

# PREFERRED DENTIST AGREEMENT



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BLUE CROSS AND BLUE SHIELD OF ALABAMA  
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BIRMINGHAM, ALABAMA 35244



**PREFERRED DENTIST AGREEMENT**  
**WITH**  
**BLUE CROSS AND BLUE SHIELD OF ALABAMA**

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# PREFERRED DENTIST AGREEMENT

WITH

## BLUE CROSS AND BLUE SHIELD OF ALABAMA

This Preferred Dentist Agreement is effective on the date stated in the Application referred to and incorporated as a part of this Agreement between the Dentist who completed and signed the Application ("Dentist") and Blue Cross and Blue Shield of Alabama ("Corporation"), as parties to this Agreement. In consideration of the mutual covenants and promises recited herein, the parties agree as follows:

### I. RECITALS AND PURPOSES

- 1.1 Dentist is licensed under Alabama law to provide dental care services.
- 1.2 Corporation is an Alabama not-for-profit health care service corporation, organized and licensed under Alabama law to enter into agreements with employers and other organizations for provision of dental care services and to enter into contracts with providers and other dental care providers to provide those services.
- 1.3 Dentist and Corporation have mutual interests in promoting the ability of the dental care system to continue to provide quality dental care to the public despite the increasing costs of dental care. They therefore enter into this Agreement toward the ends of delivering and financing quality dental care through an arrangement (the "Preferred Dentist Program") for the provision of such care through less costly means to members of the public choosing dental benefits through that arrangement. The objective of this Agreement accordingly is the prospective financing of broad benefits of quality dental care at a lower cost to the public for dental services that both are medically/dentally necessary and are provided in the least costly setting and method consistent with the needs of patients for quality dental care.
- 1.4 In furtherance of the above-stated objective, it is the purpose of Corporation under this Agreement to afford to members of the public the "Preferred Dentist Program" (PDP) in order to promote the public interests stated above, and it is the purpose of Dentist hereunder to provide dental services in accordance with the "Preferred Dentist Program" in order to promote the public interests stated above.

### II. DEFINITIONS

- 2.1 "Agreement" means this Agreement, which includes the Dentist's Application incorporated herein by reference, the Exhibits attached hereto and all modifications and updates of them, and all Amendments to this Agreement.

- 2.2 "Benefit Agreement" means the written agreement entered into by Corporation with a group or organization or person under which Corporation provides, indemnifies against, or administers dental care benefits covered under Corporation's Preferred Dentist Program.
- 2.3 "Fee Schedule" means the schedule of dental procedures and fee amounts for such procedures as established by Corporation under the Preferred Dentist Program which is on file at Corporation's offices, and includes fee amounts and procedures as established, updated, and adjusted pursuant to Sections 6.5, and 6.6. Exhibit A to this Agreement is a partial listing of said Fee Schedule containing those dental procedures more commonly performed and the fee amounts for them.
- 2.4 "Medically/Dentally Necessary" or "Dental Necessity" means when services or supplies provided or to be provided to a Member under the provisions of this Agreement are determined to be:
- (1) appropriate and necessary for the symptoms, diagnosis, or treatment of the Member's medical/ dental condition, and
  - (2) provided for the diagnosis or direct care and treatment of the Member's medical/dental condition, and
  - (3) within standards of good dental practice accepted by the organized medical/dental community, and
  - (4) not primarily for the convenience of the Member, the Member's dentist, or another provider of dental services, and
  - (5) the most appropriate supply or level of service which can safely be provided. For dental services this means the treatment that can provide the dental services in the most cost-effective method.
- 2.5 "Dental Services" mean those dental services rendered to a Member by Dentist for which benefits are provided by the Benefit Agreement under which the Member receiving those services is enrolled.
- 2.6 "Members" mean Subscribers and their enrolled dependents covered under a Benefit Agreement for benefits under the Preferred Dentist Program.
- 2.7 "Preferred Dentist" means a Dentist or group of Dentists who have entered into a Preferred Dentist Agreement with Corporation.
- 2.8 "Preferred Dentist Program" means a program designed and promoted to (i) further the interests of the public in obtaining quality dental care in the least costly method consistent with a patient's condition, (ii) achieve the objectives of Dentist and Corporation to provide dental care at lesser costs, (iii) encourage Members to utilize Preferred Dentists while preserving to them the right to choose any dentist, and (iv) to pay Preferred Dentists on a fee-for-service basis for Medically/ Dentally Necessary services that are appropriate to the needs of Members for quality dental care. The Preferred Dentist Program is one of the Preferred Care Programs of Corporation which apply the same principles stated

in this Section 2.8 to other health care providers, such as physicians and podiatrists.

