

California Dental Network

A DentaQuest company

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AGENT INFORMATION SHEET

Agent's Name _____

Agency Name _____

Business Address _____

City _____ State _____ Zip _____

Telephone _____ Fax Number _____

Federal Tax I. D. Number _____ CA D.O.I. License # _____
(If other than a sole proprietorship) (If a licensed corporate agent)

Social Security Number _____ Life Agent License # _____

E-mail address _____

Send Notices and Compensation to: Business Home

Home Address _____

City _____ State _____ Zip _____

Telephone _____ Fax Number _____

E-mail address _____

If business is a corporation or partnership, please list officers and shareholders or partners

Name

Title

California Dental Network, Inc.

Agent Agreement

This Agreement is made and entered into by and between California Dental Network, Inc. (herein after referred to as "CDN"), and the Agent identified herein (herein after referred to as "Agent") as of CDN's Approval Date below. In consideration of the mutual covenants contained herein, the parties hereby agree to the following:

1. Agent Shall:

- (a). From time to time as Agent determines appropriate, offer CDN benefit plans to their clients, or potential clients, who reside or have employees or group members who reside, within CDN's service area.
- (b). Procure and submit to CDN applications for enrollment from such clients and, upon acceptance of the application by CDN, enroll or arrange for enrollment of the individuals, employees or group members, and their dependents.
- (c). Be authorized to serve the interest of the individuals, families or groups (contract holders) under their contract with CDN and to solicit new coverage during the terms of their representation.

2. Agent Shall Not:

- (a). Alter any terms of the contract, evidence of coverage, or any marketing materials of CDN, including but not limited to the covered benefit, exclusions or limitations, premium amounts or due dates.
- (b). Collect any funds on behalf of CDN, except in the form of a check made payable to "California Dental Network, Inc.", which must be forwarded to CDN on the first business day following Agent's receipt.

3. CDN Shall:

- (a). Have the sole right to accept or reject applications for individual, family or group enrollment.
- (b). Have the right to approve all marketing, membership, enrollment, educational or informational materials used by Agent in connection with CDN or its benefit plans.
- (c). Have the right to change any of the terms and/or conditions of this Agreement, upon a 30-day notice to Agent, unless the California Department of Managed Health Care or other regulatory agency with competent jurisdiction requires a shorter period. Notwithstanding this provision, CDN may change the Agent Fee set forth in Attachment A at anytime without notice to Agent. Any changes will apply to all new business effective from the date of change. No changes shall apply to any existing business until the renewal or anniversary date of each account.

4. Compensation:

CDN will pay to Agent, as full compensation for the services provided for herein, a monthly Agent Fee as set forth in Attachment-A, "Schedule of Agent Fees". Such Agent Fees shall be based upon the "Net Premiums" received by CDN for "Business affected by Agent".

For purposes of this Agreement:

"Net Premiums" means: Premiums received, less any refunds or credits due to the contract holder for cancellations, termination's, changes in coverage, or other issues that would cause CDN, in its sole opinion, to not have earned the premiums received. Premiums do not include administrative or other processing fees charged by CDN.

"Business affected by Agent," means: Contracts for coverage with individuals, families, or groups where the Agent has the permission of the contract holder to serve their interests under the contract and to solicit new coverage during the term of such representation. CDN may require Agent to provide a Agent of Record letter, in a form acceptable to CDN, from the contract holder as a condition to receive or continuing to receive Agent Fees.

Agent Fees accruing here under shall be payable in the month following CDN's receipt of premiums from the contract holder. Agent acknowledges that CDN does not routinely issue payments of Agent Fees of less than \$5.00. In such cases, Agent Fees will accrue to the benefit of Agent, and will be paid when the total exceeds \$5.00, or is requested by Agent.

Agent Fees maybe offset for amounts due CDN for fees previously paid to Agent in error, on premiums CDN subsequently returned to the contract holder, or that were based on misunderstanding or misrepresentation of Agents right to represent the contract holder. Agent shall refund within 30 days of a notice from CDN any amount due CDN, regardless of CDN's right to offsets contained herein.

5. Term and Termination:

This Agreement shall be effective from the Approval Date below, and shall remain in effect until terminated by either party, with or without cause, by delivering written notice to the other party at least 30 days prior to the effective date of termination. In the event of termination without cause, Agent shall continue to receive Agent Fees on "Business affected by Agents", as set forth in section 4 above, for business effective prior to the termination date, and subject to CDN's rights set forth in Section 3. In the event of termination "For Cause", Agent's right to Agent Fee shall cease upon termination. CDN may terminate this Agreement "For Cause" in the event Agent:

- 1. Violates any law, regulation or policy of the Knox-Keene Health Care Service Plan Act, the California Department of Managed Health Care or the California Department of Insurance;
- 2. Violates any material provision of this Agreement, or fails to strictly observe any rules, regulations, requirements, policies or instructions of CDN;
- 3. Makes any representation or performs any fraudulent or dishonest act affecting CDN or its groups or members.

6. Independent Contractor Status:

Agent is an Independent Contractor and not an agent or employee of CDN. Agent is solely responsible for the costs and actions of its principles, agents, employees or representative.

