



**FEDERATION OF ASSOCIATIONS
OF REGULATORY BOARDS**

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(Submitted electronically via ftcpublic.commentworks.com/ftc/economic-liberty)

Maureen Ohlhausen, Acting Chairman
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC

American Association of Dental Boards

American Association of
State Counseling Boards

American Association of
Veterinary State Boards

Association of Appraiser Regulatory
Officials

Association of Regulatory
Boards of Optometry

Association of Social Work Boards

Association of State and Provincial
Psychology Boards

Board of Certification for the Athletic
Trainer

Council of Landscape Architectural
Registration Boards

Federation of Chiropractic
Licensing Boards

Federation of State Massage
Therapy Boards

Federation of State Medical Boards

International Conference of
Funeral Service Examining Boards

National Association of Barber Boards of
America

National Association of
Boards of Pharmacy

The National Association of Long Term
Care Administrator Boards

National Association of State
Boards of Accountancy

National Association of State
Contractors Licensing Agencies

National Association of State
EMS Officials

National Board for Certification
In Occupational Therapy

National Council of Architectural
Registration Boards

RE: Empirical Research Roundtable

Dear Chairman Ohlhausen,

On behalf of the Federation of Associations of Regulatory Boards (FARB) and its 21 Governing Members, this letter is submitted to the Federal Trade Commission (FTC) and its Economic Liberty Task Force (ELTF) in follow up to its November 7, 2017 Roundtable titled: *The Effects of Occupational Licensure on Competition, Consumers, and the Workforce: Empirical Research and Results*. FARB is thankful for its ongoing communications with the FTC and was pleased and privileged to have attended and observed the Roundtable discussions. The purpose of this letter is to provide post-Roundtable comments to the FTC and to continue to engage in this important dialogue.

In correspondence submitted prior to the Roundtable, FARB expressed its concerns over an FTC approach that is based upon already determined conclusions. The stated purpose of the November 7, 2017 FTC ELTF Roundtable was to “examine empirical evidence on the effects of occupational licensure.” The Event Description continued to conclude that occupational licensure imposes “costs on anyone who wants to enter or continue an occupation.” Additional conclusory statements are included in the Event Description that appear to have already concluded that state based occupational licensure is fraught with unnecessary barriers, results in fewer jobs, higher consumer prices, and inhibits economic growth. While the Roundtable was specifically focused on empirical research and results, the overall tenor of the Roundtable appeared to be limited in scope and premised upon an already drawn conclusion that state regulation results in negative effects on economic factors.

Roundtable participants generally focused on supply side and producer perspectives with little emphasis on public protection or economic waste. While participants referenced public protection, it did not form the basis for justifying common sense regulation that furthers this fundamental mission and intended outcome. It is hoped that future research and FTC Roundtables can continue to seek input related to the importance of public protection and the elimination of economic waste theories.

FTC Chairman Ohlhausen

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Participants also seemed to gravitate towards an approach that placed burdens on consumers to privately litigate in the event of alleged wrongdoing. This approach will disenfranchise a large segment of the population that may not otherwise be aware of civil options of enforcement through private litigation. Further, such an approach will effectively exclude an equally large segment of the population that cannot afford to pursue civil litigation.

Participants also seemed to lump all professions and occupations into one basket, as if a one size fits all approach to reform can be uniformly applied. Coupled with this approach was the use of terms that were not clearly defined. For example, several participants referenced “certification” as a potential reform option. One would assume that certification in this context refers to the private sector, yet no one addressed the lack of oversight of private sector programs. Private certification entities set and enforce the standards without regard to protections involved with government regulation, namely, criteria set forth in law and enforced under procedural and substantive due process. Also, while competitive certification programs would likely be the result, a lack of consumer knowledge and awareness as to the credibility of each certification program would contribute to confusion and lack of uniformity.

Finally, it is hoped that the rights of the states will be front and center to future discussions. While the Roundtable focused on data and research, such an approach must still take into consideration the rights of the states to regulate as deemed appropriate. While uniformity is and should be a goal, a healthy respect for states’ rights is essential and such can be achieved through continued communications among the state boards.

FARB is excited that the FTC is spearheading efforts to address the issues surrounding state based regulation of the occupations and professions. We are equally pleased that Dr. Redbird was an invited participant to the Roundtable. Dr. Redbird’s recent study has broadened the lens on this topic through a multi-disciplined approach. She goes beyond the previous studies focused solely on the economic impact of state enforced occupational licensure to prove that this approach has created workforce opportunities that were previously unavailable to many marginalized groups.

FARB continues to promote common sense regulation and looks forward to a balanced approach and analysis by the FTC ELTP when addressing the effects of occupational licensure on competition, consumers, and the workforce. Thank you for the opportunity to submit comments in response to the November 7, 2017 meeting. We look forward to a continuing dialogue with the FTC and other interested stakeholders.

Sincerely,


Dale J. Atkinson
Executive Director & General Counsel
Federation of Associations of Regulatory Boards (FARB)

cc: FARB Executive Board