



San Francisco
Health Network

SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH

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April 11, 2025

(VIA EMAIL)

Karen Tritz
Director, Survey Operations Group, Center for Clinical Standards and Quality
Centers for Medicare and Medicaid Services

Re: Laguna Honda Hospital and Rehabilitation Center's Renewed Request to
Reactivate Beds

Dear Director Tritz:

In 2023, as part of its recertification in Medicare and Medicaid, Laguna Honda Hospital and Rehabilitation Center ("Laguna Honda") agreed to suspend 120 skilled nursing beds from its State-issued license. **We write now to renew our request to restore the 120 beds.** As we explain in more detail below, the Centers for Medicare and Medicaid Services ("CMS") should confirm that Laguna Honda may restore the 120 beds for the following reasons:

1. Laguna Honda is not subject to the 2016 CMS regulation reducing the maximum number of residents per room from four to two because Laguna Honda was certified prior to 2016 and, as noted, offers rooms that are even larger than required. As noted in the final rule, "[e]xisting facilities with larger rooms are effectively grandfathered into compliance." Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities, 81 Fed. Reg. 68,688, 68,695 (Oct. 4, 2016). To the extent that CMS is applying the regulation retroactively to facilities that were built and certified prior to 2016, and offer rooms that are semi-private and far exceed the minimum size, its actions are arbitrary and capricious.
2. Laguna Honda's three-resident rooms are semi-private and offer each resident privacy, dignity, and more physical space than required by CMS's own standards.
3. Even if CMS takes the position that Laguna Honda is subject to the two-resident per room rule, Laguna Honda is plainly eligible for a variance based on the fact that restoring the 120 beds would meet the special needs of Laguna Honda's residents by providing them social engagement and connection, focused staff supervision, and shared language and culture, which are associated with better health outcomes.



And, CMS has already conceded that the rooms do not adversely affect the residents' health and safety.

4. There is a well-documented shortage of skilled nursing beds across the country.¹ Unless Laguna Honda can restore the beds, 120 San Francisco residents who could receive care in their own community will likely be sent to other jurisdictions or will utilize acute care beds that are inappropriate for the residents' level of care and could be used for patients with acute care needs.

We look forward to your response and are available to answer any questions you might have about our request.

Restricting Laguna Honda to Two Residents per Bedroom is Unreasonable and Arbitrary and Capricious

1. HHS Did Not Intend the Regulation Reducing the Maximum Occupancy per Room from Four to Two Residents to Apply to Previously Certified SNFs.

In 2016, the Department of Health and Human Services ("HHS") promulgated a final rule that revised the requirements that long-term care facilities must meet to participate in the Medicare and Medicaid programs. Among the changes was a reduction in the maximum occupancy per room from four residents to two. 81 Fed. Reg. at 68,690. That restriction did not apply to all existing skilled nursing facilities, as doing so would have resulted in a catastrophic reduction in available beds nationwide. Rather, it applied only to those facilities that are "constructed, reconstructed, or newly certified after November 28, 2016."

Notably, the 2016 final rule does not define the term "newly certified." But HHS's commentary in both the proposed and final rules make clear that its intent was to apply the rule prospectively, and not to existing facilities. For example, in its notice of proposed rulemaking, HHS wrote: "we propose to require in new § 483.90(d)(1)(i) that, bedrooms in facilities accommodate not more than two residents *unless the facility is currently certified to participate in Medicare and/or Medicaid . . .*" Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities, 80 Fed. Reg. 42,168-01, 42,221 (July 16, 2015) (emphasis added).

And in its 2016 final rule, HHS noted that a number of commenters responded to the agency's request for comments in a way that suggested misunderstandings of the proposed

¹ Am. Health Care Ass'n and Nat'l Ctr. for Assisted Living, *Access to Care Report*, <https://www.ahcancal.org/News-and-Communications/Fact-Sheets/FactSheets/AHCA%20Access%20to%20Care%20Report%202024%20FINAL.pdf>.



requirements. One “notable misconception” that HHS addressed was the “[b]elief that existing facilities would have to limit occupancy to two residents per room, even if that would reduce bed count.” 81 Fed. Reg. at 68,695. HHS also confirmed that “[e]xisting facilities with larger rooms are effectively grandfathered into compliance.” *Id.* Clearly, HHS understood that potential negative impacts of reducing occupancy for existing facilities.

Thus, it is clear that HHS’s intent was not to require facilities that were certified before November 28, 2016, and had not undergone any significant physical changes to modify their rooms to meet the new requirements. Laguna Honda was certified in Medicare before that date. and has not undergone any changes to the physical environment for its residents. While CMS terminated Laguna Honda’s provider agreement, nothing else about the facility, especially the physical environment, materially changed. Accordingly, the facility should still be subject to the four resident per bedroom limit.