- 2.9 "Preferred Dentist Recertification Process" means the process by which Corporation recertifies Dentists for continued participation in the Preferred Dentist Program.
- 2.10 "Preferred Provider" means any provider of health care services or supplies (such as a Preferred Dentist) who has an agreement with Corporation to furnish services or supplies to Members entitled to benefits under the Preferred Care Program.
- 2.11 "Subscribers" mean persons who are eligible for, enrolled under, and covered by the terms and conditions of a Benefit Agreement.
- 2.12 "Utilization Review" means the review and determination of whether Dental Services which have been or are to be provided to a Member, and which are covered services, are Medically/Dentally Necessary. Some examples are determinations of whether a particular dental service or diagnostic service is necessary and appropriate for a Member's dental condition.

### **III. RELATIONSHIP BETWEEN CORPORATION, DENTIST AND MEMBERS**

- 3.1 Dentist and Corporation are independent legal entities. Nothing in this Agreement shall be construed or be deemed to create between them any relationship of employer and employee, principal and agent, partnership, joint venture, or any relationship other than that of independent parties contracting with each other solely to carry out the provisions of this Agreement for the purposes recited in Article I.
- 3.2 It shall be the right and responsibility solely of Dentist to create and maintain a provider/patient relationship with each Member that Dentist treats, and Dentist shall be solely responsible to each Member for all aspects of dental care and treatment within the scope of Dentist's professional license, including the quality and levels of such care and treatment.
- 3.3 It shall be the responsibility solely of Corporation to Members for the creation and maintenance of the Member/ Corporation relationship with each Member, and Corporation shall be solely responsible for matters relating to the handling and processing of claims payments for Dental Services and the premium billing and coverage of Members under Benefit Agreements.
- 3.4 Consistent with Sections 3.2 and 3.3 above and the other provisions of this Agreement, neither party will be required to assume or bear any of the responsibilities, or any consequences thereof, of the other party under this Agreement. Neither Dentist nor Corporation nor any of their respective agents or employees shall be responsible to other persons (except for assignments permitted by Section 11.1) for any act or omission of the other party in performance of their respective responsibilities under this Agreement.

- 3.5 Dentist's right to recommend or advise patients on the choice of, or to otherwise select, hospitals, outpatient centers or other dental care facilities, or specialists, consultants, or other dental care service providers in the treatment of patients shall not be restricted by this Agreement. However, Dentist is expected to refer patients to other Preferred Dentists or Preferred Providers except where Dentist, in accordance with standards of good dental practice, believes that the patient's dental condition warrants referral to another dentist or provider. Coverage by Corporation of the services of such other providers will be dependent upon and subject to the terms and provisions of the particular Benefit Agreement under which the Member is covered.
- 3.6 No provision of this Agreement shall require Dentist to enter into or continue a provider/patient relationship with any Member.
- 3.7 Dentist authorizes Corporation for the term of this Agreement to obtain all information regarding Dentist on file with the National Practitioner Data Bank ("Data Bank"). Dentist agrees that Corporation may obtain such information upon application and at periodic intervals thereafter as deemed necessary by Corporation in connection with its Preferred Dentist Recertification process. Corporation agrees to pay all fees charged by the Secretary of Health and Human Services for the information requested at the time of application. Corporation will pay all such fees associated with subsequent requests for information from the Data Bank. Corporation agrees to use information provided by the Data Bank solely in connection with the Preferred Dentist Program, to keep such information confidential and not to disseminate such information, in whole or in part, to third persons or entities, except as is authorized or required by state or federal law or regulation or by Dentist. Upon request, Corporation will make available to Dentist all information obtained regarding Dentist from the Data Bank. Dentist agrees to execute all consents, authorizations or other documents as may be required by the Data Bank prior to the release of information directly to Corporation, and to perform all other and further reasonable acts necessary to enable Corporation to obtain information directly from the Data Bank. In the event that the Data Bank refuses to provide information directly to Corporation, Dentist agrees to promptly request and obtain such information for the Data Bank upon request by Corporation and to provide all information so obtained to Corporation immediately upon receipt.

