



7807 E. Peakview Ave., Suite 350  
Centennial, CO 80111

Dear Dr.

Thank you for your interest in the Dentists Professional Liability Trust of Colorado ("The Trust"). Enclosed please find:

- [Professional Liability Coverage Application – New Applicant](#)
- [Dental Implant Surgical Phase Supplement](#)
- [Injectable Neurotoxins Supplement](#)
- [Dermal Fillers Supplement](#)
- [Anesthesia/ Sedation Supplement](#)
- [Business Associate Agreement](#)
- [Participation Agreement](#)
- The [Amended Trust Agreement](#) is attached for your information as well.

Your policy provides \$2 million dollars of dental professional liability coverage, with a \$6 million dollar annual aggregate. This coverage is **exclusive** to dentists who are (or become) a member of the Colorado Dental Association.

Retroactive coverage is available for dentists who have had claims-made policies in the past, if the dental practice was within the State of Colorado.

The premium for this policy will be determined upon completion of underwriting. The Trust does offer two different payment plans for your premiums:

- Payment in full
- Monthly draft from your checking account

This policy does not insure your office equipment, premises liability, etc. These policies may be purchased separately. Please contact our office for more information. We will be happy to work with you for all your insurance needs.

If you have any further questions, please us at 303-357-2600 or 877-502-0100.

Sincerely,

A handwritten signature in black ink that reads "H. Candace DeLapp" followed by a small circular stamp or mark.

H. Candace DeLapp, DDS  
Executive Director  
The Dentists Professional Liability Trust of Colorado  
Berkley Risk

Enclosures



## **Professional Information**

7. Colorado Dental License # \_\_\_\_\_ DEA# \_\_\_\_\_ Expiration Date \_\_\_\_/\_\_\_\_
8. Have you ever been licensed in another state? List all. State \_\_\_\_\_  
License # \_\_\_\_\_ Current? Yes \_\_\_\_\_ No \_\_\_\_\_
9. Dental School Attended: \_\_\_\_\_
10. Month/Year of Graduation \_\_\_\_/\_\_\_\_
11. If you are a Foreign Dental School Graduate, are you certified by the Educational Council for Dental School  
Graduates: Yes No If yes, year of certification \_\_\_\_\_
12. Have you completed a specialty program? Yes \_\_\_\_\_ No \_\_\_\_\_  
Please list \_\_\_\_\_ Date Completed \_\_\_\_/\_\_\_\_
13. Please list any other Professional Licenses: \_\_\_\_\_
14. In consideration of the issuance of this coverage, the applicant agrees to become a member of the Colorado  
Dental Association and maintain membership. \_\_\_\_\_ (initials)
15. What professional organizations are you a member of? ADA  CDA (required)  ADA # \_\_\_\_\_
16. Other: \_\_\_\_\_

## **About Your Practice:**

Employee Dentist  Individual  Partnership  Professional Corporation  Contract Dentist   
Management Service Organization  Dental Franchise

Name of Current Practice: \_\_\_\_\_ How long? \_\_\_\_\_

Additional Locations: \_\_\_\_\_  
\_\_\_\_\_

Name of Partners or Members of Corporation/Employer: \_\_\_\_\_

Are other dentists or contract providers employed by you? Yes No Number Employed \_\_\_\_\_

Are they Trust Dentists? Yes \_\_\_\_\_ No \_\_\_\_\_

Name of Previous Practice: \_\_\_\_\_ How long? \_\_\_\_\_

# License and Claims History

17. Do you have hospital privileges? Yes \_\_\_\_\_ No \_\_\_\_\_

*Please provide details:* \_\_\_\_\_

List Dental Assistants: \_\_\_\_\_

18. Has any dental school or governmental agency, including a state licensing board, ever taken action against either your dental and/or narcotics license including suspension, revocation, probation, restriction, voluntarily surrendered, denial or other sanctions? Yes \_\_\_\_\_ No \_\_\_\_\_

*If yes, provide a copy of the board transcript or other documentation, including resolution.*

19. Have you ever been denied a dental license or been denied certification by a specialty board?

Yes \_\_\_\_\_ No \_\_\_\_\_

*If yes, provide details:* \_\_\_\_\_

20. Have you been under investigation or currently under investigation by any governmental agency including a state licensing board or other regulatory agency including Peer Review?

Yes \_\_\_\_\_ No \_\_\_\_\_

*If yes, provide a copy of the board transcript or other documentation, including resolution*

