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**Tessie M. Guillermo**  
Commissioner

**HEALTH COMMISSION  
CITY AND COUNTY OF SAN  
FRANCISCO**

**London N. Breed Mayor  
Department of Public Health**



**Grant Colfax, MD**  
Director of Health  
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Executive Secretary

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**MINUTES**  
**HEALTH COMMISSION MEETING**  
**Tuesday August 16, 2022 4:00 p.m.**  
**101 Grove Street, Room 300**  
**San Francisco, CA 94102 & via Webex**

**1) CALL TO ORDER**

Present: Commissioner Laurie Green, MD, Vice President  
Commissioner Edward A. Chow M.D.  
Commissioner Cecilia Chung  
Commissioner Suzanne Giraud, Ph.D  
Commissioner Tessie Guillermo

Excused: Commissioner Dan Bernal President  
Commissioner Susan Belinda Christian, J.D.

The meeting was called to order at 4:02pm. Commissioner Green chaired the meeting.

**2) DPH EMPLOYEE RECOGNITION: HALI HAMMER, MD, DIRECTOR OF AMBULATORY CARE, SAN FRANCISCO HEALTH NETWORK**

Roland Pickens, Director, San Francisco Health Network and Acting LHH CEO, presented the item.

Commissioner Comments:

Commissioner Chow stated that Dr. Hammer is an asset to the entire DPH and San Francisco public health community.

Commissioners Giraud and Green thanked Dr. Hammer for being a wonderful teacher.

Commissioner Chung thanked Dr. Hammer for her dedication and many contributions, noting that she is often an anchor, bringing calmness in stressful situations.

Commissioner Guillermo stated that she is appreciative of the many gifts Dr. Hammer brings to the DPH and many diverse communities in San Francisco.

**3) APPROVAL OF THE MINUTES OF THE HEALTH COMMISSION MEETING OF AUGUST 2 2022.**

Action taken: The Health Commission approved the minutes of the August 2, 2022 meeting.

**4) DIRECTOR'S REPORT**

Grant Colfax MD, DPH Director of Health, presented the item.

**SAN FRANCISCO WINS LANDMARK OPIOID TRIAL AGAINST WALGREENS**

San Francisco acting on behalf of the People of the State of California won its landmark opioid trial against Walgreens pharmacy. Judge Charles R. Breyer of the U.S. District Court for the Northern District of California found Walgreens is liable for substantially contributing to the opioid epidemic in San Francisco.

The Court found Walgreens over-dispensed opioids without proper due diligence and failed to identify, report, and halt suspicious orders as required by law. This is the first bench trial to decide in favor of Plaintiffs in opioid litigation and the first bench trial to find Walgreens liable.

These corporate practices fueled a widespread surge of opioid-related addiction and overdose in San Francisco, thereby creating an ongoing public nuisance in the region. From 2006 to 2014, San Francisco County saw 163,645,704 opioids distributed, enough for 22 pills per person per year. Between 2015 and 2020, San Francisco saw a 478% increase in opioid-related overdose deaths, and in a typical day at ZSFG Emergency Department, approximately 25% of visits are opioid-related.

This trial is the fourth bellwether case in the federal opioid litigation proceeding involving more than 3,000 American cities, towns, and counties, bringing opioid manufacturers, distributors, and pharmacy chains to court for fueling the opioid epidemic. This case will serve as a test trial to help reach resolutions and seek accountability for the destruction the opioid industry caused.

The next stage of trial will determine the amount Walgreens must pay San Francisco to abate the nuisance they caused. The case is City and County of San Francisco, et al., v. Purdue Pharma L.P., et al., Case No. 3:18-cv-07591-CRB.

**SAN FRANCISCO SUES FEDERAL GOVERNMENT OVER FORCED LAGUNA HONDA HOSPITAL CLOSURE**

San Francisco City Attorney David Chiu and former City Attorney Louise Renne announced that they filed a pair of lawsuits over the federal government's decision to cut off federal funding to Laguna Honda Hospital and mandate that the facility transfer or discharge all patients by September 13, 2022.

