

**DELTA DENTAL OF NEW JERSEY, INC.<sup>1</sup>  
1639 Route 10, Parsippany, New Jersey 07054**

Notice of Privacy Practices  
For PHI

Version 1.1 (Effective November 1, 2004)

**THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED  
AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION.  
PLEASE REVIEW IT CAREFULLY.**

If you have any questions about this notice, please contact the Compliance Administrator at (866) 861-4716  
e-mail: [compliance@deltadentalnj.com](mailto:compliance@deltadentalnj.com), mail: P. O. Box 222, Parsippany, NJ 07054.

**I. INTRODUCTORY STATEMENT**

**A. OVERVIEW**

We are required by law to take reasonable steps to ensure the privacy of your personally identifiable health information [the term "Protected Health Information"(PHI) includes all individually identifiable health information transmitted or maintained by us, regardless of form (oral, written, electronic)]. We are also required to inform you about:

- ◆ our uses and disclosures of Protected Health Information (PHI);
- ◆ your privacy rights with respect to your PHI;
- ◆ your duties with respect to your PHI;
- ◆ your right to file a complaint with us and the Secretary of the U.S. Department of Health and Human Services; and
- ◆ the person or office to contact for further information about our privacy practices.

This notice tells you about the ways in which we may use and disclose your PHI consistent with state and federal law. It also describes your rights and certain obligations we have regarding the use and disclosure of your PHI.

**B. MINIMUM NECESSARY STANDARD**

When using or disclosing PHI or when requesting PHI, we will make reasonable efforts not to use, disclose or request more than the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure or request, taking into consideration practical and technological limitations. However, the minimum necessary standard does not apply in the following situations:

- ◆ disclosures to or requests by a health care provider for treatment;
- ◆ uses or disclosures made to you;
- ◆ disclosures made to the Secretary of the U.S. Department of Health and Human Services;
- ◆ uses or disclosures that are required by law

**C. DE-IDENTIFIED INFORMATION**

This notice does not apply to information that has been de-identified. De-identified information is information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

---

<sup>1</sup>For purposes of this notice, Delta Dental of New Jersey, Inc., "our" and "we" also refer to: (a) Flagship Dental Plans and (b) Delta Dental Insurance Company (for insured group contracts it issues and delivers in the State of Connecticut). We may share information with each other for purposes of treatment, payment, and health care operations.

#### D. SUMMARY HEALTH INFORMATION

In addition, we may use or disclose "summary health information" to the plan sponsor for obtaining premium bids or modifying, amending or terminating the group health plan. Summary health information includes claims history, claims expenses or the types of claims experienced by individuals for whom a plan sponsor has provided health benefits under a group health plan from which identifying information has been deleted in accordance with federal law.

## II. HOW WE MAY USE AND DISCLOSE YOUR PHI

The following categories describe different ways that we may use and disclose your PHI. Not every use or disclosure in a category is listed. However, all of the ways we are permitted to use and disclose information fall within at least one of the categories. If applicable state law is (or becomes) more restrictive, we will abide by such restrictions.

### A. OUR PERMITTED USES AND DISCLOSURES OF YOUR PHI WITHOUT YOUR WRITTEN CONSENT OR AUTHORIZATION

#### 1. For Treatment

*Treatment* is the provision, coordination or management of health care and related services. It also includes but is not limited to consultations and referrals between one or more of your providers.

##### a) We May Use Your PHI for Treatment Purposes.

*Example* — Your general dentist may recommend that you be referred to a specialist for a particular service. For those plans which require referrals to specialists, we may use your PHI in determining whether to refer you to a specialist for that treatment

##### b) We May Disclose Your PHI for Treatment Purposes.

*Example* — Your dentist may wish to provide a dental service to you and seek information from us concerning whether and when dental treatment was previously provided to you so the dentist can determine in advance whether we will provide payment toward that treatment and/or when he will schedule your treatment.

#### 2. For Payment

*Payment* includes, but is not limited to actions to make coverage determinations as well as payment activities such as billing, claims management, subrogation, plan reimbursement, reviews for medical necessity and appropriateness of care, and utilization review and estimates. We may use or disclose your PHI in connection with providing coverage to you and/or your dependents, determining your benefits, and making payment for services.

