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October 17, 2017

VIA MESSENGER

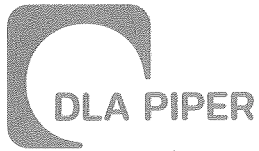
Ms. Emily Studebaker, Esq.
Hall Render Killian Heath & Lyman, P.C.
600 108th Ave NE, Suite 320
Bellevue, WA 98042

Dear Ms. Studebaker:

In further response to your letter of September 28, 2017, in which you requested a copy of WDS's current Bylaws, I am attaching an annotated version, which is also being posted to the WDS website either late today or early tomorrow.

In response to your letter of October 9, 2017, in which you requested that the WDS Board hold an annual members meeting on November 10, the Board has reconvened specifically to discuss your request, and has again concluded that scheduling of the annual meeting should be deferred, for several reasons, including:

- In your letter you state that "The Independent Directors' purported veto of the amendments [affecting the annual meeting] was wholly unauthorized and ineffectual and can have no impact on the organization's operations going forward." The Board completely disagrees with that statement, but at the same time assumes it is argued in good faith -- and this disagreement is the main cause of uncertainty affecting the annual meeting.
- The Board believes holding the annual meeting right away would do nothing to help resolve the legal disagreements relating to the Independent Directors' vetoes, and would otherwise accomplish almost nothing. Under the Board's view of the current Bylaws, the one member-director whose term is expiring would be re-nominated to another term, and no other nominations would be permitted. That nominee would then either be re-elected, or remain in office until a successor is elected. The current composition of the Board would continue after holding a meeting, just as it will during a period of deferral of the annual meeting, but without all the effort, expense and potential for further conflict.



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- The Board believes holding the annual meeting so soon after the special meetings would likely add to the tensions and disagreements between WDS and its members. The Board sees deferring scheduling of the annual meeting as a way to avoid needlessly heightening tensions among WDS's stakeholders at this moment of uncertainty in their relationship.

Very truly yours,

DLA Piper LLP (US)

A handwritten signature in black ink, appearing to read 'JMS' followed by a stylized surname.

John M. Steel

JMS:mjh

Enclosure

WEST278540364.1

AMENDED AND RESTATED BYLAWS (ANNOTATED)

OF

WASHINGTON DENTAL SERVICE

ARTICLE I

MEMBERSHIP

SECTION 1. GENERAL.

This corporation will have no members until such time as it has acquired control of Washington Dental Service ("referred to as "Former WDS" since its corporate name will be changed contemporaneously to "Delta Dental of Washington"). Effective immediately upon such acquisition of control of Former WDS (the "Reorganization"), all individuals who were members in good standing of Former WDS at the time of the Reorganization shall automatically (and without the necessity of any further action by such individual or this corporation) become members of this corporation. After the Reorganization, any dentist duly licensed by the State of Washington to engage in the practice of dentistry in this state and who is actively practicing dentistry and who executes a service contract with Former WDS shall be eligible for membership in this corporation.

Applications for membership shall be made on a form approved by the corporation. The corporation shall accept or reject all applications.

Upon approval of the application, the dentist shall be obligated to provide services under group dental care contracts and other contracts issued or approved by Former WDS or this corporation. Members shall have no interest in the property of the corporation. A membership is not transferable or assignable.

When used throughout these bylaws, the word "member" shall mean a person holding a membership in this corporation, unless otherwise provided.

SECTION 2. RESIGNATION.

A member may resign his or her membership by giving thirty (30) days advance written notice to the corporation through its Secretary.

SECTION 3. TERMINATION.

- A. Membership in this corporation shall terminate upon the retirement from active practice or the death of the member dentist or when a member's Washington State Dentistry License is forfeited, suspended, revoked, surrendered or not renewed.
- B. Membership in this corporation may be terminated for any one of the following grounds which constitute "not in good standing:"

- (1) Violation of any state or federal law or regulation relating to the practice of dentistry or the reimbursement of dental services.
- (2) Unprofessional conduct as defined by the laws of the state of Washington or by regulations adopted pursuant to the Washington Administrative Code.
- (3) Submission to Former WDS or this corporation of a false claim or claims as defined by state or federal laws or regulations.
- (4) Aiding or abetting the submission of a false claim or claims to Former WDS or this corporation.
- (5) Willful violation of any material obligation of the member under a contract entered into by Former WDS or this corporation.
- (6) Failure to render professional services in accordance with the standards of dentistry in the member's area.
- (7) Failure to comply with Former WDS's or this corporation's Member Dentist Rules and Regulations, or with the Member Dentist Agreement or any other agreement between the member and Former WDS or this corporation.

SECTION 4. NOTICE OF TERMINATION AND HEARING PROCEDURES.

- A. Termination of membership pursuant to Article I, Section 3(A) of these Bylaws shall be automatic and without hearing upon receipt by the corporation of notification that a member's Washington State Dentistry License has been forfeited, suspended, revoked, surrendered or not renewed by the State of Washington.
- B. Upon receipt of any evidence of one or more of the grounds for termination of a membership described in Article I, Section 3(B) of these Bylaws, the President and CEO, with the concurrence of the Chair of the Board or the Chair's designee or designees, may order such membership terminated. The President and CEO shall notify the member of his/her action in writing by certified mail to the address shown on the records of the corporation. The action of the President and CEO shall be final unless written notice of appeal is received by the corporation within thirty (30) days of the date of the President and CEO's order. An appeal shall be conducted in accordance with the corporation's Member Dentist Rules and Regulations (which, in the absence of separate Rules and Regulations being adopted by this corporation, shall be deemed to be the same as Former WDS's Member Dentist Rules and Regulations).

