January 2, 2005

TO: Mr. John Kanaley, LHH CEO

Re: Working Towards Common Ground: The Controversy Over Laguna Honda Hospital

We appreciated the opportunity to meet with you. Per your and Mayor Newsom's appeal to find "common ground", we have identified key areas of disagreement and controversy. As we agreed at our meeting, we are submitting this written summary of topics amenable to discussion and resolution.

A major problem is that we have not been given adequate opportunities to engage DPH Administration to explore and clarify the major changes we see in the Mission of LHH (Attachment 1: LHH Medical Administration letter to Mayor Newsom). Alternatively, disagreements about the apparent transformation of LHH could be explored in a forum such as a Blue Ribbon Commission.

Paraphrased statements made by Dr Katz or other DPH Administrators appear in bold type followed by our perception of the situation. We believe that disagreements regarding these issues are at the core of the dispute about the Flow Project, and have resulted in needless turmoil.

LHH is budgeted for 1,065 beds. You have 30 empty beds at LHH, and so you could bring in anyone you want. (Dr Katz's statement at Mayor's Meeting 11/17/04)

Please refer to Dr. Rivero's memo (Attachment 2) regarding the difference between "empty" beds and "available" beds. The daily census only reflects beds that are actually physically occupied by a patient. There are bed holds, which we are required by law to keep vacant for patients at acute care; bed reserves, which we must keep vacant for patients who have been out at an acute facility for longer than 7 days but who will be returning to LHH; "empty" beds for patients who are out on pass; "empty" beds that are for special clinical needs such as observation rooms, isolation rooms, and beds in the secure units; and "empty" beds for the patients who are being admitted on that day. After all of these beds are factored in — and considering the beds that have been unavailable due to the arson fire on March 3, 2004 that shut down Ward D-3 — we have been admitting into virtually every **available** bed at LHH. Dr Katz's miscalculation of **available** beds at LHH obscures the likelihood that the influx of SFGH patients has displaced other SF residents in need of long-term care from LHH.

- **"20 patients were waiting at one time." (May 17, 2004 quote by Dr. Katz at LHH Medical Staff Meeting).**
- **"25" patients waiting at SFGH. (June 7, 2004 Dr Katz's statement, Matier and Ross Interview in the SF Chronicle).**
- **"35 SFGH patients" [were] "approved and waiting" At any one time**. (**June 24, 2004 City Services Committee presentation by Dr. Katz).**
- **There were 30 SFGH patients accepted and waiting for an LHH bed at any one time in January of 2004 leading to unprecedented ambulance diversion, and greater than 24-hour ER stays at SFGH. (Dr Katz's statement at November 17, 2004 Meeting with Mayor Newsom).**

Please refer to our memo to Supervisor Hall in July of 2004 (Attachment 3) and our recent memo to Mayor Newsom (Attachment 4) and the letter of response from Dr Paul Isakson, then Chief of the LHH Medical Staff, to Dr Katz (Attachment 5) regarding the unsubstantiated claims about the number of SFGH patients actually ready and "accepted" for transfer to LHH. We have obtained data from the DPH, LHH's Admitting and Eligibility (A&E) Department, and conferred with the Director of A&E at LHH, Mr. Alexander Hines. An analysis of the DPH data reveals there were **never** more than nine SFGH patients accepted and awaiting an LHH bed on any given day in January of 2004. Dr. Maria Rivero, the LHH physician who is responsible for daily screening of SFGH patients for LHH transfer, analyzed the available data and found that many of the patients on the DPH lower level of care reports were, either too acutely ill in the opinion of the SFGH doctors, refused to come to LHH, or were awaiting a bed in another facility or discharge home. Contrary to conclusions based on surrogate numbers used by the DPH, in Dr. Rivero's first-hand experience, the maximum number of SFGH patients approved and ready for transfer to LHH on any given day was three, and **never** approached 20, much less the claim of 35. Despite several written challenges to this data, we have never received an adequate response. **At our meeting, you promised you would gather the necessary data to resolve this point of contention. This will be a major step towards common ground.**

Nothing illegal was done by changing the Admissions Policy. (Mayor's Meeting 11/17/04 statement by Dr Katz)

Dr Katz replaced the LHH admissions policy with an unauthorized version giving SFGH top priority for LHH beds on March 2, 2004. This was done without the required vote of the LHH Hospital Executive Committee, and despite the fact that both the LHH Medical Staff unanimously voted against this policy and the Medical Executive Committee voted it down. Why does LHH have committees and policies that purportedly provide oversight and checks and balances, if the Director of Public Health can simply set them aside without an explanation or collaborative decision-making?