21. Have you been convicted of any criminal charges? Yes \_\_\_\_\_ No \_\_\_\_\_

*Please provide details:* \_\_\_\_\_

22. Have you ever been or are you currently being treated for:

Alcohol abuse Yes \_\_\_\_\_ No \_\_\_\_\_

Drug Addiction Yes \_\_\_\_\_ No \_\_\_\_\_

Mental Illness Yes \_\_\_\_\_ No \_\_\_\_\_

Physical Disablement Yes \_\_\_\_\_ No \_\_\_\_\_

*If yes, provide a letter from treating physician with complete details*

23. Has any claim or suit for alleged malpractice ever been brought against you? Yes \_\_\_\_\_ No \_\_\_\_\_

*If yes, please complete a Supplemental Report Form for each incident*

24. Are you currently aware of any situation that could lead to a malpractice suit against you?

Yes \_\_\_\_\_ No \_\_\_\_\_

*If yes, please complete a Supplemental Report Form for each incident*

25. Have you had prior Coverage? Yes \_\_\_\_\_ No \_\_\_\_\_

Carrier and dates covered: \_\_\_\_\_

# Procedures Performed

26. Indicate which of the following areas you plan to practice:

- |   |  |
|---|--|
| <input type="checkbox"/> Examination, diagnosis, treatment planning   | <input type="checkbox"/> Preventive Dentistry            |
| <input type="checkbox"/> Prosthodontics, Fixed  | <input type="checkbox"/> Sleep Apnea Therapy             |
| <input type="checkbox"/> Pediatric Dentistry  | <input type="checkbox"/> Prosthodontics, Removable       |
| <input type="checkbox"/> Operative Dentistry  | <input type="checkbox"/> Oral Surgery                    |
| <input type="checkbox"/> Orthodontics   | <input type="checkbox"/> Cosmetic Dentistry              |
| <input type="checkbox"/> Endodontics  | <input type="checkbox"/> TMJ/TMD                         |
| <input type="checkbox"/> Periodontics   | <input type="checkbox"/> Hospital Dentistry              |
| <input type="checkbox"/> Neurotoxins or Dermal Fillers  | <input type="checkbox"/> Deep Sedation                   |
| <input type="checkbox"/> Lasers – used in dental treatment  | <input type="checkbox"/> Molar Endodontics               |
| <input type="checkbox"/> Extraction of Impacted Teeth   | <input type="checkbox"/> Physical Therapy                |
| <input type="checkbox"/> Implant Dentistry (If yes, provide copies of training and certificates)                                  |  |
| <input type="checkbox"/> Surgical Placement (please complete Implant Application)   |  |
| <input type="checkbox"/> Restorative  |  |
| <input type="checkbox"/> Sedation (If yes, provide the required State documentation and complete Anesthesia/Sedation Application) |  |
| <input type="checkbox"/> General Anesthesia   | <input type="checkbox"/> Nitrous Oxide/Oxygen Inhalation |
| <input type="checkbox"/> Moderate Sedation  | <input type="checkbox"/> Minimal Sedation                |
| <input type="checkbox"/> Oral Premedication for anxiety & apprehension  |  |

Who administers the anesthesia?

- You
- Another Dentist or MD Anesthesiologist or CRNA
- Comprehensive Radiographic Survey (FMX)? Yes \_\_\_\_\_ No \_\_\_\_\_
- How frequently? \_\_\_\_\_
- CBCT Imaging
- Is the equipment used on patients other than your own? Yes \_\_\_\_\_ No \_\_\_\_\_
- Are the results read by a radiologist? Yes \_\_\_\_\_ No \_\_\_\_\_
- Cosmetic Dentistry/Rehabilitation/TMJ/TMD (If yes, please provide copies of any training)

27. Do you obtain a dental/medical history for all patients? Yes \_\_\_\_\_ No \_\_\_\_\_

28. Do you personally review it? Yes \_\_\_\_\_ No \_\_\_\_\_

Is that history updated? Yes \_\_\_\_\_ No \_\_\_\_\_

How frequently? \_\_\_\_\_

29. Do you complete patient charts? Yes \_\_\_\_\_ No \_\_\_\_\_

Immediately after treatment                      End of each day                      End of each week

30. Do you have written informed consent documents in your office? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, list for what procedures: \_\_\_\_\_

31. Do you record a comprehensive/detailed treatment plan in the patient's chart? Yes \_\_\_\_\_ No \_\_\_\_\_

*Do you conduct a patient consultation of your treatment plan*

*that is approved and signed by the patient?* Yes \_\_\_\_\_ No \_\_\_\_\_

32. Do you have established emergency procedures, personnel trained in BLS and equipment for patient emergencies such as cardiac arrest, etc.?  
Yes \_\_\_\_\_ No \_\_\_\_\_

Please provide details: \_\_\_\_\_

CPR Certification Date \_\_\_\_\_

\_\_\_\_\_ AED                      \_\_\_\_\_ Emergency Kit

Concealment or Fraud

We provide coverage to no "insureds" under this policy if, whether before or after a loss, an "insured" has:

- Intentionally concealed or misrepresented any material fact or circumstances;
- Engaged in fraudulent conduct; or
- Made false statements relating to this insurance, including but not limited to, statements in the Application and/or Supplemental Application(s) for this insurance.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Dated

## SUPPLEMENTAL REPORT FORM

As indicated in Questions 23, 24 of the Professional Liability Coverage Application, the following information is required. Complete a separate form for each incident/claim or suit regardless of the disposition of the complaint, claim or incident.

(Make copies of this form if you need to report multiple incidents/claims or complaints)

1. Name, age and sex of patient: \_\_\_\_\_
2. Date of first examination: \_\_\_\_\_
3. Dental condition and diagnosis at first examination: \_\_\_\_\_
4. Dates of treatment and nature of treatment: \_\_\_\_\_
5. Date of incident/claim, and allegations made: \_\_\_\_\_
6. Disposition of the incident/claim and amount of judgment or settlement: \_\_\_\_\_
7. What insurance company, if any, was involved: \_\_\_\_\_
8. Subsequent condition/health of the patient: \_\_\_\_\_
9. Name of other doctors, if any, involved in the incident/claim or suit: \_\_\_\_\_
10. To whom may we refer for further information about the claim/suit: \_\_\_\_\_

### Concealment or Fraud

We provide coverage to no “insureds” under this policy if, whether before or after a loss, an “insured” has:

- Intentionally concealed or misrepresented any material fact or circumstances;
- Engaged in fraudulent conduct; or
- Made false statements relating to this insurance, including but not limited to, statements in the Application and/or Supplemental Application(s) for this insurance.

