLETED IN DUPLICATE. A COPY OF THE COMPLETED AND SIGNED FORM SHALL BE GIVEN TO THE CUSTOMER WITH THE CUSTOMER'S COPY OF THE WORK ORDER AS SOON AS THE CUSTOMER SIGNS IT. THE ORIGINAL SHALL BE ATTACHED TO THE REPAIR DEALER'S WORK ORDER IF IT'S NOT INCORPORATED IN THE WORK ORDER.

(8) Q. AM I REQUIRED TO CALL THE CUSTOMER FOR EVERY SUPPLEMENT EVEN IF IT IS FOR A COUPLE DOLLARS?

A. YES, FOR TWO REASONS. FIRST, YOU MUST HAVE AUTHORIZATION TO CHANGE THE SCOPE OF REPAIR, AND SECOND, YOU MUST HAVE AUTHORIZATION TO CHANGE THE AMOUNT THE CUSTOMER MUST PAY. YOU MUST HAVE THE ADDITIONAL AUTHORIZATION FROM THE CUSTOMER EVEN IF THE AMOUNT TO BE PAID IS REDUCED OR PROVIDED AT NO ADDITIONAL CHARGE. [9884.9 B&P CODE & 3353 CA. CODE OF REGS.]

(9) Q. IF THE HUSBAND SIGNS THE AUTHORIZATION TO REPAIR, CAN I GET AUTHORIZATION FROM THE WIFE FOR A SUPPLEMENT IF THE HUSBAND IS NOT AVAILABLE?

A. YES, BUT YOU MUST PLAN FOR THIS IN ADVANCE AND HAVE THE HUSBAND SIGN A DESIGNATION DOCUMENT AUTHORIZING HIS WIFE TO ACT AS HIS AGENT. [3303-J & 3353-C CA. CODE OF REGS.]

(10) Q. IS IT POSSIBLE TO GET ADDITIONAL AUTHORIZATION FOR A SUPPLEMENT ORALLY BY PHONE?

A. YES, YOU MUST MAKE A WRITTEN NOTATION ON THE WORK ORDER / INVOICE OF THE DATE, TIME, & NAME OF THE PERSON AUTHORIZING THE ADDITIONAL REPAIRS AND THE PHONE NUMBER CALLED WITH THE SPECIFICATIONS OF THE ADDITIONAL REPAIRS, PARTS, LABOR, AND TOTAL ADDITIONAL COST. [3353-1 CA. CODE OF REGS.]

(11) Q. IS IT POSSIBLE TO OBTAIN ADDITIONAL AUTHORIZATION FOR A SUPPLEMENT VIA E-MAIL OR FAX?

A. YES, YOU MUST PRINT THE E-MAIL AND ATTACH IT OR THE FAX AUTHORIZATION TO THE WORK ORDER / FINAL INVOICE. [3353 -2 & 3 CA. CODE OF REGS.] IF ITS DONE VIA E-MAIL, MAKE SURE YOU HAVE YOUR CUSTOMER GIVE THE AUTHORIZATION VIA "REPLY".

AS OF SEPTEMBER 2018, THE SHOP MAY OBTAIN ELECTRONIC AUTHORIZATION, THE AUTOMOTIVE REPAIR DEALER RECORDS THE AUTHORIZATION BY DOCUMENTING ON THE ESTIMATE THE DATE, TIME, NAME OF THE PERSON AUTHORIZING THE REPAIRS, AND THE TELEPHONE NUMBER OR ELECTRONIC MAIL ADDRESS CONTACTED, IF ANY, OR PRODUCE THIS INFORMATION ON DOCUMENTS RELATING TO THE AUTHORIZATION THAT SUPPLEMENT THE ESTIMATE

(12) Q. WHAT PREVENTS ME FROM LISTING PHONE CALLS TO THE CUSTOMER FOR SUPPLEMENT AUTHORIZATION THAT I NEVER MADE? HOW DOES THE B.A.R. MONITER THIS?

