

BEFORE ALLAN L. MCVEY, INSURANCE COMMISSIONER  
OF THE STATE OF WEST VIRGINIA

*In the Matter of:*

**DELTA DENTAL OF WEST VIRGINIA, INC.**

Administrative Proceeding No. 21-IC-02019

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ADOPTING  
REPORT OF MARKET CONDUCT EXAMINATION

NOW COMES, Allan L. McVey, Insurance Commissioner of the State of West Virginia (hereinafter, “Commissioner”), who, after consideration of the *Report of Market Conduct Examination* (hereinafter, the “*Examination Report*”) of Delta Dental of West Virginia, Inc. (hereinafter, “Delta Dental”) for the examination period ending December 31, 2020, made the following findings of fact and conclusions of law and order.

FINDINGS OF FACT

1. The market conduct examination focused on select standards contained in the *Market Regulation Handbook*. The examination was conducted in accordance with *W. Va. Code* §33-2-9(c) by examiners duly appointed by the Commissioner. The examination began on May 12, 2021 and concluded on December 21, 2021.

2. On or about February 4, 2022, the examiner filed with the Commissioner, pursuant to *W. Va. Code* §33-2-9, the *Examination Report*.

3. A true copy of the *Examination Report* was provided to Delta Dental and Delta Dental was notified, pursuant to *W.Va. Code* §33-2-9(j)(2), that it could file a submission or rebuttal with the Commissioner. No submissions or rebuttals were filed.

4. As set forth in the *Examination Report*, the examination focused on the methods used by Delta Dental to manage its operations for each of the areas examined, including whether and how Delta Dental complies with West Virginia's statutory and regulatory law.

5. The exam did not discover any instances where Delta Dental was non-compliant with West Virginia law.

6. The Commissioner reviewed the *Examination Report* prior to issuing these findings of fact, conclusions of law and order.

#### CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over the subject matter and the parties to this proceeding.

2. This proceeding is conducted pursuant to and in accordance with *W. Va. Code* §33-2-9.

3. The Commissioner is charged with the responsibility of verifying Delta Dental's continued compliance with West Virginia law.


4. As detailed in the *Examination Report*, Delta Dental was compliant or predominantly compliant with all thirty-seven (37) standards reviewed.

ORDER

Pursuant to *W. Va. Code* §33-2-9(j)(3)(A), following the review of the *Examination Report*, the examination work papers, and Delta Dental's response thereto, it is **ORDERED** as follows:

1. The referenced and attached *Examination Report* is hereby **ADOPTED** and **APPROVED** and by this reference, incorporated herein and made a part hereof; and
2. Delta Dental shall continue to monitor its compliance with applicable West Virginia law.
3. In accordance with *W. Va. Code* §33-2-9(j)(4), within thirty (30) days Delta Dental shall file with the Commissioner, affidavits executed by each of its directors stating under oath that they have received a copy of the *Examination Report* adopted herein and a copy of this Order

Entered this 1<sup>ST</sup> day of March, 2022.

  
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ALLAN L. MCVEY  
Insurance Commissioner  
State of West Virginia

# Report of Market Conduct Examination

As of December 31, 2020



**Delta Dental of West Virginia, Inc.  
One Delta Drive  
Mechanicsburg, PA 17055**

**NAIC COMPANY CODE: 12329  
Examination Number: 21-IC-0219-001**

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February 04, 2022

The Honorable Allan L. McVey, CPCU, ARM, AAI, AAM, AIS  
West Virginia Insurance Commissioner  
900 Pennsylvania Avenue  
Charleston, West Virginia 25302

Dear Commissioner McVey:

Pursuant to your instructions and in accordance with W.Va. Code § 33-2-9 & 33-24-4, an examination has been made as of December 31, 2020 of the business affairs of

Delta Dental of West Virginia  
One Delta Drive  
Mechanicsburg, PA 17055

Hereinafter referred to as the “Company” or “Issuer” or “DDWV”. The following report of the findings of this examination is herewith respectfully submitted.

## **EXECUTIVE SUMMARY**

This is the report of the Market Conduct Examination of Delta Dental of West Virginia conducted by the state of West Virginia (WV), under the authorization of W.Va. Code § 33-2-9. The period covered by the examination was April 1, 2018 through December 31, 2020.

The purpose of the examination was to determine the Company's compliance with West Virginia Statutes and Rules. Examiners determined enrollment periods and benefits are outlined by the group employer (contract holder) as stated in the contract. Further, the Company does not assume any of the obligations required of the Contract holder under the Consolidated Omnibus Budget Reconciliation Act (COBRA). Examiners concluded therefore, to exclude their review of all group enrollment.

The examination commenced on May 12, 2021 and concluded on December 21, 2021. The majority of the examination was conducted via records uploaded from the company on a secure site. The examination primarily focused on the applicable areas of Chapters 16, 20, and 20A of the 2017 NAIC *Market Regulation Handbook*. As the previous Market Conduct exam was completed as of March 31, 2018 and an examination conducted by the WVOIC Financial Conditions Unit as of December 31<sup>st</sup>, 2019, exam tracking number (12329-WV-2019-7), this exam was completed with a reduced standard selection from the previous report, decreasing duplication of effort across certain reviews. Thirty-seven (37) standards were slated for review. The Company was determined to be compliant with thirty-six (36) standards and predominantly compliant with one (1) standard.

*Prior* examination findings included:

- Standard G6 – Online grievance procedures forms - Although no violations were noted, upon review of the Company's online grievance procedures forms, examiners noted the forms directed and referred members to Delta Dental of California, not West Virginia.

Although there were no major areas of concern found during this examination, commented within this report the Company appears to only have partially corrected the above prior finding. The online grievance form now correctly indicates West Virginia and no longer California. However, during review of one (1) grievance file, notes still referenced California regarding state code.

## **SCOPE OF EXAMINATION**

The basic business areas examined were:

- Company Operations/Management
- Marketing and Sales
- Producer Licensing
- Policyholder Service
- Enrollment and Rating
- Claims

- Complaint Handling/Grievances/Appeals

Each business area has standards that were measured during the examination process. Although most standards have statutory or regulatory requirements, others are specific to the Company and contractual guidelines.