Federal and State law prohibits LHH from admitting patients for whom it cannot provide adequate care, or who abridge the safety and rights of others. As summarized in the attached California Occupational Health and Safety (OSHA) citation (Attachment 6), the patient population of a hospital cannot be changed without an adequate safety plan in place. On October 20, 2004 Cal OSHA penalized LHH for a "serious" violation of required safety procedures following the unregulated flow of patients from SFGH. The California Department of Health Services' State Licensing and Certification (L&C) Division cited LHH on August 19, 2004 for accepting and retaining violent patients as a result of the DPH Flow Project. UAPD President, Dr. Robert Weinmann issued a written warning indicating that the change in the Admission Policy could be a legally actionable intrusion into the autonomy of the LHH Medical Staff (Attachment 7). In fact, this was one of several claims underlying a Public Interest Lawsuit filed in Superior Court by Lynn Carman; Esq., which resulted in the DPH abandoning the unauthorized Admissions Policy. Indeed, Louise Renne, former San Francisco City Attorney and Chair of the Laguna Honda Foundation, has also expressed concern about the change in the LHH admission practices.

It is equally problematic to have promoted the 1999 LHH rebuild Bond Measure (Proposition A) as a way of caring for the frail elderly and the disabled of San Francisco (see attached paid ballot arguments for Proposition A, Attachments 16) and then limit these very patients from LHH, while filling LHH beds with short-term infusion patients (for which SFGH Ward 4A was designed), psychiatric patients (for which the MHRF was designed), and "social rehabilitation" patients (as Dr Katz announced at the Mayor's Disability Council meeting on September 17, 2004). The use of photos and created statements from members of the LHH Medical Staff in support of the Proposition A campaign, calls into question our integrity when the mission of LHH is changed without public agreement via Mayoral or Board of Supervisors approval. Furthermore, to give patients from SFGH priority over elderly and disabled San Franciscans will not advance the Mayor's homeless programs. It may jeopardize them.

Most of the younger patients coming from SFGH are African Americans or Hispanics; therefore not taking SFGH patients first is discrimination. (Dr Katz at Mayor's meeting 11/17/04)

Most of the younger (40-60 age group) patients sent to LHH since the start of the Flow Project are **white.** A disproportionate number of the dangerous patients are white males between the ages of 40 and 60. The proportion of African American patients at LHH is stable — 24% in 1998 compared with 25% in 2004. African Americans constitute less than 10% of the population of San Francisco; therefore, they are consistently well represented at LHH. Similarly, Hispanics were approximately 10% of the LHH population in 1998 and now comprise 12% of the current LHH census.

There are two groups for whom access to long-term-care **has** been limited as a result of the Flow Project;

The Chinese Population

The population of Chinese patients at LHH has dropped from 11% of the population in 1998 to 6% in 2004. This is a 50% reduction in a population that was already underrepresented at LHH, as Dr. Edward Chow noted in his *AsianWeek* editorial of 1998. Our own data from the Admissions Ward indicates that since the Flow Project, the number of Chinese patients admitted to M5 has declined from 15% down to 8%, and that this is due to a decline of patients from home and other hospitals serving the Chinese communities (Attachment 8).

The Elderly Population

State Long-Term Care Ombudsman Director Benson Nadell, in his letter of May 17, 2004 to Dr Katz (Attachment 9) states "The elderly at risk citizen is displaced indirectly by this service" and that "[the 1999 Proposition A] Bond vote was based on the assertion that LHH would admit persons who live in San Francisco according to a priority system **based on risk**" … "with the passage of the bond issue for rebuilding LHH, the intent was to keep LHH available for the elderly in San Francisco, who otherwise would find themselves discharged from the hospitals in SF to out of county."

