

July 31, 2023

Part 2 of a Two-Part Series

Costs to Rescue Laguna Honda Hospital Inch Up. Again.

LHH's Mismanagement Costs Reaches \$64.9 Million

Complying With CMS Regulations Could Avoid Costs.

LHH Managers Chose Non-Compliance, Instead.

Were We Blackmailed Into Using Public Funds for Lobbyists?

by Patrick Monette-Shaw

When Part 1 of this two-part article was published in the *Westside Observer* on July 17, costs to rescue Laguna Honda Hospital stood at approximately \$64.1 million. I predicted they would likely increase within a few weeks.

They did. By just shy of three-quarters of a million dollars — roughly \$732,000 — two weeks later, now up to \$64.9 million.

I had indicated Part 2 of this article would explore the State and Federal fines, penalties, and lawsuit expenses, plus additional miscellaneous expenses, that then subtotaled approximately \$11.4 million not discussed in Part 1. In the past 12 days, public records show the additional expenses climbed by \$731,685 — to a revised subtotal of \$12 million.

So, the total known costs to rescue LHH now stands at a revised total just shy of \$64.9 million (\$64,864,489) to date, as shown in the updated Table 1, below.

Table 1: Summary of Costs to Rescue Laguna Honda Hospital

Description	Total Amount
1 Consultant Contracts	\$ 30,471,144
2 Lost Medi-Cal Revenue	\$ 22,300,000
3 State and Federal Fines, Penalties, and Lawsuit Expenses	\$ 4,860,171
4 Miscellaneous Expenses	\$ 7,233,175

Total Costs: \$ 64,864,489

Source: Various public records. Revised: July 31, 2023

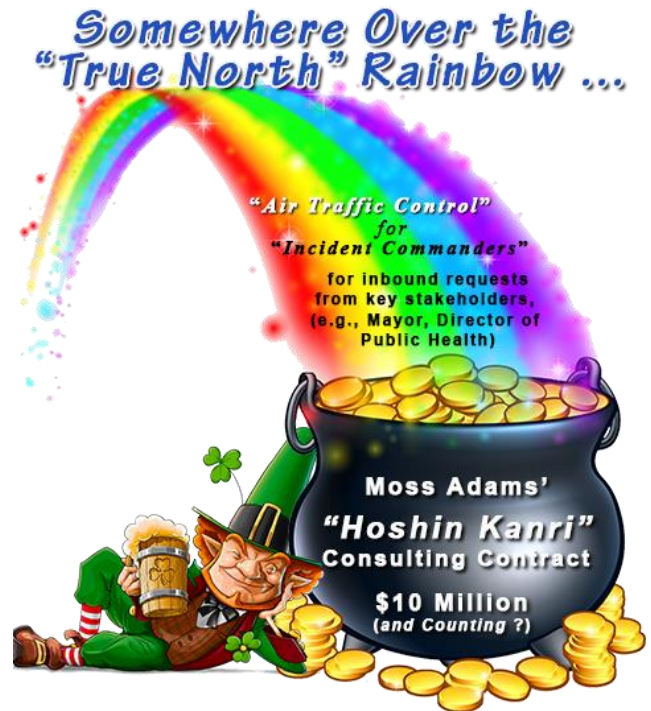
[Note: The additional two tables in Part 2 of this article continue the numbering of tables in Part 1.]

Sadly, there has been zero accountability for LHH employees who caused these expenses, particularly no consequences for LHH's senior management team who were directly, and mostly, responsible. Many of the expenses were completely avoidable, as the Health Commission and San Francisco's Board of Supervisors surely must know.

Costs are projected to climb some more, perhaps by another \$1 million before September 1. Here's Part 2 of this article.

Fines, Penalties, and Lawsuit Expenses

To date, we know of at least \$4.9 million in various expenses related to fines, penalties, and lawsuits involving Laguna Honda Hospital's mismanagement over the years, as shown in Table 4.



A Drunken Leprechaun is only one drunken *cousin-once-removed* from Health Department officials hell bent on spending the public's dime on "air traffic control" systems using "Hoshin Kanri" nonsense to field incoming Mayoral inquiries.

