

Healing Together:
The Labor Management Partnership at Kaiser Permanente

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Chapter 11
Partnerships: The Future
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What does this case study of the largest and most complex labor management partnership in American history tell us about where this approach to employment relations fits into the future of health care and other industries? We will take up this question here first by summarizing the conclusions suggested by the evidence presented throughout this book, and then by drawing some implications for employment relations policy and practice in health care and in other industries. Then we will end with a word of caution, a clear implication, and a prediction for health care reform.

Accomplishments

The hardest question to answer with a case study such as this is what would have happened at Kaiser if the partnership had not been formed. It seems clear that absent the partnership, the financial pressures that confronted Kaiser Permanente in the mid 1990s and at various points in the last decade would likely have led management to impose layoffs, to seek wage and/or benefit concessions, and to take other unilateral actions. These would have provoked a major confrontation with its unions. Even if somehow labor peace had been maintained, it would have been at the cost of financial and job security losses for the workforce and reduced morale. It would have left employees less committed and willing to accept changes in the future, such as those associated with the introduction of medical records' technologies. So perhaps the most significant achievements of the partnership are that it stopped and reversed the downward spiral the parties were caught in circa 1996, it produced a decade of labor peace, and it positioned

labor and management to work together to meet the organizational and health care delivery challenge of the day.

A second important accomplishment is the simple fact that the partnership survived for at least a decade. As noted in Chapter 1, labor management partnerships tend to have limited half-lives in the US. This one demonstrated its ability to work through the various pivotal events that come along in the course of partnerships. Figure 11-1 lists a number of these pivotal events discussed in more detail in prior chapters, any one of which held the potential of derailing the partnership. In each case (so far), the parties were able to draw on the relationships developed from working together and used their negotiations, problem solving, and conflict resolution tools and skills to work their way through the crisis.

Labor relations in the day-to-day functioning of the organization improved markedly, as evidenced by the decline in grievance rates and the many examples illustrating the effective use of the issue resolution tools the parties developed. Another benefit -- harder to measure yet equally if not more important -- lies in problems that never surfaced as conflicts because of the better communication that had developed between front line managers and union leaders.

We believe the extensive and creative use of interest based bargaining in the negotiations of two national-level agreements will be recorded as historic achievements in American labor relations history. To date these are the largest (in terms of number of workers, geographic scope of operations, and number of unions covered) and the most extensive (in terms of range of issues addressed and numbers of participants involved) application of interest based bargaining in American labor relations history. Moreover

although the national bargaining processes required huge financial, human, and organizational resources and support, they concentrated all of the negotiations into a single time frame rather than requiring Kaiser Permanente and its unions engage in multiple negotiation processes, with a much higher likelihood of work stoppages.

The partnership was very favorably received by a majority of the front line workforce. A seventy percent majority prefers partnership over more arms-length labor management relationship. Moreover, front line workers and union members who participated in partnership activities reported higher levels of job satisfaction and influence in decision making than those who had not participated in partnership initiatives. Diffusion was slow and as of 2007 still partial, but that is arguably the nature of most large-scale organization change efforts.

The partnership created a capacity for labor and management to resolve jointly new, unexpected challenges. Whether it was the opening of a new facility like Baldwin Park or the restructuring of one in trouble e.g. the Optical Lab, or the joint response to financial crises that arose in a particular region, the parties were able to work together to meet the immediate need. Moreover, each time they confronted a new challenge they came out of the experience with more people more deeply committed to working in partnership in the future. In an era as turbulent as our own, such a capability is very valuable.

More generally, Kaiser Permanente benefited from a considerably upgraded base of employee and management skills. These skills in problem-solving, meeting management, conflict resolution, and business understanding would surely be valuable resources in meeting the challenges Kaiser would face in the future.

From the employees' point of view too, these skills represented a considerable achievement. The expanded training and development and opportunities for direct participation on a wide array of issues upgraded employees' skills and abilities. Some employees took advantage to develop the knowledge and skills needed and opportunities to become facilitators or issue specialists (e.g. coordinators for workplace safety, HealthConnect, etc.); some took on new leadership and representative roles within their unions or the coalition; some benefited from new job opportunities outside of Kaiser. Many found these new skills enriched their private lives. The capacity of employees to influence decisions increased considerably, both at an individual level and collectively via their unions. Unions too were given the opportunity to develop new capabilities: a great number of individual leaders at all levels learned new skills and the new organizational arrangements within and across the unions gave unions new capacities for collective action.

