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IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
CIVIL DEPARTMENT

DR. MARK P. TROILO, D.D.S., and DR.
CHRISTOPHER LEISZLER, D.D.S,
Individually and on Behalf of Nominal
Defendant Delta Dental of Kansas, Inc.,

Case No.

Plaintiffs,

vs.

GARY YAGER; DR. BRICK R. SCHEER,
D.D.S.; KIM BORCHERS; ANGELA
MCCLURE; DR. NICHOLAS A. TROILO,
D.D.S.; DR. PATRICK MORIARTY,
D.D.S.; SHAWN NACCARATO; DR.
LUCYNDA RABEN, D.D.S.; RUTH
TEICHMAN; and NANCY ZOGLEMAN,

Defendants,

vs.

DELTA DENTAL OF KANSAS, INC.,

Nominal Defendant.

PURSUANT TO K.S.A. CHAPTER 60

VERIFIED PETITION AND DERIVATIVE ACTION

Plaintiffs Dr. Mark P. Troilo, D.D.S. (“Dr. Troilo”) and Dr. Christopher Leiszler, D.D.S. (“Dr. Leiszler”), individually and derivatively on behalf of Nominal Defendant Delta Dental of Kansas, Inc. (“DDKS” or “the Company”), allege:

Summary of the Action

1. This is a member action brought by Plaintiffs, individually as members of DDKS, and on behalf, and for the benefit, of DDKS, against Defendants, each a DDKS director, for declaratory judgment and injunctive relief. DDKS is a nonstock, nonprofit corporation organized under the *Nonprofit Dental Service Corporations Act*, K.S.A. 40-19a01, *et. seq.* (“the Act”), the only such corporation in the state. Its Board of Directors (“Board”) is a State of Kansas Board. DDKS’ members, as per the Act, are dentists who have participating agreements with the Company. DDKS’ Restated Articles of Incorporation (“Articles”), which were adopted in 2000 and were in effect on December 11, 2020, expressly added to the Articles that that even though the Company “**shall not have authority to issue capital stock . . . all voting powers normally vested in stockholders shall be vested in the members of this Corporation.**” One such voting power, of statutory origin, is the power of stockholders to approve Board-adopted amendments to the articles of incorporation. DDKS’ members, therefore, had that power. Indeed, after the Board adopted the 2000 amendments, the Company presented those amendments to the members, who used their voting power to approve them. The Company’s certification on the Articles filed with the Secretary of State attests that the Company’s members approved the

amendments using the K.S.A. 17-6605(b) approval process, designed for stockholders. Having members approve board-adopted amendments was the Board's course of conduct before the December 11, 2020 Board meeting. Further, the 2000 Articles provided **"[t]he power to adopt, alter amend or repeal this Corporation's Bylaws, in whole or in part, at any time, shall be vested in the Membership."** The members controlled the Company, while the directors managed its affairs.

2. In Fall 2020, Plaintiffs presented to the Board a petition signed by 50 DDKS members asking for a meeting with the Board to discuss possible member-initiated amendments to DDKS' Bylaws. During a December 11, 2020 regular Board meeting, where the members' request was supposed to be considered, rather than entertain Plaintiffs' request, the directors voted 6 to 4 to amend the Articles and the Bylaws. Voting "no" were the four dentist directors, who were elected to the Board by the members. Before the meeting they had no notice of the proposed amendments. The amendments were not presented to DDKS' membership for approval. In fact, the Board purported to make the amendments effective when filing them.

3. The amendments are corporate governance matters that influence the balance of power within the Company, where the greatest tension between managers and the members resides. The amendments seek to disenfranchise members by reducing their participation and voting power. Specifically, the amended Articles eliminate the provision giving members the same voting powers as stockholders in a stock corporation. They suspend the former checks and balances inherent in the

process for having the membership vote on Board-adopted amendments to the Articles. They strip the members of their exclusive and vested power to amend the Bylaws. They place an all-but-impassable gate for the membership's consideration of member-proposed Bylaw amendments that are opposed by the Board. They entrench the current directors by extending their terms of office from 4 years to 6 years and giving each director class *carte blanche* to further amend the Bylaws to change the terms of their office and tenure. They potentially disqualify the four directors who are elected by the members from voting on matters that affect their personal interests as dentists who have participating agreements with the Company. The amendments' purpose is to insulate Defendants from scrutiny by DDKS' members, by stripping members of vested voting power, and reallocating power in the Company in violation of the Act, the corporation code, and the common law. Collectively, the amendments strike a critical blow to corporate democracy.

4. By adopting those amendments Defendants have acted disloyally and in bad faith and placed their own interests in avoiding accountability to members over the interests of the Company, the members, and the people of the state of Kansas, to whom they owe their fiduciary duties. Further, by adopting the amendments without sufficient prior notice and without being fully informed, by independent legal advisors, of the circumstances surrounding the validity and legality of the amendments, the Directors breached their fiduciary duties to act with due care.

5. Plaintiffs seek a declaratory judgment in their favor, declaring the amendments to the Articles and Bylaws are *ultra vires* acts that were adopted in breach of Defendants' fiduciary duties. The amendments are irreconcilable with Kansas law and public policy. They are invalid and unenforceable. Plaintiffs also seek a preliminary and permanent injunction barring Defendants from enforcing the amendments. For this purpose, Plaintiffs have no adequate remedy at law.

6. Plaintiffs also sue Defendants derivatively on behalf of the Company for Defendants' conduct in aiding, abetting, assisting, fostering, and directly participating in acts described above which jeopardize the Company's corporate democracy, the members' ability to hold the directors' power in check, and the Company's mission to promote the availability of dental services for Kansans. Defendants' conduct constitutes a clear abuse of control, and breach of fiduciary duties for which they should be held liable to Plaintiffs derivatively on behalf of the Company.

Jurisdiction and Venue

7. The Court has jurisdiction over all claims asserted here pursuant to K.S.A. 60-257 and K.S.A. 60-1701, *et seq.*

8. Venue is proper in this District because DDKS has its principal place of business in this District. Further, Plaintiffs' claims arose in this District, where most of the actionable conduct took place, where most of the relevant documents are stored,

and where many of the witnesses are located. Also, each Defendant, as a Company director, has extensive contacts with this District.

Parties

Plaintiffs

9. Plaintiffs, at all relevant times, are Kansas citizens and residents.

10. Plaintiff Dr. Mark P. Troilo graduated from Kansas Newman College in 1974. He earned a Doctorate of Dental Surgery from the Dental College at Creighton University in 1978. He has a private dental practice known as Rose Hill Family Dentistry, which is located at 106 East Yeager Street, Rose Hill, Kansas, 67133. Dr. Troilo has a participating agreement with DDKS and has been a member of the corporation since 1978.

11. Plaintiff Dr. Christopher Leiszler graduated from the University of Kansas in 2001. He earned a Doctorate of Dental Surgery from University of Missouri—Kansas City School of Dentistry in 2005. He has a private dental practice known as Baldwin City Dental, which is located at 414 Ames Street, Baldwin City, Kansas 66006. Dr. Leiszler has a participating agreement with DDKS and has been a member of the corporation since 2007.

Nominal Defendant Delta Dental of Kansas, Inc.

12. In 1972, Kansas dentists organized Nominal Defendant Delta Dental of Kansas, Inc. as a Kansas Nonprofit Dental Service Corporation, pursuant to the

Kansas Nonprofit Dental Service Corporations Act, K.S.A. 40-19a01, *et seq.* (“the Act”) (attached as Ex. 1), the only such corporation in Kansas.

13. The Company’s principal place of business is located at 1619 N. Waterfront Parkway, Wichita, Kansas 67206.

14. According to its Bylaws, the Company’s mission, and Internal Revenue Code, Section 501(c)(4) charitable purpose, is: “To make possible and facilitate a wider and more timely availability of dental care, thereby advancing the public health and the science and art of dentistry in the state of Kansas . . .”

15. Unlike a traditional stock corporation, which is controlled by persons holding shares of the company’s stock, under the Act, a nonstock, Nonprofit Dental Service Corporation, is organized and controlled by members, “comprised of the dentists who have executed participating agreements with the corporation.” K.S.A. 40-19a03. Under those agreements, the members provide or administer dental services for subscribers of the corporation’s agreements with purchasing groups, individuals, and government agencies for service or indemnity benefits. K.S.A. 40-19a02.

16. The power to prescribe rules for the governance of a Nonprofit Dental Service Corporation is an incident of the members’ control and the voting power of their membership interests. In stock corporations that power is generally conferred by the general corporation code or the articles of incorporation upon the stockholders.

The Act's grant of that same power to a Nonprofit Dental Service Corporation's members is plenary.

17. Under the Act, a 10-person board of directors manages the "affairs" of a Nonprofit Dental Service Corporation. K.S.A. 40-19a03. Balancing the public's interest in the corporation's mission and the dentist members' controlling interest, the Act provides that 6 directors will be "appointed from among the general public of the state of Kansas" and 4 directors will be "elected from among the corporation's participating dentists." *Id.* The governor appoints 2 "public members of the board," and the commissioner of insurance appoints the remaining 4 public directors. *Id.*

18. Under the Act, the commissioner of insurance decides whether to grant the Nonprofit Dental Service Corporation the needed authority to engage in business. Under K.S.A. 40-19a03, a company must demonstrate "to the satisfaction of the commissioner of insurance that it has obtained participating agreements from at least fifty percent (50%) of the dentists licensed to practice, and engaged in practice, in the state of Kansas." *See also* K.S.A. 40-19a05. Further, a company must "file with the commissioner of insurance a certified copy of its charter [articles of incorporation] and bylaws, copies of the subscription agreement forms and the rating formula that it proposes to use and the form of its agreement with its participating dentists, all of which shall be approved by the commissioner of insurance." K.S.A. 40-19a05. Finally, "the commissioner shall cause an examination to be made of the affairs of the corporation as provided by K.S.A. 40-208." *Id.* After completing those steps, the

commissioner of insurance may issue to the company a Certificate of Authority, signifying the company's authority to engage in business. *Id.*

19. On January 26, 1973, the commissioner of insurance issued to the Company a Certificate of Authority under the name Delta Dental Plan of Kansas, Inc. (attached as Ex. 2). A supplemental Certificate of Authority was issued in 2005 after the Company changed its name to Delta Dental of Kansas, Inc. (attached as Ex. 3).

20. Pursuant to K.S.A. 40-222(a), “[w]hensoever the commissioner of insurance deems it necessary but at least once every five years, the commissioner may make, or direct to be made, an examination of the affairs and financial condition of any insurance company in the process of organization, or applying for admission or doing business in the state.” The last such examination of the Company occurred in 2017, based on the Company's affairs and financial condition as of December 31, 2015 (attached as Ex. 4).

21. According to the 2020 Kansas Directory published by the Office of the Secretary of State (*see* <https://www.sos.ks.gov/forms/communication/2020/Boards.pdf>) and information on the governor's website (*see* <https://governor.kansas.gov/serving-kansans/office-of-appointments/kansas-boards-and-commissions/>), the Company's Board is a State of Kansas Board under the authority of K.S.A. 40-19a01, *et seq.*

22. Kansas Statutes Annotated, Chapter 75. *State Departments; Public Officers and Employees, Article 32. Compensation and Allowances, 75-3223. Compensation, subsistence allowances, mileage and expenses of members of board; "board" defined*, governs compensation for state boards. It provides, "Whenever it is provided by law that a member of a board is to receive compensation as provided in this section, such member shall be paid per diem compensation of thirty-five dollars (\$35) for each day of actual attendance at any meeting of such board or any subcommittee meeting authorized by such board." K.S.A. 75-3223. K.S.A. 40-19a01, *et seq.*, does not refer to K.S.A. 75-3223, or expressly provide that directors are entitled to compensation. According to the governor, the Company's directors do not receive compensation. *See* <https://governor.kansas.gov/serving-kansans/office-of-appointments/kansas-boards-and-commissions/board-of-directors-of-the-delta-dental-plan-of-kansas/>. However, on information and belief, full term directors in 2018 received between \$10,656 and \$11,590, while the Vice Chairperson received \$12,093 and the Chairperson received \$22,219. *See* <https://projects.propublica.org/nonprofits/organizations/480793267/201923059349300012/full>.

Defendant Directors

23. Defendant Gary Yager, at 3521 SW Lincolnshire, Topeka, Kansas, in 2020, was Chairperson of the Board of the Company. He was appointed by the

commissioner of insurance. According to the secretary of state,* his term expires on June 30, 2021.

24. Defendant Dr. Brick R. Scheer, D.D.S., at 7707 E. 29th Street North, Wichita, Kansas, in 2020, was, Vice Chairperson of the Board of the Company. He was elected by the Company's members. According to the secretary of state*, his term expires in August 2021.

25. Defendant Kim Borchers, at 5521 NW Timber Edge Dr., Topeka, Kansas, in 2020, was a member of the Board of the Company. She was appointed by the governor. According to the secretary of state*, her term expires June 30, 2021.

26. Defendant Angela McClure, at 904 Andover Street, Lawrence, Kansas, in 2020, was a member of the Board of the Company. She was appointed by the commissioner of insurance. According to the secretary of state*, her term expired on June 30, 2018.

27. Defendant Nicholas A. Troilo, D.D.S., at 2236 N. Slutter Lane, Wichita, Kansas, in 2020 was a member of the Board of the Company. He was elected by the Company's members in August 2020.

28. Defendant Dr. Patrick Moriarty, D.D.S., at 531 N. 711th Road, Lawrence, Kansas, in 2020, was a member of the Board of the Company. He was elected by the Company's members. According to the secretary of state*, his term expired in August 2019.

* See <https://www.sos.ks.gov/forms/communication/2020/Boards.pdf>.

29. Defendant Shawn Naccarato, at 508 W. Euclid Street, Pittsburg, Kansas, in 2020 was a member of the Board of the Company. He was appointed by the governor. According to the secretary of state*, his term expires on June 30, 2022.

30. Defendant Dr. Lucynda Raben, D.D.S., at 9634 Clubhouse Court, Wichita, Kansas, in 2020, was a member of the Board of the Company. She was elected by the Company's members. According to the secretary of state*, her term expired in August 2018.

31. Defendant Ruth Teichman, 434 E. Old Highway 50, Stafford, Kansas, in 2020, was a member of the Board of the Company. She was appointed by the commissioner of insurance. According to the secretary of state*, her term expired on June 30, 2018.

32. Defendant Nancy Zogleman, P.O. Box 7, Caldwell, Kansas, in 2020, was a member of the Board of the Company. She was appointed by the commissioner of insurance. According to the secretary of state*, her term expires on June 30, 2021.

Factual Allegations

Defendants Adopted Illegal Amendments to the Company's Articles of Incorporation that Drastically Diminish the Member's Power in Corporate Governance.

33. The Company's Articles are an integral part of the contract between the member dentists and the Company. It binds the Company's officers and directors. It protects the fundamental structure of corporate governance. It allocates power within the Company between its members and its directors. The components of that contract

form a hierarchy, comprising from top to bottom: (i) *Nonprofit Dental Service Corporations Act*, K.S.A. 40-19a01, *et seq.*, (ii) the *Kansas General Corporation Code*; (iii) the Articles of Incorporation, and (iv) the Bylaws. Each of the lower components of the contractual hierarchy may be subordinate to the higher components.

34. While the Company's day-to-day affairs are managed by its officers and managers working under the supervision of its directors, decisions affecting the Company's ultimate destiny and corporate governance structure are for the members to make in accordance with democratic procedures. A member's vote to approve board-adopted amendments to Articles and to adopt Bylaws is one of the most fundamental rights of membership. The Company cannot use its corporate governance procedures for the purpose of obstructing members from challenging management. Board actions taken for the principal purpose of impeding the members' franchise must be twice tested: "first by the technical rules having to do with the existence and proper exercise of the power; second, by equitable rules somewhat analogous to those which apply in favor of a *cestui que* trust to the trustee's exercise of wide powers granted to him in the instrument making him a fiduciary." *Sinchareonkul v. Fahnemann*, 2015 Del. Ch. LEXIS 17, at *15-16, 2015 WL 292314 (Del. Ch. Jan. 22, 2015) (*quoting* Adolf A. Berle, *Corporate Powers As Powers In Trust*, 44 Harv. L. Rev. 1049, 1049 (1931)). The Board's December 11, 2020 action amending the Articles and the Bylaws is illegal and inequitable and should be restrained and set aside.

35. The Company's original *Articles of Incorporation*, dated July 31, 1972 (see Ex. 5), follow the corporate governance scheme in the *Nonprofit Dental Service Corporations Act*. The original Articles provided that "the business of the corporation shall be managed and all affairs shall be conducted at all times in accordance with the provisions of 'the Nonprofit Dental Service Corporation [sic] Act.'" The Articles' paragraph *Fifth* stated, "[t]he conditions of membership are: The membership shall be comprised of the dentists who have executed participating agreements with the corporation as provided in 'the Nonprofit Dental Service Corporation [sic] Act.'"

36. An October 2, 1972, amendment to the Articles (see Ex. 6), amended the conditions of membership in paragraph *Fifth* to add that "[e]ach member shall be entitled, at every meeting of members, to one vote per person, but no member shall be entitled to vote by proxy."

37. The *Nonprofit Dental Service Corporations Act*, K.S.A. 40-19a01, *et seq.*, is silent about the process for amending the Company's articles.

38. Under the corporate code, after the Company had members it could "amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation, as amended, would contain only such provisions as it would be lawful and proper to insert in an original articles of incorporation filed at the time of the filing of the amendment." K.S.A. 17-6602(a).

39. K.S.A. 17-6605 governs the process for stockholders to amend articles by adopting restated articles of incorporation. K.S.A. 17-6605(b) provides, "[i]f the

restated articles of incorporation restate and integrate and also further amend in any respect the articles of incorporation, as theretofore amended or supplemented, they shall be proposed by the directors and adopted by the stockholders in the manner and by the vote prescribed by K.S.A. 17-6602, and amendments thereto . . .”

40. As for the K.S.A. 17-6605 amendment process and the vote required, K.S.A. 17-6602(b)(1) provides,

If the corporation has capital stock, its board of directors shall adopt a resolution setting forth the amendment proposed, declaring its advisability, and either calling a special meeting of the stockholders entitled to vote for the consideration of such amendment or directing that the amendment proposed be considered at the next annual meeting of the stockholders, except that unless otherwise expressly required by the articles of incorporation, no meeting or vote of stockholders shall be required to adopt an amendment that effects only changes described in subsection (a)(1) or (a)(7). Such special or annual meeting shall be called and held upon notice in accordance with K.S.A. 17-6512, and amendments thereto. The notice shall set forth such amendment in full or a brief summary of the changes to be effected thereby unless such notice constitutes a notice of internet availability of proxy materials under the rules promulgated under the securities exchange act of 1934. At the meeting a vote of the stockholders entitled to vote thereon shall be taken for and against any proposed amendment that requires adoption by stockholders. If no vote of stockholders is required to effect such amendment, or if a majority of the out-standing stock entitled to vote thereon and a majority of the outstanding stock of each class entitled to vote thereon as a class have been voted in favor of the amendment, a certificate setting forth the amendment and certifying that such amendment has been duly adopted in accordance with the provisions of this section shall be executed and filed, and shall become effective, in accordance with K.S.A. 2015 Supp. 17-7908 through 17-7911, and amendments thereto.”

K.S.A. 17-6602(b)(1).

40. For traditional nonstock, nonprofit corporations, the corporation has no owner. Members in such a company, unlike stockholders, are not typically required to make a financial investment as a condition of membership. Unlike stockholders, such members have no personal profit motive to guide their oversight of the corporation. Thus, members of traditional nonstock, nonprofit corporations, enjoy fewer powers of pure statutory origin than stockholders in a stock company. K.S.A. 17-6602(b)(3) permits the directors of nonstock corporations to amend the articles, without the approval of members, unless the articles provide that “any amendment thereto to be approved by a specified number or percentage of the members or of any specified class of members of such corporation in which event such proposed amendment shall be submitted to the members or to any specified class of members of such corporation in the same manner, so far as applicable, as is provided in this section for an amendment to the articles of incorporation of a stock corporation.” K.S.A. 17-6602(b)(3).

41. Unlike members of traditional nonstock, nonprofit corporations, the members of a Nonprofit Dental Service Corporation, have a financial stake in the corporation via the member’s participating agreement with the company. Consequently, the gap-filling statutory rules governing traditional nonstock, nonprofit corporations do not fit the Act’s corporate governance model. Members, having participating agreements, are intended to control the

Nonprofit Dental Service Corporation. Their interests are more like stockholders than members of the traditional nonstock, nonprofit corporations and, therefore, they need greater powers than traditional members.

