

# **DELTA DENTAL OF COLORADO**

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## **The Mission of the Board of Trustees for Delta Dental of Colorado (“DDCO”)**

The DDCO Board of Trustees (“Board”) considers the interest of the community, subscribers, and its participating dentists with the goal of expanding access to dental care and improving the oral health of the citizens of the State of Colorado. The Board is responsible for determining that DDCO is managed in such a way to ensure this result. This is an active, not a passive, responsibility. The Board has the responsibility to ensure that in good times, as well as difficult ones, management is capably executing its responsibilities. The Board’s responsibility is to regularly monitor the effectiveness of management policies and decisions including the execution of DDCO’s strategies.

In addition to fulfilling DDCO’s obligations for achieving its community benefit mission, the Board has responsibility to ensure that the interests of DDCO’s customers, employees, dentists, and the communities where it operates are served. All of these responsibilities, however, are founded upon the successful perpetuation of the business.

## **Guidelines and Policies on Significant Governance Issues**

### *Selection and Composition of the Board*

#### **1) Board Policy on the Selection of Trustees.**

**It is the policy of the Board** that DDCO have an effective and comprehensive process to identify, consider, and select qualified candidates for nomination to available Trustee positions and the subsequent election.

DDCO considers the selection of Trustees to its Board to be essential to the continued vitality of the corporation. Accordingly, the Board has established this selection procedure, to include nomination and election, for identifying specific Board needs, conducting an efficient search for candidates, evaluating all nominated individuals to include current Trustees eligible for re-election, and holding a fair and meaningful election.

The Governance Committee shall be responsible for identifying anticipated vacancies on the Board. It shall establish and maintain a list of desired skill sets and other characteristics for potential candidates to include, but not limited to, diversity considerations, commitment to the stated community benefit goals of DDCO, highest ethical character, and personal and professional standards consistent with the image and reputation of DDCO.

To the extent practicable, the Governance Committee will maintain a list of qualified candidates throughout the year. It shall actively solicit and receive nominations from members, Trustees, and other interested individuals as appropriate. The Governance Committee is responsible for oversight in the open communication of current or anticipated vacancies and the receipt and evaluation of timely nominations.

Information regarding vacancies shall be disseminated as broadly as possible and

shall include data regarding where nominations must be delivered and the basic information required for an initial evaluation of the candidate. As a minimum, this should include contact information on the candidate, the candidate's relationship to the nominator, sufficient essential biographical information to permit an assessment of fundamental skills and the candidate's independence status, and past board experience. Additionally, all candidates must submit written consent for a basic background investigation, and express a willingness to stand for election if nominated and to serve if elected and approved.

In the event of an unexpected vacancy for any reason, the Governance Committee shall nominate to the Board a suitable candidate to fill the vacancy. Otherwise, it will establish and communicate a timetable for the nomination of candidates for anticipated openings and retain sole discretion in considering any nomination after a specified submittal deadline. At a minimum, the Governance Committee shall allow 60 days from the date of initial public notification of a vacancy before a final evaluation and recommendation is made to the Board.

The Governance Committee shall appropriately evaluate all nominated candidates who timely submit required information. This includes evaluation of current Trustees, who are eligible for nomination and re-election, in accordance with established procedures. Candidates determined to meet the identified needs of the Board shall be selected for further assessment to include, but not limited to, personal interviews by members of the Governance Committee and/or other selected individuals.

The Governance Committee shall make recommendations to the Board of qualified candidates that it determines to satisfy the best needs of the Board. Whenever possible, the Governance Committee shall nominate more candidates than available positions to afford a choice to the voting members. In the event that only enough qualified candidates to match the number of vacancies are identified, the Governance Committee shall so notify the Board of Trustees and the election process may continue with only the candidates nominated. The Board shall make the final decision on which candidates nominated by the Governance Committee and approved by the Board shall appear on the ballot. Only candidates evaluated and recommended by the Governance Committee shall appear on the ballot. No write-in candidates will be permitted. Ballots shall be mailed to members no later than 30 calendar days prior to the due date for returned ballots. Each member shall be entitled to complete one ballot and no proxy voting is permitted.

When required to ensure compliance with DDCO bylaws and state mandates, the ballot shall designate which candidates are licensed dentists and which are laypersons with specific instructions to members on how many candidates for each category may be voted for on the ballot. Other appropriate information pertaining to each candidate shall accompany the ballot. Returned ballots that are improperly completed or not returned in a timely manner shall not be counted. The candidate(s) receiving the greatest number of properly cast votes in each category shall be named Trustee(s) and

assume that position for the first Board meeting of the next calendar year. The decision of the Governance Committee with respect to any particular ballot shall be final.

Unless otherwise specified by the Board, the election process shall be completed no later than November 1 of each year. The Governance Committee Chair shall announce to the Board of Trustees the successful candidates who shall be named Trustee-elect.

In accordance with Colorado law, a majority of the Board must come from outside health care professions and institutions.

**2) Orientation of New Trustees.**

The Board and management have a complete orientation process for new Trustees that include background material and meetings with senior management.

**3) Extending the Invitation to a Potential Trustee to Join the Board.**

The invitation to join the Board should be extended by the Board itself via the Board Chair.

