

## Patrick Monette-Shaw

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January 31, 2023

San Francisco Board of Supervisors

The Honorable Aaron Peskin, Board President

The Honorable Connie Chan, Supervisor, District 1

The Honorable Catherine Stefani, Supervisor, District 2

The Honorable Joel Engardio, Supervisor, District 4

The Honorable Dean Preston, Supervisor, District 5

The Honorable Matt Dorsey, Supervisor, District 6

The Honorable Myrna Melgar, Supervisor, District 7

The Honorable Rafael Mandelman, Supervisor, District 8

The Honorable Hillary Ronen, Supervisor, District 9

The Honorable , Supervisor Shamann Walton, District 10

The Honorable Ahsha Safai, Supervisor, District 11

1 Dr. Carlton B. Goodlett Place

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### **January 31 Board Meeting: Committee of the Whole Hearing on Laguna Honda Hospital Two Additional Issues: LHH 120 Bed Loss Confirmed**

Please address the following two issues related to the recertification of Laguna Honda Hospital.

#### **1. Permanent Loss of 120 Beds Laguna Honda Hospital**

City Attorney David Chiu had initially filed three Appeals to the U.S. DHHS and a Federal lawsuit over CMS' decertification of LHH in April 2022. Had Chiu prevailed and won the Appeals and the lawsuit, the decertification would have been overturned, and CMS would not have been allowed to force LHH to permanently eliminate 120 of LHH's skilled nursing facility beds.

The last we have been told by San Francisco's health Commission and LHH's acting-CEO, Roland Pickens, was that LHH was trying to convince CMS not to require permanently closing those 120 beds by converting three-person patient rooms to two-person patient rooms.

The permanent loss of those 120 beds seems to be all but guaranteed, because LHH produced on January 25 a list of Capital Projects it claims must be done to facilitate LHH obtaining its recertification from CMS. Among the four capital projects is a project titled "*Conversion of Triples to Doubles*," referring to the physical remodeling of patients rooms to eliminate 120 beds.

In truth, CMS and the Biden Administration prefer that all skilled nursing facilities move to a model of only having private patient rooms, for one-person occupancy. If CMS prevails requiring the two-person rooms standard and elimination of 120 of LHH's bed, it may not be long before LHH is forced to convert an additional 120 beds (for a total of 240 beds) to switch to the preferred model of single rooms, reducing LHH from a 769-bed facility to having just 529 beds — less than half of the 1,200 beds LHH formerly had before the replacement hospital opened in 2010. If that happens it would represent a 31.2.% change reduction in LHH's current bed capacity

The loss of 120 beds at LHH will be disastrous for San Francisco's dwindling stock of skilled nursing facilities in-county. In the 30 years between 1992 and 2022, San Francisco lost a total of 1,381 skilled nursing facility (SNF) beds — between the closure of hospital-based SNF units and attrition of free-standing SNF's — leaving the City with just 2,281 SNF beds in-county.

If LHH loses 120 of its beds due to CMS' capricious mandate, it will leave our county with just 2,161 SNF beds, forcing more elderly and disabled San Franciscans into out-of-county facilities. (See the table at the end of this testimony.)

The Board of Supervisors must do whatever it takes to prevent the elimination of LHH's 120 beds, and halt any Capital Projects currently underway or planned to convert those 120 three-bedroom suites into two-person rooms. ***You must fight like hell, or you won't have a country anymore*** comes to mind!

#### **2. External Oversight, and Board Internal Oversight of Laguna Honda Hospital**

Since LHH was decertified, there has been insufficient Board of Supervisors oversight of getting our beloved LHH recertified.

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Thankfully, Supervisor Melgar was able in July 2022 to hold GAO hearings that led to a temporary pause on the mandatory discharges of LHH residents, after public reports surfaced about the first four patient deaths following forced discharges.

But since then, SFDPH, LHH, and the Health Commission (as LHH's governing body) have all chosen to conceal information on the progress of getting LHH recertified with CMS behind closed-door Closed Sessions. They have collectively refused to produce a wide variety of what should be public records. By Roland Pickens' own admission to the Health Commission, at some point LHH began following the wrong regulatory guidelines by solely using regulations applicable to acute care hospitals, not regulations applicable to nursing homes.

SFDPH essentially abandoned its administrative duty to ensure LHH adhered to Federal nursing home regulations. SFDPH's errors overseeing LHH was *not* an accident.