*Examples of the uses and disclosures of your PHI which we may make are as follows:*

- a) Using your (or your dependent's) name, date of birth and social security number and/or disclosing it to your plan administrator to determine your continued eligibility for coverage.
- b) Using the name of your dental provider, and service(s) rendered, date(s) and charge(s) therefor and/or disclosing that information to another health plan to determine: i) which plan is primary, or ii) the cost sharing between us and the other health plan for the service.
- c) Using your PHI and/or disclosing it in connection with our billing for premiums and service fees.

#### 3. For Health Care Operations

*Health care operations include*, but are not limited to, quality assessment and improvement, reviewing competence or qualifications of health care professionals, underwriting, premium rating and other insurance activities relating to creating or renewing insurance contracts. It also includes disease management, case management, conducting or arranging for medical review, legal services and auditing functions, including fraud and abuse compliance programs, business planning and development, business management and general administrative activities.

We may use or disclose your PHI in connection with our health care operations and may disclose it to other covered entities for certain of their health care operations or to another member of an organized health care arrangement in which we participate for the health care operations of the organized health care arrangement.

"Organized health care arrangement" means the arrangement between us and your group health plan or other group health plan maintained by the same plan sponsor with respect to PHI we create or receive for individuals who are or have been covered by the group health plan.

*Examples of the uses and disclosures of your PHI which we may make for health care operations are as follows:*

- a) Using your PHI (and others' PHI) to assess whether to enroll a dentist or retain a dentist in our network (credentialing activities).
- b) Using your PHI (and others' PHI) to determine the premium to be charged for coverage and/or obtain reinsurance for coverage we provide or administer.
- c) Using your PHI in connection with our fraud and abuse detection and compliance programs.
- d) Using your PHI (and others' PHI) in improving how we pay for dental services and/or improving our dental plan and coverage policies.
- e) Disclosing your PHI to other entities covered by the HIPAA privacy regulations to the extent permitted by law if they have or have had a relationship with you, provided that the PHI relates to that relationship and the disclosure is for their quality assessment and improvement activities, their review of the competence or qualifications of health care professionals, or for the purpose of fraud and abuse compliance and detection.
- f) Disclosing your PHI for the health care operations (such as fraud and abuse programs or quality assurance programs) of the group health plan in which you are covered.

### B. OTHER PURPOSES FOR WHICH WE ARE PERMITTED TO USE OR DISCLOSE YOUR PHI WITHOUT YOUR WRITTEN CONSENT OR AUTHORIZATION

#### 1) Uses and Disclosures Required by Law

*Example* — We are required by some governmental bodies to report suspected fraud to the governmental bodies and those reports may require disclosure of your PHI.

#### 2) Uses and Disclosures for Health Oversight Activities

*Example* — We may disclose your PHI to a public health oversight agency for oversight activities authorized by law. This includes uses or disclosures in civil, administrative or criminal investigations; inspections; licensure or disciplinary actions.

#### 3) Uses and Disclosures for Judicial And Administrative Proceedings

*Example* — We may honor court or administrative subpoenas or other lawful demands which require that we disclose your PHI and we may use your PHI in proceedings in which we are a party relating to our efforts to recover payments made for services reportedly rendered to you.

4) Disclosures For Law Enforcement Purposes

*Example* — We may provide your PHI to a law enforcement officer in response to a grand jury subpoena, an administrative subpoena or a civil or criminal investigation demand.

5) Uses and Disclosures to Create De-identified Information

*Example* — We may use your PHI or disclose it to a business associate to create information that is not individually identifiable health information (i.e. is "de-identified" information). Once de-identified, the information is no longer PHI. We may then use it for any purpose, including but not limited to performing analyses of dental utilization trends and dental cost trends.

6) Disclosures to Our Business Associates

Business Associates are persons: (a) who are not part of our workforce; (b) to whom we may provide PHI; and (c) who have contracted with us and agreed not to use or disclose your PHI in any manner inconsistent with the types of uses and disclosures described in this notice.

*Example* — We may provide your PHI to a vendor (a "Business Associate"): (a) to enter your PHI into our computerized database; or (b) to print explanations of benefits to be sent to you and your dentist whenever a claim has been processed.

7) Uses and Disclosures For Research

We may use or disclose your PHI for research, subject to conditions.

*Example* — We may provide your PHI to an entity for use in analyzing the dental effectiveness of alternate dental treatments for a particular condition, so long as the recipient entity fully complies with all legal requirements which apply to PHI for which no patient authorization has been given.

8) Uses and Disclosure for Public Health Activities

*Example* — We may disclose PHI to a public health agency which seeks information about potential exposure to communicable diseases when authorized or required by law.