**4) Board Policy on Trustee Re-nomination Process.**

**It is the policy of the Board** that each Trustee who is eligible for a subsequent term receives an evaluation of their performance as Trustees from the Board and the Senior Leadership Team.

The Governance Committee is responsible for the administration and oversight of the evaluation process, the results of which will be given to the reviewed Trustee by the Board Chair and the Governance Committee Chair. The Governance Committee will use the following procedure in its evaluation.

- a) In the second quarter of each year, the Governance Committee will review the list of Trustees eligible for re-nomination.
- b) The Governance Committee Chair will contact each Trustee to determine if they wish to seek re-nomination.
- c) If so, Jensen Consulting or other vendor will distribute evaluation forms to all Trustees (including the incumbent) and the SLT requesting that the evaluation be completed and returned to the Board Secretary.
- d) Jensen Consulting or other vendor will compile the results identifying feedback from the Board, the incumbent and the SLT and forward to the Governance Committee Chair.
- e) The Governance Committee will discuss the results and determine who shall be re-nominated for election.

- f) The Governance Committee Chair and the Board Chair shall meet with each reviewed Trustee, advise them of the Governance Committee's action and provide feedback on performance.
- g) The Governance Committee shall then place the reviewed Trustees who are re-nominated on the ballot for reelection in the fall of the year.

### ***Board Leadership***

#### **5) Selection of Board Chair and President/Chief Executive Officer (“President/CEO”).**

The Board is free to choose its Chair in any way that seems best for DDCO at a given point in time. The Bylaws require the roles of Board Chair and President/CEO be separate.

If a non-independent Trustee is selected as Board Chair, a Lead Trustee will be elected by the Independent Trustees.

The Board selects the President/CEO by majority vote using a selection process agreed to by the Board.

#### **6) Committee Chairs.**

The Committee Chair, as appointed by the Board, will be responsible for chairing Committee meetings and reporting to the Board on the activities of the Committee.

### ***Board Composition and Performance***

#### **7) Size of the Board.**

The Board is comprised of 14 elected Trustees, 8 Lay and 6 Dentists plus the President/CEO.

#### **8) Mix of Management and Independent Trustees.**

There should be a majority of Independent Trustees on the DDCO Board. DDCO management, other than the President/CEO, may attend Board and Committee meetings on a regular basis even though they are not members of the Board or the Committee.

#### **9) Trustee Job Description.**

Basic Function:

The fundamental responsibility of the Board is to promote the best interests of DDCO and its stakeholders in the conduct of the organization's business and affairs. In

meeting this responsibility, the Board must maintain a proper balance among the legitimate interests of DDCO's stakeholders who include purchasers, brokers, subscribers, employees, dental providers, and the public in general.

Individually and collectively, Board members are expected to fulfill the duty of loyalty to DDCO and duty of care that is required in making Board decisions under Colorado law.

#### Trustee Responsibilities:

- a) Establish the mission, vision, values and long-term objectives of DDCO and review and update them as needed.
- b) Review and approve the strategic plans and annual operating budgets. Review DDCO's performance against plans and goals through discerning inquiries of management at Board and Committee meetings and through thorough analyses of the financial and operating results.
- c) Assure the continued growth and success of DDCO as well as the organization's fulfillment of its community benefit mission.
- d) Review and update as appropriate, the Bylaws and related documents of DDCO.
- e) Establish overall policies and procedures that guide the management team's decision making processes (i.e. Total Compensation Policy, Investment Policy, Purchasing Policy, etc).
- f) Elect the Board officers.
- g) Establish standing or special committees of the Board and approve their charters. Annually, approve committee appointments recommended by the Governance Committee.
- h) Fix the basis for compensation of the Board.
- i) Take action to approve and place on the ballot Trustee Nominees recommended by the Governance Committee for election to the Board and oversee the election by the membership prior to the annual membership meeting. Fill vacancies on the Board of Trustees by majority vote of the remaining members of the Board.
- j) Assure the continuation of able management via established succession plans and counsel the President/CEO on his/her selection and total compensation of senior executives.
- k) Provide advice and counsel to the President/CEO.
- l) Approve the borrowing of money and incurring indebtedness on behalf of DDCO for corporate purposes as the Board, in its discretion, may deem advisable.
- m) Approve selection of DDCO's auditors and take other steps deemed appropriate to assure that DDCO is being operated in a legal and ethical manner.
- n) Select the President/CEO to operate DDCO and determine his/her compensation and terms of employment. Evaluate the President/CEO's performance annually via the Compensation Committee.
- o) Call regular and special membership meetings and determine the matters that shall be submitted to such meetings on behalf of the Board.
- p) Conduct the Board's business in a manner consistent with Board policies on Corporate Governance and Conflict of Interest.

