WASHINGTON. D. C. 20580

I:!

This is in respoAse to your request for an advisory opinion concerning a proposed program for peer review of dental fees by
the Iowa Dental Association ("IDA"- or "Associationn-) and i ts component district dental societies.

It is t nls understanding that IDA wishes to
institute a progry to aid the cost containment
efforts of t ayors and assist patients in the
resolution of fee-related disputes with dentists. Under the
proposed IDA peer review program, a patient, a third-party payor
or a dentist involved in a particular fee dispute may request a determination by a peer review panel of an IDA component district
dental society as to the appropriateness of the fee charged in

8 that particular case. Participation in the program will be

purely voluntary (with no proceed'ng held unless each of the
disputants agrees to participate) t, and all determinations will be
purely advisory in nature. Furthermore, the decision of each
beer review panel will be based solely on the facts and
circumstances of the particular ease and will not be disseminated
beyond the patient, third-party payor, and dentist involved in the ease. Similarly; distribution of decisions internally will be limited to the dis'sernination required to ?erfo,rm appellate and administrative functions, and the Association will neither collect information on dental fees nor conduct surve:ys relating to such fees.

Based on its understanding

Third-party payors (also cai led *third-par ty providers" in
IDA'S submissions) are entities -- such as insurance
companies, service companiss, or employers -- who reimburse oatients for all or

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The Comnission is of the view, however, that great care must continually be taken in carrying out the program to assure that its purpose remains legitimate. and that it does not produce significant anticompetitive eqfects and thereby run afoul of the antitrust Proffered guidance given under the auspices of a major professional society {an readily become coercive if the voluntary and advisory nature,of the program is not perceived and sustained by all participants. Likewise, joint action relating to fees can readily threaten independent pricing, if determinations about particular past prices become generalized in future fee or reimbursement decisions. IDA should avoid antitrust risk, therefore, by vigilantly safeguarding the voluntary and advisory nature of the fee ?eer review process, and the limited scope of each proceeding, to prevent a lessening of price competition or innovation and to avoid unlawful coercion.

Compet i t ion wi 11 be 'best 2rotected if a1 1 concerned par ties
view fee peer review as a means of mediating specific fee disputes, rather than a process for the collective sanctioning of fee levels or particular practices. The Comnission

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Association should take no steps to discipline either panelists who do not follow IDA'S policies or member dentists who decline to utilize the peer