The City's lawsuit against the U.S. Department of Health and Human Services (HHS) and Health and Human Services Secretary Xavier Becerra alleges that the Centers for Medicare & Medicaid Services (CMS), which operates under HHS, forced the City to implement an unworkable closure and transfer plan that denies the City due process and puts Laguna Honda patients at risk. The complaint lays out how CMS imposed an arbitrary September 13 deadline to transfer Laguna Honda's patients and has denied the City due process as the facility is required to close well before the City's administrative appeals can be decided—appeals that would render the transfers unnecessary. The lawsuit seeks declaratory and injunctive relief to eliminate the September 13 deadline and extend federal funding to Laguna Honda at least until the appeals can be decided and all patients can be safely transferred or discharged.

Similarly, Louise Renne, founding partner at the Renne Public Law Group (RPLG) and former San Francisco City Attorney, announced that she has filed a class action lawsuit against the state and federal government on behalf of Laguna Honda patients and families. The RPLG complaint alleges that the closure of Laguna Honda and rushed transfer process violate the Americans with Disabilities Act and deny patients and their families

substantive and procedural due process. The RPLG lawsuit is seeking declaratory and injunctive relief to continue federal funding to Laguna Honda and to stop patient transfers and discharges.

Additionally, the City filed three administrative appeals contesting the CMS decision to terminate its contract with Laguna Honda. Those administrative appeals will not be decided until well after the September 13 deadline to close the facility, effectively denying the City, Laguna Honda, and patients the due process they are owed.

The federal government, through CDPH, have temporarily paused patient transfers, but the September 13 deadline remains, giving the City even less time to complete this daunting and ill-advised process.

The City's lawsuit was filed August 3. The case is City and County of San Francisco v. United States Department of Health and Human Services, et al., U.S. District Court for the Northern District of California, No. 3:22-CV-4500.

RPLG's class action lawsuit was also filed on August 3. The case is D.B., et al. v. Chiquita Brooks-Lasure, et al., U.S. District Court for the Northern District of California, No. 3:22-CV-4501.

### **MAYOR LONDON BREED ANNOUNCES OPENING OF VICTORIA'S HOUSE -- NEW RESIDENTIAL AND TREATMENT CARE FACILITY**

Mayor London N. Breed and DPH announced the opening of Victoria's House, a 12-month rehabilitation center for individuals with serious behavioral health conditions and substance use disorders. The Victoria's House at 658 Shotwell Street in the Mission neighborhood is a residential and treatment bed facility that offers timely, accessible, coordinated, high-quality, and recovery-oriented care that is delivered in the least restrictive setting.

The Victoria's House is part of the City's plan to add 400 new residential and treatment bed for people experiencing mental health and substance use issues. To date as part of this expansion, the City has created 179 new bed spaces, which include the openings of the SoMa RISE Drug Sobering Center and The Minna Project this year, with an additional 70 beds by the end of August. In total, the addition of beds equates to nearly 250 or 2/3 towards meeting the City's goal.

The 12-month rehabilitative program is designed to support and prepare clients to learn how to live independently and step-down to the lowest level of care as part of Victoria's House's transitional care model. Additionally, clients will have a better opportunity to find stable housing, which will ultimately increase overall City homelessness and shelter efforts. This is especially important for more vulnerable clients of Victoria's House, such as those living with severe mental health disorders and substance use dependencies.

Clients may also undergo cognitive behavioral therapy, dialectical behavioral therapy, and other techniques to achieve independence living skills allowing clients to successfully transition into their communities.

The expansion effort is guided by the 2020 DPH Behavioral Health Bed Optimization Report, Mental Health SF legislation, and with input from stakeholders. The house offers an additional 46 beds for adults with mental health illness and/or substance use who experience homelessness. Clients who will be placed at Victoria's House are referred from acute inpatient hospitals, locked facilities, and jails.

Building on the City's expanding network of treatment bed facilities also reduces the use of expensive acute inpatient placements, primarily for clients with behavioral and physical health conditions that are also in need of rehabilitation and social services. After 12 months, clients will be re-assessed if they are ready to live independently or need an extended stay. The DPH Residential System of Care will then assist with housing placement.

Community partner A&A Health Services will run operations at Victoria’s House with oversight by DPH. Staff onsite will monitor and engage with clients. A&A Health Service is a non- profit community provider who supports adults who suffer from mental health, addiction, and/or dual diagnosis while address the gaps in independent living skills.