## 10) Board Policy for Independent Trustees.

**It is the policy of the Board** that a majority of Board members be Independent Trustees. This policy also meets the requirements for DDPA membership. Further, it is in the best interests of DDCO and its mission that there be significant dentist and customer representation on the Board. In order to avoid conflicts of interest, or the appearance of conflicts of interest, the following definition and rules regarding the participation of Independent Trustees shall apply:

- a) The Board has adopted the definition of independence as used on the IRS Form 990. For the purposes of this policy, the term “Independent Trustee” means a Trustee who satisfies each of the following three criteria:
  - i. The Trustee is not compensated as an officer or other employee of DDCO, the Delta Dental Foundation, or any other related corporation;
  - ii. The Trustee did not receive directly total compensation from DDCO, the Delta Dental Foundation, or any other related corporation that exceeded \$10,000 during the tax year other than from services provided in the capacity as member of such entity’s governing body.
  - iii. Neither the Trustee nor any of the Trustee’s family members were involved in a transaction with DDCO that requires disclosure as a Transaction With Interested Persons on Schedule L of the Form 990. In order for a Trustee's indirect transactions to require disclosure on Schedule L, the Trustee or a family member must have received in excess of \$100,000 during the tax year through a corporation in which their ownership was 35% or greater or they received a gift from DDCO with a value in excess of \$25,000.
- b) The AIF Committee must be comprised of a super-majority (75%) of Independent Trustees. All other Board Committees, except the Professional Services Advisory Committee and the Professional Services Review Committee, must have a majority of Independent Trustees assigned to the Committee.
- c) The Governance Committee shall review and recommend to the Board all transactions involving a related party.
- d) In the event the Board Chair is not an Independent Trustee, a Lead Trustee who is independent shall be elected by the Independent Trustees to ensure and oversee the performance of the Board.
- e) The Independent Trustees shall meet periodically to review and discuss DDCO issues and to ensure that decisions are being made that are in the best interests of DDCO.

**11) Role of Board Trustees who are Dentists.**

Since the participating dentists are the corporate members of DDCO, it is anticipated that a substantial minority of the Board will be active participating dentists.

However, this carries with it risk that Trustees who are Dentists may have conflicts of interest from time to time, in which case they are expected to recuse themselves from votes and from the final discussions before a vote that involve topics that if enacted, would be to their personal benefit. Trustees who have a conflict may still participate in preliminary discussions about the topic once the conflict is disclosed and if participation is appropriate as determined by the Committee or Board discussing the topic. (See Section 32 below)

**12) Trustees Who Change Their Present Job Responsibility.**

It is the sense of the Board that individual Trustees who materially reduce or revise the responsibility they held when they were elected to the Board shall submit a letter of resignation to the Board.

It is not the sense of the Board that in every instance where a Trustee retires or changes from the position they held when they came to the Board should necessarily leave the Board. There should, however, be an opportunity for the Board, via the Governance Committee, to review the continued appropriateness of Board membership under these circumstances.

Trustees are encouraged to limit the number of other boards on which they serve, taking into account potential board attendance, participation and effectiveness on these boards. Trustees should also advise the Board Chair and the Governance Committee Chair in advance of accepting an invitation to serve on another board.

**13) Term Limits.**

The Board has established term limits for Trustees. Term limits help ensure that there are fresh ideas and viewpoints available to the Board. Trustees who serve three consecutive 3-year terms are term limited.

**14) Board Compensation.**

It is appropriate for the staff of DDCO to report once a year to the Compensation Committee on the status of the Board's compensation in relation to other Delta Dental Plans and related companies as determined by outside objective advisors. Changes in Board compensation, if any, should come at the suggestion of the Compensation Committee, but with full discussion and approval by the Board.

**15) Insurance Coverage**

DDCO provides Errors and Omissions insurance coverage for Trustees and such insurance coverage is reviewed with the Board annually.

**16) Board's Interaction with Regulators, Rating Agencies, Press, Customers, Etc.**

The Board believes that the Management speaks for DDCO. Individual Board members may, from time to time at the request of the Management, meet or otherwise communicate with various constituencies that are involved with DDCO. If formal comments from the Board are appropriate, they should, in most circumstances, come from the Board Chair. Trustees should exercise the duty of loyalty when discussing DDCO matters on an informal basis.

***Board Relationship to Senior Management***

**17) Regular Attendance of Non-Trustees at Board Meetings.**

The Board welcomes the regular attendance at each Board or Committee meeting of non-Board members who are in the most senior management positions of DDCO.

Should the Board Chair or the President/CEO want to add additional people as attendees on a regular basis, it is expected that this suggestion would be made to the Board for its concurrence.

**18) Board Access to Senior Management.**

Trustees have complete access to DDCO's senior management within the following parameters.

It is assumed that Trustees will use judgment to be certain that contact with senior management is not disruptive to the work of DDCO. Accordingly, Trustees should not attempt to contact DDCO employees below the level of vice president unless authorized in advance by the Board Chair. Trustee contacts with vice presidents connected to Committee and Board matters should be handled by the Board Chair, the President/CEO, or the Committee Chairs. Trustees should not contact members of the SLT to seek favorable consideration, preferential treatment, to disclose or discuss executive session matters, or exert influence over management decisions.

Committee Chairs are encouraged to develop contacts with staff appropriate to their duties within the above parameters.

Staff shall include the appropriate Committee Chair or Board Chair in their contacts with Trustees.

The Board encourages DDCO Management to, from time to time, bring managers into Board and Committee meetings who: (a) can provide additional insight into the items being discussed because of personal involvement in these areas, and/or (b) are managers with future potential that the senior management believes should be given exposure to the Board.

**19) Board Staff.**

Delta Dental of Colorado retains staff to support the work of the Board. This includes a Board Secretary and one or more Internal Auditors. The internal audit manager reports to the President/CEO with open access to the AIF Committee & the Board.

