



NATIONAL UNION OF  
HEALTHCARE WORKERS

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November 2, 2022

Sharon King Donohue, General Counsel  
National Committee for Quality Assurance  
1103 13<sup>th</sup> Street, N.W., Suite 1000  
Washington, DC 20005

Via email: donohue@ncqa.org

RE: Kaiser Foundation Health Plan, Inc. of Hawai'i

Dear Ms. Donohue:

On behalf of the National Union of Healthcare Workers (NUHW), I am writing to express urgent concerns about Kaiser Foundation Health Plan, Inc. of Hawai'i's failure to comply with the terms of its NCQA Corrective Action Plan regarding its behavioral health services. Specifically, Kaiser has failed to meet commitments to expand its internal and external networks of outpatient mental health therapists, has failed to improve its recruitment and retention of therapists for its internal network, and has failed to establish an Intensive Outpatient Program for child and adolescent patients. Kaiser's failures have caused its access problems to significantly worsen since May 2022, depriving many patients of access to timely and appropriate behavioral health services. We request that NCQA investigate these concerns.

**I. Background.** In June 2022, Kaiser submitted a multi-year Corrective Action Plan (CAP) to NCQA to remedy serious behavioral health access problems that, according to NCQA, "pose a potential patient safety risk" to patients, have persisted for years, and have not been effectively addressed by Kaiser. See Exhibit A for NCQA's "Corrective Action Summary Form."

In its CAP, Kaiser committed to implement a set of remedial actions beginning in May/June 2022 and ending in 2025. The CAP contains multiple deliverables due by specified interim deadlines. For some deliverables, Kaiser's due dates have passed or are effective now.

**II. Kaiser's Performance.** Kaiser has failed to fulfill multiple commitments specified in its CAP that are related to its provider network and its provision of intensive behavioral health services for children and adolescents.

A. Internal Provider Network: In its CAP, which Kaiser presented to NCQA in May-June 2022, Kaiser committed to add 6 net new internal outpatient therapists by 4<sup>th</sup> Quarter 2022. To date, however, Kaiser's internal therapist workforce has **declined** by one therapist since May 2022, according to Kaiser's own workforce data. See Exhibit B, which contains the lists of Kaiser's internal network of outpatient therapists for May and October 2022.

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### Kaiser's Internal Network of Outpatient Licensed Non-MD Behavioral Health Therapists

	May 2022	October 2022	Net Change from May to Oct. 2022
Head Count	52	51	-1
FTEs	46.8	45.8	-1

Source: Kaiser, NUHW Bargaining Unit Demographic Files, May and October 2022.

In addition, at least five therapists currently employed by Kaiser have resigned their positions and will be departing in the very near future. The following therapists, all of whom Kaiser identified as belonging to its internal network of outpatient therapists as of October 2022, have left or will soon be leaving Kaiser.

- [REDACTED], LCSW: Resigned. Last day on the job is Nov. 2, 2022.
- [REDACTED], LCSW: Resigned. Last day tentatively set for Nov. 13, 2022.
- [REDACTED], Psychologist: Resigned. Last day on the job is Dec. 16, 2022.
- [REDACTED], Psychologist: Resigned. Last day on the job is Dec. 9, 2022.
- [REDACTED], Psychologist: Resigned. Took managerial position at Kaiser.

**B. Recruitment and Retention:** In its CAP, Kaiser committed to improving the recruitment and retention of its internal network of outpatient behavioral health therapists. Specifically, Kaiser committed to engaging “in good faith efforts in the collective bargaining process with NUHW which includes competitive compensation and benefit packages based on the most current market analysis.”

Kaiser has not engaged in good faith negotiations with its behavioral health therapists nor has it offered competitive compensation and benefit packages to them. Instead, Kaiser has singled out therapists for compensation reductions that would leave therapists with benefits vastly inferior to the remainder of Kaiser's 3,000 person workforce across Hawai'i. For example, Kaiser's proposed reductions in retirement benefits.

- **Wage Rates:** Freeze the pay of more than half of its internal behavioral health clinician workforce;
- **Retirement:** Elimination of the pension plan for new hires and a reduction in benefits for existing employees
- **Retiree Health:** Reduction in retiree health benefits
- **Cost of Living Adjustments:** Provide clinicians with annual cost of living increases during the next three years that fall sharply below those that Kaiser provides to the remainder of its Hawaii workforce.