#### **IV. DENTIST SERVICES AND RESPONSIBILITIES**

- 4.1 Dentist agrees to provide Dental Services to Members, in a non-discriminatory manner, in accordance with this Agreement.
- 4.2 Dentist agrees to maintain in good standing all licenses required by law including the license to practice dentistry in the State of Alabama and to comply with any requirements necessary to remain accredited.
- 4.3 Dentist agrees to provide to each Member the Dental Services for which benefits are provided by the Benefit Agreement under which the Member is covered only

- when and to the extent that such Services are Medically/Dentally Necessary. Except as otherwise provided by this Agreement, such Services will be provided to each Member in the same manner and in accordance with the same standards as for other patients of Dentist.
- 4.4 Dentist agrees to accept as payment in full for all Dental Services the lesser of the Dentist's usual charge or fee amounts set forth in Article VI.
  - 4.5 Dentist agrees to make no charge for Dental Services except to the extent permitted by this Agreement and the Member's Benefit Agreement. Dentist may waive a particular co-payment or co-insurance amount for reasons of professional courtesy or because the patient is perceived as unable to pay. With these exceptions, Dentist must bill the Member for any co-payment and co-insurance amounts applicable under the Member's Benefit Agreement to Dental Services provided by Preferred Dentists, but the total amount payable by both the Member and Corporation shall not exceed the amount payable under Article VI for such Dental Services. If Dentist, except in cases of professional courtesy or inability to pay, does not bill the Member for any co-payment and/or co-insurance amounts applicable under the Member's Benefit Agreement or if Dentist does not make a reasonable good faith effort to collect such billed amounts, or if Dentist waives or represents that he waives such amounts, then Dentist has breached this Agreement and may be immediately terminated under Article XI. Dentist may bill the Member for dental services which are not covered under the Member's Benefit Agreement because of exclusions and limitations in the Benefit Agreement (typical examples being services for experimental or investigative treatment, and cosmetic procedures). Dentist will not bill the Member for services which are determined by Corporation to be not Medically/Dentally Necessary except in the following instances: Dentist may bill the Member for services which are not Medically/Dentally Necessary if, prior to the rendition of each service, the Member has been apprised that the service may be deemed to be not Medically/Dentally Necessary and has nevertheless agreed with Dentist in writing to be responsible for payment of charges for each such service.
  - 4.6 Dentist has accurately completed the Preferred Dentist Application which is incorporated by reference as a part of this Agreement. Dentist will promptly notify Corporation of any change in the information contained on the Application, including any change of principal place of business, within thirty (30) days of such change. Dentist will be recertified from time to time in accordance with Section 2.9.
  - 4.7 Dentist agrees that Members will be provided Dental Services in the most efficient manner and setting consistent with the dental needs and condition of Members and toward that end, that such Services will be provided in accordance with the provisions of Article VII.
  - 4.8 Dentist agrees to complete and file on a timely basis all claims for benefits for Dental Services rendered to Members, using either a claim form designated by Corporation or alternative electronic claims submission media ("EMC") in a

format specified by Corporation, including all applicable procedure and diagnosis codes and Dentist's charges usually and customarily billed for such Dental Services.

- 4.9 In the event through error or mistake or impropriety of Corporation, Dentist, or any other person or entity, Corporation, makes, or is shown through any provision of this agreement and any applicable Benefit Agreement to have made, any payment to Dentist for services to a Member which is not due to be paid under this Agreement, and the applicable Benefit Agreement, Dentist agrees that Corporation, at its sole option, may request a refund from Dentist, which Dentist agrees to pay promptly upon request, may recoup such sums from Dentist, or may set off such sums against future payments due Dentist from Corporation. These remedies shall be cumulative. In the event that the fact of such overpayment is determined through the audit procedures provided in this Agreement, Dentist shall have thirty (30) days from the mailing of the letter reporting the audit findings within which to lodge a written protest of such findings. Failure to lodge a timely written protest shall constitute Dentist's acceptance of the audit findings and shall make the findings final, binding and immune from future review or collateral attack. Once final and binding, audit findings shall be subject to disclosure as provided in Section 4.10.
- 4.10 Dentist agrees that Corporation may disclose audit findings that become final and binding under Section 4.9 upon request by Subscribers and group Benefit Plan Sponsor for Subscribers.
- 4.11 Dentist agrees to file claims under this Agreement using accurate, non-duplicative coding and in the form and manner as Corporation may prescribe from time to time.
- 4.12 Dentist agrees to cooperate fully with and to provide complete and accurate information promptly as Corporation may request from time to time in connection with the Preferred Dentist Recertification Process. Upon Dentist's failure to comply with these requirements, Corporation may, in its sole discretion, delete Dentist's name from the Preferred Care Directory, or take other action up to and including terminating this Agreement pursuant to Article X.
- 4.13 Dentist agrees to give Corporation written notice within seventy-two (72) hours of any action wherein Dentist's license, or any privilege, registration or other right or authorization incident to the practice of dentistry is in any way restricted, suspended or revoked, whether temporarily or permanently.