The focus of the examination was on the methods used by the Company to manage its operations for each of the business areas subject to this examination. Those areas deemed material were tested to determine if the Company is in compliance with West Virginia statutes and rules.

The examiners may not have discovered every unacceptable or non-compliant activity in which the Company is engaged. The failure to identify or comment on, or criticize specific Company practices does not constitute an acceptance of the practices by the West Virginia Offices of the Insurance Commissioner.

## HISTORY AND PROFILE

Dental of West Virginia (the “Company”) is a West Virginia non-profit corporation incorporated in 1962. The Company has no employees or shareholders. The Company is licensed as a dental service corporation in West Virginia and regulated by the West Virginia Offices of the Insurance Commissioner. The Company sells and administers insured dental service contracts to West Virginia group purchasers and offers plans on and off the Federal Exchange (Exchange, FFM or Marketplace) in West Virginia under the Affordable Care Act.

The Company has a dental administration agreement with Delta Dental Insurance Company (DDIC) to provide sales and administration of ASO dental service contracts for DDIC in West Virginia. The same agreement also has a management agreement with Delta Dental of Pennsylvania (DDP) under which DDP provides claims adjudication and other administrative services for the Company’s insured contracts and carries out the Company’s claim adjudication and other administrative services obligations to DDIC. The Company has a determination letter stating it is a tax-exempt organization described under IRS Section 501(c)(4).

YEAR	MARKET	PREMIUMS	WV MARKET SHARE
2020	Individual Accident & Health	\$30,974,105	4.603%
2020	Group Accident & Health	Included in premiums listed above	2.349%

## METHODOLOGY

The examination was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners (NAIC) and West Virginia’s applicable statutes and regulations. The examiners conducted file reviews and interviews of company management. The examination report is a report by test, rather than a report by exception.



Tests designed to measure the level of compliance with West Virginia’s statutes, rules and regulations were applied to the files selected for review. All standards tested and related results are described in this report.

In the results tables, a “pass” response indicates compliance and a “fail” response indicates a failure to comply for each individual file reviewed. The results of each test applied to a sample are reported separately. The examiners used the NAIC standards of 7% error rate on claims test (93% compliance rate) and 10% error rate on all other tests (90% compliance rate) to determine whether or not an apparent pattern or practice of being compliant, predominantly compliant, or non-compliant existed for any given test.

Initial sample sizes were based on the total population, utilizing the Acceptance Samples Table (AST) found in the 2017 NAIC *Market Regulation Handbook*, Chapter 14-Sampling. As the examination progressed, it was decided that after review of a specific number of files and finding no errors, the review was terminated as risk of non-compliance was minimal. The actual samples and categories reviewed are reflected in the tables throughout the report.

#### **Sampling Methodology – Claims:**

The ACA, federal rule sections 45 CFR §§ 147.150, 147.126, 147.130 and 156.110, requires Companies to provide benefit coverage for the ten (10) Essential Health Benefits (EHB), one (1) being pediatric services (dental), without lifetime or annual limits and without imposing cost sharing on preventive care services performed by in-network providers. The ACA also seeks to ensure benefit coverage for individuals participating in approved clinical trials. Included in these rights, are the non-discrimination requirements related to pre-existing health conditions, dependent coverage up to age 26 and limitations or exclusions due to health status.

To test compliance with the ACA requirements, claims were separated and reviewed into the following two (2) categories for off Exchange:

- Paid
- Closed without payment (CWOP/denied)

#### **Sampling Methodology – Enrollment Samples:**

The enrollment and rating review involved the review of samples for new business, and cancellations/terminations.

The following sample categories were reviewed:

- Enrollment off Exchange (2018 - 2020 plan year)
- Terminations of policies ( 2018 - 2020 plan year)

### **A. COMPANY OPERATIONS/MANAGEMENT**

The evaluation of standards in the Company operations/management business area is based on a review of Company responses to information requests, questions, interviews, and presentations made to examiners. The review is designed to provide a view of the Company structure and how it operates, and is not based on sampling techniques. The review is not intended to duplicate the management review of a financial examination, but to assist the examiners in gaining a better understanding of the examinee. Many troubled companies have become so because management has not been structured to adequately recognize and address problems that can arise. Well-run companies generally have processes that are similar in structure. While these processes vary in detail and effectiveness from company to company, the absence of the processes or the ineffective application of them often result in failure of various standards tested during an examination. The processes usually include:

- A planning function where direction, policy, objectives, and goals are formulated;
- An execution or implementation of the planning function elements;
- A measurement function that considers the results of the planning and execution; and,
- A reaction function that utilizes the results of measurement activities to take corrective action or to modify the process to develop more efficient and effective management of company operations.

**Standard A.1: The regulated entity has an up-to-date, valid internal or external audit program.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §A, Standard 1)

**Test Methodology:**

- Does the Company have an internal and external audit program to detect structural problems before they occur? [W.Va. Code §§ 33-33-1, 3 & 4]

**Examiner Observations:** No exceptions were noted in the prior Market Conduct Exam. Please refer to the Financial Examination noted above for most recent determination.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard A.2: The regulated entity has appropriate controls, safeguards and procedures for protecting the integrity of computer information.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §A, Standard 2)

**Test Methodology:**

- Does the Company have central recovery and backup procedures? [W.Va. Code R. § 114-62-3]

**Examiner Observations:** No exceptions were noted in the prior Market Conduct Exam. Please refer to the Financial Examination noted above for most recent determination.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard A.3: The regulated entity has antifraud initiatives in place that are reasonably calculated to detect, prosecute and prevent fraudulent insurance acts.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §A, Standard 3)

**Test Methodology:**

- Does the Company have an adequate, up-to-date fraud plan in compliance with statutes, rules and regulations? [no statutory requirement]
- Does the Company antifraud plan include procedures for the mandatory reporting of possible fraudulent insurance acts to the insurance commissioner or applicable state regulatory agency pursuant to applicable state statutes, rules and regulations? [W.Va. Code § 33-41-5]