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Table 4: State and Federal Fines, Penalties, and Lawsuit Expenses Related to Laguna Honda Hospital

Year or Date	Court Case # or Penalty ID Number or Citation ID Number	Initial Class of Penalty	Lawsuit or Fine	Initial Fine or Settlement	Discount	Reduced Fine or Settlement	City Attorney Time and Expenses	Total
Miscellaneous Cases								
1	2007	AA	CDPH Patient "Fall" From Third-Floor Window October 2006	\$ 100,000		\$ 100,000		\$ 100,000
2	3/14/2019 22-3146-0014881-F	A	CDPH Civil Monetary Penalty, Smoking in Bed; Pt. Burns w/ Skin Grafts	\$ 20,000	35.0%	\$ 13,000		\$ 13,000
3	5/21/2019 22-2614-0015094-F	A	CDPH Civil Monetary Penalty, Patient Fall w/ Hip Fracture	\$ 20,000	35.0%	\$ 13,000		\$ 13,000
4	11/5/2019	AA	CDPH 2016 Fine 2014 Patient Death Fall From Wheelchair	\$ 100,000		\$ 100,000		\$ 100,000
Miscellaneous Cases Subtotal				\$ 240,000		\$ 226,000	\$ -	\$ 226,000
Patient Sexual Abuse Scandal								
1	9/30/2019 (2/6/2019 – 9/5/2019)		CMS Fine Main Fine Sex Abuse Scandal (Not Contested)	\$ 1,123,400	35.0%	\$ 730,210		\$ 730,210
2	10/30/2019 (9/6/2019 – 10/14/2019)		CMS Fine Additional Sex Abuse Scandal Civil Monetary Penalty	\$ 4,290	35.0%	\$ 2,789		\$ 2,789
3	Dec. 2019	AA	CDPH Center for Health Quality Reduced to "Class A" (Contested; fine not reduced; "Class AA" citations reduced to "Class A")	\$ 100,000		\$ 100,000	\$ 104,866	\$ 204,866
4	Dec. 2019	B	CDPH 19x \$2,000 "Class B" Civil Monetary Penalties (Not Contested)	\$ 38,000	35.0%	\$ 24,700		\$ 24,700
5	9/30/2019		Denial of Payment for New Admissions (per Rachael Kagan, SFDPH Director of Communications, 2014 – 2020)	\$ 126,000		\$ 126,000		\$ 126,000
6	12/3/2021 220017136	AP Breach	CDPH Medical Records Breach Administrative Penalty	\$ 250,000	25.0%	\$ 187,500		\$ 187,500
Sexual Abuse Scandal Regulatory Agency Fines and Penalties Subtotal				\$ 1,641,690		\$ 1,171,199	\$ 104,866	\$ 1,276,065
Sexual Abuse Scandal Patient Lawsuit Settlements Subtotal								
1	7/20/2021 CGC-20-583155		Lawsuit # 1 Omar Abdullah, through his Conservator	\$ 800,000		\$ 800,000	\$ 94,721	\$ 894,721
2	5/14/2020 CGC-20-584459		Lawsuit # 2 Alfred Coutts, through his Conservator					
3			Lawsuit #3 Potential Patient					
4	5/28/2021 CGC-21-592296	Cluster Case 11 "Does" Public Guardian / Public Guardian Lawsuit (Walkup + Stebner)		\$ 2,223,500		\$ 2,223,500		\$ 2,223,500
5	3/24/2020 CPF-20-517064	Class Action	Tommy Johnson et al. v. CCSF, SFDPH, LHH, and Mivic Hirose					
6	5/2/2022 CGC-22-599447	Class Action	Delland Felder v. City and County of San Francisco					
Sexual Abuse Scandal Patient Lawsuit Settlements Subtotal				\$ 3,023,500		\$ 3,023,500	\$ 94,721	\$ 3,118,221
Patient Sexual Abuse Subtotal Fines and Lawsuits as of 6/13/2023				\$ 4,665,190		\$ 4,194,699	\$ 199,587	\$ 4,394,286
LHH Closure and Patient Relocations and Transfers								
1	8/3/2022 3:22-CV-4500		David Chiu v. U.S. DHHS, LHH Decertification (Withdrawn) Note: City Attorney Time and Expenses from 2/15/2022 through 2023 or 2024 Recertification All Consolidated in CAO's "City Law" Database				Consolidated Costs Pending	
2	8/3/2022 3:22-CV-4501		(Louise) Renne Public Law Group Class Action Lawsuit (Withdrawn)					
3	3/30/2022 Footnote 1		CDPH Civil Monetary Penalties: 11 Inspections 10/14/2021 – 4/13/2022	\$ 407,770	50.0%	\$ 203,885		\$ 203,885
4	12/20/2022 Multiple Citation #'s	B	CDPH 12x \$3,000 "Class B" Civil Monetary Penalties (Appeal Withdrawn)	\$ 36,000		\$ 36,000		\$ 36,000
5	5/9/2023 CGC-23-606373	1st Cluster	Post-Discharge Wrongful Deaths: Sanchez, Lieu, Pham v. CCSF LHH					
6		2nd Cluster	Post-Discharge Wrongful Deaths:					
LHH Closure, Patient Wrongful Deaths, etc. Subtotal				\$ 443,770		\$ 239,885		\$ 239,885
Footnote 1: Settlement Agreement, CMP's Paragraph 3-f, Penalty reduced by 50%								
Yellow Shading: Amounts Not Yet Known								
ALL FINES, PENALTIES, LAWSUITS TOTAL:				\$ 5,348,960		\$ 4,660,584	\$ 199,587	\$ 4,860,171