42. Tellingly, on August 16, 2000, when the Company last restated and amended the Articles (*see* Ex. 7) the members exercised voting powers typically reserved by statute for stockholders. *See* K.S.A. 17-6605(b) and 17-6602(b)(1) and the discussion above. Here is the proof: The Company's K.S.A. 17-6605(c) certification[†] states,

that the following Amended and Restated Articles of Incorporation which restate, integrate, and further amend the Corporation's Articles of Incorporation as originally filed and as heretofore amended and supplemented, **were duly set forth, proposed, approved, and declared advisable by a resolution duly adopted by the Corporation's Board of Directors, and were thereafter duly approved and adopted by the members of the Corporation in accordance with the provisions of K.S.A. § 17-6605 and amendments thereto**, and the General Corporation Code of the State of Kansas, and that these Amended and Restated Articles of Incorporation constitute all of the Articles of Incorporation of the Corporation and do hereby supersede the Corporation's Articles of Incorporation originally filed as heretofore supplemented or amended.

(Emphasis added.) That was the Board's course of performance prior to the December 11, 2020 Board meeting.

[†] K.S.A. 17-6605(c) provides, "Any restated articles shall also state that they were duly adopted by the directors or stockholders, as the case may be, in accordance with the provisions of this section. If they were adopted by the board of directors without a vote of the stockholders unless adopted pursuant to the provisions of K.S.A. 17-6601, and amendments thereto, or without vote of the members pursuant to K.S.A. 2015 Supp. 17-7910, and amendments thereto, they shall state that they only restate and integrate and do not further amend, except, if applicable, as permitted under K.S.A. 17-6002(a)(1) and (b)(1), and amendments thereto, the provisions of the corporation's articles of incorporation as theretofore amended or supplemented, and that there is no discrepancy between those provisions and the provisions of the restated articles."

43. Those 2000 amendments affirmed the voting powers the members would exercise to approve them. The amendment to Article V, relating to members, states that even though the Company “**shall not have authority to issue capital stock . . . all voting powers normally vested in stockholders shall be vested in the members of this Corporation.**” As for the Bylaws, the Company gave members even greater voting powers by adding Article VII, *Bylaws*, which states: “[t]he **power to adopt, alter amend or repeal this Corporation’s Bylaws, in whole or in part, at any time, shall be vested in the Membership.**”

44. The Articles and Bylaws, are contractual in nature, binding the officers, directors, and members as if they had negotiated and signed the documents like regular contracts. The 2000 Amendment settled the question whether the Company’s members have the same voting powers as stockholders. Thus, the vested voting power in members to approve board-adopted amendments to Articles and the member’s sole power to adopt and amend Bylaws became legally sacrosanct.

45. On or about October 27, 2020, Plaintiff Dr. Troilo sent a letter to each Director forwarding a petition signed by 50 member dentists requesting a meeting with the Board to discuss possible amendments to the Company’s Bylaws. Dr. Troilo was told that the Board would consider his request during its December 11, 2020 regular board meeting.

46. Instead of allowing the requested meeting, during the December 11, 2020 board meeting, the Defendants unilaterally adopted an *Amendment to Amended*

and Restated Articles of Incorporation of Delta Dental of Kansas Inc. (“2020 Amendment”) (see Ex. 8) and amendments to the Bylaws (see Ex. 10). Based on information and belief, the votes were six to four in favor of the amendments. The “no” votes were cast by the dentist directors elected by the members. Before the meeting, the dentist directors did not receive the courtesy of any notice of the proposed amendments. The 2020 Amendment certifies that it was “duly adopted by the Corporation’s Board of Directors (‘the Board’) as the Corporation’s governing body, in accordance with the provisions of K.S.A. 17-6602 and amendments thereto, and the General Corporation Code of the State of Kansas, as amended (the ‘Corporate Code’).” The 2020 Amendment was not approved and adopted by the members of the Corporation in accordance with Article V, as amended in 2000, and the provisions of K.S.A. 17-6602(b)(1) and 17-6605(b). The 2020 Amendment was filed with the Kansas Secretary of State on December 11, 2020 and went into effect immediately.

47. Plaintiffs assert, on information and belief, that the 2020 Amendment was prompted by the members’ request for a meeting with the Board. The amendment was adopted by the Board without individual Defendants receiving sufficient prior notice, and without being fully informed, by independent legal advisors, of the circumstances surrounding the validity and legality of the amendments. Defendants thereby breached their fiduciary duties to act with due care.

48. The 2020 Amendment violates the Act, the Articles, and the Company's course of conduct. It thwarts the essence of corporate democracy by disenfranchising members and entrenching directors.

49. Amendment 1.1 to Article III, *Purposes*, adds that the corporate purpose statement may be "supplemented by the Board as provided in these Articles." The amendment undermines the Company's governance by fundamentally altering the allocation of power within the corporation. The member's voting power under the prior Article V, includes the approval of amendments to the Articles. Maintaining the balance in the allocation of powers is dependent on the shareholder franchise. Giving Directors the sole power to amend the Articles interferes with the exercise of corporate democracy by the members. Further, the 2020 Amendment falls outside the scope of the authority granted by K.S.A. 40-19a03, because it does not relate to the "affairs of the corporation," but instead relates to matters of corporate governance, and are irreconcilable with Kansas law. By adopting amendments unrelated to the "affairs of the corporation," Defendants have exceeded their authority and acted disloyally and in bad faith and placed their own interests in avoiding member scrutiny over the interest of the Company and the members to whom they owe fiduciary duties.

50. Amendment 1.2 to Article V, *Membership Organization*, subpart A, reverses the 2000 Amendment by striking the phrase "all voting powers normally vested in stockholders shall be vested in the members of this Corporation." The

amendment thereby strips from the members voting powers that the 2000 Articles clearly vested with them. The right to vote, especially the right to approve board-adopted amendments to Articles, is one the most fundamental rights that members have. It is “the ideological underpinning upon which the legitimacy of directoral power rests.” *Perelegos v. Atmel Corp.*, 2007 Del. Ch. LEXIS 25, 114 (Del. Ch. Dec. 11, 2006). The gap-filling provisions of the corporate code offer the members no relief. The contrasting provisions in the corporate code between the voting powers of a stockholder in a stock corporation and members in traditional nonstock, nonprofit corporations show that members of nonstock corporations have very limited voting powers.

51. Amendment 1.2 to Article V, *Membership Organization*, subpart B, adds a provision about the membership’s annual meeting. The Chairperson of the Board presides at the meeting and sets the agenda. The meeting’s limited purpose, according to the amendment, is “electing any members to the Board who are elected by the membership (the ‘Elected Directors’) and transacting such other business as is properly presented to the members at such meeting, including considering any Properly Proposed Amendment pursuant to Article VII.”

52. Amendment 1.3 to Article VI, *Board of Directors*, subpart A improperly upsets the allocation of powers and thwarts the exercise of corporate democracy by giving the Board “full power, discretion and authority . . . including having full supervision and **control** of the Corporation’s business . . . full power, discretion, and

authority over all matters relating to the Corporation’s directors . . . terminate all agreements and other contractual relationships with dentists . . .” Under the Act, the members **control** the Company, while the Board **manages** its affairs. The amendment violates the Act.

53. Amendment 1.3 to Article VI, *Board of Directors*, subpart D, improperly thwarts the exercise of corporate democracy by entrenching Directors. The amendment enshrines in the Articles a 6-year term for Directors, whereas the previous version of the Bylaws provided for a 4-year term. Further, the amendment improperly reinstalls Appointed Directors whose terms had expired in 2018.

54. Amendment 1.3 to Article VI, *Board of Directors*, subpart E improperly thwarts the exercise of corporate democracy by providing that “no Director may vote on any issue with respect to which such Director is ‘interest’ as that term is interpreted by the Board.” The vagueness about what is such an “interest” is fraught with peril for the four Elected Directors, each of whom has a participating agreement with Company. The amendment gives the Board the discretion to interpret “interest” in a way that could disqualify the Elected Directors from voting on many issues that are likely to be considered by the Board. This amendment undermines the Act’s legislative intent that the affairs of the corporation be managed by a board that includes 4 directors who are also dentist members.

55. The 2020 Amendment, which targets and restricts the powers of Elected Directors, assumes the Elected Directors have a special duty or allegiance to the

members who elected them. But that assumption is contrary to Kansas law. No director has a special duty to those who elected or appointed them. Rather, each director's fiduciary duties run to the Company and to the members. By singling out the Elected Directors for restrictions on their powers, just because they are elected by the members, upsets the Act's corporate governance structure and violates traditional principles of corporate law.

56. Amendment 1.4 to Article VII, *Amendment of Articles or Bylaws*, subpart A adds, “[t]he power to adopt, alter or repeal these Articles, in whole or in part, at any time and from time, shall to the maximum extent permitted under the Corporate Code, be vested exclusively in the Board and shall occur upon an affirmative vote of a majority of the Board and a vote of the majority of the Appointed Directors.” This amendment violates former Article V for the reasons stated above. It improperly upsets the allocation of powers and thwarts the exercise of corporate democracy by insulating Board-adopted amendments from member scrutiny and disapproval. Further, the amendment marginalizes the Elected Directors by putting the final authority to approve amendments in the hands of 4 Appointed Directors.

57. Amendment 1.4 to Article VII, *Amendment of Articles or Bylaws*, subpart B changes the previous provision—“The power to adopt, alter, amend or repeal this Corporation's Bylaws, in whole or in party, at any time and from to time to time, shall be vested in the Membership”—to read “shall be vested concurrently in the Board and the membership.” This amendment strips from the members powers

that the 2000 Articles clearly and solely vested with them. The power to adopt, alter, amend or repeal Bylaws, is one the most fundamental rights that the members have. Allowing directors to also have that power upsets the allocation of powers within the corporation and thwarts the exercise of corporate democracy.

58. Further, Amendment 1.4 adds that the directors will serve a gate-keeping role to decide whether a member-initiated Bylaw amendment is a “Properly Proposed Amendment” for consideration by the membership. This provision places an all-but-impassable gate that is designed to, and effectively does, eliminate the members’ rights to propose and adopt governance rules designed to curb director and officer abuses of power and authority, regardless of the extent of the director’s misconduct. With the powerful deterrent of member scrutiny gone, the member’s **control** of the Company is gone. Defendants will then have a freer hand to engage in wrongful conduct without exposing themselves to internal accountability, knowing they have insulated themselves from the previous provisions of the Articles and the laws enacted by the Legislature to protect the Company, its members, and the public from such misconduct.

59. Amendment 1.5, adding Article X, *Miscellaneous*, subpart A, improperly gives the Board Chairperson the power to unilaterally decide the “rules of procedure” for membership meetings. Allowing the Chairperson such power upsets the allocation of powers within the corporation and thwarts the exercise of corporate democracy.

60. The changes to the Articles wrought by the 2020 Amendment, singly and collectively, create an onerous, unreasonable, and unlawful obstacle designed solely to prevent the members, including the directors who are elected by the members, from exercising their contractual and statutory rights to prescribe rules for the governance of the Company. The 2020 Amendment thereby upsets the scheme of corporate checks and balances and corporate democracy created by the Legislature in the *Nonprofit Dental Service Corporations Act* and results in a substantial injury to the Company and the members' power, which is an incident of their control of the Company.

The 2020 Amendment Is Invalid Under K.S.A. 17-6605

61. The 2020 Amendment restates and further amends the Articles.

62. As noted above, K.S.A. 17-6605(b) provides, “[i]f the restated articles of incorporation restate and integrate and also further amend in any respect the articles of incorporation, as theretofore amended or supplemented, they shall be proposed by the directors and adopted by the stockholders in the manner and by the vote prescribed by K.S.A. 17-6602, and amendments thereto . . .”

63. As the Company recognized in 2000 when it amended the Articles, especially Article V, and followed the process in K.S.A. 17-6605(b), the power to approve Board-adopted amendments to the Articles was vested with the membership.

64. The 2020 Amendment was not submitted to the members for approval. Defendants thus violated K.S.A. 17-6605(b) and K.S.A. 17-6002(b)(1). The amendment is invalid and should be set aside

Based on the Illegal Amendments to the Articles, Defendants Adopted Illegal Amendments to the Company's Bylaws, which Drastically Diminish the Member's Voting Powers in Corporate Governance.

65. Vested member voting powers are sacrosanct. A fundamental governance right possessed by the members under the 2000 Articles, Article V, was the exclusive “power to adopt, alter, amend or repeal this Corporation’s Bylaws, in whole or in party, at any time and from to time to time . . .”

66. During the December 11, 2020 Board meeting, directors used the corporate machinery to amend Article V, in violation of the Act, the corporate code, and common law, to divest members of their contractually vested exclusive power to amend the Bylaws. The amendment to Article V was for the purpose of obstructing the members’ right to control the Company, and effectively disenfranchising the members.

67. During the same meeting, the directors amended the Company’s August 2019 Bylaws (see Ex. 9), by adopting the December 11, 2020 Bylaws (see Ex. 10). The directors did so without shareholder approval. Because the 2020 Amendment to Article V was illegal, the Directors did not have the authority to adopt the December 11, 2020 Bylaws, which are *ultra vires* and void.

68. Continuing the theme of wresting control of the Company from the members, Defendants, among other amendments to the Bylaws, took the following actions:

A. Amended Article IV, *Meeting of Membership*, prohibits members from presenting Bylaw amendments to the members at the Annual Meeting or a Special Meeting, unless the amendment is deemed by the Directors to be a “Properly Proposed Amendment” pursuant to the 2020 Amendment to Article XIII, discussed above.

B. Amended Article V, *Board of Directors*, aligns the Board’s powers with the 2020 Amendment to Article VI, discussed above, entrenching Defendants by changing the terms of all directors to 6 years. Also, the amendment delegates to the Appointed Directors the exclusive power to amend the Bylaws regarding “the terms of office and tenure of Appointed Directors,” without member approval, and extends the same privilege to Elected Directors to change their terms of office and tenure, without member approval.

C. Amended Article XIII, *Amendments*, aligns that provision with the 2020 Amendment to Article VII, discussed above. The amendment upsets the allocation of powers within the corporation and thwarts the exercise of corporate democracy.

**Defendants Adopted the 2020 Amendment and the Amended Bylaws
in Bad Faith and in Breach of Their Fiduciary Duties.**

69. It is axiomatic that Defendants, as directors of a Kansas State Board for a Nonprofit Dental Service Corporation, owe the Company and its members fiduciary

duties, including the duties of good faith, loyalty, and due care. The power of directors to amend the Articles must be exercised in accordance with their fiduciary duties, including a vote of the members to approve any such amendment.

70. Plaintiffs assert on information and belief that Defendants adopted the 2020 Amendment and amended Bylaws without sufficient prior notice and without being fully informed, by independent legal advisors, of the circumstances surrounding the validity and legality of the amendments, thereby breaching their fiduciary duties to act with due care.

71. The temporal proximity of the members' request for a meeting and the Defendants' actions on December 11, 2020, shows the amendments were in direct response to, and retaliation for, the members' request.

72. The amendments effectively eliminate the members' vested contractual right to approve Board-adopted amendments to the Articles and the members' vested contractual right to adopt amendments to the Bylaws. By adopting the amendments, the directors ignored their clear fiduciary obligations to the members.

73. Further, Defendants who voted in favor of the 2020 Amendment have a material self-interest in the 2020 Amendment and amended Bylaws. The amendments entrench the directors. They reduce the risk of member scrutiny into Board actions. They alter the allocation of power with the Company, by effectively disenfranchising the members. Individual Defendants unlawfully placed their own interests above the interests of the Company and its members.

74. Individual Defendants acted in bad faith and in breach of their fiduciary duties.

75. The burden of proving the inherent or entire fairness of the 2020 Amendments and amended Bylaws is placed upon Defendants as a matter of law.

Derivative and Demand Futility Allegations

76. Plaintiffs also bring claims derivatively in the right and for the benefit of the Company to redress injuries suffered and to be suffered by the Company as a direct result of the breaches of fiduciary duty and abuse of control by Defendants. The Company is named as a nominal party solely in a derivative capacity.

77. Plaintiffs will adequately and fairly represent the interests of the Company in enforcing and prosecuting its rights.

78. During Defendants' wrongful course of conduct as described above, Plaintiffs have been members of the Company and, therefore, have standing to bring this action.

79. This action is not being used by Plaintiffs to gain any personal advantage, nor do Plaintiffs have any personal agenda other than seeking to correct the wrongs that have been done to the Company. To this end, Plaintiffs have taken steps to file this action and have retained experienced litigation counsel.

80. Defendants cannot exercise independent objective judgment in deciding whether to bring this action or whether to vigorously prosecute this action for the reasons detailed throughout this petition. Consequently, Plaintiffs' demand upon the

Company to take the action requested in this petition is excused as futile. The Board and its management are also antagonistic to this lawsuit. Consequently, and for the following additional reasons, Plaintiffs have not made a pre-filing demand on the Company's Board to initiate this action:

A. The members of the Board approved the 2020 Amendments and amended Bylaws challenged in this litigation;

B. The members of the Board have demonstrated their unwillingness or inability to perform their fiduciary obligations and are unlikely to sue themselves for the violations of law complained of in this petition; and

C. The members of the Board have benefited, and will continue to benefit, from the 2020 Amendments and amended Bylaws.

Claims

Count I (Declaratory Judgment)

81. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 80 above, as if fully set forth here.

82. Plaintiffs bring this claim for a declaratory judgment pursuant to K.S.A. 60-257 and K.S.A. 60-1701, *et seq.*, to determine the validity of the 2020 Amendment and amended Bylaws and the rights of Plaintiffs and the Company.

83. Plaintiffs allege that the 2020 Amendment and amended Bylaws are invalid because they are an *ultra vires* attempt to regulate a fundamental deprivation of corporate governance that is not within the scope of the Board's power to "manage"

the “affairs” of the Company within the meaning of K.S.A. 40-19a03, are inconsistent with Kansas law, and were adopted in breach of Defendants’ fiduciary duties

84. Pursuant to K.S.A. 60-257 and K.S.A. 60-1701, *et seq.*, Plaintiffs respectfully request that the Court enter a Declaratory Judgment in Plaintiffs’ favor, declaring that Defendants’ 2020 Amendment and amended Bylaws are invalid and unenforceable and adopted in breach of Defendants’ fiduciary duties. Plaintiffs also ask the Court to award the costs of the action and such other relief as the Court deems just and proper.

85. Plaintiffs also ask the Court to award reasonable attorney fees. Courts have been and remain assiduous in their concern about directors using the corporate machinery and corporate law to thwart the essence of corporate democracy. At issue in this case are the gravest of inequitable purposes, inflicting incalculable possible harm on the Company and its members. Together the Company and its members will share common benefits in setting aside the illegal 2020 Amendments and amended Bylaws: restoring corporate democracy, enfranchise members, and further the purposes underlying the Act. As such, the Company should contribute to the cost of litigation from which it benefits. Plaintiffs do not seek monetary relief. Thus, there will be no monetary fund from which to pay Plaintiffs’ attorney fees and expenses. As a matter of fairness and equity, the Company should pay Plaintiffs’ reasonable attorney fees and costs.

Count II (Breach of Fiduciary Duties)

86. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 80 above, as if fully set forth here.

87. Individual Defendants, in bad faith, have knowingly, willfully, and recklessly violated fiduciary duties of good faith, loyalty, and due care owed to Plaintiffs and the Company.

88. Individual Defendants have put their own interests ahead of the interests of both the Company and its members.

89. By the acts and courses of conduct alleged here, Defendants, individually, and acting as part of a common plan, knowingly, willfully, or recklessly, and in bad faith, are attempting to unfairly deprive Plaintiffs and the other members of the Company of their vested voting powers and control of the Company.

90. As alleged here, Individual Defendants knowingly, willfully, and recklessly breached their duties of good faith, loyalty, and due care owed to the Company and its members, because, among other reasons, they failed to act in the best interests of the Company and its members and have placed their own interests over the interests of the Company and its members. Further, Defendants failed to inform themselves of the circumstances and legality surrounding the 2020 Amendment and amended Bylaws.

91. As a result of the Defendants' unlawful actions, Plaintiffs and the Company will be irreparably harmed in that they will be unable to effectively deter,

stop, and seek redress for legal harms caused by directors and officers of the Company.

