

December 13, 2021

SENT VIA ELECTRONIC MAIL TO: nmhirata@dcca.hawaii.gov

Nelson Hirata
Investigator, Health Insurance Division
State of Hawaii, Department of Commerce and Consumer Affairs
355 Merchant Street, Room 213
Honolulu, HI 96813

RE: November 3, 2021 National Union of Healthcare Workers Complaint

Dear Mr. Hirata:

On November 4, 2021 the Department of Commerce and Consumer Affairs (the “Department”) requested that Kaiser Foundation Health Plan, Inc. (the “Plan”) investigate and respond to the November 3, 2021 complaint from the National Union of Healthcare Workers (“NUHW”) concerning behavioral health services. The Plan takes NUHW’s allegations seriously and appreciates the opportunity to investigate and respond to the complaint.

I. Introduction

Kaiser Permanente believes mental health and well-being are essential to total health and we are committed to helping our members stay mentally, physically, and emotionally healthy. This commitment includes ensuring members seeking mental health and addiction care can access appointments in a timely, clinically appropriate manner. Our commitment also includes proactive outreach to encourage members who may be suffering emotionally to seek behavioral health care and to reassure them that we are here for them, and that behavioral health care is equally as valued as physical health care.

To fulfill this commitment, it is important to acknowledge that the American health care system has been under-resourced with respect to mental health for many years. The COVID-19 pandemic exacerbated this situation across the country.¹ Providers everywhere – including at Kaiser Permanente – are working hard to address the growing demand and worsening mental health crisis in the United States.

These challenges are acutely and uniquely felt in the State of Hawaii. Hawaii has a longstanding, well-documented shortage of health care providers,² and in particular, behavioral health providers. It has

¹ Just last week, the U.S. Surgeon General issued a public health advisory warning of an emerging youth mental health crisis. The full advisory is available at <https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf>.

² Hawaii has the third worst primary care provider shortage in the country. See <https://www.hawaiitribune-herald.com/2021/07/26/hawaii-news/study-hawaii-county-has-third-worst-primary-care-provider-shortage-in-us/>. The University of Hawai‘i’s Annual report on Findings from the Hawai‘i Physician Workforce Assessment Project, dated December 2020, identified the estimated unmet need for physicians at a staggering 1,008 Full Time

been a struggle to meet the behavioral health needs of Hawaii residents for many years, and the state has consistently ranked among the most challenged in the nation in terms of access to mental health care.³ The pandemic brought increased demand to a system already plagued with demand far outpacing supply.

The critical shortage of behavioral health providers impacts all Hawaii residents and is not a challenge unique to Kaiser Permanente or its members. Nevertheless, Kaiser Permanente is committed to being part of the solution so that all members of our community can access the care they deserve. Indeed, Kaiser Permanente's work to expand options to meet the ever-increasing demand for behavioral health services began ahead of the pandemic with a multi-modal approach, which includes expansion of recruitment efforts to increase hiring, as well as pursuing care transformation to understand and learn from our members' needs from a population health management approach. For example, we have developed an approved business plan to significantly expand the number of psychiatrists, therapists, and other behavioral health professionals and support staff in Hawaii. That plan includes hiring 44 additional therapists and 10 additional administrative staff to support behavioral health services.

In addition to hiring efforts, Kaiser Permanente has dedicated significant resources toward increasing the number of people entering mental health professions by providing an array of training opportunities. As an island state with a finite number of behavioral health providers, high cost of living, and geographic barriers, hiring is uniquely challenging in our state, and more must be done to increase the pipeline of behavioral health providers. Kaiser Permanente welcomes opportunities to partner with the State of Hawaii, the Department, and NUHW to focus on the pipeline for careers in behavioral health care.

With this approach, Kaiser Permanente is committed to ensuring all members of the communities we serve have appropriate access to behavioral health care. We are deeply proud of the care our dedicated clinicians provide to the community in these challenging times. We invite and look forward to constructive partnership with the Department and NUHW to identify creative solutions to address the critical shortage of behavioral health providers in Hawaii. Our state's residents deserve better, our members deserve better, and we can and must rise to this challenge, together.