A. WE KNOW IT'S DIFFICULT TO CALL A CUSTOMER FOR EVERY LITTLE ITEM THAT IS CHANGED ON THE ESTIMATE DURING THE REPAIR PROCESS, ESPECIALLY ON LARGE JOBS. AND WE KNOW THAT THE CUSTOMER WILL

SOMETIMES GET MAD AT YOU FOR MAKING REPEATED CALLS FOR ADDITIONAL AUTHORIZATION. BUT FALSIFYING A DOCUMENT IS FRAUD. YOU CAN LOSE YOUR LICENSE TO DO BUSINESS IF CAUGHT DOING THIS. ALL AUTHORIZATION FOR ADDITIONAL REPAIR MUST BE RECORDED ON THE FINAL INVOICE. YOU MUST HAVE THE CUSTOMER SIGN AN ACKNOWLEDGEMENT ON THE FINAL INVOICE THAT HE / SHE AUTHORIZED THE ADDITIONAL REPAIRS. WHEN CONDUCTING AN INVESTIGATION, THE B.A.R MAY FIND IT NECESSARY TO VERIFY THE STATED CALLS OR CONTACTS. PHONE RECORDS AND CUSTOMER INTERVIEWS ARE TWO METHODS USED WHEN THE B.A.R. IS CONDUCTING AN INVESTIGATION OF A SHOP'S ACTIVITIES. [9884.9 B&P CODE 3353 CA. CODE OF REGS.]

(13) Q. THE INSURANCE ADJUSTER TELLS ME THAT THE PAINT OR MATERIAL AMOUNT ON A JOB EXCEEDS THE INS. CO. "THRESHOLD". THEY WILL ONLY PAY THE "THRESHOLD" AMT. BUT IF I USE MORE THAN THE THRESHOLD AMT OF PAINT, I SHOULD SEND THEM A SUPPLEMENT ALONG WITH INVOICES OR COMPUTER PAINT MIX LOGS AND THEY WILL PAY THE DIFFERENCE. SHOULD I AGREE TO DO THIS?

A. **NO!** THE REGULATIONS ARE CLEAR ON THIS POINT. YOU MUST OBTAIN THE CUSTOMERS AUTHORIZATION **BEFORE** ANY ADDITIONAL WORK NOT ESTIMATED IS DONE OR PARTS NOT ESTIMATED ARE SUPPLIED. IF FOR SOME REASON, YOU FIND YOURSELF AGREEING TO REPAIR A CUSTOMER'S VEHICLE BASED ON A "THRESHOLD" PAINT ALLOWANCE, MAKE SURE YOU CONTACT THE CUSTOMER AND OBTAIN APPROVAL FOR ANY ADDITIONAL MONEY NEEDED TO PAY FOR PAINT PRIOR TO ANY PAINTING BEING DONE ON THE CUSTOMER'S VEHICLE. [3353-C CA. CODE OF REGS.] IN ADDITION, WHAT THE ADJUSTER/INSURER IS DOING IN THIS SITUATION IS A VIOLATION OF SECTION 758.6 OF THE INSURANCE CODE.

(14) Q. IS IT OK TO USE AN INSURANCE COMPANY ESTIMATE AS A WORK ORDER AND/OR INVOICE?

A. YES, BUT IT'S NOT RECOMMENDED. HERE'S THE REASONING BEHIND THIS. WORK ORDERS / INVOICES MUST ACCURATELY REPRESENT THE WORK DONE, PARTS SUPPLIED, AND OTHER CHARGES. INSURANCE ADJUSTER ESTIMATES ARE RARELY ACCURATE. NOMENCLATURE, CONCESSIONS, AND PARTS CATEGORIES ARE A FEW EXAMPLES OF WHERE INACCURACIES APPEAR. ALSO, THE INSURANCE COMPANY ESTIMATE MAY CONTAIN CALCULATIONS THAT YOU DO NOT INTEND TO COMPLY WITH. IT'S BETTER TO CONVERT THE ADJUSTER ESTIMATE TO YOUR SYSTEM. IT TAKES A LITTLE TIME, BUT IT MAKES SUPPLEMENTS A WHOLE LOT EASIER AND IF QUESTIONS EVER ARISE, YOU WILL EASILY BE ABLE TO EXPLAIN YOUR POSITION IF THE DOCUMENTS ARE ON YOUR

ESTIMATING SYSTEM. [9884.8-9884.9 B. & P. CODE, 3353 & 3356 CA. CODE OF REGS.]