***Meeting Procedures***

**20) Selection of Agenda Items for Board Meetings.**

The Board Chair will establish the agenda for each Board meeting. Board members are free to suggest the inclusion of item(s) on the agenda. Disclosure of conflicts shall be part of the agenda approval process.

**21) Board Materials Distributed in Advance.**

Information and data that is important to the Board's understanding of the business to be conducted at a meeting will be distributed in writing to the Board before the meeting. Management will make every attempt to see that this material is as brief as possible while still providing the desired information. The watchword is that the process for Board and Management shall be clarity and transparency.

**22) Board Presentations.**

As a general rule, presentations on specific subjects should be sent to the Board members in advance so that Board meeting time may be conserved and discussion time focused on questions that the Board has about the material. On those occasions in which the subject matter is too sensitive to put on paper, the presentation will be discussed at the meeting.

**23) Board Policy for Executive Sessions at Board and Committee Meetings.**

**It is the policy of that Board,** that an executive session is a private meeting of the Board, without DDCO's senior leadership team or staff present. An executive session may be held with or without the President/CEO in attendance. The Board Secretary should not attend any executive session where the President/CEO is not in attendance. The Board shall meet in executive session, without the President/CEO, at least two times every calendar year. At one of those meetings, the Board also shall meet in executive session with only the Independent Trustees in attendance. The Board Chair

may convene additional executive sessions in the Chair's sole discretion upon either the Chair's own initiative or at the request of a Board member. Committee Chairs also may convene executive sessions in the Chair's sole discretion upon the Chair's own initiative or at the request of a Committee member. Absent exigent circumstances, such executive sessions should precede or follow a regularly scheduled Board or Committee meeting.

Executive sessions convened by the Board or its Committees should be held for a specific purpose only. An agenda will be prepared for and followed at every executive session. Any agenda or other documents to be distributed in advance of an executive session where the Board Secretary will not be in attendance shall be distributed to members of the Board or Committee by the Chair or corporate counsel. Executive sessions are not to be utilized as another Board or Committee meeting. Board members are encouraged to voice any thoughts, opinions, insights or concerns they might have on any topic at the regular Board or Committee meetings and should not withhold their discussion or comment until an executive session. Executive sessions are intended to serve as a forum to discuss substantive issues that cannot be adequately addressed at regular Board or Committee meetings. Except for decisions on issues related to the examples given below, Board and Committee decisions normally should be made in the regular meeting forum and not at an executive session. The Board or Committee may reach a consensus in the executive session that they then reveal at a regular or reconvened Board or Committee meeting where all final decisions normally will be made.

The Board Chair or the Committee Chair, as the case may be, shall determine if the President/CEO (or any other person) should be in attendance for all or part of any executive session. In exercising this discretion in favor of an executive session without the President/CEO in attendance, the Chair should consider whether the issue to be discussed is better addressed in executive session without the President/CEO because the Board or Committee needs to gain information, hold candid discussions amongst themselves or freely discuss and evaluate the issue without fear about how the President/CEO will react. In exercising this discretion against an executive session without the President/CEO in attendance, the Chair should consider whether the issues to be discussed concern the operation or direction of DDCO, require the President/CEO's input or perspective, or require the President/CEO to simply listen to the Board or Committee's discussion on sensitive matters to gain a better perspective of the views being expressed. The Chair's decision to allow or exclude the President/CEO from an executive session can be overridden by a majority vote of the Board or Committee members after due consideration of the criteria discussed in this policy.

Examples of issues that might be appropriately addressed in executive session without the President/CEO in attendance may include:

- a) Discussions directly implicating the President/CEO, such as performance evaluations, compensation, leadership, vision and, to some extent, succession planning;
- b) Discussions related to an investigation into concerns about the President/CEO;
- c) Discussions related to an investigation of improper conduct of a Trustee; or
- d) Discussions related to a conflict between two Trustees, or serious criticism by one Trustee of another.

Any final resolutions of such matters not directly involving the President/CEO should be conducted with the President/CEO's participation. If an executive session is held by the Board without the President/CEO in attendance, the Board Chair will brief the President/CEO, if appropriate, as soon as possible after each executive session about any concerns that were raised during the executive session. If an executive session is held by a Board Committee without the President/CEO in attendance, the Committee Chair also shall brief the Board Chair, and if appropriate, the President/CEO and any appropriate senior leadership team member as soon as possible after each executive session about any concerns that were raised during the executive session.

Examples of issues that might be appropriately addressed in executive session with the President/CEO in attendance may include:

- A. Discussions with the auditor related to financial issues;
- B. Discussions related to lawsuits, complaints, or grievances from employees or third parties;
- C. Discussions related to investigations of compliance, ethics or other similar issues;
- D. Discussions related to individual employee situations;
- E. Discussions related to any sensitive report from a management consultant;
- F. Discussions with the President/CEO about the President/CEO's performance, leadership, activities or other concerns identified by the Board;
- G. Discussions related to the planning for a confidential major corporate event, such as a merger, acquisition or other event requiring Board approval;
- H. Discussions related to the confidential or personal matters of a Board members or a member of the senior leadership team; or
- I. Discussions related to salary schedules, compensation policies or other such financial issues.

Minutes of each executive session are "Board Confidential" and should be kept in accordance with the Board Policy for Board and Committee Meeting Minutes.

