

**HOWARD L. CHABNER, J. D.**

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San Francisco, California

[Phone Number Removed]

December 31, 2004

To the Persons and Organizations  
On the Attached Distribution List

**Re: Laguna Honda Hospital**

Dear Mayor Newsom, Supervisors, Mr. Herrera, Dr. Katz, Commissioners, Ms. Mizner, Council Members, Ladies and Gentlemen:

I am writing to add my voice, and those of my family members, to the growing chorus of voices expressing grave concern about what is happening to Laguna Honda Hospital, its residents and its historic mission. A close family member of ours who is elderly and severely disabled due to a serious, progressive, complex, debilitating medical condition has lived at LHH for many years. Like most LHH residents admitted over the past decades, she was admitted to LHH directly from her home after her medical condition made it impossible for her to be cared for safely and adequately at home. Other family members and I visit her frequently; this letter is written on their behalf also.

Over the years our relative has generally received very good care from the LHH nursing, medical and rehabilitation staffs. LHH staff is professionally proficient, skilled, compassionate and dedicated to providing the best care possible. Until earlier this year her home, LHH, was physically well maintained considering the financial constraints, and, although one heard about occasional problems, it felt safe, secure and orderly. Staff morale was good. LHH was an unique community, fulfilling its decades long mission of providing long term skilled nursing, rehabilitation and medical care to elderly and disabled San Franciscans who need this type of care. Compared with smaller nursing homes and "community-based" facilities, its large scale and its unique site and physical plant have enabled LHH to offer a much broader range of therapeutic, social, religious and cultural activities and programs, and unique amenities such as the animal farm, verdant landscaping, an inviting greenhouse, abundant natural light and magnificent views. Its scale and prominence have also enabled LHH to provide high quality on-site expertise in a variety of medical specialties, and to attract a large, loyal and enthusiastic corps of volunteers.

The medical care has remained very good but, unfortunately, LHH has changed for the worse this year. With increasing alarm, we've heard and read about sexual assaults on physically defenseless residents and other incidents of physical violence and threats by residents (and their visitors) with serious, violent psychiatric disorders and histories of significant drug and alcohol addiction. This year an arson fire was set by one such resident; luckily, it was extinguished before death or major injury or damage could occur.

Re: Laguna Honda Hospital  
Page 2  
December 31, 2004

The atmosphere has changed. In our visits this year we've observed a different type of patient in the hallways and public rooms - aggressive, sometimes belligerent, apparently mentally unstable, and quite often younger and more physically vigorous than the typical LHH patient. The hallways are no longer calm. We and our relative who lives there now avoid certain elevators and hallways. The common areas are much less clean; this appears to be mainly due to actions of residents, such as deliberate disposal of trash, not to there being fewer resources for cleaning and maintenance. On a recent visit we saw a man in a power wheelchair almost knock over an elderly lady walking with the aid of a walker, and, in a separate incident, we were subjected to aggressive questioning from a pair of agitated young men. LHH was not designed and is not staffed to handle dangerous residents: the numerous entrances are not secure, residents and visitors can come and go, the wards and semi-private rooms are open and there are precious few security personnel. Before the resident population changed, this openness had been one of the good things about LHH. But with dangerous residents, who often have dangerous visitors, it is not good. Moreover, LHH lacks psychiatrists and psychiatric nurses qualified and trained to handle such patients.

We've recently learned that in March 2004, unilaterally, by fiat, without agreement from LHH's medical staff, without consulting or even notifying the residents, without a safety plan and, it seems, without considering the liability risks, Dr. Katz changed the admissions policy to prioritize patients from SF General Hospital, particularly including patients with serious, violent psychiatric disorders and histories of significant drug and alcohol addiction. Some of these patients are transient and physically strong. Several LHH doctors, at great risk to their careers and livelihoods, objected to the new admissions policy, refused to admit dangerous patients, and began to call attention to the new policy. Since then, the admissions policy has been "clarified" and revised. But Dr. Katz has stated publicly, more than once, that LHH's mission now includes "social rehabilitation for the urban poor." At one point a "compromise" (Dr. Katz's words) policy was adopted providing that for each proposed admission from SFGH who is rejected by LHH admitting physicians and sent to another facility, the cost of that person's stay at the other facility would be taken from LHH's medical budget. For a short time and at least partially in response to a lawsuit by a concerned San Franciscan, the longstanding, safer policy was reinstated. But now, after the lawsuit was withdrawn, it appears that the new policy, or yet another "compromise" policy, may once again be in place, this time purportedly with the support of the medical staff garnered at a recent retreat. As I write this letter, it's difficult to know what the mission and admissions policy really are, and even more difficult to determine what type of patients are really being admitted (what the de facto policies are).

