

# Help Save 120 Beds at Laguna Honda Hospital

Petition to: **Dan Bernal**, President, San Francisco Health Commission, and  
**Supervisor Aaron Peskin**, President, San Francisco Board of Supervisors



San Francisco is facing the loss of 120 skilled nursing facility (SNF) beds at Laguna Honda Hospital by having to convert three-person suites to two-person rooms. At the time the replacement hospital was designed and opened in 2010, three-person occupancy was allowed in SNF's by the federal Centers for Medicare and Medicaid (CMS), and had been approved before the rebuild began. [Medicaid in California is known as Medi-Cal.]

On March 21, 2023, LHH's acting CEO, Roland Pickens, testified (in part) to the San Francisco Health Commission that :

*"[When] the 2016 Federal requirement that was put into place ... required 'newly-certified' facilities to have no more than two residents per room in a skilled nursing facility we shared our grave concerns ... that Laguna Honda might be subject to complying with that, **because to date that's the best information we've been provided that we must comply** [and eliminate 120 beds at LHH]. We continue to work with our Federal partners primarily through the City Attorney's Office to **pursue all avenues to make that the reality to be able to restore those 120 beds**. We continue that dialog on a continual basis."*

A public records request for a letter from CMS/CDPH directing LHH to eliminate 120 beds turned up no responsive records, meaning LHH has **not** been provided with a written order to do so. Pickens previously claimed legislation was pending in the U.S. Congress to permit "grandfathering" of three-person rooms. He was referring to proposed CMS rulemaking in 2019, which has since been approved.

## **Saving LHH's Bed's Only Requires a Waiver Request**

[42 CFR §483.90\(e\)\(3\)\(ii\)](#), as of **March 3, 2023** provides that survey agencies — in this case the California Department of Public Health (CDPH) — may permit and grant a variation on its number-of-patients-per-room rule when facilities **request in writing** an exemption that the variation to 42 CFR §483.90(e)(1)(i) "**will not adversely affect residents' health and safety**." Some SNF's in California have obtained waivers allowing for four- to six-patients per "room."

Given San Francisco's severe shortage of SNF beds, the Health Commission and Department of Public Health claimed it would do "*everything it can*" to save LHH's 120 beds. But it hasn't submitted a written waiver request to CDPH yet! As LHH's governing body, President Bernal and the Health Commission — and the Board of Supervisors — should take action and direct LHH and Mr. Pickens to submit a written request to CMS/CDPH seeking an exemption to CMS' two-patients-per-room rule. SFDPH should work closely with the City Attorney's Office to make sure a written waiver request is submitted quickly. LHH and the Health Commission **promised** to pursue all avenues; **a written waiver request is the fastest avenue!**

This petition asks Health Commission President Bernal and Board of Supervisors President Peskin to do "*everything thing they can*" to ensure a written waiver request to save the 120 beds at Laguna Honda Hospital is submitted to CMS/CDPH.

## Severe Shortage of SNF Beds in San Francisco

Between May 1997 and August 2022, public records show San Francisco lost 1,381 SNF beds in county. Losing 120 more beds at LHH will push that to 1,501 lost SNF beds, leaving only 2,161 remaining. This happened, in part, because the Health Commission didn't rule definitively during at least one "Prop. Q" hearing. That private-sector hospital closed its SNF unit to save the hospital money.

"Prop Q" hearings are required when private-sector hospitals propose reducing or eliminating services they provide to the community. Between 2002 and 2015, San Francisco lost 926 hospital-based SNF beds, but the Health Commission only held four "Prop. Q" hearings on closure of only 90 of those 926 beds.

The Commission ruled two of the hospitals proposing closure of SNF Beds — St. Francis (in November 2007), and CPMC's Pacific Campus (in June 2014) — **would** have a detrimental effect if closed. For the third hospital, CPMC transferred its SNF beds to the Guardian Foundation (in March 1995) and the Commission ruled the new management structure would **not** have a detrimental effect.

But for the fourth hospital — St. Mary's in May 2015 — the Commission claimed it had received a City Attorney's Office "*opinion*" saying the Commission didn't need to follow the letter of the "Prop. Q" law. Instead of ruling a closure "*would*" or "*would not*" be detrimental, the Commission claimed it could creatively "interpret" the "Prop. Q" Ordinance and wiggled out of actually issuing a definitive statement. St. Mary's closed its SNF beds.

But indeed, those closures have been detrimental, resulting in massive out-of-county discharges for patients needing SNF level of care.

Unfortunately, closure of **public-sector** facilities — like LHH — aren't covered by the "Prop Q" Ordinance, and their SNF beds can be closed without holding a public hearing before the Health Commission or the Board of Supervisors.

If LHH loses 120 beds, it will only have 649 remaining, half the 1,200 beds it had before 2010.

## Massive Out-of-County Discharge History

Between 2006 and 2019, SFPD public records responses revealed 1,736 out-of-county discharges for SNF placement, based on very limited data from SFGH and LHH for 13 years, plus two private-sector hospitals — but only across two years.

In May 2022, the San Francisco Board of Supervisors passed Ordinance #77-22 requiring private-sector hospitals report out-of-county discharge data for patients discharged for both Sub-Acute SNF level of care, and SNF-level of care. A new report issued on April 4, 2023 revealed there were 4,186 transfers and discharges of patients across all San Francisco hospitals in calendar year 2022, and 4,185 such discharges in 2021 to out-of-county SNF's.

Sign the Petition: <https://chng.it/wzzKhRKHxv>

Printable Petition [Flier](#)

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**Help Save LHH's 120 Beds to Prevent Out-of-County Discharges**

Urge the Health Commission and Board of Supervisors to Submit a Waiver Request to CDPH!