II. Plan's Response to NUHW Allegations

The November 3 complaint raises serious concerns regarding Kaiser Permanente's provision of behavioral health services. The Plan always welcomes feedback and takes seriously all concerns raised, including those identified by our valued NUHW-represented therapists. The Plan greatly appreciates the opportunity to investigate and respond to these concerns. This response first provides relevant background regarding the status of NUHW's collective bargaining agreement, and next addresses the underlying allegations in the November 3 complaint.

Equivalents. See https://www.hawaii.edu/govrel/docs/reports/2021/act18-sslh2009_2021_physician-workforce_annual-report_508.pdf.

³ Hawaii ranked last in the nation in Mental Health America's 2021 "State of Mental Health in America" report in terms of percentage of adults with mental health illness who did not receive treatment (65.8%). See <https://www.mhanational.org/issues/2021/mental-health-america-all-data>.

A. NUHW Collective Bargaining Agreements

Kaiser Permanente, its leaders, physicians, and employees support our unions and value the process of arriving at a contract that benefits our employees and organization, and ultimately sustains our mission of health for our members and communities. As the Department may be aware, Kaiser Permanente's non-physician licensed behavioral health therapists are represented by NUHW.

NUHW has represented Kaiser Permanente's behavioral health providers in Hawaii since 2018, and the parties are in active negotiations for an initial collective bargaining agreement. The Hawaii bargaining unit consists of approximately 50 behavioral health providers. In Kaiser Permanente's Northern and Southern California markets NUHW has engaged in aggressive corporate campaign activity to coincide with ongoing contract negotiations.

By way of background, in 2011, Kaiser Permanente and NUHW began negotiations for the initial collective bargaining agreements in Kaiser's Northern and Southern California markets. In an effort to gain leverage, NUHW commenced a multifaceted corporate campaign against Kaiser Permanente involving media blitzes and written complaints to regulators and lawmakers, among other activities. After prolonged negotiations, Kaiser Permanente and NUHW reached agreement and entered into two collective bargaining agreements in 2015. Once the agreements were ratified, NUHW ceased its corporate campaign. Similar cycles of bargaining and corporate campaign activity played out in California in 2018 and at present.

Hawaii is proving no different, as we have seen NUHW extend its corporate campaign activities to this market. NUHW's complaint dated November 3, 2021 is consistent in tone and substance to activity we have seen from NUHW during contract negotiations in California. Nevertheless, the Plan takes the allegations contained within the complaint seriously and is pleased to address them in this response.

B. NUHW Allegations

The Plan takes seriously its obligations to meet the behavioral health needs of our members throughout the state and ensure our members have access to the care they need. The Plan investigated the allegations contained in the November 3 complaint and provides the Department with the findings outlined below.

Despite the unprecedented challenges posed by the global pandemic, Kaiser Permanente has not faltered in its unwavering commitment to helping our members stay mentally, physically, and emotionally healthy. This commitment includes ensuring members seeking mental health and addiction care can access care in a timely, clinically appropriate manner.

1. Access Challenges Are Not Unique to Kaiser Permanente

The significant staffing challenges described in the complaint, and resulting behavioral health access challenges, are not unique to Kaiser Permanente. Hawaii's well-documented, longstanding provider shortage was exacerbated by the unprecedented spike of demand due to the pandemic. A 2021 Kaiser

Family Foundation⁴ study noted the percent of need for mental health professionals met in Hawaii is just 14.6%, compared to the national percent of need met at 27.2%.⁵ Our nation is failing to meet its residents' behavioral health needs, and in Hawaii the problem is especially acute. The Kaiser Family Foundation estimates that our state needs 30 additional psychiatrists to meet the psychiatric needs of its residents. Beyond psychiatrists, Hawaii needs an untold number of additional psychologists, psychiatric nurses, addiction counselors, therapists, and other professionals to meet our residents' needs.