Source: Public records downloaded from San Francisco Superior Court web site, and other public records; as of June 12, 2023.

Had LHH’s managers simply remained in compliance with CMS’ nursing home regulations they could have avoided all \$5 million of the fines, penalties, and lawsuit expenses. They deliberately chose non-compliance, instead.

Of note, the yellow shading shown in Table 4 highlighting currently unknown costs portends that these lawsuit expenses will climb significantly during the coming months, in part because:

- Lawsuit #2, the *Alfred Coutts* case involving an additional 2019 patient sexual abuse lawsuit will likely involve another potential \$800,000 settlement, like the settlement awarded to Omar Abdullah.
- The *Tommy Johnson et al.* (case # CPF-20-517064) and the *Delland Felder* (case # CGC-22-599447) lawsuits, although stalled in San Francisco Superior Court, will probably prevail when they advance later in 2023 or 2024. The *Johnson* class action case may involve a \$1 million-plus settlement, and the *Felder* class action case — like the *Public Guardian* settlement — may also involve another \$2 million-plus settlement.
- The *Sanchez, Lieu, Pham v. CCSF* lawsuit (case # CGC-23-606373) following wrongful deaths of LHH patients evicted from LHH in the summer of 2022 will also likely prevail. It won’t be surprising if it, too, involves a \$2 million-plus settlement. A second such wrongful death lawsuit is reportedly being considered.

“ Had LHH’s managers simply remained in compliance with CMS’ nursing home regulations they could have avoided all \$5 million of the fines, penalties, and lawsuit expenses. They deliberately chose non-compliance. ”

- The City Attorney’s time and expenses fighting the \$2.2 million settlement awarded in the *Public Guardian / Public Guardian* lawsuit (case # CGC-21-592296) has not yet been released, but it’s known the CAO fought that case vigorously and spent significant time trying to derail the case.

On July 20, the CAO asserted that even though San Francisco’s Board of Supervisors and the Mayor have approved the \$2.2 settlement award, “*the settlement is not yet entirely finalized. Thus, the matter is still open on our end.*”

That’s because once the Supervisors and Mayor approve any proposed settlement, formally closing out a lawsuit is contingent on the CAO receiving signed releases from the Plaintiffs and parties to a given lawsuit, which takes some time. Once the CAO receives signed releases, it takes approximately two weeks before the City Controller issues the settlement check owed. Then, the CAO must wait to close a case for several more weeks because it has to wait for a “*Request for Dismissal*” to be entered with the Court before the CAO can prepare its request to close out the case.

Update: As of September 30, the lawsuit still hasn’t been completely closed out, two months later, so the CAO’s time and expenses are still unknown.

The CAO suggested the *Westside Observer* follow up approximately 30 days after July 20 to check the status of the case and whether the CAO can finally release the total costs of City Attorney time and expenses fighting the lawsuit.

- The City Attorney’s time and expenses captured in the CAO’s *CityLaw* database for all four of the above lawsuits will likely involve close to, or over, a minimum of \$100,000 each.
- The CAO’s legal representation of LHH following its decertification by CMS began when the CAO mounted legal efforts via “*Informal Dispute Resolution*” proceedings on December 27, 2021 challenging LHH’s December 16, 2021 “*Statements of Deficiencies*” (CDPH Form 2567) findings from an inspection survey conducted on October 14, 2021. LHH went on to mount three formal *Appeals* to CDPH and the U.S. DHHS, dated February 16, then April 25, and finally on May 28, 2023 — continuing to challenge the December 16, 2021 “*Statements of Deficiencies*,” and beginning to challenge LHH’s decertification and termination from Medicare on April 14, 2022. The three appeals were consolidated into a single U.S. DHHS Departmental Appeals Board docket number C-22-555 on June 2, 2022.