## **V. CORPORATION SERVICES AND RESPONSIBILITIES**

- 5.1 Corporation agrees to pay Dentist for the Dental Services in accordance with the provisions of Article VI. In the event Corporation through error pays benefit amounts to its Member rather than Dentist for Dental Services, Corporation shall pay Dentist for Dental Services in accordance with Article VI, and may seek refund of such erroneous payment from its Member.

- 5.2 Corporation shall process all of Dentist's "clean claims" within 30 calendar days. "Clean claims" means those claims submitted by Dentist in accordance with Sections 4.8, 4.11 and Exhibit B which are accurately completed and contain all information specified by Corporation and which do not require further information for processing by Corporation from either Dentist, Member, or any other party. If Corporation fails to pay "clean claims" within forty-five (45) calendar days of receipt, interest shall be paid by Corporation to Dentist at the rate of one and one-half percent per month on the amount of such "clean claims."
- 5.3 Corporation agrees to consult with and obtain the advice of the Preferred Dentist Advisory Committee concerning the appropriateness of the criteria contained in Exhibit B and to utilize such consultation and advice in the modification of such criteria.
- 5.4 Corporation agrees to grant Dentist the status of "Preferred Dentist," to identify Dentist as a Preferred Dentist in information concerning its Preferred Dentist Program distributed to Members, and to encourage Members to seek necessary services from Preferred Dentists. Corporation agrees to continue Dentist's status as a Preferred Dentist until this Agreement terminates in the manner provided in Article X.
- 5.5 Corporation agrees to provide Dentist with a list of all Preferred Dentists participating in the Preferred Dentist Program.
- 5.6 Corporation agrees to identify to Dentist, by either identification cards, bulletins, or other appropriate means, those Members who are entitled to Preferred Dentist Program benefits.
- 5.7 Corporation shall provide educational materials for its Members explaining the design, goals and objectives of the Preferred Dentist Program and the scope of benefits.
- 5.8 From the usual and customary billing data submitted by Dentist in accordance with Section 4.8, Corporation agrees to update its "Usual, Customary and Reasonable" fee program data files in accordance with its normal business practices. Payments made by Corporation under this Agreement shall not be utilized for, and shall have no effect upon, "usual fee" determinations made by Corporation under its Usual, Customary and Reasonable fee program established for its non-governmental lines of business besides Medicare.
- 5.9 Corporation shall periodically provide Dentist with administrative bulletins, group benefit summaries, claim submission guidelines, and other administrative details to assist Dentist in obtaining prompt and expeditious payment and promote efficient submission and processing of Dentist's claims for Dental Services.
- 5.10 There will be an Advisory Committee and one or more Dentist Hearing Committees.

a. Dental Advisory Committee

Purposes. The Dental Advisory Committee shall serve as the principal liaison between the Preferred Dentists and Corporation for the purposes of providing to Corporation advice and recommendations relating to matters involved and arising in the Preferred Dentist Program that pertain to the practice of dentistry and the quality of dental care. The functions of the Committee shall include the provision of advice and recommendations to Corporation concerning (a) dental treatment guidelines under Exhibit B, (b) other matters involving professional dental expertise and judgment and the quality of dental care, and (c) the course and direction in general of the Preferred Dentist Program in relation to professional matters involving the practice of dentistry. In the performance of its functions the Committee shall consult with Preferred Providers, including medical/dental specialty organizations or groups as appropriate.

Composition: Effective April 1, 2002, the Dental Advisory Committee shall be composed of five (5) Preferred Dentist participating in the Preferred Dentist Program and consist of members geography distributed across the state by District as described in Exhibit A to these Bylaws. Each member of the Advisory Committee must be a Preferred Dentist and must be a Dental Practitioner in the district from which elected.

Rules and Procedures. The Dental Advisory Committee shall establish, and may amend from time to time, rules and procedures consistent with the provisions of this Agreement and applicable law for the governance and operation of the Dental Advisory Committee and the Dental Hearing Committees.

b. Dental Hearing Committees

Purpose. One or more Dental Hearing Committees shall determine in accordance with Section 8.2 any disputes between Preferred Dentists and Corporation.