Together, Kaiser's proposed reductions would reduce an average therapist's compensation by as much as a million dollars during a typical career. It would also leave them with compensation standards that fall far below those of their colleagues and co-workers at Kaiser. For example, Kaiser's reductions would leave its therapists with benefits that fall sharply below the receptionists, administrative staff, and housekeepers who work alongside them in Kaiser's behavioral health clinics.

It is difficult to reconcile Kaiser's actions with its own statements of concern about workforce shortages of behavioral health therapists in Hawai'i. In the midst of a workforce shortage, Kaiser's compensation reductions undermine its own recruitment and retention of therapists, which is borne out by Kaiser's high staff attrition rates and its poor recruiting performance during the first six months of its CAP. Meanwhile, Kaiser continues to refuse to accept therapists' proposals to maintain their current benefits and to provide cost-of-living adjustments to wage rates that are consistent with the rest of Kaiser's workforce in Hawai'i.

**C. External Network:** Kaiser has failed to expand its network of external providers, which it refers to as its "Affiliated Care Providers." According to its own internal records, only 13 of Kaiser's external providers were accepting new patients in October 2022, with some of these providers reporting wait lists of as many as 6 weeks.

Exhibit C is a printout from Kaiser's "Affiliated Provider Database" dated October 2022. It displays the names and availability of Kaiser's external providers. Altogether, the list contains 98 unique providers, one of whom is identified as an MD. The following table provides statistics regarding their availability to treat Kaiser enrollees, which is displayed in the column in Exhibit C entitled "Accepting?."

**Status of Kaiser's External Behavioral Health Providers: October 2022**

Category	Total No. of Providers on Database	Accepting new patients from Kaiser?			
		Yes	No	Restricted	Inactive
<b>Therapists</b>	94	10	60	15	9
<b>MDs</b>	1	1			
<b>Group Practices</b>	2	2			
<b>TOTAL</b>	97	13	60	15	9
<b>Percent of Total</b>	100%	13.4%	61.9%	15.5%	9.3%

Source: Kaiser, Affiliated Provider Database, October 2022.

Even among those individual and group providers whom the database identifies as accepting new patients (ie, "Yes"), the comments and "preferences" associated with each provider indicate substantial limits on their availability, including multi-week waitlists. The following information is extracted from Exhibit C.

### Details on External Providers Accepting New Patients in October 2022

Provider	Company Name	Preferences	Accepting?	Accepting Comments	Adult/Child
Elting, Dirk	Adaptive Behavior Change Consultants	Dialectical Behavior Therapy (DBT) only	Yes		Adult
Roberts, Jeremy	Advanced Psychiatric Therapeutics, LLC	Transcranial Magnetic Stimulation (TMS) only	Yes	Telehealth only	Adult
D'Avanzo, Tanya		Neuropsych testing only	Yes	Attempting to verify	Adult
Davidson, Raymond		Geriatrics, Suboxone	Yes	Has waitlist	Adult
Keast, Kristen		DBT for adults, only	Yes	6 week waitlist	
Neal, Randolph		Child psychiatry	Yes	Telehealth only	
Spina, Laila	Pacific Neuropsychology Services	Neuropsych testing only	Yes	Adult	
Robinson, Craig		Forensic sex therapy and sex addiction	Yes	3 week waitlist	Adult
	Sex Abuse Treatment Center	Sex abuse victims only	Yes		Both

Yamaki, Rodney			Yes	2-3 week waitlist	Both
	Ke Ala Pono Honolulu Professionals Program	Chemical Dependency & Substance Abuse	Yes		Adult
Breithaupt, Mark		Couples therapy	Yes	Telehealth only	Adult

Among the 15 external therapists whose availability is listed as “restricted,” comments associated with these providers include “Limited referrals from Call Center” and “4 week waitlist.”