ARTICLE II

MEMBERSHIP MEETINGS

SECTION 1. ANNUAL MEETINGS.

An annual meeting of the members of the corporation shall be held on the second Friday in November and at a time designated by the Board, the Chair or the President and CEO. If the Board determines that for good cause, the meeting cannot be held on the second Friday in November, the meeting shall be held as soon thereafter as practicable. Notice, in the form of a record, in a tangible medium, or in an electronic transmission, stating the date, time, and place of each annual meeting shall be given to each member of record in good standing on the date of such notice, and such notice shall be given not less than thirty (30) nor more than fifty (50) days in advance by the Secretary. The notice may be accompanied by materials pertinent to the annual meeting, such as bios of director candidates, but shall not be contained within another publication.

The notice shall include an agenda that lists the matters to be discussed at the meeting. Such additional matters as may be requested by a written petition signed by at least twenty-five (25) members, or a majority of the members who practice in a given component dental society geographic area, whichever is smaller, and presented to the Secretary at least twenty (20) days prior to the meeting shall also be included on the agenda. At the discretion of the Chair, items may be added to the agenda at any time. No business shall be transacted during an annual meeting unless it was placed on the agenda by the Chair of the Board or by a duly filed petition.

The annual meeting shall be open to invited guests of the members.¹

SECTION 2. SPECIAL MEETINGS.

Special meetings of the members of this corporation may be held at the principal place of business or such other convenient place as may be designated by the Board of Directors. Special meetings may be called by a vote of a majority of the total Board of Directors or by a petition signed by at least ten percent (10%) of the members of the corporation. Any such call or petition for a special meeting of the members must contain a description of the item or items to be discussed at that meeting.

Within thirty (30) days of a call by the Board of Directors or the receipt of a petition, the Secretary shall give not less than thirty (30) nor more than fifty (50) days' notice in the form of a record, in a tangible medium, or in an electronic transmission, stating the time, date, place and agenda items for any special meeting to each member of record in good standing on the date of such notice. Time shall be computed by excluding the first and including the last day of such notice. Personal delivery of the notice of the meeting or deposit of the same in the United States mail, with postage thereon fully prepaid, addressed to a member at the last address given the Secretary of the corporation, shall constitute due notice.

¹ The Board intends to adopt reasonable implementing rules with respect to this amendment.

Any special meeting shall be open to invited guests of the members.²

SECTION 3. LOCATION

The annual meeting and any special meeting of the members shall be held within 20 miles of the corporation's principal office in a venue large enough to accommodate at least twenty-five percent (25%) of the members of the corporation in the meeting room.

SECTION 4. QUORUM, MANNER OF ACTING, AND VOTING.

Ten percent (10%) of the members in good standing of the corporation of record on the date of notice of the meeting shall constitute a quorum at an annual or a special meeting of the members, which may be satisfied by attendance in person or by proxy.

A majority of the votes entitled to be cast on a matter to be voted upon by the members present at a meeting (in person or by proxy) at which a quorum is present shall be necessary for the adoption thereof unless a greater proportion is required by law or by these Bylaws.

Each member shall be entitled to one (1) vote on each matter submitted to a vote of the membership at an annual or special meeting. Cumulative voting shall not be allowed. Members may vote by proxy, and the corporation shall send a proxy form with the notice of meeting that permits a member to designate a member of the Board or another member of the corporation as proxy for all or limited purposes.³

SECTION 5. PARLIAMENTARY PROCEDURE.

Meetings of the members of the corporation shall be governed by parliamentary procedure as set forth in the current edition of Robert's Rules of Order; provided further that the members may bring a parliamentarian to any meeting to observe and to advise the members regarding parliamentary procedure.⁴

ARTICLE III

[intentionally left vacant]

² The Board intends to adopt reasonable implementing rules with respect to this amendment.

³ A proposed amendment to this section that was eventually approved by members on September 6, 2017 was vetoed by the corporation's Independent Directors on both July 20, 2017 and September 29, 2017.

⁴ The Board intends to adopt reasonable implementing rules with respect to this amendment.

ARTICLE IV

BOARD OF DIRECTORS

SECTION 1. BOARD OF DIRECTORS.

- A. General Powers.** The affairs of the corporation shall be managed by its Board of Directors.
- B. Size, Composition, Qualifications, Terms, Nomination and Election.**
- (1) **Size and Composition.** The Board of Directors shall consist of at least nine (9) but no more than thirteen (13) Directors. The number of Directors may at any time be increased or decreased within this range by the Board of Directors, but no decrease shall have the effect of shortening the term of any incumbent director. Independent Directors shall at all times after January 1, 2012 comprise a majority of incumbent Directors.
 - (2) **Qualifications.** The Board of Directors shall comprise three different categories of Directors, with the following qualifications:⁵
 - (a) **Independent Directors.** Each Independent Director must, when elected and during his or her term of office: (i) satisfy the definition for an “independent” member of a governing body set forth in the instructions to Internal Revenue Service Form 990 (as it may be amended from time to time) or such other IRS definition of independence as Delta Dental Plans Association may from time to time reference in connection with its membership standards; (ii) not be the President and CEO or otherwise an employee of the Corporation; (iii) not be a member of the corporation, nor an individual with a D.D.S. or D.M.D. degree; and (iv) not have a financial interest in any dental care organization.⁶
 - (b) **Member Directors.** Each Member Director must, when elected and during his or her term of office, be a member of the corporation; and shall forfeit his or her office as a Director upon loss of his or her membership in the corporation under Section 3 of Article I of these Bylaws.