(15) Q. THE INSURANCE COMPANY REQUIRES THAT I INSTALL AFTERMARKET "CRASH PARTS" ON A CUSTOMERS VEHICLE. I REFUSE TO USE AFTERMARKET "CRASH PARTS". CAN I SUBSTITUTE O.E.M. PARTS FOR THE AFTERMARKET PARTS IF I DON'T CHARGE THE CUSTOMER FOR THE ADDITIONAL COST OF THE O.E.M. PART?

A. ANY TIME YOU CHANGE THE SCOPE OF REPAIR, YOU MUST FIRST OBTAIN THE CUSTOMER'S AUTHORIZATION TO MAKE THOSE CHANGES. THIS APPLIES EVEN IN SITUATIONS WHERE THERE ARE NO ADDITIONAL CHARGES. YOUR FINAL BILL OR INVOICE MUST ACCURATELY REFLECT WHAT YOU INSTALLED ON THE CUSTOMERS VEHICLE. [9884.8-9884.9 B&P CODE, 3353 & 3356 CA. CODE OF REGS.]

(15) Q. CAN I CHARGE FOR SHOP SUPPLIES?

A. YOU CANNOT INCLUDE A CHARGE LINE WITH A GENERIC HEADING "SHOP SUPPLIES", "MISC. PARTS OR HARDWARE" ETCETRA. YOU MAY CHARGE FOR THESE MATERIALS IF YOU ITEMIZE THEM. [3356 CA. CODE OF REGS.]

(16) Q. HOW DO I CALCULATE WHAT I WILL CHARGE FOR TOXIC WASTE DISPOSAL?

(10) TOXIC WASTE DISPOSAL CHARGES CANNOT BE A PROFIT CENTER. HOWEVER, YOU MAY INCLUDE ALL REASONABLE CHARGES YOU PAY TO DEVELOP THE AMOUNT YOU WILL CHARGE FOR TOXIC WASTE DISPOSAL ON EACH INVOICE. EXAMPLES ARE, DISPOSAL OF PAINT RESIDUE, FILTERS, PAINT CANS, AND IN SOME COMMUNITIES, THE DUST AND DIRT SWEEPED FROM THE FLOOR IN A BODY SHOP IS CONSIDERED TOXIC WASTE, SO THE COST OF SWEEPING THE FLOOR AND BAGGING AND DISPOSAL OF THAT MATERIAL COULD BE INCLUDED IN DEVELOPING YOUR CHARGES. ALSO, YOU SHOULD KEEP A RECORD OF HOW YOU DEVELOPED YOUR CHARGES. [3356.1 CA. CODE OF REGS.]

(17) Q. ARE THERE ANY REQUIREMENTS THAT SPECIFY WHERE I MUST KEEP MY B.A.R. REGISTRATION?

A. YES, BOTH YOUR CERTIFICATE OF REGISTRATION AND OFFICIAL REPAIR DEALER SIGN MUST BE POSTED IN A PLACE AND MANNER CONSPICUOUS TO YOUR CUSTOMERS. [9884.17 B & P CODE 3351.3 CA. CODE OF REGS.]

(18) Q. AM I REQUIRED TO DISCLOSE TO MY CUSTOMER WHO I WILL HAVE, OR HAD PERFORM SUBLET REPAIRS ON THEIR VEHICLE?

A. YOU MUST INCLUDE WITH THE WRITTEN ESTIMATE A STATEMENT NOTIFYING THE CUSTOMER OF ANY REPAIR WHICH WILL BE DONE BY SOMEONE OTHER THAN YOU OR YOUR EMPLOYEES. YOU ARE REQUIRED TO DISCLOSE THE NAME OF THE PARTY DOING SUBLET WORK IF THE CUSTOMER REQUESTS THAT INFO. YOU MUST IDENTIFY ALL WORK THAT WILL BE SUBLET ON THE WRITTEN ESTIMATE. YOU ARE RESPONSIBLE FOR ALL WORK PERFORMED BY THE SUBLET REPAIRER. [9884.9B B&P CODE 3359 CAL. CODE OF REGS.]