Establishment and Composition. The Dental Hearing Committee or Committees shall be established by the Dental Advisory Committee. All members of the Dental Hearing Committee shall be Preferred Dentists in good standing. The number of Dental Hearing Committees and the number of members comprising each such Committee shall be determined by the body establishing them.

c. Costs

Corporation shall pay the costs of the Dental Advisory Committee and Dental Hearing Committee or Committees.

## VI. PAYMENT AND BILLING

- 6.1 Corporation will pay to Dentist for Dental Services the lessor of Dentist's usual charge or fee amounts as specified for the Dentist for the dental procedures in the Fee Schedule.
- 6.2 Dentist will seek payment only from Corporation for the provision of Dental Services to all Members covered by a Benefit Agreement. Where there is another source of payment (other than a Member and Corporation) for the Service provided, Dentist may also seek payment from such other source, subject to the provisions of the Benefit Agreement under which the Member is enrolled. In such situations Dentist must file claims directly with such other source on behalf of Member.

In cases involving application of coordination of benefits or non-duplication of benefits provisions of Benefit Agreements when the Member is covered under a Benefit Agreement and another dental benefit plan or program (except another group plan underwritten or administered by Corporation), the following rules shall apply:

- a. For cases in which Corporation is the primary plan, Dentist may bill the Member's secondary benefit plan for any difference between the fee amount payable under this Agreement and Dentist's usual charge for the Dental Service provided.
- b. For cases in which Corporation is "the secondary plan," Corporation shall pay Dentist any difference between the amount payable by the Member's primary plan and the fee amount payable under this Agreement for the Dental Service provided.
- 6.3 Dentist agrees to accept the fee amount payable under this Agreement or Dentist's usual charge, whichever is less, as payment in full for each Dental Service provided to a Member. Such payment shall be for Dental Services provided on or after the effective date of this Agreement and during the time the Member's Benefit Agreement is in effect.
- 6.4 Corporation shall utilize the American Dental Association's (ADA) dental codes in establishing and updating the Fee Schedule. As ADA coding revisions and updates are issued by the American Dental Association, Corporation will utilize such updates and revisions as appropriate.
- 6.5 The fee amounts set forth in Exhibit A shall be in effect for services rendered through the current calendar year. Such amounts shall be reviewed annually thereafter. Corporation's purpose and intent shall be to maintain a Fee Schedule in which the amounts are neither excessively high nor excessively low for any procedure. For the purpose of correcting inequities in the Fee Schedule which may occur due to factors listed below, Corporation may review and adjust at any time, either upward or downward, individual procedure Fee Schedule amounts listed in Exhibit A to this Agreement. In such review, Corporation may adjust Fee

Schedule amounts upward or downward in order to maintain a Fee Schedule which is reflective of a competitively-priced, volume purchase of Dental Services on a prospective, prudent buyer basis and which takes into account the following factors:

- (1) The influence of changing and evolving technology upon the cost, equipment, time and other related resources utilized in performing dental procedures;
  - (2) The inflationary impact upon the overhead, administrative, acquisition and productive costs, malpractice coverage and other costs of provision of such services;
  - (3) Competitive pricing data for such Dental Services by other competing dental programs; and
  - (4) Any time and effort-saving techniques or simplifications and any increased efficiencies from automation or otherwise which are being employed.
- 6.6 In order to maintain a Fee Schedule which is reflective of and current with evolving changes in dental practice, Corporation may from time to time recognize newly developed dental procedures to add to Exhibit A and delete outmoded or inappropriate dental procedures from Exhibit A. As newly developed dental procedures are recognized by Corporation for payment under this Agreement, Corporation will establish fee amounts for such new procedures which are proportionally equivalent to those for other procedures of similar nature and complexity.
- 6.7 Dentist will furnish, upon request, all information reasonably required by Corporation to substantiate the provision of Dental Services, the Medical/Dental Necessity of such Services, and the charges for such Services. Corporation may review all claims submitted by Dentist, and relevant dental records of Members when necessary, to appropriately apply the terms of this Agreement or the applicable Benefit Agreement of the Member.
- 6.8 The inclusion of a procedure on Exhibit A does not mean that payment will be made for the procedure in all cases. Payment for any procedure will be dependent on whether the procedure is Medically/Dentally Necessary in the circumstances and within the terms of the Benefit Agreement under which the Member receiving the Service is covered.