Their obfuscation clearly points to the need of greater oversight of Lagunas Honda Hospital. Many believe that there needs to be independent oversight of LHH by an external agency to monitor LHH's compliance with CMS' regulations applicable to skilled nursing facilities, which I fully support. I urge the Board of Supervisors to collaborate with the San Francisco Grey Panthers to facilitate bringing independent oversight of LHH to fruition.

But in addition, the Board of Supervisors has a role in oversight of LHH, too.

Back in 2005, then-Supervisor Sean Elsbernd introduced Resolution 200-05 (Board file #050396) co-sponsored by then Supervisors Aaron Peskin, Ross Mirkarimi, and Fiona Ma, which the Board passed unanimously on first reading on March 15, 2005 and on second reading on March 25, 2005.

The resolution involved the SFDPH "*flow project*" of patients from SFGH to LHH, and required LHH to submit quarterly reports on admissions to LHH (by age, ethnicity, and the sources of new admissions to LHH). The Resolution urged the then Executive Administrator of Laguna Honda Hospital and Rehabilitation Center (then Mivic Hirose) to provide **on a quarterly basis** admissions statistics for Laguna Honda Hospital detailing age, ethnicity, and referring facility information.

The Resolution had read, in part:

WHEREAS, This change in policy caused a demographic change in the Laguna Honda Hospital population that caused great concern among patients, staff, nearby residents, and other members of the community; and

WHEREAS, On February 17, 2005, the Department of Public Health reversed its March 2004 decision, and returned the admission policy at LHH to the pre-March 2004 policy; and, WHEREAS, Historical statistical information on admissions will help policy makers and the public determine if the reversal in the admission policy is being fully implemented.

LHH submitted the quarterly reports for a dozen years. But for some unknown reason, LHH stopped submitting the quarterly reports during former Supervisor Norman Yee's second term representing District 7. The last quarterly report LHH submitted to the Board of Supervisors was dated October 13, 2017 before Yee became Board president in January 2019. There was no follow up Board of Supervisors legislation that stopped the requirement LHH submit the quarterly reports. It is thought the reports stopped being submitted via a cloakroom deal between Supervisor Yee and LHH's then-CEO Mivic Hirose (who was subsequently removed as LHH's CEO in 2019 following the 2019 sexual abuse of patients scandal under her watch).

I believe stopping the submission of the quarterly reports was a grave mistake, and they should be resumed.

As you know, there is great community concern that SFDPH's "*flow project*" project of patients from SFGH to LHH is essentially still in effect and has been for the past 18 years, with disastrous results.

In addition to potentially requiring independent oversight of LHH by an external agency to monitor LHH's compliance with CMS' regulations applicable to skilled nursing facilities, the Board of Supervisors should resume its oversight role of LHH, by resurrecting Resolution 200-05 and requiring LHH to resume submission of quarterly reports of admissions data to the Board of Supervisors in order to continue monitoring of the flow project. This oversight should be resumed by the Board's Public Safety and Neighborhood Services (PSNS) committee on a recurring basis.

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Please address rapidly both issues raised in this testimony.

Respectfully submitted,

**Patrick Monette-Shaw**

*Columnist,*

*Westside Observer Newspaper*

cc: Angela Calvillo, Clerk of the Board

Alisa Somera, Legislative Deputy Director to the Clerk of the Board

**Skilled Nursing Facility Beds in San Francisco**

1992 to 2023

<b>Year</b>	<b># of SNF Beds</b>	<b>Source</b>
1992	3,662	
May 1997	3,505	"San Francisco Nursing Facility Bed Study," San Francisco Section of the West Bay Hospital Conference, Hospital Council of Northern and Central California
January 2008	3,321	Benson Nadell, San Francisco Long-Term Care Ombudsman
November 1999		Bond Passed to Rebuild LHH with 1,200 Beds
April 2009	2,731	California Advocates for Nursing Home Reform (CANHR) web site
September 2021	2,375	Public Records
August 2022	2,281	Public Records
<b>Lost Capacity Subtotal</b>	<b>1,381</b>	<b>SNF BedS Lost 1992 to 2022</b>
LHH Beds	(120)	CMS (Centers for Medicare and Medicaid Services) Required Punishment
<b>Lost Capacity Total</b>	<b>1,501</b>	
<b>Remaining SNF Beds</b>	<b>2,161</b>	