**Examiner Observations:** No exceptions were noted.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard A.4: The regulated entity has a valid disaster recovery plan.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §A, Standard 4)

**Test Methodology:**

- Does the Company have a disaster recovery plan that will detail procedures for continuing operations in the event of any type of disaster? [no statutory requirement]

**Examiner Observations:** No exceptions were noted.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard A.7: Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §A, Standard 7)

**Test Methodology:**

- Does the Company maintain records in compliance with state record retention requirements? [W.Va. Code § 33-2-9, and W.Va. Code R. § 114-15-4]
- Does the Company adhere to QHP Participation Standard records retention requirements of ten (10) years? [W.Va. Code R. § 114-96-3]

**Examiner Observations:** The Company's records retention schedule was reviewed, and it was determined to be compliant with both state and federal retention requirements.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard A.8: The regulated entity is licensed for the lines of business that are being written.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §A, Standard 8)

**Test Methodology:**

- Does the Company have Certificates of Authority for the lines of business written? [W.Va. Code §33-3-1]

**Examiner Observations:** The Company is properly licensed as a stand alone dental plan as required. Please refer to the Financial Examination noted above for most recent determination.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard A.9: The regulated entity cooperates on a timely basis with examiners performing the examinations.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §A, Standard 9)

**Test Methodology:**

- Did the Company provide records in a timely basis? [W.Va. Code § 33-2-9 and W.Va. Code R. §114-15-4.9a]

**Examiner Observations:** Company's representatives were cooperative and generally responded to examiners inquiries within the required timeframes.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard A.10: The regulated entity has policies and procedures to protect the privacy of nonpublic personal information relating to its customers, former customers and consumers**

**that are not customers.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §A, Standard 12)

**Test Methodology:**

- Do the Company policies, practices and procedures regarding protection and disclosure of nonpublic personal information of customers, former customers and consumers who are not customers comply with applicable state laws regarding privacy? [W.Va. Code R. §§ 114-57-11 and 114-62-5]

**Examiner Observations:** No exceptions were noted.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard A.11: The regulated entity provides privacy notices to its customers and, if applicable, to its consumers who are not customers regarding treatment of nonpublic personal financial information.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §A, Standard 13)

**Test Methodology:**

- Do the Company privacy notices comply with applicable state laws? [W.Va. Code R. §§ 114-57-2 and 114-57-5]
- Does the Company provide privacy notices timely as required by applicable state laws? [W.Va. Code R. §§ 114-57-4 and 114-57-8]

**Examiner Observations:** The examiners reviewed Company procedures, templates and website regarding privacy notices. The Company provides multiple links to all privacy notices on its website and provides information on how to request a printed notice. The notice describes in detail how health information about the customer may be used and given out, as well as how the customer may request the same information. The notice includes contact information for DDWV for additional requests. No exceptions were noted.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard A.12: If the regulated entity discloses information subject to an opt-out right, the regulated entity has policies and procedures in place so that nonpublic personal financial information will not be disclosed when a consumer who is not a customer has opted out, and the regulated entity provides opt-out notices to its customers and other affected consumers.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §A, Standard 14)

**Test Methodology:**

- Does the Company provide consumers the opportunity to opt out before nonpublic personal information is disclosed? [W.Va. Code R. § 114-57-6]
- Does the Company have the capability to keep nonpublic personal financial information from being unlawfully disclosed to nonaffiliated third parties when a consumer has opted out? [W.Va. Code R. § 114-57-9]

**Examiner Observation:** The Company does not allow disclosure to nonaffiliated third parties without an opt out disclosure signed by the member.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard A.13: The regulated entity's collection, use and disclosure of nonpublic personal financial information are in compliance with applicable statutes, rules and regulations.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §A, Standard 15)

**Test Methodology:**

- Does the Company comply with regulations regarding disclosing nonpublic personal financial information of its customers or consumers who are not customers to nonaffiliated third parties for joint marketing purposes? [W.Va. Code R. § 114-57-11]

**Examiner Observations:** The Company's policies do not allow the disclosure of nonpublic personal financial information to nonaffiliated third parties without an opt out notice signed by the consumer.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard A.14: In states promulgating the health information provisions of the NAIC model regulation, or providing equivalent protection through other substantially similar laws under the jurisdiction of the insurance department, the regulated entity has policies and procedures in place so that nonpublic personal health information will not be disclosed, except as permitted by law, unless a customer or a consumer who is not a customer has authorized the disclosure.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §A, Standard 16)

**Test Methodology:**

- Does the Company obtain valid authorizations from customers and consumers who are not customers before disclosing its nonpublic personal health information, except to the extent such disclosures are permitted? [W.Va. Code R. § 114-57-15]

**Examiner Observations:** The Company obtains authorizations as required for disclosure of nonpublic personal health information to non-affiliated third parties. No exceptions were noted.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard A.15: Each Licensee shall implement a written information security program for the protection of nonpublic customer information.** (2017 NAIC Market Regulation Handbook, Chapter 16, §A, Standard 17)

**Test Methodology:**

- Does the Company have procedures for the security of information? [W.Va. Code R. § 114-62-1 et seq.]
- Does the Company have procedures in place to protect the entity's database(s) from various hazards, including environmental? [W.Va. Code R. § 114-62-1]

**Examiner Observations:** No exceptions were noted.

**Examiner Recommendations:** None

**Results:** Compliant

## **B. MARKETING AND SALES**

The evaluation of standards in this business area is based on review of Company responses to information requests, questions, interviews, and presentations made to the examiner. This portion of the examination is designed to evaluate the representations made by the Company about its product(s). It is not typically based on sampling techniques but can be. The areas to be considered in this kind of review include all media (radio, television, videotape, etc.), written and verbal advertising and sales materials.