2. Application of the Two-Bed Restriction to Existing Facilities is Arbitrary and Capricious.

Under the Administrative Procedure Act, an agency’s interpretation of a federal regulation is arbitrary and capricious where it cannot be reconciled with the agency’s own rules. Here, it would be arbitrary and capricious to interpret the two-bed rule as applying to all facilities, regardless of the size of the rooms, as that interpretation cannot be reconciled with HHS’s rule that requires rooms to measure at least 80 square feet per resident in multiple resident bedrooms. *See* 42 C.F.R. § 483.90(e)(1)(ii).

The Department’s own regulations provide that a facility must provide a resident in a shared room a minimum of 80 square feet. That standard has been in effect since 1990, and HHS did not change it in 2016. Presumably, HHS believes that a space of that size affords residents with sufficient privacy and dignity. A facility would comply with section 483.90 if it had a two-resident room measuring 160 square feet and a curtain separated the residents. But, under HHS’s reasoning, a facility with a three-resident room measuring over 240 square feet separated by a more substantial barrier than a curtain somehow provides less privacy and dignity.

If the two-bed rule were applied to facilities regardless of room size, a facility with more than two residents per room would summarily be required to reduce occupancy simply because it lost its Medicare certification—which in many cases is for reasons completely unrelated to the physical environment of the bedroom—even if the facility complied with HHS’s minimum square footage rule, which more squarely impacts a resident’s privacy.



3. Application of the Two Bed Restriction to Laguna Honda is Arbitrary and Capricious.

As applied to Laguna Honda, section 483.90(e)(1)(i) is arbitrary and capricious because it does not account for Laguna Honda's room size and layout. HHS's stated rationale for imposing a two resident per room limitation was that four residents per bedroom was "not person-centered nor supportive of achieving the resident's highest practicable mental, physical and psychosocial well-being and is not an environment that promotes maintenance or enhancement of each resident's quality of life." 80 Fed. Reg. at 42,221. And, HHS went on to elaborate that "semi-private rooms are far more supportive of privacy and dignity." *Id.*

By imposing a blanket restriction across all facilities, HHS's regulation is overinclusive and unreasonable. It does not account for large rooms or multi-resident bedrooms that are semi-private. In fact, HHS received notice of this concern because, as disclosed in the final rule, "[o]ne commenter stated that their facility had large rooms and putting an occupancy limit on all rooms regardless of considering the size of the rooms would be unreasonable." 81 Fed. Reg. at 68,817.

Laguna Honda's rooms illustrate this overinclusion problem. Most notably, 100 of the 120 rooms at issue are semi-private. As shown below, each resident is able to live in a room separated from the other two residents by walls and can close a door to provide privacy. Together, the wall-divided beds and the bathroom are effectively a suite.





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In addition to the semi-private layout of the rooms, they are also large, measuring an average of 123 square feet per wall-divided room. As noted above, Section 483.90(e)(1)(ii) requires bedrooms to measure at least 80 square feet per resident in multiple resident rooms and at least 100 square feet in single resident rooms. Not only do Laguna Honda's wall-divided rooms surpass the 80 square foot minimum by nearly 54 percent, they surpass the 100 square foot minimum by 23 percent.

Large, semi-private rooms, such as Laguna Honda's, clearly meet HHS's intent. Yet, CMS's application in this instance flies in the face of that intent. Indeed, HHS has already acknowledged that "as these regulations apply to every Medicare- and Medicaid-certified facility, we must also consider the potential for our requirements to discourage innovation, new construction, or reconstruction and to negatively impact access to care." 81 Fed. Reg. at 68,818. That is precisely what is occurring here—CMS's arbitrary and capricious action is negatively impacting access to care for hundreds of San Francisco residents.

For these reasons, CMS should determine that the two-resident restriction does not apply to Laguna Honda.

Granting a Variance to Allow Three Residents per Room is in Accordance with the Special Needs of Laguna Honda's Residents

While there is a compelling basis for CMS to confirm that Laguna Honda can reactivate



the 120-beds under Laguna Honda's current license and CMS need not reach the issue of a variance, Laguna Honda easily meets the standard for a variance to accommodate three residents per room. Federal regulations allow CMS, or in the case of a nursing facility CDPH, to grant a variance when the facility demonstrates in writing that the variation is in accordance with the special needs of the residents and will not adversely affect residents' health and safety. 42 C.F.R. § 483.90(e)(3).

By letter dated November 27, 2024, we asked CMS to approve a variance to permit three residents per room. See Exhibit A. On January 21, 2025, we met with CMS staff who agreed that Laguna Honda met the requirement that the variance will not adversely affect residents' health and safety. Accordingly, we primarily address the question of how the proposed variance will be in accordance with the special needs of the residents.

As described in more detail below, Laguna Honda is home to four categories of residents with special needs: (1) residents with memory care and depression diagnoses; (2) residents at high risk of falling; (3) residents who are monolingual and speak either Spanish or an Asian language; and (3) residents with an HIV/AIDS diagnosis. Granting a variance is in accordance with their special needs because these residents will have better health outcomes and a better quality of life that comes from social engagement and connection, focused staff supervision, and shared language and culture. While these benefits will primarily impact residents who stand to gain a third roommate, they will be felt throughout the facility, to the extent that more patients will result in more group activities, staffing, and community facility-wide.