7. Compliance with Applicable Laws and Regulations:

This Agreement shall be governed by the laws of the State of California. Both parties shall comply, and cause their employees, representatives, or agents to comply with the requirements of the Knox-Keene Health Care Service Plan Act, and the regulations and pronouncements promulgated by the Department of Managed Health Care thereunder. Agent must notify CDN within 5 day of the initiation of any disciplinary proceeding by the California Department of Insurance or California Department of Managed Health Care, against Agent or its principles, agents, representative or employees.

All records, books and papers of a management company, solicitor firm and any provider or subcontractor providing services to a Knox-Keene Health Care Service Plan shall be open to inspection, during normal business hours, by the Department of Managed Health Care. Agent shall preserve for a period of not less than five (5) years, the first two (2) years of which shall be in an easily accessible place at Agents office, the books of accounts and other records required under the provision of, and for the purpose of the Knox-Keene Act. After such books and records have been preserved for two years, they may be warehoused or stored, or microfilmed, subject to their availability to the Department of Managed Health Care within not more than five (5) days after a request therefor.

8. Arbitration:

Any disputes, controversies, or claims arising out of or relating to the interpretation of this Agreement shall be settled by final and binding arbitration in accordance with the Commercial Arbitration Association, to the extent such rules are not inconsistent with this Agreement. Any award rendered by the arbitrators shall be final and binding upon the parties hereto, and judgment upon any such award may be entered in any court having jurisdiction thereof. Any Arbitration shall be conducted in Orange County, California, and the fees and expenses of the arbitrators shall be borne equally by the parties. Each party shall pay its own fees and costs relating to any arbitration proceedings, including attorney's fees.

9. Entire Agreement:

This Agreement and attachments represent the entire contract between the parties hereto. Any amendments to this Agreement must be prepared by CDN, in written form and delivered to Agents last know address. This Agreement may not be assigned by either party, except that CDN may assign this Agreement to a subsidiary or other Knox-Keene Licensed Health Care Service Plan, upon 30 day written notice to Agent. In the event any provision of this Agreement shall be held invalid or unenforceable in any court of competent jurisdiction, or governmental agency, such ruling shall apply to only those provision, unless this Agreement would thus be rendered impossible to perform in accordance with the intent of the parties as herein stated.

In witness whereof, the parties hereto have entered into this Agreement on the Approval Date indicated below.

Agent:

Name: _____
(Please Print)

By: _____
(Signature)

Date: _____

California Dental Network, Inc.:

By: _____

Approval Date: _____

HIPAA Business Associate Addendum to California Dental Network, Inc. Agent Agreement

This Addendum is effective on April 14, 2004 and amends and is made part of the Agent Agreement ("Agreement") by and between California Dental Network, Inc. ("Covered Entity" or "CE") and the Agent identified in the Agreement ("Business Associate" or "BA"). This Addendum will be considered as duly executed if the BA continues to accept commission payments and/or sells CE's plans until such time as BA sends CE written notice of termination of the Agreement.

CE and BA agree to modify their Agreement to comply with the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as set forth in Title 45, Parts 160 and 164 of the Code of Federal Regulations (the "CFR"). In the event of conflicting terms or conditions, this Addendum shall supersede the Agreement.

Definitions

- A. **"Business Associate"** ("BA") shall mean the Agent identified in the Agreement, and it shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 160.103.
- B. **"Covered Entity"** ("CE") shall mean California Dental Network, Inc.
- C. **"Individual"** shall have the same meaning as the term "individual" in 45 CFR Section 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.02(g).
- D. **"Privacy Rule"** shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- E. **"Protected Health Information"** ("PHI") shall have the same meaning as the term "protected health information" in 45 CFR Section 164.501, limited to the information created or received by BA from or on behalf of CE.
- F. **"Required By Law"** shall have the same meaning as the term "required by law" in 45 CFR Section 164.501.
- G. **"Secretary"** shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- H. **"Designated Record Set"** shall have the meaning given to such term under the Privacy Rule, including, but not limited to 45 CFR Section 164.501.