Eventually, the CAO filed a lawsuit on LHH’s behalf in the United States District Court – Northern District of California on August 3, 2022 — formally moving from just “*Dispute Resolution*” and “*Departmental Appeals*” administrative steps to a formal lawsuit challenging LHH’s decertification. The lawsuit was assigned as Case Number 3:22-CV-4500.

In addition, the “*LHH Settlement Agreement*” dated November 10, 2022 designated the City Attorney’s Office as a lead contact for all documents, reports, and correspondence between CMS, CDPH, and Laguna Honda Hospital regarding the *Settlement Agreement*. The *Agreement* specifically named Sara Eisenberg, Chief of Complex and Affirmative Litigation in the City Attorney’s office, along with at least two other Deputy City Attorney’s, as the City’s principal contacts for everything related to LHH’s attempts seeking CMS recertification. The time and expenses incurred for Ms. Eisenberg and the additional DCA’s since April 2022 for multiple aspects to surmount LHH’s decertification will be significant, along with additional City Attorney staff assigned to defend LHH between October 2021 and the decertification in April 2022. The longer it takes for LHH to become recertified and prevent its closure, the more the CAO’s expenses will continue climbing.

“ On July 20, the CAO asserted that even though San Francisco’s Board of Supervisors and the Mayor have approved the \$2.2 settlement award, ‘the settlement is not yet entirely finalized.’ ”

That’s because once the Supervisors and Mayor approve any proposed settlement, formally closing out a lawsuit hinges on the CAO receiving signed releases from the Plaintiffs.

Update: As of September 30, the lawsuit still hasn’t been completely closed out. ”

“ The time and expenses incurred by Ms. Eisenberg and the additional DCA’s since April 2022 for multiple aspects to surmount LHH’s decertification will be significant, along with additional City Attorney staff assigned to defend LHH between October 2021 and the decertification in April 2022. ”

Of note, the “*LHH Settlement Agreement*” stipulated the CAO was required to file a “*Notice of Dismissal*” of Case Number 3:22-CV-4500, essentially formally withdrawing the lawsuit with prejudice. Despite the lawsuit having been withdrawn, the CAO is now asserting that the case has not been “*closed out*” yet.

The CAO has combined all of the administrative proceedings — starting with the “*Informal Dispute Resolution*” phase, to the consolidated “*Appeals*” docket, plus the formal lawsuit and the “*LHH Settlement Agreement*” — under the protective umbrella of Case Number 3:22-CV-4500. Now, the CAO refuses to release details of the costs of City Attorney time and expenses for each of these distinct procedural steps, and claims it won’t release any of these costs until it closes out Case Number 3:22-CV-4500. The CAO has refused to disclose any of those time and expense amounts since December 2021 that are captured in its *CityLaw* database that records each City attorney’s time spent on each case number, on the theory that releasing the City Attorney’s expenses might jeopardize its litigation strategy by sharing that data with opposing Counsel, who might somehow develop an unfair advantage by knowing those expenses during litigation.

The public will not learn any details of the combined costs of the CAO’s time and expenses until many months *after* LHH gains re-admission to the Medicare reimbursement program, is fully recertified (assuming it eventually will be), and resumes admitting patients — which appears will probably not happen by the end of December 2023.

We’ll have to wait until Case Number 3:22-CV-4500 is fully and formally closed out. That isn’t likely to happen until mid-2024. You can safely bet that the CAO’s time and expenses during the two to three years between October 2021 and somewhere between August and December 2023 — or sometime in 2024 or 2025 — will be substantial. Those expenses will likely approach \$5 million all by themselves.

Before it’s all over, the fines, penalties, and lawsuit expenses shown in Table 4 will probably climb from this preliminary \$5 million to between \$10 million and \$15 million — if not substantially more. Again, had LHH simply remained in compliance with CMS’ regulations, these expenses dating back to 2019 could have been completely avoided.

Miscellaneous Expenses

Table 5 on the next page summarizes at least \$7.2 million in miscellaneous additional expenses in order to rescue Laguna Honda, most of which are thought to be required in order for LHH to gain its CMS recertification.

Many of them are tied directly to LHH’s mismanagement during the recent past.

Some of the expenses are based on estimates extrapolated from public records.