92. Plaintiffs and the Company have no adequate remedy at law. Only through the exercise of this Court's equitable powers can Plaintiffs and the Company be fully protected from the irreparable injury that Defendants' actions are causing.

93. Unless this Court enjoins Defendants from enforcing the 2020 Amendment and amended Bylaws, Defendants will continue to knowingly, willfully, or recklessly, and in bad faith, breach their fiduciary duties owed to Plaintiffs and the Company, and keep them from effectively deterring, stopping, and seeking redress for legal harms caused by the Company's directors and officers.

Prayer for Relief

Plaintiffs pray for judgment in their favor and against Defendants as follows:

- A. Declaring that this action is properly maintainable as a derivative action;
- B. Declaring that the 2020 Amendment and amended Bylaws are invalid and unenforceable;
- C. Declaring that the Defendants breached their fiduciary duties;
- D. Preliminarily and permanently enjoining Defendants from enforcing the 2020 Amendment and amended Bylaws;
- E. Preliminarily and permanently enjoining Defendants from holding a member vote to ratify the 2020 Amendment and amended Bylaws,

without full disclosure of all material information as detailed in this Verified Petition;

- F. Awarding from the Nominal Defendant, Plaintiffs' costs of this action and reasonable attorneys' and experts' fees; and
- G. Granting any and all other further relief as this Court may deem just, equitable, and proper.

Respectfully submitted,

HITE, FANNING & HONEYMAN L.L.P.

By /s/ F. James Robinson Jr
F. James Robinson Jr #11589
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and

By /s/ Windell G. Snow
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Attorneys for Plaintiffs

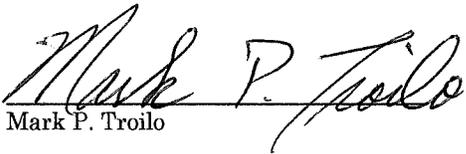
Demand for Jury Trial

A jury is demanded for all issues triable to a jury.

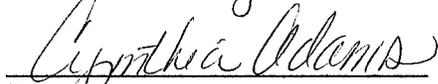
Verification

STATE OF KANSAS)
)
COUNTY OF _____)

I, Mark P. Troilo, declare that I have reviewed this Verified Petition and authorize its filing. I have reviewed the allegations made in the Verified Petition, and to those allegations of which I have personal knowledge, I believe those allegations to be true. As to those allegations of which I do not have personal knowledge, I rely on my counsel and their investigation and for that reason believe them to be true. I further declare that I am a current member of Delta Dental of Kansas, Inc., and have been a member during the relevant time period in which the wrongful conduct alleged and complained of in the Verified Petition was occurring.


Mark P. Troilo

Subscribed and sworn to before me this 5th day of February, 2021.


Notary Public

My Commission Expires:
9-11-2021



Verification

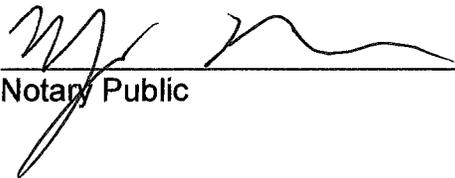
STATE OF KANSAS)
)
COUNTY OF DOUGLAS)

I, Christopher Leiszler, declare that I have reviewed this Verified Petition and authorize its filing. I have reviewed the allegations made in the Verified Petition, and to those allegations of which I have personal knowledge, I believe those allegations to be true. As to those allegations of which I do not have personal knowledge, I rely on my counsel and their investigation and for that reason believe them to be true. I further declare that I am a current member of Delta Dental of Kansas, Inc., and have been a member during the relevant time period in which the wrongful conduct alleged and complained of in the Verified Petition was occurring.



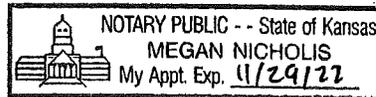
Christopher Leiszler

Subscribed and sworn to before me this 5TH day of FEBRUARY, 2021.



Notary Public

My Commission Expires:
11/29/22



**Article 19.—NONPROFIT MEDICAL
SERVICE CORPORATIONS**

40-1901.

History: L. 1945, ch. 216, § 1; Repealed, L. 1997, ch. 8, § 15; July 1.

CASE ANNOTATIONS

1. Cited in considering and applying statutory duties and authority of commissioner of insurance under act. *Blue Cross & Blue Shield v. Bell*, 227 K. 426, 427, 607 P.2d 498.

2. Cited in upholding provision in Blue Cross insurance service contracts rendering benefits personal and nonassignable. *Augusta Medical Complex, Inc. v. Blue Cross of Kansas, Inc.*, 230 K. 361, 364, 634 P.2d 1123 (1981).

40-1902.

History: L. 1945, ch. 216, § 2; L. 1951, ch. 299, § 1; L. 1955, ch. 245, § 1; L. 1972, ch. 188, § 1; L. 1980, ch. 137, § 9; Repealed, L. 1997, ch. 8, § 15; July 1.

40-1903.

History: L. 1945, ch. 216, § 3; L. 1951, ch. 299, § 2; L. 1955, ch. 245, § 2; L. 1975, ch. 245, § 3; L. 1979, ch. 147, § 1; L. 1979, ch. 148, § 1; L. 1980, ch. 137, § 10; Repealed, L. 1997, ch. 8, § 15; July 1.

CASE ANNOTATIONS

1. Cited in considering and applying statutory duties and authority of commissioner of insurance under act. *Blue Cross & Blue Shield v. Bell*, 227 K. 426, 428, 436, 437, 607 P.2d 498.

40-1904.

History: L. 1945, ch. 216, § 4; L. 1980, ch. 137, § 11; Repealed, L. 1997, ch. 8, § 15; July 1.

40-1905.

History: L. 1945, ch. 216, § 5; L. 1947, ch. 282, § 1; L. 1951, ch. 299, § 3; L. 1955, ch. 245, § 3; L. 1978, ch. 181, § 3; L. 1980, ch. 137, § 12; L. 1984, ch. 172, § 2; Repealed, L. 1997, ch. 8, § 15; July 1.

40-1906.

History: L. 1945, ch. 216, § 6; L. 1970, ch. 182, § 2; L. 1972, ch. 185, § 2; L. 1980, ch. 137, § 13; L. 1986, ch. 318, § 32; L. 1988, ch. 356, § 99; Repealed, L. 1997, ch. 8, § 15; July 1.

CASE ANNOTATIONS

1. Statutory duties and authority of commissioner of insurance under section considered and applied. *Blue Cross & Blue Shield v. Bell*, 227 K. 426, 427, 429, 430, 431, 433, 434, 435, 438, 439, 442, 607 P.2d 498.

40-1907. **History:** L. 1945, ch. 216, § 7; Repealed, L. 1997, ch. 8, § 15; July 1.

40-1908.

History: L. 1945, ch. 216, § 8; L. 1980, ch. 137, § 14; Repealed, L. 1997, ch. 8, § 15; July 1.

40-1909.

History: L. 1945, ch. 216, § 9; L. 1970, ch. 183, § 3; L. 1972, ch. 186, § 2; L. 1973, ch. 194, § 2; L. 1973, ch. 195, § 2; L. 1974, ch. 189, § 2; L. 1974, ch. 190, § 2; L. 1976, ch. 217, § 6; L. 1976, ch. 218, § 7; L. 1977, ch. 161, § 3; L. 1978, ch. 166, § 3; L. 1980, ch. 137, § 15; L. 1981, ch. 194, § 3; L. 1982, ch. 204, § 2; L. 1984, ch. 173, § 4; L. 1996, ch. 96, § 3; L. 1997, ch. 156, § 82; Repealed, L. 1999, ch. 162, § 13; July 1.

CASE ANNOTATIONS

1. Cited in considering and applying statutory duties and authority of commissioner of insurance under act. *Blue Cross & Blue Shield v. Bell*, 227 K. 426, 439, 607 P.2d 498.

40-1910.

History: L. 1945, ch. 216, § 10; Repealed, L. 1969, ch. 429, § 3; Jan. 1, 1970.

40-1911.

History: L. 1945, ch. 216, § 11; L. 1972, ch. 187, § 2; L. 1975, ch. 245, § 4; L. 1980, ch. 137, § 16; Repealed, L. 1997, ch. 8, § 15; July 1.

CASE ANNOTATIONS

1. Cited in considering and applying statutory duties and authority of commissioner of insurance under act. *Blue Cross & Blue Shield v. Bell*, 227 K. 426, 435, 607 P.2d 498.

40-1912.

History: L. 1945, ch. 216, § 12; L. 1980, ch. 137, § 17; Repealed, L. 1997, ch. 8, § 15; July 1.

40-1913.

History: L. 1945, ch. 216, § 13; Repealed, L. 1970, ch. 183, § 6; July 1.

40-1914.

History: L. 1945, ch. 216, § 14; L. 1980, ch. 137, § 18; Repealed, L. 1997, ch. 8, § 15; July 1.

40-1915.

History: L. 1951, ch. 299, § 4; Repealed, L. 1997, ch. 8, § 15; July 1.

**Article 19a.—NONPROFIT DENTAL
SERVICE CORPORATIONS**

40-19a01. **Citation of act.** This act shall be known and may be cited as "the nonprofit dental service corporation act."

History: L. 1972, ch. 174, § 1; July 1.

40-19a02. **Organization; purposes; function as administrative agent for group pro-**

grams. Nonprofit corporations may be organized for the purpose of entering into contracts with participating dentists to provide or administer professional service for subscribers on such bases as may be designated in the corporation's contracts with purchasing groups, individuals and government agencies. Such corporations may provide service or indemnity benefits. Compensation for professional services shall be either on a scheduled basis or on the basis of usual, customary and reasonable charges. Inherent in the authority provided hereby is the right of any such corporation to function as an administrative agent with respect to any group dental care program installed by a private organization for its employees or members, or with respect to any dental care program initiated by any local, state or federal governmental body.

History: L. 1972, ch. 174, § 2; July 1.

Research and Practice Aids:

Insurance = 52.

C.J.S. Insurance § 104 et seq.

40-19a03. Membership of corporation; participating agreements from dentists; board of directors. The membership of a nonprofit dental service corporation organized under this act shall be comprised of the dentists who have executed participating agreements with the corporation: *Provided, however,* That no such corporation shall be issued a certificate of authority to engage in business until it shall have demonstrated, to the satisfaction of the commissioner of insurance that it has obtained participating agreements from at least fifty percent (50%) of the dentists licensed to practice, and engaged in practice, in the state of Kansas. The affairs of the corporation shall be managed by a board of directors comprised of ten (10) members, four (4) of whom shall be elected from among the corporations' participating dentists and six (6) of whom shall be appointed from among the general public of the state of Kansas. With respect to the public members of the board, two (2) shall be appointed by the governor of the state of Kansas and the remainder by the commissioner of insurance. The terms of office of all directors shall be as defined in the bylaws of the corporation. The directors shall take the oath of office as in other corporations and duplicates of such subscribed oaths shall be forwarded to the commissioner of insurance for filing in his office. The bylaws shall specify the number of directors necessary to constitute a quorum

which shall be not less than one more than one-half of the number of directors.

History: L. 1972, ch. 174, § 3; July 1.

40-19a04. Contracts; authorization. Corporations organized under the provisions of this act are empowered and authorized to enter into contracts with groups and individuals to provide professional service through their participating dentists and to indemnify covered persons who obtain professional services through nonparticipating dentists. The services covered under such contracts shall be of such type and kind as such corporation, through its board of directors, may determine. Such contracts shall constitute direct obligations of the participating dentists to the corporation's contract purchasers. Nothing in any contract to be made by any such corporation with a participating dentist or contract purchaser shall have the effect of imposing upon any participating dentist any obligation or liability for any act, omission or default of any other participating dentist or such corporation. Such corporations may also enter into contracts with any health maintenance organization, partnership, domestic or foreign corporation or association in the state of Kansas or in other states or possessions of the United States or Canada, or with any local, state, or federal governments, or units thereof, so that:

(a) Reciprocity of benefits may be provided to subscribers of such corporations.

(b) Transfer of subscribers from one corporation to another may be effected, if authorized under the contract with the group or the subscriber, in order to conform to the subscriber's place of residence.

(c) Uniform benefits may be provided for all employees and the dependents of such employees of corporations and other organizations transacting business in Kansas and elsewhere, and a composite rate, a rate representing predicted, or actual, composite experience, of the areas involved may be charged for such employees and their dependents.

(d) Service or indemnity benefits for dental care for the subscribers, members or policyholders of such corporations or associations may be provided but not to exceed reasonable and customary charges that a subscriber may incur for these services, or the ceding or accepting of reinsurance may be done.

(e) Administrative, accounting, data processing, cost control, marketing, claims processing, fiscal and other services may be provided for a dental

care or other health service plan with any agency, instrumentality or political subdivision of the United States or the state of Kansas, or with any person, corporation, health maintenance organization, partnership, group or association providing such dental care or other health service plan under any applicable state or federal law. Such contract may authorize such corporation to accept, receive and administer in trust, funds directly or indirectly made available for the purposes set forth in the contract.

(f) Administrative, accounting, data processing, cost control, marketing, claims processing, fiscal and other services may be provided to employers or voluntary employees' beneficiary associations where such employers or voluntary employees' beneficiary associations provide indemnity for dental care or other health services to their employees or members under the terms of a plan of indemnification. Such contract may authorize such corporation to accept, receive and administer in trust, funds directly or indirectly made available for the purposes set forth in the contract. Contracts entered into pursuant to the provisions of this subsection shall provide for recoupment of all expenses incurred by the corporation in performing the services required by the contract and shall not adversely affect the interests of subscribers. Such corporation may enter into contracts with participating dentists to provide professional services and other health services for such employees or members.

(g) Experimental or demonstration projects may be undertaken to determine the relative advantages and disadvantages of various alternative methods of providing service or indemnity benefits for health services. Such projects may include payment systems to providers designed to encourage providers to use their facilities and personnel more efficiently and thereby to reduce the total costs of professional services and other health services involved without adversely affecting the quality of such services.

History: L. 1972, ch. 174, § 4; L. 1984, ch. 171, § 1; July 1.

40-19a05. Certificate of authority; conditions. The commissioner of insurance shall issue a certificate of authority to such corporation upon compliance with the following conditions: (1) It shall file with the commissioner of insurance a certified copy of its charter and bylaws, copies of the subscription agreement forms and the rat-

ing formula that it proposes to use and the form of its agreement with its participating dentists, all of which shall be approved by the commissioner of insurance. (2) It shall demonstrate to the satisfaction of the commissioner of insurance that it has conformed with the requirement of section 2 [*] of this act with respect to achieving the minimum percentage of participating dentists therein specified. Any such corporation shall be in possession of lawful assets over and above all liability in an amount not less than ten thousand dollars (\$10,000), and shall file with the commissioner of insurance a financial statement certified by at least two executive officers. Before issuing a certificate of authority, the commissioner shall cause an examination to be made of the affairs of the corporation as provided by K.S.A. 40-208.

History: L. 1972, ch. 174, § 5; July 1.

* Reference apparently should be to section 3, see 40-19a03.

40-19a06. Subscription agreements. (a) No subscription agreement, except as provided in subsection (d) of this section, between any such corporation and a subscriber, shall entitle more than one person to benefits, except that a "family subscription agreement" may be issued, at an established subscription charge, to a husband and wife, or husband, wife and their dependent child or children and any other person dependent upon the policyholder. Only the subscriber must be named in the subscription agreement.

(b) Every subscription agreement entered into by any such corporation with any subscriber thereto shall be in writing and a certificate stating the terms and conditions thereof shall be furnished to the subscriber to be kept by him. No such certificate shall be made, issued or delivered in this state unless it contains the following provisions: (1) A statement of the nature of the benefits to be furnished and the period during which they will be furnished, and if there are any benefits to be excepted, a detailed statement of such exceptions printed as hereinafter specified; (2) a statement of the terms and conditions, if any, upon which the subscription agreement may be cancelled or otherwise terminated at the option of either party; (3) a statement that the subscription agreement includes the endorsements thereon and attached papers, if any, and contains the entire contract; (4) a statement that no statement by the subscriber in his application for a subscription agreement shall avoid the subscription agreement

or be used in any legal proceeding thereunder, unless such application or an exact copy thereof is included in or attached to such subscription agreement, and that no agent or representative of such corporation, other than an officer or officers designated therein, is authorized to change the subscription agreement or waive any of its provisions; (5) a statement that if the subscriber defaults in making any payments under the subscription agreement, the subsequent acceptance of a payment by the corporation or by one of its duly authorized agents shall reinstate the subscription agreement but with respect to sickness and injury, only to cover such sickness as may be first manifested more than ten (10) days after the date of such acceptance; (6) a statement of the period of grace which will be allowed the subscriber for making any payment due under the subscription agreement. Such period shall not be less than ten (10) days.

(c) In every such subscription agreement made, issued or delivered in this state: (1) All printed portions shall be plainly printed; (2) the exceptions of the subscription agreement shall appear with the same prominence as the benefits to which they apply; and (3) if the subscription agreement contains any provisions purporting to make any portion of the articles of incorporation or bylaws of the corporation a part of the subscription agreement, such portion shall be set forth in full.

(d) A dental service corporation may issue a group or blanket subscription agreement provided the group of persons thereby covered conforms to the requirements of law applicable to companies writing group or blanket sickness and accident insurance policies and provided such subscription agreement and the individual certificates issued to members of the group shall comply in substance with this section. Any such subscription agreement may provide for the adjustment of the subscription charges based upon the experience thereunder at the end of the first year or of any subsequent year of insurance thereunder and such readjustment may be made retroactive in the form of a rate credit or a cash refund.

History: L. 1972, ch. 174, § 6; July 1.

40-19a07.

History: L. 1972, ch. 174, § 7; L. 1986, ch. 318, § 33; L. 1988, ch. 356, § 100; Repealed, L. 1991, ch. 134, § 13; July 1.

40-19a08. Subscription charges. Such corporation shall maintain unearned subscription charges and other reserves upon the same basis as that required of domestic stock insurance companies transacting the same kind of insurance.

History: L. 1972, ch. 174, § 8; July 1.

40-19a09. Advance of money; reports.

Any director, officer or member of any such corporation, or any other person may advance to such corporation any sum or sums of money necessary for the purposes of its business or to enable it to comply with any of the requirements of the laws of this state, and such moneys and such interest thereon as may have been agreed upon, not exceeding five percent (5%) per annum, shall be payable only out of the surplus remaining after providing for all reserves and other liabilities and shall not otherwise be a liability or claim against the corporation or any of its assets. No commission or promotion expenses shall be paid in connection with the advance of any such money to the corporation, and the amount of such advance shall be reported in each annual statement.

History: L. 1972, ch. 174, § 9; July 1.

40-19a10. Insurance code sections applicable; medicaid coverage. (a) Such corporations shall be subject to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, 40-254, 40-2102, 40-2a01 *et seq.*, 40-2215 to 40-2220, inclusive, 40-2253, 40-2401 to 40-2421, inclusive, 40-3301 to 40-3313, inclusive, K.S.A. 40-2,154 and 40-2,161, and amendments thereto, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

(b) No policy, agreement, contract or certificate issued by a corporation to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.

(c) Violation of subsection (b) shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

History: L. 1972, ch. 174, § 10; L. 1974, ch. 190, § 3; L. 1976, ch. 217, § 7; L. 1976, ch. 218, § 8; L. 1991, ch. 133, § 3; L. 1991, ch. 134, § 5;

L. 1993, ch. 132, § 1; L. 1994, ch. 18, § 2; L. 1996, ch. 229, § 111; July 1, 1997.

40-19a11. Disbursement limitations; administrative expenses defined. (a) No corporation subject to the provisions of this act shall during any one year disburse more than five percent (5%) of the aggregate amount of the payments received from subscribers during that year as expenditures for the soliciting of subscribers, except that during the first year after the issuance of a permit, such corporation may so disburse not more than twenty percent (20%) of such amount, during the second year not more than fifteen percent (15%); and during the third year not more than ten percent (10%).

(b) No such corporation shall, during any one year, disburse more than twelve percent (12%) of the aggregate amount of the payments received from subscribers during that year as administrative expenses, except that during the first two years after the issuance of the permit, such corporation may disburse not more than twenty percent (20%) of the payments received from subscribers. The term, "administrative expenses," as used in this section, shall include all expenditures for nonprofessional services and, in general, all expenses not directly connected with the furnishing of the benefits specified in this act, but not including expenses referred to in subsection (a) hereof.

History: L. 1972, ch. 174, § 11; July 1.

