



April 12, 2022

The Honorable Jim Wood
Chair, Assembly Health Committee
1020 N. Street, Room 390
Sacramento, CA 95814

RE: AB 2724 (Arambula) – **OPPOSE UNLESS AMENDED**

Dear Chairman Wood,

The National Union of Healthcare Workers (NUHW) represents 16,000 healthcare employees, including more than 4,000 licensed non-physician mental health and substance use disorder clinicians responsible for providing the majority of behavioral health services at more than 100 Kaiser Permanente care sites across California. These caregivers have a unique vantage point into Kaiser's day-to-day operations.

AB 2724 and its accompanying budget trailer bill would expand the number of Medi-Cal recipients enrolled in Kaiser Permanente by 200,000 or more. We have long advocated for Kaiser to cover larger numbers of Medi-Cal enrollees, but we are gravely concerned that without appropriate safeguards, an expanded Medi-Cal contract with Kaiser could put some of the state's most vulnerable residents at risk.

To begin with, we share the overarching concerns of other healthcare advocates that the preferential terms under which Kaiser has agreed to expand its Medi-Cal enrollment – which would limit its additional enrollees mostly to members coming off coverage under Kaiser's commercial plans or members of their households – would expose county Medi-Cal plans and their associated safety net providers to adverse selection that would leave them caring for pools of sicker and more costly patients without the volume of healthier, less costly patients necessary to balance their finances and provide revenue support for their essential infrastructure and services. Any expanded Medi-Cal contract with Kaiser must address this problem and ensure that county plans are insulated from potential negative effects of Kaiser's expansion.

Equally important, we believe that any expansion of Medi-Cal contracting with Kaiser Permanente should be held in abeyance until the health plan implements – or at minimum enters into binding agreements with the state to implement – concrete steps to remedy its egregious, multifold, documented failures to provide timely and appropriate behavioral health services to its more than nine million current enrollees.

Over the past decade, the Department of Managed Health Care repeatedly has found Kaiser to have failed in its obligation to provide patients with timely and appropriate behavioral health care to which they are entitled under the law, and has found in each successive instance that Kaiser has failed to remedy multiple deficiencies that had been noted previously. As a result of

Kaiser's failures, in many parts of the state, enrollees are currently waiting as long as three months between therapeutic visits, in contradiction of their providers' clinical judgment, and in violation of generally accepted standards of care for their conditions.

These burdens fall especially hard upon enrollees with acute behavioral health disorders, whom Kaiser directs to their severely understaffed in-house networks of clinicians, and upon immigrants and people of color who need care in languages other than English or responsive to their distinct cultural backgrounds.

On July 1, California will implement SB 221 (Wiener) – a law that gives patients the right to ongoing care in a timely manner. Despite this, Kaiser has done little to grow the number providers and create appropriate internal systems to meet the requirements of that law. As a result, NUHW is concerned that Kaiser will fall even further out of compliance with patient access laws.

Given that Kaiser is clearly failing to meet its current enrollees' behavioral health needs, NUHW members cannot imagine how Kaiser could possibly meet the needs of tens, let alone hundreds of thousands more Medi-Cal beneficiaries without a major overhaul in its behavioral health system.

Before any additional Medi-Cal enrollees are consigned to Kaiser's care, the Department of Managed Health Care must: 1) complete its planned audit of the plan's behavioral health services; 2) identify all shortcomings in the plan's delivery of these services; 3) set forth appropriate remedies, including requirements for the expansion of Kaiser's behavioral health provider networks as necessary to meet the needs of its anticipated enrollment expansion; and 4) secure the plan's binding agreement to implement and maintain those measures, as well as to maintain ongoing compliance with all applicable state and federal laws.

Unless requirements of the kind detailed above are incorporated into the program contemplated by AB 2724, we believe the legislation as currently drafted will put many more vulnerable Californians at risk of suffering from Kaiser Permanente's manifest failure to invest appropriately in behavioral health services.

We urge you to make the changes we recommend, or to reject this bill.

Sincerely,



Sal Rosselli
President