

University of California  
Office of the President

1111 Broadway  
Suite 1400  
Oakland, CA 94607

www.chbrp.org

April 14, 2016

The Honorable Jim Wood  
Chair, California Assembly Committee on Health  
State Capitol, Room 6005  
10<sup>th</sup> and L Streets  
Sacramento, CA 95814

The Honorable Ed Hernández  
Chair, California Senate Committee on Health  
State Capitol, Room 5108  
10<sup>th</sup> and L Streets  
Sacramento, CA 95814

Via email only

Dear Assembly Member Wood and Senator Hernández:

The California Health Benefits Review Program (CHBRP) was asked by the Assembly Health Committee on February 23, 2016, to provide an analysis of AB 2209 (Bonilla), *Health care coverage: clinical care pathways*. This bill would prohibit a health care service plan/health insurer from implementing clinical care pathways (CCPs) for use by providers in order to manage an enrollee's care. Clinical care pathways, as defined by the bill, are multidisciplinary management tools "based on evidence-based practices ... in which the different tasks, interventions, or treatment regimens ... are defined, optimized, and sequenced." As explained below, the potential changes that could result from implementation of this bill as written are too ambiguous and unknown for CHBRP to provide a traditional analysis.

CHBRP is unaware of any standard clinical or legal definition of CCPs, and the definitions provided in the literature vary greatly. One literature review identified 84 different definitions for clinical pathways.<sup>1</sup> These definitions included broad terms such as care pathway, protocol, and guideline. Although CHBRP located references in the clinical literature related to providers using tools called CCPs (without mention of health plan or insurer involvement) as well as references to plans and insurers using tools called CCPs as utilization management techniques, the definition offered by AB 2209 could potentially be interpreted as prohibiting many kinds of utilization management, not just CCPs. In response to a survey sent by CHBRP, staff at the Department of Managed Health Care (DMHC) responsible for implementing regulations based on the legislation indicated that the agency believes the current bill language could be interpreted as prohibiting not just plan/insurer use of CCPs but also prohibiting plan/insurer use of other, more commonly used utilization management techniques.<sup>2</sup>

---

<sup>1</sup> De Bleser I, Depreitere R, Waele KD, Vanhaecht K, Vlayen J, Sermeus W. Defining pathways. *Journal of Nursing Management*. 2006;14(7), 553-563.

<sup>2</sup> Personal communication, Department of Managed Health Care (DMHC), March 21, 2016.

Utilization management techniques used by health plans and insurers, including prior authorization protocols, step therapy protocols, and medical necessity coverage decisions, could potentially meet the definition of CCPs given in this bill. The plan and insurer guidelines on which many utilization management techniques are based frequently reference evidence-based practices and the recommendations or guidelines of medical societies or public entities, which may also reference available evidence. In addition, many utilization management techniques indicate the treatment sequences expected by plans and insurers before provider payments will be made.

Because of the ambiguity of the bill language, CHBRP is not able to identify the extent to which the bill would prohibit plan and insurer use of utilization management techniques so cannot provide a traditional analysis of the potential medical effectiveness, cost, or utilization impacts of AB 2209. The impacts could be very broad and affect many aspects of health care delivery including primary care, specialty care, hospital care, and prescription drugs. As noted above, this bill could significantly impact utilization management programs of health plans/insurers and their efforts related to cost control and clinical care/quality.

For general informational purposes, CHBRP prepared a brief that provides background and discusses the impact on health outcomes and costs of interventions identified in the medical literature as CCPs; however, CHBRP emphasizes that AB 2209, in its current form, could have much broader impacts than those described in the brief in which CCPs are defined more narrowly.

Thank you for allowing CHBRP the opportunity to assist the Assembly Health Committee. We are available to answer any questions at the Committee's convenience and will be present at the April 19<sup>th</sup> scheduled hearing.

Sincerely,



Garen L. Corbett, MS  
Director, CHBRP  
University of California, Office of the President

cc: Assembly Member Bonilla, Author of AB 2209, *Clinical Care Pathways*  
Senator Kevin de León, President Pro Tem of the Senate  
Assembly Member Toni Atkins, Speaker of the Assembly  
Assembly Member Brian Maienschein, Vice Chair, Assembly Committee on Health  
Assembly Member Jimmy Gomez, Chair, Assembly Committee on Appropriations  
Assembly Member Frank Bigelow, Vice Chair, Assembly Committee on Appropriations  
Senator Janet Nguyen, Vice Chair, Senate Committee on Health  
Senator Ricardo Lara, Chair, Senate Committee on Appropriations  
Senator Patricia Bates, Vice Chair, Senate Committee on Appropriations  
Estevan Santana, Legislative Aide, Office of Assembly Member Bonilla  
An-Chi Tsou, Senior Consultant, Assembly Committee on Health  
Rosielyn Pulmano, Chief Consultant, Assembly Committee on Health  
Dharia McGrew, Consultant, Assembly Committee on Health  
Melanie Moreno, Staff Director, Senate Committee on Health  
Teri Boughton, Consultant, Senate Committee on Health  
Mark McKenzie, Staff Director, Senate Committee on Appropriations  
Brendan McCarthy, Consultant, Senate Committee on Appropriations

Lisa Murawski, Principal Consultant, Assembly Committee on Appropriations  
Tim Conaghan, Consultant, Senate Republican Caucus  
Mark Newton, Deputy Legislative Analyst, Legislative Analyst's Office  
Camille Wagner, Legislative Affairs Secretary, Office of Governor Jerry Brown  
Leonor Ehling, Director, Senate Office of Research  
Robert Herrell, Deputy Commissioner and Legislative Director, California Department of Insurance (CDI)  
Josephine Figueroa, Deputy Legislative Director, CDI  
Shelley Rouillard, Director, California Department of Managed Care (DMHC)  
Jenny Mae Phillips, Senior Attorney, California DMHC  
Mikhail Karshedt, Associate Governmental Program Analyst, California DMHC  
Janet Napolitano, President, University of California, Office of the President (UCOP)  
Nelson Peacock, Senior Vice President, Government Relations, UCOP  
Steve Juarez, Associate Vice President and Director, State Governmental Relations, UCOP  
Angela Gilliard, Legislative Director, State Governmental Relations, UCOP  
John Stobo, Executive Vice President, UC Health, UCOP  
Cathryn Nation, Associate Vice President, UC Health, UCOP  
Lauren LeRoy, CHBRP National Advisory Council Chair