

SHERMAN ANTI-TRUST OBLIGATIONS

NORTH CAROLINA BOARD OF DENTAL EXAMINERS V. FEDERAL TRADE COMMISSION, 135 S.CT.1101 (2015)

States may act in ways that restrict trade. They may delegate immunity from the Federal Trade Act to market actors, who otherwise could not regulate the occupation in which they participate, if the State supervises them. Immunity requires 1- a clearly articulated state policy and 2- active supervision by the State. The potential for supervision or mere review of the decision process are not enough. A supervisor must review the substance of the market actors decisions, have the power to veto or modify the decision, and be able to gather additional information if it so decides.

WSBA activity	Authority/Articulated Policy	Supreme Court Supervision	Supreme Court Authority to Veto or Modify	Supreme Court Authority to Gather Additional Information	Recommendation, if any	
Admissions	Admission to Practice Rules (APR) 3,5,6,9,20-25; General Rule (GR) 12	What is process for approval of state bar exam? Of definition of eligibility to take exam? Process to review exam results/appeals?				
Discipline	Rules of Professional Conduct (RPCs)	What is process for imposition of discipline?	What is process for appeal of recommended discipline?			
Mandatory Continuing Education	APR 11, GR 12	Articulated standards for qualifying education courses? Is there supreme court review?	Has Supreme Court ever modified, vetoed or approved a course not approved by the WSBA?			

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WSBA activity	Authority/Articulated Policy	Supreme Court Review	Supreme Court Authority to Veto or Modify	Supreme Court Authority to Gather Additional Information	Recommendation, if any	
Client Protection Fund	APR 15, GR 12, ELC 1.7					
Court Rules	Washington State Constitution, Article IV,					
Rules of Professional Conduct	APR 19	Process for developing, commenting and approving RPCs				
Other WSBA activities to evaluate and determine if they do/ not trigger anti-trust issues e.g. Licensing and Membership Records, Mandated Boards (Access to Justice, Member						

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Assistance, Judicial Assistance Services Program), Practice Assistance (Reference Library, Casemaker, Practice Discounts), Moderate Means Programs, Outreach, NWLawyer, CLEs.						
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