

DENTAL BOARD FALLOUT CASES

Case	State	Defendant(s)	Plaintiff(s)	Status of Case	Conduct at Issue
Axcess Medical v. MS State Bd. of Medical Licensure	Mississippi	Board and 10 John Does	Clinic's licensee and non-licensee owners	Stipulation of dismissal	Rules limiting non-licensees from owning clinics
Ballinger v. OH State Board of Registration for Professional Engineers and Surveyors	Ohio	Board and various third parties	Disciplined licensee (pro se)	Dismissed for lack of jurisdiction and failure to state a claim	Dissatisfied client colluded with the Board in violation of the Sherman Act
Bauer v. Pa. State Bd. of Auctioneer Examiners	Pennsylvania	Board, Board Chair, and three licensee members in their individual and official capacities	Attorney non-licensee who sold clients' goods via online auctions	Stayed pending resolution of a related state case	Antitrust violations (Sherman Act sections 1 and 2) and constitutional claims (due process and equal protection)
Coestervms.com, Inc. v. VA Real Estate Appraiser Bd.	Virginia	Board and its members (official capacity)	Applicant	Voluntarily dismissed	Recommendation that licensure be denied due to past conduct
Colindres v. Battle	Georgia	Exec. Director of Georgia Board of Dentistry (official capacity) and its members (individual and official capacities), Attorney General	Non-licensee and her company	Complaint filed seeking declaratory and injunctive relief and treble damages	Antitrust violations (Sherman Act sections 1 and 2); constitutional claims (free speech, due process, equal protection) have been dismissed
Colonial Downs, L.P. v. VA Racing Commission	Virginia	Commission, its Executive Secretary and members (official capacity) , VA Secretary of Agriculture and Forestry	Unlimited license applicant	Voluntarily dismissed	Antitrust violations (Sherman Act sections 1 and 2); constitutional claims (due process, equal protection, privileges and immunities)
Express Lien, Inc. v. Cleveland Metropolitan Bar Association	Ohio	Metropolitan bar association and its unauthorized practice committee (identified as a participant in the relevant market in their individual capacities), state bar association, and Board	Non-licensee	Complaint filed; claim against the state bar association voluntarily dismissed	Conspiracy to restrain trade

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Henry v. NC Acupuncture Licensing Board	North Carolina	Board and its members (official capacities)	Licensed physical therapists and their patients	Complaint filed; permanent injunction sought; motion to dismiss filed 12/22/15 & response now due 5/27/16	Anticompetitive conduct in excluding physical therapists who perform dry needling from the market; violation of due process
Jemsek v. NC Medical Board	North Carolina	Board and its members (present and past, individual and official capacities)	Inactive Licensee	Complaint filed; injunctive relief and declaratory judgment sought; motion to dismiss filed, and response due 5/26/16	Boycott, price fixing, monopolization, restraint of trade
Kinney v. State Bar of California	California	Bar and 10 John Does (individual and official capacity)	Licensee placed on "vexatious litigant" list	Complaint filed	Anticompetitive conduct in violation of Sherman Act
LegalZoom.com, Inc. v. NC State Bar	North Carolina	Bar, its president (official capacity), and 3 bar attorneys (individual and official capacities)	Non-licensee	Consent judgment signed in a related state lawsuit; this lawsuit is to be voluntarily dismissed within 10 days	Rules restricting legal plans
NC Dental Board v. FTC	North Carolina	Board	FTC	U.S. Supreme Court concluded the Board was not immune	Enforcement against non-licensees
Petrie v. VA Bd. of Medicine	Virginia	Board and its members (individual and official capacities)	Licensee	Fourth Circuit upheld the federal district court's opinion in favor of the Board; there was no Sherman Act violation	Discipline of a licensee for unauthorized practice
Rivera-Nazario v. Corporacion del Fondo del Seguro del Estado	Puerto Rico	Public corporation and its officers and directors (personal and official capacity)	Licensees	Motion to dismiss Sherman Act claims granted; defendants were immune under <i>Parker</i>	Antitrust (Sherman Act sections 1 and 2)
Robb v. CT Bd. of Veterinary Medicine	Connecticut	Board and its members (individual and official capacity)	Licensee	Motion to dismiss Sherman Act claim was granted; plaintiff failed to make sufficient factual allegations to support his claim	Threatened discipline of licensee; antitrust violations
Rodgers v. LA State Bd. of Nursing	Louisiana	Board (although not named as a defendant, the national association of state boards was alleged to have colluded with the state board)	Student non-licensee	Court resolved the motion to dismiss in the Nursing Board's favor; the Board was immune under the Eleventh Amendment; on appeal to the Fifth Circuit	Termination of university baccalaureate nursing degree

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Rosenberg v. State of Florida	Florida	Florida Bar, State of FL, and State Supreme Court	Suspended licensee	Court resolved motion to dismiss in Florida Bar's favor because it was a sovereign entity and the federal court lacked subject matter jurisdiction	Grievance committee and Florida Bar were active market participants and their anticompetitive actions were not actively supervised
Strategic Pharmaceuticals Solutions, Inc. v. NV State Board of Pharmacy	Nevada	Board and its members (individual and official capacities)	Out-of-state licensee	Complaint filed; injunctive relief	Sherman Act section 1 and 2 (restraint of trade and monopolization); Nevada's Unfair Trade Practices Act
Teladoc, Inc. v. TX Medical Bd.	Texas	Board and its members (individual and official capacities)	Non-licensee	Complaint filed; court issued preliminary injunction against rule; the Board and board members in their individual capacities were dismissed; motion to dismiss by the board members in their official capacities was denied; board members filed notice of appeal with the 5th Cir. on 1/12/16	Rules restricting telemedicine practice and requiring a "face-to-face or in-person evaluation"
Wallen v. St. Louis Metropolitan Taxicab Commission	Missouri	Commission and its members, and their taxi cab companies	Potential Uber customers, potential Uber drivers, Uber, and the Uber app licensor	Complaint filed; injunctive relief sought; defendants filed motions to dismiss; referred to mediation, to be completed by 1/9/17	Restraint of trade, preventing Uber and similar companies from entering the market
WSPTN Corp. v. TN Dept. of Health, Council for Hearing Instrument Specialists	Tennessee	Licensing board, Board members and former Board chair (individual and official capacities)	Employers and licensee-applicant employees	Complaint filed; preliminary injunction sought; currently in settlement discussions; motion to dismiss pending	Restraint of trade, monopolization on hearing aid market