

## **COST SHIFTING:**

### **PATIENT DONATIONS PAY FOR HOSPITAL OPERATIONS at LAGUNA HONDA HOSPITAL**

**Report to the San Francisco Health Commission, the Civil Grand Jury,  
and the City Controller's Whistleblower Program**

**August 20, 2010**

#### **A. Catering Costs – Discovering a Source of Funds**

The depletion of the LHH Patient's Gift Fund, from **\$2,086,000 to \$590,000** began in 2004.

Two weeks after being appointed Executive Administrator of Laguna Honda Hospital (LHH), John Kanaley made a discovery. As noted in the LHH Hospitalwide Executive Committee (HEC) Minutes of 11/16/2004;

*“John (Kanaley) reported that he was asked to sign off on a reimbursement to be paid from the LHH Gift Fund. He has since learned that there is **more than \$2 million dollars in the gift fund.**”*

It was decided that executive staff, who serve at the pleasure of the Executive Administrator;

*“...will review the Gift Fund policy and procedure and provide input to John, and this will be discussed at the next meeting...”*

#### **B. The Cost Shifting Decision**

At the next HEC meeting on 11/30/2004, the LHH Gift Fund was: *“Not discussed.”* Instead, the Minutes show that *“John sent out information to the Exec Staff via e-mail for comment.”* Thus informed, then Chief Operations Officer (COO), Robert Christmas, announced;

*“...LHH will need to spend less on catering services in 2005.”*

In fact, the decision to tap into the Patient Gift Fund to pay for catering expenses had already been made.

In a document dated 11/24/2004 and titled “Adjustment To Increase Expenditure Account – Charge HLMISC Fnd. for Dietary Svs. Oct. 04”, a sum of **\$4,787** was charged to the Miscellaneous Account of the Patient Gift Fund. The charge was for in-house catering - food, supplies and services provided by the LHH Dietary Department. The Dietary Department is under the direction of the Chief Operations Officer.

At the HEC meeting of 12/7/2004 the COO reported on expenditures for fiscal years 2004/2005. A concerned executive warned of *“...the need for policy issues to go through the Executive staff”*. The cost shifting of catering expenses to the Patient Gift Fund temporarily stopped.

Importantly, it was announced that a new Gift Fund Policy was approved. This Gift Fund Policy revision, back-dated 12/2/2004, removed the patient representative from the Gift Fund Management Committee, and abolished the quarterly report of Gift Fund expenditures to the Health Commission. With these oversight mechanisms out of the way, a **new** Gift Fund expenditure could be implemented.

Then, at the HEC meeting of 12/21/2004, the COO stated he would;

*“...share a catering tally with John (Kanaley) to show what we spend on catering for various events.”*

After a hiatus of 6 months, documentation of catering cost-shifting from LHH Operations to the Patient Gift Fund re-appeared in July, 2005. Thereafter, the newly-devised Gift Fund catering expense of about **\$3,000** appears monthly. Over the next 5 years, about **\$175,000** was taken from the Patient Gift Fund for hospital catering costs.

### **C. Robbing Peter to Pay Paul?**

Our review of LHH Gift Fund expense records from 2001 to 2009 shows that cost shifts from hospital catering operations to the Patient Gift Fund did **not** occur prior to November of 2004.

Significantly, this **new** expenditure was **not** reported to the Health Commission. The requirement to do so was conveniently deleted from the newly-revised Gift Fund Policy of 12/2/2004. The 2004 Minutes of the Health Commission’s LHH Joint Conference Committee show neither mention nor **approval** of this new Gift Fund expense. Yet, the City’s Administrative Code section 10:100-201 that governs the Gift Fund states;

*“All expenses from the fund require the approval of the Public Health Commission.”*

Records from the LHH Dietary Department show that in-house catering orders had previously been approved by the Chief Operating Officer, or officers of the Dietary Department, and Activity Therapy Department. Apparently, these catering costs were absorbed by their departmental budgets. In other words, it appears that catering services had been basic operational hospital expenses before 2004.