The new policy has gravely undermined the physical safety of LHH residents and staff. It also violates the civil rights of the residents, most of whom are persons with disabilities and entitled to the protection of the Unruh Civil Rights Act, Americans with Disabilities Act and similar state and federal laws. Their home has been changed and their safety endangered without their consent and without even notifying them. Some of the residents lack the physical and/or mental capability to mobilize and object, or even to be aware of the danger. Such callous disregard for the safety, health, dignity and civil rights of this especially vulnerable population is simply inexcusable.

Re: Laguna Honda Hospital  
Page 3  
December 31, 2004

LHH has received citations from the state licensing authority and Cal-OSHA due to the admission of dangerous patients without an appropriate safety plan. Importantly, the danger extends beyond LHH residents and staff. Residents of the surrounding neighborhood have reported several dangerous incidents as a result of the new type of patients admitted.

The new policy has been implemented in a blunt, heavy-handed manner. It appears that Dr. Katz has created an atmosphere where staff members fear for their jobs. Larry Funk, the experienced, highly respected former Executive Administrator, was forced to resign. Other senior administrative and medical staff have resigned, been fired or had their positions eliminated or responsibilities curtailed. Staff have been made to feel their jobs are in jeopardy if they don't buy into the new admissions policy. Morale is low. Agendas of public meetings dealing with LHH have been changed at the last minute, other meetings cancelled or postponed, and potential presenters who are city employees dissuaded from appearing. One can expect further control and spin measures: hiring of outside consultants to find and highlight problems before the March 2004 admissions policy; hiring of so-called "experts" whose conclusions are predictable; so-called "quality" projects; reassignment and relocation of LHH staff members who oppose the new policy and new regime, or whose enthusiasm for it is deemed insufficient; incited retirement of those who are simply tired of fighting; and vocal, demonstrative displays of conversion by staff who now "get it" and "see the light."

We attended a town hall meeting about the LHH issues on December 16. The recently appointed LHH Executive Administrator, John Kanaley, attended. (Unfortunately, Dr. Katz chose not to attend.) Mr. Kanaley responded to questions about whether LHH's mission had changed, or will change, by trying to assure the audience that the mission hasn't changed and won't, but he defined the mission so broadly and with such meaningless bureaucratic buzzwords as to raise suspicion, not provide assurances. I asked him about his qualifications for his new job; his answers were not reassuring. From his answers, he seemed inexperienced in skilled nursing administration and unqualified for the job. Moreover, even allowing for his being new to the job, he lacked basic knowledge about LHH. For example, not only does he lack the legally required skilled nursing facility operator's license, he admitted that he didn't even know under which individual's license LHH was operating. In response to concerns from neighborhood residents about arson, break-ins, homeless encampments and other security problems since the new admissions policy, he blithely dismissed these incidents as due merely to a general rise in homelessness throughout San Francisco this year.

Of course, my overriding concern, and that of my family members, is for the safety of our relative who lives at LHH, the other LHH residents, LHH staff and neighbors. As San Franciscans, however, we are also concerned about the city's liability risk and dismayed that our city government would implement such a dangerous and reckless policy. Three possible decision paths come to mind: the policy was implemented without seeking legal advice, or against the sound advice of counsel, or in accordance with incorrect legal advice. None is reassuring.

Re: Laguna Honda Hospital  
Page 4  
December 31, 2004

For decades, San Franciscans have been justifiably proud of our well-run city owned and operated facility, unique in the country, which provides high quality long-term skilled nursing, rehabilitation and medical care for disabled and elderly San Franciscans who need this type of care. If it continues, the changed admissions policy has and will result not only in a major loss of long term spaces for these people, but in a dangerous, unpleasant and unrecognizable place for those disabled and elderly people who do manage to get in. Although the new policy has been justified as a necessary response to changing demographics, it ignores these undeniable demographic facts: San Francisco's elderly population is projected to grow significantly in the coming decades, as people live longer many will have significant disabilities that require constant medical/skilled nursing care, and San Francisco already has a shortage of long-term skilled nursing spaces, public and private.