⁵ A proposed amendment to this section that was eventually approved by members on September 6, 2017 was vetoed by the corporation’s Independent Directors on both July 20, 2017 and September 29, 2017.

⁶ A proposed amendment to this section that was eventually approved by members on September 6, 2017 was vetoed by the corporation’s Independent Directors on both July 20, 2017 and September 29, 2017.

- (c) **Ex Officio Director.** The President and CEO shall, by virtue of holding such office, automatically be a member of the Board of Directors for the period that he or she holds such office.⁷

(3) **Terms, Classifications, Term Limits.**

- (a) **Standard Terms.** Except in situations where shorter terms are expressly permitted under these Bylaws, each Independent Director and Member Director shall be elected to serve a term of three (3) years commencing at the next meeting of the Board of Directors following his or her election.⁸
- (b) **Classified Director Terms; Transitional Terms.** Independent Directors and Member Directors shall, as a group, be divided into three (3) classes and, after January 1, 2012, each such class shall be as equal in number to the others as possible. The Directors within each such class shall all serve terms that expire in the same year, and the expiration of the terms of Directors in the three (3) different classes shall occur in three (3) successive years. A Director elected to fill the seat of a Director whose term has expired or whose seat has become vacant for any reason shall be elected to the same class of Directors to which the predecessor belonged. The Board of Directors shall have authority to designate the members of such classes and their respective terms, and may from time to time prescribe terms of less than three (3) years for particular Independent Directors or Member Director nominees to the extent it considers such shortened terms to be reasonably necessary to achieve or maintain the required balance of classified terms among the Directors; provided, that no action by the Board of Directors under this Section 1.B.3.b shall have the effect of shortening the term of any previously elected Independent Director or Member Director.⁹
- (c) **Term Limits.** Each Independent Director and Member Director ordinarily may serve no more than three (3) full terms consecutively, exclusive of time served to complete the term of a previous Director. However, a Director may be nominated and elected to an additional term of one, two or three years following the Director's completion of three (3) consecutive full terms if the Governance and Nominating Committee and

⁷ A proposed amendment to this section that was eventually approved by members on September 6, 2017 was vetoed by the corporation's Independent Directors on both July 20, 2017 and September 29, 2017.

⁸ A proposed amendment to this section that was eventually approved by members on September 6, 2017 was vetoed by the corporation's Independent Directors on both July 20, 2017 and September 29, 2017.

⁹ A proposed amendment to this section that was eventually approved by members on September 6, 2017 was vetoed by the corporation's Independent Directors on both July 20, 2017 and September 29, 2017.

the Board of Directors determine that such is necessary to assure continuity on the Board of Directors.

(4) **Nomination and Election of Directors.**

- (a) **Independent Directors.** The Independent Directors shall be nominated by a majority of the Independent Directors who are members of the Governance and Nominating Committee, and a nomination by such majority shall be deemed to be a nomination by such committee. The Governance and Nominating Committee shall submit its recommended slate of such nominees to the Board of Directors at least sixty (60) days prior to the Board of Directors' annual meeting preceding the end of the term of the incumbent Independent Director(s). The Board of Directors shall at such meeting, by a majority vote of those Independent Directors whose terms are not expiring, elect at least one nominee from the Governance and Nominating Committee's slate for the seat of each Independent Director whose term is then expiring (unless the Board of Directors has resolved to reduce the overall size of the Board of Directors under Section 1.B.1 of this Article IV).¹⁰
- (b) **Member Directors.** The Member Directors shall be nominated by the Governance and Nominating Committee, which shall submit its recommended slate of such nominees to the Board of Directors at least sixty (60) days prior to the Board of Directors' annual meeting preceding the end of the term of the incumbent Member Director(s). The Board of Directors shall at such meeting select at least one nominee from the Governance and Nominating Committee's slate for the seat of each Member Director whose term is then expiring (unless the Board of Directors has resolved to reduce the overall size of the Board of Directors under Section 1.B.1 of this Article IV), and shall then direct the Secretary of the corporation to submit such nominees to the members for election pursuant to Section 4 of Article II of these Bylaws.¹¹
- (c) **President and CEO.** The President and CEO shall automatically be a member of the Board of Directors, and is not required to be elected or reelected.¹²

¹⁰ A proposed amendment to this section that was eventually approved by members on September 6, 2017 was vetoed by the corporation's Independent Directors on both July 20, 2017 and September 29, 2017.

¹¹ A proposed amendment to this section that was eventually approved by members on September 6, 2017 was vetoed by the corporation's Independent Directors on both July 20, 2017 and September 29, 2017.

¹² A proposed amendment to this section that was eventually approved by members on September 6, 2017 was vetoed by the corporation's Independent Directors on both July 20, 2017 and September 29, 2017.