\_\_\_\_\_

Signed

\_\_\_\_\_

Dated



## **Additional Coverages- Supplemental Applications Required**

- Do you need coverage for Surgical Placement of Dental Implants?  
*If yes, please complete Dental Implant Surgical Phase Supplement*

Yes \_\_\_\_\_ No \_\_\_\_\_

- Do you need coverage for administering Dermal Fillers?  
*If yes, please complete Dermal Fillers Supplement*

Yes \_\_\_\_\_ No \_\_\_\_\_

- Do you need coverage for administering Injectable Neurotoxins?  
*If yes, please complete Injectable Neurotoxins Supplement*

Yes \_\_\_\_\_ No \_\_\_\_\_

- Do you need coverage for the administration and inducement of Minimal Sedation (other than N20/O2 alone) or Moderate Sedation?  
*If yes, please complete the Anesthesia/Sedation Supplement*

Yes \_\_\_\_\_ No \_\_\_\_\_





## **Dental Implant Surgical Phase Supplement**

1. In accordance with the requirements governing the surgical placement of dental implants, the following 48 hours of Continuing Education must be completed within the last five years. Please attach copies of all certificates and/or letter of completion.
  - 32 hours of General Implantology (anatomy, diagnostic evaluation, pharmacology, wound healing, biomaterials and periodontics)
  - 16 hours Clinical and hands on experience including training in the system utilized.
2. Only Federal Drug Administration approved implants will be accepted.
3. Although a specific informed consent document is not required, the use of one is strongly advised for all phases of implant treatment.
4. I certify that I am in compliance with all requirements.

### Concealment or Fraud

We provide coverage to no “insureds” under this policy if, whether before or after a loss, an “insured” has:

- Intentionally concealed or misrepresented any material facts or circumstances;
- Engaged in fraudulent conducts; or
- Made false statements relating to this insurance, including but not limited to, statements in the Application and/or Supplemental Application(s) for this insurance.

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Signed

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Dated



## **Injectable Neurotoxins Supplement**

### A. Coverage

Subject expressly to the terms and conditions of the Coverage Agreement, we will pay for the damages as provided for by, and as limited by, the Trust's Coverage Agreement for a claim arising out of or related to professional services which involve the use or administration of Injectable Neurotoxins for purposes authorized under the Dental Practice Law of Colorado.

### B. Exclusions

This Endorsement and the extension of coverage do not apply to any damages or allocated loss adjustment expenses with respect to a claim which involves the use or administration of Injectable Neurotoxins:

1. Arising from any claim where the Named Insured has not used and cannot provide to the Plan's Administrator a signed informed consent form.
2. Arising out of the use or administration to anyone under 18 years old.
3. Arising out of the use on any person with a neuromuscular disease.
4. Arising out of the use of products not approved by the FDA.

### C. Conditions

1. As noted in the Exclusion, the Participant must have a signed consent form for the procedure provided to any patient.
2. The Participant must have completed a CERP or PACE approved training course(s) of four (4) hours which includes hands-on training utilizing Injectable Neurotoxins.
3. The Participant must report any dental incident or claim as soon as it is practicable to the Plan's Administrator.

In accordance with the requirements governing the administration of Injectable Neurotoxins, submit the following:

1. Verification of completion of CERP or PACE approved four (4) hours.
2. Informed consent document to be used.

I certify that that I am in compliance with all requirements listed herein.

#### Concealment or Fraud

We provide coverage to no "insureds" under this policy if, whether before or after a loss, an "insured" has:

- Intentionally concealed or misrepresented any material fact or circumstances;
- Engaged in fraudulent conduct; or
- Made false statements relating to this insurance, including but not limited to, statements in the Application and/or Supplemental Application(s) for this insurance.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Dated

App Inject Neurotoxin.docx



## Dermal Fillers Supplement

### A. Coverage

Subject expressly to the terms and conditions of the Coverage Agreement, we will pay for the damages as provided for by, and as limited by, the Trust's Coverage Agreement for a claim arising out of or related to professional services which involve the use or administration of Dermal Fillers for purposes authorized under the Dental Practice Law of Colorado.

### B. Exclusions

This Endorsement and the extension of coverage do not apply to any damages or allocated loss adjustment expenses with respect to a claim which involves the use or administration of Dermal Fillers:

1. Arising from any claim where the Named Insured has not used and cannot provide to the Plan's Administrator a signed informed consent form.
2. Arising out of the use or administration to anyone under 18 years old.
3. Arising out of the use on any person with a neuromuscular disease.
4. Arising out of the use of products not approved by the FDA.

### C. Conditions

1. As noted in the Exclusion, the Participant must have a signed consent form for the procedure provided to any patient.
2. The Participant must have completed a CERP or PACE approved training course(s) four (4) hours which includes hands-on training utilizing Dermal Fillers.
3. The Participant must report any dental incident or claim as soon as it is practicable to the Plan's Administrator.
4. The use of Dermal Fillers is limited to the face, from the tip of the nose to the chin.
5. The premium for this additional coverage is \$250 per year.

In accordance with the requirements governing the administration of Dermal Fillers, submit the following:

- Verification of completion of CERP or PACE approved four (4) hours.
- Informed consent document to be used.

I certify that that I am in compliance with all requirements listed herein.