Hawaii's behavioral health provider shortage negatively impacts Hawaii residents, and prevents *all* health plans, insurers, and state agencies from delivering timely, appropriate care to patients. Kaiser Permanente can and must do better, and Kaiser is nevertheless committed to doing everything it possibly can to meet the unique needs of each and every one of our members. We appreciate the flexibility offered under state emergency orders to embrace telehealth and expand the scope of practitioners permitted to provide services to Hawaii residents. We urge the Department to consider further expansive legislation, rulemaking, or emergency orders to address the significant supply challenges facing the state. This is not a problem that can be solved overnight, and instead will require long-term pipeline development and creative solutions.

2. Commitment to Increasing the Behavioral Health Pipeline

The current pipeline of behavioral health providers is woefully inadequate to meet Hawaii's needs. Hawaii has an extremely limited labor supply, and existing providers report they are unable to meet their current patients' needs, let alone accept new patients.⁶ This problem is not new. In a 2017 interview, Lynn Fallin, Deputy Director of the Behavioral Health Service Administration at the Department of Health, discussed the tragic impact lack of mental health providers has on youths in Hawaii, stating "honestly, I don't think there will ever come a day where we will not have to use the resources of other states...".

Despite the challenges of an extremely limited labor supply, Kaiser Permanente is unwavering in our commitment to expanding the workforce so that all of our members can readily access the care they deserve and need. Internally, we have set aggressive targets to immediately hire six full time psychiatrists as well as add eleven new full-time therapists annually over the next four years and ten additional administrative staff to support behavioral health functions. Further, Kaiser Permanente has continued to work on expanding our external network of providers by evaluating opportunities to contract with national telehealth providers to expand our external network capacity. In addition to our internal efforts, Kaiser Permanente remains dedicated to increasing the overall behavioral health pipeline for our state. Specifically, we developed and launched a post-doctoral program for

⁴ Kaiser Family Foundation is a nonprofit organization focusing on national health issues. KFF is not affiliated with Kaiser Permanente.

⁵ See <https://www.kff.org/statedata/mental-health-and-substance-use-state-fact-sheets/hawaii> (identifying Hawaii as a Mental Health Care Health Professional Shortage Area (HPSA)).

⁶ See, e.g., <https://www.hawaiinewsnow.com/2021/05/05/hawaii-faces-mental-health-crisis-psychologists-struggle-keep-up-with-patient-demand/> (noting clinical psychologists are struggling to keep up with patient demand); <https://www.civilbeat.org/2019/11/mental-health-services-on-hawaii-campuses-lag-far-behind-demand/> (noting mental health services on Hawaii campuses lag far behind demand and providers feel overwhelmed).

psychologists which has now been in place for over four years. That program assigns Kaiser Permanente licensed psychologists, in partnership with Kaiser Permanente psychiatrists, to provide supervision and training for psychology residents and prepare the next generation of behavioral health providers. Kaiser Permanente is preparing to launch a similar program to provide training for masters-level social workers in developing the skills necessary to obtain clinical licensure.

In addition, Kaiser Permanente supports the training and education of medical residents and third year medical students. Specifically, Kaiser Permanente actively partners with the John A. Burns School of Medicine to provide training to residents and medical students through multiple rotations in psychiatry. Since 2017, Kaiser Permanente has hosted 26 residents in rotations through our Pediatric Behavioral Health Program, along with six fellows in our Child and Adolescent Psychiatry program. In addition, Kaiser Permanente hosts psychiatric rotations for third year medical students. Since 2018, 43 students have rotated with us for this graduation requirement, and nine students are scheduled to complete their psychiatric rotation with Kaiser Permanente this upcoming Spring semester.

3. Multi-Modal Approach to Behavioral Health Care

In conjunction with efforts to hire and train additional behavioral health providers described above, it is important to seek new methods that can increase access and continually improve services to our members and communities. Kaiser Permanente continues to work on a broad range of initiatives designed to increase behavioral health access in the communities we serve, to continually improve, and to set a new standard of service excellence.

Unlike other health care systems, Kaiser Permanente's primary care and mental health providers work together to make mental health and wellness part of a patient's total health. We are making it possible for members to receive mental health care throughout our organization, including embedding mental health professionals in primary care clinics and emergency departments. Our Depression Care Management program offers a team-based approach to treating mild to moderate depression and is coordinated through a care manager to support each member's journey in managing depression.