C. Powers and Duties of the Board of Directors. Subject to the limitations contained in the Articles of Incorporation, these Bylaws and the nonprofit corporation laws applicable to this corporation, all corporate powers shall be exercised by or under the authority of the Board of Directors including, but without limitation, the following:¹³

- (1) To select and remove the President and CEO of the corporation, prescribe his/her authority and duties, and fix his/her compensation.
- (2) To nominate Member Director candidates for election by the members in accordance with these Bylaws, and, by majority vote of the Independent Directors whose terms are not expiring, to elect Independent Directors in accordance with these Bylaws.¹⁴
- (3) To conduct, manage and control the property and business of the corporation, and to make such rules and regulations therefor, as they may deem best advised.
- (4) To fix the address of the principal office for the transaction of business of the corporation within the State of Washington and to fix and locate from time to time such subsidiary offices of the corporation as they may deem necessary or convenient for transaction of the affairs of the corporation.
- (5) To call membership meetings both regular and special, and to determine what matters shall be submitted to such meetings on behalf of the Board of Directors.
- (6) To borrow money and incur indebtedness for the purpose of the corporation, and to cause to be executed and delivered therefor in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecation of other evidence of debt and security therefor.
- (7) To set fees for service on the Board of Directors in accordance with these Bylaws.

D. Vacancies. As soon as practical after a vacancy in a Member Director (including a vacancy occurring as described in Section 4 of Article II of these Bylaws) or an Independent Director position on the Board of Directors occurs, the Board of Directors shall elect a successor to serve the unexpired term of the original Member Director, or a majority of the Independent Directors shall elect a successor to serve the unexpired term of the original Independent Director.

E. Meetings. The annual meeting of the Board of Directors shall be held annually on a date and at a time and location determined by the Board of Directors.

¹³ A proposed amendment approved by members on September 6, 2017 that would add a new subsection (8) has been omitted because it would be inapplicable to the corporation and would unlawfully impinge on the Board's ultimate authority and discretion to manage the corporation's business and internal affairs.

¹⁴ A proposed amendment to this section that was eventually approved by members on September 6, 2017 was vetoed by the corporation's Independent Directors on both July 20, 2017 and September 29, 2017.

Regular meetings of the Board of Directors shall be held according to a schedule approved in advance by the Directors, but not less than once per calendar quarter unless an affirmative vote of 75% of the directors eliminates a meeting. No particular notice of a regular meeting is required.

Special meetings of the Board of Directors may be called by the Chair of the Board or by a majority vote of all directors. Notice of the date, time and place of such special meeting shall be furnished to each director not less than fifteen (15) days before the time of the meeting. Meetings of the Board of Directors shall be held at the principal office of the corporation or at any other convenient place determined by the Board of Directors.

Regardless of how called, a consent in the form of a record of all of the members of the Board of Directors to the holding of a meeting of the Board of Directors filed with the minutes of the meeting shall constitute sufficient call and notice of any meeting of the Board of Directors. A meeting so held shall have the same force and effect as if the meeting were regularly called upon notice as herein above provided.

A director will be subject to removal if he or she fails to attend at least seventy-five percent (75%) of the directors' meetings during each calendar year, unless excused by the Chair of the Board at his/her discretion.

- F. Action by Consent in Lieu of Board Meeting.** Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the Board of Directors execute a consent in the form of a record that describes the action to be taken. Such consent shall be filed with the minutes of the proceedings of the Board of Directors. Such action approved by consent shall have the same force and effect as a unanimous vote of the directors at a meeting duly held upon proper notice and may be described as such in any record. An action taken by consent shall be effective when the last director executes the consent, unless the consent specified a later effective date.
- G. Quorum, Manner of Acting and Voting.** A majority of the members of the Board of Directors shall constitute a quorum for the transaction of business of any meeting of the Board of Directors, except that a majority of the Independent Directors whose terms are not expiring shall constitute a quorum for the election of Independent Directors in accordance with these Bylaws.¹⁵

The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors unless the act of a greater number is required by law or by these Bylaws; provided, the approval of a majority of the Independent

¹⁵ A proposed amendment to this section that was eventually approved by members on September 6, 2017 was vetoed by the corporation's Independent Directors on both July 20, 2017 and September 29, 2017.

Directors whose terms are not expiring shall be required in order to elect an Independent Director in accordance with these Bylaws.¹⁶

Each Director shall have one (1) vote except the Chair of the Board, who shall only vote in case of a tie. Proxies will not be allowed.

- H. **Fees and Compensation.** Directors, as such, and officers of the corporation appointed pursuant to Article V shall not receive any salary for their services, but shall receive reimbursement for reasonable expenses incurred in attending any meetings of the Board of Directors. Nothing in this section shall preclude a director from serving the corporation in another capacity and receiving reasonable compensation therefor.¹⁷
- I. **Parliamentary Procedure.** Meetings of the Board of Directors shall be governed by parliamentary procedure as set forth in the current edition of Robert's Rules of Order.
- J. **Reserves.** The Board of Directors may establish a revolving or reserve fund or funds to cover contingent obligations for paying for dental services and anticipated future needs of the corporation which are reasonably likely to occur. The Directors, in their discretion, shall invest or cause to be invested so much of such funds in securities or other investments consistent with applicable laws of the State of Washington as the directors determine to be in the best interest of the corporation.
- K. **Removal of Director.** At a meeting duly called, either a Member Director or an Independent Director of this corporation may be removed from office for cause by, respectively, a two-thirds (2/3) affirmative vote of the other Member Directors then serving on the Board of Directors or of the other Independent Directors then serving on the Board of Directors. The call for such a meeting must state with reasonable specificity the cause(s) for removal. Cause for removal shall consist of a director's willful or negligent disregard of the duties assigned to him/her by law, by these Bylaws, or by the Board of Directors; breach of fiduciary duty as a director; and failure to timely disclose to the Board of Directors any conflict of interest involving the director and the corporation or any action of the corporation. In addition, termination of the membership of a Member Director pursuant to Article I shall also operate to remove him or her from office as a Member Director, without further action by the Board of Directors.