Finally, with respect to external providers, Kaiser also committed to finalize discussions with “multiple National Behavioral Health Providers” during 3<sup>rd</sup> Quarter 2022, including Ginger, AbleTo and Open Mind Health. The status of Kaiser’s discussions with these providers is unclear to NUHW. Nonetheless, it is important to note that many, if not all, of these national providers **only** provide care to patients with mild to moderate conditions. Ginger and AbleTo, for example, cannot provide care to patients with moderate to severe diagnoses and symptoms nor can they provide care to patients with serious mental illness (SMI) or to patients with dual diagnoses. The latter population of patients is treated by Kaiser’s chronically understaffed internal provider network.

D. IOP for Child and Adolescent Patients: In its CAP, Kaiser stated the following:

Addition of 4 new positions posted 11/2021 to staff new Intensive Outpatient Program (IOP) for child and adolescents and adults. Currently in process for recruiting for 2021 positions. Target implementation date for Child and Adolescent IOP 4th Quarter 2022

Intensive Outpatient Programs (IOP) are designed for patients with severe diagnoses and symptoms, including suicidal ideation, who recently have been discharged from or are at risk for admission to an acute psychiatric hospital. Patients also include those whose conditions severely impair their daily functioning and present risks to their health and wellbeing.

**III. Request.** As a result of its failure to fulfill the terms of its CAP, Kaiser’s network of outpatient therapists continues to be severely inadequate. Since May 2022, Kaiser’s behavioral health access problems have worsened with patients experiencing longer wait times for triage appointments, initial diagnostic assessments, and treatment appointments. Today, many patients continue to be denied access to timely and appropriate care.

We request that NCQA urgently investigate Kaiser's compliance with its CAP. We stand ready to assist and would like to meet with NCQA to provide further details.

Sincerely,

A handwritten signature in cursive script, appearing to read "Fred Seavey".

Fred Seavey

**EXHIBIT A –  
NCQA Corrective Action Plan, May2022**

## **Corrective Action Summary Form**

**Organization Name:** Kaiser Foundation Health Plan, Inc. – Hawaii

**Accred Code:** 124H-22

**Final Report Date:** 5/10/2022

**NCQA Standards Year:** HP2021

**Corrective Action Plan required for:**

- ☐ Must-pass element(s) scored below minimum required threshold
- ☐ One-time exception/credit for non-compliant element(s) (only CAP Plan required)
- ☐ Must-pass element(s) scored below minimum required threshold and One-time exception/credit for non-compliant element(s)
- ☒ Other

NCQA has provided the element(s) with summary of identified deficiencies that require corrective action in the first two fields of each *Findings* box below. The organization is asked to complete the additional information requested for how it plans to address and correct the identified deficiencies. The completed form is due to NCQA within 30 days of the organization receiving its final survey report and status. NCQA will review and provide notice if corrective action plans are approved.

Just the organization's corrective action plans (this form) are due within the 30-day deadline. Evidence demonstrating implementation of any required must-pass corrective actions will be evaluated during the CAP Survey in 6 months. As a reminder, CAP Surveys require element-level re-evaluation of the must-pass elements identified below, regardless of factor components missed previously. While the information below provides detail on previously failed components for each must-pass element, it is the organization's responsibility to ensure it is compliant against the entire element requirement (all factors and requirements noted within element explanation) at time of the CAP Survey.

<b>Finding #1</b>		<input type="checkbox"/> Must-pass element <input type="checkbox"/> One-time exception <input checked="" type="checkbox"/> Other
<b>CAP Standard/Element</b>	NET 2B: Access to Behavioral Healthcare	
<b>Description of the Issue</b>	In conjunction with the organization most recent renewal survey, NCQA completed an in-depth investigation into BH access issues raised by the National Union of Healthcare Workers (NUHW). Allegations in the complaint included: <ul style="list-style-type: none"><li>• Kaiser enrollees sometimes wait at least 40 to 50 days, as opposed to NCQA's standard of 10 days, to obtain routine BH office visits, with children and adolescent patients waiting 78 days at one clinic site.</li></ul>	