40-19a12. Surplus; how distributed. Any surplus accumulated by a corporation subject to this act beyond a reserve fund equal to the amount disbursed during the preceding year for care received by subscribers and beyond the reserves required by K.S.A. 40-19a08, shall within one year after its accumulation be distributed to subscribers either in the form of increased benefits or rebate of subscription charges.

History: L. 1972, ch. 174, § 12; July 1.

40-19a13. Workmen's compensation law unaffected. No provisions of this act or of any subscription agreement for dental service, between a corporation subject to the provisions of this act and a subscriber shall in any way affect the operation of K.S.A. 44-501 *et seq.* and amendments thereto, constituting the workmen's compensation law.

History: L. 1972, ch. 174, § 13; July 1.

40-19a14. Transaction of business by foreign corporation. A nonprofit dental service corporation organized under the laws of any other state may be authorized to transact business in this state, subject to the approval of the commissioner of insurance, only in such areas as form a natural extension of the consumer-market area in which such corporation operates or where the interests of the subscribers are better served.

History: L. 1972, ch. 174, § 14; July 1.

Article 19b.—NONPROFIT OPTOMETRIC SERVICE CORPORATIONS

40-19b01 to 40-19b06.

History: L. 1975, ch. 243, §§ 1 to 6; Repealed, L. 1997, ch. 8, § 15; July 1.

40-19b07.

History: L. 1975, ch. 243, § 7; L. 1986, ch. 318, § 34; L. 1988, ch. 356, § 101; Repealed, L. 1991, ch. 134, § 13; July 1.

40-19b08, 40-19b09.

History: L. 1975, ch. 243, §§ 8, 9; Repealed, L. 1997, ch. 8, § 15; July 1.

40-19b10.

History: L. 1975, ch. 243, § 10; L. 1976, ch. 217, § 8; L. 1991, ch. 133, § 4; L. 1991, ch. 134, § 6; L. 1993, ch. 132, § 2; L. 1994, ch. 18, § 3; L. 1996, ch. 229, § 112; Repealed, L. 1997, ch. 163, § 1; July 1.

40-19b11 to 40-19b14.

History: L. 1975, ch. 243, § 11 to 14; Repealed, L. 1997, ch. 8, § 15; July 1.

Article 19c.—NONPROFIT MEDICAL AND HOSPITAL SERVICE CORPORATIONS

40-19c01. Citation of act. K.S.A. 40-19c01 to 40-19c11, inclusive, shall be known and may be cited as the "nonprofit medical and hospital service corporation act."

History: L. 1980, ch. 137, § 19; July 1.

CASE ANNOTATIONS

1. Cited; allegations of antitrust violations against provider's threatened termination of contracting provider agreement with hospital examined. *Reazin v. Blue Cross & Blue Shield of Kansas, Inc.*, 635 F.Supp. 1287, 1333 (1986).

40-19c02. Merger or consolidation; application and approval by insurance commissioner; penalties. (a) Any nonprofit hospital service corporation organized under the mutual nonprofit hospital service corporation act or non-



STATE OF KANSAS

INSURANCE DEPARTMENT

Certificate of Authority

DELTA DENTAL PLAN OF KANSAS, INC.

a corporation organized under the laws of Kansas

principal office at Topeka, Kansas

has complied with all the requirements of the insurance laws of this state applicable to said company, and the said company is hereby authorized and empowered to transact the following lines of business, to wit:

* Dental Benefits *

within the State of Kansas from the 26th day of January, 1973 to April 30, 1973, unless such certificate be sooner suspended or revoked by the Commissioner of Insurance of Kansas.

In Witness Whereof, I, FLETCHER BELL, Commissioner of Insurance of Kansas, have hereto affixed my signature and the seal of the Commissioner of Insurance, in the city of Topeka, Kansas, this 26th day of

January 19 73

[Handwritten signature of Fletcher Bell]

FLETCHER BELL

Commissioner of Insurance.

By Assistant Commissioner.

EXHIBIT 2





STATE OF KANSAS

INSURANCE DEPARTMENT

CERTIFICATE OF AUTHORITY

DELTA DENTAL OF KANSAS, INC.

a corporation organized under the laws of Kansas with a registered corporate office at Wichita, Kansas, has complied with all the requirements of the insurance laws of this state applicable to said company, and the said company is hereby authorized and empowered, through this Certificate of Authority, to transact the following lines of business, to wit:

DENTAL BENEFITS

within the State of Kansas from the 26th day of January, 1973, until such certificate is suspended, revoked or terminated by the Commissioner of Insurance of Kansas.

In Witness Whereof, I SANDY PRAEGER, Commissioner of Insurance of Kansas, have hereunto affixed my signature and the seal of the Commissioner of Insurance, in the city of Topeka, Kansas, this 27th day of October, 2005.



Sandy Praeger

Commissioner of Insurance

By _____
Assistant Commissioner

Fire - Casualty - Life

EXHIBIT 3



K a n s a s I n s u r a n c e D e p a r t m e n t

Sandy Praeger COMMISSIONER OF INSURANCE

February 20, 2006

Ms. Lois M. Helvie
Senior Accountant
Delta Dental of Kansas, Inc.
PO Box 49198
Wichita, KS 67201-9198

Dear Ms. Helvie:

Please find enclosed an amended Certificate of Authority reflecting a name change for Delta Dental of Kansas, Inc. which has been issued effective October 27, 2005, authorizing Delta Dental of Kansas, Inc. to transact the business of dental benefits in the State of Kansas.

In addition, please find the cancelled certificate of authority for Delta Dental Plan of Kansas, Inc. for your permanent records as well as Change of Name Endorsement Form No. 13 which has been stamped "Approved and Filed" for use in Kansas.

Very truly yours,

Jay J. Rogers
Accident and Health Division

enclosures



STATE OF KANSAS

INSURANCE DEPARTMENT

Certificate of Authority

DELTA DENTAL PLAN OF KANSAS, INC.

a corporation organized under the laws of Kansas

principal office at Topeka, Kansas

has complied with all the requirements of the insurance laws of this state applicable to said company, and the said company is hereby authorized and empowered to transact the following lines of business, to wit:

* Dental Benefits *

CANCELLED 10-27-05

within the State of Kansas from the 26th day of January, 1973 to April 30, 1973,

unless such certificate be sooner suspended or revoked by the Commissioner of Insurance of Kansas.

In Witness Whereof, I, FLETCHER BELL, Commissioner of Insurance of Kansas, have hereto affixed my signature and the seal of the Commissioner of Insurance, in the city of Topeka, Kansas, this 26th day of

January 1973

FLETCHER BELL

Commissioner of Insurance.

By _____ Assistant Commissioner.



CERTIFICATE

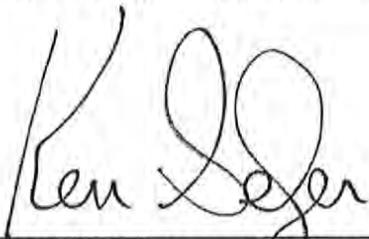
I, KEN SELZER, Commissioner of Insurance of Kansas, do hereby certify that the following and hereto attached is a true copy of

REPORT OF EXAMINATION
OF
DELTA DENTAL OF KANSAS INC.
1619 N. WATERFRONT PARKWAY
WICHITA, KS 67206
AS OF
DECEMBER 31, 2015

the original of which is now on file and a matter of record in this office.

In Witness Whereof, I, KEN SELZER, Commissioner of Insurance of Kansas, have hereto affixed by signature and the seal of the Commissioner of Insurance, in the city of Topeka, Kansas this 1st day of September, 2017





Commissioner of Insurance

FILED
SEP -1 2017
KEN SELZER
Commissioner of Insurance

EXHIBIT 4

REPORT OF EXAMINATION
ON
DELTA DENTAL OF KANSAS, INC.
1619 N. WATERFRONT PARKWAY
WICHITA, KANSAS 67206
AS OF
DECEMBER 31, 2015

FILED
SEP -1 2017
KEN SELZER
Commissioner of Insurance

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Wichita, Kansas
June 12, 2017

Honorable Ken Selzer, Commissioner
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612-1678

Dear Commissioner:

Pursuant to K.S.A. 40-222 – *Examination of Condition of Company*, and in accordance with your authorization, an examination has been conducted of the financial condition and business affairs of

**DELTA DENTAL OF KANSAS, INC.
1619 N. WATERFRONT PARKWAY
WICHITA, KANSAS 67206**

hereinafter referred to as the “Company” or “DDKS”. The following report on such examination is respectfully submitted.

SCOPE OF EXAMINATION

This full-scope multi-state financial examination was conducted in accordance with the rules, regulations and directives of the Kansas Insurance Department (Department) and the observed guidelines and procedures contained in the National Association of Insurance Commissioners (NAIC) *Financial Condition Examiners Handbook* (Handbook). The Handbook requires the examiners plan and perform the examination to evaluate the financial condition and identify prospective risks of the Company. This is done by assessing the Company’s corporate governance, identifying and assessing inherent risks within the Company, and evaluating system controls and procedures used to mitigate those risks.

During the course of the examination, the affairs and activities of DDKS were reviewed and analyzed to determine their compliance with applicable Kansas statutes, regulations and directives. The examiners reviewed the Company's adherence to the provisions of its articles of incorporation, bylaws and certificates of authority and assessed the principles used and significant estimates made by management. The overall financial statement presentation was evaluated, as well as management's compliance with statutory accounting principles and annual statement instructions when applicable to domestic state regulation. All accounts and activities of the Company were considered in accordance with the risk-focused examination process.

The last examination was performed by the Department as of December 31, 2011. This statutory examination covers the four-year period from January 1, 2012, through December 31, 2015, including any material transactions and/or events occurring subsequent to the examination date and noted during the course of the examination. The examination was performed in concurrence with the Company's wholly-owned subsidiary, Surency Life & Health Insurance Company.

Independent Audit Reports

Financial statements of DDKS were audited by BKD, LLP for the years ending December 31, 2012, through December 31, 2015. In each of the years under examination, the auditors concluded that the statutory financial statements of the Company, in all material respects, presented fairly the admitted assets, liabilities, capital and surplus, statement of income and surplus and cash flows in conformity with the accounting practices prescribed or permitted by the Department.

The independent auditor's work papers were reviewed and analyzed by the examiners. Significant reliance was placed on select work papers during the course of this examination.

SUMMARY OF SIGNIFICANT FINDINGS

No significant findings were noted during the course of the examination.

HISTORY

General

DDKS was incorporated in the State of Kansas on August 4, 1972, under the provisions of K.S.A. 40-19a01 et seq. – *Nonprofit Dental Service Corporation Act*. The Company received its certificate of authority from the Department on January 26, 1973, under the name Delta Dental Plan of Kansas, Inc. and commenced business on that date. The name was later changed to Delta Dental of Kansas, Inc. in 2005.

The Company was organized for the purpose of entering into contracts with participating dentists to provide or administer professional services to subscribers on such basis as may be designated in the Company's contracts with participating groups, individuals, or governmental agencies. The Company's charter provides for a perpetual existence.

The Company's appointed actuary changed as of December 31, 2014, from Ruth Ann Woodley, Ruark Consulting, LLC to Anne L. Treankler, Delta Dental of Wisconsin.

Capital Stock

The Company is a non-profit dental service corporation and is not authorized to issue common capital stock.

Dividends to Subscribers

Pursuant to K.S.A. 40-19a12 - *Surplus; How Distributed*, any surplus accumulated by a corporation subject to this act beyond a reserve fund equal to the amount disbursed during the preceding year for care received by subscribers and beyond the reserves required by K.S.A. 40-19a08 – *Subscription Charges*, shall within one year after its accumulation be distributed to subscribers either in the form of increased benefits or rebate of subscription charges. As the Company's surplus level, in each of the years under examination, was not greater than (a) the amount paid to subscribers in benefits in the preceding year, plus (b) an adequate reserve; no dividends were declared or paid.

CORPORATE RECORDS

The minutes of the membership and Board of Directors' (Board) meetings support adequate approval for transactions and events of the Company during the period under review and subsequent to December 31, 2015.

MANAGEMENT AND CONTROL

Directors

DDKS's bylaws consist of thirteen articles that provide the framework for the operation, management and control of a non-profit dental service company. The Company is controlled by its membership made up of eligible Kansas dentists opting to become contracted providers, and managed by a Board of Directors, four of whom are elected by the membership, two appointed by the Governor of Kansas (Governor) and four appointed by the Kansas Insurance Commissioner (Commissioner). Each Director serves a term of four years upon election or appointment. If an appointed position, either by the Governor or the Commissioner becomes vacant before the term has

expired, a new Director will be appointed by the current Governor or Commissioner, based upon whichever office had made the original appointment, to fill the unexpired term. If an elected position becomes vacant before the expiration of its term, the Board members who are participating dentists will elect a person within the membership to serve until the next annual meeting of the members. At the next annual meeting, the membership of the Company will elect a Director to serve the remaining term. The exhibit below contains a listing of Directors, their principal occupations, elected or appointed status, and the expiration of each Director's term as of December 31, 2015.

<u>Name</u>	<u>Principal Occupation</u>	<u>Nomination</u>	<u>Term Expires</u>
Dr. Patrick Moriarty Lawrence, Kansas	Dentist Self-employed	Elected by Membership	2015
Dr. Alan Marcotte Winfield, Kansas	Dentist Self-employed	Elected by Membership	2016
Dr. Brick Scheer Wichita, Kansas	Dentist Self-employed	Elected by Membership	2017
Bruce Witt Maize, Kansas	Director, Government Relations Via Christi Health	Appointed by Governor	2017
Gary Yager Topeka, Kansas	President Vision Bank	Appointed by Commissioner	2017
Nancy G. Zogleman Caldwell, Kansas	Attorney Capitol Consulting	Appointed by Commissioner	2017
Angela McClure Lawrence, Kansas	Account Manager Gene Fritzel Construction	Appointed by Commissioner	2018
Mark Phillips Wichita, Kansas	Private Investor Self-employed	Appointed by Governor	2018
Dr. Lucynda Raben Topeka, Kansas	Dentist Self-employed	Elected by Membership	2018
Ruth Teichman Stafford, Kansas	Farming Self-employed	Appointed by Commissioner	2018

Committees

DDKS's bylaws provide for the Board to have exclusive power and authority to manage the affairs of the Company and may delegate reasonable and necessary powers to committees to carry out the corporate purpose. As of December 31, 2015, the following committees had been established by the Board:

Administrative Committee

Dr. Patrick Moriarty, Chairperson
Dr. Alan Marcotte
Dr. Lucynda Raben
Dr. Brick Scheer
Mr. Bruce Witt

Finance Committee

Mr. Gary Yager, Chairperson
Mr. Mark Philips
Dr. Lucynda Raben
Ms. Ruth Teichman

Governance Committee

Dr. Brick Scheer, Chairperson
Ms. Angela McClure
Dr. Patrick Moriarty
Ms. Ruth Teichman

Executive Committee

Ms. Nancy Zogleman, Chairperson
Dr. Alan Marcotte
Ms. Angela McClure
Mr. Bruce Witt
Mr. Gary Yager

Charitable Giving Committee

Mr. Bruce Witt, Chairperson
Ms. Angela McClure
Mr. Mark Philips
Dr. Lucynda Raben

Officers

Pursuant to the bylaws, the required officers of the Company are a Chairman of the Board, Vice-Chairman of the Board, Secretary and Treasurer. The Board may also elect a President, who does not need to be a member of the Board, or other officers as deemed necessary. The officers listed below were elected or appointed as of December 31, 2015:

<u>Name</u>	<u>Position</u>
Ms. Nancy Zogleman	Chairman of the Board
Dr. Alan Marcotte	Vice-Chairman of the Board
Michael Herbert	President and Chief Executive Officer
Nancy Umholtz	Secretary
Michael Ellis	Chief Financial Officer and Treasurer
Molly Edwards	Chief Operations Officer
Dean A. Newton	Managing Director and Executive VP

Conflict of Interest

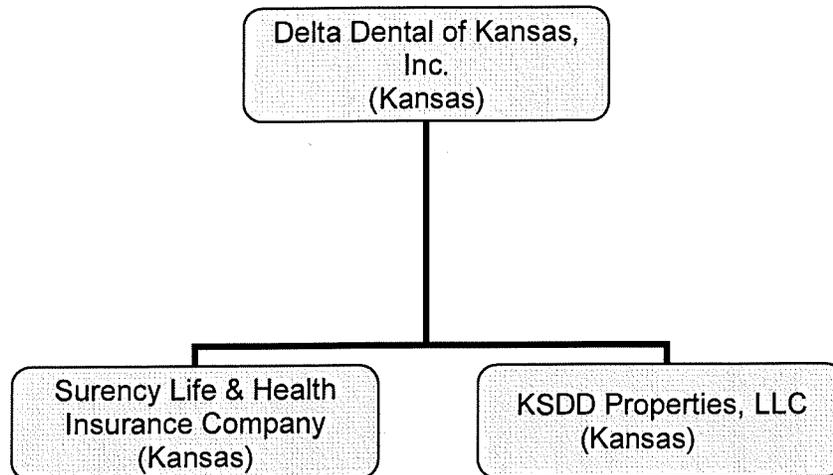
The Company has instituted a formal procedure for reporting to the Board any possible conflicts of interest on the part of its directors, officers and employees concerning their activities outside the Company, and their official duties within the Company. No conflicts of interest were noted during the examination.

AFFILIATED COMPANIES

K.S.A. 40-3301 et seq. - *Insurance Holding Companies*, requires a domestic insurer that is part of an insurance holding company system to file appropriate registration statements with the Commissioner of Insurance. The Company has submitted Forms "B" and "C" registration statements to the Department for each of the years under examination. The review of the registration statements indicated that the Company is properly reporting items and events as required by statute.

Organization Chart

The following organizational chart illustrates the identities and intercompany relationships among insurance and non-insurance companies, and the controlling entity thereof, as of December 31, 2015:



Delta Dental of Kansas, Inc. owns 100% of the outstanding shares of Surency Life & Health Insurance Company as of December 31, 2015, and was the sole owner of KSDD Properties, LLC, a single member entity limited liability company.

The Company was the major contributor to the Delta Dental of Kansas Foundation during the Examination period. However, the Delta Dental of Kansas Foundation was dissolved as of December 31, 2014.

Intercompany/Cost Sharing Agreements

The Company provides administrative services to Surency Life & Health Insurance Company (SLHI) under a management services agreement entered into on July 1, 2008. The management services provided by DDKS for SLHI include customer services, sales and marketing services, financial services, medical management services, provider relations services, and facilities and occupancy services. Through written agreements DDKS received from SLHI the following expense reimbursements:

SERVICES PROVIDED	2015	2014	2013	2012
Real Property License and Expense Sharing	\$165,347	\$136,950	\$152,316	\$128,609
Common Paymaster Agreement	920,233	651,320	525,985	489,374
Additional Expense Reimbursements	56,039	28,707	14,151	28,877
TOTAL	\$1,141,619	\$816,977	\$692,452	\$646,860

FIDELITY BOND AND OTHER INSURANCE

Pursuant to K.S.A. 40-207 – *Secretary and Certain Officers to Give Bond*, the Company is required to maintain a financial institution bond sufficient to cover all officers and employees who handle funds and securities on behalf of the Company. The bond provides a single loss limit of liability of \$5 million with a single loss deductible of \$30,000. The bond coverage exceeds the minimum amount recommended by the NAIC *Financial Conditions Examiners Handbook*.

Other insurance policies were reviewed and appear adequate for the needs of the Company.

PENSION AND INSURANCE PLANS

Eligible Company employees are covered by a qualified defined contribution plan (401(k) plan) sponsored by the Company. The Company provides a 50% match of the eligible employee's contribution up to a maximum of 3% of eligible employee's salary or wage.

The Company also has a second defined contribution plan in which a non-matched contribution is made into each eligible employee's 401(k) plan. The Board of Directors determines the amount of additional, non-matched contribution on an annual basis. The minimum contribution each year is 5% of eligible salaries and wages with a maximum contribution of 25%.

DDKS also provides healthcare benefits for active employees.

TERRITORY AND PLAN OF OPERATION

As of December 31, 2015, the Company is authorized to transact business as a non-profit dental service corporation in the State of Kansas and a pre-paid dental plan in the State of Missouri. The Company enters into contracts with participating dentists to provide or administer professional services to subscribers on such basis as may be designated in the Company's contracts with participating groups, individuals, or governmental agencies. The Company also offers administrative service contracts (ASC) to self-insured employee benefit plans and point of service plans for which it receives a predetermined administrative fee.