**Standard B.1 All advertising and sales materials are in compliance with applicable statutes, rules and regulations.** (2017 NAIC Market Regulation Handbook– Chapter 16, § C, Standard 1)

**Test Methodology:**

- Are advertising materials free from misrepresentations of policy benefits or false, deceptive or misleading statements. [W. Va. Code R. § 114-10-1 et seq.]

- Do all advertising materials disclose the name of the Company, comply with applicable statutes, rules and regulations and cite the source of statistics used? [W. Va. Code R. § 114-10-1 et seq.]

**Examiner Observations:** Advertising materials are reviewed by the WVOIC Rates and Forms Division prior to use. No exceptions noted.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard B.2 Company internal producer training materials are in compliance with applicable statutes, rules and regulations.** (2017 NAIC *Market Regulation Handbook*– Chapter 16, § C, Standard 2)

**Test Methodology:**

- Do all producer training materials comply with state statutes, rules and regulations? [W. Va. Code § 33-11-1 et seq.]

**Examiner Observations:** The Company provided training materials for newly appointed producers. Training format is web based via Company portal and phone based lunch and learn powerpoint presentations. Product material covered includes but was not limited to DDWV Enterprise Compliance of privacy, security, fraud & language assistance programs – general dental industry information and continuing education courses for oral health.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard B.3 Outline of coverage is in compliance with all applicable statutes, rules and regulations.** (2017 NAIC *Market Regulation Handbook*– Chapter 20 § C, Standard 2 & Chapter 20A Summary of Benefit and Coverage, Standard 2)

**Test Methodology:**

- Are outlines of coverages approved by the WVOIC? [W. Va. Code § 33-28-6]
- Are all health policy mandated benefits and benefit limitations completely and accurately described? [W. Va. Code § 33-28-6]
- Does the Company make the Summary of Benefits and Coverage, Uniform Glossary and Evidence of Coverage (EOC) available without cost to consumers, when “shopping,” upon application for insurance, or during a plan or policy year? [45 CFR § 147.200]



**Examiner Observations:** Since West Virginia is a plan management and prior approval state, all policy documents including Evidence of Coverage (EOC), Schedule of Benefits, and Summary of Benefits and Coverage (SBC) are reviewed for the above criteria by the WVOIC Rates and Forms Division prior to use. Examiners also verified that the current SBCs and EOCs are provided upon policy renewal and policy effectuation for individual enrollees. The Company has documents available on its website without login to access. For those without internet access, information is made available by trained staff via phone calls, as well as information being available from direct calls to the Marketplace. Contract holders of group plans provide each enrollee electronic access to the SBC and EOC supplied by the Company and upon request, the Company will also furnish a hard copy to both the enrollee or the contract holder to distribute. These are also reviewed for the above criteria by our Rates and Forms Division prior to use.

**Examiner Recommendations:** None

**Results:** Compliant

## C. PRODUCER LICENSING

The evaluation of standards for this business area is based on the review of the CMS database, the West Virginia Offices of the Insurance Commissioner (WVOIC) records, and the Company responses to information requests, questions, interviews, and presentations made to the examiners. The producer licensing review is designed to test the Company's compliance with federal and state producer licensing laws and rules.

**Standard C.1: The producers are properly licensed, appointed, and have appropriate continuing education (if required by state law) in the jurisdiction where the application was taken.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §D, Standard 2)

**Test Methodology:**

- Are Company producer appointments effective within fifteen (15) days of the producer writing business on behalf of the regulated entity? [W.Va. Code § 33-12-18]

**Examiner Observations:** The Company provided a list of licensed producers for the examination period, which matched WVOIC records.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard C.2: Records of terminated producers adequately document reasons for terminations.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §D, Standard 5)

**Test Methodology:**

- Does the Company properly document reasons for producer terminations? [W.Va. Code § 33-12-25]
- Does the Company properly report to the insurance department producer terminations for cause? [W.Va. Code § 33-12-25]

**Examiner Observations:** Although DDWV properly documented terminated producers during the examination period, no terminations were for cause.

**Examiner Recommendations:** None

**Results:** Compliant

## **D. POLICYHOLDER SERVICE**

The evaluation of standards related to the Company's business area of policyholder service is based on responses to information requests, questions, interviews, and presentations made to the examiner, and file sampling performed during the examination process. The policyholder service portion of the examination is designed to test the Company's compliance with statutes regarding billing notices, reinstatements, delays, premium refunds, and coverage questions.

**Standard D.2: Policy issuance and insured requested cancellations are timely.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §E, Standard 2)

### **Test Methodology:**

- Does the Company handle insured requested cancellations in a timely manner without excessive paperwork requirements for the insured? [W.Va. Code § 33-11-1 et seq.]

### **Examiner Observations:**

The Company appeared to issue new policies and process insured requested cancellations timely for the review period.

**Examiner Recommendations:** None

**Results:** Compliant

## **E. ENROLLMENT AND RATING**

The evaluation of standards for the business area related to the Company's enrollment and rating practices were based on responses to information requests, questions, interviews, presentations made to the examiner, and file sample reviews. The application process under Healthcare Reform

no longer involves medical underwriting. This portion of the examination is designed to verify how the Company treats the public and whether that treatment is compliant with applicable statutes, rules and regulations. It is typically determined by testing a random sampling of files and applying various tests to the sampled files. Samples were taken from the population of new business policies issued. In general, declinations and cancellations/terminations were reviewed under the Health Reform standards of guaranteed availability and guaranteed renewability. Federal regulations state that cancellations are a special type of termination of coverage that is retroactive to the inception date. Policy form and rate filings were not reviewed and were considered accepted as in compliance based on prior WVOIC filing and approval.

**Standard E.1: The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the regulated entity's rating plan.** (2017 NAIC Market Regulation Handbook, Chapter 16, §F, Standard)

**Test Methodology:**

- Do the premium rates charged match the premium rates that were filed and approved? [W.Va. Code § 33-16B-1]

**Examiner Observations:** Examiners verified rates charged were the same as those filed and approved by the WVOIC. No exceptions noted.