#### Concealment or Fraud

We provide coverage to no "insureds" under this policy if, whether before or after a loss, an "insured" has:

- Intentionally concealed or misrepresented any material fact or circumstances;
- Engaged in fraudulent conduct; or
- Made false statements relating to this insurance, including but not limited to, statements in the Application and/or Supplemental Application(s) for this insurance.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Dated



## Anesthesia/Sedation Supplement

In accordance with the requirements governing the administration and inducement of Minimal/Moderate Sedation:

1. I am applying for (Check one):

\_\_\_\_\_ Minimal Sedation Coverage (other than N2O/O2 alone)

Or

\_\_\_\_\_ Moderate Sedation Coverage

2. In accordance with the requirements governing the administration and inducement of Minimal/Moderate Sedation, submit the following:

\_\_\_\_\_ Copy of your Sedation Certificate from the Colorado State Board of Dental Examiners

\_\_\_\_\_ Copies of Courses/ Training completed for State Certificate

3. Please attach if you have:

\_\_\_\_\_ ACLS Certification of PALS Certification (Minimal or Moderate Sedation)

\_\_\_\_\_ Office Inspection – Moderate Sedation

4. I certify that I am in compliance with all equipment and monitoring requirements of the Colorado Dental Practice Act.

### Concealment or Fraud

We provide coverage to no “insureds” under this policy if, whether before or after a loss, an “insured” has:

- Intentionally concealed or misrepresented any material fact or circumstances;
- Engaged in fraudulent conduct; or
- Made false statements relating to this insurance, including but not limited to, statements in the Application and/or Supplemental Application(s) for this insurance.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Dated



**BUSINESS ASSOCIATE AGREEMENT (“HIPAA”)**

This **BUSINESS ASSOCIATE AGREEMENT (“HIPAA”)** (“Agreement”) is entered into effective as of May 29, 2019 or any date thereafter under which “Protected Health Information” is involved (the “Effective Date”) by and between \_\_\_\_\_ the Participant’s dental practice, collectively referred to herein as “**Participant**”, and the **Dentists Professional Liability Trust of Colorado** acting through its Governing Board (“**Trust**”) and its Program Administrator, **Berkley Risk Administrators Company, LLC (“BRS”)**. The Trust and BRS shall be referred to herein as “Business Associate” and all entities shall collectively be referred to as the “Parties.”

The parties acknowledge that under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and its attendant regulations, Participant is a “covered entity” and the Trust and BRS are individually and collectively a “business associate” of Participant. In performance of services under the Coverage Agreement, Business Associate(s) sometimes must use and/or disclose individual identifiable health information (“Protected Health Information including Electronic Protected Health Information”) that is maintained in any form or medium by Participant and Participant’s practice. Business Associate agrees to abide by the obligations set forth in the HIPAA privacy and security regulations and only use and/or disclose the Protected Health Information as permitted or required.

Business Associate may use or disclose Protected Health Information in our possession for the proper management, administration and/or to fulfill any present or future legal responsibilities provided that the disclosures are required by law; or that such uses are permitted under state and federal confidentiality laws; or that we have received assurances of the confidential handling of such Protected Health Information under HIPAA Privacy and Security regulations.

Business Associate will require all subcontractors and agents that perform the services we are obligated to perform under this Coverage Agreement to adhere to the same restrictions and conditions on the use and/or disclosure of Protected Health Information that apply to you and to us for any Protected Health Information that they received, use or have access to.


Upon termination of this Coverage Agreement, the protections of this Business Associate Agreement (“HIPAA”) will remain in force and Business Associate shall make no further uses and/or disclosures of Protected Health Information except for the proper management and administration of its business or as required by law.

**IN WITNESS WHEREOF**, the Parties have executed this Business Associate Agreement as of the Effective Date.

**DENTISTS PROFESSIONAL LIABILITY TRUST  
OF COLORADO AND BERKLEY RISK  
ADMINISTRATORS COMPANY, LLC**

Sign Here

By: **X** \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: *H Candace DeLapp*   
Name: H. Candace DeLapp, DDS  
Title: Executive Director



## **PARTICIPATION AGREEMENT**

**for**

### **DENTISTS PROFESSIONAL LIABILITY TRUST OF COLORADO**

THIS AGREEMENT, is entered by the undersigned "Participant" and The Dentists Professional Liability Benefit Plan, Inc., a Colorado corporation ("Trustee") as Trustee of The Dentists Professional Liability Trust dba Dentists Professional Liability Trust of Colorado ("Trust").

WHEREAS, the Participant, upon acceptance as a Participant in the Trust, is thereby entitled to purchase a professional liability policy upon such conditions as shall be determined from time to time by the Trustee.

NOW, THEREFORE, for and in consideration of the mutual promises herein contained, it is agreed as follows:

1. Participant acknowledges that he has received a copy of the Trust Agreement for Dentists Professional Liability Trust of Colorado (the "Trust Agreement") as revised September 1, 2019 and has reviewed its contents, including the provisions relating to termination of Participation. The Participant agrees to comply with all terms and conditions of the Trust Agreement, including any modifications thereof or supplements thereto, and any coverage agreement between the Trust and Participant, as well as any rules, regulations, eligibility requirements, and policies adopted by the Trustee from time to time; the provisions of all the foregoing, as amended from time to time are incorporated herein by this reference.
2. The Trustee agrees to provide Participant with professional liability coverage in such amounts and upon such conditions as Trustees shall prescribe from time to time, which coverage will be evidenced by a Coverage Agreement (Policy). Nothing in this provision, however, negates or abridges Trustee's rights to cancel or nonrenew a Policy as may be allowed by the terms of the Coverage Agreement and applicable law.
3. The Participant acknowledges that participation in the Trust and any professional liability coverage provided by the Trust are subject to termination as provided in the Trust Agreement, this Participation Agreement, or any professional liability Coverage Agreement provided by the Trustee.
4. Participant acknowledges that the purpose of participation in the Trust is to permit the Participant to purchase professional liability coverage, upon such terms and conditions as the Trustee shall establish. The Trust contributions will be timely paid by Participant as they become due, and will be used to administer and pay claims, and to generate such reserves as the Trustee shall determine are advisable from time to time.
5. Participant agrees that termination or non-renewal of his Participation in the Trust shall automatically terminate the effective claims-made and reporting period remaining, if any, as of the date of termination or non-renewal, and that termination or non-renewal of any coverage provided by the Trust to Participant shall automatically terminate Participant's participation in the Trust. Upon termination or non-renewal of Participant's participation in the Trust, any interest in the Trust assets to which Participant would otherwise be entitled will be forfeited; and the payment of such claims and other benefits as are provided in the Coverage Agreement or other agreement issued by the Trustee to Participant shall be the only continuing benefit to which Participant shall be entitled, the payment thereof to be subject to the provisions of such Coverage Agreement or other agreement.

