

April 3, 2024

Oregon Division of Financial Regulation  
350 Winter Street NE  
Salem, OR 97301  
Submitted via email to:

Re: Comments on HB 2002 Revised Rule dated 3-15-2024

Dear Ms. Hall and Ms. Emerson,

Kaiser Foundation Health Plan of the Northwest appreciates the opportunity to provide feedback to the Oregon Division of Financial Regulation (DFR) on the draft regulation for gender affirming treatment dated March 15, 2024. Kaiser Permanente Northwest is an integrated health care system that covers and cares for Oregonians. We are committed to delivering affordable, coordinated, and high-quality care and coverage that supports not only our members but also the communities we serve. We have a long history of providing culturally competent, population-based care and have a Gender Pathways program that serves our members seeking gender affirming treatment since 2016. The Gender Pathways program is an evidence-based program that utilizes the World Professional Association for Transgender Health's Standards of Care for the Health of Transgender and Gender Diverse People, Version 8 (WPATH-8), as well as internally developed criteria to provide high-quality, safe, and efficacious treatment for our members. Our team includes a multidisciplinary group of trained health care providers and physicians who work together to provide a wide array of services to our members who seek gender affirming treatment.

While the regulation impacts health plan coverage, we provide our comments within the broader context of our integrated health care system and providing appropriate care to members seeking gender affirming treatment.

#### **WPATH 8 statements of recommendation**

We appreciate the inclusion of language in OAR 836-053-XXXX (1)(b) in the definition of "accepted standards of care" that clarifies "statements of recommendation" in WPATH-8. We heard concerns raised during the meeting that this could lead to a health carrier disregarding the paragraphs of language that provide more detail and background on the standard of care and only provide coverage for the single sentence high-level statement of recommendation. That was not the health carrier intent in asking for this clarification. Rather, we note that there are paragraphs and appendices in WPATH-8 that do not make specific recommendations for a service as standard of care, and it would be helpful for the regulation to continue to clarify this.

#### **When quoting the statute, align with the statutory language**

We agree with health carrier comments made during the meeting that if statutory language will be incorporated into the regulation (e.g. OAR 836-053-XXXX (4)(b)), it should match the language of the underlying law in ORS 742A.325 (2)(b). Specifically, because the underlying law refers to "gender-affirming treatment procedures", the word "procedures" should appear in OAR 836-053-XXXX (4)(b)(v).

While this is a technical change, it helps ensure that the regulation does not gradually deviate from the underlying law.

### **Training for reviewing physicians and health care providers**

We agree with comments made during the meeting that the intended “GEI” training was not the one that was put into the draft regulation in OAR 836-053-XXXX (5)(b)(iv). Rather than “gender equality and inclusivity” training, the intent was for the reviewing physician or health care provider to take a “WPATH Global Education Institute Foundations Course” which also has a “GEI” acronym. We agree that these courses are essential education, given that there is not a board certification available for gender affirming treatment. We support the concept of health care providers and physicians having relevant education when they are in a position of making adverse benefit determinations related to gender affirming treatment.

However, from a practical perspective, the GEI foundations course that has been suggested as an addition to the regulation is not offered frequently and may require travel for in-person attendance. We note that the next scheduled Foundations Course will be offered September 25-26th in Lisbon, Portugal, and that the virtual course is listed as “Date TBD.” If a specific course by a specific organization is required by the regulation, this creates a timing issue because the regulation will go into effect before the classes are available for utilization management teams to take. This would create an unintended pause on utilization management until late fall 2024.

The regulation should not establish a requirement that creates timing or financial barriers for health care providers and physicians. We note that there are a number of other GEI trainings or equivalent courses that are offered in-person or online for continuing medical education (CME) credits. We can provide examples of resources upon request. Also, we are unaware of resources offered by the State of Oregon in this space, but if these resources were to be developed, that could also be an avenue for education.

Given the concerns outlined above, we recommend that the regulation language be less specific on the training course requirement or add the concept of “or equivalent courses.” This approach provides flexible options for people in meeting this continuing education requirement.

We thank you for the opportunity to provide comments on this stakeholder draft. We look forward to our continued collaboration throughout this rulemaking process. Please do not hesitate to contact us with questions.

Sincerely,



**Merlene Converse**

Senior Regulatory Consultant

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