**Examiner Recommendations:** None

**Results:** Compliant

**Table E.1 Results: New Enrollment Sample**

Type	Population	Sample	Pass	Fail	Standard	Compliance
New Enrollment	1817	35	35	0	90%	100%

**Standard E.3: All forms, including policies, contracts, riders, amendments, endorsement forms and certificates are filed with the insurance department, if applicable.** (2017 NAIC Market Regulation Handbook, Chapter 16, §F, Standard 5)

**Test Methodology:**

- Did the Company use forms and endorsements that were filed and approved by the WVOIC? [W.Va. Code § 33-6-8]

**Examiner Observations:** Examiners found during their review that the Company was only using forms and endorsements filed and approved by the WVOIC.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard E.5: A group health plan, or a health carrier offering group or individual health insurance coverage, that makes available dependent coverage of children shall make such coverage available for children until attainment of 26 years of age.** (2017 NAIC *Market Regulation Handbook*, Chapter 20A, §B, Standard 1)

**Test Methodology:**

- Does the Company have established and implemented enrollment policies and procedures related to extension of dependent coverage for individuals to age 26 in compliance with final regulations established by HHS, DOL and the Treasury? (no statutory requirement)
- Do the plan benefits vary based upon age, except for dependent children who are 26 years of age or older? [45 CFR 147.120(b)]
- Does the health carrier provide a dependent child whose coverage ended with at least a 30-day written notice of the opportunity to enroll in a health benefit plan? [45 CFR 147.120(f)]
- Were the policy forms filed and approved by the state for use in the QHP Marketplace? [W.Va. Code §33-6-8]
- Do marketing materials provided to insureds and prospective purchasers by the Company provide complete and accurate information about extension of coverage for dependents to age 26? [45 CFR § 156.225(b)]

**Examiner Observations:** Examiners did not observe coverage denials or cancellations for dependents up to age 26 during the exam. The Company's enrollment policies and procedures related to the extension of coverage for individuals to age 26 were reviewed and found to be in compliance. It is the policy of the Company to send a written notice thirty (30) days prior to the dependent child, notifying them they will no longer be covered under the existing plan and have the opportunity to enroll in their own plan. Policy forms and marketing materials are reviewed by the WVOIC Rates and Forms Division prior to use.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard E.6: A health carrier offering individual market health insurance coverage shall issue any applicable health benefit plan to any eligible individual who: 1) applies for the plan; 2) agrees to make the required premium payments; and 3) agrees to satisfy the other reasonable provisions of the health benefit plan that are not inconsistent with final regulations established by the U.S. Department of Health and Human Services (HHS), the U.S. Department of Labor (DOL) and the U.S. Department of the Treasury (Treasury).** (2017 NAIC *Market Regulation Handbook*, Chapter 20A, §D, Standard 1)

**Test Methodology:**

- Do the Company enrollment practices related to guaranteed availability provide adequate and appropriate processes to ensure the health carrier makes individual market health insurance coverage available on a guaranteed availability basis to eligible plan applicants in compliance with final regulations established by HHS, DOL and the Treasury? [W.Va. Code § 33-15-2b and 45 CFR § 147.104(a)]
- Do the Company complaint register/logs and complaint files identify complaints pertaining to restriction of guaranteed availability of coverage? [W.Va. Code § 33-15-2b and 45 CFR § 147.104(a)]
- Does the Company maintain proper documentation for correspondence, including website notifications, supporting corrective action provided to an eligible plan applicant who was not offered health insurance coverage on a guaranteed availability basis? [W.Va. Code R. § 114-15-4.2]
- Do the Company marketing materials provided to insureds and prospective purchasers by the health carrier provide complete and accurate information about guaranteed availability of individual market health insurance coverage? [45 CFR § 156.225]

**Examiner Observations:** Examiners reviewed rates schedules, supplements and operating instructions, enrollment guidelines and marketing materials and determined them to be in compliance. The company appeared to issue policies accordingly.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard E.11: Cancellation practices comply with policy provisions, HIPAA and state laws.**  
(2017 NAIC Market Regulation Handbook, Chapter 20, §A, Standard)

**Test Methodology:**

- Did the Company comply with its filed and approved policy provisions with respect to cancellations, terminations and refunds? [W.Va. Code § 33-6-8]

**Examiner Observations:** It is the Company’s policy to terminate coverage due to non-payment of premium, fraud or material misrepresentation, or if the enrollee no longer resides in the state of West Virginia. The Company had 804 individual off Exchange policy cancellations during the review period. Examiners reviewed off Exchange policy cancellations for plan year 2018 through 2020. All policy cancellations reviewed were for non-payment of premium or voluntary termination.

**Examiner Recommendations:** None

**Results:** Compliant

**E. 11 Termination Sample**

Type	Population	Sample	Pass	Fail	Standard	Compliance
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Cancellations	804	34	34	0	90%	100%
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## F. CLAIMS

The evaluation of standards related to the claims business area is based on Company responses to information requested by the examiner, discussions with Company staff, electronic testing of claim databases, and file sampling during the examination process. The claims portion of the examination is designed to provide a view of how the Company treats claimants, and whether that treatment is in compliance with applicable statutes and rules. As stated under the Methodology section, the claims samples were specifically selected to verify compliance with the ACA/QHP and other mandated benefits.

**Standard F.1: Claim files are handled in accordance with policy provisions, HIPAA and state law.** (2017 NAIC Market Regulation Handbook, Chapter 20, §G, Standard 1)

### **Test Methodology:**

- Does the Company handle claims in accordance with policy provisions? [W.Va. Code § 33-45-2 and 45 CFR § 156.1010]
- Does the Company have procedures, training manual, and claim bulletins in place for the proper handling of claims in a fair and nondiscriminatory manner? [W.Va. Code §33-11-4(9)(c)]
- Did the Company pay benefits in accordance with its Evidence of Coverage?
- Did the Company apply cost sharing as indicated by the members plan?
- Were claims denied for appropriate reasons?
- Did the Company include proper language in its adverse determination notices?