9) Uses or Disclosures to Avert a Serious Threat to Health or Safety

We may use or disclose your PHI consistent with applicable law and ethical standards if we, in good faith, believe that the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public or if the use or disclosure is necessary for law enforcement authorities to identify or apprehend an individual.

*Example* — We may use or disclose your PHI to a governmental agency if we in good faith believe that the disclosure will assist the government in preventing or lessening a serious threat of disease or harm to you or the public.

10) Uses and Disclosures for Specialized Government Functions

*Example* — We may provide your PHI to authorized federal officials for the conduct of lawful intelligence duly authorized by law.

11) Disclosures for Workers' Compensation

We may disclose your PHI as authorized by and to the extent necessary to comply with law relating to workers' compensation or other similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.

*Example* — Where authorized by law, we may disclose your dental claims information to the workers' compensation carrier investigating worker compensation claims which you have filed.

12) Uses and Disclosures of Limited Data Sets as Permitted By Law

We may use or disclose your PHI to create a limited data set (PHI which has been stripped of all direct identifiers, such as name, address and telephone number) as permitted by and consistent with all conditions imposed by law.

*Example* — We may strip your PHI of direct identifiers and provide that PHI for use by an insurance carrier in investigating fraud and abuse, or for use by an entity which analyzes data for research purposes so long as we have fully satisfied all conditions and requirements imposed by law.

13) Communications with Persons Involved in Your Care and/or Payment For Your Care

We may, in the exercise of professional judgment, disclose your PHI to a member of your family, other relatives, a close personal friend, or any other person involved in your care and/or payment related to your care where it is directly relevant to their involvement and we believe the disclosure is in your best interest.

**C. DISCLOSURE OF YOUR PHI TO THE SPONSOR OF YOUR PLAN**

We may be asked by the sponsor of your health plan to provide your PHI. If we are asked to do so (for example, your employer may wish to monitor our performance for quality assurance purposes), we may honor such requests to the extent permitted by law.

**III. OTHER USES AND DISCLOSURES OF YOUR PHI WITH YOUR WRITTEN AUTHORIZATION**

Uses and disclosures of your PHI for purposes other than those referred to in Section II will be made only with your written authorization which complies with 45 C.F.R. § 164.508 (a copy of which is available at our Web site or from our Compliance Administrator), subject to your right to revoke such authority. An authorization form is available at our Web site, [www.deltadentalnj.com](http://www.deltadentalnj.com).

**IV. YOUR HEALTH INFORMATION RIGHTS**

**A. FEDERAL RIGHTS**

You have several federal rights with regard to your PHI. If you wish to exercise any of the following rights, please contact our Compliance Administrator. Specifically, you have the right to:

1) Inspect and Copy your PHI Pursuant to 45 C.F.R. § 164.524

With a few exceptions, you have a federal right to inspect and obtain a copy of your PHI contained in a "designated record set," for as long as we maintain the PHI.

"Designated Record Set" includes the medical records and billing records about individuals maintained by or for a covered health care provider; enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by or for a health plan; or other information used in whole or in part by or for the covered entity to make decisions about individuals. Information used for quality control or peer review analyses and not used to make decisions about individuals is not in the designated record set.

However, this right does not apply to psychotherapy notes or information compiled in reasonable anticipation of, or use in, civil, criminal or administrative action or proceedings.

If you request a copy of your PHI we may charge you a reasonable fee for the costs of copying, mailing or other supplies associated with your request.

The requested information will be provided within 30 days if the information is maintained on site or within 60 days if the information is maintained offsite. A single 30-day extension is allowed if we are unable to comply with the deadline.

You or your personal representative will be required to complete a form to request access to the PHI in your designated record set. Requests for access to PHI should be made in writing to the Compliance Administrator at the address listed at the top of page 1.

If access is denied, you or your personal representative will be provided with a written denial setting forth the basis for the denial, a description of how you may exercise those review rights and a description of how you may complain to the Secretary of the U.S. Department of Health and Human Services.

2) Request to Correct Your PHI Pursuant to 45 C.F.R. § 164.528

If you believe your PHI is incorrect, you may ask us to correct the information. Your request must be in writing and must give a reason as to why you believe your PHI is incorrect and should be changed. However, if we did not create the PHI that you believe is incorrect, or if we disagree with you and believe your health data that we have is correct or it is not part of the information you would be permitted to inspect and copy, we may deny your request.