## **VII. RECORDS**

- 7.1 The Parties shall prepare and maintain all appropriate records on Members receiving Dental Services. The Parties shall maintain the confidentiality of the Member's health and personal information. The records shall be maintained in accordance with prudent record-keeping procedures and as required by law, and as may be needed by the parties hereto for performance of this Agreement. Dentist agrees to allow audit and duplication of billing, payment and medical

records pertaining to Members. Such audit and duplication will be allowed upon reasonable notice during regular business hours. Corporation warrants that it has a contractual right with its Members to obtain any and all patient information from Dentist relevant to a determination of whether and to what extent benefits may be provided under Benefit Agreements.

## VIII. DISPUTE RESOLUTION

- 8.1 Corporation and Dentist agree to meet and confer in good faith to resolve any problems or disputes that may arise under this Agreement.
- 8.2 It is the mutual intent and purpose of the parties that issues of Medical/Dental Necessity and related issues requiring dental judgment and expertise arising under this Agreement be resolved by panels of practicing Dentists, and that such resolution be final and binding upon both parties. Accordingly, in the event that any dispute arising under this Agreement (except the amounts of fees in Schedule A which are set by Corporation in its sole discretion) is not satisfactorily resolved between the parties under Section 8.1, Corporation and Dentist agree to resolve such dispute in the following manner:
- a. Appeal to Dental Hearing Committee. Such dispute shall be presented for determination by a Dental Hearing Committee established under Section 5.10. Either party may request a hearing for presentation of the disputed matter. If a hearing is requested, both parties will be notified of the time and place of hearing. In the absence of request for a hearing, the Dental Hearing Committee shall make its determination on the records presented by each party. The Dental Hearing Committee shall render its determination within thirty (30) days after submission of the dispute on records or through a hearing. Such determination, in the absence of a timely notice of arbitration as provided below, shall become final and binding on both parties upon the passage of thirty (30) days following the date of determination by the Dental Hearing Committee.
  - b. Arbitration. If either party desires to arbitrate the determination of a Dental Hearing Committee, a notice of arbitration shall be mailed to the opposite party not later than thirty (30) calendar days from the date of the Dental Hearing Committee determination. An Arbitration Panel shall be comprised of one member appointed by the Dentist, one member appointed by Corporation, and a third member appointed jointly by the appointees of the Dentist and Corporation. If the two appointees cannot agree upon a third member within fifteen (15) days of their appointment, the Chairman of the Dental Advisory Committee shall appoint the third member. All members of the Arbitration Panel shall be licensed Dentists and members of the Preferred Dental Program in good standing. Following appointment, the Arbitration Panel shall review the matter in dispute and render a written decision within thirty (30) days following the review. Determination of the Arbitration Panel shall be binding on the parties and shall become final as of the date of notice thereof to both parties. Reasonable costs of conducting the Arbitration Panel shall be paid by the party against whom

the determination is rendered, and each party shall bear its own respective costs of presenting the matter to the Arbitration Panel.

- 8.3 Determinations made by the Dentist Hearing Committee and the Arbitration Panel concerning disputes arising from the Utilization Review provisions of the Agreement which become final and binding on the parties in accordance with this Article shall be enforceable in any court of competent jurisdiction. Neither party shall have any right, claim, or action against the other, and each party hereby agrees not to bring any judicial action or proceeding against the other to enforce, apply, or otherwise resolve issues governed by the provisions of this Agreement, except for the enforcement of determinations made pursuant to the remedies provided in this Article VIII.
- 8.4 It being the intent and purpose of the parties in promoting and furthering the purposes of this Agreement, which includes moderating and containing the cost of health care and enhancing the relationship among Members, Preferred Dentist and Corporation, and the parties hereby acknowledge that the provision of health care pursuant to this Agreement takes place in and substantially affects interstate commerce and that the Federal Arbitration Act permits and promotes the use of arbitration as a means of dispute resolution in matters arising from interstate commerce, the parties accordingly adopt the following provisions with the purpose of effecting a more beneficial, efficient and effective means of dispute resolution.
- (a) Any controversy, dispute, or claim by any Member arising out of the rendering of dental, medical and other health care services by Dentist shall be submitted to binding arbitration pursuant to the provisions of the Federal Arbitration Act, 9 U.S.C. §1, et seq. provided that the Member is required to submit such claims to binding arbitration under the applicable Benefit Agreement at the time the services in question are rendered. Such arbitration shall be governed by the rules and provisions of the American Arbitration Association's Dispute Resolution Program for Insurance Claims.