Obligations and Activities of BA

- A. BA agrees to not use or disclose PHI other than as permitted or required by the Agreement or as Required By Law. BA acknowledges that this Addendum does not in any manner grant BA any greater rights than CE enjoys, nor shall it be deemed to permit or authorize BA to use or further disclose PHI in a manner that would otherwise violate the requirements of HIPAA if done by CE.
- B. BA agrees to develop and use appropriate procedural, physical and electronic safeguards to prevent use or disclosure of the PHI other than as provided for by this Addendum.
- C. BA must limit any use, disclosure, or request for use or disclosure to the minimum amount necessary to accomplish the intended purpose of the use, disclosure or request in accordance with the requirements of HIPAA.
- D. BA agrees to mitigate, to the extent practicable, any harmful effect that is known to BA of a use or disclosure of PHI by BA in violation of the requirements of this Addendum.
- E. BA agrees to report to CE any use or disclosure of the PHI not provided for by this Addendum of which it becomes aware.
- F. BA agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by BA on behalf of CE agrees to the same restrictions and conditions that apply through this Addendum to BA with respect to such information.
- G. BA agrees to provide access, at the request of CE, and in the time and manner designated by CE, to PHI in a Designated Record Set, to CE or, as directed by CE, to an Individual in order to meet the requirements under 45 CFR Section 164.524.
- H. BA agrees to make any amendment(s) to PHI in a Designated Record Set that the CE directs or agrees to pursuant to 45 CFR Section 164.526 at the request of CE or an Individual, and in the time and manner designated by CE. This provision is not necessary if BA does not have PHI in a Designated Record Set.
- I. BA agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by BA on behalf of, CE available to the CE, for Department of Managed Health Care compliance and State confidentiality oversight, or to the Secretary in the time and manner designated by CE or designated by the Secretary, for purposes of the Secretary determining CE's compliance with the Privacy Rule.
- J. BA agrees to document such disclosures of PHI and information related to such disclosures as would be required for CE to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.
- K. BA agrees to provide to CE or an Individual, in a reasonable time and manner or as designated by CE, information collected in accordance with the Agreement, to permit CE to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.
- L. BA agrees to comply with CE's Privacy Policies and Procedures to the extent applicable to BA's activities performed on behalf of CE.

Permitted Uses and Disclosures by Business Associate

General Use and Disclosure Provision:

Except as otherwise limited in this Addendum, BA may use or disclose PHI to perform functions, activities or services for or on behalf of CE as specified in the Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by CE or the minimum necessary policies and procedures of the CE.

Specific Use and Disclosure Provisions:

- A. Except as otherwise limited in this Addendum, BA may use PHI for the proper management and administration of the BA or to carry out the legal responsibilities of the BA.
- B. Except as otherwise limited in this Addendum, BA may disclose PHI for the proper management and administration of the BA, provided that disclosures are Required By Law, or BA obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the BA of any instances of which it is aware in which the confidentiality of the information has been breached.
- C. Except as otherwise limited in this Agreement, BA may use PHI to provide Data Aggregation services to CE as permitted by 42 CFR Section 164.504(e)(2)(i)(B).
- D. BA may use PHI to report violations of law to appropriate Federal and State authorities, consistent with CFR Section 164.502(j)(l).

Obligations of Covered Entity

Provisions for Covered Entity to Inform Business Associate of Privacy Practices And Restrictions:

- A. CE shall provide BA with the notice of privacy practices that CE produces in accordance with 45 CFR Section 164.520m as any changes to such notice.
- B. CE shall notify BA of any limitation(s) in its notice of privacy practices of CE in accordance with 45 DFR Section 164.520, to the extent that such limitation may affect BA's use or disclosure of PHI.
- C. CE shall notify BA of any changes in or revocation of permission by Individual to use or disclose PHI, to the extent that such changes may affect BA's use or disclosure of PHI.
- D. CE shall notify BA of any restriction to the use or disclosure of PHI that CE has agreed to in accordance with 45 CFR Section 164.422, to the extent that such restriction may affect BA's use or disclosure of PHI.
- E. CE agrees to provide BA with a current copy of CE's Privacy Policies and Procedures, as amended from time to time.

Permissible Requests by Covered Entity:

CE shall not request BA to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by CE, except if the BA will use or disclose PHI for data aggregation or management and administrative activities of BA.

Term and Termination

- A. The Term of this Addendum shall be effective as of April 14, 2004 and shall terminate when all of the PHI provided by CE to BA, or created or received by BA on behalf of CE, is destroyed or returned to CE, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- B. For Termination for Cause, upon CE's knowledge of a material breach by BA, CE shall either:
 - 1. Provide an opportunity for BA to cure the breach or end the violation and terminate this Addendum and the Agreement if BA does not cure the breach or end the violation within the time specified by CE.
 - 2. Immediately terminate this Addendum and the Agreement if BA has breached a material term of this Addendum and cure is not possible; or
 - 3. If neither termination nor cure is feasible, CE shall report the violation to the Secretary.
- C. Effect of Termination is as follows:
 - 1. Except as provided in paragraph (2) of this section, upon termination of this Addendum, for any reason, BA shall return or destroy all PHI received from CE, or created or received by BA on behalf of CE. This provision shall apply to PHI that is in the possession of subcontractors or agents of the BA. BA shall retain no copies of the PHI.
 - 2. In the event that BA determines that returning or destroying the PHI is infeasible, BA shall provide to CE notification of the conditions that make return or destruction infeasible. Upon the negotiated terms that return or destruction of PHI is infeasible, BA shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as BA maintains such PHI.

Miscellaneous

- A. **Regulatory References** - References in this Addendum to sections in the Privacy Rule mean the sections as in effect or as amended.
- B. **Amendment** – The Parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for CE to comply with the requirements of the Privacy Rule and HIPAA, Pub. L. No. 104-91.
- C. **Survival** – The respective rights and obligations of BA under Term and Termination Section C of this Addendum shall survive the termination of this Agreement.
- D. **Interpretation** – Any ambiguity in this Addendum shall be resolved to permit CE to comply with the Privacy Rule.