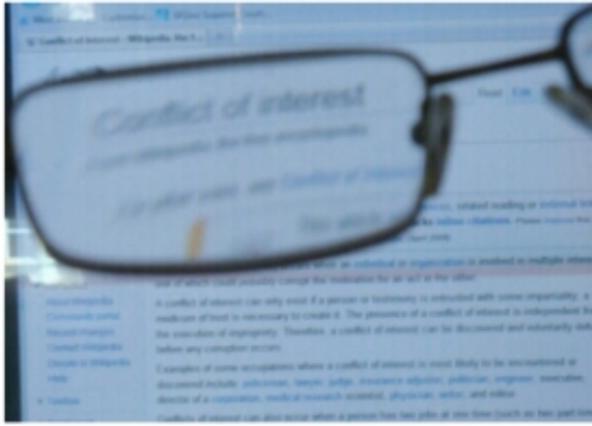
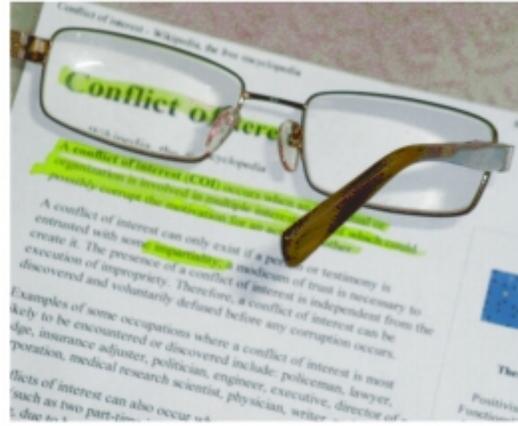


Potential conflict of interest may skew a new ‘review’ of Laguna Honda Hospital’s troubled patient gift fund

by Patrick Monette-Shaw
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Myopia shouldn't obscure potential conflicts of interest in "audits" of LHH's patient gift fund.



City voters passed "Proposition C" in 2003 to ensure audits are free of conflict of interest.

The potential conflict of interest of San Francisco's Deputy City Controller may skew, however inadvertently, a new "review" of Laguna Honda Hospital's troubled patient gift fund, in part because it is not considered a full "audit."

Readers should not believe public service announcements reporter Dan Ashley began airing on Channel 7 during the week of August 22, claiming LHH's misspent patient gift funds "went back to patients" as a result of KGO TV's I-Team single broadcast on May 20. It simply isn't true, since there has been no independent audit, and no restitution of missing patient funds.

The funds clearly have NOT been returned to benefit patients, despite Ashley's probable incorrect reporting.

The delayed restitution may be caused by a perceived or actual conflict of interest.

Typically, news reporters who report incorrect information are censured by their peers, as Ashley should be, since there is no proof to date, and no public records, substantiating his misguided claim implying restitution of funds to benefit actual patients at LHH has occurred.

Whistleblower doctors Kerr and Rivero have received no notice of restitution of misspent patient gift funds.

A conflict of interest may result when an individual involved in a proceeding may have multiple interests, one of which interests might potentially corrupt the motivation behind an act.

Indeed, Deputy City Controller Monique Zmuda was scheduled to return to LHH the week beginning August 30 to conduct yet another "review" — apparently not an actual audit — of LHH's patient gift fund, disproving Ashley's public service announcement.

She wouldn't be heading to LHH to conduct this second new "review" of the patient gift fund, if restitution of the misspent funds had already been made to patients, as Ashley had incorrectly reported. Why would she return now if restitution had already been made?

According to an e-mail she sent, her "audits group" will ostensibly determine under what "authority" LHH may have departed from the Municipal Code in administering gift funds earmarked to benefit actual patients.

Further, she claimed the new review would determine whether the patient gift fund was administered in accordance with stipulated mandates, before potentially re-performing allocation of over \$100,000 in interest earned diverted to staff sub-accounts rather than to patients, after determining "reasonableness" of the diverted funds.

Zmuda will need to dig deeper to quell concerns, since former LHH doctors Maria Rivero and Derek Kerr have recently uncovered through additional public records requests that massive “cost shifting” of expenses from the hospital’s operating budget was pushed onto the patient gift fund beginning in 2004, despite provisions prohibiting use of the gift fund for routine hospital operations.

Their cost-shifting investigation will be the subject of a future article by this Examiner.

Doctors Rivero and Kerr — whose whistleblowing research alerted the public to the raid of funds intended for patients suddenly began funding staff perks in 2004 and 2005, and which continued through 2009 — remain concerned about the role of Ms. Zmuda in any audit of LHH’s patient gift fund.

In his testimony to the Citizen’s General Obligation Bond Oversight Committee (CGOBOC) on August 26, Dr. Kerr noted that Zmuda was, until July 2002, CFO for the Department of Public Health under Mitch Katz, Director of Public Health.

In that role, Zmuda oversaw the LHH gift fund income and revenue accounts.

In public testimony that the two doctors submitted to CGOBOC on August 20, they noted their concern about potential conflicts of interest in the Controller’s Office that might affect the decision to hire an outside, independent auditor.

They appear concerned Zmuda’s working relationship with the Department of Public Health may cloud her judgment, and objective review, of LHH’s patient gift fund.

What worries them is that Zmuda’s professional relationship may make it difficult for Zmuda to impartially assess management or mismanagement of LHH’s patient gift fund that she previously oversaw.

The two doctors are also worried Zmuda can’t propose remedies that reflect critically on prior policy and management decisions over the patient gift fund.

Since the KGO TV broadcast on May 20 exposing problems with the patient gift fund, the San Francisco’s Controller’s Office has failed in the intervening four months to conduct an audit of the patient gift fund at LHH.

Section F1.100(b)(6) of the 2003 voter-approved adoption of the City Services Auditor charter change indicated that when conflicts of interest arise, the City Controller is authorized to hire “outside independent assistance” when in-house employees are subject to potential conflicts of interest.

If ever there was an appropriate time for Zmuda to recuse herself from involvement in a so-called new “review” of LHH’s patient gift fund, now would be the time for her to consider such recusal.

After all, the Cash Accounting and Reconciliation section of the Controller’s Office is responsible for cash accounting and reconciliation, interest allocation, and analytical review of cash deposits, transfers, and investment balances, all areas Zmuda is thought to be involved in.

Zmuda’s responsibilities may also include oversight of post-audit review of financial transactions recorded in FAMIS, another reason she might consider recusal.

Hopefully, the new “review” by Zmuda’s audit group won’t whitewash — or skew — what has happened to the \$745,000 that may have went missing from the patient gift fund between 2004 and 2005.

Also hopefully, we’ll get an accurate accounting of other patient gift fund irregularities, not a skewed whitewash.

Mayor Newsom should direct City Controller Ben Rosenfield to use the provisions in City Charter Section F1.100(b)(6) by using outside independent assistance “when in-house employees are subject to potential conflicts of interest” to prevent the real or perceived conflict of interest involving LHH’s patient gift fund.

After all, even Abraham Simmons, the Chairperson of CGOBOC, and other members of CGOBOC, who function under the City Controller’s Office, were advised during its July 8 hearing on their responsibilities to function as the “Citizens Audit Review Board” — a newly-formed committee (albeit seven years late) — that “CGOBOC is one of the few places in all of City government where there’s an actual place in the Charter that says the Controller can hire outside experts,” particularly for whistleblower complaints.

If the City doesn’t use an outside auditor to examine LHH’s patient gift fund, any review by Zmuda’s audits group will be flawed by the cloud of potential conflict of interest hovering around her.