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January 24, 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

San Francisco, CA 94102

Agenda Item #24, Board File 230034:

**Committee of the Whole — Laguna Honda Hospital's
Strategy for Recertification and the Submission of a
Closure and Patient Transfer and Plan — January 31, 2023**

I fully support the Motion to schedule a Board of Supervisors *Committee of the Whole* hearing on January 31 regarding a status update of LHH's closure plan.

As of December 22, LHH's patient census had dropped to 557, down by 153 residents from its census of 710 on October 14, 2021 when LHH began receiving serious deficiencies as a result of State survey inspection violations. The census as of January 22, 2023 has not yet been confirmed, but is probably closer to being as low as 540 residents — 170 lower than in October 2021.

As you may recall, during June and July 2022, LHH announced that it was aiming to submit an application to CMS in August or September to regain its Federal certification, and become fully recertified by the end of December 2022.

More recently, SFDPH and the Health Commission have changed their tune, and now hope to obtain CMS recertification sometime after September 2023. Public records have revealed that admissions to LHH were halted on January 14, 2022, so assuming LHH obtains recertification in September, no new admissions to LHH will have occurred for at least 20 months. San Franciscans needing admission to LHH have faced placement in out-of-county skilled nursing facilities for far too long.

The Health Commission and Health Department must be required to expedite obtaining recertification.

The *LHH Settlement Agreement* required that LHH submit a *Root Cause Analysis* (RCA) report describing the deficiencies and regulatory violations in California Department of Public Health (CDPH) inspection reports for the past two years that resulted in LHH's decertification. LHH was also required to submit an *Action Plan* to correct the deficiencies identified in the RCA, and was required to submit a *Revised Closure Plan*.

LHH has refused to produce any of these three documents — and many other documents — in response to public records requests placed by me and other community members.

SFDPH refused to provide the RCA, claiming it did not have the document in its possession, which is ridiculous since DPH's contractor, Health Services Advisory Group (HSAG), has been awarded \$17.3 million across two separate contracts (one of which received a contract amendment), plus a third separate contract to act as LHH's *Quality Improvement Expert* (QIE).

Under the Sunshine Ordinance, if SFDPH didn't have the document in its possession, the Ordinance requires DPH to coordinate with the agency that did have possession of the submitted RCA, so DPH should have reached out to its own contractor to obtain the document and provide it as a public record.

As for the full *Action Plan*, SFDPH asserted the *official information privilege* under California Evidence Code §1040 and refused to provide it as a public record. Evidence Code §1040(b) stipulates “***no privilege may be claimed under this***

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paragraph if any person authorized to do so has consented that the information be disclosed in the proceeding. Since the *LHH Settlement Agreement* stipulated in paragraph 41 all parties to that agreement had consented to release of information under FOIA, DPH should have released the *Action Plan* by now, given it had provided FOIA consent in the *Agreement*.

LHH has also not provided a separate *Plan of Correction* for a *Fire Life Safety* immediate jeopardy violation LHH received on December 6 and also has not provided a separate additional *Plan of Correction* for the 12 citations and \$36,000 in fines LHH received on December 20 involving 12 patients who died following their discharges from LHH in June and July.

All along, LHH has kept all of these documents secret, withholding them from not only from members of the public, but members of the Board of Supervisors as well (although LHH recently provided the Board of Supervisors a belated *Executive Summary* of the *Action Plan*, which full *Plan* we still haven't seen).

Of interest, on January 13 City Attorney David Chiu submitted an eight-page letter to the U.S. DHHS requesting CMS extend the February 2 date on which mandatory discharges were to resume. Chiu's letter noted CMS approved the RCA on December 12, so it should be made public.

Since SFDPH asserted that "*Once the federal Centers for Medicare and Medicaid Services (CMS) accepts the Action Plan, the Action Plan will be shared with you.*" By the same token, since the City Attorney asserted the RCA was approved by CMS on December 12, SFDPH should release the RCA immediately to members of the Board of Supervisors and the public.