FIVE-YEAR HISTORICAL

The following exhibit shows the Risk-Based Capital (RBC) and financial growth of the Company (in thousands) for the period of December 31, 2012 through December 31, 2015. The financial growth amounts were obtained from annual statements filed by the Company.

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
RBC Ratio	1311.1%	1,330.3%	1361.0%	1446.0%	1461.0%
	(in thousands)				
Admitted Assets	\$ 41,721	\$ 45,474	\$ 50,889	\$ 54,605	\$ 58,788
Liabilities	6,128	6,805	8,169	7,790	7,196
Capital and Surplus	35,594	38,669	42,720	46,815	51,593
Net Underwriting Gain/(Loss)	1,729	1,233	2,457	2,890	1,971
Net Income	3,495	2,851	3,622	4,985	4,151
Net Premiums Written	69,554	75,899	78,214	95,603	103,539

UNCLAIMED PROPERTY

A review of Company documents has indicated there are formal procedures in place to manage and report unclaimed property. For the period under examination, it was determined that unclaimed property reports have been submitted as required.

FINANCIAL STATEMENTS

The following financial statements are based on the statutory financial statements filed by the Company with the Department and present the financial condition of the Company for the period ending December 31, 2015. The accompanying comments on financial statements reflect any examination adjustments to the amounts reported in the annual statement and should be considered an integral part of the financial statements.

DELTA DENTAL OF KANSAS, INC.
ANALYSIS OF ASSETS
AS OF DECEMBER 31, 2015

	<u>Assets</u>	<u>Nonadmitted Assets</u>	<u>Net Admitted Assets</u>
Bonds	\$ 31,407,443	\$ 2,800,000	\$ 28,607,443
Common stocks	17,871,264		17,871,264
Real Estate	2,563,301		2,563,301
Cash and short-term investments	3,052,567		3,052,567
Investment income due & accrued	284,765		284,765
Uncollected premiums and agents' balances in the course of collection	1,283,035	13,207	1,269,828
Amounts receivable relating to uninsured plans	4,885,752		4,885,752
Electronic data processing equipment	253,430		253,430
Furniture and equipment	682,009	682,009	-
Receivables from parent, subsidiaries and affiliates	226,519	226,519	-
Aggregate write-ins for other than invested assets	487,904	487,904	-
Totals	<u>\$ 62,997,989</u>	<u>\$ 4,209,639</u>	<u>\$ 58,788,350</u>

**DELTA DENTAL OF KANSAS, INC.
LIABILITIES, SURPLUS AND OTHER FUNDS
AS OF DECEMBER 31, 2015**

	Covered	Uncovered	Total
Claims unpaid		\$ 2,913,000	\$ 2,913,000
Unpaid claims adjustment expenses	55,000		55,000
Aggregate health policy reserves	271,772		271,772
Premiums received in advance	141,147		141,147
General expenses due or accrued	3,134,925		3,134,925
Amounts withheld or retained for the account of others	6,502		6,502
Remittances and items not allocated	1,481		1,481
Amounts due to parent, subsidiaries and affiliates	100,000		100,000
Liability for amounts held under uninsured plans	571,700		571,700
Total liabilities	\$ 4,282,527	\$ 2,913,000	7,195,527
Aggregate write-ins for special surplus funds			480,000
Common capital stock			-
Unassigned funds (surplus)			51,112,823
Total capital and surplus			51,592,823
Total liabilities, capital and surplus			\$ 58,788,350

**DELTA DENTAL OF KANSAS, INC.
STATEMENT OF REVENUE AND EXPENSES
FOR THE YEAR-ENDED DECEMBER 31, 2015**

	Total
Member Months	<u>3,319,932</u>
Net premium income	<u>\$ 103,538,898</u>
Total revenues	103,538,898
 Hospital and Medical:	
Other professional services	<u>69,135,018</u>
Subtotal	69,135,018
 Less:	
Net reinsurance recoveries	<u>(16,250,587)</u>
Total hospital and medical	85,385,605
Claims adjustment expenses	1,479,094
General administrative expenses	<u>14,703,280</u>
Total underwriting deductions	<u>101,567,979</u>
Net underwriting gain or (loss)	1,970,919
Net investment income earned	1,636,687
Net realized capital gains (losses)	<u>535,071</u>
Net investment gains (losses)	2,171,758
Aggregate write-ins for other income or expenses	<u>8,388</u>
Net income or (loss) after capital gains tax and before all other federal income taxes	4,151,065
Federal and foreign income taxes incurred	<u>-</u>
Net income	<u><u>\$ 4,151,065</u></u>

**DELTA DENTAL OF KANSAS, INC.
CAPITAL AND SURPLUS ACCOUNT
FOR THE YEAR-ENDED DECEMBER 31, 2015**

Capital and surplus prior reporting year	\$ 46,815,297
Net income or (loss)	4,151,065
Change in net unrealized capital gains (losses)	(1,360,867)
Change in nonadmitted assets	972,996
Cumulative effect of changes in accounting principles	1,014,332
Net change in capital and surplus	<u>4,777,526</u>
Capital and surplus end of year	<u>\$ 51,592,823</u>

**DELTA DENTAL OF KANSAS, INC.
CAPITAL AND SURPLUS ACCOUNT
RECONCILIATION OF CAPITAL AND SURPLUS SINCE LAST EXAMINATION**

Capital and surplus, December 31, 2011		\$ 35,593,540
Net income	2012	2,851,361
	2013	3,621,872
	2014	4,985,330
	2015	<u>4,151,065</u>
		15,609,628
Change in net unrealized capital gains or (losses)	2012	123,350
	2013	1,455,375
	2014	(147,761)
	2015	<u>(1,360,867)</u>
		70,097
Change in nonadmitted assets and related items	2012	100,736
	2013	(1,026,345)
	2014	(742,161)
	2015	<u>972,996</u>
		(694,774)
Cumulative effect of changes in accounting principles	2012	-
	2013	-
	2014	-
	2015	<u>1,014,332</u>
		1,014,332
Change in capital and surplus		15,999,283
Capital and surplus, December 31, 2015		<u>\$ 51,592,823</u>

COMMENTS ON FINANCIAL STATEMENTS

No adjustments were made to surplus as a result of this examination. The capital and surplus of the Company, as of December 31, 2015, was \$51,592,823, which is the same amount, reported by the Company in its 2015 filed Annual Statement. There were no significant or material findings resulting from the examination that warranted inclusion in the report of examination.

SUBSEQUENT EVENTS

DDKS informed the Department on October 24, 2016 regarding the change of their CPA firm from BKD, LLP to Eide Bailly LLP for the year ending December 31, 2016. During the December 10, 2016 Board of Directors approved the dissolution of KSDD Properties, LLC.

SUMMARY OF RECOMMENDATIONS

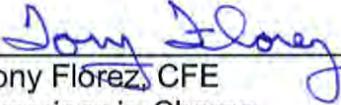
There were no findings or recommendations identified as a result of this examination that warranted inclusion in the report of examination.

CONCLUSION

The assistance and cooperation by the officers and employees of Delta Dental of Kansas, Inc. during the course of this examination is hereby acknowledged and appreciated.

In addition to the undersigned, Leon Black, Jr. CFE, a financial examiner, and Shane Mead, CISA, CISM, CRISC, an information systems examiner, and each representing the Department, participated on this examination.

Respectfully submitted,



Tony Flórez, CFE
Examiner-in-Charge

EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES USED IN AN EXAMINATION

State of Kansas

County of Shawnee

Tony Florez being duly sworn, states as follows:

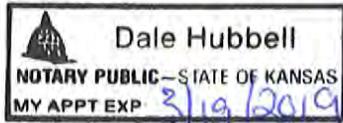
1. I have authority to represent the Kansas Insurance Department in the examination of Delta Dental of Kansas, Inc.
2. The Kansas Insurance Department is accredited under the National Association of Insurance Commissioners Financial Regulation Accreditation Standards.
3. I have reviewed the examination work papers and examination report, and the examination of Delta Dental of Kansas, Inc. was performed in a manner consistent with the standards and procedures required by K.S.A. 40-222.

The affiant says nothing further.

Tony Florez
Examiner's Signature

Subscribed and sworn before me by Tony Florez on
this 19 day of July, 2017.

(SEAL)



Dale Hubbell
Notary Public

My commission expires 3/19/2019 (date)

D- 23002

Articles of Incorporation

08/04/72
D- 230029

AUG -7 3 00400 ***50.00

We, the undersigned, incorporators, hereby associate ourselves together to form and establish a corporation

NOT for profit under the laws of the State of Kansas.

FIRST: The Name of the Corporation is Delta Dental Plan of Kansas, Inc.

SECOND: The location of its registered office in Kansas is 1100 First National Bank Building
(Number)

Topeka Shawnee 66603
(Street) (City) (County) (Zip Code)

and the resident agent in charge thereof at such address is Donald J Horttor

THIRD: This Corporation is organized NOT for profit and the nature of its business or purposes to be conducted or promoted is: the entering into contracts with participating dentists to provide or administer professional services for subscribers on such basis as may be designated in the corporation's contracts with purchasing groups, individuals and government agencies; to do all things necessary, proper or convenient for the purpose of promoting, establishing and operating in such capacity; and to engage in any and all other lawful acts or activity for which corporations may be organized under the General Corporation Code of the State of Kansas and which are permitted corporations organized under and operating in accordance with*
FOURTH: This corporation shall not have authority to issue capital stock.

The total number of shares of this corporation is as follows:

- _____ shares of _____ stock, class _____ par value of _____ dollars each
- _____ shares of _____ stock, class _____ par value of _____ dollars each
- _____ shares of _____ stock, class _____ without nominal or par value
- _____ shares of _____ stock, class _____ without nominal or par value

Statement of all or any of the designations and the powers, preferences and rights and the qualifications, limitations or restrictions thereof, in respect to any class _____

Statement of Grant of Authority, as may be desired to be given to the Board of Directors, if given: _____

The business of the corporation shall be managed and all affairs shall be conducted at all times in accordance with the provisions of "the Nonprofit Dental Service Corporation Act", including any subsequent amendments thereto.

FIFTH: The conditions of membership ~~shall be fixed by the laws of the State of Kansas~~ shall be fixed by the laws of the State of Kansas are: The membership shall be comprised of the dentists who have executed participating agreements with the corporation as provided in "the Nonprofit Dental Service Corporation Act".

SIXTH: The Name(s) and Mailing Address of each of the INCORPORATOR(S):

<u>Donald J Horttor</u>	<u>1100 First National Bank Building</u>	<u>Topeka, Kansas</u>
-------------------------	--	-----------------------

*"the Nonprofit Dental Service Corporation Act" in Kansas, including any subsequent amendments to either such statutes.

SEVENTH: The name and mailing address of each person, who is to serve as a director until the first annual meeting of the stockholders or until a successor is elected and qualified, is as follows:

EIGHTH: The Term for which this Corporation is to exist is perpetual

In Testimony Whereof, We have hereunto subscribed our names this 31st day of July, A. D. 19 72

Donald J. Horttor
Donald J. Horttor

STATE OF KANSAS,

COUNTY OF SHAWNEE } ss.

Personally appeared before me, a Notary Public in and for Shawnee County, Kansas, the above-named Donald J. Horttor

who ^{is} personally known to me to be the same person who executed the foregoing instrument of writing, and duly acknowledged the execution of the same.

In Testimony Whereof, I have hereunto subscribed my name and affixed my official seal, this 31st day of July, A. D. 19 72

Marilyn Heckman
Marilyn Heckman Notary Public.

My commission expires July 9 19 76



APPROVED FOR FILING

Fletcher Bell

FLETCHER BELL
COMMISSIONER OF INSURANCE
August 4, 1972

FILED
E. WILLIAM SHANNAHAN
SECRETARY OF STATE
KANSAS

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FILED AMENDMENT TO THE ARTICLES OF INCORPORATION
ELWILL B. SHANAHAN
SECRETARY OF STATE
KANSAS

DELTA DENTAL PLAN OF KANSAS, INC. NOV-6 3 06200***20.00

Whose Registered Office is 1100 First National Bank Building, One Townsite

Plaza Topoka Shawnee
(Number) (Street) (Town or City) (County)

STATE OF KANSAS,

County of Shawnee } ss.

I ~~xxx~~ Donald J Horttor, Incorporator ~~President and~~
~~of Delta Dental Plan of Kansas, Inc.~~ ~~Secretary~~

a corporation created, organized and existing, not for profit, under and by virtue of the laws of the State of Kansas, do hereby certify that at a meeting of the Incorporator
(Board of Directors, Managers, Trustees, or Governing Body)
held on the 2nd day of October, 1972, a resolution was passed declaring the following addition, change, or alteration advisable, and that a majority of the whole number of said ~~members~~
said Incorporator
(Board of Directors, Managers, Trustees, or Governing Body) assented in writing

to the following amendment, addition, change, or alteration:

Paragraph FIFTH of said Articles of Incorporation shall read as follows:

FIFTH: The conditions of membership are: The membership shall be comprised of the dentists who have executed participating agreements with the corporation as provided in "the Nonprofit Dental Service Corporation Act". Each member shall be entitled, at every meeting of members, to one vote per person, but no member shall be entitled to vote by proxy.

IN TESTIMONY WHEREOF, I ~~xxx~~ have hereunto set ~~my~~ my hands and affixed the seal of said corporation this 2nd day of October, 1972, and hereby certify that the corporation has not received any payment for any of its stock and that this amendment has been duly adopted in accordance with Sec. 74 of the General Corporation Code of the State of Kansas.

[SEAL]

Donald J Horttor ~~President~~
Incorporator ~~Secretary~~

STATE OF KANSAS,

County of Shawnee } ss.

Be it remembered, that before me the undersigned a Notary Public in and for the County and State aforesaid, came Donald J Horttor

~~President, Vice-President and~~ Incorporator ~~Secretary, Assistant Secretary~~
of Delta Dental Plan of Kansas, Inc. a corporation, personally known to me to be the person who executed the foregoing instrument of writing as Incorporator

~~and~~ respectively, and duly acknowledged the execution of the

same this 2nd day of October, 1972

[SEAL]

My commission expires July 9, 1976 Marilyn Heckman Notary Public

Submit to this office in duplicate.
A fee of \$20.00 must accompany this form.

23-002.9

AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
DELTA DENTAL PLAN OF KANSAS, INC.

(A Not-For-Profit Corporation)

(The Corporation was originally incorporated by
Articles of Incorporation filed with the
Kansas Secretary of State on August 4, 1972)

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IT IS HEREBY CERTIFIED that the following Amended and Restated Articles of Incorporation which restate, integrate, and further amend the Corporation's Articles of Incorporation, as originally filed and as heretofore amended and supplemented, were duly set forth, proposed, approved, and declared advisable by a resolution duly adopted by the Corporation's Board of Directors, and were thereafter duly approved and adopted by the members of the Corporation in accordance with the provisions of K.S.A. § 17-6605 and amendments thereto, and the General Corporation Code of the State of Kansas, and that these Amended and Restated Articles of Incorporation constitute all of the Articles of Incorporation of the Corporation and do hereby supersede the Corporation's Articles of Incorporation originally filed as heretofore supplemented or amended.

ARTICLE I

Name

The name of this Corporation is Delta Dental Plan of Kansas, Inc. (the "Corporation").

ARTICLE II

Registered Office and Resident Agent

The address of the Corporation's registered office in the State of Kansas is 1010 N. Main, Wichita, Sedgwick County, Kansas 67203. The name of its registered agent at such address is Ronald Gessl.

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ARTICLE III

Purposes

This Corporation is organized as a not-for-profit corporation, and the purposes of this Corporation are:

To enter into contracts with participating dentists to provide or administer professional services for subscribers on such basis as may be designated in the corporation's contracts with purchasing groups, individuals and government agencies; to do all things necessary, proper or convenient for the purpose of promoting, establishing and operating in such capacity; and to engage in any and all other lawful acts or activity for which corporations may be organized under the General Corporation Code of the State of Kansas as amended and which are permitted corporations organized under and operating in accordance with the Nonprofit Dental Service Corporation Act in Kansas as amended ("the Act"); and which will permit an organization to qualify as an organization exempt from taxation under Section 501(c)(4) of the Internal Revenue Code of 1986, as amended from time to time.

ARTICLE IV

Prohibited Activities

No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its members, directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in ARTICLE III above. The Corporation shall not engage in any activities, or be authorized to take any actions, which would be inconsistent with the requirements for exemption from tax under Internal Revenue Code Section 501(c)(4).

ARTICLE V

Membership Organization

This Corporation shall not have authority to issue capital stock, and all voting powers normally vested in stockholders shall be vested in the members of this Corporation. The membership of this Corporation shall be comprised of the dentists who have currently executed participating agreements with

the Corporation as provided in the Act. Each member shall be entitled, at every meeting of the members, to one vote per person, but no member shall be entitled to vote by proxy.

ARTICLE VI

Board of Directors

A. The business of the Corporation shall be managed and all affairs shall be conducted at all times in accordance with the provisions of the Act. The affairs of the Corporation shall be managed and conducted by a Board of Directors, the size, composition and selection of which shall be as provided by the Act.

B. The Board shall have full power and authority to manage the Corporation and any and all of its assets, properties, and affairs, including the right to elect such officers and assistant officers and to designate and appoint such agents and employees as the Board deems advisable and to allow them suitable compensation, and shall have any and all additional powers and authority, not inconsistent with the express terms of these Articles of Incorporation, that are expressly or impliedly granted to or invested in the Board by the Act and by the other statutes or laws of the State of Kansas, as now in effect and as hereafter amended or modified. Unless otherwise provided in the Bylaws of the Corporation, the election of those directors who are elected by the membership, in accordance with the Act, shall be by written ballot shall be required only if requested by a member entitled to vote at said election.

C. No director of the Corporation shall be held personally liable to the Corporation or its members for breach of fiduciary duty as a director except for liability (i) for any breach of a director's duty of loyalty to the Corporation or its members, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, or (iii) for any transactions from which the director derived an improper personal benefit. Any repeal or modification of this paragraph C shall be prospective only and shall not adversely affect any limitation on the personal liability of a director of the Corporation serving at the time of such repeal or modification.

D. Notwithstanding anything herein to the contrary, the Board and the members shall not be authorized to do any act or activity which is contrary to any purpose for which an organization exempt from tax pursuant to Section 501(c)(4) of the Code may lawfully be organized.

ARTICLE VII

Bylaws

The power to adopt, alter, amend or repeal this Corporation's Bylaws, in whole or in part, at any time and from time to time, shall be vested in the Membership.

ARTICLE VIII

Perpetual Existence

The Corporation shall have perpetual existence.

ARTICLE IX

Indemnification

A. This Corporation shall indemnify any Director, officer, employee, or agent of the Corporation who was or is threatened to be made a party in any legal proceedings, whether civil, criminal, administrative, or investigative, if successful on the merits or otherwise in defense, or even if unsuccessful in defense, if such person or persons, as determined by the Directors, whose acts are not in question, or by the legal opinion of independent legal counsel, acted in good faith and in the reasonable belief that the actions were in or not opposed to the best interests of the Corporation.

B. The rights conferred in paragraph A shall not be exclusive of any other right to indemnification which any person may have or hereafter acquire under any statute, bylaw, agreement, contract, resolution of the Board, or otherwise.

C. The Corporation may purchase and maintain insurance on behalf of any director, officer, employee, or agent of the Corporation against any liability asserted against such person and incurred in such capacity, whether or not the Corporation would have power to indemnify such person against such liability under the provisions of the above Section.

IN WITNESS WHEREOF, I have hereunto subscribed my name at Wichita,
Kansas, on this 11th day of August, 2000

ATTEST:

Nancy C. McClintock
Nancy McClintock, Secretary

Ronald Gessl
Ronald Gessl, President

STATE OF KANSAS)
) SS.
SEDGWICK COUNTY)

BE IT REMEMBERED, that on this 11th day of August, 2000, before me, a Notary Public within and for the County and State aforesaid, came Nancy McClintock and Ronald Gessl, who are personally known to me and known to me to be the same individuals who executed the foregoing Amended and Restated Articles of Incorporation, and said individuals duly acknowledged before me execution of the same as and for their free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date last above written.

