

September 6, 2005

1664 Buttercup Road
Encinitas, CA 92024

George Halvorson, Chairman & CEO
Kaiser Foundation Health Plan
One Kaiser Plaza
Oakland, CA 94612-3600

8116 0458 4030
FedEx Airbill

Re: NOTICE
ADA Title III / Unruh Act Violations
Prior Restraint on Patient Speech
Metzler v. Kaiser Settlement Agreement Violations

Dear Mr. Halvorson:

ADA Title III / Unruh Act Violations

Ms. April Richards' August 16, 2005 reply "on behalf of Mr. Halvorson" to my August 8, 2005 notice is nonresponsive, reflecting your deliberate indifference to disability discrimination and retaliation. My notice advised you that:

"This episode reflects Kaiser Permanente's longstanding pattern and practice of invidious discrimination and retaliation by denying medical care to disabled patients and their advocates who exercise their legal rights."

The Kaiser Foundation Health Plan and the Permanente Medical Group (hereinafter Kaiser Permanente, as they are inextricably intertwined) are required by federal and state law, in addition to the *Metzler v. Kaiser* Settlement Agreement (2001), to eradicate pervasive disability discrimination and retaliation against disabled patients and their advocates.

Three days subsequent to Ms. Richards' letter on your behalf, Kaiser Permanente again engaged in systemic disability discrimination and retaliation by delaying and denying medical care to me for exercising my rights and protections as a disabled patient. Discrimination and retaliation are evaluated in the context of the totality of the circumstances. Such close temporal proximity to the prior incident and to your reply to my notice provides strong evidence of Kaiser Permanente's policies, procedures, practices and customs to intentionally violate state and federal law by denying medical benefits, resulting in unjust enrichment to Kaiser Permanente.

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Prior Restraint on Patient Speech

Kaiser Permanente has refused to engage in a good faith interactive process with disabled patients and their advocates to accommodate their needs, as required by state and federal statutes and the Metzler Settlement Agreement.

On August 19, 2005, a Kaiser Permanente OB-GYN Department employee was instructed to refuse to reasonably accommodate me in scheduling a medical appointment and to refuse to speak to both my husband and myself regarding the Americans with Disabilities Act (ADA). She was instructed by supervisory authorities to adopt a coercive tone and tactics to cause us duress in order to abdicate our ADA rights, reinforcing Kaiser Permanente's institutional stubbornness in refusing to implement ADA as required:

- She stated that she was not required to even talk about ADA accommodation in scheduling medical appointments and refused to do so.
- She stated that Kaiser Permanente policies are not modified to accommodate disabled patients and refused to grant my reasonable request to modify these policies.
- She refused to transmit my message to my physician that I requested ADA accommodation by stating: "I won't do that!"¹
- She abruptly terminated the call when I requested that she inform my physician that I was "extremely dissatisfied" with her conduct.²

Kaiser Permanente's 2005 imposition of prior restraint on patient ADA speech is an extension of its 2001 imposition of prior restraint on patient speech in the context of my family's physician-patient relationships as a condition to accessing state-mandated and contractual medical benefits.

¹ Failure to accurately memorialize and transmit a patient message not only is a violation of ADA, but also is an intentional falsification of medical records, which is a crime in California.

² Kaiser Permanente's discrimination and retaliation have irreparably damaged this decade-old physician-patient relationship and will continue to harm other physician-patient relationships by irreparably and fundamentally altering the nature of the relationships, including but not limited to, interfering in and otherwise controlling the physicians' acts and omissions to our detriment. Kaiser Permanente has irreparably damaged and terminated our physician-patient relationships in primary care, dermatology, gynecology and gastroenterology in retaliation for my accessing federal and state courts to remedy "gagging" in the physician-patient relationship and to remedy violations of the Americans with Disabilities Act.

Metzler v. Kaiser Settlement Agreement Violations

With fraudulent intent, Kaiser Permanente entered into a voluntary Settlement Agreement (2001) with Disability Rights Advocates that has not been implemented. This Agreement provides, in pertinent part, that:

- Kaiser Permanente will “...review any and all Kaiser policies and procedures (or the absence thereof) that may tend to discriminate against people with disabilities... and/or impede their full and equal access to comprehensive health services and... will recommend reasonable modifications that Kaiser will adopt and implement to improve access...”
- “... [T]he review, recommendation and implementation process for all Kaiser facilities in California shall be completed within three years from the effective date of this Agreement [2001] ...”
- Kaiser Permanente will “...inform patients when they are due for certain health services, particularly those aimed at prevention and early detection of illnesses and other health problems...”
- Kaiser Permanente will “...in good faith then assess whether such as a system should be modified to ensure more effective communication of this information to members with disabilities... in no later than three years [2004] from the effective date of this Agreement ...”
- “...Kaiser’s California Division President and Medical Directors will circulate memoranda to all Kaiser employees, reiterating Kaiser’s commitment to providing equal access for people with disabilities and explaining any new policies and procedures and access features that will effectuate that goal...”
- “...Kaiser will conduct outreach to members with disabilities to inform them of improved access features, policies, programs and other pertinent information that may help improve access to regular and comprehensive health care... regarding the rights of people with disabilities...”

Implementation of this Agreement’s terms and conditions is illusory, fraudulently concealing disability discrimination and retaliation that unjustly enriches Kaiser Permanente and Disability Rights Advocates who solely control its execution.

Hostile Environment / Futility

Kaiser Permanente has intentionally created a hostile healthcare environment for my husband and me in retaliation for exercising our legal rights and protections.

We have endured progressively frequent, coercive, humiliating, abusive treatment that reflects Kaiser Permanente's unconscionable intentional disregard for our health, safety, and legal rights and protections.

Kaiser Permanente's malicious, oppressive conduct and misuse of its superior authority and bargaining power have irreparably harmed us by exploiting our medical conditions to deny healthcare absent our consent to prior restraint on our speech and abdication of our legal rights and protections.

Our exercise of our legal rights and protections is futile, given the aforementioned facts viewed in the totality of the circumstances. Additional interaction to attempt to remedy systemic discrimination and retaliation in this hostile environment is futile. We are not required to further attempt to negotiate remedies with Kaiser Permanente, as its acts and omissions have harmed and continue to harm us in violation of our rights under federal and state law.

Notice

Kaiser Permanente's systemic violations of law and medical ethics have heretofore evaded legitimate review by the courts and the California Department of Managed Health Care (DMHC). Kaiser Permanente has deprived patients of constitutional rights and state-mandated and contractual property rights by dishonest means and schemes as a private party in conspiracy with DMHC under color of state law and as a co-conspirator with Disability Rights Advocates.

This letter provides formal notice of my intent to seek court-imposed injunctive relief.

Jacquelyn Finney
(Typed)

/S/
(Signature)

Attachment: Proof of Service

PROOF OF SERVICE

I am over the age of 18 years and am readily familiar with the practice for collecting and processing of correspondence for Federal Express (FedEx) delivery and know that in the ordinary course of business practice the document described below will be deposited in a box or other facility regularly maintained by FedEx or delivered to an authorized courier or driver authorized by FedEx to receive documents on the same date that they are placed for collection.

NOTICE

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On the following, by placing one original thereof, enclosed in a sealed shipment package, with delivery fees provided for, addressed as follows for collection by FedEx at 1150 Garden View Road, Encinitas, CA 92024-9998.

George Halvorson, Chairman & CEO
Kaiser Foundation Health Plan
One Kaiser Plaza
Oakland, CA 94612-3600

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed at Encinitas, California, this 6th day of September, 2005.

Robert D. Finney
(Typed)

/S/
(Signature)