1. Laguna Honda residents have special needs relating to memory care and depression, fall risks, and language access.

Laguna Honda is one of the largest skilled nursing facilities in the United States, serving a population that reflects the diversity of the San Francisco Bay Area. For example, Laguna Honda is the only dedicated SNF for residents with HIV/AIDS in the San Francisco Bay Area, a palliative care unit, and complex care units. We invite you to view this short virtual tour to familiarize yourself with our facility: <https://www.youtube.com/watch?v=7b4jRHlAlso>.

Based on a careful review of our resident population, we have identified three categories of residents that have special needs:

- Residents who have memory care and depression diagnoses;
- Residents who are at a high risk of falling;
- Residents who are monolingual and speak either Spanish or an Asian language; and
- Residents with HIV/AIDS diagnosis.



These four categories of “Special Needs Residents” live in rooms throughout the facility. We have also determined that 185 Special Needs Residents occupy the 120 rooms where Laguna Honda has voluntarily suspended a third bed. Because these 185 residents would be most directly impacted by a variance allowing a third resident to be added to their rooms, we refer to them as the “Variance Impacted Residents.”

As explained in more detail below, each of these four categories of Special Needs Residents will benefit from a variance.

2. Granting a variance will benefit residents with memory care and depression diagnoses due to the increased social interaction that comes from having an additional roommate.

By adding a third resident to the three-bed rooms, Laguna Honda will improve the health outcomes of residents with memory care issues and depression. Our records reflect that 117 of the Variance Impacted Residents have a diagnosis requiring memory care, including cognitive impairment, Alzheimer’s disease, major neurocognitive disorder, various types of dementia, Parkinson’s disease, Huntington’s disease, and traumatic brain injury. And, 153 of the 185 residents are over the age of 60. Thus, a significant portion of the Variance Impacted Resident population is elderly and needs memory care support. In addition, 30 of the Variance Impacted Residents with memory care needs also have depression as one of their diagnoses.

The Centers for Disease Control and Prevention (CDC) has warned about the health risks associated with social isolation and loneliness. These risks include depression, heart disease and stroke, Type 2 diabetes, suicidality, dementia, and earlier death.² Studies have shown that social isolation among older adults is associated with a greater dementia risk, which can worsen cognitive decline and behavioral symptoms.³ And, while frail older adults are generally at increased risk of mortality, the risk is even higher for those adults who are also lonely or socially isolated.⁴

Creating and fostering social interactions and connections is a critical intervention to address social isolation. Individuals with memory care needs benefit from social interactions that

² Ctrs. for Disease Control & Prevention, *Health Effects of Social Isolation and Loneliness*, <https://www.cdc.gov/social-connectedness/risk-factors/index.html> (May 15, 2024).

³ Alison R. Huang *et al.*, *Social Isolation and 9-year Dementia Risk in Community-Dwelling Medicare Beneficiaries in the United States*, 71:3 J. of the Am. Geriatrics Society (Jan. 11, 2023), <https://doi.org/10.1111/jgs.18140>.

⁴ Emiel O. Hoogendijk *et al.*, *Frailty Combined with Loneliness or Social Isolation: An Elevated Risk for Mortality in Later Life*, 68:11 J. of the Am. Geriatrics Society (July 23, 2020), <https://doi.org/10.1111/jgs.16716>.



can reduce loneliness, depression, and cognitive decline.⁵ For example, a scoping review of 133 studies found that social connection is good for health and well-being and important to quality of life in long-term care facilities.⁶ People with dementia frequently have behavioral and psychological symptoms such as agitation, aberrant motor behavior, anxiety, elation, irritability, depression, apathy, disinhibition, delusions, hallucinations, and sleep or appetite changes.⁷ In one study, social interaction, relationships and communication with long-term care residents, in both one-to-one and groups, helped to improve the behavioral and psychological symptoms.⁸

These interventions are particularly relevant in nursing homes. The presence of strong social networks in nursing homes enhances residents' psychological well-being and helps mitigate the health risks associated with social isolation and loneliness. According to the CDC, "[s]ocial connection not only has a positive effect on individual health and well-being, but it can lead to many positive outcomes at the community level"⁹ The CDC has noted that nursing homes are one of several types of institutions that help combat loneliness.¹⁰ A study published in the *Journal of Applied Gerontology* found that nursing home residents who received consistent social support from peers, staff, and family members had better overall mental health outcomes.¹¹ The research demonstrated that interpersonal relationships provide emotional security and motivation for residents to engage in their daily activities.¹²

For the 30 Variance Impacted Residents with a depression diagnosis, social engagement also plays a crucial role in their psychosocial wellbeing. One scoping review published in the *Journal*

⁵ See Clive Ballard *et al.*, *Impact of person-centered care training and person-centered activities on quality of life, agitation, and antipsychotic use in people with dementia living in nursing homes: A cluster-randomised controlled trial*, *PLoS Med.* (Feb. 6, 2018), <https://doi.org/10.1371/journal.pmed.1002500>.

