DELTA DENTAL®

February 10, 2017

BY EMAIL AND FIRST CLASS MAIL

Commonwealth of Massachusetts
Division of Insurance
1000 Washington Street, Suite 810
Boston, MA 02118
Attn: Hearing and Appeals

Re: Petition of Massachusetts Dental Society Pursuant to M.G.L. c. 176E

Dear Sir or Madam:

Delta Dental of Massachusetts ("DDMA") writes to correct two key inaccuracies in the Massachusetts Dental Society ("MDS")'s February 3, 2017 letter (the "Letter") regarding its Petition for a Hearing pursuant to M.G.L. c. 176E.

First, and contrary to MDS' claims, DDMA is not "removing its business" from Chapter 176E. As we have emphasized time and again, DSM will continue to offer its existing products for as long as the market wants them. Nor is DDMA attempting to "self-deregulate" by offering additional insurance products under Chapter 175. Indeed, DSM Massachusetts Insurance Company, Inc. has been selling products under Chapter 175 for more than two years, and all of these product offerings have been subject to approval and oversight by the Division of Insurance. MDS' attempts to paint Chapter 175 as the unregulated "wild west" are misplaced. Chapter 175 and its accompanying regulations impose stringent requirements on insurance companies doing business under the statute – which include nearly all of DDMA's competitors in the Massachusetts dental benefits market.[1] DDMA's new product offerings and network development efforts represent an attempt to compete with these insurance companies on a level playing field. Accordingly, DDMA's efforts are far from unprecedented, and are in fact quite commonplace.

Second, MDS erroneously states that Blue Cross and Blue Shield of Massachusetts ("BCBS") is "subject to the same oversight that Delta has been subject to under Chapter 176E, § 4." MDS is mistaken. Although there are certain similarities between Chapter 176E, which applies to Dental Service of Massachusetts, Inc. ("DSM"), and Chapter 176B, which applies to BCBS, MDS' Letter neglects to mention key differences in the two statutes. Most importantly, Chapter 176E, § 4 subjects DSM's provider fee methodology to a public hearing process: "[t]he fees to be paid to participating dentists for their services to the subscribers or to insured dependents, or the method of determining such fees, *shall at all times be subject to a public hearing as provided by section two of chapter thirty A* and to the written approval of the commissioner." (emphasis added). Chapter 176B, in contrast, imposes no such hearing requirement on BCBS. See M.G.L. c. 176B, § 4. In fact, DSM is the only dental carrier in Massachusetts whose provider reimbursement methodology is subject to a public hearing.

The last such public hearings, which occurred in 2008 and 2010, resulted in the development of a new fee methodology, under which DSM is required to increase provider fees each year, in tandem with the national Dental Consumer Price Index. We are not aware of any other dental carrier in Massachusetts who faces this constraint. And while BCBS' provider fees are subject to approval by the Division, BCBS

[1] As noted in DDMA's January 27, 2017 letter to the Division, DDMA's competitors offering PPO products in the Massachusetts marketplace include Aetna, Altus (a for-profit subsidiary of nonprofit Delta Dental of Rhode Island), Ameritas, Assurant, Cigna, Dental Network of America, DenteMax, Guardian, Humana, MetLife, United Concordia, and United HealthCare.

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is not required to increase its fees annually along with Dental CPI; nor is it subject to public hearings on its reimbursement methodology. To the best of our knowledge, the Division has not, in recent history, required BCBS to increase its provider fees by any particular amount. BCBS simply files annual letters with the Division, informing the Division of any proposed increase in its provider fee (or lack thereof). Accordingly, BCBS has nearly as much discretion to determine its own provider fees as Chapter 175 insurance carriers enjoy. The result has been that the typical annual increase in BCBS fees since 2010 has been in the 0% to 1% range.

In addition to these inaccuracies in the Letter, MDS has also failed to address the more fundamental point that there is no basis for the Division to hold a hearing under Chapter 176E with respect to the product offerings and network recruitment activities of a Chapter 175 insurance company.

In sum, despite the unique constraints imposed by Chapter 176E, DSM fully intends to continue offering its existing products (and administering its provider networks that support them), for as long as the marketplace is willing to purchase them. But DDMA must also plan for the future. In an era of rapidly rising health care costs, Massachusetts consumers, employers, and government authorities continue to demand more affordable insurance products and to call for cost-containment measures. DDMA's efforts to meet this demand, alongside all of its competitors, are not only entirely lawful; they are in the best interests of health care consumers throughout the Commonwealth.

Very truly yours,

David Abelman
Executive Vice President, Public Affairs & Chief Legal Officer

cc: Jack A. Eiferman, Esq.