3) Request Restrictions on Certain Uses and Disclosures Pursuant To 45 C.F.R. § 164.522(a)

You have the right to ask for restrictions of how your PHI is used or to whom your information is disclosed, even if the restriction affects your treatment or our payment or health care operation activities. Or, you may want to limit the PHI provided to your medical professional. However, we are not required to agree to your requested restriction. You or your personal representative will be required to complete a form to request restrictions on uses and disclosures.

4) As Applicable, Receive Confidential Communication of PHI Pursuant to 45 C.F.R. § 164.522(b)

You have the right to ask that we communicate your PHI to you in different ways or places when disclosure of your PHI could endanger you. For example, you may request we send information about your health claims to a private address. We will accommodate reasonable written requests. You or your personal representative will be required to complete a form to request restrictions on uses and disclosures.

5) Receive a Record of Disclosures of Your PHI Information Pursuant to 45 C.F.R. § 164.528

At your request, we will provide you with an accounting of disclosures by us of your PHI during the six years prior to the date of your request. However, such accounting will not include PHI disclosures made: (1) to carry out Treatment, Payment or Health Care Operations as discussed in Section II; (2) to you about your own PHI; (3) prior to the effective date of this notice; (4) based on your written authorization; (5) incident to a use or disclosure we make consistent with this privacy notice; (6) for duly authorized national security or intelligence purposes; (7) to certain law enforcement offices; (8) as part of a limited data set; or (9) disclosures for research for which an accounting is not required by law.

If the accounting cannot be provided within 60 days, an additional 30 days is allowed if we give you a written statement of the reasons for the delay and the date by which the accounting will be provided.

If you request more than one accounting within a 12-month period, we will charge a reasonable, cost-based fee for each subsequent accounting.

6) Obtain a Paper Copy of This Notice

Upon your request, you may at any time receive a paper copy of this notice, even if you earlier agreed to receive this notice electronically.

7) A Note About Personal Representatives

You may exercise your rights through a personal representative. Your personal representative will be required to produce evidence of his/her authority to act on your behalf before that person will be given access to your PHI or allowed to take any action for you. Such authority may take one of the following forms: ♦ a power of attorney for health care purposes, notarized by a notary public; ♦ a court order of appointment of the person as the conservator or guardian of the individual; ♦ or a parent for his or her minor child under those conditions allowed by law.

8) Complaints

If you believe your privacy rights have been violated, you may file a complaint with us and/or with the United States Department of Health and Human Services ("USDHHS"). We will not retaliate against you for filing such a complaint. To file a complaint with us, please contact our Compliance Administrator at (866) 861-4716, e-mail at [compliance@deltadentalnj.com](mailto:compliance@deltadentalnj.com), or mail to P. O. Box 222, Parsippany, NJ 07054, who will provide you with the necessary assistance.

Our Compliance Administrator will also provide you with the current address for filing a complaint with the USDHHS.

## **B. STATE RIGHTS**

You have several state rights with regard to your PHI. These include right to notice concerning the types of personal information we may collect about you from third persons, the sources of that information, the types of disclosures which we may make of your personal information without your authorization and your state right to access and correct PHI. If you wish to obtain a detailed notice of these sources, disclosures and rights, please contact our Compliance Administrator.

## **V. CHANGES TO THIS NOTICE AND OUR PRIVACY PRACTICES**

We are required to abide by the terms of this Privacy notice while it remains in effect. We reserve the right to change this notice and our privacy practices. We reserve the right to make the revised or changed notice and privacy practices effective for medical information we already have about you as well as any information we receive in the future and, if we do so, we will send a copy of the revised notice to all persons we cover at the time when we revise the notice and privacy practices.

## **VI. QUESTIONS ABOUT THIS NOTICE**

If you have any questions or concerns regarding this notice or the information in this notice, please contact our Compliance Administrator at (866) 861-4716, e-mail at [compliance@deltadentalnj.com](mailto:compliance@deltadentalnj.com), or mail to P.O. Box 222, Parsippany, NJ 07054.

## **VII. EFFECTIVE DATE**

**THIS NOTICE OF MEDICAL INFORMATION PRIVACY IS EFFECTIVE NOVEMBER 1, 2004. IT IS APPLICABLE TO PERSONAL HEALTH INFORMATION ABOUT YOU OBTAINED BY US ON OR AFTER NOVEMBER 1, 2004.**