Dentist further understands that the arbitration shall be binding upon Dentist as well as the Member and that it may not be set aside in later litigation except upon the limited circumstances set forth in the Federal Arbitration Act.

Judgment upon the award rendered by the arbitrator may be entered in any Court having jurisdiction thereof. The arbitration expenses shall be borne by the losing party or in such proportion as the arbitrator(s) shall decide.

## **IX. MARKETING**

- 9.1 Corporation shall use its best efforts to encourage Members to use the services of Preferred Dentists. Such efforts shall include, by way of example and not limitation, the following:
- a. During the term of this Agreement and prior to receipt of any notice of its termination, Corporation shall identify Dentist as a Preferred Dentist to customer group accounts which have entered into Benefit Agreements and which have Members residing in the geographic area of Dentist's practice.
  - b. Corporation shall design and promote Benefit Agreements for its customer group accounts which provide greater dental care and financial benefits and other incentives to Members to utilize Preferred Dentists.
- 9.2 While this Agreement is in effect Corporation may use the name of Dentist for purposes of informing Members of the identity of Preferred Dentists (unless Corporation is instructed to the contrary in writing by Dentist) and otherwise carrying out the terms of this Agreement; likewise, Dentist shall have the right to inform his patients and the public that he participates in the Preferred Dentist Program.
- 9.3 Except as provided in Section 9.2, Corporation and Dentist each reserves the right to, and the control of the use of, its name and all symbols, trademarks and service marks presently existing or later established. In addition, except as provided in Section 9.2, neither Corporation nor Dentist shall use the other party's name, symbols, trademarks or service marks without the prior written consent of that party and shall cease any such usage immediately upon written notice of that party.

## **X. TERM AND TERMINATION**

- 10.1 When executed by both parties, this Agreement shall become effective as of the date indicated in the Application and shall continue in effect until terminated.
- 10.2 Either party may terminate this Agreement by giving at least sixty (60) days advance written notice thereof to the opposite party. Except for certain circumstances permitting termination with less than sixty (60) days notice as provided for in Sections 10.3, 11.5, and 11.7, termination of this Agreement shall be effective the sixtieth day following the date such notice is mailed, first class postage prepaid, to the opposite party. Any treatment plan commenced on or before the effective date of termination and all applicable terms of this Agreement with respect to such treatment plan shall remain in effect. During the interim period from notice of termination to the effective date of termination, this Agreement shall remain in full force and effect and be fully binding upon both parties. Nothing contained herein shall be construed to limit either party's lawful remedies in the event of a material breach of this Agreement.

- 10.3 Corporation may, at its sole option, terminate or suspend this Agreement without prior notice if the Dentist's license, or any privilege, registration or any other right or authorization incident to the practice of dentistry is in any way restricted, suspended or revoked during the term of this Agreement. Such termination or suspension by Corporation shall be effective immediately upon mailing notice of such termination or suspension to Dentist.
- 10.4 After the effective date of termination, the necessary provisions of this Agreement shall remain in effect for the resolution, in the manner herein provided, of all matters unresolved at the date of termination.
- 10.5 Notwithstanding termination, Corporation shall continue to have access as provided in Article VII for three (3) years following the date of termination to records necessary to carry out the terms of this Agreement.

## **XI. GENERAL PROVISIONS**

- 11.1 Assignment. No assignment of the rights, duties, or obligations of this Agreement shall be made by Corporation or Dentist, except that Dentist may assign his right to payments under this Agreement to a professional association, professional corporation, foundation, or other group practice arrangement of which he is a member, owner, or employee. Any attempted assignment contrary to this provision by either party shall be void and have no binding effect upon the opposite party.
- 11.2 Waiver of Breach. Waiver of a breach of any provision of this Agreement shall not be deemed a waiver of any other breach of the same or a different provision.
- 11.3 Notices. Any notice required to be given pursuant to this Agreement shall be in writing and shall be sent by first-class, postage prepaid, to Corporation at:

Director of Dental Programs  
Blue Cross and Blue Shield of Alabama  
450 Riverchase Parkway East  
Birmingham, Alabama 35298

and to Dentist at his address as shown on the most recently dated Application or other written notification of address on file at Corporation's offices.