**Examiner Observations:** The examiners reviewed sampled populations of both paid and denied claims for adherence to policy provisions as indicated in the table below. Company claims handling procedures were reviewed to ensure adherence to policy contract provisions. Examiners found no instances of noncompliance. Examiner confirmed claims were processed in accordance with policy benefits outlined in members Evidence of Coverage. Examiners review of sampled denial claims found no claims denied inappropriately. Examiners reviewed EOB's associated with claim denials and confirmed they contain procedures for the review of the claim denial.

*Note: Specific review was given to claims regarding processing of PPE (personal protection equipment).* The examiners requested and reviewed a separate population of claims specific to separate procedure codes for PPE. It is expected that standards of oral treatment supports that providers wear masks, use gloves, and ensure usage of sterilized equipment when providing patient care and that reimbursement for such items is included under the correct procedure code. Any denial of benefits for PPE during the examination period were determined to be processed correctly by the company as they were submitted incorrectly from the provider.

**Examiner Recommendations:** None

**Results:** Compliant

**Table F.1 Results: Claims Sample**

Type	Total Population	Paid Sample	Pass	Fail	Standard	Compliance
Paid Claims	7,016	25	25	0	93%	100%
Denied Claims	4,010	25	25	0	93%	100%
TOTAL	11,026	50	50	0	93%	100%

**Standard F.2: Claims are resolved in a timely manner.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §G, Standard 3)

**Test Methodology:**

- Does the Company resolve claims in accordance with state requirements? [W.Va. Code §33-45-2(a)(1) & (a)(3)]

**Examiner Observations:** W. Va. Code § 33-45-2 provides the time standards for “clean claims”; for claims submitted electronically the requirement is thirty (30) days to either pay or deny the claim; for claims submitted by paper the standard is forty (40) days. Although W. Va. has no specific time requirement with respect to non-contracted (out of network) providers, untimely processing of these claims may subject claimants to adverse actions from providers. The Company appears to either pay or deny a claim well within required timeframes regardless of submission type.

**Examiner Recommendations:** None

**Results:** Compliant

**Table F.2 Results: Claims Sample**

Type	Total Population	Paid Sample	Pass	Fail	Standard	Compliance
Paid Claims	7,016	25	25	0	93%	100%
Denied Claims	4,010	25	25	0	93%	100%
TOTAL	11,026	50	50	0	93%	100%

**Standard F.3: Claim files are adequately documented.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §G, Standard 5)

**Test Methodology:**

- Does the Company adequately document all claim files? [W.Va. Code R. § 114-15-4]
- Does the Company maintain claim file documentation in accordance with state retention requirements? [W. Va. Code R. § 114-15-4]

**Examiner Observations:** Examiners reviewed claims files and determined that all are adequately documented.

**Examiner Recommendations:** None

**Results:** Compliant

**Table F.3 Results: Claims Sample**

Type	Total Population	Paid Sample	Pass	Fail	Standard	Compliance
Paid Claims	7,016	25	25	0	93%	100%
Denied Claims	4,010	25	25	0	93%	100%
TOTAL	11,026	50	50	0	93%	100%

**Standard F.4: A health carrier may not deny coverage or restrict coverage for qualified individuals, as defined in applicable statutes, rules and regulations, who participate in approved clinical trials.** (2017 NAIC *Market Regulation Handbook*, Chapter 20A, §A, Standard 1)

**Test Methodology:**

- Does the Company deny, limit or impose additional conditions on the coverage of routine patient costs for items or services furnished in connection with participation in a trial? [W.Va. Code §§ 33-25F-2(c)(1) and (2) and 42 U.S.C. § 300gg-8]
- Does the Company maintain proper documentation for correspondence, including website notifications, supporting corrective action provided to an individual for whom coverage for participation in an approved clinical trial was inappropriately restricted or denied? [W.Va. Code R. § 114-15-4.2]

**Examiner Observations:** The Company has policies and procedures for clinical trials which are compliant with code sections above. There were no benefit requests for covered services in conjunction with clinical trials during the examination period.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard F.5: A health carrier shall not establish any lifetime or annual limit on the dollar amount of essential health benefits (EHB)s for any individual, in accordance with final regulations established by the U.S. Department of Health and Human Services (HHS), the U.S. Department of Labor (DOL) and the U.S. Department of the Treasury (Treasury).** (2017 NAIC *Market Regulation Handbook*, Chapter 20A, §F, Standard 1)



**Test Methodology:**

- Does the Company apply lifetime/annual limits on the dollar amount of essential health benefits for any individual, in violation of final regulations established by HHS, the DOL and the Treasury? [45 CFR § 147.126]

**Examiner Observations:** Review of the policy plans determined that no lifetime or annual limits were applied in compliance with 45 CFR § 147.126. There were no instances of lifetime/annual limits found within the claims sample.

**Examiner Recommendations:** None

**Results:** Compliant

**Table F.5 Results: Claims Sample**

Type	Total Population	Paid Sample	Pass	Fail	Standard	Compliance
Paid Claims	7,016	25	25	0	93%	100%
Denied Claims	4,010	25	25	0	93%	100%
TOTAL	11,026	50	50	0	93%	100%

**Standard F.6: A health carrier shall not impose cost sharing requirements upon preventive services, as defined in, and in accordance with final regulations established by the U.S. Department of Health and Human Services (HHS), the U.S. Department of Labor (DOL) and the U.S. Department of the Treasury (Treasury).** (2017 NAIC Market Regulation Handbook, Chapter 20A, §H, Standard 1)

**Test Methodology:**

- Does the Company take appropriate corrective action/adjustments on the insured's policy deductibles, copayments, coinsurance and other cost-sharing mechanisms in a timely and accurate manner when improper assessment of cost-sharing upon insureds occurs? [45 CFR § 147.130]
- Does the Company maintain proper documentation for all correspondence supporting corrective action provided to the insured, including website notifications? [W.Va. Code R. § 114-15-4.2]
- Do the Company's enrollment materials, marketing and sales materials, and other information disseminated to applicants/proposed insureds, insureds and claimants provide complete and accurate information about the restriction of cost-sharing methods the health carrier may impose on the insured for preventive items and services described in the final regulations established by HHS, the DOL and the Treasury? [W.Va. Code § 33-11-4 and 45 CFR § 155.225]
- Does the Company properly apply deductibles, co-payments, coinsurance and other methods of cost-sharing on preventive items and services, in accordance with final regulations established by HHS, the DOL and the Treasury? [45 CFR § 147.130]

**Examiner Observations:** Examiners review of benefit plan documents and claims determined that the company does not impose cost sharing requirements upon preventive services, as defined in, and in accordance with final regulations established by the U.S. Department of Health and Human Services (HHS), the U.S. Department of Labor (DOL) and the U.S. Department of the Treasury (Treasury).