#### **24) Board Policy for Board and Committee Meeting Minutes.**

**It is the policy of the Board** that minutes shall be taken and reduced to writing for every meeting conducted by the Board and its Committees. The minutes should be an accurate general summary or overview of what took place during the meeting, not a detailed transcript of every word uttered or point made. Likewise, the minutes should

not divulge confidential, privileged or proprietary information. Minutes should contain sufficient information to generally describe the meeting, to include noting relevant discussions and what matters were presented leading to business decisions. Minutes are to be treated as sensitive proprietary property belonging to DDCO and shall not be released to or shared with third parties without first consulting corporate counsel.

Minutes for all meetings of the Board and its Committees shall be taken by the Board Secretary and reviewed by corporate counsel.

As to Board and Committee Minutes for meetings held in regular session, the minutes shall identify the Board or Committee conducting the meeting and contain the date and time of the meeting; identify who called the meeting to order; identify the members in attendance or absent; identify any others who attended all or part of the meeting; a general overview of the topics, reports or documents presented or discussed; all motions made, a brief account of any discussion regarding the motion, the vote on the motion and the names of any abstainers or dissenters to the motion; identify any conflicts of interest and a summary of any action taken as a result; and when the meeting ended. Minutes should not contain detailed “to do” lists or track follow-up items; instead each Board or Committee Chair should maintain notes to keep track of any tasks to be accomplished or items to be pursued.

Every effort will be made to have the regular minutes drafted, reviewed by corporate counsel, and delivered to the Board or Committee members for review. The minutes shall be clearly marked as draft minutes. Any changes to the draft minutes should be made in writing and submitted to the author of the minutes within 14 days after receipt or such earlier time as the Chair may direct. The minutes will be revised by the Board Secretary and reviewed by corporate counsel. The Board Secretary then shall redistribute the draft minutes to the members before the next meeting of the Board or such Committee for review and again shall be clearly marked as draft minutes. The minutes shall then be approved at the next meeting. Any additional changes should be amended to the minutes. The Board Secretary shall see that the approved minutes of all Board and Committee meetings are posted on BoardVantage. The Board Secretary shall organize and retain a copy of all approved Board and Committee minutes for a period of ten years.

As to Board and Committee minutes for meetings held in executive session, minutes of each executive session shall be treated as “Board Confidential” and will be distributed only to Board or Committee members and to the President/CEO if the President/CEO fully participated in the executive session. The Board Secretary should not attend any executive session where the President/CEO is not invited to attend. In the absence of the Board Secretary, the executive session minutes shall be taken by corporate counsel. The minutes of the executive session shall identify the Board or Committee conducting the meeting and contain the date and time of the meeting; identify who called the meeting to order; identify the members in attendance or absent; identify any others who attended all or part of the meeting; a brief

summary of the topic of the discussion only; and when the meeting ended. Corporate Counsel shall see that the approved minutes of all Board and Committee executive session are posted on BoardVantage. Corporate Counsel shall organize and retain a copy of all minutes of any Board or Committee executive session for a period of ten years.

**25) BoardVantage.**

DDCO has retained the services of BoardVantage Corporation to provide secure Internet based Board support that includes electronic storage of all Board and Committee documents.

Board Trustees are expected to have the appropriate computer configuration and high-speed Internet access to insure that they may access and use the system. Paper meetings packets will not be distributed.

BoardVantage also provides training for all Trustees and Senior Management on the application and its support.

***Committee Matters***

**26) Number, Structure and Independence of Committees.**

From time to time, the Board may want to form a new Committee or disband a current Committee depending upon the circumstances. The current Committees are Executive, AIF, Governance, Compensation, Professional Services Advisory, and Professional Services Review.

A Trustee may attend any Committee meeting even if not a member of the Committee. However, the Trustee will not receive a meeting fee unless invited to attend by the Committee Chair for business reasons.

**27) Assignment and Rotation of Committee Members.**

The Governance Committee is responsible, after consultation with the Board Chair and with consideration of the desires of individual Board members, for recommendations for the assignment of Board members to various Committees.

It is the sense of the Board that consideration should be given to rotating Committee members periodically at about a three-year interval, but the Board does not feel that such a rotation should be mandated as a policy since there may be reasons at a given point in time to maintain an individual Trustee's Committee membership for a longer period. Committee Charters specify any desired rotations.

**28) Frequency and Length of Committee Meetings.**

The Committee Chair, in consultation with Committee members, will determine the frequency and length of the meetings of the Committee.

**29) Committee Agenda.**

The Committee Chair, in consultation with the appropriate members of the Committee and management, will develop the Committee's agenda.

Each Committee will issue a schedule of agenda subjects prior to each meeting and operate pursuant to a written work plan. The work plan shall be discussed and agreed to for the ensuing year at the beginning of each year (to the degree that matters to be addressed can be foreseen). This work plan will also be shared with the Board. Committee agendas shall be available to all Board members upon request.

Board Committees are responsible for maintaining any policies relating to their function.

***Leadership and Development***

**30) Succession Planning is responsibility of the Board.**

There should be an annual report by the President/CEO to the Board on succession planning.

There should also be available, on a continuing basis, the Board Chair's and the President/CEO's recommendation as a successor should the President/CEO be unexpectedly disabled.