**PARTICIPATION AGREEMENT p. 2**

6. In the event of the termination, merger or consolidation of the Trust, the Trust Assets may be transferred or disposed of in such manner as shall be determined by the Trustee in accordance with the Trust Agreement, as amended from time to time, and in accordance with the provisions hereof; provided, however, that only those persons who, at the time of such termination, merger or consolidation, are Participants of the Trust shall be deemed to have any interest in the Trust Assets. Participant understands and agrees that his interest in the Trust Assets shall be contingent in nature, and shall be subject to forfeiture as provided in paragraph 5 above.

7. Participant recognizes that the Trust Agreement grants broad authority to the Trustee in operation and management of the Trust; and specifically grants broad authority for election and removal of the Trustee, and for reorganization or termination of the Trust to a voting majority of Participants. Participant agrees that in the event of any such merger, consolidation or reorganization of the Trust resulting in the creation of any successor entity, such a merger, consolidation, or reorganization shall not constitute a termination or any other event or change of circumstances which would require any distribution of assets of the Trust to Participants, provided that the successor entity assumes liability for the obligations of the Trust under the Coverage Agreement.

8. In the event of any conflict or inconsistency between the provisions of this Participation Agreement and those of the Trust Agreement, as amended from time to time, the provisions of the Trust Agreement, as amended, shall govern and control the rights and obligations of the parties hereunder.

IN WITNESS WHEREOF, the parties have affixed their signatures:

THE DENTISTS PROFESSIONAL  
LIABILITY BENEFIT PLAN, INC.  
Trustee:

PARTICIPANT:

*H Candace DeLapp* 

**X** \_\_\_\_\_

By : H. Candace DeLapp, DDS  
Executive Director  
Berkley Risk Administrators Company, LLC

\_\_\_\_\_ Date



PLEASE RETAIN FOR YOUR RECORDS

**AMENDED TRUST AGREEMENT  
for  
THE DENTISTS PROFESSIONAL LIABILITY TRUST**

THIS TRUST AGREEMENT (hereinafter referred to as the "Agreement") is made by and between the Grantors who have signed or will sign the Participation Agreement for The Dentists Professional Liability Trust (hereinafter collectively referred to as "Participants") and The Dentists Professional Liability Benefit Plan, Inc., a Colorado corporation (hereinafter referred to as the "Trustee").

**RECITALS**

A. The Participants have established and will maintain The Dentists Professional Liability Benefit Plan, Inc. under the provisions of Section 11-70-101, et seq., Colorado Revised Statutes, as amended in 1986 by Senate Bill 42, for the purpose of insuring against loss by the payment of compensation in the event of general public liability claims based upon the performance of professional services rendered or which should have been rendered by dentists, including, without limitation, claims based upon malpractice.

B. The Trustee named herein is willing to act as Trustee of funds deposited by Participants pursuant to the terms, conditions, and provisions set forth herein.

NOW, THEREFORE, in consideration of the mutual undertakings of the Participants and the Trustee, it is agreed as follows:

**ARTICLE I  
Name of Trust**

This Trust shall be known as THE DENTISTS PROFESSIONAL LIABILITY TRUST (hereinafter referred to as the "Trust").

**ARTICLE II  
Composition and Control of Trust Assets**

The Trustee shall receive contributions from the Participants in such amounts and on or before such due dates as shall be determined from time to time by the Trustee, and shall hold and utilize the contributions, and any income and earnings therefrom, as provided in this Agreement. The Trustee shall, in addition, hold any and all property of every type and description which they heretofore have acquired or hereafter may acquire, as Trustee, together with the proceeds thereof, in trust, to manage and dispose of the same from time to time for the benefit of the Participants and subject to the provisions of this Agreement. All such contributions and all such property and proceeds received by the Trustee from whatever source shall constitute the Trust Assets. The Trustee has, and shall exercise, exclusive management and control of the Trust Assets subject to the terms and provisions of this Agreement.

**ARTICLE III Trustee**

A. Appointment and Tenure. The business and affairs of the Trust shall be directed by the Trustee.

B. Removal of the Trustee: If the Participants determine that the Trustee should be removed from administering the Trust, the Participants shall provide thirty (30) days' notice to the Trustee of their intent to put the



issue of removal to a vote of the Participants. The Participants shall identify, in communications with the Trustee and the Participants, the specific reasons for removal. The matter shall be presented for a vote to the Participants within ten (10) days. Such vote may be conducted electronically or by any other means which is available to conduct a vote. The Trustee shall provide contact information for all Participants to an authorized representative of the Participants in order to facilitate the vote. The vote to remove the Trustee must be at least a two-thirds majority of those Participants voting. If the vote is to remove the Trustee, the Participants and the Trustee shall work together to transition the business of the Trust in a manner that is the least disruptive to the business of the Trust and its Participants.