Although the Dietary Department sent catering bills to Nursing, Volunteers, Pastoral Care and Neuropsychology, these departments did **not** pay them. Instead the catering costs were charged to the Patient Gift Fund. Presumably the money was then deposited into Laguna Honda Hospital’s Operations account. In a sense, the hospital was taking money from the Gift Fund to pay itself for goods and services it had previously provided as part of routine operating expenses.

If so, this runs counter the existing LHH Gift Fund policies of 1998 and its 12/2/2004 revision. Both policies state that;

*This restricted fund is available neither to support the minimum obligation of the City to operate the hospital nor to fund routine City expenditures, rather the fund shall benefit residents in general to enhance the quality of life of residents **beyond the basic care** provided by the City at the Hospital.”*

#### D. Data Analysis: What Were These Catering Costs?

Public records for 6 of the monthly “FOOD” expenses charged to the LHH Gift Fund between December 2008 and July 2009 show the following;

**Average “FOOD” costs = \$2,928/month (Annualized = \$35,136/year)**

##### **Charged to Nursing Department**

- |   |                 |
|---|-----------------|
| 1) Ward Birthday cakes/cupcakes = \$1,129/month   | (\$13,544/year) |
| 2) Substance Abuse Treatment Groups = \$477/month | (\$5,722/year)  |
| 3) Ward K=6 Snack Order = \$361/month             | (\$4,334/year)  |
| 4) Ward L-6 Snack Order = \$251/month             | (\$3,012/year)  |
| 5) Ward Coffee Requests = \$221/month*            | (\$2,649/year*) |
| 6) Hospice Paper/Plastic Supplies = \$130/month   | (\$1,556/year)  |

\* average for 4 months only

##### **Charged to Pastoral Care**

- |  |               |
|--|---------------|
| 7) Pastoral Care Sunday Coffee/Sandwiches = \$215/ | (\$2582/year) |
| 8) Pastoral Care Monthly Birthday Cake =\$44/month | (\$264/year)  |

##### **Charged to Volunteers**

- |                                   |                |
|-----------------------------------|----------------|
| 9) Ward Coffee Cart = \$106/month | (\$1,272/year) |
|-----------------------------------|----------------|

##### **Charged to Neuropsychology**

- |   |              |
|---|--------------|
| 10) Cream for Gourmet Coffee Bar = \$17/month | (\$204/year) |
|---|--------------|

##### **Service Charges**

All the above catering costs included a **20% service charge** by the LHH Dietary Department.

#### E. Outdated Standing Orders – And Unchanging Charges

Our analysis of these expenses reveals that most of these catering requests were “standing orders”. Many were years, and in some cases, over a decade old but continued week after week for the same amount and list of supplies. Some standing orders were signed by Administrators who had long since left Laguna Honda. Catering services delivered in July 2009 were based on “standing orders” dated as follows;

- *Pastoral Care* 1999
- *NeuroPsychology* 2003
- *L-6/K-6 Snack Orders* 2005
- *SATS & Alcoholics Anonymous Groups* 2007

These dated standing orders were repeatedly charged to the Patient Gift Fund without any changes through July 2009. This despite the **20% drop** in the hospital census during that time, and the

variable attendance in Substance Abuse Treatment Groups and Pastoral services from month to month.

Further, LHH staff told us that some catering deliveries did not match what was listed on the dated standing orders. For example, Pastoral Care volunteers report that for the past year, they had not received Sunday sandwiches and coffee from the Dietary Department.

## **F. Basic Services versus Amenities Defined**

The difference between required “basic care” or operational expenses, versus patient amenities is defined by Federal and State regulations governing Skilled Nursing Facilities, especially Title 22 of the California Code of Regulations (CCR).