Comparing data on admissions to M5 from before the Flow Project to after the Flow Project, the number of patients above 70 years of age has declined from 60% to 40% of all admissions (Attachment 10). Even comparing the age distribution of the entire LHH population 12/1/03 versus 12/1/04, the percentage of patients in all age groups over 70 years have declined, with the greatest decline (-28%) in patients over 90 years of age. At the same time the younger population, aged less than 60 years has doubled. This data suggests that the Flow Project has limited access to the very age group that the voters wanted served, thereby compromising the intent of Proposition A.

We are puzzled by Dr Katz's assertion in his April 14, 2004 letter to Dr. Paul Isakson (Attachment 11) that "all hospital-based SNFs in San Francisco prioritize the patients in their system before accepting patients from outside their system." LHH is ***not like*** other hospital-based SNFs, in that we are a taxpayer-supported institution. We worry that the change in admission policy has limited, and the Flow Project continues to limit, tax-funded health services to neighborhoods and the distinct groups of San Franciscans who live there.

Security at SFGH is the same as LHH (Dr. Katz's statement Mayor's Meeting 11/17/04), my nurses and doctors are not afraid to walk into those rooms… (Dr Katz's statement at City Services Committee Hearing 6/24/04)

Data obtained from the LHH Sheriff's Department reveals that there are only 8 full-time equivalent (FTE) Police Officers at LHH for a census of 1,055 patients (temporarily increased to 11 FTE's following media reports of a molestation of a female patient at LHH). At SFGH there are 54 FTE Police Officers for a census of 265 patients. In a letter to Mayor Newsom (Attachment 13), a senior LHH Psychiatrist explained that SFGH has one officer for every 5 patients, while LHH has one officer for every 120 patients. This is why SFGH, in contrast to LHH, can post an armed guard at every entrance and clinic, thereby providing a strong deterrent to criminal activity. The high-security environment at SFGH falsely minimizes the perceived risk posed by dangerous patients once they are transferred to LHH. LHH Physicians, Grace Dammann, M.D. and Rene Thomas, M.D. testified before the City Services Committee on June 24, 2004 how the LHH police are inadequately staffed to provide a secure environment for an increasing number of dangerous patients. Finally, at SFGH patients are acutely ill, which also serves as a deterrent to criminal activity. Once they are ready for long-term care, patients are generally feeling better and are physically able to engage in dangerous behaviors.

SFGH has open wards, just like LHH. (Dr Katz's statement at Mayor's Meeting 11/17/04)

SFGH does ***not*** have 30-bed open wards. SFGH has private and semi-private rooms, including specially staffed 4-bed "sitter" rooms for patients likely to injure themselves or others. All rooms have private bathrooms at SFGH. In contrast, the 900-bed main building at LHH has large dormitory-style open wards where 30 patients are housed in close proximity with only privacy

curtains between them. There are only communal lavatories at LHH. LHH's open wards are bustling and stimulating. In such communal settings, it is essential to group compatible patients so as to minimize friction and altercations.

We are exploring locking a unit at LHH for younger, aggressive patients… (Dr Katz's statement at Mayor's Meeting 11/17/04)

The Fire Marshall has mandated that we remove the locks on all of the doors, including the psychosocial units at Clarendon Hall following the March 2004 arson fire at LHH. OSHPD has also demanded that locked wards be abandoned. We are only permitted to lock the doors to the two secure wandering dementia Units (K-6 and L-6). To our knowledge, the option proposed by Dr. Katz does not currently exist.

Under the old LHH Admissions Policy, LHH would admit one from SFGH, one from other hospitals and one from home… (Dr. Katz's statement at Mayor's Meeting 11/17/04)

The LHH Admission's policy that existed prior to March 2, 2004 gave first priority to patients from home that could not receive adequate care in their present circumstances. Patients from SFGH received second priority, although we made every effort to respond to census pressures at SFGH promptly. During the last 17 years, there has not been a quota system for LHH admissions. On ward M-5, our admissions decisions were based on our ability to adequately and safely care for all patients referred to LHH. At times, this accounted for our taking patients from other hospitals ahead of some SFGH referrals that we could not adequately care for, or who might negatively impact other residents.