“ By combining all of the various administrative proceedings into a single case number, the CAO has refused to disclose any of those time and expense amounts since December 2021 that are captured in its *CityLaw* database that records each City attorney’s time spent on each case number. ”

“ We’ll have to wait until Case Number 3:22-CV-4500 is fully and formally closed out. That isn’t likely to happen until mid-2024. You can safely bet that the CAO’s time and expenses during the two to three years between October 2021 and somewhere between August and December 2023 — or sometime in 2024 or 2025 — will be substantial. Those expenses will likely approach \$5 million. ”

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Many of them are tied directly to LHH’s mismanagement during the recent past. ”

Table 5: Miscellaneous Costs

Description	Total Amount
1 15 New LHH Staff Related to Recertification FY 23–24 and FY 24–25 (FY 24-25 Costs Shown)	\$ 2,500,547
2 Six LHH Stationary Engineers Job Code #7334 (Est.)	\$ 945,367
3 Two Additional Assistant Nursing Home Administrators, Job Code #0941 (Est.)	\$ 682,518
4 "Executive Director of Facilities" (Code #0941) and "Emergency Manager" (Code #0931) (Est.)	\$ 533,185
5 Capital Improvement Project #1: Courtyard Dock Resurfacing	\$ 207,500
6 Capital Improvement Project #2-A: Kitchen Freezers Rental (Starting 9/16/2019)	\$ 172,020
7 Capital Improvement Project #2-B: Kitchen Freezers Purchase	\$ 753,557
8 Capital Improvement Project #3-A: Kitchen Floors Replacement, Preliminary Designs Only San Francisco Department of Public Works (Estimate as of July 13, 2023)	\$ 282,500
9 Capital Improvement Project #3-B: Kitchen Floors Replacement Construction	
10 Patient Beds Replacements/Upgrades for Restraint Reduction Initiative	\$ 692,449
11 New LHH State-of-the-Art Security System	\$ 384,873
12 California Association of Health Facilities (CAHF) Registration Fee – Mainly a lobbyist group	\$ 833
13 CAHF Membership July to December 2022 (facility annual per-bed fee) – Mainly lobbyist	\$ 23,746
14 CAHF Membership January to Jan to Dec 2023 (facility annual per-bed fee) – Mainly lobbyist	\$ 46,655
15 CAHF "Leadership Academy" (5x Staff) Spring 2023	\$ 7,125
16 California Association of Long-Term Care Medicine (CALTCM) Member (facility annual flat fee)	\$ 300

Pink, Blue, and Green Rows: Annual Recurring Expenses Miscellaneous Costs Sub-Total: \$ 7,233,175

Pink Rows: New Additional Budgeted Positions

Green Rows: Previously Budgeted Positions Renamed

Yellow Row: Cost Estimate Not Yet Released

Note: Data shown for LHH staffing positions includes base salary, plus fringe benefits at 32.2% of base salary.

Source: SFDPH budget requests, San Francisco's "Annual Salary Ordinance," and other public records. **As of: July 28, 2023**

- Across the 25 staff positions included in Rows 1 through 4 in Table 5, the new positions and re-assigned positions at LHH will cost \$4,661,617 — 71.3% of the \$7.2 million total.

- Row 1 of Table 5 involves an LHH budget “*program change request*” submission [document](#) that revealed LHH is adding another 15 full-time equivalent staff employees (and deleting one full-time equivalent employee), for a net gain of 14 job classification code positions at an increased cost of \$2.5 million annually going forward, including fringe benefits.

None of the 15 positions listed in the *program change request* include Registered Nurses (RN’s), Licensed Vocational Nurses (LVN’s), Certified Nursing Assistants (CNA’s), Patient Care Assistants (PCA’s), or Home Health Aides (HHA’s), who provide direct patient care staff at the bedside. (Nor do the 15 positions include Supervising Nurses or Nurse Managers that typically don’t provide direct patient care.) Although some community advocates have asserted bedside Nursing employees at LHH may be understaffed and overworked resulting in inattentive staff, the “*program change request*” adds not one position for any of these Nursing professionals, so patient care is unlikely to improve substantially.

None of the 15 positions listed in the ‘Program Change Request’ on Line 1 include Registered Nurses, Licensed Vocational Nurses, Certified Nursing Assistants, Patient Care Assistants, or Home Health Aides, who provide direct patient care staff at the bedside.

The ‘Program change Request’ adds not one position for any of these Nursing professionals, so that’s not going to improve or fix the substandard care problems of LHH’s residents that led to LHH’s decertification.

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- Row 2 in Table 5 involves hiring six additional Stationary Engineers in job classification code 7334 at an estimated cost of \$945,000 annually, including salaries and fringe benefits. Stationary Engineers are professionals who repair and maintain mechanical equipment (such as heating and air conditioning systems) to keep the buildings operating safely, effectively, and within regulations. That LHH needed to add six engineers suggests its Plant Services Department had been seriously understaffed to perform routine and preventive maintenance.
- On Row 4, the addition of an “*Executive Director of Facilities*” and an “*Emergency Manager*” at a combined cost of \$533,185 in salaries and fringe benefits also suggests the Plant Services Department had been seriously understaffed.