For the latest update on San Francisco’s residential care and treatment expansion, please visit: [www.sf.gov/residential-care-and-treatment](http://www.sf.gov/residential-care-and-treatment).

San Francisco has also made available a daily update of available mental health and substance use treatment beds, which may be found here: [www.findtreatmentsf.org](http://www.findtreatmentsf.org).

### **SAN FRANCISCO, SAN MATEO CO. RESIDENTS URGED TO SHARE LONG COVID STORIES**

UC San Francisco, DPH and San Mateo County Health (SMC Health) are partnering with local community groups in a quest to learn about long COVID. To achieve this, researchers from the project, *Let's Figure Out Long COVID - Tell Us Your Story, Bay Area*, will be calling local residents of all ethnicities and backgrounds who previously had COVID.

Long COVID, also known as post-acute sequelae of SARS-COV-2 (PASC), refers to both physical and mental health symptoms that last long after an initial infection. Those symptoms may start during infection and never go away or may appear weeks or months afterwards. Common complaints include fatigue, shortness of breath, pain, problems with concentration, depression, and anxiety.

The goals of the project are to learn how common long COVID is in the community—information that is critical in impacting funding for local health departments and services for those debilitated by the condition—as well as to learn what causes it, and how to prevent and treat it.

In Phase I of the project, researchers will call San Francisco and San Mateo County adult residents who had COVID at least three months ago. Whether they have fully recovered or still have symptoms, their experiences will inform researchers about the frequency of long COVID. All ethnic groups and neighborhoods will be represented, and researchers are especially interested in hearing from Black/African American, Latino, Pacific Islander and Native American communities who have experienced higher rates of infections, hospitalizations and deaths than other groups.

In Phase II, some people who were previously interviewed will be asked to join a more detailed research study sponsored by the U.S. National Institutes of Health. This study, called RECOVER (Researching COVID to Enhance Recovery), will last three to four years. Study participants will be compensated for their time.

Community organizations will assist in ensuring that input from the community accurately reflects those ethnic groups and neighborhoods where COVID-19 has been most prevalent.

For additional information, please see the website, [Let's Figure Out Long COVID](http://Let's Figure Out Long COVID), or email a representative: [FiguringOutLongCOVID@ucsf.edu](mailto:FiguringOutLongCOVID@ucsf.edu).

### **PASSING OF DPH EMPLOYEE ISRAEL NIEVES-RIVERA**

DPH is saddened to share the news of the passing of Israel Nieves-Rivera, Policy Director for the Population Health Division on August 1, 2022.

Israel was the Policy Director for the Population Health Division. In that role, he served as the principal advisor and coordinator of Division-wide efforts to understand and inform local, state and national policy to improve

the population level health San Francisco, with a key focus on reducing disparities and improving health equity in San Francisco. He collaborated closely in this important work with the DPH Office of Policy and Planning.

Israel was always a champion for people and communities. In his early career, he was a high school history teacher. In the 1980s, he worked in New York City in the fight against HIV/AIDS. Prior to joining SFDPH, he worked with AGUILAS, a community-based organization in San Francisco, focused on Latino Gay Men's Health.

He was the former Director of HIV Prevention Policy for SFDPH, where he provided ongoing input into the framing of the National HIV/AIDS Strategy. As part of the management team in the HIV Prevention Section, he helped to complete several Comprehensive HIV Prevention Plans for San Francisco and ensured alignment with national goals. He was instrumental in managing the implementation of key CDC funded initiatives for DPH including the Program Collaboration and Service Integration (PCSI) grant, Project Pride, and the Maven Project. He served as the Government Co-Chair of the HIV Prevention Planning Council and was a founding member and leader of the Urban Coalition on HIV/AIDS Prevention Services (UCHAPS).

Additionally, he supported our Department's efforts to achieve and maintain Public Health Accreditation and was an early proponent of equity and quality improvement when PHD became a new division. More recently, he worked on Cannabis policy and implementation with our Environmental Health Branch when legislation passed legalizing Cannabis. In March of this year, he championed policy work for Environmental Health Branch to have the Health Commission pass a resolution regarding refuse and garbage laws.