**31) Management Development and Diversity.**

There should be an annual report to the Board by the President/CEO on DDCO's program for management development and diversity.

This report should be given to the Board at the same time as the succession planning report noted previously.

***Conflicts, Interested Transactions and Ethics***

**32) Board Conflict of Interest Policy.**

**It is the policy of the Board** that DDCO have a conflict of interest policy. The purpose of the conflict of interest policy is to protect DDCO's interest when it is contemplating entering into a transaction or arrangement or taking action that might benefit the private interest of an officer, Trustee, or a member of the DDCO Senior

Leadership Team (SLT) or a member of a DDCO Committee with Board delegated powers. This policy is intended to supplement but not replace applicable Colorado law governing conflicts of interest in nonprofit corporations.

As used in this policy, the following terms are defined as follows:

Interested Person: Any Trustee, officer, member of the SLT, or member of a Committee with Board delegated powers who has a direct or indirect Financial Interest in DDCO or another entity doing business with DDCO.

Financial Interest: A person has a financial interest if the person has, directly or indirectly, through business, investment or family –

- a. an ownership or investment interest in any entity with which DDCO has a transaction or arrangement, or
- b. a compensation arrangement with DDCO (other than an employment contract/arrangement as a member of the SLT) or with any entity or individual with which the DDCO has a transaction or arrangement, or
- c. a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which DDCO is negotiating a transaction or arrangement, or
- d. is an officer, Trustee, general partner, or member in the other entity in the transaction, or
- e. an ownership or investment interest in any entity which competes with DDCO, or
- f. a compensation arrangement with any entity or individual that competes with DDCO, or
- g. is an officer, Trustee, employee, general partner or member in any entity that competes with DDPCO

Compensation: any direct and indirect remuneration as well as gifts or favors that are substantial in nature.

A Financial Interest is not necessarily a conflict of interest but requires the application of this policy for a determination.

Duty to Disclose.

In connection with any actual or possible conflicts of interest, an Interested Person must timely disclose the existence of his or her Financial Interest and all material facts to the Governance Committee. Persons subject to this policy are to be sensitive to even the appearance of a conflict of interest and must disclose whenever he or she reasonably believes such a situation exists. This Duty to Disclose must be done annually and at any time that a previously undisclosed actual or possible conflict of interest exists.

### Determining Whether a Conflict of Interest Exists.

After disclosure of the Financial Interest and all material facts, and after any discussion with the Interested Person, he or she shall leave the Governance Committee meeting considering the matter. The Governance Committee shall report its determination to the Interested Person and to the entire Board as soon as practicable.

### Formal Procedures for Addressing the Conflict of Interest.

An Interested Person may make a presentation at the Governance Committee meeting, but after such presentation, he or she shall leave the meeting during the discussion of, and the vote on, the transaction, arrangement or action that result in the conflict of interest.

The Chair of the Governance Committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction, arrangement, or action that results in the conflict of interest.

After exercising due diligence, the Governance Committee, by majority vote of disinterested committee members, shall determine whether DDCO can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest, or whether Board or committee action can be taken that would not give rise to a conflict of interest. In any event, the Governance Committee shall disclose to the entire Board any identified Conflict of Interest.

If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, or if action cannot be taken that would avoid a conflict of interest, the Governance Committee shall make a recommendation to the Board whether it is in DDCO's best interest and whether the transaction or action is fair and reasonable to DDCO. The Board, by majority vote of disinterested Trustees, shall then make its decision as to whether to enter into the transaction or action in conformity with such determination.

An Interested Person, if otherwise appropriate, can be counted to make up a quorum for the meeting at which the transaction is decided or the Board or Governance Committee action is taken but he or she may not vote on the transaction or action. The transaction or action must be approved by a majority of disinterested persons even though the disinterested persons constitute less than a quorum.

### Informal Procedure for Addressing the Conflict of Interest.

If a Trustee, officer, or a member of the SLT or a committee with Board delegated powers concludes or suspects that he or she has a conflict of interest that has not been resolved using the procedures outlined above, that person must immediately disclose the conflict of interest and cease participation in any discussion or vote related to it. A determination that an actual conflict of interest does not exist must be made using the procedures outlined above before that person can participate in any discussion or vote in the matter.

### Violations of the Conflicts of Interest Policy.

If the Board or Governance Committee has reasonable cause to believe that an Interested Person has failed to disclose actual or possible conflicts of interest, or a Trustee fails to timely complete the Annual Disclosure Statement and Certification, it shall inform the Interested Person of the basis for such belief and afford him or her an opportunity to explain the alleged failure to disclose.

If, after hearing the response of the Interested Person and making such further investigation as may be warranted in the circumstances, the Board determines that a person subject to this policy has in fact failed to disclose an actual or possible conflict of interest or fails to timely complete the Annual Disclosure Statement and Certification, it shall take appropriate action as permitted by the bylaws to include initiation of removal procedures.

### Records of Proceedings.

The minutes of the Board and Governance Committee meetings where conflicts are addressed shall contain:

The names of the persons who disclosed or otherwise were found to have a Financial Interest in connection with an actual or possible conflict of interest, the nature of the Financial Interest, any action taken to determine whether a conflict of interest was present, and the Board's or Governance Committee's decision as to whether a conflict of interest in fact existed.