Patricia A. Baldrige
Notary Public

My Appointment Expires:



0230029

KANSAS SECRETARY OF STATE

File Stamp Cover Page

Kansas Office of the Secretary of State:

Memorial Hall, 1st Floor (785) 296-4564
120 S.W. 10th Avenue kssos@sos.ks.gov
Topeka, KS 66612-1594 www.sos.ks.gov

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EXHIBIT 8

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**AMENDMENT TO
AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF
DELTA DENTAL OF KANSAS, INC.
(A Nonstock, Not-for-Profit Corporation)**

IT IS HEREBY CERTIFIED that the following Amendment to the Amended and Restated Articles of Incorporation filed August 22, 2000 (the "Articles") of Delta Dental of Kansas, Inc. (the "Corporation") was duly adopted by the Corporation's Board of Directors (the "Board") as the Corporation's governing body, in accordance with the provisions of K.S.A. 17-6602 and amendments thereto, and the General Corporation Code of the State of Kansas, as amended (the "Corporate Code").

NOW THEREFORE, the Corporation's Articles are hereby amended as follows:

1. AMENDMENTS TO ARTICLES.

1.1 Amendment to Article III. The introductory phrase of Article III (immediately preceding the colon) is deleted in its entirety and replaced with the following:

"This Corporation is organized as a not-for-profit corporation, and the purposes of this Corporation are, except as otherwise set forth in the Nonprofit Dental Service Corporation Act (the "Act") or supplemented by the Board as provided in these Articles:"

1.2 Amendment to Article V. Article V of the Articles of Incorporation is deleted in its entirety and replaced with the following:

"ARTICLE V

Membership Organization

A. This Corporation shall not have authority to issue capital stock. The membership of this Corporation shall be comprised of the dentists who have currently executed participating agreements with the Corporation as provided in the Act. Each member shall be entitled, at every meeting of the members, to one vote per person, but no member shall be entitled to vote by proxy. No member shall have any right, title, or interest in the Corporation's property, assets, or business.

B. Meetings of the members shall be held at the time and place, and in the manner determined by the Board, and the Board may permit electronic participation and voting by means of remote communication to the maximum extent permitted under the Corporate Code. The Chairperson of the Board (the "Chairperson") shall preside at and set the agenda for the meeting. The Annual Meeting shall be for the purpose of electing any members to the Board who are elected by the membership (the "Elected Directors") and transacting such other business as is properly presented to the members at such meeting, including considering any Properly Proposed Amendment pursuant to Article VII."

1.3 **Amendment to Article VI.** Article VI of the Articles of Incorporation is deleted in its entirety and replaced with the following:

“ARTICLE VI

Board of Directors

A. The business of the Corporation shall be managed and all affairs shall be conducted at all times in accordance with the provisions of the Act. The affairs of the Corporation shall be managed and conducted by a Board of Directors, the size, composition and selection of which shall be as provided by the Act. The Board is the governing body of the Corporation and shall have full power, discretion, and authority to:

1. Manage the Corporation and any and all of its assets, properties, strategies, business operations, and business activities and affairs, including having full supervision and control of the Corporation's business and social welfare affairs, employees, networks, reserves, surplus, and revolving funds;

2. Elect such officers and assistant officers and to select, designate, and appoint such agents and employees as the Board deems advisable and to allow them suitable compensation. The Board has full power, discretion, and authority over all matters relating to the Corporation's directors, officers, assistant officers, employees, and agents including establishing compensation methodology, amount, and approach;

3. Enter into, establish terms and conditions, modify, suspend, or terminate all agreements and other contractual relationships with dentists, groups, individuals, subscribers, vendors, and other parties as the Board deems appropriate in its sole discretion; and

4. Exercise any and all additional powers and authority, not inconsistent with the express terms of these Articles, that are expressly or impliedly granted to or invested in the Board by the Act, the Corporate Code or other laws, as now in effect and as hereafter amended or modified.

B. No director of the Corporation shall be held personally liable to the Corporation or its members for breach of fiduciary duty as a director except for liability (i) to the Corporation for any breach of a director's duty of loyalty to the Corporation, (ii) to the Corporation for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, or (iii) to the Corporation for any transactions from which the director derived an improper personal benefit. Any repeal or modification of this paragraph shall be prospective only and shall not adversely affect any limitation on the personal liability of a director of the Corporation serving at the time of such repeal or modification.

C. Notwithstanding anything herein to the contrary, the Board and the members shall not be authorized to do any act or activity which is contrary to any purpose for which an organization exempt from tax pursuant to Section 501(c)(4) of the Internal Revenue Code of 1986, as amended from time to time (the "Code") may lawfully be organized.

D. In accordance with the Act and as set forth in the Bylaws, the terms of any directors appointed by the Governor or the Kansas Insurance Commissioner ("Appointed Directors") shall be six (6) years and shall automatically renew for successive six (6) year terms until a vacancy occurs. The terms of any Elected Directors shall be six (6) years and shall automatically renew for successive six (6) year terms until a vacancy occurs. The Board hereby delegates its authority to the Appointed Directors to modify the Bylaws as they may deem necessary and appropriate regarding the terms of office and tenure of Appointed Directors. The Board hereby delegates its authority to the Elected Directors to modify the Bylaws as they may deem necessary and appropriate regarding the terms of office and tenure of Elected Directors. Elected Directors shall have no power or authority to modify or otherwise change the terms of office or tenure of Appointed Directors. Appointed Directors shall have no power or authority to modify or otherwise change the terms of office or tenure of Elected Directors.

E. Directors shall act in a manner consistent with their fiduciary obligations to the Corporation and shall exercise particular care that no detriment to the interests of the Corporation, or appearance of such detriment, may result from a conflict between the Corporation's interests and any personal or business interests that a Director may have. Accordingly, no Director may vote on any issue with respect to which such Director is "interested" as that term is interpreted by the Board. The Board may adopt such rules, policies and procedures that are consistent with these Articles as the Board deems appropriate from time to time in order to implement the provisions and principles set forth in these Articles, including adopting and enforcing a code of conduct and conflict of interest policy.

1.4 Amendment to Article VII. Article VII of the Articles of Incorporation is deleted in its entirety and replaced with the following:

"ARTICLE VII

Amendments of Articles or Bylaws

A. The power to adopt, alter, amend or repeal these Articles, in whole or in part, at any time and from time to time, shall, to the maximum extent permitted under the Corporate Code, be vested exclusively in the Board and shall occur upon an affirmative vote of a majority of the Board and a vote of the majority of the Appointed Directors.

B. The power to adopt, alter, amend or repeal this Corporation's Bylaws, in whole or in part, at any time and from time to time, shall be vested concurrently in the Board and the membership.

1. To be considered for adoption, proposed Bylaws amendments shall not be inconsistent with the Corporation's purposes, these Articles, the Act, the Code, the Corporate Code and any other law or regulation, and the principles reflected in paragraph 3 below, all as interpreted and applied by the Board (a "Properly Proposed Amendment"). Each Bylaws amendment proposal will first be reviewed and considered in its entirety by the Board such that if all or any portion of such proposal is inconsistent with the requirements of a Properly Proposed Amendment, it will not then be submitted to the members for consideration or action.

2. In the event the members wish to propose a Properly Proposed Amendment, they may do so as generally provided in these Articles and the Bylaws, to the extent the Bylaws are not inconsistent with these Articles. Following any favorable determination by the Board that the proposal constitutes a Properly Proposed Amendment, notice and any comments or additional information regarding such proposal will be provided to the members as set forth in the Bylaws.

3. In addition to satisfying the foregoing requirements and principles, any proposed Bylaws amendment shall not be submitted to the members for approval if such proposal:

a. Would cause material harm to the Corporation, or be inconsistent with the principles regarding the Board's exclusive authority and discretion set forth in Article VI above;

b. Would cause the Corporation to violate any state, federal or foreign law, regulation, or rule to which it is subject, or violate or breach an existing contract or agreement or the Delta Dental Plans Association ("DDPA") membership requirements or any rules, guidelines or policies of DDPA; and

c. Contemplates action that, if implemented, would cause a director to breach his or her fiduciary duty to the Corporation.

4. If the Board determines a proposed Bylaws amendment does not constitute a Properly Proposed Amendment, then upon the request of the proposing party, the Board may agree to meet or engage in non-binding mediation regarding the terms of the proposal."

1.5 Addition of Article X. A new Article X shall be inserted immediately after Article IX.C, to read in its entirety as follows:

"ARTICLE X

Miscellaneous

A. Except as otherwise provided in the Articles and the Bylaws, all proceedings of the Corporation, the Board and committees, and members shall, to the maximum extent permitted under the Corporate Code, be conducted in accordance with rules of procedure as determined by the Chairperson.

B. All claims or disputes in any way related to the Corporation, its Board, or its members, whether direct or derivative, shall be brought solely and exclusively in and resolved by a court sitting in Sedgwick County, Kansas.

C. If any term or other provision of these Articles shall be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired hereby.

D. Pursuant to Kansas law, provisions that are required or permitted to be stated in the Bylaws may instead be stated in these Articles. Accordingly, both substantive and procedural provisions of these Articles are incorporated by reference in the Bylaws. Further, to the extent these Articles contain provisions that are legally required to be provided in the Bylaws, such terms are incorporated therein by reference. To the extent inconsistent with the terms of the Bylaws, the terms of these Articles will control.

E. All headings and other titles and captions used in these Articles are for convenience only and shall not be considered in construing or interpreting any provision of these Articles.”

2. **AMENDMENTS TO ARTICLES - MISCELLANEOUS.**

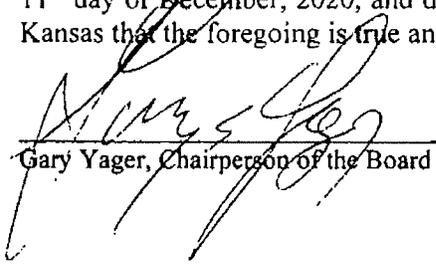
2.1 No Other Amendment. Except as specifically amended by this Amendment and those prior amendments to the Articles that have not been specifically superseded, the Articles shall remain unchanged and in full force and effect.

2.2 Incorporation of Amendment into the Articles. Upon its filing with the Kansas Secretary of State, this Amendment together with those prior amendments to the Articles that have not been specifically superseded shall form and constitute the entirety of the Corporation's Articles for all purposes and shall be binding on all parties hereto.

[Remainder of page intentionally left blank. Signature page follows.]

KANSAS SECRETARY OF STATE
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IN WITNESS WHEREOF, I have hereunto subscribed my name at Topeka, Kansas, on this 11th day of December, 2020, and declare under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct.



Gary Yager, Chairperson of the Board

KANSAS SECRETARY OF STATE
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DELTA DENTAL OF KANSAS, INC.

BY-LAWS

August 2019

EXHIBIT 9

APPROVED & FILED

SEP 04 2019

**VICKI SCHMIDT
Commissioner of Insurance**

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ARTICLE I

Name, Location and Corporate Seal

Section 1. Name. The name of this Corporation shall be "Delta Dental of Kansas, Inc."

Section 2. Location. The location of the principal office of the Corporation shall be 1619 North Waterfront Parkway, Wichita, Sedgwick County, Kansas 67206. The Corporation may have such other offices within the State of Kansas as is from time to time determined by the Board of Directors.

Section 3. Seal. The Corporate seal shall be circular in form and shall consist of the words and figures: "Delta Dental of Kansas, Inc.," "Corporate Seal" and "1972" in the form impressed in the margin hereof.

APPROVED & FILED

SEP 04 2019

**VICKI SCHMIDT
Commissioner of Insurance**

ARTICLE II

Purpose

The purpose of this Corporation shall be to make possible and facilitate a wider and more timely availability of dental care, thereby advancing the public health and the science and art of dentistry in the State of Kansas, by establishing, maintaining and operating a non-profit prepayment dental service plan or plans throughout the State of Kansas whereby dental care may be provided to persons who become subscribers thereto, and in furtherance thereof to enter into contracts with dentists duly licensed to practice under the laws of the State of Kansas whereby such dentists agree to provide dental care to the subscribers in conformity with professional standards established by the dental profession in Kansas and the rules of conduct and procedures established by this Corporation; to maintain and to preserve the accepted relationship of dentist and patient between its contracting dentists and its subscribers; and to do everything necessary or appropriate to perform and to fulfill the aforesaid objectives and purposes pursuant to the provisions of the Nonprofit Dental Service Corporation Act of the State of Kansas.

ARTICLE III

Membership

Section 1. Eligibility. Each dentist who is licensed to practice dentistry and is actively engaged in the practice of dentistry in the State of Kansas, who is not under suspension or other disciplinary action by this Corporation, the Kansas Dental Board or any other similar regulatory body, is eligible to become a member of the Corporation.

Section 2. Application for Membership. Any eligible dentist may become a member of this Corporation by executing and filing with the Corporation a written Participating Dentist Agreement on such form as is prescribed by the Board of Directors.

Section 3. Termination of Membership. Membership in the Corporation shall automatically terminate on the happening of any of the following:

- (1) Written resignation of a member.
- (2) Death of a member.
- (3) Revocation, suspension, surrender or failure to renew the member's license to practice dentistry issued by the State of Kansas.

Section 4. Termination and Other Sanctions. Termination, probation, suspension, modification or other sanctions of membership may occur upon the recommendation by the standing administrative committee. The administrative committee shall consist of the four participating dentist members of the Board of Directors who are elected by the Membership, and one additional member of the Board of Directors who shall be appointed by the Chairperson of the Board and confirmed by the Board. The Chairperson of such committee shall be one of the four participating dentists. The committee shall evaluate whether a member has engaged in any one of the following prohibited acts or omissions, such that his/her membership should be terminated or other sanctions imposed:

- (1) Failed or refused to obey the requirements of the Corporation's by-laws or the rules and regulations properly established thereunder.
- (2) Used the Corporation's name for advertising purposes.
- (3) Exercised gross negligence in his/her practice.
- (4) Willfully failed to complete dental care under contract with the Corporation without legitimate reason.
- (5) Submitted false or fraudulent claims or charges for dental service allegedly performed under contract with the Corporation.

- (6) Made statements of such character as would tend to deceive or mislead the public or tend to claim superiority of performance of professional service as compared to services of other licensed dentists or that the patient may receive any treatment, care, service, consideration or financial arrangement or advantage different from that which the patient would receive from any other licensed dentist.
- (7) Violated the Code of Ethics of the Kansas Dental Association or the laws of the State of Kansas or his/her duties and obligations under the by-laws and other applicable regulations of this Corporation.

Such recommendation shall be made as follows:

- (1) The committee shall consider such evidence as it deems helpful and shall confer among themselves as to such evidence and its ramifications.
- (2) By majority vote, the committee shall decide the accuracy or inaccuracy and weight of the evidence considered and what action, if any, should be taken regarding the membership of the subject member. Such action may include, by way of description, termination, temporary suspension, probation, warning, fine or other sanction as is by the committee deemed appropriate.
- (3) Notice of the committee's recommendation shall be mailed by certified mail to the subject member at the address last shown for subject member on the records of the Corporation.
- (4) Such notice shall summarize the evidence considered and set forth in detail the sanctions and other consequences determined by the committee to be appropriate. It shall also notify the subject member that he/she has the right to appeal the findings and recommendation of the committee and if such appeal is made, a hearing shall be held in accordance with Section 5 of these bylaws. The appeal may be perfected only by a written notice from the subject member requesting a hearing mailed or delivered to the Chairperson of the Board of the Corporation at the principal business office of the Corporation. Such notice must be received at the principal business office within twenty (20) days from the date of the mailing of the notice to the subject member. Failure to perfect such appeal within the twenty day time period shall result in automatic and immediate imposition of the sanctions and other consequences set forth in the notice to the member, and waiver by the subject member of the member's right to appeal. The perfecting of the appeal automatically suspends the recommendation of the committee and any sanctions suggested by the committee.

Section 5. Investigation—Hearing.

- (1) Charges against a Participating Dentist may be filed in writing with the Board of Directors by any interested person or investigation of suspected or alleged prohibited acts may be commenced by the Board of Directors at any time on its own motion. The Board of Directors may establish, from time to time, such special or standing committees as it believes advisable for the purpose of investigating charges against a Participating Dentist and of making recommendations to the Board of Directors in regard thereto.

- (2) No formal hearing shall be held concerning any charges brought against a Participating Dentist except by a hearing panel appointed by the Chairperson of the Board of the Corporation, which panel may include the Chairperson of the Board and shall include not less than five (5) persons, one of whom shall be designated by the Chairperson of the Board as Chairperson of the panel. At least ten (10) days prior to a hearing, there shall be mailed by certified mail, addressed to such dentist at the last address shown for him on the Corporation's records, a written notice of the time and place of such hearing, a specification of the charge or charges to be considered, a statement advising the dentist of his/her right to appear and be heard either personally or by counsel or both and the names of the persons composing the hearing panel. The charges may but shall not be required to be limited to the ones, if any, considered by the administrative committee.
- (3) The charged dentist may challenge any one or more of the panel members for cause at the hearing and shall be given the opportunity to ask questions of each panel member to determine if such cause exists. The non-challenged members shall decide by majority vote whether any challenge shall be sustained. If sustained, the challenged member shall be dismissed from the panel and the hearing shall continue with the remaining members, unless after such dismissal there remains less than three (3) panel members, in which event the hearing shall be continued to a later date by the remaining members, and the Chairperson of the Board, in the interim, shall appoint replacements for the vacancy or vacancies created.
- (4) The Chairperson of the panel, or in the Chairperson's absence the panel member then assuming the duties of the Chairperson of the panel, shall preside at the hearing and shall rule on all motions and questions of procedure not otherwise specifically detailed.
- (5) After the hearing, the panel, by majority but not less than three (3) affirmative votes, shall order such sanctions and other action as it deems appropriate. Written notice thereof shall be mailed by certified mail to the last known address of the subject member.
- (6) If approved by two-thirds (2/3) of the members of the Board of Directors, the membership of any Participating Dentist against whom charges are being investigated may be temporarily suspended without hearing or prior notice to such dentist pending the investigation of such charges, provided, however, that such temporary suspension without the consent of the suspended member cannot be for a period of more than thirty (30) days, unless the period of such temporary suspension is extended by the Board of Directors at or after the formal hearing pending the final disposition thereof.

Section 6. Rights and Obligations upon Termination. Upon termination of membership as herein provided, the former member shall enjoy no further rights or privileges of membership and shall have no right, title or interest in or to any of the property of the Corporation, real or personal, but shall be liable to the Corporation for any amounts outstanding as of the date of such termination.

ARTICLE IV

Meeting of Membership

Section 1. Annual Meeting. The Annual Meeting of the members of this Corporation shall be held each year at such time and place as is determined by the Board of Directors. The time and place of the Annual Meeting shall be posted on the Corporation's website (<http://www.deltadentalks.com>) at least 120 days prior to the Annual Meeting. The Annual Meeting shall be for the purpose of receiving the annual reports of the officers, electing members to the Board of Directors and transacting such other business as is properly presented to the members at such meeting, including a proposed amendment of the bylaws pursuant to Article XIII.

Section 2. Special Meetings. Special meetings of the members may be called by the Chairperson of the Board or by the Board of Directors and shall be called by the Chairperson of the Board if at least fifty (50) member dentists entitled to vote so request in writing. Such request shall state the purpose or purposes of the proposed meeting. The Chairperson of the Board shall forthwith set the time and place for such special meeting, which shall be within thirty (30) days following receipt of such request, unless the request is for an amendment of the bylaws pursuant to Article XIII, in which case the time and place for such meeting shall be set between seventy-five (75) and ninety (90) days following receipt of such request. The business to be transacted at such special meeting shall be limited to that stated in the notice of the meeting sent to the membership.

Section 3. Notice of Meetings. Written or printed notice stating the place, day and hour of the meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than thirty (30) days before the date of the meeting, unless the purpose is for an amendment of the bylaws pursuant to Article XIII, in which case the notice shall be delivered not less than forty-five (45) nor more than sixty (60) days before the date of the meeting. Notice shall be delivered either personally, electronically, or by mail, by or at the direction of the Chairperson of the Board, or the Secretary, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at the member's address as it appears on the records of the Corporation with postage thereon prepaid.

Section 4. Record Date for Membership Voting. For the purpose of determining members entitled to notice of or to vote at any meeting of members, or in order to make a determination of membership for any other proper purpose, the Board of Directors may fix in advance a date as the record date for any such determination of membership, such date to be not more than thirty (30) days nor less than ten (10) days immediately preceding the day of such meeting. If no record date is fixed for determination of membership, as provided above, the date on which the notice is mailed shall be the record date for making such determination.

Section 5. Quorum. At any meeting of members a quorum shall consist of ten (10) members eligible to vote at such meeting. No business shall be transacted or other action taken at any meeting at which a quorum is not present except that by appropriate action the meeting may be adjourned to a later date by less than a quorum and no further notice of the date of such later meeting need be given except the announcement thereof at the adjourned meeting.