## NCQA Corrective Action Summary Form

	<ul style="list-style-type: none"> <li>• Although Kaiser lists 188 clinicians on its external panel of licensed non-physician behavioral health clinicians, only 28 percent of these clinicians are accepting Kaiser enrollees for care and these external clinicians have very limited appointment available.</li> <li>• Kaiser requires enrollees to phone Kaiser's Integrated Behavioral Health Call Center to request care for BH issues; however, the call center is staffed with only five full-time clinicians, resulting in long wait times and high call abandonment rates.</li> </ul> <p>On January 21, 2022, NCQA met with Kaiser Hawaii staff to discuss the NUHW complaint and requested a written response to the allegations brought forward by NUHW. Based on Kaiser's written response and BH access documents provided during the renewal survey, the NCQA Review Oversight Committee (ROC) met on April 27, 2022, and concluded:</p> <ul style="list-style-type: none"> <li>• While BH health access is a challenge in Hawaii in general, lack of access to BH for Kaiser members poses a potential patient safety risk and that Kaiser's prior efforts to improve access to BH have largely been ineffective.</li> <li>• Kaiser's overall performance on BH access was problematic before the pandemic.</li> <li>• Performance held steady at this sub-par level during 2020 and dropped sharply in 2021.</li> <li>• Kaiser did take some steps to address its BH access challenges, including opening access to some external BH vendors and ramping up its recruiting efforts but these efforts do not appear to have significantly improved access to BH.</li> <li>• Efforts to develop and fund a more comprehensive strategy to address Kaiser's long standing BH access issues, including the use of telehealth and digital tools, did not begin until well into 2021 and full implementation has not occurred.</li> </ul> <p>Based on these findings, the NCQA ROC is asking Kaiser to implement a meaningful and actionable corrective action plan to address BH address as follows:</p> <ul style="list-style-type: none"> <li>• Kaiser is to submit a corrective action plan (completion of this form) to address its BH access issues for ROC approval.</li> <li>• At a minimum, corrective actions should include: <ul style="list-style-type: none"> <li>- Identifying actionable and measurable plans to improve BH access.</li> <li>- The actions to improve access to BH should be specific to the barriers identified should be designed to lead to measurable/meaningful improvement.</li> </ul> </li> <li>• Review of BH access reports and improvement efforts will be included in the scope of the CAP Survey in 6 months to monitor progress.</li> <li>• Additionally, Kaiser is asked to submit quarterly BH access reports for a period of at least 12 months to monitor BH Access improvement progress.</li> </ul>
<b>Action Step(s)</b>	Kaiser has recognized the continued challenge of behavioral health access in discussions with NCQA and has had the opportunity to provide key components of the quality improvement and Business Plan which includes a multi-year strategy to add internal resources while also expanding the external network as critical priorities. Overall goal is to

improve performance in initial and follow-up measures with a two-percentage point increase by December 31, 2022 with a two-percentage point increase per quarter thereafter.

Actionable and measurable plans and initiatives to address BH access are summarized below:

- Continued execution of long-term resource strategy as part of BH Business Plan
  - Internal Access Strategy
    - Multi-year recruitment strategy to add 34 net new internal outpatient therapist positions over a 3-year period (10 - 2023; 8 - 2024; 10 - 2025) in addition to the 6 new positions posted 11/2021 to directly impact outpatient access. Target completion date for hiring of 6 additional therapists 4th Quarter 2022.
    - Addition of 4 new positions posted 11/2021 to staff new Intensive Outpatient Program (IOP) for child and adolescents and adults. Currently in process for recruiting for 2021 positions. Target implementation date for Child and Adolescent IOP 4th Quarter 2022; Adult IOP 4th Quarter 2023.
    - Continue ongoing recruitment initiatives and strategies
      - Advertisement of sign-on bonus
      - Meet and Greet Virtual Events
      - National Posting on external sites (Indeed.com; GlassDoor; LinkedIn)
      - Professional Advertising and Scouting services
      - Email Marketing/Promotion blasts
      - Relocation reimbursements
      - Employee referral program
      - Career Job Fairs
    - To retain current workforce, KPHI is in active engagement in good faith efforts in the collective bargaining process with NUHW which includes competitive compensation and benefit packages based on the most current market analysis.
  - External Network Strategy
    - Supplement above long-term internal recruitment strategy with expansion of external network to address immediate psychotherapy access issues. Complete assessment to increase access through external contracted providers by 3<sup>rd</sup> Quarter 2022.
    - Discussions initiated 1<sup>st</sup> Quarter 2022 with multiple National Behavioral Health Providers, finalize 3<sup>rd</sup> quarter 2022
      - Multiplan (Lease Network)
      - Amwell
      - Ginger (Local Contract)
      - Able To
      - NOCD
      - Hazel Health
      - Open Mind Health
    - Continued focus on increasing appointment capacity with existing contracts
      - Initiate VIP Program with preferred providers

