

Date: December 1, 2022
To: FOIA_Request@cms.hhs.gov
cc: stephanie.magill@cms.hhs.gov; rufus.arther@cms.hhs.gov; yvonne.pon@cms.hhs.gov
Subject: CMS FOIA Request: Laguna Honda Hospital and Rehabilitation Center (Provider # 55-5020) “Root Cause Analysis” Report

December 1, 2022

Freedom of Information Act Office
Mail Stop C5-11-06
7500 Security Boulevard
Baltimore, Maryland 21244

Dear CMS FOIA Staff,

This is a request for records made pursuant to the FOIA.

Under the Freedom of Information Act, 5 U.S.C. subsection 552, I am requesting access to the records described below as a representative of a news media organization. I am affiliated as a columnist for the *Westside Observer* neighborhood newspaper in San Francisco. This request is made as part of news gathering and not for commercial use.

I understand that as a member of the media I may be charged a fee, but for only for duplication (photocopying) and only after the first 100 pages. If the document I am requesting is more than 100 pages please advise me of the total number of pages and the fee I will have to pay, before duplication begins.

I prefer to receive the responsive records in electronic format (a PDF file would be preferable).

Background:

CMS, the California Department of Public Health, and Laguna Honda Hospital and Rehabilitation Center (LHH) (CMS Provider # 55-5020) in San Francisco entered into a “*Settlement and Systems Improvement Agreement*” that has been approved by the San Francisco Health Commission, San Francisco’s Board of Supervisors, and San Francisco Mayor London Breed in order to settle:

- 1) Three administrative appeals San Francisco City Attorney David Chiu had filed with the U.S. DHHS Departmental Appeals Board regarding CMS’ decertification of LHH from the CMS provider participation program (U.S. Departmental Appeals Board, Civil Remedies Division docketed as *Laguna Honda Hospital & Rehabilitation Center D/P SNF (CCN: 55-5020) v. Centers for Medicare & Medicaid Services*, Docket No. C-22-555), and
- 2) A federal lawsuit City Attorney David Chiu had filed in the Northern District of California against DHHS and Xavier Becerra, Secretary of DHHS (United States District Court, Northern District of California, docketed as *City and County of San Francisco v. U.S. Department of Health and Human Services et al.*, Case No. 3:22-CV-4500).

As part of the *Settlement Agreement*, City Attorney Chiu submitted written notices on November 14 and November 15 withdrawing *with prejudice* both the three DHHS appeals combined into the single Docket number and the Federal lawsuit.

Records Sought:

The *Settlement Agreement* between CMS, CDPH, and the City of San Francisco (on behalf of LHH), required LHH to hire an external Quality Improvement Expert (QIE) to assist with carrying out, and complying with, the *Settlement Agreement*.

The *LHH Settlement Agreement* stated on page 13 that the QIE LHH hired was required to perform a “*Root Cause Analysis*” to determine the factors that resulted in CMS concluding LHH had violated Federal nursing home regulations. The *Root Cause Analysis* was to identify the root causes of each of the 26 deficiencies identified by CDPH and CMS during inspections of LHH, and make recommendations for changes and improvements necessary for LHH to achieve and maintain compliance with Federal regulations.

The written *Root Cause Analysis* report was to be submitted to CDPH and CMS no later than December 1, 2022 to the attention of Stephanie Magill and Yvonne Pon in the San Francisco and Seattle Survey & Enforcement Division, Survey & Operations Group in CMS Region IX in San Francisco, and by e-mail to ROSFEnforcements@cms.hhs.gov; stephanie.magill@cms.hhs.gov; rufus.arther@cms.hhs.gov; and yvonne.pon@cms.hhs.gov.

For this FOIA request, please provide the written *Root Cause Analysis* report due to CMS no later than December 1, 2022.

Thank you.

Patrick Monette-Shaw
Columnist/Reporter
Westside Observer Newspaper

Contact Information:

Name: Patrick Monette-Shaw
Organization: *Westside Observer* Newspaper (<https://westsideobserver.com>)
E-mail Address: pmonette-shaw@earthlink.net
Phone Number: (415) 292-6969
Fax Number: N/A
Mailing Address: 975 Sutter Street, #6
San Francisco, CA 94109