Half of the total LHH admissions prior to the Flow Project were from SFGH, and admissions from home and other San Francisco hospitals were evenly distributed. Following the Flow Project, SFGH patients constitute 72% of LHH admissions, and there are many fewer patients admitted from home and from hospitals other than SFGH. Given the 40% increase in admissions from SFGH and, the concomitant decrease in admissions from other facilities and from home, the Flow Project has seemingly created a "silo" around LHH because patients geographically removed from SFGH encounter a diminished access to LHH care. Instead, some of these patients are being sent to out-of-county nursing homes (see Attachment 10).

"There is a small, I think, group who are unhappy. They don't think Laguna Honda is the right place to take care of these more complex cases" (Dr Katz's statement in The San Francisco Examiner 11/25/04)

Laguna Honda Hospital specializes in caring for complex patients. What Dr Katz refers to, as "complex cases" in the professional opinion of experienced LHH doctors are potentially violent or dangerous patients. In his letter of response to Dr. Katz, Dr. Paul Isakson, then Chief of Staff

(Attachment 5) indicated that the LHH Medical Staff "strongly object" to Dr. Katz's proposal for admission of potentially violent patients over the opposition of experienced LHH doctors. Further, Dr. Katz's view of "complex cases" is not shared by independent, knowledgeable authorities including:

- Benson Nadell, California Long-Term Care Ombudsman who has stated "The ombudsman program is concerned that the City is turning LHH into a sub-psychiatric facility. In fact, the DOJ report observed that a younger, more disruptive population posed a risk on the frail and disabled population."
- OSHA Citation 2303a dated 9/04 detailing incidents of workplace violence involving dangerous patients that cannot be safely managed at LHH.
- The former LHH Medical Director, Dr Terry Hill's letter of 4/15/04 stating "In my tenure at LHH we have had two deaths and many injuries due to resident-to-resident altercations."

On 12-16-04, over 100 neighbors and homeowners from surrounding Neighborhood Associations attended a community meeting to address their increasing concerns about perceived dangers related to the recent influx of patients into LHH. This meeting resulted in a letter from Mr. John Farrell, Vice-President of the West of Twin Peaks Neighborhood Association, requesting assurance of adequate safety procedures from you and Dr. Katz (Attachment 12).

Is LHH part of the DPH, or is LHH doing its own thing? (Dr Katz at Mayor's Meeting 11/17/04)

We had been led to believe that our role was to serve all of San Francisco, and to function in accordance with Federal and State regulatory requirements. In fact, LHH was adhering to the Mission Statement of the DPH of "ensuring access to all" until the unauthorized 3/2/04 change of the LHH Admissions Policy. We also believed the Proposition A campaign promise that LHH was being rebuilt to serve the elderly and disabled of all San Francisco. This goal has apparently been subsumed to the fiscal concerns about decertified patients at SFGH, without adequate public discourse. We note that this seems to be a recurrent theme, in that a similar rationale was given for changing the mission of the voter-funded Mental Health Rehabilitation Facility (MHRF). (Attachment 14)

It is clear that fiscal pressures have driven the Flow Projects, directed at the MHRF and LHH. In the nine months since the LHH Flow Project began, the DPH has not presented data on human impact outcomes such as: safety considerations, quality of life and quality of care for:

- SFGH patients transferred to LHH,
- Existing LHH residents
- Those patients from home and other referring hospitals sent out of county

To date, LHH doctors have generated the only clinical outcome analyses concerning the Flow Project - on their own time – information crucial to a fair assessment of the Flow Project. This demonstrates that LHH Medical Staff are loyal and responsible DPH employees.

While preventing ambulance diversions and prolonged ER stays is a critical issue, we remain concerned that the cause of these problems has been attributed solely to "outflow" to LHH without examining internal flow problems at SFGH (Attachment 15: Memo to Ann Kronenberg and DPH Flow Committee).

This focus on fiscally driven patient flow and **external LHH** "impediments" — absent a focus on quality of care, safety, patient outcomes, and **internal SFGH** barriers to flow — obscures accountability, undermines our professional duty to patient welfare, and deprives City government of data needed for sound decision making. Indeed, these concerns of experienced clinicians at LHH have not resulted in an explanatory dialog with the DPH and were characterized as "distractions" by Commissioner Dr. Edward Chow.