Israel always looked forward to a better San Francisco. On behalf of the department, we express our deepest condolences to his family, close friends, and colleagues.

#### **DPH TRAUMA INFORMED SYSTEMS TRAINING OPPORTUNITY**

On September 1<sup>st</sup> at 11:30am, DPH staff are invited to attend an Intro to Mindfulness training from Jenee Johnson, Program Innovation Leader. Find out more by visiting the Eventbrite link:

<https://www.eventbrite.com/e/387644704747>

#### **DPH in the News**

##### Public Comment:

Patrick Monette Shaw made the verbal public comment and submitted the following written summary:

Do Director of Public Health Grant Colfax and the entire Health Commission recognize the unintended irony between his Director's report, and agenda item #7 on the LHH *Closure* update? Colfax's Director's Report notes CMS had imposed an arbitrary September 13 deadline to discharge or transfer LHH's 600+ residents, thereby denying the City due process by requiring LHH to close well before the City's administrative appeals can be decided before the U.S. DHHS Administrative Law Judge at the end of October, which might render the transfers potentially unnecessary. Yet there's a clear, unmistakable irony with LHH continuing with its plot to reduce LHH's license by 120 beds by mid-September, even before the City Attorney's three appeals and lawsuit are heard. If Chiu prevails, there will be no need to eliminate those 120 beds, which would deprive future generations of San Franciscans due process access to beds in-county prematurely closing 120 beds.

Dr. Teresa Palmer questioned moving forward with delicensing 120 beds at LHH until the City's lawsuit against CMS is settled.

Tilda urged the Health Commission and San Francisco Department of Public Health (DPH) to choose the best protection for most San Franciscans, which would be reinstating a mask mandate.

Amelia, stated that students with an IEP and those experiencing mental health issues are at high risk for COVID-19 when they return to school. She stated that data shows that one-way masking is not effective. She also urged development of Monkey Pox prevention plan for schools.

Jennifer, Senior and Disability Action, stated that she appreciates that the Health Commission is listening regarding long COVID as an issue. She urged that any study of long COVID should treat it as a serious issue because 5-30% of people who get COVID will experience long COVID. She urged a reinstatement of an indoor mask mandate.

Kristin Urquiza, Co-founder of “Marked by COVID,” urged a reinstatement of an indoor mask mandate, noting that her father died of COVID-19. She also urged the distribution of high-quality masks. She also urged development of on and off ramps for COVID-19 mitigation measures. She said that the current policies of letting everyone fend for themselves is racist and classist.

Elizabeth Milos, University Professional and Technical Employees Union member and UCSF medical interpreter, stated that the Labor Council is very concerned about the proposed reduction of LHH beds and about the nine former LHH patients who died after being transferred. She added anyone who moves forward with additional patient transfers could be charged with manslaughter because transfer trauma is real.

Rai Small, Senior and Disability in Action, stated that the lack of a mask mandate is a result of politics in which the interests of businesses have won over the concern for the lives of San Franciscans. She urged the Health Commission to do all it can to prevent others from having to suffer the pain of COVID. She noted that the San Francisco Unified School District is making parents sign a waiver acknowledging that students will be exposed to COVID-19 at school. She added that San Francisco entered the pandemic prioritizing science and now this is no longer true.

Naomi Shultz, 17-year-old supporter of Senior and Disability in Action, stated that she lives with an immune-compromised family member so going out is impaired with the current lack of mask mandate. She added that school has become an unsafe place with added stress of COVID risk. Every child should have a safe equitable environment to go to school; she urged a return to an indoor mask mandate. She is very scared of developing long COVID-19. She urged a reinstatement of an indoor mask mandate. She also urged a non-stigmatizing Monkey Pox educational campaign.

Steve Seltzer, United Front Committee Labor Party, held LHH press conference saying that reduction of beds of 120 is outrageous. Needs more beds, not less. Wants to know why the Commission and DPH leadership and would vote to discharge patients from LHH to their death. He is concerned that the City and Mercy Housing are attempting to build senior housing on the land that LHH is built upon.