⁶ Clare Gardiner, *et al.*, *Interventions to reduce social isolation and loneliness among older people: an integrative review*, *Health & Social Care in the Comm.* (July 13, 2016), <https://onlinelibrary.wiley.com/doi/10.1111/hsc.12367>; Jennifer Bethell *et al.*, *Social Connection in Long-Term Care Homes: A Scoping Review of Published Research on the Mental Health Impacts and Potential Strategies During COVID-19*, *J. Am. Med. Dir. Ass'n* (Nov. 26, 2020), <https://pmc.ncbi.nlm.nih.gov/articles/PMC9186333/>.

⁷ Joaquim Cerejeira *et al.*, *Behavioral and Psychological Symptoms of Dementia*, *Frontiers in Neurology* (May 7, 2012), <https://doi.org/10.3389/fneur.2012.00073>.

⁸ Asuna Arai *et al.*, *Influence of social interaction on behavioral and psychological symptoms of dementia over 1 year among long-term care facility residents*, *Geriatric Nursing*, 42:2 (Mar.-Apr. 2021), <https://doi.org/10.1016/j.gerinurse.2020.09.008>.

⁹ Ctrs. for Disease Control and Prevention, *Promoting Social Connection*, <https://www.cdc.gov/social-connectedness/promoting/index.html> (May 15, 2024).

¹⁰ *Id.*

¹¹ Brian Carpenter, *et al.*, *Family, Peer, and Staff Social Support in Nursing Home Patients: Contributions to Psychological Well-Being*, *J. Applied Gerontology*, (Sept. 1, 2002), <https://journals.sagepub.com/doi/10.1177/07334648020100301>.

¹² *Id.*



of the Post-Acute and Long-Term Care Medical Association examined surveys of nursing home and long-term care residents and that tested the association between social connection and mental health outcomes, including depression.¹³ The review found that, in 28 of 35 studies, better social connection was associated with less depression.¹⁴

Three-bed rooms will provide Variance Impacted Residents with memory care needs and depression with increased opportunities for social interactions with their peers, which in turn promotes psychosocial wellbeing and develops social support networks. Three-bed rooms necessarily encourage more frequent social interactions, engagement, and conversation compared to two-bed rooms or private rooms. A roommate provides consistent companionship, reducing feelings of loneliness. The presence of a roommate can offer reassurance, particularly at night when residents with dementia may experience confusion, agitation, or sundowning symptoms.

With a variance, Laguna Honda will be better able to address the special memory care and depression-related needs of its current residents by improving social connections. As the CDC points out, nursing homes help to foster community connectedness¹⁵ and, by granting a variance, CMS will allow Laguna Honda to do just that.

3. Residents who are at high risk for falls will benefit from an additional roommate.

Residents who are at high risk for falls comprise a second special needs population within Laguna Honda. In total, 160 of the 185 Variance Impacted Residents are at high risk for falls based on their diagnosis. Figure 1, below, lists the principal diagnoses of those 160 high-fall risk residents.

Fig. 1. Principal Diagnoses of 160 LHH Residents with High Risk of Falls

Principal Diagnosis	Count	Percent of High-Fall Risk Residents	Percent of the General LHH Population
Dementia	83	52%	19%
Stroke	30	19%	7%
Paraplegia	13	8%	3%
Traumatic brain injury	13	8%	3%

¹³ Jennifer Bethell *et al.*, *Social Connection in Long-Term Care Homes: A Scoping Review of Published Research on the Mental Health Impacts and Potential Strategies During COVID-19*, J. of the Post-Acute and Long-Term Care Am. Med. Ass’n (Feb. 2021), <https://doi.org/10.1016/j.jamda.2020.11.025>.

¹⁴ *Id.*

¹⁵ Ctrs. for Disease Control and Prevention, *Promoting Social Connection*, <https://www.cdc.gov/social-connectedness/promoting/index.html> (May 15, 2024).



Quadriplegia	7	4%	2%
Spinal cord injury	5	3%	1%
Huntington's disease	4	3%	1%
Seizure	4	3%	1%
Parkinson disease	1	1%	0%
Grand Total	160	100%	38%

Memory and mobility challenges, which are often associated with these diagnoses, compound the high fall risk. An additional risk factor is age; as noted in Appendix PP of the CMS State Operations Manual, “[o]lder persons have both a high incidence of falls and a high susceptibility to injury.” CMS State Operations Manual, Appendix PP, p. 334. At Laguna Honda, 153 Variance Impacted Residents are over the age of 60.