That said, the title of “*Executive Director*” seems to be a little over the top. Wouldn’t a title of “*Director*” have worked?

- The four positions on Rows 3 and 4 appear to have been existing job requisitions previously authorized and funded within SFDPH that were reassigned to LHH’s budget and given new job titles, job descriptions, and duties.
- LHH’s new Nursing Home Administrator is not included in Table 5 because she will also serve as LHH’s CEO, an existing, approved and funded position.
- LHH is recruiting for additional managerial positions, but it’s not known yet whether they are previously approved requisition within SFDPH being transferred to LHH’s budget, or whether they are actually entirely new positions.
- It is thought LHH’s “*Kitchen Floor Replacement Project*,” which has been identified as a Capital Improvement project, is likely to cost several million dollars. It should actually have been repaired and replaced long before now. The floor needed to be replaced because a cart-wash area for heavy food carts had been poorly designed by the building’s architects in 2008 using glass in the floor tiles’ design. Shortly after the hospital opened in June 2010 the flooring severely cracked and then didn’t drain properly, which lead to an ongoing problem causing mold in the kitchen.

“ It is thought LHH’s ‘Kitchen Floor Replacement Project’ — identified as a Capital Improvement project — is likely to cost several million dollars. ”

The City filed a lawsuit on December 12, 2011 in Alameda Superior Court (Case # RG13679711) against Stantec Consulting Services, Inc. and Stantec Architecture, Inc., a joint venture that began when Anshen + Allen Architects in a partnership with Gordon H. Chong Partners were first awarded the contract to design LHH in 2000.

I covered this story in my March 2012 *Westside Observer* [article](#), disclosing the lawsuit the City filed against Stantec alleging professional negligence. Two years later, the Board of Supervisors [settled](#) the lawsuit, recovering \$15.3 million from Stantec for the City. But that *excluded* releasing Stantec from any further lawsuits and liability for any further lawsuits and liability from “*latent defects*” that may have still been outstanding at the time the settlement was reached.

The City’s lawsuit filed in December 2011 alleged, among other issues, that the replacement project’s costs exceeded the budget by at least \$100 million, including about \$71.6 million in “*change orders*” (changes made during construction of the replacement hospital) that the City wanted to recover, plus compensatory damages and general damages.

[**Note:** Although I had [documented](#) as early May 2010 that the change orders for LHH’s rebuild had already reached \$71.6 million, by January 26, 2012 LHH admitted the change orders then totaled \$87.45 million. The Citizens’ General Obligation Bond Oversight Committee eventually received a “*close-out*” [report](#) that documented the cost of the LHH Replacement Project’s change orders eventually reached \$94.6 million — which represented fully *half* of the \$183.4 million in project total cost overruns.]

If anything, Line 9 in Table 5 to use additional new Capital Improvement Funds to replace LHH’s kitchen floor is particularly outrageous because the \$15.3 million the City received from settlement of the Stantec lawsuit in 2014 was deposited into the City’s General fund, *not* used to immediately repair LHH’s kitchen floor. Alternatively, since Stantec was not released from any further lawsuits and liability from “*latent defects*,” LHH’s defective kitchen floor should have been repaired long before now using a “*latent defect*” funding source, and not need taxpayers footing the bill using more scarce Capital Improvement Funds.

“ Using additional new Capital Improvement Funds to replace LHH’s kitchen floor is particularly outrageous because the \$15.3 million the City received from settlement of the Stantec lawsuit in 2014 was deposited into the City’s General fund, *not* used to immediately repair LHH’s kitchen floor. ”

It’s disgraceful that it has taken over a decade to begin replacement of LHH’s kitchen floor. LHH declined to provide an estimated date on when the floor replacement project will be completed.

- As for the sudden new \$692,449 expense on Line 10 in Table 5, the public only learned during LHH-JCC's July 11 meeting that in order to prepare LHH for submission of its planned application to CMS to become recertified, that LHH had launched a "*Restraint Free Journey*" program involving "*improvements*" in LHH's patient beds. That was odd, because back in 2009 LHH had purchased state-of-the-art Hill-Rom beds for the new hospital after extensive investigation and testing of available beds during LHH's "*restraint reduction initiative*" that had then been underway for several years.

