

## KAISER ARBITRATION OVERSIGHT BOARD

### Board Comments on the Annual Report for 2019

#### **INTRODUCTION:**

Part of The Arbitration Oversight Board's responsibility includes the review, for clarity and completeness, as well as commentary in areas deemed appropriate. Accordingly, during the Board's March 19, 2019 Meeting, the Members offered various comments, constructive criticisms, edits and suggestions which the Independent Administrator took into consideration and according to her best judgment, incorporated into this final Report.

The Annual Report is a key document that is published on the Office of the Independent Administrator's ( OIA ) website ( [www.oia-kaiserarb.com](http://www.oia-kaiserarb.com) ) detailing both quantitative and qualitative information reflecting the functioning of the Kaiser Arbitration System during calendar year 2019. In general, the Board considers the Annual Report to be a thorough and accurate representation of the Kaiser Arbitration System enabling us to conclude that the Arbitration System is meeting its goal of a fair, timely and cost effective operation.

#### **Selected Measures of Performance:**

On a quarterly basis, the AOB receives reports on the performance metrics of the Arbitration System. It should be noted that the accumulated performance metrics, for calendar year 2019, are detailed in this Annual Report. Such areas include:

- Number of Demands for Arbitration increased by 4 cases in 2019 ( 610 cases ) v. 606 cases in 2018.
- Cases Closed, on average, in 366 Days which was 23 Days longer than in 2018 ( 343 days ) however, consistent with 2016 ( 363 days ), and 2017 ( 368 ) .
- Pool of Neutrals is 193, 32 less than 2018 however, it is felt that a portion of this decrease may be due to a failure of some of the Neutrals to update their Application that is due every two years.
- Evaluations: Responding Parties gave their Neutral Arbitrators and the OIA System positive evaluations. The Neutrals scored an average of 4.3, down from 4.5 in 2018, on a scale of 5.0. The Parties evaluation of the OIA fared a bit better in that it averaged 4.4, on a scale of 5.0. Overall, the Kaiser Arbitration System results, as reflected in the 2019 Annual Report, is consistent in providing fair, timely, lower in cost than litigation as well as protecting the Privacy of the Parties.

### **AOB Activities:**

- In 2019, there were three proposed Rule Changes, two of which were Approved ( Rules 33 & 34 ) and the other failed to receive the requisite number of votes to pass.
- The AOB began the process of arranging for an Audit of the OIA, consistent with the Blue Panel Report recommendations of conducting same every 5 years, for the purpose of evaluating their performance. It is expected that the Audit will be completed in the 1<sup>st</sup> Quarter of 2020.
- Passed a Resolution recognizing the importance and value of the California State Bars decision to collect diversity data.

### **Personnel Changes:**

The Board would like to acknowledge and thank our esteemed Member, Bruce R. Merl, MD, the Director of Medical- Legal Affairs for the Kaiser Permanente Group, for his 17 years of service and dedication serving on the AOB.

### **ADDENDUM:**

#### **Essential Elements of a Model Arbitration System**

At an earlier time, the Oversight Board sought to identify the hallmarks of an exemplary arbitration system. What were the essential elements or attributes of a model system? The following were thought to be the essential elements, and it is useful to have these features of a model system in mind when reading the Annual Report and reviewing the Kaiser Arbitration system.

**INDEPENDENT ADMINISTRATION:** The system is administered by a neutral entity, independent of the parties involved, and empowered to achieve desired goals for fair, timely and cost-effective arbitration.

**RULES:** An explicit, written set of rules governs the system, to assure that it is fair. All parties must abide by the rules. The rules are periodically reviewed and modified, as necessary, based on experience, to improve the system.

**OVERSIGHT:** the system has oversight and governance by a body that reflects the diverse perspectives of interested parties, and the public interest.

**ACCESSIBILITY:** The system is readily accessed by claimants and their claims are entered into the system promptly.

**QUALIFIED ARBITRATORS, FAIRLY SELECTED:** The system provides well-qualified and experienced arbitrators who are selected through a process consciously designed to avoid bias. Parties evaluate the arbitrators, anonymously, in questionnaire surveys.

**TIMELINESS:** Deadlines are established to move the arbitration process along as expeditiously as possible, with appropriate safeguards for extenuating circumstances. They must be respected. The meeting of deadlines is monitored and enforced.

**PERFORMANCE MEASURES:** Accurate and verifiable data are collected systematically to permit objective review of the processes and outcomes of the arbitration system.

**EVALUATION:** The performance of the system is routinely evaluated by surveys of the participants conducted with appropriate anonymity. Arbitrators are routinely evaluated by the parties.

**COST EFFECTIVENESS:** The costs of arbitrations are tracked whenever possible. Costs to claimants are kept reasonably low.

**CONVENIENCE:** Arbitration meetings and hearings are scheduled at times, and in locations, that are convenient for the parties.

**CLARITY:** Basic information about the arbitration system and its procedures is provided in easily understood, non- technical language.

**AUDIT:** The data recorded and reported by the administrator of the system are periodically checked by an independent auditor.

**TRANSPARENCY:** Detailed information about the operation and performance of the arbitration system is published and readily available to interested parties and the public-at-large.

**CULTURAL SENSITIVITY:** The system seeks diversity in its arbitrator pool. Information to claimants is provided in multiple languages and in non-technical vocabulary. Interpreters are provided without charge if needed.

**CONTINUOUS IMPROVEMENT:** Administration of the arbitration system strives for continuous improvement, guided by the evaluation conducted, the performance measures conducted, and constructive oversight.