Falls in SNFs can have serious consequences for residents, especially elderly residents, affecting both their physical and mental well-being. Falls can cause fractures, sprains, bruises, and other injuries, which can lead to prolonged pain and limited mobility requiring further medical treatment. Falls can also significantly increase the risk of mortality. The fear of falling can lead to anxiety, depression, and social isolation—all of which are risks identified with the facility’s Special Needs Residents.

To prevent and mitigate accident hazards, such as falls, CMS requires facilities to provide adequate supervision based on the individual resident’s assessed needs and identified hazards in the resident environment. CMS State Operations Manual, Appendix PP, at p. 329. Supervision ensures residents use proper techniques, walkers, and other mobility assistive or adaptive devices when transitioning at their bed or bathroom. Because they are present, staff can quickly intervene if they notice that a resident is losing balance, or attempting to stand and not using proper adaptive devices.

Where appropriate, based on the residents’ needs and preferences, Laguna Honda groups together residents who are a high risk of falling. This facilitates staff supervision because, instead of providers having to attend to multiple residents across multiple rooms, staff can attend to multiple residents in one location. Because increased staff supervision helps prevent unassisted ambulation and mitigates fall risk, grouping residents who are at a high risk of falling benefits that population’s special needs.

Granting a variance would help meet the special needs of residents who are at high risk of falling. As Laguna Honda’s population increases, the facility has a plan to increase its staffing and, as discussed below, Laguna Honda currently exceeds the minimum staffing ratios. By



grouping together similar residents in the same rooms and units, including residents admitted because of the variance, Laguna Honda will mitigate the risk of accident hazards through increased supervision, which would improve both safety and quality of care.

4. Residents who speak Spanish or Asian languages will benefit from additional opportunities to live in units where staff and fellow residents speak their language and may share their cultural traditions.

The two most common languages spoken by San Francisco residents who have limited English proficiency are Chinese (Mandarin and Cantonese) and Spanish. *See San Francisco language diversity data*, <https://www.sf.gov/data--san-francisco-language-diversity-data> (last accessed Feb. 13, 2025). Laguna Honda reflects the broader San Francisco population because it has 50 monolingual or limited English proficiency Asian-speaking and 49 monolingual or limited English proficiency Spanish-speaking residents.

To address the special needs of monolingual residents, Laguna Honda has two language-focused units—North 4 and North 5—for residents who primarily speak Spanish or various Asian languages, respectively. Currently, North 4 has 44 residents, of whom 34 are monolingual Spanish, and North 5 has 30 residents, of whom 23 are monolingual Asian language. And, of the 17 Variance Impacted Residents on North 4, 14 are monolingual Spanish. Of the 13 Variance Impacted Residents on North 5, 10 are monolingual Asian language. By grouping residents with a common language and similar backgrounds and culture, Laguna Honda provides culturally-competent care.

Staff on these units speak the same languages as the residents. Laguna Honda had 116 certified bilingual staff members who speak the same languages as the residents on North 4 and North 5. *See Figure 2, below.* Grouping residents by their primary language and assigning staff who speak those languages to those units allows residents to express their care and other needs in a way consistent with their cultural preferences. This leads to culturally appropriate care, which improves health outcomes and a more positive living experience.

Figure 2: Certified Bilingual Staff

Language	Total Certified Bilingual Staff
Chinese (Cantonese)	42
Chinese (Mandarin)	23
Chinese (Toishan)	1
Japanese	1
Korean	1



Russian	1
Spanish	36
Tagalog	1
Vietnamese	4
Grand Total	110

Adding a third roommate who speaks the same language will benefit the existing monolingual and limited English proficiency residents by providing an opportunity to form social connections, and create a homelike environment that facilitates the residents' care needs. In addition to benefitting roommates, adding new residents also impacts each unit as a whole. Group activities within these units are conducted in the primary language of the residents so, as discussed above, more residents participating in group activities in the same language as the current residents will increase the social connection and interaction for those current residents.

Neither North 4 nor North 5 is at or near capacity because of the restriction on more than two residents per bedroom. If CMS grants a variance, Laguna Honda will be able to admit more residents who speak the same language as current residents, which will result in better health outcomes for those residents.

5. Residents with an HIV/AIDS diagnosis will benefit from additional opportunities to live in units where fellow residents may share similar experiences.

At the end of 2023, there were 15,544 San Francisco residents living with an HIV diagnosis, which represents 11 percent of the total number of people diagnosed and living with HIV infection in California.¹⁶ And, of that number, 74 percent are 50 years old or older.¹⁷ As this population ages and also accumulates non-HIV chronic conditions, their need for skilled nursing care will continue to increase.¹⁸ One study concluded that nursing home residents with HIV experience worse outcomes in nursing homes compared to residents without HIV.¹⁹

That situation underscores the importance of providing focused care to Laguna Honda residents with HIV and AIDS. Where appropriate based on resident preference and needs, Laguna Honda groups its resident with HIV and AIDS on the South 2 unit. Currently, there are 33

¹⁶ S.F. Dep't of Public Health, *HIV Epidemiology, Annual Report 2023*, at p. 1 (Sept. 2024), <https://www.sf.gov/sites/default/files/2024-09/AnnualReport2023%20Yellow%2020240923%20Final%20w%20Covers%202.pdf>.