Employees benefited in other ways too. Wages increased at least in tandem with, and perhaps somewhat more than, wages of other health care workers across the country. Wages for those at the bottom of the occupation and wage distribution increased even faster than did wages of their peers in health care and other industries. Kaiser workers avoided the travails of other workers who have experienced declining coverage and increasing costs of health care and the elimination of defined benefit pensions. The employment and income security language in the overall partnership agreement and the more specific protections and adjustment provisions negotiated to facilitate the introduction of new technologies were among the strongest in the country. These gains

were all good news for Kaiser employees -- and for a society that is suffering from increases in income inequality and stagnant wages.

The introduction of electronic medical records' technologies, something that so many health care leaders, including those at Kaiser, see as such a high potential means of improving the quality of health care in America, was actively supported by the partnership. The collectively bargained agreement outlining how workforce issues would be handled in the transition and in the implementation of the new technology is a national benchmark for others to emulate. It paved the way for acceptance of this initiative and provided the guidelines for involving workers and union leaders at the local level in fitting the new technologies to their specific circumstances.

Partnership as it evolved at Kaiser did not mean the elimination of conflict – it did not create some idyllic world of pure cooperation. Differences in interests are a natural and on-going part of all employment relationships—union or non-union; adversarial or partnership. To expect that workers will always go along with management directives or initiatives or that all managers will always go along with what workers want is neither realistic nor good for the long-term interests of any of the stakeholders to an organization or an employment relationship. The question is whether partnership provides a better way of addressing problems and conflicts that exist and arise than the alternatives. On this dimension Kaiser's labor management partnership proved its value many times over in the first decade of its life.

Limitations

On other dimensions, the record of the partnership was more mixed. Notwithstanding the many examples of specific project successes in reducing costs,

improving service, and solving problems. it is difficult to see clear performance improvements in patient care outcomes at the aggregate level. Kaiser's financial performance improved considerably over the years of the partnership and remained strong through the first part of 2007 as this was being written; but storm clouds on the horizon were real and ominous.

A key goal of the partnership was to expand patient membership. As with other aspects of organizational performance, while there were many small scale successes - examples where the unions working through their networks were able to convince employers to offer the Kaiser option for health care to their workers - these successes were not sufficient to impact the overall trajectory of Kaiser's membership base. Union efforts in this regard could not overcome the price considerations that drive employer decisions regarding whether to offer Kaiser as a service provider. Nevertheless, union involvement in marketing opened up another new vista for joint efforts.

Building and maintaining the partnership was a costly endeavor. The budget of the Office of Labor Management Partnership—approximately \$12 million per year— was considerable by any measure. Moreover, this sum does not reflect the full costs of time and energy of executives, physician leaders, union leaders and staff, and managers and union representatives on the front lines devoted to making the partnership work. On the other hand, however, the partnership's costs need to be compared to the full costs of alternative possible relationships, and in particular to the costs and risks associated with adversarial union management relations, the costs of union avoidance efforts in non-union settings, and the opportunity costs of not having the collective capabilities this partnership has developed. The direct costs and investment of time and energy needed to

manage the partnership are measurable and/or visible to those involved; the costs avoided are much harder to estimate.

The partnership's many layered and sometimes slow-moving governance structure and process was a matter of considerable and seemingly constant debate. However, in designing the partnership structure the parties had little choice but to match the organizational complexity of Kaiser Permanente and reflect its multiple union history. A key effect of this weakness in governance in both the partnership and management was the limited ability of senior leaders to communicate their own commitment to partnership down to lower, local levels. The partnership's support and capacity declined the farther down management and union organizations one went and the farther from the California center one moved. A decade after Kaiser and the Coalition announced their commitment to partnership as a "new way of operating throughout the organization," most operating units still had no partnership structures or processes in place. The unit based team initiative promised to turn that situation around; but this would take several more years at least.

The most resistant units were located outside California and in regions with lower union density. Where the environment was less accepting of labor, it was harder for top management and top labor leaders to diffuse partnership principles. Moreover, most of the unions representing Kaiser workers outside California were mixed locals where leaders had responsibilities outside of Kaiser and often outside of health care as well. These dual responsibilities reduced identification with the partnership and required union leaders to balance multiple constituencies, some of which had no concept or experience with partnership and therefore reinforced a more adversarial style among their leaders.

This created a schizophrenic-like challenge to union leaders and staff, one few could handle without occasional lapses.