C. Successor Trustee.

1. The Participants shall appoint a successor Trustee as soon as is convenient after the resignation or removal of a Trustee, pursuant to Paragraph B, above;
2. If no successor Trustee is elected within thirty (30) days of the occurrence of a vacancy, any Participant may petition any Court of competent jurisdiction, without notice, to name a successor Trustee. By making such appointment, such Court shall not acquire jurisdiction over the Trust;

D. Rights of Successor. Any successor Trustee shall have all the title, rights, powers, privileges and duties conferred or imposed upon the original Trustee, without any act of conveyance or transfer. No Trustee need examine the accounts, records, and acts of any previous Trustee or any allocation of the Trust nor be responsible for any act or omission to act on the part of any previous Trustee.

ARTICLE IV  
Powers and Duties of Trustee

A. Duties. The Trustee shall be responsible for directing the business and affairs of the Trust, including the investment, administration and management of the Trust Assets.

B. Powers. The Trustee shall have such powers and may perform such acts as may be reasonably necessary or desirable to administer the Trust and to promote or advance the purposes and interests of the Trust. By way of illustration, and not by limitation, the Trustee shall have the power to:

1. Acquire, hold, retain, invest, reinvest, and manage any kind of realty or personalty, without diversification as to kind, amount, or risk of non-productivity and without limitation by statute or rule of law; partition, sell, exchange, assign, lease, option, abandon or otherwise dispose of property, publicly or privately, and without appraisal; borrow and lend money, without security, and mortgage, pledge or otherwise encumber property; distribute in cash or kind, or partly in each and without requiring pro rata distribution of specific assets; hold property in nominee form; establish reserves; deal with itself, other fiduciaries and business organizations in which the fiduciaries may have an interest; release powers and abandon, settle or contest claims;
2. Make, execute, acknowledge, and deliver any and all documents required to be made in connection with the settlement and defense of any claim; deliver documents required by any insurer or reinsurer in connection with the issuance of any insurance policy, or in connection with the issuance of any insurance policy, or in connection with the exercise of the rights of ownership of such policies, any and all forms, returns, notices, transfers, conveyances and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
3. Settle, compromise, or submit to arbitration any claims, debts, or damages due or owing to or from this Trust or arising in connection with any right, duty or obligation hereunder;
4. Commence and defend against legal or administrative proceedings; and represent the Trust and its Administrator and Participants, including selection of legal counsel, in legal or administrative proceedings;

5. Provide legal, actuarial, risk management, and loss control services to Participants;
6. Employ suitable agents, employees, attorneys, and such other professionals as may be necessary or advisable, and pay their reasonable expenses and compensation;
7. Incur and pay any administrative, legal, actuarial, risk management and loss prevention expenses or like fees and costs; pay all claims of third parties made, assessed, or decreed against the Participants allowed to be paid under coverage provided by the Trust; and exercise all rights of the Trustees contained in any agreements between the Trustees and the Participants and any professional liability policy issued by the Trust;
8. Adopt, amend, or repeal rules and regulations as may not be inconsistent with the Trust Agreement and the laws of Colorado and as are deemed necessary for the conduct of the affairs of the Trust;
9. Rely conclusively upon, and be fully protected in any action taken in good faith (individually or collectively) in reliance upon any opinion or reports furnished to the Trustee by any agent, counsel, specialist or adviser;
10. Acquire or cause to be organized any entity under the laws of any jurisdiction to hold the Trust Assets, or any part thereof, or to carry on any business in which the Trust shall have any interest, and cause the Trust to merge or consolidate with such entity or to transfer the Trust Assets or any part thereof to such entity in exchange for the securities thereof or otherwise, and to lend money to, subscribe for the securities of, and enter into any contracts with, any such entity in which the Trust holds or is about to acquire securities or any other interest;
11. Enter into joint ventures, general or limited partnerships and any other combinations or associations;
12. Purchase and pay for out of Trust Assets insurance policies insuring the Trustee, officers, employees, agents, investment advisers, including the Administrator, or independent contractors of the Trust individually against all claims and liabilities of every nature arising by reason of holding, or having held any such office or position, or by reason of any action alleged to have been taken or omitted by any such person as trustee, officer, employee, agent, investment adviser, or independent contractor, including any action taken or omitted that may be determined to constitute negligence, whether or not the Trust would have the power to indemnify such person against such liability.

The Trustee shall, in addition, have all powers set forth in the Colorado Fiduciaries' Powers Act, together with any amendments to such Act subsequent to the date hereof; or if such Act is not in effect at any time, said Act, as it exists on the effective date of this Agreement, is incorporated herein by this reference to the Colorado Fiduciaries' Powers Act, as amended from time to time.

Any determination as to what is in the interests of the Trust made by the Trustee in good faith shall be conclusive. Any construction of this Trust or any determination of the purposes of the Trust or the existence of any power or authority hereunder, made in good faith by the Trustee shall be conclusive to the extent consistent with law. In construing the provisions of this declaration of Trust, the presumption shall be in favor of a grant of power to the Trustee.

- C. Employment of Agents and Advisers. The Trustee is responsible for the general policies of the Trust, including investment policies, and for the general supervision of the business of the Trust conducted by all officers, agents, employees, advisers, managers or independent contractors of the Trust. However, the Trustee is not and shall not be required to personally conduct the business of the Trust. Consistent with its ultimate responsibility as stated above, the Trustee may appoint, employ, or contract with any persons as the Trustee may deem necessary or desirable for the transaction of the business of the Trust, including insurance and investment advisers and consultants. The Trustee shall have the power to determine the employment conditions, and the terms of compensation of any person or entity it may employ or with whom it may contract.

