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Before the Senate Committee on Health Care and Human Services
Senate Bill 122—Evidence-Based Health Care

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Thank you for the opportunity to present the views of Kaiser Permanente’s Northwest Region on Senate Bill 122, legislation that seeks to promote the use of evidence-based medicine in the coverage available to Oregonians through health insurance.

I serve as the physician director of Guidelines & Evidence-Based Medicine for Kaiser Permanente in the Northwest. I am also a member of the Health Evidence Review Commission (HERC) and chair the HERC Evidence-based Guidelines Subcommittee. My comments about SB 122 in this letter do not represent the views of HERC.

SB 122 would authorize the director of the Department of Consumer and Business Services to adopt rules “Prohibiting or limiting coverage of items, services or medical technologies in accordance with coverage guidance produced by the Health Evidence Review Commission.”

Kaiser Permanente supports the goal of SB 122. However, we are concerned the means identified to accomplish this goal may cause Oregonians more harm than benefit, thwarting the proposal’s success.

In practical terms, SB 122 would require HERC to determine a specific item, service, procedure or technology (something that we would not recommend casually) was not recommended for coverage. SB 122 would allow the director to refuse an insurer’s filing of an individual or small group form containing (or not specifically excluding) coverage for that item, service, procedure or technology. The director’s disapproval would require the insurer to resubmit the form without the objectionable coverage, whether or not a change in the cost of coverage resulted. Using the Insurance Commissioner’s regulatory authority over certain types of coverages—but not over large group and self-insured arrangements—seems like a cumbersome and unnecessary regulatory process. We believe that the types of evidence-based analysis performed by HERC, Kaiser

Permanente and similarly-focused organizations should be focused on clinicians' practices, not selected commercial coverage contracts.

Like many other health insurers, Kaiser Foundation Health Plan of the Northwest devotes extensive resources (including clinical expertise) in its determinations of medical care furnished to enrollees. In Oregon, we use HERC analyses in this regard, but while they are informative, they are not the final word on whether coverage should be made available or excluded.

It is important to recognize that coverage guidance is significantly different than clinical guidance. Clinical guidance is rarely black and white, because the evidence underlying the intervention may not apply to individuals, and clinical judgment is required to incorporate each individual's unique characteristics, values and preferences. Coverage guidance, on the other hand, often must be more prescriptive, and is typically written to apply within the defined context of specific health care delivery systems or insurance plans. Given the evolving HERC methodology for developing coverage guidance, it *might* be workable to prohibit or limit coverage across the State for interventions when HERC strongly recommends against coverage. This would usually occur when there is evidence that harms exceed benefits, or when reasonable alternatives are available and net benefit does not justify costs. But when coverage recommendations are "weak," either for or against coverage (usually when the balance of benefit and harm is too close to call, or when costs do not clearly favor one intervention), prohibiting coverage may adversely affect clinical care by unduly limiting clinical options. Neither legislative nor regulatory decisions may be able to keep current with this rapidly evolving field of clinical care.

Although Kaiser Permanente strongly supports the goal of promoting evidence-based health care throughout the State, we respectfully request—based on both practical and clinical reasons—that the committee not approve SB 122. We would be pleased to continue our work with state policy-makers to advance evidence based medical practices for the benefit of Oregonians.

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