

Laguna Honda Hospital Unanswered Questions Remain for the Patient Gift Fund

by Patrick Monette-Shaw

Since a Whistleblower complaint about potential inappropriate spending from Laguna Honda Hospitals (LHH) Patient Gift Fund was filed last March, no corrective action has been taken.

After KGO TV's "I-Team" investigative journalist Dan Noyes aired a story on May 20, nothing meaningful has been done. Numerous public records requests subsequently placed have lead to only more questions, and few answers.

LHH was cited by California's Licensing and Certification (L&C) Division for a fairly serious "deficiency" involving patient choice in therapeutic activities, as a direct result of potential misappropriation of donations to LHH's Patient Gift Fund. In a citation involving "misappropriation of property/activities," L&C issued an "E" deficiency — citing a violation of Federal law — against LHH on May 19, the day before Noyes' story aired. The State citation documented patients now wait up to three months for bus trip outings to culturally-appropriate restaurants.

An "E" deficiency involves a "pattern" having a potential for more than minimal harm, but not immediate jeopardy and without actual harm.

It is thought that the State is required to report potential violations of Federal regulations to the U.S. Department of Justice, which remains concerned about the welfare of residents at LHH.

The day after the KGO story aired, City Controller Bed Rosenfield recommended on May 21 — following a cursory "review" to determine whether LHH's accounting practices were consistent with City policies — that in order to avoid continuing questions regarding the Patient Gift Fund, "the Department of Health" [sic] should "create a separate account ... for employee training and development," effectively ordering DPH to segregate funds donated to benefit patients from funds for staff luncheons, education, and development.

Deputy City Controller Monique Zmuda acknowledged on May 25 the Controller's review was "not an audit." Indeed, no audit has been performed to anyone's knowledge or the City would have already released results of an audit.

Later, Zmuda provided documentation indicating there are 20 separate sub-accounts within the Patient Gift Fund, four of which are for staff education purposes used mostly to fund catered meals for staff. The staff education accounts remain embedded within the Patient Gift Fund.

A patient was potentially denied funding from the Patient Gift Fund in the current fiscal year for a mechanical lift needed for discharge.



Ribbon Cutting Ceremony at Laguna Honda masks the turmoil that is going on behind the scenes.

Mayor Gavin **Newsom** at podium addressing the crowd. Seated on stage, first row: Louise **Reene**, president, LHH Foundation; State Senator Leland **Yee**; State Senator Mark **Leno**. Second row: Mitch **Katz**, San Francisco Director of Public Health; City Supervisor Sean **Elsbernd** (District 7).

Shortly after LHH's 2004 revisions to its Patient Gift Fund policy, increases in gift fund expenditures benefitting LHH's staff, rather than patients, soon skyrocketed, after three staff education sub-accounts were created on August 12, 2005 shortly after Kanaley took control; the other education account was created in January 2008.

In stark contrast to the \$2,500 needed to purchase the mechanical lift, documents provided responding to public records requests placed by former LHH physician's Maria Rivero and Derek Kerr revealed that in current fiscal year 2009–2010, the Patient Gift Fund spent at least \$12,675 on catered meals for senior hospital staff members.

LHH suddenly, and deliberately, revised its Patient Gift Fund policy #45-01 on December 2, 2004 one month after former LHH Executive Administrator John Kanaley was hired, removing a patient representative from its Gift Fund Management Committee. A required quarterly report of gift fund activity to the Health Commission was also eliminated, weakening oversight of how donations are spent. When LHH suddenly revised the policy again on April 15, 2010, the Gift Fund Management Committee was simply eliminated.

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Although Rivero and Kerr have proposed a six-point action plan to restore the charity-donating public's trust in the Patient Gift Fund, none of their proposed remedies have been implemented since KGO's May 20 story aired.

Their action plan requested an independent fiscal audit of the gift fund's income and expenses for the past five years, full restitution of any misspent donations intended for patients must be restored, the Gift Fund Management Committee must be reinstated, a patient representative or ombudsman must be appointed to the Gift Fund Management Committee, approval of any disbursement over \$500 from the Patient Gift Fund must be included in published minutes of monthly meetings of the Gift Fund Management Committee, and quarterly reports itemizing all donations and expenses to the Patient Gift Fund must be submitted to the San Francisco Board of Supervisors' Budget and Finance Committee for public review.