Section 6. Voting. At all meetings of members, only those members present in person who were members of record on the appropriate date, as before defined, shall be eligible to vote.

Section 7. Voting by Ballot. In any election of Directors voting shall be by written ballot only. Voting on any other subject shall be in the manner determined by the Chairperson of the Board, provided, however, that voting shall be by written ballot at any time requested by a majority of those members present and voting.

ARTICLE V

Board of Directors

Section 1. General Powers. The Board of Directors shall be the governing body of the Corporation and it shall have full supervision and control of the business, property, affairs and management of the Corporation and may exercise all such powers of the Corporation consistent with the laws of the State of Kansas and the Articles of the Incorporation under which this Corporation is formed. Without limiting the scope of the authority of the Board of Directors, the Board shall have authority to adopt resolutions, to make rules and regulations for the conduct of the affairs of the Corporation; to decide the types of contracts to be sold and all conditions pertaining thereto; to adopt rates to be charged therefore and fee schedules; to incur indebtedness in furtherance of the corporate enterprise in such amounts and under such terms and conditions as it shall deem reasonably necessary and proper and to authorize and direct the payment thereof; to invest and re-invest all money, funds and securities of the Corporation; to create and conserve suitable and proper reserves for incurred claims, unearned subscribers' payments, and other contingencies including repayment of contributions to capital; to delegate reasonable and necessary power to officers, committees, agents and representatives of the Corporation in carrying out the corporate purposes; and, to have such other powers as may be necessary or expedient to the fulfillment of the purposes for which the corporation is formed. An individual director has no individual authority or power to act for or on behalf of the Corporation or the Board of Directors of the Corporation. The Board acts only as a body or through a properly authorized committee.

Section 2. Number and Selection. The Board of Directors shall be comprised of ten (10) members, four (4) of whom shall be elected from among the Corporation's Participating Dentists and six (6) of whom shall be appointed from among the general public of the State of Kansas.

Section 3. Tenure of Appointed Directors. With respect to the public members of the Board of Directors, two (2) shall be appointed by the Governor of the State of Kansas, and four (4) shall be appointed by the Commissioner of Insurance of the State of Kansas. At the expiration of each term the vacancies shall be filled respectively by the Governor and the Commissioner of Insurance by appointment for a four (4) year term.

Section 4. Tenure of Elected Directors. Four (4) members of the Board of Directors shall be elected from among the Corporation's Participating Dentists by the members of such Corporation. At the expiration of each term, the vacancy shall be filled by election of a Director by membership for a four (4) year term.

Section 5. Term of Office, Death, and Resignation. Except as hereafter provided, each Director shall serve until the expiration of the term of office for which the Director was elected or appointed and thereafter until the election or appointment and qualification of his/her successor. The position of any Director who dies or resigns shall be deemed to be vacated as of the time of such death or written resignation. Unless the absence for good cause shown is excused as hereafter provided, any Director who does not attend two (2) consecutive regular meetings of the Board of Directors shall be deemed to have automatically resigned. Absence from a regular meeting shall be deemed to be excused only if such absence for good cause shown is approved by a majority of the Board of Directors present at the regular meeting next following the meeting for which the excused absence is sought.

Section 6. Vacancy. If a position on the Board of Directors originally filled by an appointment by the Governor becomes vacant before the term therefor has expired, a new Director to serve the unexpired term shall be appointed by the Governor, and if a position on the Board of Directors originally filled by an appointment by the Commissioner of Insurance becomes vacant before the term therefor has expired, a new Director to serve the unexpired term shall be appointed by the Commissioner of Insurance. If a position on the Board of Directors originally filled by election becomes vacant before the term therefor has expired, the members of the Board of Directors who are Participating Dentists shall elect a member of the Corporation to serve as a Director until the next annual meeting of the members of the Corporation, at which time the membership of the Corporation shall elect a Director to serve the remaining unexpired term.

Section 7. Nominations. Prior to the annual meeting each year, the Chairperson of the Board shall appoint a nominating committee consisting of five (5) members, which committee shall meet and nominate one (1) member of the Corporation for election to the vacancy occurring on the Board of Directors at the end of such year. Additional nominations for such vacancy may be made by written petition containing the name nominated, signed by at least (10) members in good standing and delivered to the Chairperson of the Board at least five (5) days prior to the annual meeting.

Section 8. Election. Any nominee who receives a majority of the votes cast shall be declared elected. If no nominee receives such a majority, the nominee receiving the least number of votes shall be eliminated and a re-vote taken. This procedure shall be followed until a nominee shall receive a majority of the votes cast.

Section 9. Regular Meetings. A regular annual meeting of the Board of Directors shall be held without other notice than this by-law immediately following adjournment of the Annual Meeting of the Membership, provided, however, that the time and place of such annual meeting may be changed by resolution of the Board of Directors passed at least thirty (30) days prior to the date such annual meeting would otherwise be held. The Board of Directors may also provide, by resolution, the time for the holding of additional regular meetings without other notice than such resolution.

Section 10. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the Chairperson of the Board or any three (3) Directors.

Section 11. Notice. Notice of any special meeting shall be given at least five (5) business days previously thereto by written notice delivered personally or mailed to each Director at his/her address. Such notice shall be deemed to be delivered when deposited in the United States mail so addressed with postage thereon prepaid. Such notice may also be delivered via electronic mail and is deemed to be delivered upon receiving confirmation from recipient that it has been received. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting unless at the beginning thereof the Director objects to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 12. Quorum. Sixty percent (60%) of the members of the Board of Directors currently qualified and serving shall constitute a quorum for transaction of business at any meeting of the Board of Directors, provided that, if less than a quorum is present at said meeting, those present may adjourn the meeting without further notice.

Section 13. Manner of Acting. Except as otherwise herein or by law required, the act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 14. Reimbursement. A member of the Board of Directors, including one serving as an officer of the Corporation or on a standing or special committee, may receive compensation for their services as such, and may be reimbursed for those of his/her reasonable and necessary direct expenses as are authorized and approved by the Board of Directors.

Section 15. Indemnification. The Board of Directors shall indemnify and save harmless and free from all expense the officers, Directors, agents or employees in the event of any claim or suit by or on behalf of anyone against such Directors, officers, agents or employees for damages arising or growing out of the official actions of such Directors, officers, agents or employees.

Article VI

Officers

Section 1. Number. The officers of the Corporation shall be a Chairperson of the Board, a Vice-Chairperson of the Board, a Secretary, and a Treasurer. There may also be such other officers as is from time to time determined by the Board of Directors. Whenever, in the opinion of the Board of Directors such is advisable, there may be elected by such Board of Directors one or more Vice Presidents who may, but need not, serve as either a full or part-time employee of the Corporation. The Vice President(s) shall, subject to the direction and supervision by the President/Chief Executive Officer, serve as supervising officer(s) of the Corporation's operations and departmental managements, and shall perform such other duties and have such other powers as prescribed by the Board of Directors and/or the President/Chief Executive Officer.

Section 2. Election and Term of Office. The officers of the Corporation shall be elected for a one-year term by the Board of Directors at the annual meeting of the Board of Directors, or as soon thereafter as is reasonable. The term of each officer so elected shall begin immediately and, unless death, resignation, or removal occurs sooner, shall continue until the next annual meeting of the Board of Directors or the election of his/her successor, whichever is later. Vacancies in office and new offices may be filled at any meeting, either special or regular, of the Board of Directors. Election or appointment of an officer or agent of the Corporation shall not of itself create any contract rights in such officer or agent.

Section 3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed from office by the Board of Directors whenever in its judgment the best interests of the Corporation would be served thereby, but such removal by and of itself shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

Section 5. Authority and Duties. All officers and agents shall respectively have such authority and perform such duties as are herein set forth, and such additional authority and duties as are designated by the Board of Directors. Officers and agents may be paid such reasonable salaries or compensation for services rendered and actual expenses in connection therewith as the Board of Directors shall determine.

Section 6. Chairperson of the Board. The Chairperson of the Board shall be the principal elected officer of the Corporation and shall preside at all meetings of the members and of the Board of Directors. He/she may sign, with the President/Chief Executive Officer or any other proper officer of the Corporation thereunto authorized by the Board of Directors, deeds, leases, mortgages, bonds and other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these by-laws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of the principal elected officer of the Corporation and such other duties as may be prescribed by the Board of Directors from time to time. The Chairperson of the Board shall be ex officio a member of all committees.

Section 7. Vice-Chairperson of the Board. In the absence of the Chairperson of the Board or in the event of the Chairperson's inability or refusal to act, the Vice-Chairperson of the Board shall perform the duties of the Chairperson of the Board and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chairperson of the Board. The Vice-Chairperson shall also perform such other duties as from time to time are assigned by the Chairperson of the Board or by the Board of Directors.

Section 8. Secretary. The Secretary shall: (a) be the custodian of the minutes of the meeting of members and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these by-laws and as required by law; (c) be custodian of the Corporate Records and of the seal of the Corporation and see that the seal of the Corporation is affixed to all appropriate documents, the execution of which on behalf of the Corporation under its seal is duly authorized by the provisions of these by-laws or by action of the Board of Directors; (d) keep a proper register of the post office address of each member of the Corporation which shall be furnished to the Secretary by such member, and also a register of subscribers to the pre-payment plan or plans of the Corporation and all beneficiaries, their dependents or any other persons entitled to participate in the benefits of the plan or plans operated by the Corporation; (e) sign such additional documents as are authorized or required to be so signed by the Board of Directors; and (f) in general, perform all duties incident to the office of Secretary and such other duties as are from time to time assigned to him/her by the Chairperson of the Board or by the Board of Directors.

Section 9. Treasurer. The Treasurer shall give a bond at the expense of the Corporation for the faithful discharge of his/her duties in such sum and with such surety or sureties as the Board of Directors determines. He/she shall: (a) have charge of and be responsible for all funds and securities of the Corporation; receive and give receipts for monies due and payable to the Corporation from any source whatsoever, and deposit all such monies in the name of the Corporation in such banks, trust companies or other depositories as are designated by the Board of Directors; (b) in general, perform all the duties incident to the office of Treasurer and such other duties as from time to time are assigned to him/her by the Chairperson of the Board or by the Board of Directors.

Section 10. President/Chief Executive Officer. Whenever in the opinion of the Board of Directors such is advisable, there may be elected by such Board of Directors a President/Chief Executive Officer who will serve as a full-time employee of the Corporation. The President/Chief Executive Officer shall, subject to the direction of the Chairperson of the Board, serve as the supervising officer of the Corporation's operations and departmental management and shall perform such other duties as are assigned to him/her by the Chairperson of the Board or the Board of Directors. The President/Chief Executive Officer shall give a bond at the expense of the Corporation for the faithful discharge of his/her duties in such sum and with such surety or sureties as the Board of Directors determines. References in Robert's Rules of Order and other outside documents to the office of President for the purposes of these by-laws and this Corporation shall be construed as meaning Chairperson of the Board.

Section 11. Surety Bonds. In addition to the bonds required by these by-laws to be filed by the Treasurer and the President/Chief Executive Officer, the Board of Directors shall require bonds, in an amount to be determined by the Board, at the expense of the Corporation, of those other officers, agents or employees who, in the opinion of the Board, should be bonded for the faithful performance of their respective duties.

Article VII

Committees

Section 1. Creation of Committees. The Board of Directors may create such committees, either standing or otherwise, as it from time to time deems advisable which committees shall consist of one or more of the directors of the Corporation and shall have such powers and duties as the Board of Directors establishes.

Section 2. Records. In the exercise of such powers as are delegated to it by the Board of Directors, each committee shall keep full and accurate records and accounts of its proceedings and transactions, and all actions taken by each committee shall be reported to the Board of Directors at its next following meeting and shall be subject to ratification, amendment or revocation by the Board of Directors.

Section 3. Vacancies. Vacancies on a committee shall be filled by the Board of Directors.

Section 4. Quorum—Rules. A majority of the members of a committee shall constitute a quorum. Committees may adopt their own rules in regard to the calling and holding of meetings and all matters of procedure.

Article VIII

Contracts with Dentists

The Board of Directors is authorized to enter into contracts with dentists duly licensed to practice dentistry in the State of Kansas to carry out the intent and purposes set forth in Article II of these by-laws. Such contracts shall also contain such other provisions regulating the relationship between this Corporation and said dentists as are deemed necessary or desirable by the Board of Directors.

Article IX

Loans, Checks

Section 1. Loans. Except as hereafter provided, no loans shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. The Board of Directors, however, shall have the authority to contract for such loans and issue such evidence of indebtedness in such amounts and whenever in their judgment it is advisable so to do, and shall have the further authority to designate by resolution that person or persons, either by name or by title, who on behalf of the Corporation may contract loans or make purchases for the Corporation on credit and the maximum amounts for which such loans or credit may be contracted.

Section 2. Checks, Drafts. All checks, drafts, or other orders for the payment of money, notes, or other evidence of indebtedness issued in the name of the Corporation, shall be signed by such Officer or Officers, Agent or Agents of the Corporation and in such a manner as shall from time to time be determined by a resolution of the Board of Directors.

Article X

Informal Action

Any action required by these by-laws or by the laws of the State of Kansas to be taken at a meeting of the Board of Directors or committee of the Corporation, may be taken without a meeting if the consent in writing, setting forth the action so taken, shall be signed by all of the Directors or committee members entitled to vote with respect to the subject thereof.

Article XI

Rules of Order

Except as otherwise provided in the Articles of Incorporation and the by-laws, all proceedings of the Corporation, the Board of Directors and committees shall be conducted in accordance with and governed by Robert's Rules of Order.

Article XII

Fiscal Year

The fiscal year of the Corporation shall begin on the first day of January in each year and end on the last day of December in each year.

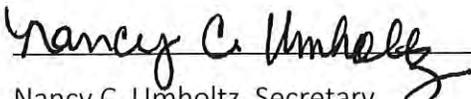
Article XIII

Amendments

The power to adopt, alter, amend, or repeal this Corporation's bylaws, in whole or in part, shall be vested in the Membership. An amendment to the bylaws shall be proposed by the Corporation or at least fifty (50) member dentists entitled to vote on such amendment. The amendment, and the rationale therefor, shall be submitted in writing to the Chairperson of the Board and the President/Chief Executive Officer of the Corporation. The proposed amendment shall be submitted between seventy-five (75) and ninety (90) days prior to the Annual or Special meeting at which action upon such proposed amendment is to be taken. At least forty-five (45) days, but no more than sixty (60) days, prior to the meeting at which action upon such proposed amendment is to be taken, written notice of the terms of the amendment and the rationale therefor shall be provided by the Board of Directors to all the members. In addition, the Corporation may comment on the advisability of any proposed amendment(s).

CERTIFICATE OF SECRETARY

The undersigned, as duly qualified Secretary of Delta Dental of Kansas, a Kansas Corporation, does hereby certify that the above and foregoing is a true, correct, and complete copy of the Bylaws of Delta Dental of Kansas, Inc. The foregoing Bylaws were approved by the Members of Delta Dental of Kansas at its annual meeting held on August 10, 2019.


Nancy C. Umholtz, Secretary

08/26/19

Date

DELTA DENTAL OF KANSAS, INC.

BY-LAWS

December 11, 2020

EXHIBIT 10

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ARTICLE I

Name, Location and Corporate Seal

Section 1. Name. The name of this Corporation shall be "Delta Dental of Kansas, Inc."

Section 2. Location. The location of the principal office of the Corporation shall be 1619 North Waterfront Parkway, Wichita, Sedgwick County, Kansas 67206. The Corporation may have such other offices within the State of Kansas as is from time to time determined by the Board of Directors.

Section 3. Seal. The Corporate seal shall be circular in form and shall consist of the words and figures: "Delta Dental of Kansas, Inc.," "Corporate Seal" and "1972" in the form impressed in the margin hereof.

ARTICLE II

Purpose

The purpose of this Corporation shall be to make possible and facilitate a wider and more timely availability of dental care, thereby advancing the public health and the science and art of dentistry in the State of Kansas, by establishing, maintaining and operating a non-profit prepayment dental service plan or plans throughout the State of Kansas whereby dental care may be provided to persons who become subscribers thereto, and in furtherance thereof to enter into contracts with dentists duly licensed to practice under the laws of the State of Kansas whereby such dentists agree to provide dental care to the subscribers in conformity with professional standards established by the dental profession in Kansas and the rules of conduct and procedures established by this Corporation; to maintain and to preserve the accepted relationship of dentist and patient between its contracting dentists and its subscribers; and to do everything necessary or appropriate to perform and to fulfill the aforesaid objectives and purposes pursuant to the provisions of the Nonprofit Dental Service Corporation Act of the State of Kansas ("Act").

ARTICLE III

Membership

Section 1. Eligibility. Each dentist who is licensed to practice dentistry and is actively engaged in the practice of dentistry in the State of Kansas, who is not under suspension or other disciplinary action by this Corporation, the Kansas Dental Board or any other similar regulatory body, is eligible to become a member of the Corporation.

Section 2. Application for Membership. Any eligible dentist may become a member of this Corporation by executing and filing with the Corporation a written Participating Dentist Agreement on such form as is prescribed by the Board of Directors.

Section 3. Termination of Membership. Membership in the Corporation shall automatically terminate on the happening of any of the following:

- (1) Written resignation of a member.
- (2) Death of a member.
- (3) Revocation, suspension, surrender or failure to renew the member's license to practice dentistry issued by the State of Kansas.

Section 4. Termination and Other Sanctions. Termination, probation, suspension, modification or other sanctions of membership may occur upon the recommendation by the standing administrative committee. The administrative committee shall consist of the four participating dentist members of the Board of Directors who are elected by the Membership, and one additional member of the Board of Directors who shall be appointed by the Chairperson of the Board and confirmed by the Board. The Chairperson of such committee shall be one of the four participating dentists. The committee shall evaluate whether a member has engaged in any one of the following prohibited acts or omissions, such that his/her membership should be terminated or other sanctions imposed:

- (1) Failed or refused to obey the requirements of the Corporation's by-laws or the rules and regulations properly established thereunder.
- (2) Used the Corporation's name for advertising purposes.
- (3) Exercised gross negligence in his/her practice.
- (4) Willfully failed to complete dental care under contract with the Corporation without legitimate reason.
- (5) Submitted false or fraudulent claims or charges for dental service allegedly performed under contract with the Corporation.

- (6) Made statements of such character as would tend to deceive or mislead the public or tend to claim superiority of performance of professional service as compared to services of other licensed dentists or that the patient may receive any treatment, care, service, consideration or financial arrangement or advantage different from that which the patient would receive from any other licensed dentist.
- (7) Violated the Code of Ethics of the Kansas Dental Association or the laws of the State of Kansas or his/her duties and obligations under the by-laws and other applicable regulations of this Corporation.

Such recommendation shall be made as follows:

- (1) The committee shall consider such evidence as it deems helpful and shall confer among themselves as to such evidence and its ramifications.
- (2) By majority vote, the committee shall decide the accuracy or inaccuracy and weight of the evidence considered and what action, if any, should be taken regarding the membership of the subject member. Such action may include, by way of description, termination, temporary suspension, probation, warning, fine or other sanction as is by the committee deemed appropriate.
- (3) Notice of the committee's recommendation shall be mailed by certified mail to the subject member at the address last shown for subject member on the records of the Corporation.
- (4) Such notice shall summarize the evidence considered and set forth in detail the sanctions and other consequences determined by the committee to be appropriate. It shall also notify the subject member that he/she has the right to appeal the findings and recommendation of the committee and if such appeal is made, a hearing shall be held in accordance with Section 5 of these bylaws. The appeal may be perfected only by a written notice from the subject member requesting a hearing mailed or delivered to the Chairperson of the Board of the Corporation at the principal business office of the Corporation. Such notice must be received at the principal business office within twenty (20) days from the date of the mailing of the notice to the subject member. Failure to perfect such appeal within the twenty day time period shall result in automatic and immediate imposition of the sanctions and other consequences set forth in the notice to the member, and waiver by the subject member of the member's right to appeal. The perfecting of the appeal automatically suspends the recommendation of the committee and any sanctions suggested by the committee.

Section 5. Investigation—Hearing.

- (1) Charges against a Participating Dentist may be filed in writing with the Board of Directors by any interested person or investigation of suspected or alleged prohibited acts may be commenced by the Board of Directors at any time on its own motion. The Board of Directors may establish, from time to time, such special or standing committees as it believes advisable for the purpose of investigating charges against a Participating Dentist and of making recommendations to the Board of Directors in regard thereto.