The City Attorney's January 13 letter attached 14 exhibits of successive weekly "*dashboard*" reports showing progress toward resolving 101 deficiencies against LHH that were identified during a CMS recertification "*Mock Survey*" conducted in late June.

Unfortunately, the dashboard report for the week of November 11 through November 18 shows that of the 101 deficiencies identified in the June *Mock Survey*, 63 of them have been fully resolved, with 38 — 37.6% — remaining outstanding, including two deficiencies in the highest severity and scope rated as an "L" which poses a widespread immediate jeopardy. Why those two deficiencies aren't yet in compliance monitoring weren't described. It's unclear why they remain unresolved five months after the June *Mock Survey*.

Also unfortunately, Exhibit #14 shows only 8 of LHH's 13 patient care units (Neighborhoods) — 62% — were survey ready for an actual CMS re-certification inspection survey. The City Attorney's letter omitted any dashboard reports for all of December and January. The Board of Supervisors should be presented updated data.

Given the Board of Supervisors oversight role, prior to your January 31 *Committee of the whole* hearing, SFDPH should provide the Board of Supervisors with:

- The initial *Root Cause Analysis* (RCA) report (which was approved by CMS in December),
- The *Action Plan*,
- The *Revised LHH Closure Plan*,
- The December *Fire Life Safety* Plan of Correction LHH told the Health Commission on January 17 it had submitted,
- A current week "*dashboard*" report showing progress toward fully resolving LHH's 101 *Mock Survey* deficiencies, and
- The *Plan of Correction* LHH told the Health Commission it had submitted for the 12 citations LHH received on December 20 involving the post-discharge deaths of former LHH residents.

LHH must not be allowed to keep claiming its ridiculous *official information privilege* to you. The Board should request these reports be provided to you prior to your January 31 hearing.

Dr. Terry Palmer's testimony to you is absolutely correct: "[even] *if a reprieve occurs* [by CMS extending the paused LHH discharges set to resume on February 2], *it will be temporary.*"

I urge the Board to pass this Motion unanimously and hold this hearing on January 31. Board of Supervisors oversight is desperately needed, urgently.

Respectfully submitted,

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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

From: [Teresa Palmer](#)
To: [Somera, Alisa \(BOS\)](#); [Calvillo, Angela \(BOS\)](#)
Subject: Fwd: About Jan 24 PLEASE FILIN IN PUBLIC CORRESPONDENCE File # 230034SFBOS Vote on Laguna Honda Jan 31 COW Hearing
Date: Tuesday, January 24, 2023 1:17:09 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Please file this previously sent email in
public correspondence for File # [230034](#)
Thanks, Teresa Palmer MD Jan 24, 2023

