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## **DENTISTS SEEK INSURANCE COMMISSIONER REVIEW OF DELTA DENTAL REORGANIZATION**

### ***Complaint says company misled regulators in order to avoid a membership vote on proposed changes***

SEATTLE, January 9, 2018 – Five dentists have filed a complaint with the Washington State Office of the Insurance Commissioner (OIC) against the board of directors and executive management of Washington Dental Service (which does business in our state as Delta Dental of Washington).

The complaint argues that in granting approval for the company's 2013 corporate restructuring, the OIC relied on inaccurate or incomplete statements provided by or on behalf of the Delta board of directors. It alleges that the board, over a period of four years, pursued this corporate reorganization without notification to the corporation's member dentists and also did not inform the OIC about key facts during the review process.

Among other issues, the complaint alleges that Delta's board informed the OIC that there was no objection to the reorganization from its member dentists without providing notice or soliciting input. In fact, Delta did not provide its member dentists with actual notice of the reorganization until after the process was complete, when it was buried in a footnote to the financial statements in its annual report, published in 2014. Until then, Delta only notified its members of an upcoming name change, and not of the related corporate reorganization.

"Given this lack of full and timely disclosure, member dentists had no opportunity to weigh in, no reason to critically examine how the proposed changes would negatively impact their rights," said Dr. Cynthia Pauley<sup>1</sup>, current president of the Washington State Dental Association (WSDA) and one of the five dentists who filed the complaint. "We had no chance to express any concern or opposition, and no reason to even monitor the OIC website for details on the proposal."

Next, the complaint alleges the board inaccurately told the OIC that the corporation's member dentists had no right to vote to approve the reorganization or proposed amendments to the corporation's articles of incorporation or bylaws, when state law, the company's governing documents, and past practice all required such a vote.

It alleges that the board filings also inaccurately told the OIC that its member dentists would have "the same rights" after the reorganization that they had in the pre-reorganization corporation, despite its intention to significantly limit or eliminate the rights of the corporation's members post-reorganization. One of the board's first actions during the reorganization was to remove some of the corporation's standing committees, including the Member Advisory Committee, from the bylaws.

The complaint argues that, even after obtaining approval of the proposed restructuring, Delta executive management did their best to hide the true impact of the board's actions from

member dentists. The company website continued to display the out-of-date, pre-organization bylaws from 2013 until August 2017, when a Delta member dentist asked to receive the most recently adopted bylaws in preparation for two upcoming special membership meetings.

“The OIC complaint is especially timely and important,” said Dr. Todd Irwin, a WSDA director and one of the five dentists who filed the complaint. “Because Delta’s executive and board leadership is now using the powers it claims it has as a result of the 2013 restructuring as one basis for rejecting many of the bylaws amendments proposed and overwhelmingly adopted by its members. When obtaining approval to restructure the company, Delta did not disclose a series of significant details to state authorities.”

These bylaws amendments would have required that Delta:

- Pay a larger percentage (94%) of the premiums it collects as patient claims or refund the excess to premium-payers;
- Agree to an OIC-established independent review process when disputes arise between the insurer and a provider or patient on a claim (as is the case in the medical insurance arena);
- Require additional disclosures of the company’s administrative, lobbying and advertising expenses;
- Require additional reporting of its claims-paying results; and
- Provide additional venues for membership involvement in decision-making and corporate governance.

Despite these changes being affirmed by more than 91 percent of the member ballots cast, Delta’s board vetoed the majority of the proposed changes, arguing that many were inapplicable as a result of the 2013 restructuring now in question.

The dentists’ OIC complaint asks that Delta be forced to provide all of its member dentists with a full and accurate disclosure of the actual effects of the 2013 reorganization on their rights as members. Further, it requests that the OIC recognize member dentists’ rights provided under state law and the corporation’s pre-2013 governing documents, by providing them an opportunity to vote on whether or not they approve both the 2013 restructuring and all subsequent amendments to the corporation’s articles of incorporation and bylaws undertaken by the board without a member vote.

“We are committed to seeing the organization’s governance structure, operating practices and communications change to support patient care,” said Dr. Bernard Larson, immediate past president of WSDA and one of the five dentists who filed the complaint. “It’s time to begin restoring a level of trust and mutual cooperation between Washington’s dentists, patients, and the state’s largest dental benefits provider.”

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<sup>1</sup>The five dentists filing the complaint are Drs. Cynthia Pauley, Christopher Delecki, Bernard Larson, Nathan Russell, and Todd Irwin.

For more information on the bylaws amendments and voting process, go to [www.wsda.org/delta](http://www.wsda.org/delta)