



June 28, 2019

Pritika Dutt, CPA  
Deputy Director  
Office of Financial Review  
Department of Managed Health Care  
980 9<sup>th</sup> Street, Suite 500  
Sacramento, CA 95814

VIA ELECTRONIC MAIL  
Pritika.Dutt@DMHC.CA.GOV

Re: Disclosure of Information Held Confidential Pursuant to California Code of Regulations, Title 28,  
Section 1007 (Amended)

Dear Ms. Dutt:

Kaiser Foundation Health Plan, Inc. ("Kaiser") is in receipt of your letter to me dated June 25, 2019 requesting an explanation of the need and justification for the continued confidentiality of the unaudited combining financial schedule information that is provided as part of its quarterly and annual financial reports ("Combining Schedule").

Kaiser's submission of the Combining Schedule has been afforded confidential treatment since 2005 when Kaiser and Mr. Mark Wright, DMHC Chief of Division of Financial Oversight, agreed that the combining schedule would be excluded from the electronic submission and public website. From 2005 to the present Kaiser, has relied upon that grant of confidentiality, and we appreciate the opportunity to respond in support of continued confidential treatment of the Combining Schedule.

We understand that the "Director will withhold [information] from public inspection" when the "information is such that the private and/or public interest is served in withholding the information." 28 CCR section 1007(a)(2). Here, both private and public interests are served in continuing to provide confidential treatment to the Combining Schedule.

The Combining Schedule is a unique compilation of information providing insight to the financial relationships among its various subsidiaries and related entities which is not available elsewhere. Kaiser believes the provision of this additional information - which goes beyond the minimum information needed to satisfy its regulatory obligations - promotes its transparent and collaborative relationship with the DMHC, which is in the best interests of the DMHC and Kaiser.

More generally, affording confidentiality to regulated entities that choose to provide information beyond the minimum filing requirements promotes the public interest by providing the DMHC with a better understanding of those entities and their finances. Without the assurance of confidentiality, regulated entities will need to weigh the benefits of voluntarily sharing this information with their

regulators against the need to protect their organizations from potential misuse of that information once it is publicly disclosed.

As an example, various pressure groups, including labor unions, engage in corporate campaigns against Kaiser. Corporate campaigns attempt to discredit an organization by publicly smearing its reputation, often by exploiting information in questionable ways to sway public opinion. We are concerned that, if released, the Combining Schedule could be mischaracterized or used inappropriately in one of these corporate campaigns, or in another context by a party whose motivation is to gain a private advantage by seeking to harm or discredit Kaiser.

We are also concerned that the Combining Schedule, as an unaudited financial statement, could be misleading to, or relied upon inappropriately by, third parties such as financial regulators or market analysts.

To facilitate greater transparency among the DMHC and its regulated entities, we request that the DMHC continue to recognize the appropriate confidential treatment of information that regulated entities may voluntarily provide to further the DMHC's understanding of their finances and operations. Removing this protection could serve to decrease the flow of information to the detriment of the public interest.

We respectfully request that you continue the long-standing confidential treatment of the Combining Schedule, and we further request an opportunity to discuss this with you further should you consider discontinuing confidential treatment for the Combining Schedule. Thank you for this opportunity to respond.

Sincerely,

Deborah Espinal  
Executive Director, Health Plan Policy

Cc: Shelley Rouillard, Director  
Janet Liang, President, Northern California Region  
Julie Miller-Phipps, President, Southern California Region  
Wade Overgaard, Senior Vice President, Health Plan Operations  
Ryan Jenson, Vice President, Deputy Controller  
Mary Watanabe, Chief Deputy Director