STATE OF GEORGIA
OFFICE OF THE GOVERNOR
ATLANTA 30334-0900

Nathan Deal
GOVERNOR

July 1, 2016

VIA ELECTRONIC MAIL

Dear Executive Directors and Members of Boards:

As you know, the United States Supreme Court recently clarified that decisions from state licensing boards controlled by those practicing the relevant profession will only be entitled to state-action immunity from antitrust enforcement where the board's action follows a clearly articulated state policy and the state actively supervises action of its licensing boards.[1] In order to retain the expertise of board members who practice in the field that they regulate while also maintaining state-action immunity for actions of the state's various boards and a competitive business climate, the General Assembly adopted H.B. 952, Georgia Professional Regulation Reform Act, which places the authority for active supervision with the Governor. This letter serves as a reminder and notice of the implementation of H.B. 952. The following guidelines and procedures are to be observed by state licensing boards effective July 1, 2016:

I. **Review of Proposed Rules**. Pursuant to O.C.G.A. § 43-1C-3(a)(1), licensing boards shall submit to the Governor any proposed rule before it is filed in the office of the Secretary of State, or, if filing is not required, such rule shall be submitted prior to it becoming effective.
II. **Review of Existing Rules upon Submission or Challenge**. Pursuant to O.C.G.A § 43-1C-3(a)(2), rules, as defined in O.C.G.A. § 43-1C-2(3), may also be reviewed upon a challenge after the denial of a petition filed pursuant to O.C.G.A. § 50-13-9, or upon submission by a professional licensing board for review.
III. **Review of Actions upon Submission or Challenge**. Under O.C.G.A. § 43-1C-3(a)(3), any action taken by a professional licensing board may be subject to review upon challenge via an appeal to the Governor or submission by a professional licensing board for review.

All submissions should be directed to the Governor's Office via electronic mail at licensing.gov@georgia.gov after the Board's posting of notice of intent and rule hearing under O.C.G.A. § 50-13-4 and after the Board has voted to adopt the relevant rule. In other words, Licensing Board decisions that fall within the purview of H.B. 952 shall be considered subject to the Governor's active supervision and subsequent adoption of the final rule by the Board prior to filing with the Secretary of State. All submissions should include by e-mail attachment the proposed Rule, Rule Synopsis, and any "concise statement of the principal reasons for and

[1] *N.C. State Bd. of Dental Exam'rs*, 135 S. Ct. 1101 (2015).

against [the Rule's] adoption,"[2] if one was produced, as well as any other relevant evidence (e.g. data, views, and arguments submitted to the Board). Similarly, submissions should include the Licensing Board's name in the subject line.

As required by O.C.G.A. § 43-1C-3(b), any review described above will be completed by the Governor's Office within 90 days with approval, modification or veto of the rule returned to the e-mail used for the proposed Rule's submission.

I look forward to working with you in providing any necessary protections to Georgians while also ensuring a competitive business climate. Should you have any questions about the content of this letter, please direct those to the email listed above or to Carey Miller, Deputy Executive Counsel, at (404) 656-1784.

Respectfully,

Nathan Deal

Governor Nathan Deal

cc: Lisa Durden, Division Director, Professional Licensing Boards
Josh Waters, Assistant Division Director & Legal Counsel, Professional Licensing Boards

[2] As may be required under O.C.G.A. § 50-13-4(a)(2).