The names of the persons who were present for discussions and votes relating to the transaction, arrangement or action, the content of the discussion, including any alternatives to the proposed transaction, arrangement or action, and a record of any votes taken in connection therewith.

### Annual Disclosure Statement and Certification

Each Trustee, officer, and member of the SLT shall be required to annually complete and file with the DDPCO a disclosure statement identifying conflicts

of interest. Each Trustee, officer, and member of the SLT shall annually sign a statement that affirms that such person:

- a. has received a copy of the conflicts of interest policy,
- b. has read and understands the policy,
- c. has agreed to comply with the policy.
- d. understands that the policy applies to all Committee and subcommittee assignments to which the Board has delegated powers, and
- e. understands that DDCO is a non-profit organization that must engage primarily in activities consistent with its tax-exempt purposes.

#### Gifts to Trustees or Officers

The acceptance by any Trustee, officer, or member of the SLT of money, services, or any other item of value, without the payment of full and fair consideration, offered by a representative of a supplier or other person or entity which does business with the DDCO (or any person or entity which potentially could do business with the DDCO) is strictly prohibited. The offer of any such benefit must be reported immediately to the Board Chair.

Notwithstanding the above, a Trustee, officer, member of the SLT, or a member of a DDCO committee with Board delegated powers may receive unsolicited gifts or meals of nominal value from persons doing business with the DDCO and not offered with the intention of influencing action. It is understood that this policy does not preclude business meals or entertainment on an infrequent basis.

#### Periodic Reviews

To ensure that DDCO operates in a manner consistent with its community benefit purpose and that it does not engage in any activity that could jeopardize its status as a non-profit corporation, the Governance Committee shall conduct certain periodic reviews. These reviews may be informal and as directed by the Governance Committee Chair but shall be conducted annually and shall include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable and are the results of arm's-length bargaining.
- b. Whether any partnerships, joint ventures, or similar business arrangements are properly recorded, reflect reasonable payment for goods or services, further DDCO's community benefit purposes and do not result in inurement or impermissible private benefit.

- c. Whether provider agreements further DDCO's community benefit purposes and do not result in inurement or impermissible private benefit.

#### Duty of Loyalty

Trustees owe a duty of loyalty to DDCO and its stated purpose and not to any individual or group. This duty of loyalty requires such Trustee to strictly protect the confidentiality of information gained in the course of Board or committee activities. No Trustee shall use information received in the course of serving DDCO if the personal use of such information would be detrimental in any way to DDCO or result in inurement or impermissible private benefit. Trustees must remain fully compliant with all privacy laws and regulations regarding the protection of sensitive personal and DDCO information.

#### Duty of Diligence

Each Trustee owes a duty of reasonable care, honesty and good faith to DDCO. This duty is satisfied through the exercise of reasonable business judgment. A Trustee must take the degree of care that a prudent and diligent person would ordinarily exercise in similar circumstances.

Under the business judgment rule, a Trustee fulfills his or her duty of diligence if (1) he or she becomes informed on the subject matter to the extent he or she reasonably believes to be appropriate under the circumstances and (2) the Trustee, acting in good faith, reasonably believes the decision to be in the best interest of DDCO. Trustees generally may rely upon the information and counsel provided by qualified advisors and members of the senior leadership team in making decisions but this does not relieve them from the duty to make necessary inquiries and obtain essential data before making decisions.

### **33) Board Policy on Interested Transaction.**

**It is the policy of the Board** that a Trustee shall not engage in an Interested Transaction without the permission of the Board. If a Trustee has a personal interest in a transaction which is adverse to the interest of DDCO and which could reasonably be expected to affect the Trustee's judgment in a manner adverse to the DDCO, then the transaction is an "Interested Transaction". Interested Transactions are governed by the duty of loyalty owed by a Trustee to DDCO and its community benefit mission. (See Section 33 above).

Each Trustee should be alert and sensitive to any interest the Trustee, or an associate of the Trustee, may have that might be considered to conflict with the best interest of DDCO. An associate is a person or entity with respect to whom a Trustee has a business, financial or family relationship that would reasonably be

expected to affect the Trustee's judgment with respect to a transaction in a manner adverse to DDCO.

An Interested Transaction is involved when a Trustee or an associate of a Trustee:

- has a financial or personal interest in a contract or transaction to which DDCO is to be a party; or
- is contemplating the use of DDCO assets (including its proprietary information); or
- is contemplating a transaction that involves competition with DDCO (including competition with respect to customers, suppliers or employees of DDCO).

The Trustee should seek approval by disinterested Trustees of the Interested Transaction and should, subject to any confidentiality obligations owed to others outside DDCO, first disclose that interest to the Board members who will act on the matter, and then describe all the material facts concerning the matter known to the Trustee. After such disclosure, the interested Trustee should abstain from voting on the matter and, in most situations, after disclosing the interest, describing the relevant facts and responding to any questions, leave the meeting while the disinterested Trustees complete their discussion and vote. While a Trustee generally has a right to access DDCO information in order to perform the duties of a Trustee, a Trustee who has a conflict of interest shall be excluded from information of DDCO which could be used adversely to DDCO's interest.

In certain situations, DDCO may be party to a contract governing an Interested Transaction. In such cases, the provisions of the contract shall govern the relationship in place of this policy.