¹⁷ *Id.* at 3.

¹⁸ David J. Meyers et al., *Understanding the Relationship between Nursing Home Experience with HIV and Patient Outcomes*, *Medical Care* (Jan. 2021), <https://doi.org/10.1097/MLR.0000000000001426>.

¹⁹ *Id.*



residents on South 2, of which 14 have an HIV diagnosis and of those, 9 are admitted with HIV/AIDS as their primary diagnosis.

Granting a variance will benefit the special needs of these residents by adding new residents who share a similar background and experiences. As discussed throughout our request, social interactions and group activities provide positive health benefits to current residents and this outcome can be amplified when the residents share common experiences.

6. Residents across the entire facility who are at risk for social isolation and loneliness will benefit from additional residents participating in group activities.

In addition to the positive health benefits associated with having an additional roommate, increasing the resident population will increase the opportunity for increased social interactions for current residents during group activities that occur in units and across the entire facility.

According to a survey of multiple studies, loneliness in older adults has been shown to be mitigated in varying degrees by interventions that are often conducted in a group setting, including animal therapy, counseling, physical exercise, social interventions, cognitive behavioral therapy, and technology-based interactions.²⁰ The survey noted that individuals in long-term care settings benefitted most from socially prescribed interventions tailored to the individual's unique needs.²¹ Activities tailored to a resident's hobbies or past occupation creates a sense of purpose and identity, improving mood and reducing distress.

At Laguna Honda, each unit has group activities that occur in the great room and/or the main dining room, which bring together residents from the entire unit—the current resident census per unit ranges from 26 to 44 residents. Smaller group activities can take place in the living rooms within the unit. Staff can tailor small group activities based on resident requests, including but not limited to: music therapy, art therapy, animal-assisted activities, therapeutic farm and garden, memory games and movie nights.²² Facility-wide activities include bingo, music, shopping at the gift shop, visiting the resident library, Friday's Clubhouse at the Art Studio, and Mahjong on Saturdays. For a sample calendar of facility-wide events, see Exhibit B.

If CMS grants a variance, resident activities will be able to operate at full capacity, and the

²⁰ Peter Hoang *et al.*, *Interventions Associated with Reduced Loneliness and Social Isolation in Older Adults: A Systematic Review and Meta-analysis*, *Geriatrics* (Oct. 17, 2022), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2797399>.

²¹ *Id.*

²² Ctrs. for Disease Control and Prevention, *Promising Approaches to Promote Social Connection*, <https://www.cdc.gov/social-connectedness/data-research/promising-approaches/index.html> (May 15, 2024) (highlighting skill development, support groups, peer support, and animal-based interventions).



facility will be able to offer new and different activities based on resident preference and tailored to their needs. For example, Laguna Honda is planning to restart Alcoholics Anonymous and Narcotics Anonymous meetings, and current residents who will participate in these meetings will benefit from having more people with similar lived experience join their groups. By increasing the number of participants in existing and future group activities, current residents will benefit from increased interactions with residents admitted under the variance. A new resident admitted to one of the 120 rooms may be a fellow Mahjong player to a current resident or a companion in visiting the Laguna Honda therapeutic animal farm.²³

7. From 2010 to 2022, when Laguna Honda had three residents per room, resident and family satisfaction was extremely high.

From 2010 to 2022 Laguna Honda maintained 769 SNF beds near full census, including rooms with three residents. Resident satisfaction survey data from this period shows a high degree of satisfaction with the facility.

The 2017 resident satisfaction survey revealed that 79 percent of residents and 90 percent of families were overall satisfied (*i.e.*, responding either excellent or good) with Laguna Honda. See Exhibit C, at 5. Similarly, residents reported overall satisfaction with Laguna Honda at 78 percent in 2011 and 81 percent in 2013 and 2015. *Id.* Families reported an overall satisfaction at 93 percent in 2011, 92 percent in 2013, and 98 percent in 2015. *Id.* at 6. In the 2017 survey, 76 percent of residents felt that the quality of life and quality of care they received was excellent or good and 73 percent felt the quality of service they received was excellent or good. *Id.*

The reported satisfaction includes some of the core areas at issue in this request. With regard to privacy and dignity concerns, 80 percent of residents responded either excellent or good to the “respect for privacy” and “support of independence” questions. *Id.* at 15. As we’ve shown, the primary way that granting the variance will benefit the special needs of the current residents is the opportunity for social interactions and group activities. The 2017 survey shows historical satisfaction with these areas: 80 percent responded favorably to the “opportunities to participate in community outings” question, 82 percent approved of the “opportunities to pursue preferred activities,” and 75 percent approved of the “interaction with other residents at Laguna Honda.”

