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TO: EXECUTIVE OFFICERS – STATE BOARDS OF PHARMACY

FROM: Carmen A. Catizone, Executive Director/Secretary

DATE: March 24, 2016

RE: NC State Board of Dental Examiners v. FTC/Antitrust Activities

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Over the past several months, NABP has taken note of an increase in activity and dialogue at the state and federal levels related to the United States Supreme Court ruling in the case of *North Carolina State Board of Dental Examiners v. Federal Trade Commission.* This includes the introduction of state legislation, a hearing in front of the US Senate Judiciary Committee, pending federal court cases against regulatory boards, as well as state attorneys general opinions.

NABP has been closely monitoring this new environment and increase in activity and will continue to do so. NABP believes that states will continue to see an increase in activity on this issue throughout 2016. If some of these efforts are successful this year, NABP expects this movement to turn up again in 2017.

NABP has developed the attached memo and supporting documents to keep the membership informed and provide national perspective on current antitrust legal activity as well as related state level actions. NABP encourages member boards to work closely with all state level stakeholders to evaluate your board's current processes to prevent risk of federal antitrust actions.

Included are attachments that may be helpful in evaluating this issue:

- Federal Trade Commission (FTC) Executive Officer Overview
- FTC Antitrust Activity Background Review Documents:
  - State and Federal Antitrust Activity Summary
  - FTC Active Supervision Letter and FTC Staff Guidance on Active Supervision of State Regulatory Boards Controlled by Market Participants
  - California Attorney General Opinion on NC Dental Board Decision by US Supreme Court

Please note, the information attached to this memo is not intended to serve as a legal opinion that might serve, in whole or in part, as a means in which a member board may maintain immunity from federal antitrust actions.

NABP would ask your assistance in sharing any information and activity that may be occurring in your state with NABP so that we can facilitate dialogue and information sharing amongst the boards. Please email exec-office@nabp.net or governmentaffairs@nabp.net to provide any information you believe may be helpful to the membership.

cc: NABP Executive Committee

Attachments