Other remedies proposed include returning the gift fund policy to its pre-December 2004 status, and a mission statement describing the intended uses and "restricted purposes" for each of the 20 sub-accounts must be restored and posted on LHH's web site.

In mid-2009 LHH's current Executive Administrator Hirose combined previously-held community meetings with her monthly Town Hall staff meeting, opening the combined meeting to the public. But in reaction to the KGO story, on June 4 LHH's combined meetings went closed, locking out the public.

"After two years of arm twisting by neighbors demanding LHH hold community meetings, now we can't even get return calls or email replies. Denying us access to community meetings to ask whether our donations to the Patient Gift Fund and Volunteers, Inc. have been misappropriated is an affront," says George Wooding, president of the West of Twin Peaks Central Council.

On May 24, Kerr and Rivero submitted a complaint to the California Attorney General's Registry of Charitable Trusts, requesting that the State audit LHH's Patient Gift Fund. They have since submitted supplements to the Registry documenting additional problems.

They documented at least \$188,442 in questionable allocations and expenses that should have benefitted patients, did not. The City has provided some conflicting public records highlighting potential accounting discrepancies. Rivero and Kerr are still investigating what has happened to three major bequests, and are concerned about irregularities with the Hospice sub-account.

"Various oversight authorities have an obligation to investigate," Kerr maintains, convinced LHH's patients and Patient Gift Fund donors deserve no less than a full audit.

To that end, Kerr and Riveo have asked that the U.S. Attorney for the Northern District of California, Joseph Russoniello, to investigate and conduct a full audit, since his office pursues restitution on behalf of victims and violations of federal law.

The Patient Gift Fund balance was \$2,086,872 in December 2004. The Controller's Office confirmed as of June 6, 2010 the current balance dropped to only \$726,808, indicating that within five-and-a-half years it shrank by \$1.3 million. Of the remaining balance, 17% (\$123,517) is dedicated for staff use, and only \$603,291 remains in sub-accounts for patients.

At the rate of current earnings and spending, the Patient Gift Fund may be completely insolvent within three years.

Three donations totaling \$54,502 from Laguna Honda Volunteers, Inc. likely intended for direct patient benefit were deposited into sub-accounts for nursing, administration, and physician education, instead.

Like most of us, patients enjoy going out to enjoy a meal at a nice restaurant. Patient bus trips to restaurants plummeted 66 percent between first quarter 2009 and first quarter 2010, even while staff education sub-accounts earned \$89,998 in interest on May 11, 2010. In first quarter 2009, 487 patients went on restaurant outings; by first quarter 2010, the number of patients provided restaurant trips plummeted to only 166.

The monthly bus trips provide unique opportunities for social dining, culturally meaningful meals, and connection with San Francisco's greater community. The interest deposited into the staff education accounts could have funded an additional 464 restaurant outings for patients.

Supervisor Sean Elsbernd attempted to justify the reduced bus trips on the drop in LHH's patient census and that current patients have a higher acuity, implying they are too sick for outings. He offered no proof LHH now has higher-acuity patients. And Elsbernd had his dates wrong; LHH's census had already dropped to 790 patients by March 2009, and it had 760 patients in January 2010, indicating that the census had fallen by just 3.7 percent — which doesn't justify cutting the restaurant bus trips by 66%.

When a donor to Laguna Honda Volunteers Inc. requested its board of directors support calls for an audit of LHH's patient gift fund, the board's administrative consultant responded that Volunteers, Inc. had been assured by LHH's staff and the City Controller that "there was no impropriety" regarding funds Volunteers, Inc. donated for patient benefit. Details in the multiple complaints Rivero and Kerr submitted to various regulatory agencies reveal many improprieties in expense and revenue records.

Why would Volunteers, Inc. believe the very LHH staff thought to be responsible for potential misappropriation of funds from trust purposes to non-trust purposes?

To his discredit, Supervisor Elsbernd — who has the power to do so — hasn't called for a full audit, nor has he held any hearings to explore potential Patient Gift Fund abuses. Donors and patients have a right to know what happened to these restricted-use donations.

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