- (2) No formal hearing shall be held concerning any charges brought against a Participating Dentist except by a hearing panel appointed by the Chairperson of the Board of the Corporation, which panel may include the Chairperson of the Board and shall include not less than five (5) persons, one of whom shall be designated by the Chairperson of the Board as Chairperson of the panel. At least ten (10) days prior to a hearing, there shall be mailed by certified mail, addressed to such dentist at the last address shown for him on the Corporation's records, a written notice of the time and place of such hearing, a specification of the charge or charges to be considered, a statement advising the dentist of his/her right to appear and be heard either personally or by counsel or both and the names of the persons composing the hearing panel. The charges may but shall not be required to be limited to the ones, if any, considered by the administrative committee.
- (3) The charged dentist may challenge any one or more of the panel members for cause at the hearing and shall be given the opportunity to ask questions of each panel member to determine if such cause exists. The non-challenged members shall decide by majority vote whether any challenge shall be sustained. If sustained, the challenged member shall be dismissed from the panel and the hearing shall continue with the remaining members, unless after such dismissal there remains less than three (3) panel members, in which event the hearing shall be continued to a later date by the remaining members, and the Chairperson of the Board, in the interim, shall appoint replacements for the vacancy or vacancies created.
- (4) The Chairperson of the panel, or in the Chairperson's absence the panel member then assuming the duties of the Chairperson of the panel, shall preside at the hearing and shall rule on all motions and questions of procedure not otherwise specifically detailed.
- (5) After the hearing, the panel, by majority but not less than three (3) affirmative votes, shall order such sanctions and other action as it deems appropriate. Written notice thereof shall be mailed by certified mail to the last known address of the subject member.
- (6) If approved by two-thirds (2/3) of the members of the Board of Directors, the membership of any Participating Dentist against whom charges are being investigated may be temporarily suspended without hearing or prior notice to such dentist pending the investigation of such charges, provided, however, that such temporary suspension without the consent of the suspended member cannot be for a period of more than thirty (30) days, unless the period of such temporary suspension is extended by the Board of Directors at or after the formal hearing pending the final disposition thereof.

Section 6. Rights and Obligations upon Termination. Upon termination of membership as herein provided, the former member shall enjoy no further rights or privileges of membership and shall have no right, title or interest in or to any of the property of the Corporation, real or personal, but shall be liable to the Corporation for any amounts outstanding as of the date of such termination.

ARTICLE IV

Meeting of Membership

Section 1. Annual Meeting. The Annual Meeting of the members of this Corporation shall be held each year at such time and place as is determined by the Board of Directors under the Articles of Incorporation ("Articles"). The time and place of the Annual Meeting shall be posted on the Corporation's website (<http://www.deltadentalks.com>) at least 120 days prior to the Annual Meeting. The Annual Meeting shall be for the purpose of receiving the annual reports of the officers, electing members to the Board of Directors and transacting such other business as is properly presented to the members at such meeting, including a Properly Proposed Amendment of the bylaws (as defined in the Articles) pursuant to Article XIII.

Section 2. Special Meetings. Special meetings of the members may be called by the Chairperson of the Board or by the Board of Directors and shall be called by the Chairperson of the Board if at least fifty (50) member dentists entitled to vote so request in writing. Such request shall state the purpose or purposes of the proposed meeting. The Chairperson of the Board shall forthwith set the time and place for such special meeting, which shall be within thirty (30) days following receipt of such request, unless the request is for consideration of a Properly Proposed Amendment of the bylaws as defined in the Articles. In such case, the process set forth in the Articles shall be followed, and if the Board of Directors determines that the proposal constitutes a Properly Proposed Amendment, the Chairperson of the Board shall establish the time and place for such meeting which shall be set between seventy-five (75) and ninety (90) days following receipt of such determination. The business to be transacted at such special meeting shall be limited to that stated in the notice of the meeting sent to the membership.

Section 3. Notice of Meetings. Written or printed notice stating the place, day and hour of the meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than thirty (30) days before the date of the meeting, unless the purpose is for consideration of a Properly Proposed Amendment to the bylaws, in which case the notice shall be delivered not less than forty-five (45) nor more than sixty (60) days before the date of the meeting. Notice shall be delivered either personally, electronically, or by mail, by or at the direction of the Chairperson of the Board, or the Secretary, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at the member's address as it appears on the records of the Corporation with postage thereon prepaid.

Section 4. Record Date for Membership Voting. For the purpose of determining members entitled to notice of or to vote at any meeting of members, or in order to make a determination of membership for any other proper purpose, the Board of Directors may fix in advance a date as the record date for any such determination of membership, such date to be not more than thirty (30) days nor less than ten (10) days immediately preceding the day of such meeting. If no record date is fixed for determination of membership, as provided above, the date on which the notice is mailed shall be the record date for making such determination.

Section 5. Quorum. At any meeting of members a quorum shall consist of ten (10) members eligible to vote at such meeting. No business shall be transacted or other action taken at any meeting at which a quorum is not present except that by appropriate action the meeting may be adjourned to a later date by less than a quorum and no further notice of the date of such later meeting need be given except the announcement thereof at the adjourned meeting.

Section 6. Voting. At all meetings of members, only those members present in person (subject to Section 8 below) who were members of record on the appropriate date, as before defined, shall be eligible to vote.

Section 7. Voting by Ballot. In any election of Directors voting shall be by written ballot only. Voting on any other subject shall be in the manner determined by the Chairperson of the Board, provided, however, that voting shall be by written ballot at any time requested by a majority of those members present and voting. The requirement of a written ballot shall be satisfied by a ballot submitted by electronic transmission.

Section 8. Participation by Electronic Means. Meetings of the members shall be held at the time and place, and in the manner (including by remote communications), determined by the Board and may include electronic participation and voting to the maximum extent legally permitted, which electronic or remote participation and voting, unless otherwise provided or restricted by the Board, shall be deemed "in-person" to the maximum extent legally permitted.

ARTICLE V

Board of Directors

Section 1. General Powers. The Board of Directors shall be the governing body of the Corporation and it shall have full supervision and control of the business, property, affairs and management of the Corporation and may exercise all such powers of the Corporation, all as provided in the Articles.

Section 2. Number and Selection. The Board of Directors shall be comprised of ten (10) members, four (4) of whom shall be elected from among the Corporation's Participating Dentists and six (6) of whom shall be appointed from among the general public of the State of Kansas, as provided in the Act and Articles.

Section 3. Tenure of Directors. In accordance with the Act and as set forth in the Articles and these Bylaws, the terms of any directors appointed by the Governor or the Kansas Insurance Commissioner ("Appointed Directors") shall be six (6) years and shall automatically renew for successive six (6) year terms until a vacancy occurs. The terms of any Elected Directors shall be six (6) years and shall automatically renew for successive six (6) year terms until a vacancy occurs. The Board hereby delegates its authority to the Appointed Directors to modify the Bylaws as they may deem necessary and appropriate regarding the terms of office and tenure of Appointed Directors. The Board hereby delegates its authority to the Elected Directors to modify the Bylaws as they may deem necessary and appropriate regarding the terms of office and tenure of Elected Directors. Elected Directors shall have no power or authority to modify or otherwise change the terms of office or tenure of Appointed Directors. Appointed Directors shall have no power or authority to modify or otherwise change the terms of office or tenure of Elected Directors.

Section 4. Term of Office, Death, and Resignation. Except as hereafter provided, each Director shall serve until the expiration of the term of office for which the Director was elected or appointed and thereafter until the election or appointment and qualification of his/her successor. The position of any Director who dies or resigns shall be deemed to be vacated as of the time of such death or written resignation. Unless the absence for good cause shown is excused as hereafter provided, any Director who does not attend two (2) consecutive regular meetings of the Board of Directors shall be deemed to have automatically resigned. Absence from a regular meeting shall be deemed to be excused only if such absence for good cause shown is approved by a majority of the Board of Directors present at the regular meeting next following the meeting for which the excused absence is sought.

Section 5. Vacancy. If a position on the Board of Directors originally filled by an appointment by the Governor becomes vacant before the term therefor has expired, a new Director to serve the unexpired term shall be appointed by the Governor, and if a position on the Board of Directors originally filled by an appointment by the Commissioner of Insurance becomes vacant before the term therefor has expired, a new Director to serve the unexpired term shall be appointed by the Commissioner of Insurance. If a position on the Board of Directors originally filled by election becomes vacant before the term therefor has expired, the remaining Elected Directors shall elect a member of the Corporation to serve as an Elected Director until the next annual meeting of the members of the Corporation, at which time the membership of the Corporation shall elect an Elected Director to serve the remaining unexpired term.

Section 6. Nominations. Prior to the annual meeting each year, the Chairperson of the Board shall appoint a nominating committee consisting of five (5) members, which committee shall meet and nominate one (1) member of the Corporation for election to fill each Elected Director vacancy occurring on the Board of Directors at the end of such year. Additional nominations for such vacancy may be made by written petition containing the name nominated, signed by at least ten (10) members in good standing and delivered to the Chairperson of the Board at least five (5) full business days prior to the annual meeting.

Section 7. Election. Any nominee who receives a majority of the votes cast shall be declared elected. If no nominee receives such a majority, the nominee receiving the least number of votes shall be eliminated and a re-vote taken. This procedure shall be followed until a nominee shall receive a majority of the votes cast.

Section 8. Regular Meetings. A regular annual meeting of the Board of Directors shall be held without other notice than publication on the Board's approved calendar, provided, however, that the time and place of such annual meeting may be changed by resolution of the Board of Directors passed at least thirty (30) days prior to the date such annual meeting would otherwise be held. The Board of Directors may also provide, by resolution, the time for the holding of additional regular meetings without other notice than such resolution.

Section 9. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the Chairperson of the Board or any three (3) Directors.

Section 10. Notice. Notice of any special meeting shall be given at least five (5) business days previously thereto by written notice delivered personally or mailed to each Director at his/her address. Such notice shall be deemed to be delivered when deposited in the United States mail so addressed with postage thereon prepaid. Such notice may also be delivered via electronic mail and is deemed to be delivered upon receiving confirmation from recipient that it has been received. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting unless at the beginning thereof the Director objects to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 11. Quorum. Sixty percent (60%) of the members of the Board of Directors currently qualified and serving shall constitute a quorum for transaction of business at any meeting of the Board of Directors, provided that, if less than a quorum is present at said meeting, those present may adjourn the meeting without further notice.

Section 12. Manner of Acting. Except as otherwise required by these bylaws, the Articles, or law, the act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 13. Reimbursement. A member of the Board of Directors, including one serving as an officer of the Corporation or on a standing or special committee, may receive compensation for their services as such, and may be reimbursed for those of his/her reasonable and necessary direct expenses as are authorized and approved by the Board of Directors.

Section 14. Indemnification. To the extent and in the manner provided in the Articles, the Board of Directors shall indemnify and save harmless and free from all expense the officers, Directors, agents or employees in the event of any claim or suit by or on behalf of anyone against such Directors, officers, agents or employees for damages arising or growing out of the official actions of such Directors, officers, agents or employees.

Article VI

Officers

Section 1. Number. The officers of the Corporation shall be a Chairperson of the Board, a Vice-Chairperson of the Board, a Secretary, and a Treasurer. There may also be such other officers as is from time to time determined by the Board of Directors. Whenever, in the opinion of the Board of Directors such is advisable, there may be elected by such Board of Directors one or more Vice Presidents who may, but need not, serve as either a full or part-time employee of the Corporation. The Vice President(s) shall, subject to the direction and supervision by the President/Chief Executive Officer, serve as supervising officer(s) of the Corporation's operations and departmental managements, and shall perform such other duties and have such other powers as prescribed by the Board of Directors and/or the President/Chief Executive Officer.

Section 2. Election and Term of Office. The officers of the Corporation shall be elected for a one-year term by the Board of Directors at the annual meeting of the Board of Directors, or as soon thereafter as is reasonable. The term of each officer so elected shall begin immediately and, unless death, resignation, or removal occurs sooner, shall continue until the next annual meeting of the Board of Directors or the election of his/her successor, whichever is later. Vacancies in office and new offices may be filled at any meeting, either special or regular, of the Board of Directors. Election or appointment of an officer or agent of the Corporation shall not of itself create any contract rights in such officer or agent.

Section 3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed from office by the Board of Directors whenever in its judgment the best interests of the Corporation would be served thereby, but such removal by and of itself shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

Section 5. Authority and Duties. All officers and agents shall respectively have such authority and perform such duties as are herein set forth, and such additional authority and duties as are designated by the Board of Directors. Officers and agents may be paid such reasonable salaries or compensation for services rendered and actual expenses in connection therewith as the Board of Directors shall determine.

Section 6. Chairperson of the Board. The Chairperson of the Board shall be the principal elected officer of the Corporation and shall preside at all meetings of the members and of the Board of Directors. He/she may sign, with the President/Chief Executive Officer or any other proper officer of the Corporation thereunto authorized by the Board of Directors, deeds, leases, mortgages, bonds and other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these by-laws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of the principal elected officer of the Corporation and such other duties as may be prescribed by the Board of Directors from time to time. The Chairperson of the Board shall be ex-officio a member of all committees.

Section 7. Vice-Chairperson of the Board. In the absence of the Chairperson of the Board or in the event of the Chairperson's inability or refusal to act, the Vice-Chairperson of the Board shall perform the duties of the Chairperson of the Board and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chairperson of the Board. The Vice-Chairperson shall also perform such other duties as from time to time are assigned by the Chairperson of the Board or by the Board of Directors.

Section 8. Secretary. The Secretary shall: (a) be the custodian of the minutes of the meeting of members and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these by-laws and as required by law; (c) be custodian of the Corporate Records and of the seal of the Corporation and see that the seal of the Corporation is affixed to all appropriate documents, the execution of which on behalf of the Corporation under its seal is duly authorized by the provisions of these by-laws or by action of the Board of Directors; (d) keep a proper register of the post office address of each member of the Corporation which shall be furnished to the Secretary by such member, and also a register of subscribers to the pre-payment plan or plans of the Corporation and all beneficiaries, their dependents or any other persons entitled to participate in the benefits of the plan or plans operated by the Corporation; (e) sign such additional documents as are authorized or required to be so signed by the Board of Directors; and (f) in general, perform all duties incident to the office of Secretary and such other duties as are from time to time assigned to him/her by the Chairperson of the Board or by the Board of Directors.

Section 9. Treasurer. The Treasurer shall give a bond at the expense of the Corporation for the faithful discharge of his/her duties in such sum and with such surety or sureties as the Board of Directors determines. He/she shall: (a) have charge of and be responsible for all funds and securities of the Corporation; receive and give receipts for monies due and payable to the Corporation from any source whatsoever, and deposit all such monies in the name of the Corporation in such banks, trust companies or other depositories as are designated by the Board of Directors; (b) in general, perform all the duties incident to the office of Treasurer and such other duties as from time to time are assigned to him/her by the Chairperson of the Board or by the Board of Directors.

Section 10. President/Chief Executive Officer. Whenever in the opinion of the Board of Directors such is advisable, there may be elected by such Board of Directors a President/Chief Executive Officer who will serve as a full-time employee of the Corporation. The President/Chief Executive Officer shall, subject to the direction of the Chairperson of the Board, serve as the supervising officer of the Corporation's operations and departmental management and shall perform such other duties as are assigned to him/her by the Chairperson of the Board or the Board of Directors. The President/Chief Executive Officer shall give a bond at the expense of the Corporation for the faithful discharge of his/her duties in such sum and with such surety or sureties as the Board of Directors determines. References in Robert's Rules of Order and other outside documents to the office of President for the purposes of these by-laws and this Corporation shall be construed as meaning Chairperson of the Board.

Section 11. Surety Bonds. In addition to the bonds required by these by-laws to be filed by the Treasurer and the President/Chief Executive Officer, the Board of Directors shall require bonds, in an amount to be determined by the Board, at the expense of the Corporation, of those other officers, agents or employees who, in the opinion of the Board, should be bonded for the faithful performance of their respective duties.

Article VII

Committees

Section 1. Creation of Committees. The Board of Directors may create such committees, either standing or otherwise, as it from time to time deems advisable which committees shall consist of one or more of the directors of the Corporation and shall have such powers and duties as the Board of Directors establishes.

Section 2. Records. In the exercise of such powers as are delegated to it by the Board of Directors, each committee shall keep full and accurate records and accounts of its proceedings and transactions, and all actions taken by each committee shall be reported to the Board of Directors at its next following meeting and shall be subject to ratification, amendment or revocation by the Board of Directors.

Section 3. Vacancies. Vacancies on a committee shall be filled by the Board of Directors.

Section 4. Quorum—Rules. Unless expressly addressed in the Board Resolution creating a committee, majority of the members of a committee shall constitute a quorum. Committees may adopt their own rules in regard to the calling and holding of meetings and all matters of procedure.

Article VIII

Contracts with Dentists

The Board of Directors is authorized to enter into contracts with dentists duly licensed to practice dentistry in the State of Kansas to carry out the intent and purposes set forth in the Articles and these bylaws. Such contracts shall also contain such other provisions regulating the relationship between this Corporation and said dentists as are deemed necessary or desirable by the Board of Directors.

Article IX

Loans, Checks

Section 1. Loans. Except as hereafter provided, no loans shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. The Board of Directors, however, shall have the authority to contract for such loans and issue such evidence of indebtedness in such amounts and whenever in their judgment it is advisable so to do, and shall have the further authority to designate by resolution that person or persons, either by name or by title, who on behalf of the Corporation may contract loans or make purchases for the Corporation on credit and the maximum amounts for which such loans or credit may be contracted.

Section 2. Checks, Drafts. All checks, drafts, or other orders for the payment of money, notes, or other evidence of indebtedness issued in the name of the Corporation, shall be signed by such Officer or Officers, Agent or Agents of the Corporation and in such a manner as shall from time to time be determined by a resolution of the Board of Directors.

Article X

Informal Action

Any action required by these by-laws or by the laws of the State of Kansas to be taken at a meeting of the Board of Directors or committee of the Corporation, may be taken without a meeting if the consent in writing, setting forth the action so taken, shall be signed by all of the Directors or committee members entitled to vote with respect to the subject thereof.

Article XI

Rules of Order

Except as otherwise provided in the Articles and these bylaws, all proceedings of the Corporation, the Board and committees, and members shall be conducted in accordance with rules of procedure as determined by the Chairperson.

Article XII

Fiscal Year

The fiscal year of the Corporation shall begin on the first day of January in each year and end on the last day of December in each year.

Article XIII

Amendments

The power to adopt, alter, amend, or repeal these bylaws, in whole or in part, shall be concurrently vested in the Membership and the Board. An amendment to the bylaws shall be proposed by the Corporation or at least fifty (50) member dentists entitled to vote on such amendment. The amendment, and the rationale therefor, shall first be submitted in writing to the Chairperson of the Board and the President/Chief Executive Officer of the Corporation as provided in the Articles and Article IV, Section 1 and 2 above for a determination by the Board regarding whether such proposal constitutes a Properly Proposed Amendment. If the Board determines the proposal constitutes a Properly Proposed Amendment, written notice of the terms of the Properly Proposed Amendment and the rationale therefor shall be provided by the Board of Directors to all the members in connection with the meeting notice contemplated in Article IV, Section 3. In addition, the Corporation may comment on the advisability of any proposed amendment(s).

Article XIV

Miscellaneous

Section 1. Severability. If any term or other provision of these Bylaws shall be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired hereby.

Section 2. Incorporation of Articles by Reference. Pursuant to Kansas law, provisions that are required or permitted to be stated in these Bylaws may instead be stated in the Corporation's Articles. Accordingly, both substantive and procedural provisions of the Articles are incorporated by reference herein. Further, to the extent the Articles contain provisions that are legally required to be provided in these Bylaws, such terms are incorporated herein by reference. To the extent inconsistent with the terms of these Bylaws, the terms of the Articles will control.

CERTIFICATE OF SECRETARY

The undersigned, as duly qualified Secretary of Delta Dental of Kansas, Inc., a Kansas Corporation, does hereby certify that the above and foregoing is a true, correct, and complete copy of the Bylaws of Delta Dental of Kansas, Inc. The foregoing Bylaws were approved by the Board of Directors of Delta Dental of Kansas, Inc. at its meeting held on December 11, 2020 to be effective immediately following the filing of the Amendment to the Corporation's Amended and Restated Articles of Incorporation following such meeting.


Nancy C. Umholtz, Secretary

12/11/2020
Date