Brandy Martin, parent of a public school student, was heartbroken to hear a 17-year old begging for a mask mandate. She is very concerned about her 5<sup>th</sup> grader getting COVID-19. She urged courage from public health leaders to do the right thing and reinstate an indoor mask mandate. She added that it is not fair that public school students do not have an option of going to school with protection of a mask mandate.

Brenda Barrows, DPH employee, stated that Laguna Honda needs to stay open. She doesn't understand why everyone coming to get the Monkey Pox vaccine at ZSFG is white. She thinks there is something systemically wrong with this situation.

Joseph Urban, son-in-law of a LHH patient, stated that 41 skilled nursing residents were transferred and 9 died, which is a 22% death rate. There are 450 skilled nursing facility residents at LHH, which means up to 90 residents could die if transferred. Transfer trauma cannot be mitigated without an official definition and deep understanding of the issue. He questioned whether the Health Commission and DPH leadership fully

understands what CMS wants in the recertification process. If the DPH continues to flood LHH with substance users and people with mental health issues, CMS will likely reject LHH's recertification efforts.

Jonna, family member of LHH patient, is happy that patient transfers are currently paused but noted that the threat of future discharges still hangs heavy. She added that this time has been very scary for family members and LHH staff. She sees that LHH will come into regulatory compliance, and she urged stopping consideration of any additional patient transfers. She is thankful for the lawsuits to stop the patient transfers.

Sara, Senior and Disability Action and is high risk and lives in a high -risk household, stated that she will keep calling until the Health Commission decides to do the right thing and reinstitute an indoor mask mandate.

Elizabeth, Senior and Disability Action, stated that it is sad to have a 17-year-old have to advocate for her own safety. She is concerned about kids going back to school and urged a reinstatement of an indoor mask mandate. She is very concerned about the impact of long COVID on individuals and our community.

Jordon, pronouns are she and her, received a letter regarding Monkey Pox. (She had technical difficulties.)

David Elliot Lewis stated that the situation with Laguna Honda Hospital is appalling. The Health Commission plays a role in oversight and it allowed conditions to get so poor that certification was lost. Some people were placed at Laguna Honda as homeless housing. He also urged a reinstatement of an indoor mask mandate.

Alice, Senior and Disability Action, feels the agenda and minutes have serious issues. She supports all previous comments and others advocating for safety and equity for COVID-19 and MPX. Levels of both pandemics are underestimated. We have no idea how much MPX can spread, often with STIs. The spread of MPX is not recognized outside of MSMs. Women and others who are not MSM have trouble getting tested.

Brandy, parent of a public school student, received an 8-page letter from the superintendent about COVID-19. There was no mention of masks in the letter.

#### Commissioner Comments:

Commissioner Chow encouraged the long COVID-19 study to reach all San Francisco neighborhoods and all racial/ethnic groups. He noted that one third of San Franciscans are Asian and English is a second language to many in this population.

#### **5) COVID-19 AND MONKEY POX UPDATE**

Grant Colfax MD, DPH Director of Health and Susan Philip, MD, Health Officer and Director of Population Health Division, presented the item.

#### Public Comment:

Amelia, 17-year-old, stated that public school students no longer have a remote-learning option nor a mask mandate. She noted that in January, there were 392 cases of COVID. Some of those cases will turn into long COVID. This is why so many teachers have resigned. Teachers on special assignment have been reassigned. When teachers are out sick, students will be mixed in with other classes, which increases risk of COVID infection.

Pantea, mother of a school aged child and faculty member at Stanford school of medicine, and member of Senior and Disability Action, stated that she is very concerned about the impacts of long COVID. She also stated that the CDC has disappointed many people with its abdication of responsibility during this period of high COVID transmission. This leaves the state and local governments to be standard bearers for public health. It makes no sense to have no off and on ramps for masking right now; it is not the time to lower standards. Wearing a mask shows that people care about each other.

Francisco De Costa stated that we need qualified commanders for emergency management. He urged questioning who is manufacturing the Monkey Pox vaccine; it is made in Denmark. He urged a reinstatement of the indoor mask mandate.

Commissioner Comments:

Commissioner Chow noted that MTA Director Jeff Tumlin stated in an email sent to the Health Commission that 80% of MUNI riders are voluntarily wearing masks. Additionally, MTA will be making mask available through their station agents and transit operators.