In 1999 San Francisco voters overwhelmingly approved a multi-hundred million dollar bond measure to rebuild LHH. There can be no doubt that the bond measure was initiated, promoted and understood (the latter, even by its opponents) as a way of saving, modernizing and improving LHH to enable it to continue its historic mission of serving its traditional population: providing long-term skilled nursing, rehabilitation and medical care for elderly and disabled San Franciscans who need this type of care. There can be little doubt that the measure would have failed had it been for a LHH that would serve as place to house patients with serious, violent psychiatric disorders and histories of significant drug and alcohol addiction, or as a place for "social rehabilitation of the urban poor."

Although the question whether LHH's changed mission, admissions policy, resident population and character violate the bond terms is ultimately for a court to resolve (which resolution would cost the City significant resources regardless of the outcome), permitting the new policies to stand is politically foolish for any city official who expects to propose new bond measures or taxes in the future. Getting such measures approved will be difficult enough in light of the recent defeats of the housing bond, historic preservation bond, sales tax and gross receipts tax measures. Allowing the Public Health Department to betray the voters who approved the LHH rebuild bond (and the public officials, civic leaders, activists and citizens who spent so much time, money, energy, credibility and political capital promoting it) would cause so much voter cynicism and suspicion that future measures would be extremely unlikely to succeed for decades to come.

The crisis at LHH appears to be due to the convergence of several factors: a creative but inappropriate attempt to deal with a real City budget shortfall; an attempt to address homelessness, serious, violent psychiatric problems and drug/alcohol addiction at the expense of medically disabled and elderly people who need long-term skilled nursing care; doctrinaire, philosophical opposition by some people to the concept of nursing homes, especially large ones; and bureaucratic arrogance and mismanagement.

If this situation continues, the current and recent lawsuits about LHH would seem to be only the tip of the iceberg. The people and organizations that are concerned about the peril to LHH are just now getting organized.

I request that:

1. A written plan be developed and implemented as quickly as possible to protect the physical safety of LHH residents, staff and neighbors. These measures would include increased security personnel, development of a security plan, appropriate measures for dealing with dangerous patients, and closer monitoring of, and restrictions on, visitors.

2. LHH's mission be defined as providing long-term skilled nursing, rehabilitation and medical care to disabled and elderly San Franciscans with serious medical conditions who need such care. The admissions policy would reflect this, and would explicitly exclude persons with serious, violent psychiatric disorders and significant, disruptive current drug and alcohol addiction. LHH admitting physicians would have the last word on admissions decisions and would not be subjected to personal, professional or institutional pressure to admit persons excluded by the policy. LHH and its staff would not be penalized financially for refusing such patients. The admissions policy would actually be implemented and maintained in practice, not just adopted on paper. Admissions decisions would be made public in a way that would protect the identities and detailed medical information of the people proposed for admission, admitted and refused admission, but would enable the public to determine whether or not the admissions policy was actually being followed. The policies could not be changed without approval by the mayor and the Board of Supervisors after a specified series of public hearings and specified notice to all LHH residents and their family members as reflected in LHH records; and, in any event, not during the next ten years.

3. Mr. Funk be offered reinstatement.

4. LHH be permanently removed from Dr. Katz's authority and the authority of anyone who reports to him.

5. A procedure be adopted, and posted in writing prominently throughout LHH, for the protection and anonymity of LHH staff and resident whistleblowers. The procedure would include a confidential direct hotline to a specified government official outside the Department of Public Health.

6. Items 1 and 2 be posted in writing prominently throughout LHH.

Re: Laguna Honda Hospital

Page 6

December 31, 2004

Mayor Newsom, we were enthusiastic, active supporters of yours in the general and runoff mayoral elections. In the recent election we voted for the housing bond, the historic preservation bond and the sales tax increase, and we've voted for many bonds over the years, including the LHH rebuild bond. **We cannot imagine voting for any elected official in the future who doesn't quickly, openly, directly, comprehensively and effectively solve the problems identified in this letter. We cannot imagine voting for any bond measure in the future if the historic mission of LHH is allowed to change.**

It is difficult to express, and impossible to overstate, the depth of our concern. Our most pressing concern is the safety of LHH residents, staff and neighbors. Please address that first. Thank you for your time.

Very truly yours,

Howard L. Chabner

**DISTRIBUTION LIST – LETTER RE LAGUNA HONDA HOSPITAL  
DATED DECEMBER 31, 2004  
FROM HOWARD L. CHABNER**

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