

Laguna Honda Hospital Raiding the Public's Trust: Patient Gift Fund Scrutinized

by Patrick Monette-Shaw

Why does Laguna Honda Hospital (LHH) continue trampling on, and raiding, the public's trust? Trust once lost, is difficult to regain.

After submitting my article last month regarding the massive "change orders" contributing to the \$183 million cost overrun of LHH's replacement buildings, I planned an update about additional construction-related problems, but a disturbing scandal involving LHH's patient gift fund has surfaced.

On May 20, ABC-TV "I-Team" investigative journalist Dan Noyes aired a story about LHH's patient gift fund, setting off a firestorm of outrage. The I-Team's investigation revealed LHH's patient gift fund solicits donations for patients, then spends large sums on staff parties, but hasn't informed donors of this bait-and-switch.

In an e-mail to LHH staff the next day, LHH Executive Director Mivic Hirose claims Noyes' broadcast "distorted facts"; in truth, it's Hirose and LHH's smirking public relations flack, Marc Slavin, distorting facts and deceiving the public, which is amazing since they're both public servants collecting six-figure City salaries.

Noyes learned California's Licensing and Certification (L&C) Division may investigate possible violations of LHH's patient gift fund policy; his phone calls to Hirose went unreturned. Unsuccessful reaching Hirose, Noyes attended an LHH public meeting to ask questions, but was accosted by Slavin, who refused to let Noyes ask Hirose any questions.

Slavin's on-camera performance was offensive, deeply troubling, and unprofessional.

Among revelations in the I-Team's broadcast, Slavin claims LHH's patient gift fund is "... not a gift fund for residents." If this new policy stands, why should donors continue making charitable contributions?

Last March, two LHH physicians — Maria Rivero, MD, a geriatrician and Derek Kerr, MD, CNA who developed LHH's award-winning Hospice — submitted a detailed set of concerns regarding the patient gift fund to the City's Whistleblower Program administered by the City Controller. Among irregularities they uncovered by placing public records requests as private citizens, over \$60,000 in questionable gift fund expenditures during fiscal year 2008–2009 had been made. They questioned payments to a non-existent organization, expensive catering of staff luncheons, reports that \$2 million in LHH Gift Fund assets intended for the "comfort, welfare, pleasure and happiness" of patients had been depleted risking the solvency of the fund, and composition of the Gift Fund Management Committee, among other issues.

They requested the Whistleblower Program audit the patient gift fund, and sought restitution of potentially misspent funds. One wonders how much more money has been diverted from the patient gift fund in previous and more recent years to fund staff perks.

They also documented curtailment of off-campus bus trips for dementia patients, which Slavin and Hirose deny has occurred; bus trips have been curtailed as LHH staff know. "Many LHH residents can't speak for themselves, so that's why we're here — to speak for them and say this is wrong," says Dr. Rivero.



Photo courtesy of ABC-TV/Channel 7's "I-Team"; used with permission. <http://iteamblog.abc7news.com/>
Foreground: LHH's public relations director, Marc Slavin.

***Laguna Honda Hospital employee
Marc Slavin claims LHH's patient gift fund
is "... not a gift fund for residents."***

***If this new bait-and-switch policy stands,
why should donors continue making
charitable contributions to LHH's gift fund?***

In 2008, Laguna Honda Hospital Volunteers, Inc. — a separate entity from LHH's Gift Fund — awarded LHH's Gift Fund \$71,574, restricting the grant "to make resident outings possible."

LHH's gift fund policy #45-01, dated December 2, 2004, had gone unchanged for nearly six years before LHH completely re-wrote it on April 15, 2010. The 2004 version, a three-page document, stated its "purpose" was "To ensure that LHH Gift Fund expenditures 'add comfort, welfare, pleasure and happiness' to the residents," and noted the gift fund was a "restricted" fund not intended to support the City's obligation to operate the hospital nor to fund routine City expenditures. Rather, the fund was established to benefit residents and enhance their quality of life.

The sudden April 15 policy rewrite, reduced to two-pages, completely eliminated the original purpose statement; the new "purpose" is merely to "ensure effective management" of the gift fund. The December 2004 version's "policy" section clearly established a "Gift Fund Management Committee" charged with coordinating, planning, and recommending approval of projects to be funded, including approving all expenditures over \$500. Kerr and Rivero had asked that the Committee be expanded to include a patient representative.

Instead, the April 2010 revision completely eliminated the Gift Fund Management Committee, leaving no oversight committee whatsoever and no patient representative. So much for LHH's claim of "resident-centered care."

The December 2004 version specified various subaccounts, each restricted; none included "staff support." The April 15 revision — thought possibly to be a plan-of-correction response to State L&C — suddenly created three new subaccounts for nursing, physician, and administrator education. For decades, educational reimbursement was built into the nurse, physician, and management executive's union contracts, requiring the City to set aside education funds for each of these three professions.

But the whistleblower complaint and Noyes' investigation exposed LHH's patient gift fund is being used to fund expensive meals for highly-compensated staff who in 2009 earned, on average, \$91,165 (physicians), \$126,234 (administrators), \$135,825 (clinical nurse specialists), or \$152,280 (nurse managers). They apparently feel entitled to free meals.