¹⁶ A proposed amendment to this section that was eventually approved by members on September 6, 2017 was vetoed by the corporation's Independent Directors on both July 20, 2017 and September 29, 2017.

¹⁷ In light of RCW 24.03.030(4), Article III(C) of the corporation's Articles of Incorporation, and Article IV Section (1)(C)(7) above, the corporation pays market-based fees (supported by advice from an independent compensation consultant) for meeting attendance and other services rendered by directors.

L. Standing and Special Committees.¹⁸

- (1) **General.** Standing or special committees to facilitate the conduct and effectiveness of the Board of Directors, but not having or exercising the authority of the Board of Directors in the management of the corporation, may be established in such a manner as may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. The Board of Directors shall appoint members of any standing or special committee except for the Independent Directors on the Provider Compensation Committee. Any member of such a committee may be removed by the person or persons authorized to appoint him/her whenever in their judgment the best interests of the corporation would be served by such removal.
- (2) **Standing Committees** shall include the Audit Committee, the Governance and Nominating Committee and the Human Resources and Compensation Committee.
 - (a) **Audit Committee** shall assist the Board of Directors in fulfilling its oversight responsibilities relating to the integrity of the financial statements of the company, of the company's compliance with legal and regulatory requirements, of the independence and qualifications of the independent auditor, and of the performance of the company's internal audit function and independent auditors. The Audit Committee will be comprised of three or more members as determined by the Board of Directors. Committee members may be removed by the Board of Directors at its discretion. A majority of the committee shall consist of independent members who shall be free from any relationship that, in the opinion of the Board of Directors, would interfere with the exercise of his or her independent judgment as a member of the committee. No person who is a member dentist or has business dealings as a vendor or business partner of the company may be regarded as an independent member of the committee. All members of the committee shall have or obtain a sufficient familiarity with basic finance and accounting practices to allow them to discharge their responsibilities and at least one member shall be a financial expert. The Audit Committee shall be directly responsible for the appointment, compensation and oversight of the accounting firm conducting the annual audit of the corporation, and shall meet at least annually with the accounting firm and report its findings and recommendations to the Board of Directors.
 - (b) **Governance and Nominating Committee** shall be comprised of at least five (5) members, including the Chair of the Board, as well as at least one

¹⁸ A proposed amendment approved by members on September 6, 2017 that would eliminate independence requirements as to the Provider Compensation Committee has been omitted because it would be inapplicable to the corporation, and even if applicable would be subject to the veto by the corporation's Independent Directors on both July 20, 2017 and September 29, 2017.

of the other officers of the Board of Directors and such other additional directors as may be appointed by the Board of Directors. At least three Independent Directors must be members of the Governance and Nominating Committee at any given time. Members of the committee will be excluded from discussing and voting for their own nominations. The Governance and Nominating Committee (or the Independent Directors on the Committee) shall perform the functions described for it in Sections 1.B.4 of Article IV of these Bylaws and assist the Board of Directors by developing and recommending changes in the governance structure and processes that will improve board effectiveness.¹⁹

(c) **Human Resources and Compensation Committee** shall be comprised of non-management members of the Board of Directors and shall assist the Board of Directors in fulfilling its oversight responsibilities by formulating policy recommendations in such areas as compensation and benefits as specifically referred to the committee by the Board. The Human Resources and Compensation Committee shall periodically receive management updates on the corporation's human resources programs. The committee shall ensure that the senior executives of the corporation are compensated effectively in a manner consistent with the stated strategy of the corporation, competitive practices in the marketplace, any internal equity considerations, and any applicable legal or regulatory requirements. The committee also shall ensure the existence of an operative leadership succession plan that will perpetuate an effective management team for the corporation.

- (3) **Special Committees.** The Board of Directors may establish from time to time, special committees to aid them in managing the affairs of the corporation.²⁰
- (4) **Term of Office.** Each member of a standing committee shall continue as such until the next annual meeting of the Directors of the corporation and until a successor is appointed, unless these Bylaws provide otherwise, or unless the committee shall be terminated sooner, or unless such member be removed from the committee, or unless the member shall cease to qualify as a member of the committee.
- (5) **Chair.** One member of each committee shall be appointed chair by the person or persons authorized to appoint the members of that committee, except as otherwise

¹⁹ A proposed amendment to this section that was eventually approved by members on September 6, 2017 was vetoed by the corporation's Independent Directors on both July 20, 2017 and September 29, 2017.

²⁰ A proposed amendment approved by members on September 6, 2017 that would require the Board to consider and vote upon certain recommendations by the Member Advisory Panel has been omitted because it would be inapplicable to the corporation; even if it were applicable, the Board would comply with it only to the extent that doing so would not relate to the setting of provider reimbursement rates or unlawfully impinge on the Board's ultimate authority and discretion to manage the corporation's business and internal affairs.

provided in these Bylaws. All standing committees shall have a director as chair of the committee at all times unless otherwise directed by the Chair of the Board, in consultation with the President and CEO, because of unusual circumstances.

- (6) **Vacancies.** Vacancies in the membership of a committee may be filled by appointments made in the same manner as provided in the case of the original appointment. This action will be initiated within thirty (30) days of notification of a vacancy by the Chair of the Board or the President and CEO.
- (7) **Quorum.** Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum, and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.
- (8) **Rules.** Each committee may adopt rules for its own governance not inconsistent with these Bylaws or with rules adopted by the Board of Directors.