(19) Q. I WROTE AN ESTIMATE ON A CUSTOMER'S VEHICLE. THE CUSTOMER SIGNED AN AUTHORIZATION TO REPAIR BASED ON MY ESTIMATE AND LEFT THE VEHICLE AT MY SHOP. THE NEXT DAY, AN ADJUSTER FROM THE CUSTOMER'S INSURANCE COMPANY CAME TO MY SHOP AND WROTE AN ESTIMATE ON THE VEHICLE AND LEFT A CHECK. THE ESTIMATE WRITTEN BY THE ADJUSTER WAS SIGNIFICANTLY DIFFERENT THAN THE ONE I WROTE FOR MY CUSTOMER. WHAT MUST I DO NOW?

A. THERE ARE TWO ANSWERS TO THIS QUESTION. FIRST, IF YOU CAN PROPERLY REPAIR THE CUSTOMER'S VEHICLE BASED ON THE SCOPE OF THE ADJUSTER'S ESTIMATE AND YOU AGREE TO THE AMOUNT, YOU WILL NEED TO CONTACT THE CUSTOMER, GIVE HIM / HER A COPY OF THE REVISED SCOPE OF REPAIR AND GET AN AUTHORIZATION TO REPAIR BASED ON YOUR REVISED ESTIMATE. BE CAREFUL. AS STATED PREVIOUSLY, IT WOULD BE A GOOD IDEA TO TRANSFER THE ADJUSTER'S ESTIMATE TO YOUR DATABASE BEFORE OBTAINING ADDITIONAL AUTHORIZATION. [9884.8 AND 9884.9 B&P CODE 3353 AND 3356 CAL. CODE OF REGS.]

SECOND, IF YOU DO NOT BELIEVE YOU CAN REPAIR THE CUSTOMER'S VEHICLE BASED ON THE ADJUSTER'S SCOPE OR THE AMOUNT OF THE ADJUSTER'S ESTIMATE, YOU SHOULD EXPLAIN THE DEFICIENCIES IN THE ADJUSTER'S ESTIMATE TO THE CUSTOMER AND HAVE THE CUSTOMER CALL AND DISCUSS THE PROBLEMS WITH THE ADJUSTER OR HIS / HER

SUPERVISOR. YOU SHOULD ALSO REVIEW THE SAME QUESTION IN PART TWO OF "COLLISION INDUSTRY GUIDE"

(20) Q. IN SOME CASES, MY DATABASE WILL SHOW A FACTORY O.E.M. PART TO BE A RECONDITIONED PART. ALSO, MANY INSURERS ARE REQUIRING THAT I USE PARTS THAT ARE IDENTIFIED AS "OPT-OEM" PARTS. IS THERE A PROBLEM WITH THIS? IF IT IS A PROBLEM, HOW DO I CORRECT IT?

A. YES IT IS A PROBLEM. YOUR ESTIMATE MUST IDENTIFY EACH PART AS O.E.M. NEW, NON O.E.M NEW, USED, REBUILT, OR RECONDITIONED. IF THE PART IS SHOWN AS AN OPT-OEM PART, YOU MUST CLARIFY THAT ON THE ESTIMATE AND FINAL INVOICE, [USUALLY A LINE ITEM DIRECTLY UNDER THE PART IN QUESTION], THAT THE PART IS AN O.E.M. NEW PART. IN THE CASE OF THE "OPT-OEM" PART, YOU MUST KNOW IF THE PART IS "NEW, RECONDITIONED, OVER STOCK, OR A FACTORY SECOND / TAKE OFF" SO YOU CAN MAKE THAT ENTRY. THIS CHANGE NEEDS TO BE RETAINED IF STORED ELECTRONICALLY SO SUBSEQUENT COPIES WILL REFLECT ANY CHANGE. ALSO, THE CHANGE MUST BE DONE SO ALL PARTIES WILL UNDERSTAND WHAT HAS OCCURRED. [9884.8 AND 9884.9 B & P CODE]

(21) Q. WHAT CAN TRIGGER A B.A.R. INVESTIGATION OF MY SHOP PRACTICES?

A. THERE ARE MANY THINGS THAT CAN TRIGGER A B.A.R. ADMINISTRATIVE ACTION. SOME EXAMPLES ARE:

- * MULTIPLE CUSTOMER COMPLAINTS.
- * A CUSTOMER COMPLAINT WHERE A B.A.R. INSPECTION OF THE VEHICLE REVEALS IRREGULARITIES IN THE REPAIR OR PAPERWORK.
- * AN INSURANCE COMPANY REFERRAL THROUGH THE DEPT. OF INSURANCE FRAUD BUREAU.
- * A REFERRAL FROM THE DISTRICT ATTORNEY.