The April 2010 gift fund policy revision suddenly removed the "Authority" section included in the December 2004 version, which referenced San Francisco's Administrative Code Section 10.100-201, Public Health Gift Funds, that clearly states the "LHH Gift Fund, a public trust, is intended for the general benefit and comfort of patients of Laguna Honda Hospital." This section of the Administrative Code hasn't been revised since December 2000; it provides no authority to use these restricted funds for staff education or staff meals.

The day after LHH's gift fund policy revisions were approved on April 15, Dr. Kerr was reportedly instructed to transition his Hospice patients to another doctor and conclude administrative issues within two weeks. He was relieved of clinical duties well before being permanently laid off, in possible violation of Whistleblower Program protections. The timing of LHH's gift fund policy revisions and Kerr's lay-off appear related.

While Slavin and Hirose may have intimidated LHH's staff into changing policy #45-01, it appears they've done so possibly lacking legal authority, since it's unlikely the Board of Supervisors will risk changing Admin Code 10.100-201; what politician would dare to remove the exclusive use of the patient gift fund for the benefit of patients by adding new provisions to permit food expenditures for highly-paid City employees?

Sherrie Matza, a donor to LHH and an expert Alzheimer's patient advocate says, "I want to know whether or not funds were misspent, and if they were misspent, I want them replenished." Like many, she expects funds she contributes will directly benefit patients, not Laguna Honda's staff.

In an earlier, unrelated whistleblower complaint, Rivero and Kerr raised questions about potential conflict-of-interest problems with a contract the Department of Public Health awarded to Davis Ja and Associates to assess LHH's substance abuse and mental health services. The Controller's Whistleblower Program reportedly forwarded their complaint to both San Francisco's Ethics Department and San Francisco's District Attorney's office for investigation.

It's clear gift fund expenditures for non-patient expenses violate the public's trust. Reportedly, the Whistleblower Program also forwarded Rivero's and Kerr's gift fund concerns to both San Francisco's Ethics Department and San Francisco's District Attorney's office for follow-up.

"People who try to address these problems get marginalized; sometimes they get terminated," Kerr says.

Considering the public trust, where is San Francisco District Attorney Kamala Harris in this mess? On May 23, ABC-TV/Channel 7 aired a debate of candidates for Attorney General, in which Harris participated. She noted citizen's have a duty to step forward to report crimes, public officials' oath's of office mandate that the most vulnerable should be protected, and that she had created a Public Integrity Unit in the D.A.'s office to investigate violations of the public trust.

If it were an in-home healthcare caregiver bilking money from an elderly home-bound, disabled woman, Harris would be all over prosecuting the caregiver for elder financial abuse, and interrelated elder neglect caused by patients losing their quality of life by reducing their "comfort, welfare, pleasure, and happiness." Why would Harris hold LHH's caregiver-administrators to a different standard over LHH's patient gift fund intended to benefit its patients? Why hasn't Harris' Public Integrity Unit initiated an investigation?

Why should we elect Harris as California's Attorney General if she won't investigate potential white-collar mismanagement of restricted patient gift funds intended for the City's most vulnerable patients, after receiving a well-documented complaint forwarded by the Whistleblower Program to her office?

Harris should investigate, at minimum, whether donations made by Volunteers, Inc. and others that contained "restricted" uses have been diverted to "unrestricted" uses, potentially illegally. After all, the Attorney General administers California's Registry of Charitable Trusts, which is charged with investigating allegations that restricted funds are misspent improperly for unrestricted purposes.

If, as Slavin asserts, the patient gift fund isn't for LHH's patients anymore, why should donors continue generously supporting the fund? Please contact Volunteers, Inc.'s board of directors, Laguna Honda Hospital Foundation's board members, the Board of Supervisors, and Mayor Newsom to demand that the patient gift fund policy be reinstated to its December 2004 version, and that Slavin be fired immediately. Tell them you're suspending gift fund and Volunteer, Inc. contributions until this matter is resolved.

Drs. Kerr and Rivero are now researching whether nearly \$1 million in bequests and large donations to the gift fund restricted use of the donations exclusively for residents, or whether the intent and wishes of these donors granted broader discretionary latitude for use of their charitable giving.

San Francisco's Board of Supervisors is reportedly now looking into LHH's gift fund and will hopefully examine whether restricted-use funds were spent on unrestricted purposes.

Until they get hit in the pocketbook, it's unlikely the patient gift fund will be restored exclusively for patient benefit, or that Slavin will be overturned that the gift fund isn't for residents.

At a minimum, an independent audit, or an audit by the State Attorney General whose purview includes non-profit fraud, should be conducted on LHH's Patient Gift Fund.

When LHH holds its ribbon-cutting ceremony on Saturday, June 26 at 1:00 p.m., either boycott the event telling the Mayor why you did, or attend and ask him and other dignitaries about this unethical raid of patient gift funds, and the raid of the public's trust.

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