M. Attendance by Communications Equipment. At the discretion of the Chair, Members of the Board of Directors or any committee may participate in a meeting of such Board or committee by means of any communications equipment which enables all persons participating in the meeting to hear each other simultaneously during the meeting. Individuals who join meetings via communications equipment must attend all discussions of any item on which they vote. In addition, the provision will not be available if its use presents an undue administrative burden. A Director or committee member who participates by means of communications equipment is deemed to be present in person at the meeting.

N. Joint Meetings with the Former WDS Board. Meetings of the Board of Directors of this corporation may be held jointly or contemporaneously with meetings of the Former WDS board of directors, so long as the distinct matters considered and actions taken by each body are correctly and separately recorded in their separate minutes.

SECTION 2. INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHERS

A. Right to Indemnification. Each person who was, is or is threatened to be made a named party to or is otherwise involved (including, without limitation, as a witness) in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal (hereinafter a "proceeding"), by reason of the fact that he or she is or was a director or officer of the corporation or, that being or having been such a director officer or an employee of the corporation, he or she is or was serving at the request of the corporation as a director, officer, partner, trustee, employee or agent of another corporation or of a partnership, joint venture, limited liability company, trust, employee benefit plan or other enterprise (hereinafter an "indemnitee"), whether the basis of a proceeding is alleged action in an official capacity as such a director, officer, partner, trustee, employee, agent or in any other capacity while serving as such a director, officer, partner, trustee, employee

or agent shall be indemnified and held harmless by the corporation against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts to be paid in settlement) actually and reasonably incurred or suffered by such indemnitee in connection therewith, and such indemnification shall continue as to an indemnitee who has ceased to be a director, officer, partner, trustee, employee or agent and shall inure to the benefit of the indemnitee's heirs, executors and administrators. Except as provided in Section 3.D. of this Article IV with respect to proceedings seeking to enforce rights to indemnification, the corporation shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if the proceeding (or part thereof) was authorized or ratified by the Board of Directors. The right to indemnification conferred in this Section 2.A. shall be a contract right.

- B. Restrictions on Indemnification.** No indemnification shall be provided to any such indemnitee for acts or omissions of the indemnitee finally adjudged to be intentional misconduct or a knowing violation of law, for conduct of the indemnitee finally adjudged to be in violation of Section 23B.08.310 of the Washington Business Corporation Act, for any transaction with respect to which it was finally adjudged that such indemnitee personally received a benefit in money, property or services to which the indemnitee was not legally entitled, or if the corporation is otherwise prohibited by applicable law from paying such indemnification, except that if Section 23B.08.560 or any successor provision of the Washington Business Corporation Act is hereafter amended, the restrictions on indemnification set forth in this Section 2.B. shall be as set forth in such amended statutory provision.
- C. Advancement of Expenses.** The right to indemnification conferred in Section 2.A. of this Article IV shall include the right to be paid by the corporation the expenses incurred in defending any proceeding in advance of its final disposition (hereinafter an "advancement of expenses"). An advancement of expenses shall be made upon delivery to the corporation of an undertaking (hereinafter an "undertaking"), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such indemnitee is not entitled to be indemnified for such expenses under this Section 2.C.
- D. Right of Indemnitee to Bring Suit.** If a claim under Section 2.A. or 2.C. of this Article is not paid in full by the corporation within 60 days after a written claim has been received by the corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be 20 days, the indemnitee may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim. If successful in whole or in part, in any such suit or in a suit brought by the corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the indemnitee shall also be entitled to be paid the expense of prosecuting or defending such suit. The indemnitee shall be presumed to be entitled to indemnification under this

Section 2. upon submission of a written claim (and, in an action brought to enforce a claim for an advancement of expenses, where the required undertaking has been tendered to the corporation), and, thereafter, the corporation shall have the burden of proof to overcome the presumption that the indemnitee is so entitled.

- E. Procedures Exclusive.** Pursuant to Section 23B.08.560(2) or any successor provision of the Washington Business Corporation Act, the procedures for indemnification and advancement of expenses set forth in this Section 2. are in lieu of the procedures required by Section 23B.08.550 or any successor provision of the Washington Business Corporation Act.
- F. Nonexclusivity of Rights.** The right to indemnification and the advancement of expenses conferred in this Section 2 shall not be exclusive of any other right that any person may have or hereafter acquire under any statute, provision of the Articles or the Bylaws of the corporation, by general or specific action of the Board of Directors, or by contract or otherwise.
- G. Insurance, Contracts and Funding.** The corporation may maintain insurance, at its expense, to protect itself and any director, officer, partner, trustee, employee or agent of the corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the corporation would have the power to indemnify such person against such expense, liability or loss under the Washington Business Corporation Act. The corporation may enter into contracts with any director, officer, partner, trustee, employee or agent of the corporation in furtherance of the provisions of this Section 2 and may create a trust fund, grant a security interest or use other means (including, without limitation, a letter of credit) to ensure the payment of such amounts as may be necessary to effect indemnification as provided in this Section 2.
- H. Indemnification of Employees and Agents of the Corporation.** The corporation may, by action of the Board of Directors, grant rights to indemnification and advancement of expenses to employees and agents or any class or group of employees and agents of the corporation (a) with the same scope and effect as the provisions of this Section 2 with respect to the indemnification and advancement of expenses of directors and officers of the corporation, (b) pursuant to rights granted under, or provided by, the Washington Business Corporation Act, or (c) as are otherwise consistent with law.
- I. Persons Serving Other Entities.** Any person who, while a director, officer or employee of the corporation, is or was serving (a) as a director or officer of another foreign or domestic corporation of which a majority of the shares entitled to vote in the election of its directors is held by the corporation or (b) as a partner, trustee or otherwise in an executive or management capacity in a partnership, joint venture, limited liability company, trust or other enterprise of which the corporation or a wholly owned subsidiary of the corporation is a general partner or has a majority ownership shall be deemed to be so serving at the request of the