Partnership leaders made only limited progress in realizing their vision of evolving from a labor relations program to a full-fledged new model for delivering health care. In 2005 they codified this objective by making it a focus of their contract negotiations and agreement; but as of 2007, they were still in the early stages of implementing this effort, focusing on the creation and diffusion of unit-based teams. This is a good first step. However, if Kaiser's experience with these teams is consistent with the experience of other industries, realizing the full potential of these teams for improving productivity and service quality will require complementary changes in work flows and full integration of new medical information technologies.

In summary, looking back on the first decade of the Kaiser Permanente labor management partnership, we must judge it a success. It turned around dangerously deteriorating labor-management relations; deepened the organizational capacity of Kaiser to meet challenges and crises as they arose; demonstrated that workers, unions, managers, and physicians could work together in delivering high quality health care; and yielded significant benefits for management, employees, and unions. As such it offers a collaborative model for addressing the health care crisis facing the country and stands in stark and favorable contrast to the restructuring underway in other industries such as airlines, where restructuring exacted a terrible toll on wages, hours, and employment security of the workforce.

Looking forward: Is this partnership sustainable? Here we are cautiously optimistic, yet given the long history of labor management partnerships in America, we

are also realistic. The partnership has made it possible to negotiate two national contracts; it took major changes in leadership in stride; and it showed an ability to learn and to adapt to meet new challenges. On the other hand, the challenges facing the partnership in future loom ominously: Kaiser faces major competitive challenges in costs and products; growing its membership base will be increasingly difficult; not all regional or local management nor labor leaders are strongly tied to the partnership mode, and under serious pressure they could easily revert to type -- where management opts to quickly implement changes, not wanting to wait for the slow deliberations of the partnership, and where union leaders react aggressively and defensively. So it is possible to imagine that at some point in the future the partnership could go into eclipse.

Lessons for Labor Management Relations Practice

The Kaiser Permanente partnership demonstrates labor and management, working together, can step up and meet the higher expectations workers, employers, and the public have long looked for in employment relationships. It stands as a beacon of light and hope in a labor relations system that has been spiraling downward to the point, as we argued in Chapter 1 that it has now reached a crisis stage. While relationships across the country were becoming more adversarial, less innovative, and unable to improve much less maintain workers' incomes and their families' living standards, the Kaiser partnership was moving in an opposite, more positive direction. While battles over the process by which workers gain a voice at work raged in the halls of Congress and on the front lines of practice, Kaiser and its unions agreed on and implemented codes of conduct and procedures ensuring workers would make their own choices about whether or not to

be represented and then offered the opportunity to participate directly in improving workplace conditions and performance.

In a nation searching for a way of providing more of its citizens access to quality health, Kaiser and its union partners showed they can work together in introducing state of the art technologies and work systems that together promise significant improvements in the quality and cost of health care.

Viewed in this light, partnership has to be seen as a valuable tool for the nation's labor management system. While a partnership clearly will not fit or work in all circumstances, it deserves to be an option available to those labor and management practitioners ready to give it a try.

What does this case teach us about what it takes to lead and sustain a partnership? We identify three main lessons.

First, partnership as a new mode of labor-management relations cannot develop without strong top-down leadership. In a field as contentious as labor relations, a partnership model cannot develop if it relies exclusively on horizontal diffusion across units that imitate each other in adopting the new approach. Nor will it take root if it is driven only by the upward influence efforts of local champions of partnership. Strong top-down leadership and influence are needed to drive changes in behavior of lower-level leaders in both the management and union structures. This is even more important for management than union, since leaders are selected in the former and elected in the latter, and mid-level managers are averse to taking labor relations risks that their superiors are not themselves committed to.

Second, Kaiser's partnership experience teaches us that the path from adversarial or arms-length labor relations is arduous. There are many failures along the way, and the challenge is to ensure that people learn from their mistakes and setbacks in ways that strengthen their capabilities and the partnership as it moves forward rather than allow crises or pivotal events to be viewed as signs the parties are falling back into prior adversarial patterns.

Third, it is hard work for management to learn to partner without abdicating responsibility. The balance that is required is perhaps best summarized by a comment from a top executive in one of KP's regions:

It takes very savvy leaders to deal with what I call the partnership trap....We need to keep in mind that partnership is about a business strategy and trying to change a culture. But it does not excuse us from our management responsibility. I think that's a trap we've gotten ourselves into. We are working in two different worlds most of the time. It's not that it's impossible; it just adds another level of complexity. I have to help labor understand that I still have a whole group of people that I have to work with to achieve results. I need to get their ideas, their insight. So I explain to people, "It's about the patient." The partnership is not just about privilege. The partnership is a strategy to help make patient care better.