Commissioner Guillermo asked for more information regarding the coordination between the DPH and the San Francisco Unified School District in regard to COVID-19 issues and prevention for students and faculty. Director Colfax stated that a DPH staff member is a liaison with the schools and that the DPH and schools are following state guidance. Commissioner Guillermo requested a following on school-related COVID-19 preparation at the next Health Commission meeting.

**6) GENERAL PUBLIC COMMENT**

Patrick Monette Shaw made the verbal public comment and submitted the following written summary:

I have called for Health Commissioner Edward Chow to resign from the Commission, because he has served continuously for 33 years. It's long past time we get new Commissioners.

But I want to commend Dr. Chow for his comments during the LHH-JCC Subcommittee meeting held a week ago on August 9 at Laguna Honda. When Acting CEO Roland Pickens announced last Tuesday LHH was 66% complete toward completing its planned 120 bed reduction and it would be completed by August 19, 2022 Commissioner Chow thoughtfully spoke up saying reducing the license now was premature, and should be paused and taken up at a later time after City Attorney David Chiu's three appeals before the DHHS Administrative Law Judge is heard in late October. Pickens said he'd circle back and check with Chiu if the license change could be postponed. Why is the license reduction back up for discussion again today?

Francisco-De Costa stated that we need qualified commanders to lead us through this time.

Alice urged following the precautionary public health principle. She noted the importance of having sufficient time to call in for public comment. She tried twice to call in but was not able to do so in time. She stated that there are serious problems with misspelled names and key concepts in the minutes and suggested that the Health Commission Secretary listen to the recording of the meeting to summarize comments accurately and double-checked by someone else. Some people with disabilities need adequate time to give public comment. The most vulnerable and those most impacted by public health policies should be consulted on policies that impact them. She urged that equity be a priority when considering the public health response for COVID-19 and MPX.

**7) LAGUNA HONDA HOSPITAL AND REHABILITATION CENTER (LHH) CLOSURE PLAN AND CMS RECERTIFICATION UPDATE**

Roland Pickens, Director, San Francisco Health Network and Acting LHH CEO, presented the item.

Public Comment:

Vivian imperiale MA, submitted the following written public comment:

LHH is being told to remove all the residents so the hospital possibly can be re-certified. Think about it. The county removes the people it serves so that it can serve people. There is no logic in this. The concept of relocating these residents is not only uncaring but unrealistic. I read last week that staff had phoned 1400 facilities around the country in an attempt to transfer residents. The facilities responded that they were not set-up to serve the residents who were described to them. Advocate for the removal of deficiencies while keeping the hospital open and not disrupting the lives of 600+ residents.



Patrick Monette Shaw made the verbal public comment and submitted the following written summary:

It's again very concerning hearing on slide 25 of the Closure Plan update that LHH is now 82% towards completion of cleaning out the 120 bed space occupied by LHH's residents, and LHH still anticipates the 120-bed reduction will be completed by August 19. It's more disturbing hearing LHH's management team still anticipates applying for a reduced bed capacity license in mid-September. As I testified at the LHH-JCC meeting week ago on August 9, applying for a reduced license is completely premature, and may well undercut the third appeal City Attorney David Chiu filed with the U.S. DHHS Administrative Law Judge on May 28. Any decision to apply for a new license should be made by roll-call vote of the full Commission. Don't undercut Chiu's appeals and lawsuit! This Commission should introduce a motion today and second it to postpone taking action on LHH's license until Chiu's lawsuit is completed.

Brenda Barrows, DPH employee, stated that there needs to be another option for overflow where there are more beds so people on the LHH waitlist can get help.

Dr. Teresa Palmer thinks it is important to hold off on delicensing any LHH beds until a decision is reached on the lawsuits. She noted that the proposed reduction of 120 beds is larger than many stand-alone skilled nursing facilities. She is concerned that LHH clinical staff be able to have decision-making authority over future admissions. She has heard that some LHH patients who smoke do now want to be in a nursing home could be placed more appropriately in a treatment facility. She is concerned that there is no reassurance that the flow project will stop; she urged the Commission and DPH to look at alternative placements for ZSFG patients who are difficult to place in outside programs/facilities. She urged that no patient with a true skilled nursing need should be discharged from LHH. CMS may pull its funding from LHH, but LHH is not closing down.