IN ADDITION, IF YOUR REPAIR FACILITY WAS INVOLVED IN A B.A.R. "ADMINISTRATIVE ACTION" OR AN "OFFICE CONFERENCE" PREVIOUSLY, IT IS LIKELY THAT THE B.A.R. WILL REVIEW YOUR BUSINESS PRACTICES SOMETIME IN THE NEXT YEAR TO ENSURE YOU HAVE MADE THE CORRECTIONS YOU AGREED TO IN THE PRIOR ADMINISTRATIVE ACTION OR OFFICE CONFERENCE.

THE B.A.R. IS REQUIRED BY STATUTE TO DISCLOSE ALL ENFORCEMENT ACTIONS AGAINST A LICENSEE ON THE INTERNET [SECTION 27 B & P CODE]. THIS CREATED LEGAL PROBLEMS FOR THE LICENSEE. TO CORRECT THOSE PROBLEMS THE B.A.R., THE C.A.A., AND OTHER MEMBERS OF THE B.A.R. ADVISORY COMMITTEE DEvised A "B.A.R. ADVISORY NOTICE". THIS NOTICE WILL BE GIVEN TO THE REPAIR FACILITY OWNER WHEN THE

B.A.R. IDENTIFIES MINOR INFRACTIONS. THIS NOTICE IS DESIGNED TO GIVE THE REPAIR FACILITY OWNER THE INFORMATION NEEDED TO CORRECT THE PROBLEM BUT WILL NOT REQUIRE THE B.A.R. TO SHOW THE INCIDENT ON THE B.A.R. WEB SITE.

(22) Q. MY COMPANY IS IN THE PROCESS OF CONVERTING TO A NEW BODY SHOP MANAGEMENT SYSTEM. THIS SYSTEM WILL GIVE US THE ABILITY TO SCAN DOCUMENTS INTO THE SYSTEM INCLUDING BUT NOT LIMITED TO INVOCIES, CHECK PAYMENTS, FRAME SPECS, REPAIR AUTHORIZATIONS, ESTIMATES ECT.

AM I STILL REQUIRED TO MAINTAIN A PAPER FILE CONTAINING ALL DOCUMENTS ON EVERY VEHICLE WE REPAIR, OR WILL THE ELECTRONIC FILE BE SUFFICIENT?

A. WE WILL LOOK AT SECTION 9884.8 AND 9884.11 OF THE BUSINESS AND PROFESSIONS CODE FOR A PARTIAL ANSWER TO THIS QUESTION. SECTION 9884.11 OF THE B & P CODE STATES THAT YOU MUST MAINTAIN ANY RECORDS THAT ARE REQUIRED BY REGULATIONS ADOPTED TO CARRY OUT THE REGULATIONS. THOSE RECORDS MUST BE OPEN AVAILABLE FOR REASONABLE INSPECTION BY THE B.A.R. OR OTHER LAW ENFORCEMENT OFFICIALS. YOU MUST RETAIN THESE RECORDS FOR THREE YEARS.

THE B.A.R. WILL ACCEPT ELECTRONIC IMAGED DOCUMENTS ON ONE CONDITION. THE SYSTEM THAT IS USED MUST BE "WRITE ONLY" OR "SCAN ONLY" TECHNOLOGY. WHAT THIS MEANS IS THAT ONCE THE DOCUMENT IS ENTERED, IT CANNOT BE CHANGED. OF COURSE, THERE IS ALWAYS THE POSSIBILITY THAT A CUSTOMER MAY ALLEGE THAT YOU ALTERED THE DOCUMENT BEFORE SCANNING THE DOCUMENT INTO YOUR SYSTEM. IN THIS SITUATION, IF YOUR DOCUMENTS MATCH THE CUSTOMER'S THERE IS NO PROBLEM. ALSO, IF YOU PLAN TO KEEP THE ORIGINAL DOCUMENTS IN STORAGE OFF PREMISES FOR TAX PURPOSES THERE IS NO PROBLEM.