It was thought at the time that the Hill-Rom beds could be customized using either full-length or half-length siderails, or have siderails removed completely.

LHH suddenly reported on July 11 that in order to reduce the use of patient "*restraints*" during the previous six months, LHH had begun "*partnering with every resident to have their bed exchanged with an 'equivalent' bed.*" Many LHH patients and their families were reluctant to do so because the project involved eliminating the use of all bed siderails that patients were accustomed to, to prevent injuries from falling out of their beds. But in an effort to reduce the potential of injuries from patient entrapment in the siderails, LHH was adamant the bed rails be removed and alternative mobility devices such as trapezes be installed to assist patients getting in and out of their beds safely.

To date, the \$692,499 in the new restraint reduction project expenses have replaced 368 "*equivalent*" beds, and another 283 beds have had their siderails removed. It's thought 50 assistive trapezes and perhaps another 50 quarter-rail rotating assistive devices were purchased. The response to a records request did not indicate how much an additional contract to hire a "*biomedical engineering*" consultant firm to perform ongoing bed maintenance will run annually.

"In order to reduce the use of patient 'restraints' during the previous six months, LHH had begun 'partnering with every resident to have their bed exchanged with an "equivalent" bed.'

The \$692,499 in the restraint reduction project expenses have replaced 368 'equivalent' beds, and another 283 beds have had their siderails removed."

- As for a recurring "*facility*" membership fee as a professional organization, comparing Lines 14 and 16 in Table 5 is eye-popping, and offensive. LHH was essentially told by CMS and the California Department of Public Health (CDPH) that in order for LHH to have its application to become recertified in the Federal Medicare and Medicaid reimbursement program even considered, that LHH was **required** to join the California Association of Health Facilities (CAHF) paying per-bed fees as an organization, not individual membership fees for employees. That was particularly offensive to taxpayers, because CAHF — by its own admission — is principally a lobbyist, **not** a membership organization.

Googling "CAHF" returns an acknowledgement from CAHF that it "*has a proven track record of promoting and protecting the long-term care profession's interests and practices through **aggressive lobbying**, grass roots campaigns, and fighting for policies that support access to quality long-term care services at the local, state and federal levels.*"

There you have it: CAHF itself admits it is primarily a lobbyist organization.

Line 12 in Table 5 shows that CAHF's \$833 inaugural "*registration*" fee is almost triple the annual \$300 membership fee charged by the California Association of Long-Term Care Medicine (CALTCM). Worse, CAHF's \$46,655 annual per-bed membership fee is 155.5 times higher than CALTCM's annual \$300 flat fee.

It's obscene that CMS and CDPH blackmail publicly-run skilled nursing facilities by requiring them to use taxpayer dollars to join self-proclaimed lobbyist organizations as a condition of gaining recertification in the Medicare reimbursement system. It's too bad there aren't local San Francisco laws prohibiting extortion of taxpayer funds to enrich lobbying organizations.

- Rows in Table 5 highlighted in pink, blue, and green represent additional recurring (not one-time) expenses that will continue accruing in each future Fiscal Year.

The \$7.2 million to date in LHH's "*miscellaneous*" recertification-related expenses shown in Table 5 will climb even higher.

LHH Staffing Increases

As LHH prepares to submit its application for CMS certification, it's clear LHH isn't significantly increasing its direct patient care staffing, despite the addition of 21 new positions shown on Rows 1 and 2 in Table 5 above, and the shuffling around of four additional positions.

That's in part because San Francisco's new "*Annual Salary Ordinance*" (ASO) for the Fiscal Year that began on July 1, 2023 for the next two-year budget through June 30, 2025 — finally passed by our Board of Supervisors on July 25 — does not show a significant difference in LHH's budgeted and authorized "*Full-Time Equivalent*" (FTE) positions by job classification code numbers, compared to the previous ASO for the Fiscal Year that ended on June 30, 2023.

The new two-year ASO just adopted authorizes 1,503.92 FTE's starting on July 1, 2023 compared to the previous ASO for the period ending on June 30, 2023, which had authorized a total of 1,482.90 FTE's. That represents an increase of just 21.02 additional FTE's between June 30 and July 1, 2023. Then on July 1, 2024, LHH will add another 3.85 FTE's, pushing the total FTE's added during the two-year budget cycle to a total of 24.87 additional FTE's.

Of those additional 24.87 FTE positions, there will be a total increase of just 7.1 FTE Nursing positions that provide direct patient care. Again, adding just seven Nursing positions is also unlikely to substantially improve substandard patient care.