The duty of loyalty requires that a Trustee make a business opportunity available to DDCO – generally, if it is related to the business of DDCO (including any subsidiary or affiliate) – before the Trustee may pursue the opportunity for the Trustee's own or another's account. Whether such an opportunity must first be offered to the Company will often depend upon one or more of the following:

- the correlation of the opportunity to the Company's existing or contemplated business;
- the circumstances in which the Trustee became aware of the opportunity;
- the possible significance of the opportunity to the Company and the degree of interest of DDCO in the opportunity; or
- the reasonableness of the basis for DDCO to expect that the Trustee should make the opportunity available to DDCO.

If a Trustee believes that a contemplated transaction might be found to be a corporate opportunity, the Trustee should bring it to the attention of the Board. If

the Board, acting through its disinterested Trustee, disclaims interest in the opportunity on the part of DDCO, then the Trustee is free to pursue it.

The Governance Committee will investigate and make recommendations to the Board concerning Interested Transaction. All Interested Transaction issues for the Board should first be brought to the Governance Committee's attention. Trustees may request the Board to grant exceptions to this policy. The Board may grant exceptions on a case-by-case basis or on a generalized basis when it deems such exceptions to be in the best interest of DDCO. Disclosures of conflicts of interest and the results of the disinterested Trustees consideration of the matter should be documented in the minutes or reports of the meeting.

DDCO shall consider seeking appropriate independent advice when an Interested Transaction is significant.

### **34) Board Business Ethics Policy.**

**It is the policy of the Board** that DDCO have a Business Ethics policy. The State of Colorado, by granting DDCO tax-exempt status, has entrusted the members of the Board to oversee the operations of DDCO in pursuit of its mission of improving the oral health of the communities it serves. This is why the members of the Board are called "Trustees" rather than "Directors", and it is a title, which each member of the Board wears with pride, and with sober recognition of the weight of that trust and the resultant responsibility. With this trust comes the belief that DDCO should not only do the right thing, but should go about doing the right thing by the right means.

The Board also recognizes that one of the most valuable assets of DDCO is its reputation for honesty and integrity, and that DDCO's ethical performance is equal to the sum of the ethical performance of each of its leaders and employees. While the law provides the legal standards of business conduct, the Board believes that DDCO should strive for a level of ethical business conduct, which protects and enhances this valuable asset.

These concepts of business ethics are quite simple: In the conduct of business or any activity related to DDCO, it's not okay to lie, it's not okay to cheat, it's not okay to steal, it's not okay to deny responsibility for things we did wrong, it's not okay to treat others in a manner in which we would not wish to be treated, it's not okay to violate the law or company policy, and it's not okay to knowingly allow others to get away with doing any of these things.

While the intention of DDCO's Code of Conduct is to reflect standards of legal compliance, it is in response to this sacred trust, and in recognition of DDCO's reputation as a strategic asset, that the Board has taken this additional step to focus the attention of DDCO on these important goals and concepts by promulgating this Business Ethics Policy.

DDCO will seek to uphold the highest commonly accepted standards of business ethics in the decisions and actions of its Trustees, non-Trustee Board Committee members, officers, and employees throughout DDCO. Adherence to these same standards is expected of its agents and business associates as well, in that illegal or unethical activities by these entities could reflect negatively on DDCO's reputation and the manner in which it desires to do business.

Pursuant to this policy, DDCO management is hereby directed to:

- Enact appropriate measures that will enable all employees to understand and adhere to the requirements and goals contained in the Code of Conduct and the Business Ethics Policy.
- Take appropriate action to prevent false, misleading, exaggerated or inflated claims or other misrepresentations regarding DDCO's plans, products, systems, capabilities, activities, or resources from being distributed to our existing or prospective subscribers, providers, regulators, auditors, business associates or the public at large.
- Communicate and provide training regarding ethical standards to all employees; design, implement and review systems for monitoring adherence to these standards; and regularly report to the Governance Committee on the efficacy and appropriateness of these systems.
- Ensure that DDCO does not engage in illegal or unfair anticompetitive trade practices.
- Pursue all reasonable efforts to use natural resources as efficiently as possible.
- Provide personal certification by President/CEO and CFO as to the completeness and accuracy of all financial reports to be distributed outside DDCO.
- Take appropriate action upon discovery of engagement in unethical or illegal practices by its agents or business associates, up to and including termination of the business relationship with that entity or person.

Pursuant to this policy, the Governance Committee shall be responsible for overseeing that Trustees and non-Trustee Board Committee members adhere to the applicable aspects of the Code of Conduct and the goals of this policy. The Board Chair and an ad hoc Committee of the Chair's Trustee designees shall oversee the investigation into allegations of improper, unethical or illegal conduct by Trustees, non-Trustee Board Committee members, Senior Leadership Team members and/or President/CEO and shall make recommendations based upon the results of such investigation to the Governance Committee. The Governance Committee shall make a final determination on the matter and take whatever action it deems appropriate under the circumstances.

The Governance Committee also shall be responsible for providing appropriate initial and ongoing education to Trustees and non-Trustee Board Committee members regarding business ethics.

The Governance Committee will annually review the appropriateness and efficacy of this policy, presenting any recommended changes to the Board for approval.

Approved by the Governance Committee: July 20, 2010

Approved by the Board of Trustees:

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Board Chair, Cynthia Evans

\_\_\_\_\_  
Date