D. Trust Administrator. Consistent with its ultimate responsibility as set forth in Section A of this Article, the Trustee may employ or contract with a person or entity to serve as the Trust Administrator and supervise the day to day administration of the Trust. The Trustee may grant or delegate such authority to the Administrator, or to any other person the services of whom are obtained by the Administrator, as the Trustee may in its sole discretion deem necessary or desirable without regard to whether such authority is normally granted or delegated by a trustee. The Trustee may exercise broad discretion in allowing the Administrator to administer and regulate the operations of the Trust, to act as agent for the Trust, to execute documents on behalf of the Trustee, and to make executive decisions which conform to general policies and general principles previously established by the Trustee.

E. Additional Delegation of Authority. The Trustee may also delegate to other persons responsibility for establishment, assessment, and collection of the Participants' contributions, loss control, claims processing, risk management, litigation, recommendations regarding expulsion or termination of any Participant and such other duties as the Trustee may deem desirable. In addition, the Trustee may authorize one or more of its directors to sign, execute, acknowledge and deliver any document or instrument in the name and on behalf of the Trustee.

F. Trust Records. The Trustee shall maintain accurate and detailed records of all receipts, disbursements, investments and other transactions under this Agreement. All records and books of the Trust shall be open to inspection or audit at any reasonable time by any Participant in person, or by the Participant's agent designated in writing.

G. Protection of Trustee. Trustee shall not be liable to any Participant for any matter arising out of the responsible exercise of fiduciary judgment, discretion, and responsibility by Trustee. Such matters may include, but are not limited to, allocations of assets in kind to Participants on distribution, even if income tax bases of assets differ or such shares are composed differently or such distributions are made at differing times.

H. Court Supervision and Bond. This Trust shall be administered free from the active supervision of any court and in any jurisdiction deemed advisable by the Trustee. No Trustee acting under this Trust shall furnish bond unless required to do so by law, order of court, or procedural rule, in which event no surety shall be required on any such bond.

I. Compensation. The Trustee shall be entitled to receive reasonable compensation commensurate with the services actually performed by Trustee. The Trust shall reimburse the Trustee upon request for all reasonable and necessary expenses incurred by it in the performance of its duties under this Trust Agreement.

## ARTICLE V Participant Status

A. Eligibility. Any dentist who is an active member of the Colorado Dental Association or who is otherwise determined to be eligible by the Board of Directors due to special circumstances or for specific, limited events, is eligible to apply to be a Participant.

B. Application. Any eligible dentist desiring to become a Participant shall execute an Application form prescribed by the Trustee. Such Application shall be processed in accordance with eligibility requirements adopted by the Trustee; provided, however, that due process shall be observed in the consideration of and action upon any such application for membership. In addition to proof of reputable character, of adequate education and training, of adherence to proper ethical standards, and of acceptable physical, mental and emotional condition, and freedom from conditions which impair the capability to provide an acceptable standard of dental care, the applicant for participation may be required to furnish proof that his or her practice of dentistry is consistent with generally accepted standards of dental care and does not present an unacceptable risk, as determined by the Trustee, of professional liability.

C. Participation Agreement. Upon acceptance by the underwriter of an application for professional liability coverage through the Trust, the applicant shall be required to agree to be bound by the provisions of this Agreement and any rules, regulations, eligibility requirements and policies adopted by the Trustee. The form and contents of the Participation Agreement

and the professional liability policy shall be determined by the Trustee, and may be revised or amended by the Trustee from time to time; provided, however, that any reduction in coverage, potential reduction in coverage, new limitations or new exclusions or increase in premium will not be effective until after thirty (30) days notice is given to all Participants then participating in the Trust.

D. Appeal From Rejection of Application for Participation. If an application for participation shall be rejected by the underwriter, the applicant shall have the right to appeal that decision to the Trustee, in accordance with rules and regulations adopted by the Trustee.

E. Termination of Participation - By Trustee. The Trustee shall have the power to terminate a Participant's rights and privileges in the Trust. Grounds for termination shall include the following:

1. Failure to comply with the provisions of this Agreement, or any other agreement between the Trust and the Participant, including the terms of any professional liability policy issued by the Trust to such Participant, and the terms of the Participation Agreement;
2. Failure to follow the loss control or risk management rules and regulations established by the Trustee;
3. Breach of any of those qualifications for membership set forth in Section B of this Article;
4. Loss or suspension of license to practice dentistry;
5. Nonpayment of any contribution required to be made by the Participant, including, but not limited to, any contingent liability payment assessed by the Trustee in accordance with the Participation Agreement.

In the event of termination of a Participant for nonpayment of contributions, such termination shall be as of the date such contribution was required to be paid. In the event of termination for any other cause, the Participant shall be entitled to a hearing for reinstatement in accordance with rules of due process as established by the Trustee, and such termination shall be effective as of the date and upon the terms and conditions specified by the Trustee.

F. Termination of Participation - By A Participant. Any Participant shall have the right at any time, by notice delivered to the principal office of the Trust as established by the Trustee from time to time, to terminate his or her participation therein. In the event of such cancellation, the amount of the Participant's contribution to be retained by the Trust shall be computed in accordance with a short-rate table and procedure to be adopted by the Trustee.

G. Effect of Termination Upon Interest In Trust Assets. Upon termination of participation in the Trust, whether by the Trustee or the Participant, the terminated Participant shall forfeit any interest in the Trust Assets to which the Participant would otherwise be entitled.

H. Guarantees. Should any terminated Participant have made any endorsements or guarantees for and on behalf of the Trust to any third persons, including commercial lenders, such guarantees shall not be released by such termination of participation.

## ARTICLE VI Trust Contributions And other Requirements of Membership

A. Trust Contributions. Each Participant shall make a contribution for each coverage year provided by the policy to be issued to such Participant by the Trust, the amount and due date of such contribution and the period of participation and benefits thereof to be determined by the Trustee from time to time. The Trustee shall have the power to require the payment of prorated portions of contributions and to adopt policies, including the applicability of short rate tables, regarding the calculation of refunds in the event of termination of participation. The prompt payment of such contributions to the Trust by each Participant shall be a condition precedent to the continuation of the Participant's participation in this Trust.