### **I. Definition of Activities**

*CCR §72379. Activity Program—General*

*An activity program means a program which is staffed and equipped to encourage the participation of each patient, to meet the needs and interests of each patient and to encourage self-care and resumption of normal activities.*

### **II. Supplies for Activities**

*CCR §72387. Activity Program--Equipment and Supplies*

*Each facility shall provide equipment and supplies for both independent and group activities and for patients having special needs.*

### **III. Group Activities**

*CCR§72381. Activity Program – Requirements.*

*(a) Patients shall be encouraged to participate in activities planned to meet their individual needs. An activity program shall have a written, planned schedule of social and other purposeful independent or group activities. The program shall be designed to make life more meaningful, to stimulate and support physical and mental capabilities to the fullest extent, to enable the patient to maintain the highest attainable social, physical and emotional functioning **but not necessarily to correct or remedy a disability.**”*

### **IV. Snacks**

*CCR §72335. Dietetic Service--Food Service*

*(1) Not less than 3 meals shall be served daily and with not more than a 14-hour span between the last meal and the first meal of the following day.*

*(2) Between-meal feeding shall be provided as required by the diet order. Bedtime nourishments shall be offered to all patients unless contraindicated.*

## V. *CANHR's Interpretation Re: Snacks*

The California Advocates for Nursing Home Reform (CANHR) website [http://www.canhr.org/factsheets/nh\\_fs/html/fs\\_CareStandards.html](http://www.canhr.org/factsheets/nh_fs/html/fs_CareStandards.html) outlines the requirements as follows:

*“Nursing homes must provide each resident a nourishing, palatable, well–balanced diet that meets daily nutritional and special dietary needs.<sup>25</sup> Additionally, nursing homes must:*

- *Serve at least three meals daily, at regular times, with not more than a 14–hour span between the evening meal and breakfast;<sup>26</sup>*
- *Offer snacks at bedtime;<sup>27</sup>*
- *Reasonably accommodate resident food and mealtime preferences;<sup>28</sup>*
- *Offer a food substitute of similar nutritional value if a resident refuses food”*

*“Each resident should be provided a plentiful supply of fresh water or other beverages”*

## G. **LHH Catering Services - Amenities or Operating Expenses?**

### 1. **Ward Coffee Requests (\$2,649/year)**

The “Ward Coffee Requests” were primarily used by nursing and other salaried staff. Accordingly, these supplies should be considered as Operations or Nursing budget expenses. Previously, nurses would chip in to buy coffee and supplies for staff use. Of note, Ward Coffee Requests were not found in the June and July 2009 expense statements.

### 2. **Snacks for the Locked Dementia Communities (\$7,346/year)**

The expenses for snacks on the locked dementia wards (K-6 and L-6) are for the pleasure of those patients only, but the Hospital is required to provide snacks by California law. Because these confined patients do not have access to snack machines, roving coffee carts, etc., extra snacks should be delivered by the Hospital.

Among the snacks charged to the Patient Gift Fund were “Nutracare”, a costly formulated product used as a juice substitute for diabetics, mainly to ease the swallowing of medications. Nutracare alone cost **\$2,400/year** or **57%** of the snack charges for ward K-6. Other LHH wards also receive Nutracare – but as an operational expense. Providing such beverages on the locked wards is more an operational requirement – rather than a quality of life amenity.

### 3. **Substance Abuse Treatment Group Snacks (\$5,722/year)**

The yearly expense of **\$5,722** for donuts, pastries, and beverages for patients attending Substance Abuse Treatment Groups (e.g. Alcoholics Anonymous, Narcotics Anonymous) is problematic. Such Group Therapy is **not** a recreational or quality of life “Group Activity” as defined by Title 22. In fact, some patients are required to attend SATS treatment Groups by behavioral contracts.

Because the caterings for SATS Groups are adjuncts to medical treatment, or incentives to continue therapy, it is unclear why they are charged to the Patient Gift Fund. They are similar to providing apple juice to help patients take their pills – where the juice is considered a Nursing operations expense. Accordingly, catering services for SATS Groups that primarily

aim to “correct or remedy a disability” should be covered by the hospital operations budget, rather than the Patient Gift Fund – unless Gift Fund **donors** specifically identify the SATS Program as a beneficiary.