²³ Amanda Bassett, “A huge relief”: Laguna Honda Hospital opens its therapy farm and garden to residents again, SFGate (Apr. 9, 2021), <https://www.sfgate.com/local/article/Laguna-Honda-Hospital-Therapeutic-Farm-Garden-SF-16087305.php>.



Thus, during the 12-year period when the facility had a nearly full census and served three residents per bedroom, residents and their families consistently responded that they were satisfied with the facility and its physical environment.

8. Since 2022, Laguna Honda has improved its systems and processes as it prepares to admit new residents.

In 2022, the facility lost its Medicare and Medicaid certification for reasons unrelated to the physical environment. Since then, Laguna Honda has embarked on a comprehensive facility-wide system improvement process that has improved the facility and its staff's ability to provide for the special needs of current residents. Laguna Honda has:

- Incorporated active and frequent rounding on all resident care units;
- Developed a dedicated resident care experience team focusing on resident grievances to improve resident satisfaction;
- Enhanced resident council participation by offering virtual attendance from all 13 units to improve resident participation and satisfaction;
- Restructured its leadership to move away from a general acute model to one that aligns with SNF best practices, including hiring licensed nursing home administrators and appointing two directors of nursing;
- Restructured its quality assurance and performance improvement (QAPI) program;
- Hired consultants who are subject matter experts in SNF practices to conduct quarterly mock surveys, root cause analyses, and action plans; and
- Invested in capital improvement projects.

During that same time period, CDPH and CMS have significantly increased the number of surveys of the facility. Yet over that timeframe, Laguna Honda has seen a decrease in the number of statements of deficiencies received by CDPH and CMS. The facility continues to build on its robust quality assurance and performance improvement program to ensure the quality of care and services provide the best environment and quality of life for the residents. As a result of all this work, CMS recently rated Laguna Honda 4 out of 5 stars.

Adding up to 120 additional residents will not negatively impact the care or services delivered to the facility's current Special Needs Residents. Indeed, as noted above, in January 2025, CMS staff acknowledged that the variance will not adversely affect residents' health and safety. The facility's current nurse staffing ratio averages about 5 hours per resident day (HPRD), which easily surpasses the CMS minimum nurse staffing ratio of 3.48 HPRD, and Laguna Honda has maintained a five-star rating for its staffing. And, Laguna Honda has already developed a



workforce plan that would accommodate additional residents and provide appropriate staffing based on resident acuity to meet the special needs of the residents while continuing to deliver high quality resident-centered care in compliance with CMS regulations.

Thus, for over a decade, Laguna Honda was able to meet the special needs of its residents. In that sense, reactivating 120 beds would restore the physical environment to the status quo. But, importantly, over the past almost three years, the facility has improved significantly in virtually every respect. By every other measure, reactivating 120 beds is not just restoring the status quo, but instead placing individuals with skilled nursing needs in a facility that can address every aspect of those needs ensuring it will continue to provide safe care consistent with resident needs.

Granting a Variance Will Not Adversely Affect Residents' Health and Safety

1. Laguna Honda has never received complaints or deficiencies relating to its large three-resident rooms.

The best evidence of Laguna Honda's ability to accommodate three residents per room with no adverse impact on their health and safety is the fact that, from 2010 to 2022, Laguna Honda accommodated three residents per room with no survey findings or resident or family grievances related to the layout of the rooms or the physical environment. But even viewing the facility without the benefit of over a decade of accommodating residents in this physical environment, Laguna Honda would still meet the requirements to issue a variance.

Specifically, based on a review of the facility's grievance log, no resident has filed a grievance regarding sharing a room, sharing a bathroom, or privacy issues related to the configuration of the rooms. Nor are we aware of any deficiency findings issued by CDPH or CMS regarding privacy issues related to or the layout of the facility's three-bed rooms.

2. Laguna Honda's three-resident rooms exceed the minimum square footage requirements by 40 to 56 percent for curtain-divided rooms and 53 percent for wall-divided bedrooms, affording residents a semi-private environment.

The rooms in question afford residents a semi-private environment. Of the 120 beds that are currently suspended on the facility's license, 100 beds are located in resident rooms where walls and doors divide each of the three beds (the "wall-divided bedrooms"). The remaining 20 beds are located in rooms where ceiling-suspended curtains that afford residents full visual privacy divide each of the three beds (the "curtain-divided rooms"). In either configuration, a resident would have more square footage than the minimum requirements provided in 42 C.F.R. section 483.90(e)(1)(ii), that is 80 square feet per resident for shared rooms and 100 square feet



per resident in single rooms. In particular, the wall-divided rooms range are an average of 123 square feet per bedroom and the curtain-divided rooms are between 112 and 121 square feet per resident.

Attached as Exhibit D is the floor plan depicting the layout of a typical unit containing wall-divided bedrooms. As shown in further detail in Exhibit E depicting the floor plan of a typical wall-divided bedroom and in Exhibit F, each wall-divided bedroom has a door that affords privacy from the other residents in the larger resident room.