B. Loss Control and Risk Management. The Participants agree to follow the loss prevention and risk management requirements adopted by the Trustee from time to time.

C. Agents. Each Participant shall appoint the Trustee and its designee, to be his agent, to execute all contracts, reports, waivers, agreements, service contracts, and to make and arrange for the payment of claims, and to take all other actions required for the proper and orderly operation of the Trust.

D. Questionnaires. Participants shall provide such information as may be requested from time-to-time by the Trustee relating to the operation and administration of the Trust and any coverage provided by the Trust.

## ARTICLE VII Trust Assets

A. Assets Held As Single Fund. All of the contributions paid into the Trust by the Participants and all income and earnings therefrom shall be maintained in such accounts as shall be determined by the Trustee. There shall be no individual Participant accounts.

B. Depositories. The Trustee shall establish such accounts in such banks, trust companies, savings and loan associations and other depositories as they deem appropriate for deposit of the Trust Assets or any portion thereof and shall make such deposits or withdrawals therefrom in such manner and upon such conditions as the Trustee shall determine to be necessary or proper.

## ARTICLE VIII Claims Administration And Payment Of Losses

A. General Purpose. The principal purpose for the establishment of this Trust is to provide for the orderly receipt, examination, investigation, and defense or settlement of claims of professional liability made by third parties against Participants. The Trustee shall use the Trust Assets to pay losses and claims as set forth in the coverage agreements issued by the Trust from time to time, subject to compliance by the Participant with the provisions thereof.

B. Aggregate Losses and Reserves in Excess of Trust Fund. Should the aggregate of expenses paid, anticipated expenses, claims paid, and claims reserved against the Trust exceed the aggregate sum of the Trust Assets available, the Trustee shall have the authority, but not the duty, to borrow funds from such source as they shall deem appropriate.

C. Insurance and Reinsurance. The Trustee may obtain, but is not obligated to do so, such policies of insurance or reinsurance from a duly authorized insurer or reinsurer as the Trustee shall deem necessary.

D. Power to Control Claims. To assure an orderly administration and payment of claims, a non-discriminatory and uniform method of handling suits and claims shall be established under policies determined by the Trustee.

## ARTICLE IX Indemnification

The Trust shall indemnify and hold harmless the Trustee, the Administrator, and the agents, servants, employees, and any of them, from any and all claims, damages, judgments, losses, costs and expenses (including reasonable attorneys fees), not otherwise paid or indemnified against by insurance coverage carried by the Trust or by such person, actually and necessarily incurred in connection with the defense of any action, suit or proceeding in which that person may be involved or to which the person may be made a party by reason of any act or omission in the course of his or her duties in behalf of the Trust, except in relation to matters as to which such person shall be finally adjudged in such action, suit or proceeding, to be liable for gross negligence or misconduct in the performance of duty. The Trust shall, upon request, provide legal defense to any such person against any such claim. The obligation of the Trust hereunder, exclusive of attorneys fees and other costs of defense, shall not exceed the sum of Two Million Dollars (\$2,000,000.00) for any one claim nor more than Six Million Dollars (\$6,000,000.00) for all claims arising out of any one occurrence.

ARTICLE X  
Amendment and Termination

A. Amendment. This Agreement may be amended from time-to-time by a simple voting majority of the Participants of the Trust; provided, however, that no amendment shall be retroactive, or diminish any benefits to which the Participants of the Trust are otherwise entitled prior to the date on which the amendment is adopted.

B. Termination And Merger. Upon the determination of a simple voting majority of the Participants of the Trust that the best interests of the Trust and Participants will be served thereby, the Trust may be terminated (with or without a successor entity) or merged or consolidated with any other entity, upon such terms and conditions as shall be contained in a plan of termination, consolidation or merger (the "Plan") adopted by the Trustee. In the event of merger or consolidation, the Trust Assets may be transferred or disposed of in such manner as is provided in the Plan, subject to the making of adequate provisions for payment of the liabilities and obligations of the Trust, including the establishment of appropriate reserves for claims under policies or coverage certificates issued by the Trust or under other agreements to which the Trust is a party. A copy of the Plan shall be given to the Trustee and the Participants of the Trust at least one hundred twenty (120) days prior to the implementation thereof. The Trustee shall distribute the Trust Assets in accordance with the Plan; provided, however, that only those persons who at the time of such termination, merger or consolidation are Participants of the Trust shall be deemed to have any interest in the Trust Assets.

ARTICLE XI  
Miscellaneous

A. Governing Law. This Trust shall be interpreted and administered according to the laws of the State of Colorado.

B. Pronouns, Singular and Plural. Unless the context requires otherwise; words denoting the singular may be construed as denoting the plural; and words of the plural may be construed as denoting the singular, and words of one gender may be construed as denoting such other gender as is appropriate.

C. Binding Nature. This Trust Agreement shall be binding upon and inure to the benefit of the original parties hereto and any substitute or additional parties who are bound hereby in accordance with the provisions hereof.

D. Evidence of Acceptance by Participants. This Trust Agreement shall be deemed executed by each Participant upon his execution of a Participation Agreement for participation in Dentists Professional Liability Trust of Colorado.

E. Duration. The Trust shall continue, if not sooner terminated, for such time as may be necessary to accomplish the purposes for which it was created.

Executed and effective this 1<sup>st</sup> day of September 2019.

THE DENTISTS PROFESSIONAL LIABILITY BENEFIT PLAN, INC.