

No. **2021-7005**

**Official Order  
of the  
Texas Commissioner of Insurance**

**Date: 09/30/2021**

**Subject Considered:**

Alpha Dental Programs, Inc.  
560 Mission St., Ste. 1300  
San Francisco, California 94105-0938

Consent Order  
TDI Enforcement File No. 26781

**General remarks and official action taken:**

This is a consent order with Alpha Dental Programs, Inc. (Alpha). The Texas Department of Insurance conducted a triennial examination and found Alpha violated several provisions of the Texas Insurance Code and Texas Administrative Code, including repeat violations found during a 2016 triennial quality of care examination. Alpha has agreed to pay a \$250,000 administrative penalty.

**Waiver**

Alpha acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. Alpha waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

**Findings of Fact**

1. Alpha holds a health maintenance organization (HMO) authorization to do business in Texas.

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### **Prior Disciplinary History**

2. On November 22, 2016, the commissioner entered Official Order No. 2016-4806 against Alpha. That order imposed a \$15,000 administrative penalty for prompt pay violations found during the department's investigation of a complaint.
3. On July 26, 2018, the commissioner entered Official Order No. 2018-5587 against Alpha. That order imposed a \$180,000 administrative penalty for violations found during the Alpha's 2016 triennial quality of care examination for the period of March 19, 2014, through December 31, 2016.

### **2019 Triennial Quality of Care Examination**

4. The department conducted a triennial quality of care examination of Alpha's single service dental HMO for the period of January 1, 2017, through December 31, 2019.
5. On September 22, 2020, the department issued the final quality of care examination report. The findings of the examination and violations discovered are included in this report and detailed below.

### Utilization Review

6. The department reviewed 18 adverse determinations for statutory compliance.
7. In six percent (1 of 18) of the adverse determinations reviewed, Alpha's utilization review agents (URA) did not afford the provider of record a reasonable opportunity to discuss the services under review during normal business hours no less than one working day prior to issuing the prospective adverse determination.
8. In 94 percent (17 of 18) of the adverse determinations reviewed, Alpha's URA did not afford the provider of record a reasonable opportunity to discuss the services under review during normal business hours no less than five working days prior to issuing the retrospective adverse determinations.
9. In 94 percent (17 of 18) of the adverse determinations reviewed, Alpha's URA did not provide the URA's telephone number so the provider of record could contact the URA to discuss the pending adverse determinations.

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10. In six percent (1 of 18) of the adverse determinations reviewed, Alpha's URA did not send the adverse determination letter to the enrollee or a person acting on behalf of the enrollee and the treating health care provider.
11. In 94 percent (17 of 18) of the adverse determinations reviewed, the adverse determination notice did not include a description or the source of the screening criteria used as guidelines in making the adverse determination.
12. The utilization review violations found were repeat violations from the prior triennial exam which found that Alpha did not review utilization review requests as required by Texas law.

### Complaints

13. The department reviewed 20 member complaints Alpha received and responded to in 2018 and 2019 for statutory compliance.
14. In five percent (1 of 20) of the member complaints reviewed, Alpha failed to send an acknowledgment letter not later than the fifth business day after the complaint was received.

### Sales, Advertising, and Marketing

15. The department reviewed 20 policies issued in 2019 for statutory compliance.
16. In 35 percent (7 of 20) of the policies reviewed, Alpha issued policies where Alpha's agent was not appointed to act as an agent for Alpha.
17. On October 22, 2020, Alpha submitted a corrective action plan related to the findings during the triennial examination from January 1, 2017, through December 31, 2019.

### Subsequent Events and Other Disclosures

18. Alpha represents that it has fully implemented its corrective action plan as of the date of this order.
19. According to Alpha, three of the examination findings were the result of employee error which has been addressed in the corrective action plan. Alpha stated its

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employees went through topic specific refresher training to ensure compliance moving forward.

20. Alpha maintains that it is committed to continuous quality improvement and is specifically focused on quality improvement as one of its company initiatives moving forward.

## Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 843.252, 4001.201, 4201.206, 4201.301, and 4201.303; 28 TEX. ADMIN. CODE §§ 19.1703, 19.1709, 19.1710 and 19.1718; and TEX. GOV'T CODE §§ 2001.051–2001.178.
2. The commissioner has authority to dispose informally of this matter as set forth in TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 36.104 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Alpha has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. Alpha did not send an acknowledgment letter not later than the fifth business day after the complaint was received in violation of TEX. INS. CODE § 843.252(a).
5. Alpha issued policies where the agent was not appointed to act as an agent for Alpha in violation of TEX. INS. CODE § 4001.201.
6. Alpha did not afford the provider of record a reasonable opportunity to discuss the services under review during normal business hours not less than one working day prior to issuing the prospective adverse determination in violation of TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26)(A) and 19.1710.
7. Alpha did not afford the provider of recorder a reasonable opportunity to discuss the services under review during normal business hours not less than five working days prior to issuing the retrospective adverse determinations in violation of TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26)(B) and 19.1710.

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8. Alpha did not provide the URA's telephone number so the provider of record could contact the URA to discuss the pending adverse determinations in violation of TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE § 19.1710(1).
9. Alpha did not send the adverse determination letter to the enrollee or person acting on behalf of the enrollee and the treating health care provider in violation of TEX. INS. CODE § 4201.301 and 28 TEX. ADMIN. CODE §§ 19.1709(a) and 19.1718(h).
10. Alpha did not include a description or source of the screening criteria guidelines used in making the adverse determination within the adverse determination notice issued in violation of TEX. INS. CODE § 4201.303(a)(3) and 28 TEX. ADMIN. CODE § 19.1709(b)(3).

## Order

It is ordered that Alpha Dental Programs, Inc. pay an administrative penalty of \$250,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

DocuSigned by:  
  
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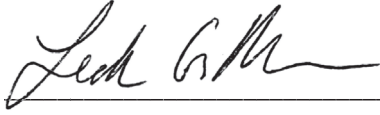
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Cassie Brown  
Commissioner of Insurance

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Recommended and reviewed by:



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Leah Gillum, Deputy Commissioner  
Enforcement Division



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Cassie Tigue, Staff Attorney  
Enforcement Division

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## Affidavit

STATE OF Pennsylvania §

§

COUNTY OF Cumberland §

Before me, the undersigned authority, personally appeared Michael Hankinson, who being by me duly sworn, deposed as follows:

"My name is Michael G. Hankinson. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

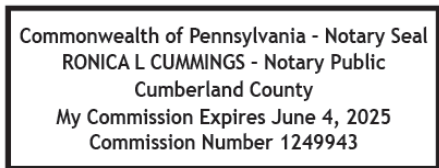
I hold the office of President and am the authorized representative of Alpha Dental Programs, Inc. I am duly authorized by said organization to execute this statement.

Alpha Dental Programs, Inc. has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the state of Texas."

Michael G. Hankinson  
Affiant

SWORN TO AND SUBSCRIBED before me on September 15, 2021.

(NOTARY SEAL)



Ronica L Cummings

Signature of Notary Public

Ronica L Cummings

Printed Name of Notary Public