I really respect The LHH Medical Staff, and there are no plans to replace the Medical Staff (John Kanaley, 12/13/04)

Trust is the first step to finding common ground. We have already explained that words must match actions for trust to develop. Three recent examples of dissonance between words and actions include:

- Denying any plans to reassign the LHH admission's screening physician.
- Denying that there were any plans to replace LHH physicians by Nurse Practitioners.
- Professing respect for the LHH Medical Staff while planning a non-collaborative audit targeting the Medical Staff.

Moreover, common ground will be elusive so long as there are seemingly contradictory statements from DPH Administrators and the Health Commission regarding the future of LHH. How do we reconcile Dr Katz's statements both at the Mayor's Disability Council and to the LHH Executive Committee that the mission of LHH will change to "social rehabilitation for the urban poor", while Commissioner Monfredini states (at 10/04 LHH JCC) that Dr Katz used the "wrong words" and Commissioner Chow (Medical Staff Meeting 12/14/04) characterizes Dr Katz's use of the term 'social rehabilitation' as "rhetoric"? Given these apparent inconsistencies, we are at a loss to determine the position of the DPH regarding the mission of LHH.

The future of LHH will be the subject of another meeting after the budget has passed. (Dr. Mitchell Katz Meeting with LHH Medical Staff 5/17/04)

- This meeting Dr Katz committed to in May, has yet to occur.

- Commissioner LeeAnn Monfredini told us to "get on the train" (LHH JCC 10/04) when those of us closely involved with the Flow Project have not been told where that train is going.

- Meetings of the Health Commission have been cancelled with short notice, most notably the long awaited 11/16/04 Health Commission Meeting at Laguna Honda Hospital.

- Dr. Edward Chow, in his first meeting with the LHH Medical Staff after 9 months of controversy over the changes at LHH, told us "I'll take down your questions and get back to you."

For concerned clinicians, it is most confusing that neither the Health Director nor the Health Commission has provided adequate explanations or guidance regarding their plans for the future of LHH. The transformation that all LHH staff are witnessing is of such magnitude that a minimum response from the Health Director and the Health Commission would be an LHH Community Meeting to explain the change in direction and the future of this venerable institution. Other options include a "White Paper" on the future of LHH from the Health Director or a Blue Ribbon Commission with a mandate to establish common ground.

In summary, the mission of LHH involves moral and professional obligations that transcend the fiscal pressure to move patients out of SFGH. As Dr. Katz acknowledged, there are "cultural differences" between long-term caregivers at LHH and the acute-care, house-staff model of SFGH, which must be respected. And there are significant information deficits and disagreements.

Given our sincere desire to find "common ground", these issues can be resolved satisfactorily through a respectful and collaborative process even if we do not always agree. We know that recent months have been painfully difficult for administrative decision-makers who must grapple with complex and harsh realities. We do not wish to add to these burdens. Rather, we hope that our input, though pointed, will help promote wise and compassionate progress. We look forward to meeting again to discuss these mutual concerns, and gratefully appreciate Mayor Newsom's, Larry Funk's and your reaching out to begin the process.

Respectfully submitted,

[Signature]	[Signature]
Maria V. Rivero, M.D	Derek Kerr, M.D., C.N.A.
Admissions Ward (M-5)	Hospice & Palliative Care Service
Med/Surg Screener SFGH	UAPD Steward
17 years at LHH	16 years at LHH

cc: Mitchell Katz, M.D., Health Director
Edward Chow, M.D., President San Francisco Health Commission
Ann Kronenberg, Deputy Director of Health, Chair of DPH Flow Committee
Paul Isakson, M.D., LHH Medical Director
Tim Skovrinski, M.D., LHH Asst Medical Director and Chief of Medicine
Monica Banchero-Hasson, M.D., LHH Chief of Staff
Larry Funk, Former LHH CEO
Mayor Gavin Newsom
Supervisor Sean Elsbernd

Louise Renne, LHH Foundation
Robert Weinmann, M.D., UAPD President
Benson Nadell, M.S.W., Director, San Francisco Long Term Care Ombudsman

Attachments