Kaiser Permanente's unique, integrated health delivery system features a comprehensive portfolio of treatment options for high-quality care designed to meet our members' behavioral health needs. This ecosystem of care is centered around providing equitable, evidence-based, outcomes-driven, patient centered care. Unlike other health plans, Kaiser Permanente leverages its system of providers in primary care and specialty care to provide wrap-around behavioral health services unlimited by the historical bounds of individual therapy. In our integrated model, there are numerous touchpoints for behavioral health care beyond individual psychotherapy appointments. Those include primary care, obstetrics, pediatrics, geriatrics, emergency services, and multiple other specialties.

Community standards for behavioral health care services are shifting to catch up to Kaiser Permanente's model. We are a leader in recognizing the importance of addressing behavioral health in primary care and pediatric settings. As an organization, Kaiser Permanente addresses behavioral health on a continuum, focused on early detection and prevention to avoid crisis situations. Kaiser Permanente's model also recognizes the unique needs of each patient. Some members may require intense, daily support, whereas others may thrive seeing a therapist every few weeks or months.

4. Innovative Virtual Care Offerings

At the outset of the pandemic, Kaiser Permanente was able to leverage its status as an industry leader in virtual care to quickly pivot to meet members' needs via virtual care appointments, statewide.

All of Kaiser Permanente's providers, including specialty mental health clinicians, can offer telehealth appointments where clinically appropriate. Because we already had the technology capacity and infrastructure in place, our clinicians were able to utilize telehealth capabilities from the earliest days of the pandemic to provide patients with safe and convenient access to virtual care including counseling and therapy appointments. This includes providing education classes and addiction medicine services virtually as well. Further, our integrated approach drives coordination of care across all settings and care teams, with providers able to connect with one another through our industry-leading electronic health record.

Kaiser Permanente has also rapidly scaled virtual and telehealth services, from providing less than 10% of our total behavioral health visits via virtual/telehealth before the pandemic to over 90% as of November 2021. Our members and clinicians have celebrated the success of this model and we intend to continue providing virtual access as a standard option for our members moving forward. We have also made a number of mental health digital apps available to members, enabling members to use these tools on their own or under the guidance of a clinician — at no cost. A case study, published in the January 2021 issue of NEJM Catalyst Innovations in Care Delivery, demonstrates the positive impact these tools can have as part of patient treatment plans. See <https://catalyst.nejm.org/doi/full/10.1056/CAT.20.0295>.

5. NUHW's Survey of Represented Therapists

NUHW's November 3 letter cites a self-administered survey of its NUHW-represented therapists. The letter does not provide any information that would allow the Plan to understand the validity of the survey in terms of design or administration. We are unable to assess this survey in terms of question construction, how it was administered, messaging that may have accompanied its administration, or how any results were interpreted.

The Plan has reviewed NUHW's summary of the survey findings along with the six bullet points provided in the body of the complaint. The Plan notes the results of the survey appear to be grounded in perception rather than data. In particular, the bullet points are written in such a way to suggest they are data-driven, but the Plan is unaware that NUHW therapists have the ability to accurately collect and analyze data trends on these topics.

Regardless, Kaiser Permanente acknowledges that therapists' viewpoints and perceived experiences matter. Kaiser Permanente has devoted and continues to devote significant time and resources toward aggressively hiring to meet the unprecedented demand for behavioral health services felt across the country (and indeed, the world). COVID-19 has exacerbated the national shortage of qualified therapists. In addition to hiring and pipeline development, the Plan continually looks to improve the care provided to our members. The Plan invites constructive collaboration with NUHW to find new ways to ensure that we meet our members where they want to be met, with a shared goal of providing the best care possible to our members.

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The Plan looks forward to the opportunity to partner with the Department and NUHW to improve access for all Hawaii residents. The Plan welcomes the opportunity to provide the Department with additional detail upon request.

Sincerely,



Greg K. Christian
President, Hawaii Market
Kaiser Foundation Health Plan, Inc., and Hospitals