Francisco De Costa stated that it's a crime to send drug addicts to the same facilities as seniors. The mixing of these groups was done to save money, but it was a crime.

Doug, Grey Panther, is looking with dismay with a possible LHH closure and unnecessary deaths. What has been going on at LHH is a failure at all levels. We need to keep LHH going and not shut it down. We call for a stop of attack on LHH. We must stop 120 beds being cut until recertification. He asked if LHH staff refuse admissions they consider unsafe and whether alternative placements for hard-to-place ZSFG patients will be funded.

#### Commissioner Comments:

Commissioner Guillermo recommended that the Commission and DPH keep communicating with the community regarding the litigation matters and recertification deadlines. She noted that good information flow is important at this time. She is glad that LHH has not applied to reduce its number of licensed beds. Mr. Pickens stated that per CMS, only two patients can be housed per room. He reiterated that no action has been taken to reduce the number of licensed beds at LHH.

Commissioner Guillermo noted that Critical Element Pathways (CEPs) will be very important in the recertification process and asked how they played a role in previous regulatory surveys. She also noted that CDPH has been delayed in investigating all the facility related incidents in the past several years so LHH has been notified of issues and improvements that need to be made related to these incidents. Mr. Pickens stated that CDPH has not investigated the hundreds of facility related incidents in which LHH self-reported incidents. He noted that the lack of CDPH investigation of these incidents is not directly related to CEPs, but the lack of validation and investigation of the incidents does impact LHH's ability to understand areas that need improvement. He noted that CDPH has come out to LHH in the past few weeks in an attempt to clear some of the backlog of these case investigations. He added that prior to the current LHH consultants coming on board,

CEPs were not on the LHH radar. Instead, much of the LHH regulatory focus was on Title 22 acute hospital and Joint Commission guidelines. He noted this was a deficit.

Commissioner Chow noted that the LHH JCC has been following the state regulatory results, but the existence of the CEPs was not mentioned in the JCC meetings until recently. He noted the importance of having the HMA and HSAG consultants working with LHH because they understand the wide breadth of federal guidelines. He is hoping this work will lead to a better next chapter for LHH.

Commissioner Green stated that everyone wants to see LHH open and to continue to serve our most vulnerable residents. She acknowledged how difficult the situation has been for patients and families. She thanked those legal advocates, union members, and community voices who continue to support LHH in many ways. She noted that the Health Commission and LHH JCC are deeply impressed with how the DPH quickly deployed staff and consultants to LHH. The Health Commission has confidence in LHH staff and those deployed to assist in working on the recertification.

**8) COMMUNITY AND PUBLIC HEALTH COMMITTEE UPDATE**

This item was deferred due to time.

**9) OTHER BUSINESS:**

This item was deferred due to time.

**10) JOINT CONFERENCE COMMITTEE AND OTHER COMMITTEE REPORTS**

This item was deferred due to time.

**11) CLOSED SESSION**

- A) Public comments on all matters pertaining to the Closed Session. (San Francisco Administrative Code Section 67.15).
- B) Vote on whether to hold a Closed Session in relation to item 10.D below.

Action Taken: The Health Commission voted unanimously to go into closed session.

- C) Vote on whether to hold a closed session in relation to item 10.E below regarding pending litigation and to assert the attorney-client privilege in relation to that closed session discussion.

Motion that the Health Commission convene in closed session with the City Attorney for the purpose of conferring with, or receiving advice from, the City Attorney regarding existing litigation to which the City and County of San Francisco is a party and proposed settlements as described below and whether to assert the attorney-client privilege in relation to those matters. Discussion in open session concerning these matters would likely and unavoidably prejudice the position of the City in the pending litigation matters listed below.

(San Francisco Administrative Code Section 67.10(d); and California Government Code Section 54956.9(d)(3)).

Public Comment:

Patrick Monette Shaw urged the Health Commission discuss about alternatives to remodeling LHH to keep the number of beds constant, to keep serving an equal number of San Franciscans in county.

Action Taken: The Health Commission voted unanimously to assert attorney-client privilege in relation to closed session discussions.