**Examiner Recommendations:** None

**Results:** Compliant

**Table F.6 Results: Claims Sample**

Type	Total Population	Paid Sample	Pass	Fail	Standard	Compliance
Paid Claims	7,016	25	25	0	93%	100%
Denied Claims	4,010	25	25	0	93%	100%
TOTAL	11,026	50	50	0	93%	100%

## **G. COMPLAINTS/GRIEVANCES/APPEALS**

Evaluations of the standards in the Company’s complaint handling business area are based on Company responses to various information requests and the review of complaint files at the Company. Complaints reviewed included “direct” consumer complaints and complaints received from the Office of the Insurance Commissioner. There are competing regulatory and statutory requirements for Health Entities regarding complaints and grievances. The definition of a complaint is, “...any written communication primarily expressing a grievance.” There are no specific regulatory or statutory timeframes regarding responses to complaints received at the Offices of the Insurance Commissioner; however, the WVOIC Consumer Services Division has adopted a fifteen (15) working day timeframe for responses to its office.

W.Va. Code § 33-11-4(10) requires the Company to “...maintain a complete record of all complaints which it has received since the date of its last examination.” The statute also requires that the Company maintain records to indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint.

DDWV is domiciled and licensed in West Virginia as a dental service corporation and provides only limited scope dental benefits on a stand alone basis. The regulatory requirements of West Virginia’s Health Plan Issuer Internal Grievance Procedures specifically apply to health benefit plans offered by issuers as defined under W.Va. Code R. § 114-96-2.18 and therefore excludes limited scope dental benefits and issuers. DDWV maintains an internal grievance/appeal procedure which can be accessed on line or by contacting the company directly. An enrollee grievance may be submitted via telephone, written correspondence, website, fax or email. A written acknowledgement from the Company is sent to the enrollee within five (5) calendar days following receipt of the appeal or grievance. A written decision is sent to the enrollee within thirty

(30) days [or 60 days under group health plans subject to the Employee Retirement Income Security Act of 1974 (ERISA)]. If more information or time is needed by the Company for review, the enrollee will be informed of the pending status of their grievance.

**Standard G.1: All complaints are recorded in the required format on the regulated entity's complaint register.** (2017 NAIC Market Regulation Handbook, Chapter 16, §B, Standard 1)

**Test Methodology:**

- Does the Company record and maintain a complaint register with all required information? [W.Va. Code R. § 114-15-4.6]

**Examiner Observations:** The Company records and maintains a complaint register and a log of all WVOIC complaints.

**Examiner Recommendations:** None

**Results:** Compliant

**Table G.1 Results: WVOIC Complaints**

Type	Population	Sample	Pass	Fail	Standard	Compliance
WVOIC Complaints	2	2	2	0	90%	100%

**Standard G.2: The regulated entity takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations and contract language.** (2017 NAIC Market Regulation Handbook, Chapter 16, §B, Standard 3)

**Test Methodology:**

- Does the Company respond fully to the issues raised in all complaints? [W. Va. Code R. § 114-53]
- Does the Company adequately document all complaint files? [W. Va. Code R. §§ 114-53 & 96 & 15-4 & 45 CFR 147.136 (b)(3)(ii)(H)]

**Examiner Observations:** Examiners reviewed all WVOIC complaints and grievances involving adverse determinations and found all were responded to fully. Files were adequately documented.

**Examiner Recommendations:** None

**Results:** Compliant

**Table G.2 Results: WVOIC Complaints**

Type	Population	Sample	Pass	Fail	Standard	Compliance
WVOIC Complaints	2	2	2	0	90%	100%

**Standard G.3: The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules and regulations.** (2017 NAIC *Market Regulation Handbook*, Chapter 16, §B, Standard 4)

**Test Methodology:**

- Does the Company respond timely, within 15 working days, to the issues raised in all complaints received by the WVOIC? [There are no specific regulatory or statutory timeframes regarding responses to complaints received at the Offices of the Insurance Commissioner; however, the WVOIC Consumer Services Division has adopted a fifteen (15) working day timeframe for responses to its office. ]

**Examiner Observations:** The review of WVOIC complaints determined that the Company timely responded to the WVOIC Consumer Services Division.

**Examiner Recommendations:** None

**Results:** Compliant

**Table G.3 Results: WVOIC Complaint Timely Response Sample**

Type	Population	Sample	Pass	Fail	Standard	Compliance
WVOIC Complaints	2	2	2	0	90%	100%

**Standard G.4: A health carrier offering individual health insurance coverage shall maintain records of all claims and notices associated with the internal claims and appeals process for the length of time specified in the final regulations established by the U.S. Department of Health and Human Services (HHS), the U.S. Department of Labor (DOL) and the U.S. Department of the Treasury (Treasury).** (2017 NAIC *Market Regulation Handbook*, Chapter 20A, §C, Standard 1)

**Test Methodology:**

- Does the Company maintain and make available grievance records for at least six years for all grievances? [45 CFR § 147.136(b)(3)(H)]
- Does the Company maintain all QHP documents and records for at least ten (10) years? [45 CFR § 156.705(c)]