corporation and entitled to indemnification and advancement of expenses under Sections 2.A. and 2.C. of this Article.

ARTICLE V

OFFICERS

SECTION 1. OFFICERS.

The officers of the corporation shall be a Chair of the Board, Vice Chair, Secretary, Treasurer and such other officers as the Board of Directors may appoint from time to time at its discretion. No person may hold more than one (1) such office in the corporation at the same time. The President and CEO may not be elected to the offices of Chair of the Board or Vice Chair.

SECTION 2. TERMS AND ELECTION.

The Chair of the Board, Vice Chair, Secretary and Treasurer shall be elected by the Board of Directors from among the Directors then in office at the annual meeting of the Board. The intent is that the Chair of the Board will serve up to two one-year terms, although a third term may be added upon a determination by the Governance and Nominating Committee and by the Board of Directors that such is necessary to assure continuity or address other extraordinary circumstances. The intent is further that the Vice Chair shall succeed to the office of Chair of the Board at completion of the term(s) of the current Chair, or when that post becomes vacant by resignation or other reason. The term of each office shall be until the next annual meeting of the Board of Directors and the election and qualification of successor. If any office becomes vacant for any reason, the Board of Directors shall, by majority vote, elect a successor who shall hold office for the unexpired term. Any officer may be removed during the term of his/her office by a vote of two-thirds (2/3) of the Board of Directors.

SECTION 3. DUTIES OF OFFICERS.

A. Chair of the Board. The Chair of the Board shall preside at all meetings of the membership and at all meetings of the Board of Directors. He/she shall be subject to the control and direction of the Board of Directors. The Chair of the Board shall be an ex-officio member of all standing and special committees except the Audit Committee. The Chair of the Board shall have such other and further powers and duties as may be prescribed for him/her by the Board of Directors or these Bylaws.

The Chair of the Board shall have responsibility for liaison with staff officers between meetings of the Board to insure Board policies are carried out.

B. Vice Chair. In the absence or disability of the Chair of the Board, the Vice Chair shall perform the duties of the Chair of the Board and all the responsibilities of the Chair of the Board. In addition, the Board of Directors may fix and assign such duties for the office of Vice Chair as in its discretion it deems advisable, and the Chair of the Board may sub-delegate to the Vice Chair such of his/her authority as he/she believes is in the best interest of continuity of the office. The Vice Chair shall be an ex-officio member of all standing and special committees. The Vice

Chair shall have such other and further powers and duties as may be prescribed for him/her by the Board of Directors or these Bylaws.

The Vice Chair is intended to be the successor to the office of Chair of the Board when that post becomes vacant by resignation, completion of term(s), or any other reason.

C. Secretary.

- (1) **Minutes.** The Secretary shall keep, or cause to be kept, a complete book of the minutes at the principal office of the corporation of all meetings of the Directors and of the members together with all calls and notices upon which meetings were held, a roster of all members, including the applications for membership of each member, and a record of payment or nonpayment of fees and assessments.
- (2) **Notices.** The Secretary shall give, or cause to be given, the notice of all meetings of membership as directed by these Bylaws and also notice of all annual, regular and special meetings of the Board of Directors of the corporation as directed by the Board, the Chair of the Board, or other officers authorized to call such meetings.

D. Treasurer. Subject to the direction and control of the Board of Directors, the Treasurer shall have the care and custody of and be responsible for all funds and investments of the corporation and shall cause to be kept regular books of account. Such books shall be kept current and shall be open to inspection by any officer or Director of the corporation. The Treasurer shall cause to be deposited all funds and other valuable effects in the name of the corporation in such depositories as may be designated by the Board of Directors. The Treasurer shall cause to be prepared and shall submit a financial report at the annual meeting of the members and, in general, shall perform all of the duties incident to the office of the Treasurer.

ARTICLE VI

PAID ASSISTANTS

SECTION 1. GENERAL.

The Board is authorized to engage on behalf of the corporation all necessary employees and assistants, including certified public accountants, attorneys-at-law, and others in advancement of the affairs of the corporation. The Board shall have authority to arrange with such employees, assistants, certified public accountants and attorneys-at-law for payment by the corporation for their services.

SECTION 2. PRESIDENT AND CEO.

The Board of Directors shall appoint a President, who shall be the chief executive officer of the corporation. He/she shall have general supervision, direction and control of the affairs of the corporation and its staff officers subject to the policies established by the Board of Directors and its Chair of the Board. He/she shall be a full-time employee of the corporation and Former WDS and need not be a dental licentiate of the State of Washington.

ARTICLE VII

CONTRACTS, CHECKS, DEPOSITS AND FUNDS

SECTION 1. CONTRACTS.

The Board of Directors may authorize any officer or officers, agent or agents of the corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

SECTION 2. CHECK, DRAFTS, ETC.