**NCQA Corrective Action Summary Form**

	<ul style="list-style-type: none"> <li>Honolulu Psychology Collective – LOA by August 2022 <ul style="list-style-type: none"> <li>Incentivized rates</li> <li>Quality reporting</li> <li>Dedicated capacity to KP members</li> <li>Monitoring of capacity</li> </ul> </li> <li>Expansion of network of community Behavioral Health Providers with capacity – continue ongoing efforts to outreach and contract with community providers</li> <li>In addition to the above strategies to directly impact and improve access, Kaiser will continue to work on supporting strategies to manage behavioral health care needs <ul style="list-style-type: none"> <li>Implementation of evidenced-based Collaborative Care Depression Model to expand services for depression management within primary care – Target Completion date 4th Quarter 2022</li> <li>Training and education of residents and medical students in Psychiatry – Ongoing</li> <li>Engagement and advocacy to regulators, elected officials, health plans, hospital systems, and providers to address health care access challenges on State-wide level impacting Hawaii residents, including lengthy process of licensing providers from other states that limits options and capacity.</li> </ul> </li> <li>Explore opportunities to address unused appointments due to no-shows by 3<sup>rd</sup> Quarter 2022.</li> <li>Assessment of BH Access reports as part of CAP resurvey with separate quarterly submissions to the ASC for 12 months between August 2022 through May 2023</li> </ul> <p>In addition to addressing the required components of the CAP, Kaiser would like to request consideration to schedule periodic check-in processes throughout the CAP period to review Kaiser's progress with the CAP. This would allow for an opportunity for NCQA to provide real-time guidance to Kaiser on progress and/or challenges. If NCQA is agreeable to include check-ins as part of the CAP, Kaiser will contact the ASC to formally coordinate.</p>
<b>List of Documents provided to show correction</b>	<ul style="list-style-type: none"> <li>BH Staffing Reports</li> <li>BH Access Reports</li> <li>NCQA CAP Status Report</li> </ul>
<b>Responsible Staff or Department</b>	<ul style="list-style-type: none"> <li>Behavioral Health Manager</li> <li>Vice President Ambulatory Care and Clinical Services</li> <li>Assistant Administrator for Quality</li> <li>Health Plan Quality Director</li> </ul>
<b>Resources/Systems Required</b>	<ul style="list-style-type: none"> <li>BH Access Project Team</li> <li>Analytics Team</li> </ul>
<b>Internal Metrics/ Tracking Plan/QA</b>	<ul style="list-style-type: none"> <li>BH Access standards <ul style="list-style-type: none"> <li>Urgent Care Appointment seen within 48 hours</li> </ul> </li> </ul>

**NCQA Corrective Action Summary Form**

	<ul style="list-style-type: none"><li>- Initial Routine Office Visit within 10 business days</li><li>- Follow-up routine care seen within 30 days for prescribers; 20 days for non-prescribers</li><li>• Standing reporting to Executive Leadership Team</li><li>• Staffing levels</li></ul>
<b>Barriers to Implementation of corrective action</b>	<ul style="list-style-type: none"><li>• Lack of available candidates with Hawaii state license to fill internal vacancies</li><li>• Managing attritions, including therapists moving out-of-state, while recruiting for net new positions</li><li>• Lack of capacity from prospective and existing external contract providers</li><li>• Significant processing lag time to obtain Hawaii state license for out-of-state providers relocating to Hawaii</li></ul>
<b>Timeline/dates of planned action</b>	<p>See CAP timelines above</p> <ul style="list-style-type: none"><li>• Submission of documentation (CAP Status Report; BH Access Reports, Staffing Reports) November 2022</li><li>• CAP Resurvey December 2022</li><li>• Kaiser-NCQA Check-in sessions (pending - to be scheduled)</li></ul>

**NCQA Recommendation to Approve/Deny Corrective Action Plan:**