



# FARB Focus

VOLUME 2, ISSUE 2

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## GOVERNING MEMBERS

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## FARB Responds to Supreme Ct. Opinion

The Federation of Associations of Regulatory Boards (FARB), in furtherance of its mission to promote excellence in regulation for public protection by providing expertise and innovation from a multi-professional perspective, has proactively undertaken a review of its *Model Documents* in response to the recent United States Supreme Court opinion in *North Carolina State Board of Dental Examiners v. Federal Trade Commission*. In this case, the Supreme Court considered the issue of immunity under the state action doctrine that historically provided state boards with a defense against antitrust allegations.

The Supreme Court found the North Carolina board to be a “nonsovereign” entity thus requiring that it meet both prongs of the two-part test reserved in the past for certain private entities seeking immunity from antitrust scrutiny. The two-prong test includes a clearly articulated state policy to displace competition *and* active state oversight. The Supreme Court affirmed the 4<sup>th</sup> Circuit ruling and upheld the FTC finding of antitrust violations

holding that the State of North Carolina did not provide sufficient oversight of the board activities.

This is a significant opinion and very important to regulatory boards of all professions. It is essential that regulatory boards understand the nuances of the judicial opinion and also reinforces the need for board members to be adequately trained on the role of government regulation. The Supreme Court ruling should provide the stimulus for boards, board members, staff, associations of boards, and legal representatives to clarify the distinction between professional promotion (undertaken by the trade associations) and government regulation in the interest of public protection.

To prepare for the initial reactions of the legal and political communities, FARB is undertaking a comprehensive review of its *Generic Model Practice Act*, in particular the Legislative Declaration and Statement of Purpose clauses. The Legislative Declaration clearly articulates an intent to displace competition, but will likely be modi-

fied to mirror language used by the Supreme Court. As an immediate reaction to the opinion, FARB has added a new section to the Legislative Declaration addressing state oversight. Updated versions of the *FARB Model Documents* will be available in the summer of 2015. FARB is also addressing this case and surrounding issues in multiple sessions at the upcoming Regulatory Law Seminar in October. Visit [www.FARB.org](http://www.FARB.org) to see the full agenda and to register.

Boards can also look to FARB for help with their own practice acts. FARB can conduct a concentrated review of the language of the act to address concerns brought up by this decision. Alternatively, FARB can conduct a comprehensive review of all aspects of operation including statutes, rules, licensure applications, board meetings and more. As the regulatory community attempts to react to the Supreme Court decision, FARB is committed to supporting boards in their role promoting the health, safety, and welfare of the consuming public.

# Program Spotlight: Board Reviews

Did you know that FARB can conduct a comprehensive review of your board's operations? Our regulatory experts analyze statutes, rules, meetings, licensure applications, outreach and more to increase the efficiency and effectiveness of your agency.

We can also perform a concentrated review of just the practice act and recommend language that meets the requisite legal protections.

Contact our office if you would like more information about FARB's Regulatory Board Review Program.



(847) 559-3272  
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## Membership

Interested in Membership?

Need to renew?

Questions about benefits?

We're here to help!

Keeping your membership current is the best way to ensure you are receiving all our great member benefits!

For more information visit us at

[www.FARB.org](http://www.FARB.org)

## FARB Regulatory Board Members

FARB provides a membership class for Regulatory Boards. At \$150 per year, with a discount to the FARB Forum for all board members, staff and attorneys, this membership pays for itself! Here's a current list of member boards:

- AL Board of Physical Therapy
- AL Board of Medical Examiners
- AL Board of Engineers & Land Surveyors
- AL Board of Examiners in Counseling
- AL Board of Architects
- AR State Board of Nursing
- AZ State Board of Chiropractic Examiners
- CO Department of Regulatory Agencies
- GA Professional Licensing Boards Division
- ID State Board of Dentistry
- KS State Board of Cosmetology
- KS State Board of Mortuary Arts
- KY Board of Pharmacy
- KY Board of Physical Therapy
- KY Board of Nursing
- KY Board of Licensure for Engineers and Land Surveyors
- LA Physical Therapy Board
- LA State Board of Examiners of Psychologists
- LA Board of Examiners for SLPA
- LA State Board of Social Work Examiners
- MD Board of Pharmacy
- MN Board of Architecture, Engineering, Land Surveying, Landscape Architecture
- MN Board of Dentistry
- MN Board of Nursing
- MS State Board of Massage Therapy
- NV State Contractors Board
- NC Board of Physical Therapy Examiners
- NC Board of Examiners for Engineers and Surveyors
- NC Board of Funeral Service
- NC Board of Nursing
- NC Board of Occupational Therapy
- NC Board of Examiners for SLPA
- ND Board of Counselor Examiners
- ND State Board of Psychologist Examiners
- NV State Board of Medical Examiners
- OH Board of Speech-Language Pathology and Audiology
- OH Counselor, Social Worker and Marriage and Family Therapist Board
- OK State Board of Pharmacy
- OK Veterinary Medical Examiners
- OK Board of Nursing
- OR Veterinary Medical Examining Board
- OR Board of Dentistry
- OR Board of Naturopathic Medicine
- TX Board of Chiropractic Examiners
- WV Board of Dental Examiners
- WY State Board of Nursing
- WY State Board of Pharmacy

## Calendar of Upcoming Events

FARB National Policy Summit	July 23	Washington, DC
FARB Leadership Conference	July 24-25	Washington, DC
FARB Regulatory Law Seminar ( <a href="#">REGISTER</a> )	October 1-4	Denver, CO
FARB Forum 2016	January 28-31	Clearwater Beach, FL

# FARB National Policy Summit

The FARB Board of Directors is pleased to announce the participation of over twenty associations at the upcoming National Policy Summit on Professional Regulation.

Invited association leaders will gather to discuss policy issues from national and cross-profession perspec-

tives. Topics will include issues such as regulation under challenge, state based licensure, and association/federation involvement in policy decisions. We are very excited about this new opportunity to engage association leaders in this important national conversation!

FARB’s annual Leadership Conference will follow the National Policy Summit and continue the conversation with association board leadership. Additional sessions will be held on increasing member engagement and mobility.

## President’s corner

Successful partnerships between volunteers and staff are the lifeblood of regulatory boards and the associations that serve them. Shared vision, subject matter expertise and dedication from both parts of the equation allow us to achieve so much more as a team than we could ever hope to achieve individually. The FARB Board of Directors, staff and our many volunteer presenters are just such a team! This year, we have added committees to the mix. Volunteers and staff are working to develop a new

Exam Security program and update FARB’s Model Documents among other activities. FARB’s programs are growing. Its reach is expanding. Just think about how much more we can accomplish if you join us for the conversation! If you have an idea for a conference topic or new service, can spare some extra time for a virtual committee, or would like to be a presenter, please contact the FARB office. We are waiting to hear from you!

– Mary de Sousa

*Congratulations to  
the winner of our March  
Top Regulatory Cases  
Sweepstakes  
Christa Bell  
Enjoy your fleece!*





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The Federation of Associations of Regulatory Boards (FARB) is a not-for-profit corporation formed in 1974 to promote public protection and provide a forum for information exchange for associations of regulatory boards and their affiliate stakeholders with interests in professional regulation. It is a membership association which, based upon its public protection mission, is recognized as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code.



**Our Mission: to promote excellence in regulation for public protection by providing expertise and innovation from a multi-professional perspective.**



*Thank you to our  
Annual Sponsors!*



## We've been there!

Ever wonder how we choose the locations for our conferences? Wondering where we've been? Check out our FARB Meeting Map to the right and see some of the cool places FARB has been over the years. **Red stars** represent our FARB Forum January conferences. **Purple stars** represent our FARB RLS/ACS October conferences.

We use many factors to choose locations. We try and move around from East to West to Central in order to be fair to our attendees. We also look at meeting space, hotel rates and ease of access.

Look out for upcoming conferences in these great cities:

- Denver, CO
- Clearwater Beach, FL
- Chicago, IL
- San Antonio, TX

## FARB MEETING MAP

