



Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc
2101 East Jefferson Street
Rockville, Maryland 20852

February 28, 2024

The Honorable Pamela Beidle
Senate Finance Committee
3 East, Miller Senate Office Building
11 Bladen Street
Annapolis, Maryland 21401

RE: SB 684 – Support with Amendments

Dear Chair Beidle and Members of the Committee:

Kaiser Permanente respectfully supports SB 684, “Health Insurance - Mental Health and Substance Use Disorder Benefits - Sunset Repeal and Modification of Reporting Requirements,” if amended. KP prefers the approach to Parity Act reporting outlined in HB 1085 and recommends some additional amendments described below.

Kaiser Permanente is the largest private integrated health care delivery system in the United States, delivering health care to over 12 million members in eight states and the District of Columbia.¹ Kaiser Permanente of the Mid-Atlantic States, which operates in Maryland, provides and coordinates complete health care services for over 825,000 members. In Maryland, we deliver care to approximately 475,000 members.

Kaiser Permanente supports the Mental Health Parity and Addiction Equity Act and has worked diligently to implement parity since the law’s inception for group plans in 2008 and expansion into the individual market under the Affordable Care Act in 2010. We agree that everyone deserves access to mental health care. Access to this care continues to be challenging, primarily because of a shortage and maldistribution of mental health providers, which is why Kaiser Permanente has implemented programs and strategies to expand networks and increase access. Those approaches include investing in our networks, creating new coverage pathways with expanded access through telehealth and new technologies, and integrating mental and physical health care. It also involves working with primary care doctors on identifying mental health needs, supporting a collaborative care model, providing pathways to care, and incorporating quality and value.

MH/SUD parity regulations are complicated, especially related to non-quantitative treatment limits (NQTLs). Laws that mandate complex, granular analysis and reporting of NQTLs (especially comprehensive, pre-emptive analysis) will do little or nothing to address the primary issues that affect access to care and are likely to increase costs. Furthermore, there is no current consensus

¹ Kaiser Permanente comprises Kaiser Foundation Health Plan, Inc., the nation’s largest not-for-profit health plan, and its health plan subsidiaries outside California and Hawaii; the not-for-profit Kaiser Foundation Hospitals, which operates 39 hospitals and over 650 other clinical facilities; and the Permanente Medical Groups, self-governed physician group practices that exclusively contract with Kaiser Foundation Health Plan and its health plan subsidiaries to meet the health needs of Kaiser Permanente’s members.

among states about the use of tools or attestation in meeting regulatory requirements (and best practices/standards are evolving).

The focus of regulators should instead be on helping plans to understand how to interpret and apply parity requirements, especially when there is evidence of good faith efforts to comply. Continued guidance is essential in helping plans understand how to avoid applying processes and strategies in an arbitrary or discriminatory manner. We support the development of additional guidance, tools, and templates to inform parity implementation.

Understanding that the State would like to continue with these reports, we provide the following feedback on SB 684:

- **Timing of Reports:** We would prefer that this legislation require the reports to be furnished every third year – rather than every other year. Kaiser Permanente did not receive any feedback on its 2022 reports until the end of January 2023, almost 11 months after they were submitted. Kaiser Permanente’s efforts to review and revise the 2022 reports to address the MIA’s extensive comments soon impeded our effort to prepare the 2024 reports. The biennial reporting cadence provides carriers little opportunity to make meaningful changes to address compliance issues, if any, before the next report is due.

The MIA’s December 2023 report recommended “Until such time that widespread substantive parity determinations have been made by the MIA, compliance and data reporting should continue to be required.” Rather than continuing the reports in perpetuity, we recommend extending the reports through 2030, with further legislative action at that time to extend the reporting requirement if needed.

- **NQTLs:** We appreciate that the bill gives the Commissioner discretion to review a subset of NQTLs; however, as a matter of practicality the MIA should be allowed to inform carriers of their intent before reports are due, and carriers should be permitted to respond only those that will be reviewed. HB 1085 includes this approach.
- **Substantive Parity Violation:** The bill also specifies that a failure of a carrier to submit complete Parity Act compliance information constitutes noncompliance with the Parity Act. If the Committee intends to move forward with this language, we request the amendments conceptually described below:
 - A carrier should not be found in substantive violation if the reviewer lacks the expertise to fairly analyze the report’s content. To that end we propose that a reviewer have 1) substantive experience reviewing reports submitted by health benefit plans to demonstrate compliance with the Parity Act; 2) expertise in Maryland law; and 3) familiarity with health plan operations.
 - Before the MIA determines that a carrier is not in compliance with the Parity Act due to a failure to submit complete information, the MIA must have previously provided the carrier with feedback demonstrating which parts of past filings are sufficient to demonstrate compliance.

Kaiser Permanente
Comments on SB 684
February 28, 2024

Kaiser Permanente understands that access to MH/SUD treatment remains a critical issue. Rather than creating burdensome regulations that do not solve this issue, the State should instead focus efforts on promoting policies that support increasing MH/SUD workforce and innovative models of care, as well as prevention and early intervention in communities.

Thank you for the opportunity to comment. Please feel free to contact me at Allison.W.Taylor@kp.org or (202) 924-7496 with questions.

Sincerely,

A handwritten signature in cursive script that reads "Allison Taylor".

Allison Taylor
Director of Government Relations
Kaiser Permanente