FTE staffing levels of CNA's, PCA's, and HHA's will all remain flat (unchanged) between the two ASO's across Fiscal Years. There will be an increase of 3.1 FTE RN's and an increase of 4.0 FTE LVN's, despite neither increase having been requested in the "*program change request*" submitted to SFDPH and then forwarded to the Mayor's Budget Director.

Given that between the additional 14 FTE positions included in the "*program change request*" plus the 6.0 FTE positions for Stationary Engineers total 20 of the additional 24.87 FTE's approved in the ASO, it's unclear how LHH managed to juggle adding 7.1 Nursing FTE's that provide direct patient care.

Weirdly, LHH's monthly "*Vacancy Reports by FTE*" presented to the Health's Commission's LHH-JCC — a Joint Conference Committee consisting of three Health Commissions and senior management of Laguna Honda — reported that LHH had a total of 1,430.1 FTE's in August 2022, and 1,454.6 FTE's in January 2013, even though the ASO had authorized LHH to have 1,482.90 FTE's during the entire Fiscal Year 2022–2023.

Why the "*Vacancy Reports by FTE*" had reported LHH had 52.8 and 28.3 fewer FTE's, respectively, in those two monthly reports than the FTE's authorized in the ASO isn't known. And it's not known why the monthly reports don't consistently report a single authorized FTE headcount every month.

A future article may explore the massive increase in the sheer number of Directors of Nursing, separate Nursing Directors, and Nursing Manager positions that have evolved on LHH's published Organization Charts between March 2022 (after LHH was decertified in April 2021) and LHH's proposed "*pilot*" Nursing re-organization chart LHH's acting CEO, Roland Pickens announced on June 2022, followed by LHH's most recent organization [chart](#) released on July 25, 2023, which has grown extremely complex.

An extract of just the Nursing "*leadership*" team on the July 25 organization chart shows a potentially highly bloated, top-heavy Nursing hierarchy that has evolved in just the past year as LHH has struggled to prepare for its recertification application. The [extract](#) shows at least 62 positions (by incumbents' names, job classification codes, and organizational functions) in LHH's Nursing management structure.

The organization chart still appears to be in rapid flux. A June 23, 2023 version of it presented to the Health Commission had contained a "*box*" labeled as "*RN's – 3 FTE's*" as reporting to an "*Infection Control Nurse Manager*" (perhaps Keith

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Howard). The July 25 organization chart, however, removed Mr. Howard's name and removed the box for the three RN's reporting to the "Infection Control Nurse Manager." The chart now lists the "Infection Control Nurse Manager" position as being vacant.

CMS began requiring Skilled Nursing Facilities to have at least a *part-time* "Infection Preventionist" beginning on November 28, 2019. But California has stronger standards, and began requiring skilled nursing to have a *full-time*, dedicated "Infection Preventionists" on January 1, 2021 who must be a Registered Nurse or a Licensed Vocational Nurse. Unfortunately, LHH's recent iterations of its organization chart does not show any boxes listing a functional area of responsibility labeled as an *Infection Preventionist* displaying the name of an incumbent.

The July updated chart also added a "Nursing Director Restraints Co-Lead" — ostensibly for the "Restraints Reduction" initiative — that had *not* been included on the June 23 version.

Why LHH needed to assign a Job Classification Code 2324, "Nursing Supervisor" to lead this effort isn't known. The 2324 Nursing Supervisor job classification can earn salaries of up to \$10,728 bi-weekly, which translates to \$368,743 between salary and fringe benefits annually.

Of concern, while CMS began requiring all skilled nursing facilities to have an "Infection Preventionist" as far back as 2019, it's worrisome LHH's org chart updated in July doesn't display one. That's because, in part, as recently as its third "90-Day Monitoring Survey" inspection in June 2023, LHH continued receiving F-Tag F880 deficiencies involving "Infection Prevention and Control."

A Final Word

Costs included in this two-part series article do *not* include expenses over the past 13 years of LHH having been reduced from its planned 1,200-bed rebuild to just 780 beds in 2010. The 420 beds eliminated from LHH's replacement project — *not* reportedly initially suggested as a cost-cutting measure by the architects and Turner Consulting — has resulted in the City having to place Medi-Cal patients who are conserved by the City into far away, out-of-county skilled nursing facilities. That has had a direct cost to the City, and untold costs in human suffering to San Franciscans dumped out of county away from their families, friends, and support networks.

It's not known yet how much further the now \$64.9 million in escalating costs will rise. It will probably easily reach \$80 million or more, with zero accountability for LHH's former and current managers whose mismanagement caused LHH's decertification.

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