**Examiner Observations:** The Company has written policies and procedures which are compliant with the above referenced regulations stating that all grievance records are retained for at least ten (10) years.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard G.5: A health carrier has implemented grievance procedures, disclosed the procedures to covered persons, in compliance with applicable state statutes, rules and regulations, and files with the commissioner a copy of its grievance procedures, including all forms used to process a grievance and comply with grievance procedures requirements, in accordance with final regulations established by the U.S. Department of Health and Human Services (HHS), the U.S. Department of Labor (DOL) and the U.S. Department of the Treasury (Treasury).** (2017 NAIC *Market Regulation Handbook*, Chapter 20, §H, Standard 3 & Chapter 20A, §C, Standard 2)

**Test Methodology:**

- Does the Company have procedures for and conduct first level reviews of grievances involving an adverse determination to include a statement of a covered person's right to contact the insurance commissioner's office or ombudsman's office for assistance at any time, and include the telephone number and address of the insurance commissioner or ombudsman's office in compliance with applicable statutes, rules and regulations? [42 U.S.C. § 300gg-19 and 45 CFR § 147.136]
- Did the examiners observe any instances of member communications that could be construed as a grievance that were not treated as such?
- Does the Company maintain a grievance register consisting of written records to document all first level and expedited grievances received during a calendar year (the register) in the format prescribed by law? [W.Va. Code § 33-11-4(10)]

**Examiners Observation:** The company has grievance procedures for handling grievances, which are communicated to the members online, the EOB's and EOC's. Examiners observed no additional instances of member communications that could have been construed as a grievance in their review of enrollment and claims files.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard G.6: The health carrier shall conduct first-level reviews of grievances involving an adverse determination in accordance with final regulations established by the U.S. Department of Health and Human Services (HHS), the U.S. Department of Labor (DOL) and the U.S. Department of the Treasury (Treasury).** (2017 NAIC *Market Regulation Handbook*, Chapter 20A, §C, Standard 3)

**Test Methodology:**

- Does the Company ensure that the first level review is conducted in a manner to ensure the independence and impartiality of the individuals involved in making the review decision? [45 CFR § 147.136(b)(2)(ii)(D)]
- Does the Company provide the notice in a culturally and linguistically appropriate manner in accordance with federal regulations? [45 CFR § 147.136(b)(2)(ii)(E)]
- Does the Company provide the notice as required in case of disenrollment or rescission, as included in the definition of adverse determination? [45 CFR § 147.136(b)(3)(ii)(A)]

**Examiner Observations:** The examiners reviewed the Company’s claims appeal procedures of adverse determinations and verified reviews are conducted by a person who is neither the individual who made the claims denial subject to the review, nor the subordinate of such individual.

Upon review of the Company’s online grievance procedures forms, examiner noted that seven (7) grievances were actually duplicates and indicated as “N/A” in the table below. Of the remaining files reviewed it was noted that one (1) grievance was not responded to within sixty (60) days, as required by W.Va. Code R. § 114-96-5.6c. The Company agreed with the examiner findings and initiated corrective action prior to the examination conclusion. The company advised they were implementing an automated system to log grievances and ensure timely responses in the future.

**Examiner Recommendations:** None

**Results:** Predominantly Compliant

**Table G.6 Results: Grievance/Appeal Sample**

Type	Population	N/A	Sample	Pass	Fail	Standard	Compliance
Grievance/Appeals Adverse Determination PPO (Off Exchange)	42	7	35	34	1	90%	97%

**Standard G.7: The health carrier shall conduct expedited reviews of urgent care requests of grievances involving an adverse determination in accordance with final regulations established by the U.S. Department of Health and Human Services (HHS), the U.S. Department of labor (DOL) and the U.S. Department of the Treasury (Treasury).**  
(2017 NAIC Market Regulation Handbook, Chapter 20A, §C, Standard 4)

**Test Methodology:**

- Does the Company have established and implemented written policies and procedures regarding receiving and resolving expedited review of urgent care requests of grievances involving an adverse determination in accordance with final regulations established by HHS, the DOL and the Treasury? [45 CFR § 147.136(b)(2)(ii)(A)]
- Does the Company provide the notice in a culturally and linguistically appropriate manner in accordance with federal regulations? 45 CFR § 147.136(b)(2)(ii)(E)]

**Examiner Observations:** Examiners reviewed the Company’s internal policy and procedures for circumstances involving an expedited, urgent or emergency grievance. An emergency grievance

is to be acknowledged and resolved within three (3) calendar days if the enrollee is posed with imminent and serious threat to their health.

**Examiner Recommendations:** None

**Results:** Compliant

## **SUMMARY OF RECOMMENDATIONS**

The Company should continue to take steps to ensure all WV business is associated with all references and codes to WV only.



## EXAMINER'S SIGNATURE AND ACKNOWLEDGEMENT

The examiner would like to acknowledge the cooperation and assistance extended by the Company during the course of the examination.

In addition to the undersigned, Desiree D. Mauller, CIE, CWCP, MCM with the West Virginia Offices of the Insurance Commissioner also participated in this examination.

  
Jeremy D. White, APIR  
Examiner-in-Charge

**EXAMINER'S AFFIDAVIT**

**State of West Virginia**

**Kanawha County**

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

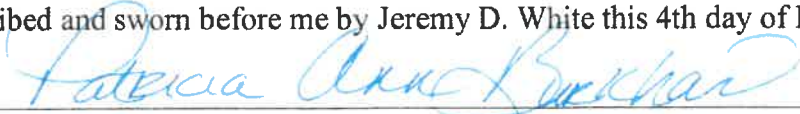
I, Jeremy D. White, being duly sworn, states as follows:

1. I have the authority to represent West Virginia in the examination of Delta Dental of West Virginia.
2. I have reviewed the examination work papers and examination report, and the examination of Delta Dental of West Virginia was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.

  
\_\_\_\_\_  
Jeremy D. White, APIR  
Examiner-in-Charge

Subscribed and sworn before me by Jeremy D. White this 4th day of February 2022.

  
\_\_\_\_\_

Notary Public

My commission expires: May 6, 2024