- 11.4 Severability. In the event any provision of this Agreement is rendered invalid or unenforceable by an Act of Congress or of the Alabama Legislature or by any regulation promulgated by officials of the United States or the State of Alabama, or declared null and void by any court of competent jurisdiction, the remainder of the provisions of this Agreement shall, subject to Section 11.5, remain in full force and effect.
- 11.5 Effect of Severable Provision. In the event that a provision of this Agreement is rendered invalid or unenforceable or declared null and void as provided in Section 11.4 and its removal has the effect of materially altering the obligations of

either party in such manner as, in the judgment of the party affected, (a) will cause serious financial hardship to such party; or (b) will substantially disrupt and hamper the mutual efforts of the parties to maintain a cost-efficient means of delivery of dental care services; or (c) will cause such party to act in violation of its corporate Articles of Incorporation or By-laws, the party so affected shall have the right to terminate this Agreement upon thirty (30) days prior written notice to the other party.

11.6 Entire Agreement. This Agreement, including its Exhibits and the Application, contains, the entire Agreement between Corporation and Dentist relating to the rights granted and the obligations assumed by the parties. Any prior agreements, promises, negotiations or representations, either oral or written, relating to the subject matter of this Agreement and not expressly set forth in this Agreement or an Amendment executed with the same formality as this Agreement are of no force or effect.

11.7 Amendments. This Agreement or any part of it may be amended at any time during its term by mutual written consent of the parties.

This Agreement or any part of it may be amended by Corporation by mailing such amendment or a revised form of Agreement to Preferred Dentist at least sixty (60) days prior to the effective date of such amendment. No amendment to Exhibit A may be made by Corporation except in accordance with Sections 6.5 and 6.6. Exhibit B may be amended by Corporation after receiving the advice of the Dental Advisory Committee and giving advance notice to the Preferred Dentists prior to the effective date of such amendment. In the event an amendment by Corporation is not acceptable to Preferred Dentist, then Preferred Dentist may terminate this Agreement by giving written notice to Corporation prior to the effective date of the Amendment. Any such notice of termination shall be effective as of the date of the Amendment. In the absence of written notice of termination by Preferred Dentist, Preferred Dentist shall be deemed to have accepted such amendment(s) as of the effective date thereof.

11.8 Attorneys' Fees. In the event that either Corporation or Preferred Dentist institutes any arbitration proceeding or judicial proceeding to enforce the provisions of this Agreement, each party shall bear its own costs and attorneys fees.

11.9 Headings. The headings of articles and sections contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

11.10 Gender. Whenever the masculine gender is used in this Agreement, it shall also mean and refer to the feminine gender whenever appropriate.

11.11 Non-Exclusivity. Nothing in this Agreement shall in any way be deemed to limit or restrict Preferred Dentist from entering into other "Preferred Provider" or other similar arrangements with any other party.

- 11.12 Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Alabama except as they may be preempted or superseded by federal law. This section shall not be construed as a waiver of the mandatory arbitration provisions contained in this Agreement.
- 11.13 Parties to the Agreement. Dentist hereby expressly acknowledges his understanding that this Agreement constitutes a contract between Dentist and Blue Cross and Blue Shield of Alabama, that Blue Cross and Blue Shield of Alabama is an independent corporation operating under a license with the Blue Cross and Blue Shield Association, an association of independent Blue Cross and Blue Shield Plans, (the "Association") permitting Blue Cross and Blue Shield of Alabama to use the Blue Cross and/or Blue Shield Service Marks in the State of Alabama, and that Blue Cross and Blue Shield of Alabama is not contracting as the agent of the Association. Dentist further acknowledges and agrees that he has not entered into this Agreement based upon representations by any organization other than Blue Cross and Blue Shield of Alabama and that no person, entity, or organization other than Blue Cross and Blue Shield of Alabama shall be held accountable or liable to Dentist for any of Blue Cross and Blue Shield of Alabama's obligations to Dentist created under this Agreement. This paragraph shall not create any additional obligations whatsoever on the part of Blue Cross and Blue Shield of Alabama other than those obligations created under other provisions of this Agreement.

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Name

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Address

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City, State, Zip Code

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

TAX I.D.NO.: \_\_\_\_\_

**EXHIBIT A**  
**MAXIMUM ALLOWABLE CHARGE SCHEDULE**

This Schedule can be accessed at [www.bcbsal.org/providers/index.cfm](http://www.bcbsal.org/providers/index.cfm).

**EXHIBIT B  
PREFERRED DENTIST MANUAL**

This manual can be accessed at [www.bcbsal.org/providers/index.cfm](http://www.bcbsal.org/providers/index.cfm).





# **BlueCross BlueShield of Alabama**

An Independent Licensee of the Blue Cross and Blue Shield Association.

450 Riverchase Parkway East  
Birmingham, Alabama 35244