All checks, drafts, or orders for the payment of money, notes or other evidences 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 manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board, such instruments shall be signed by the Treasurer or his/her staff designee, and countersigned by the Chair of the Board or the President and CEO of the corporation.

SECTION 3. DEPOSITS AND INVESTMENTS.

All funds of the corporation shall be deposited or invested in a timely fashion to the credit of the corporation in such banks, trust companies or other depositories and investment vehicles as the Board of Directors may select.

SECTION 4. GIFTS.

The Board of Directors may accept on behalf of the corporation any contribution, gift, bequest or device for the general purposes or for any special purpose of the corporation.

ARTICLE VIII

BOOKS AND RECORDS

The corporation shall keep correct and complete books of record and account and shall also keep minutes of the proceedings of its members, committees, and Board of Directors and shall keep at its registered or principal office a record giving the names and addresses of the members entitled to vote at any membership meetings. All such books and records of the corporation – along with all other corporate records noted at RCW 24.03.135 – may be inspected by any member or his or her agent or attorney, for any proper purpose at any reasonable time upon reasonable advance notice.

ARTICLE IX

WAIVER OF NOTICE

Wherever any notice is required to be given under the provisions of the Washington State Nonprofit Corporation Act, or under the provisions of the articles of incorporation or these Bylaws, a waiver of such notice in the form of a record executed by the person or persons entitled to such notice, whether before or after the time stated in the notice, shall be deemed equivalent to the giving of such notice.

ARTICLE X

CHANGES IN BYLAWS

These Bylaws may be amended or repealed by the vote of two thirds of the votes entitled to be cast by the members present in person or by proxy at an annual or special meeting of the members, provided that the proposed amendment or revision shall have been delivered to each member of this corporation along with the notice of meeting. Notwithstanding the foregoing, further non-material technical amendments to the proposed amendment or revision may be introduced on the floor of the meeting without the need to adjourn the meeting and provide a new notice. In addition, any amendment or repeal of Sections 1.B, 1.D, 1.G, 1.K or 1.L.2.b of Article IV, and any adoption of any Bylaw provision that would subject the Independent Directors to rights, privileges, liabilities and duties different from those of other directors hereunder, shall, in addition, require the approval of at least a majority of the Independent Directors then in office.²¹

ARTICLE XI

DISSOLUTION OF CORPORATION

Approval by the members, in a manner provided in these Bylaws, is required for voluntary dissolution pursuant to applicable corporate laws. Any assets remaining after payment of all just obligations of the corporation shall be distributed in accordance with the corporation's Articles of Incorporation.

ARTICLE XII

CONFLICT

Should any of these Bylaws be in conflict with any statutes, codes, rulings, or the Constitution of the State of Washington or of the United States of America, the particular section or part of any section shall become immediately inoperative. However, should any such conflict of any part of these Bylaws be declared, it shall not render the other Bylaws inoperative or void.

²¹ A proposed amendment to this section that was eventually approved by members on September 6, 2017 was vetoed by the corporation's Independent Directors on both July 20, 2017 and September 29, 2017.

ARTICLE XIII

ELECTRONIC TRANSMISSIONS

Notice to members and directors in electronic transmission is effective only with respect to members and directors who have consented, in the form of a record, to receive electronically transmitted notices and have designated the message format accessible to the member or director, and the address, location or system to which these notices may be electronically transmitted. A member or director who has consented to receive electronically transmitted notices may revoke the consent by delivering a revocation to the corporation in the form of a record. The consent of any member or director is revoked if the corporation is unable to electronically transmit two consecutive notices given by the corporation in accordance with the consent.

ARTICLE XIV

INFORMATION

The corporation shall prepare and mail an annual report to each member no later than seven months after the close of the corporation's fiscal year. The annual report shall contain the corporation's latest audited financial statements, a general assessment about the state of the corporation and the marketplace for dental care (paying due regard to preserving any proprietary information), and shall include (A) a compensation discussion and analysis in the same form as required for publicly-traded companies, (B) a disclosure of the corporation's administrative expenses by category, (C) disclosure of statistical information regarding (1) the percentage of claims denied, (2) the percentage of denied claims reviewed by a dentist, and (3) the percentage of denied claims not reviewed by a dentist; (D) information on inflation/consumer price index for providers; (E) detailed financial statements of all affiliated entities; and (F) detail regarding the amount of contributions from the corporation to the foundation and how all such contributions were used, particularly in reference to lobbying and commercial advertising.

ARTICLE XV²²

TRANSITION

SECTION 1. EFFECTIVE DATE.

The adoption of these amended and restated Bylaws is hereby made effective as of _____, 2017.

[The name of the corporation as reflected on the first page of these amended and restated Bylaws has been updated to reflect the change that became effective May 20, 2013.]

²² A proposed amendment approved by members on September 6, 2017 that would add a new Article XV (and an attached Exhibit A) relating to medical loss ratios, mandatory provider-reimbursement percentages, rebate requirements and related matters has been omitted because it would be inapplicable to the corporation, impossible to impose on the corporation's operating subsidiary, and otherwise unlawful for several reasons including impinging on the Board's ultimate authority and discretion to manage the corporation's business and internal affairs.

[These amended and restated Bylaws also reflect certain amendments that were approved by member vote on September 6, 2017; portions of the proposed amendments approved by members on that date have been omitted herefrom, for the reasons discussed in the foregoing footnotes.]