(23) Q. I PROVIDE A WARRANTY FOR THE REPAIRS I DO TO MY CUSTOMERS VEHICLES. LATELY, CUSTOMERS AND INSURANCE COMPANIES HAVE BEEN DEMANDING MORE AND MORE OF ME UNDER THE WARRANTY. AM I REQUIRED TO PROVIDE A WARRANTY? IF I DO PROVIDE A WARRANTY, HOW DO I LIMIT MY EXPOSURE?

A. YOU ARE NOT REQUIRED TO PROVIDE A WARRANTY FOR THE WORK YOU PERFORM HOWEVER, IF YOU DO DECIDE TO PROVIDE A WARRANTY FOR YOUR WORK, HERE IS WHAT YOU MUST DO.

ALL WARRANTIES MUST BE IN WRITING AND GIVEN TO THE CUSTOMER WITH THE FINAL INVOICE ITEMIZING THE PARTS, COMPONENTS AND LABOR REPRESENTED TO BE COVERED BY THE WARRANTY. THE NATURE AND EXTENT OF SUCH WARRANTY, INCLUDING A DESCRIPTION OF ALL PARTS, COMPONENTS OR LABOR COVERED OR EXCLUDED FROM THE WARRANTY, THE DURATION OF THE WARRANTY, AND WHAT MUST BE DONE BY A CUSTOMER BEFORE YOU WILL FULFILL YOUR OBLIGATION UNDER THE WARRANTY. AN EXAMPLE WOULD BE THAT THE CUSTOMER MUST BRING THE VEHICLE TO YOUR FACILITY AT HIS / HER EXPENSE TO HAVE WARRANTY REPAIRS COMPLETED. IT'S UP TO YOU TO CLEARLY LAY OUT, IN WRITING, WHAT YOU ARE WILLING TO DO. REMEMBER, IF YOU DON'T CLEARLY WRITE WHAT, HOW, WHERE, AND WHEN YOUR WARRANTY APPLIES AND WHAT IT COVERS YOU WILL BE SUBJECT TO SOMEONE ELSE [JUDGE]MAKING THE DECISION FOR YOU. [SECTION 3375 & 3376 CALIF. CODE OF REGS.]

(24) Q. INSURANCE ADJUSTERS CONTINUALLY REFUSE TO PAY ADVANCE TOWING UNLESS I GIVE THEM A COPY OF THE ORIGINAL TOW BILL. IN ADDITION, THEY REFUSE TO PAY MARK UP ON ADVANCE FEES. TYPICALLY THEY SAY BY LAW, THEY DON'T HAVE TO PAY A MARK UP ON ADVANCE FEES AND I MUST GIVE THEM A COPY OF THE ORIGINAL TOW BILL. WHERE IS THAT LAW?

A. THERE IS NO SUCH LAW! YOU SHOULD NEVER GIVE AN ADJUSTER A COPY OF A TOW COMPANY ADVANCE TOW BILL. YOU SHOULD ALWAYS PREPARE AN INVOICE FROM YOUR COMPANY. THE INVOICE YOU PREPARE SHOULD MATCH THE TOW COMPANY INVOICE AS TO HOW THE CHARGES WERE DETERMINED WITH YOUR "MARK UP" OR "SERVICE CHARGE" ON A SEPARATE LINE. THIS IS WHAT THE CUSTOMER OR INSURER IS ENTITLED TO GET. THIS IS THE SAME AS ANY OTHER SUBLET ITEM. IF YOU SUBLET A WHEEL ALIGNMENT, YOU SHOW THE ALIGNMENT ON YOUR INVOICE, BUT YOU DON'T GIVE THE CUSTOMER A COPY OF YOUR SUBLET VENDOR'S BILL. [9884.8 & 9884.9 B & P CODE 3353 & 3356 CA. CODE OF REGS.]

(25) Q. A VEHICLE WAS TOWED INTO MY SHOP. I WROTE AN ESTIMATE TO REPAIR THE VEHICLE AND GAVE IT TO THE CUSTOMER. THE CUSTOMER SIGNED A REPAIR ORDER AUTHORIZING REPAIRS BASED ON THE ESTIMATE I WROTE. THE CUSTOMER SAID HE WOULD SUBMIT THE ESTIMATE TO THE INSURANCE CO. AND INSTRUCTED ME TO BEGIN REPAIRS. I STARTED TEAR DOWN WHEN I HAD A VISIT FROM THE CUSTOMER'S GIRL FRIEND AND HER FATHER WHO STATED [AND PROVED]

SHE WAS THE REAL OWNER OF THE VEHICLE AND WANTED THE REPAIRS DONE IN A DIFFERENT MANNER. WHAT DO I DO NOW?