Closed Session Pursuant to Evidence Code Sections 1156, 1156.1, 1157, 1157.5, 1157.6, and 1157.7; Health and Safety Code Section 1461; San Francisco Administrative Code Sections 67.5, 67.8, 67.8-1, and 67.10; and California Constitution, Article I, Section 1.

**LAGUNA HONDA HOSPITAL AND REHABILITATION  
CENTER QUALITY UPDATE REGARDING RECENT  
REGULATORY SURVEY ACTIVITY**

- D) Closed Session Pursuant to San Francisco Administrative Code Section 67.10(d); and California Government Code Section 54956.9(d).

**FOR DISCUSSION: LITIGATION UPDATE**

*CITY AND COUNTY OF SAN FRANCISCO, Plaintiff, vs. UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, XAVIER BECERRA, Secretary of the Department of Health and Human Services; and DOES 1-25, Defendants.* (United States District Court, Northern District of California, Case No. 3:22-CV-4500)

**PROPOSED ACTION: SETTLEMENT OF LITIGATION: Aliitasi T. Alapati – CITY TO PAY \$100,000**

*ALIITASI T. ALAPATI, Plaintiff, vs. CITY AND COUNTY OF SAN FRANCISCO, NURSE GIDAY BESHUE, individually and in his capacity as a nurse employed by City and County of San Francisco, DR. LISA PRATT, individually and in her capacity as a doctor employed by City and County of San Francisco, DR. SONA AGGARWAL, individually and in her capacity as a doctor employed by City and County of San Francisco, NURSE CHRISTA GALLAGHER, individually and in her capacity as a nurse employed by City and County of San Francisco, NURSE NICOLE UNA, individually and in her capacity as a nurse employed by City and County of San Francisco, NURSE TAYLOR-WOODBURY, individually and in his capacity as a nurse employed by City and County of San Francisco, NURSE NICOLE JOE, individually and in her capacity as a nurse employed by City and County of San Francisco, NURSE JESSICA JIMENEZ, individually and in her capacity as a nurse employed by City and County of San Francisco, NURSE EVELYN MENDOZA, individually and in her capacity as a nurse employed by City and County of San Francisco, NURSE RAPHROGER GONZAGA, individually and in his capacity as a nurse employed by City and County of San Francisco, NURSE THU TRAN, individually and in her capacity as a nurse employed by City and County of San Francisco, NURSE KARINA SHANNON, individually and in her capacity as a nurse employed by City and County of San Francisco, NURSE ROCIO BABILONIA, individually and in her capacity as a nurse employed by City and County of San Francisco, NURSE JOSEPH WILLIAMS, individually and in his capacity as a nurse employed by City and County of San Francisco, NURSE JOSEPH WILLIAMSON, individually and in his capacity as a nurse employed by City and County of San Francisco, NURSE HAJA DUMBAYA, individually and in her capacity as a nurse employed by City and County of San Francisco, and DOES 16 THROUGH 50, individually and in their capacities as employees or agents of City and County of San Francisco, Defendants.*

(United States District Court, Northern District of California, Case No. 21-cv-04144-SI) (Action Item)

**PROPOSED ACTION: SETTLEMENT OF LITIGATION: Brandon Murphy – CITY TO PAY \$50,000 and REGENTS OF THE UNIVERSITY OF CALIFORNIA, CO-DEFENDANT TO PAY \$150,000**

*BRANDON MURPHY, Plaintiff, vs. REGENTS OF THE UNIVERSITY OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO, AND DOES 1-20, inclusive, Defendants.*

(San Francisco Superior Court, Case No. CGC-19-572705)

**RECONVENE IN OPEN SESSION**

1. Discussion and Vote to elect whether to disclose any portion of the closed session discussion that is not confidential under Federal or State law, The Charter, or Non-Waivable Privilege (San Francisco Administrative Code Section 67.12(a).) (Action item)
2. Possible report on action taken in closed session (Government Code Sections 54957.1(a) and 54957.7(b) and San Francisco Administrative Code Section 67.12(b).

Action Taken: The Health Commission unanimously voted to not disclose discussions held in closed session.

**12) ADJOURNMENT**

The meeting was adjourned at 8:09pm.