#### **4. Birthday Cakes for Monthly Birthday Celebrations (\$11,732/year)**

The largest in-house catering expense is for Birthday cakes delivered to each ward for patients who had a birthday that month. Activity Therapists and nurses generally facilitate these celebrations. The Birthday cakes are supplies for Group Activities and therefore should be provided by the Hospital as a basic service and operating expense. Birthday cakes for monthly Birthday parties are a community standard of nursing home “basic care”.

We called several San Francisco Skilled Nursing Facilities that accept Medi-Cal patients (Mission, 19<sup>th</sup> Avenue, Sheffield, and Hayes Valley Convalescent Hospitals). All of them provided monthly birthday cakes for their residents as an operational expense. LHH may be the **only** Skilled Nursing Facility in the City that relies on donations to provide Birthday cakes for its patients.

#### **5. Head Trauma Program’s “Jump Start Café” (\$204/year)**

The Café is both an occupational therapy activity for the group, as well as a recreational activity for the patients who partake in the coffee and snacks. Therefore, the supplies for this combination therapy/activity should be an operating expense.

#### **6. Volunteers Coffee Cart (\$1,272/year)**

The “Coffee Cart” that goes to all the wards is a volunteer-facilitated activity that could be an operating expense – or an amenity. Volunteer services are supported by LHH Volunteers, Inc., a major Gift Fund donor, so there is **donor**-driven Gift Fund support for this quality of life amenity.

#### **7. Paper/Plastic Goods for Hospice (\$1,556/year)**

The paper plates, plastic cups and utensils ordered by the Hospice ward are mostly for “Hospice Happy Hour”. They are also used for food activities organized by the Activity Therapist and therefore are expenses for Group Activities rather than amenities. The Hospice ward serves about 100 terminally ill patients a year, most confined to the ward by illness. Some patients are transferred in from other wards. Since **donors** to the Hospice Gift Fund intend to support Happy Hour, these supplies could be considered as operational expenses - or charged to the Hospice Gift Fund account.

#### **8. Pastoral Care Services Snacks (\$2,582/year)**

Pastoral Care volunteers bring some 50 patients to Mass every Sunday and, according to the records we received, serve sandwiches and coffee at a cost of **\$2,582/year**. Participation in religious activities is a patient right, as well as a part of Activity Programs, per Title 22. Although, this serves a sub-population of LHH patients, it enhances quality of life through shared spiritual activities. The food served may be considered an amenity and a gift appropriately charged to the Patient Gift Fund, or an operational expense for the Activity Therapy Department.

## Summary:

Starting in November, 2004 some routine hospital catering services were charged to the Patient Gift Fund. Some of these catering expenses are actually required basic services, or simply clinical operational functions that do not qualify as Patient Gift Fund amenities.

Such cost-shifting may be justified if a Gift Fund **donor** requested to fund a particular catering service. Absent such a donor request, using donated funds for operational expenses is not justified.

Distinctions between hospital operating expenses and quality of life “amenities” should be based on State and Federal regulations governing Skilled Nursing Facilities. This **was** the case at LHH until November of 2004, when a cost-shifting plan was instituted by a newly-appointed Executive Administrator. As a result, about **\$175,000** has been taken from the Patient Gift Fund over the past 6 years, and patient amenities are being cut to avoid insolvency.

## Recommendations:

We recommend:

- A full and impartial audit of the LHH Patient’s Gift Fund.
- Annual reviews and re-approvals of “standing orders” for catering services and charges, given the drop in LHH’s patient population and the changing needs for catering services.
- Restore the following catering services to the hospital’s operating budget;
  - Ward Coffee Requests (**\$2,649/year**)
  - Substance Abuse Treatment Group Coffee/Pastries (**\$5,722/year**)
  - Locked Ward (K-6/L-6) Snacks (**\$7,346/year**)
  - Ward Birthday Cakes (**\$11,732/year**)
- Restitution of any misspent catering costs since 11/24/2004 to the Patient Gift Fund (estimated at **\$150,000**).

We welcome comments and questions regarding this analysis and our recommendations. Supporting documents are available upon request.

Respectfully Submitted,

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