Similarly, union leaders have to learn to partner without abdicating their responsibilities to represent their members. They need far deeper understand of financial matters, and far more subtle meeting management skills. Above all, they need to develop deeper forms of union democracy so that the enrichment of their dialogue with management is paired with enriched dialogue within the union.

Lessons for Non-union Employment Relationships

When presenting some of these results of the Kaiser partnership to other health care management groups we have often gotten a predictable response. Essentially (sometimes not so politely), we hear:

These are interesting and particularly relevant to us if we are unionized. In that situation, clearly partnership is preferable to traditional adversarial relationships. But what if any relevance does this case have for those of us (the vast majority of us) who are not unionized?

This is a good and reasonable question. It poses a significant strategic dilemma, for non-union managers, union organizers, and public policy makers. Managers walk a fine line. If there were no interest from their workers in organizing, it would be impossible and indeed inappropriate for them to propose or to introduce a formal union-management partnership. The decision of whether or not to be represented properly rests with the workforce. Labor law appropriately prohibits management from sponsoring or supporting employee representation. If there is union organizing interest and/or activity underway in their organizations, then management faces a razor edge choice. If it aggressively opposes unionization (as opposed to staying neutral or agreeing on rules of conduct to allow workers to make their independent choices), it risks laying a foundation of low trust that will likely result in an adversarial relationship should a union gain recognition.

So our answer to the question posed by non-union health care managers is that they need to learn about the costs and benefits of partnership and consider partnership as one option in their professional tool-kit to be drawn on when the circumstances are appropriate. Their challenge is to avoid waiting until the conflicts associated with traditional organizing efforts escalate to the point that it becomes difficult if not impossible to draw on this option.

The same point applies to union leaders. They too face a dilemma. They cannot simply offer management the option of forming a partnership without workers expressing a strong desire to be represented much less without their desire to be represented in this fashion: that would neither generate a positive response from employers nor be consistent with national labor policy. Instead they have to demonstrate significant if not majority worker interest in representation to gain the attention of management. The problem is that the traditional way unions engage management is by negative campaigning and/or by applying political and increasingly public pressure on employers to abort opposition to unionization. The more they engage in these tactics, the more likely they are to end up in an adversarial relationship.

This double game of “chicken” seems almost inevitable given the current labor law, management and labor culture, and labor relations environment. Absent a change in these features of employment relations, the best that can be suggested is to do what some are now doing. Increasingly, labor union leaders are expressing a desire and willingness to engage in partnerships with willing employers and interested workers. They are making this part of their public statements and campaigns. At the same time they are taking steps to build support from rank and file workers to demonstrate their credibility and power to employers. Some are offering to negotiate rules of the game that limit the negative campaigning and the time and costs associated with organizing drives. This offers the possibility of both a more independent and non-coercive environment for workers to decide whether or not be represented and lays a better foundation for building a partnership right from the start of their union-management relationship. For example, the SEIU has made its commitment to building partnerships and alliances with employers

a visible part of its organizing strategies, often combined with a willingness to use its political influence to address issues of mutual concern to employers and the workforce, all in exchange for employer neutrality and sometimes card check recognition. More than any other union, SEIU has used the lessons learned at Kaiser to make union representation more attractive to employees and employers alike.

Lessons for US Labor Policy

What are the implications of our study for the future of employment relations for the nation as a whole? Given the choice between adversarial union-management relations and partnership, the choice is obvious: workers prefer partnerships; managers who have experienced both approaches prefer and recognize the clear benefits from partnership; and society gains from the externalities.

Yet this model of union management relations remains fragile—most partnerships are time-limited and live a precarious life. The question therefore is whether national policy makers can do anything to strengthen the resiliency and/or increase the likelihood of adoption of a partnership approach. We believe there are a number of things national leaders can and should do.

The first step would be to fix labor law so that workers have the ability to form a union if they prefer to do so without having to risk their jobs or undergo a long drawn out costly and conflict riddled ordeal. But this is only a necessary starting point. Equal attention needs to be given to improving the quality of labor management relations and to putting labor-management relationships to work on addressing the pressing problems facing their industry and the economy. Partnerships like the one studied here should be encouraged, and at a minimum obstacles in current labor law that limit them should be

eliminated. This would start with the reversal of recent National Labor Relations Board and Supreme Court decisions that take away the rights of union membership for charge nurses, for example, or other professionals who now assume some of the duties and responsibilities heretofore handled by “managers.” Doing so would not only support the diffusion of partnerships in health care, it would get on with the task of updating labor law doctrines to match accepted principles for organizing and carrying out work in 21st century organizations.