----- Forwarded message -----

From: **Teresa Palmer** <teresapalmer2014@gmail.com>
Date: Fri, Jan 20, 2023 at 6:12 PM
Subject: About Jan 24 SFBOS Vote on Laguna Honda Jan 31 COW Hearing
To: Peskin, Aaron (BOS) <Aaron.Peskin@sfgov.org>, Melgar, Myrna (BOS) <myrna.melgar@sfgov.org>, Farrah, Michael (BOS) <Michael.Farrah@sfgov.org>, <Sunny.Angulo@sfgov.org>, <Board.of.Supervisors@sfgov.org>, Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>
Cc: Dean Preston <Dean.Preston@sfgov.org>, PrestonStaff (BOS) <prestonstaff@sfgov.org>, <Connie.Chan@sfgov.org>, Jennifer (BOS) <jennifer.fieber@sfgov.org>, Low, Jen (BOS) <jen.low@sfgov.org>, Mandelman, Rafael (BOS) <Rafael.Mandelman@sfgov.org>, Mar, Gordon (BOS) <Gordon.Mar@sfgov.org>, Myrna Melgar <melgarsf@gmail.com>, Melgar, Myrna (BOS) <myrna.melgar@sfgov.org>, Farrah, Michael (BOS) <Michael.Farrah@sfgov.org>, <ChanStaff@sfgov.org>, <MandelmanStaff@sfgov.org>, <Shamann.Walton@sfgov.org>, Stefani, Catherine (BOS) <Catherine.Stefani@sfgov.org>, Ronen, Hillary <Hillary.Ronen@sfgov.org>, Safai, Ahsha (BOS) <Ahsha.Safai@sfgov.org>, <jackie.thornhill@sfgov.org>, <Frances.Hsieh@sfgov.org>, <Kelly.Groth@sfgov.org>, <Angelina.Yu@sfgov.org>, <DorseyStaff@sfgov.org>, Yan, Calvin (BOS) <Calvin.Yan@sfgov.org>, <Sarah.S.Souza@sfgov.org>, <Santiago.Lerma@sfgov.org>, Saini, Nikita (BOS) <Nikita.Saini@sfgov.org>, <Ana.Herrera@sfgov.org>, <Jennifer.Ferrigno@sfgov.org>, Barnes Bill (BOS) <Bill.Barnes@sfgov.org>, <Sam.Berenson@sfgov.org>, <Dominica.Donovan@sfgov.org>, <Giles.Feinberg@sfgov.org>, <Percy.Burch@sfgov.org>, <Tracy.Gallardo@sfgov.org>, Gee, Natalie (BOS) <Natalie.Gee@sfgov.org>, <Abe.Evans@sfgov.org>, <RonenStaff@sfgov.org>, <EngardioStaff@sfgov.org>

To: Board President Peskin and Supervisor Melgar,
and all Board of Supervisors:

About: Vote on [Jan 24 for Jan 31 hearing SF Board of Supervisors agenda item #24](#): File # [230034](#)
[Committee of the Whole - Laguna Honda Hospital's Strategy for Recertification and the Submission of a Closure and Patient Transfer and Relocation Plan - January 31, 2023, at 3:00 p.m.]
Sponsor: Melgar

We urge the BOS to vote to go forward, on Jan 24, with the Jan 31st hearing about Laguna Honda even if the federal govt (CMS) agrees to a reprieve on closure and evictions (now set to begin Feb 2). If a reprieve occurs it will be temporary.

The quality of care in private nursing homes that accept Medi-Cal patients (long term care) is much worse locally and statewide than the care at Laguna Honda EVER has been.

This death, tragedy, severe stress to both present and future LHH residents, direct care staff and the massive expense that has resulted is due to poor management. This poor management and neglect by leaders of Laguna Honda (SFPD/CCSF), CDPH (State of California), **should never ever be repeated.** There is a huge amount of work to be done over many city and higher government funded entities to make sure of this.

When will an outside independent and certified Nursing Home Administrator (NHA) be hired for Laguna Honda? This should **NOT** be a newly certified SFPD "insider" to the malfunction that got Laguna Honda into this mess.

We must also take a close look at the revolving door pushing houseless/underserved persons who are seniors/disabled over and over to emergency room and hospital: this makes such a large contribution to preventable nursing home admissions.

Dr. Allen Cooper (Member Advisory Council to Commission on Disability and aging Services and Dignity Fund Oversight and Advisory Committee)
notes:

"There have been people who have been rightly identified as not belonging in Laguna Honda. It is the job of agencies like Department of Disability Aging Services, Homelessness and Supportive Housing, DPH and Metropolitan Transport Association to start providing services for those people, rather than trying to dump them from place to place, or have them end up either on the street or in jail with no services. So we have to push the City, the Mayor, and our Supervisors and those Department heads to stop saying: 'It's not my job'"

Thank you so much for your attention to making San Francisco a better place to grow old in! We are with you all the way.

Teresa Palmer M.D.
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