A. THE EASY WAY TO SOLVE THIS WOULD BE TO HAVE THE ORIGINAL CUSTOMER SIGN A "DESIGNEE FORM" THAT WOULD DESIGNATE THE REAL OWNER AS THE DESIGNEE. OR HAVE THE ORIGINAL CUSTOMER AGREE TO "BACK OUT" AND VOID THE TRANSACTION. IF THAT FAILS, THIS CREATES PROBLEM FOR YOU, THE SHOP OWNER, BECAUSE THERE IS NO REAL QUICK AND EASY WAY TO SOLVE THIS DILEMA BECAUSE YOU THE SHOP OWNER ARE AT RISK IF THINGS GO BADLY. THEREFORE, THE ANSWER WILL FOCUS ON PREVENTING YOU FROM RUNNING INTO TROUBLE WITH THE B.A.R.

SECTION 9880-1-J OF THE B&P CODE IDENTIFIES THE CUSTOMER AS "THE PERSON PRESENTING A MOTOR VEHICLE FOR REPAIR AND AUTHORIZING THE REPAIRS TO THAT MOTOR VEHICLE". KNOWING THIS YOU COULD TELL THE YOUNG LADY AND HER FATHER, SORRY I'M REPAIRING THE VEHICLE PER MY ESTIMATE. BUT THAT MAY NOT BE THE BEST COURSE OF ACTION.

THERE IS NO SPECIFIC B.A.R. REGULATION FOR THIS SITUATION, SO WE WILL OUTLINE THE B.A.R. RECOMMENDATIONS.

IF THIS IS AN INSURANCE PAID REPAIR, YOU WANT TO MAKE SURE YOUR NAME DOES NOT APPEAR ON THE CHECK. IF IT DOES, HAVE THE CUSTOMER SUBMIT THE REVISED ESTIMATE TO THE INSURANCE COMPANY TO HAVE THE AMOUNT CHANGED TO MATCH THE NEW REPAIR SCOPE. IF THE CUSTOMER DOESN'T WANT TO DO THAT, HAVE THE CUSTOMER RETURN THE CHECK TO THE INSURANCE COMPANY AND HAVE IT RE-WRITTEN IN THE CUSTOMER'S NAME ONLY.

FOR CUSTOMER PAY AND INSURANCE PAY SITUATIONS YOU SHOULD DO THE FOLLOWING:

- *PREPARE A NEW ESTIMATE OUTLINING THE NEW SCOPE OF REPAIR.
- *VOID THE CURRENT REPAIR ORDER. NOTE ON THE VOIDED REPAIR ORDER WHY IT WAS VOIDED.
- *PREPARE A NEW REPAIR ORDER BASED ON THE NEW ESTIMATE. NOTE ON THE NEW REPAIR ORDER THAT IT REPLACED OLD REPAIR ORDER.
- *ATTACH THE OLD REPAIR ORDER TO THE NEW ONE.

THIS MAY SEEM LIKE A COMPLICATED WAY TO SOLVE WHAT SEEMS TO BE A SIMPLE PROBLEM. HOWEVER, IT WAS NOT SIMPLE AT ALL. WHEN THE SHOP CALLED WITH THIS QUESTION, WE CONTACTED OUR FRIENDS AT THE B.A.R. FOR ADVICE. IT TURNED OUT THAT THE TWO "CUSTOMERS" WERE IN A WAR. ONE OF THE "CUSTOMERS" FILED A COMPLAINT WITH

THE B.A.R. AND FORTUNATELY, THE SHOP USED THE B.A.R. RECOMMENDATED SOLUTION. AS A RESULT, THE SHOP SUFFERED NO CONSEQUENCES FROM THE B.A.R. INVESTIGATION.

THIS WILL ALSO PROTECT YOU FROM A CHARGE OF INSURANCE FRAUD, AND A DEDUCTIBLE REBATE VIOLATION, BOTH ARE VIOLATIONS OF THE PENAL CODE.