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Department of Justice
Antitrust Division
Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Re: Request for Review of Proposed Lactation Consultant Fee Survey

Dear Sirs,

This letter is written in request of a determination of the legality of a proposed fee survey by competing allied health care providers in the field of internationally board-certified lactation consultants (IBCLC's) under the US Department of Justice's Business Review Procedure, 28 C.F.R. §50.6.

There are over 12,000 IBCLC's worldwide. IBCLC's are certified by the International Board of Lactation Consultant Examiners (IBLCE) (http://www.iblce.org). IBCLCs provide substantive breastfeeding assistance and skilled technical management of breastfeeding problems. In order to maintain certification, they must adhere to a specified code of ethics as determined by IBLCE. The usual cost for a lactation consultation by an IBCLC in private practice ranges between $20 to $200. Most lactation consultants in private practice in the US earn less than $40,000 per year; many earn significantly less.

IBCLC's may be self-employed in private practice (usually sole proprietorships) or may work for organized health care providers such as hospitals or physicians' offices. The IBCLC's who wish to conduct this fee survey are self-employed in private practice and set their fees independently. They not allied in any fashion, but do communicate regularly by email through an organized email distribution listserv. Only the fees of IBCLC's in private practice will be surveyed.

To date, the professional organization for IBCLC's, the International Lactation Consultants Association (ILCA) (http://www.ilca.org), has declined to conduct such a survey. Therefore, the private practice IBCLC's themselves, acting independently, would like to conduct this survey in order to determine the range of prices customary employed. Such a survey as outlined below would enhance competition, rather than reduce it, with the end result of lower fees for the consumer. **There would be no agreement or requirement among the participants or recipients of the survey to set any particular fees.**

The information from the survey would be collected under the following conditions, which adhere to the stipulations set forth in Section 6(a) of the US Department of Justice and Federal Trade Commission's "Statements of Antitrust Enforcement Policy in Health Care" (August 1996):

1) The survey will be collected and managed by a no-cost independent third-party online survey service using survey collection and analytical software. The data will be collected anonymously, sorted by region and other criteria, and presented in a range of fees. The data will be made available at no cost to any interested parties, accessible both online and in print format.

2) The information that will be provided by survey participants will be based on data that is more than 3 months old.

3) At least 20 and potentially several thousand participants will provide data; no individual participant's data will represent more than 25 percent on a weighted basis of any given statistic. If fewer than five participants provide data for any given criteria, the data from at least five participants will be combined into a broader criteria. The information that will be disseminated will be sufficiently aggregated such that it will not allow recipients to identify the fees charged by any particular provider.

The only limitation of the survey is that participation will be restricted to those IBCLC's who have internet access, which is estimated to be the majority of IBCLC's.

As a constituent of the IBCLC's who wish to conduct this survey, I thank you in advance on their behalf for your consideration of the legality of our proposed fee survey.

Sincerely,

Diana West

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