Attached as Exhibit G is the floor plan depicting the layout of a typical resident room containing curtain-divided bedrooms. As shown in further detail in Exhibit H depicting the floor plan of a typical curtain-divided room and in Exhibit I, each curtain-divided room is sufficiently large that, when closed off by a curtain, it affords residents a semi-private environment.

3. Laguna Honda's large three-resident rooms support effective infection prevention and control measures, and excellent quality of care.

The size and layout of the three-resident rooms allow staff to provide effective infection prevention and control measures by minimizing both the risk of cross-contamination and the spread of infection. They also provide adequate space for proper cleaning and disinfection practices that help keep the residents safe from infection. And, for both the curtain-divided rooms and wall-divided bedrooms, each resident room has an attached bathroom equipped with a sink, commode, and shower. The close proximity to bathrooms allows staff easier access to wash their hands and conduct effective infection prevention and control practices.

The layout of the resident rooms also allows staff to provide excellent quality of care. The resident rooms at Laguna Honda provide ample space for residents to rest, maintain privacy, and receive necessary care. Because the resident space ranges between 112 and 125 square feet, there is sufficient room for staff to assist with activities of daily living and wound care. The accessibility of the rooms at Laguna Honda is crucial for residents to navigate their rooms with wheelchairs, and for staff to use a lifting device for those residents with difficulty walking on their own. The layout of the rooms at Laguna Honda provides privacy for residents to create their own homelike environment and meets the minimum spacing requirements under title 42 C.F.R. section 483.90(e)(1)(ii).

Conclusion

Since 2013, San Francisco has lost approximately 10.6 percent of its licensed freestanding SNF beds (124 beds) and 23.4 percent of its hospital-based SNF beds (371 beds). These beds are



briefly identified and described below:

- 2014 – Zuckerberg San Francisco General Hospital: decrease from 89 to 30 licensed SNF beds; California Pacific Medical Center (CPMC) California East: decrease from 101 to 95 licensed SNF beds
- 2015 – Jewish Home: decrease from 478 to 378 licensed SNF beds
- 2016 – CPMC California East: loss of 95 licensed SNF beds
- 2018 – CPMC St. Luke's: loss of 79 licensed SNF beds and transfer of 17 patients to CPMC Davies; St. Mary's Medical Center: loss of 32 licensed SNF beds.

And in January 2025, St. Anne's Home, a 46-bed facility, announced its closure and is planning to transfer many residents to Laguna Honda. In other words, San Francisco and California, like everywhere else in the nation, has an urgent need for skilled nursing beds for those who have no means to afford placement in other SNFs or are placed in an inappropriate level of care for their needs.

Laguna Honda has an available supply of beds that is ready to meet this deficit. Before suspending 120 beds, Laguna Honda accounted for approximately 33 percent of all SNF beds in San Francisco (769 out of 2,264), of which the 120 suspended beds accounted for over 5 percent of all SNF beds (120 out of 2,264).²⁴

Granting our request will address an urgent need. Denying the request, given the fact these rooms sit underutilized, harms California's and San Francisco's ability to care for its low-income and aging residents who are often placed outside of San Francisco away from their homes and loved ones.

Reactivating these unused beds is in accordance with the special needs of Laguna Honda's current residents who will benefit from the increased social connections that result from an additional roommate or additional people at a group activity. Because Laguna Honda has already successfully demonstrated that the variance does not adversely affect residents' health and safety, the facility meets both elements to grant a variance under 42 C.F.R. section 483.90(e)(3).

For the foregoing reasons, we respectfully urge CMS to confirm in writing that you agree that Laguna Honda may reactivate its 120 beds or, in the alternative, grant a variance to 42 C.F.R. section 483.90(e).

²⁴ See Dep't of Health Care Access & Innovation, 2020 Calendar Year Hospital Utilization Pivot Table, https://data.chhs.ca.gov/dataset/1902083c-f16a-434d-b8ac-f7a573a305df/resource/19a02e57-a4d1-408c-9ec9-dd3c56f7a0ca/download/2020_hosp_util_pivot.xlsx.



San Francisco
Health Network

SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH

Roland Pickens, MHA, FACHE
Chief Executive
San Francisco Health Network

If you have any questions regarding our written request for a variance, please contact Laguna Honda's Chief Executive Officer Diltar Sidhu, LNHA, MBA (Diltar.Sidhu@sfdph.org or 415-759-5609) and the Chief Nursing Officer of the San Francisco Health Network Troy Williams (Troy.Williams@sfdph.org).

Sincerely,

Roland Pickens, MHA, FACHE
Director/CEO, San Francisco Health Network

Enclosures

CC:

Daniel Tsai, Director of Health, San Francisco Department of Public Health
Dora Hughes, Chief Medical Officer and Director, Center for Clinical Standards and Quality, CMS
James Dickens, CMS
Michelle Veach, Health Insurance Specialist, State Operations Group, CMS
Susan Fanelli, Deputy Director, CDPH