Broader changes in labor policy are also needed to encourage labor and management to break out of the NLRB “box” illustrated in Figure 1.1. Artificial boundaries around what labor and management can or should talk about constrain innovation. They no longer make sense in a knowledge-based economy, where employees have so much to offer by way of improvement ideas, both radical and incremental. Partnership is a way to bring American organizations into the 21st century.

In short, labor policy makers should no longer be agnostic about the shape and character of labor relations practice. In recent years, policy makers have largely taken a hands off approach to labor and management practice or issued regulatory decisions like the one mentioned above that set practice back. On the watch of these government leaders, collective bargaining has continued to decline in coverage and in performance. This was not always the case. As far back as World War II, government leaders recognized the value of helping labor and management implement and institutionalize innovations such as grievance procedures, wage and salary standards that achieved equity without inflating prices, private pensions and health insurance, and joint safety and productivity committees. Those innovations were deemed to be essential for meeting the

challenges of their day. In the decades following the war, similar leadership was taken to ensure that peaceful labor relations developed and were maintained in critical industries and installations dealing with atomic energy and space exploration, the postal service, and in specific negotiations where the national health and/or safety were at risk. In 1987 Congress took the affirmative step of enacting the “Labor Management Cooperation Act” and appropriated funds to promote joint efforts to improve labor management relations. The vision and leadership behind such initiatives is now absent in the highest levels of labor relations policy making and administration. Today the key challenges facing labor and management are to restore worker voice and to engage workers’ knowledge and skills in improving their work environment and the performance of their organizations and enterprises. A return to the type of policy leadership present once present in government would clearly allow and encourage labor management partnerships to be put to use in pursuit of these goals and would create an environment in which partnership would no longer be such a precarious experience. With this type of leadership, partnership might just evolve to become standard labor relations practice.

Lessons for Health Care Policy

By now it should be clear that the type of partnership implemented at Kaiser Permanente is more complex, larger, and perhaps more ambitious than what most other health care employers and unions are ready to undertake. Yet others need not replicate, indeed, if we have been successful in pointing out the strengths and weaknesses of this partnership, should not try to replicate the Kaiser partnership in its full dimension. Instead, we believe the key lesson for health care reformers is that any specific proposals

for reform that are advanced should attend to workforce, technology, and labor-management relations issues as part of the proposal, rather than be ignored or treated as an afterthought. Labor management partnerships that learn from the Kaiser case can be part of the solution to the nation's health care crisis. However, if not addressed in a sensible way, or worse, if the strategies adopted exact a high price on the health care workforce, we can expect labor management relations to be part of the problem.

Figure 11-1:

Pivotal Events in the Life of the Partnership to Date

PIVOTAL EVENT	HOW IT WAS HANDLED
Signing of initial Partnership agreement, 1997	After considering but rejecting escalating pressures on KP through a “corporate campaign and intense debate within the KP Board of Directors, both parties chose to try an alternative “partnership” approach.
Negotiating of Employment Security Agreement, 1999	After a crisis in one region that led to a restructuring, the parties agreed to new language safeguarding employment security.
Closing/restructuring of Northern California Optical Laboratory	The parties turned a “closure negotiations” into a joint problem-solving effort to restructure and turnaround the laboratory. It is now viewed as one of the signal achievements of the partnership in its early years.
Negotiation of 2000 National Contract	After tense negotiations over whether to engage in national bargaining, the parties fashioned an interest-based process that we judged to be “an historical achievement” in U.S. labor relations.
Leadership Transition: KP CEO, 2001	Shortly after his appointment the new KP CEO, George Halvorson issued a strategy/vision memo reaffirming support for the partnership, describing it as one of his key strategic priorities. He then re-hired Leslie Margolin, the management leader of the partnership who had resigned as the Senior Vice President for Operations.
Responses to Southern California and other regional budget crises 2003-04	After management in several regions considered unilateral budget and staffing cuts, joint task forces were created and identified major savings without layoffs.
California Nurses Association/Southern California Nurses dispute, 2004	A major inter-union conflict over union organizing and raiding of units was resolved through intensive negotiation and mediation by the Secretary Treasurer of the AFL-CIO.
Negotiation of 2005 National Contract in midst of AFL-CIO split	Another national agreement was successfully negotiated at the same time several national unions participating in the Coalition of Kaiser Permanente Unions split from the AFL-CIO
Leadership Transitions in 2006: CKPU Executive Director and KP COO	Both Leslie Margolin and Peter diCicco, the two strongest leaders of the partnership in KP management and the union coalition leave their organizations. The leadership transition will once again test the sustainability of the partnership.