



Community Health
Commission

Community Health Commission
Thursday, April 27, 2023, 6:30 – 9:00pm
Meeting Location: South Berkeley Senior Center
2939 Ellis Street, Berkeley, CA 94703
Phone: 510-981-5170

AGENDA

Preliminary Matters

1. Roll Call
2. Announcements & Introductions
3. Approval of Draft Minutes from 3/23/2023 meeting – **Attachment 1**
4. Confirm note taker
5. Public Comment

The public may comment virtually about any item **not** on the agenda. Public comments are limited to two minutes per speaker.

Subcommittee Reports

1. Basic Needs Subcommittee
2. Chronic Disease Prevention Subcommittee
3. Entheogenic Subcommittee
4. Health Equity Subcommittee
5. Health Facilities Subcommittee
6. Policy Tracking Subcommittee

Discussion and Action Items

Public comments regarding agenda items will be heard while the Commission is discussing the item. Public comments are limited to two minutes per speaker.

1. Updates from Health Officer – Dr. Lisa Hernandez, MD, MPH (Katz)
2. City Council Referral on Health Care Facility Oversight - Bartlett (Katz) – **Attachment 7**
3. Peace and Justice Commission - Additional Health Educators at Berkeley High School (Spigner)
4. Geoengineering experiments at the Berkeley marina (Lee) – **Attachment 8**
5. Add/Remove Subcommittees/ Members (Katz) – **Attachment 4**

A Vibrant and Healthy Berkeley for All

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Attachments

1. Draft minutes from March 23, 2023 CHC regular meeting
2. Approved minutes from February 23, 2023 CHC regular meeting
3. CHC 2023 Work Plan
4. CHC Subcommittee Roster 2022
5. CHC Meeting Calendar 2023
6. City Council and Community Health Commission Timeline 2023
7. Referral – Health Care Facility Oversight (Bartlett) / Model Ordinance Local Long-Term Care Facility Licensure
8. Geoengineering experiments at the Berkeley marina background

The next meeting of the Community Health Commission will be held on May 25th, 2023. Dates are subject to change. Please contact the Commission Secretary to confirm.

CONFLICT OF INTEREST INFORMATION: City commissioners, pursuant to Government Code section 1090, are responsible for recusing themselves from all commission discussions and actions in which they may have a conflict of interest. If your affiliation, paid or unpaid, with other agencies has changed since the last meeting of this commission, your ability to participate in commission activities may have changed. Individual guidance is available from the City Attorney's Office (CAO). Commissioners are encouraged to consult with the CAO if they have questions, concerns, or would like clarification about matters related to potential conflicts of interest.

The CAO may be reached at:

Email: attorney@cityofberkeley.info

TEL: (510) 981-6950 TDD: (510) 981-6903, FAX: (510) 981-6960

2180 Milvia Street 4th Floor, Berkeley, CA 94704 - Office Hours: Mon-Fri, 8am-5pm

AMERICAN DISABILITIES ACT DISCLAIMER: This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

SB 343 DISCLAIMER:

Any writings or documents provided to a majority of the commission regarding any item on this agenda will be made available for public inspection at the Public Health Division located on 1947 Center Street, Berkeley, CA 94704.

COMMUNICATION DISCLAIMER:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the commission secretary for further information.

members, managers, and persons with an ownership interest of five percent or more. The application must also include the name, address, and affiliation with any other long term care facilities of any and all parent organizations of any entity. Every entity named must include the names, addresses, and affiliation with any other long term care facilities of all directors, board members, and managers of any and all parent organizations in a list format. All entities must be connected to individual people. A *“long term care facility”* is a skilled nursing facility under Health and Safety Code Section 1250(c) or Residential Care Facility for the Elderly under Health and Safety Code Section 1569.2.

- If the facility would be part of a chain after the proposed change in ownership or operation, a diagram indicating the relationship between the applicant and the persons or entities that are part of the chain, including those that are owned or controlled by the same parties, and in a separate list, the name, address, and license number, if applicable, for each person or entity in the diagram. A “chain” means a group of two or more long term care facilities that are owned or operated by the same persons or entities.
- A detailed projected budget for the first twelve months of operation, prepared in accordance with generally accepted accounting principles and certified by the principal officer of the prospective operator, accompanied by evidence of access to a sufficient amount of working capital required to operate the long term care facility in accordance with the budget, in the form of cash on deposit, a line of credit, applicant's equity, or any combination thereof.
- Proof of sufficient insurance
- Affirmative evidence that the prospective owner(s) or operator(s) has the character, ability, education, experience, performance history, financial resources, and other necessary qualifications to ensure that the facility will be operated in full compliance with all applicable statutes and regulations governing the operation of skilled nursing facilities. If the proposed owner/operator is an entity, like evidence shall be submitted as to the members or shareholders thereof.
- Any revocation, suspension, probation, exclusion order, or other similar administrative disciplinary action that was filed and sustained in California or any other state, or in the process of being adjudicated, against a facility associated with a person or entity identified in the application or by any authority responsible for the licensing of health, residential, or community care facilities within the past ten years.
- Copies of final findings, orders, or both, issued by any health, residential, or community care licensing agency or any court relevant to the actions described above.
- Any petition for bankruptcy relief filed within five years of the date of application involving operation or closure of any related health, residential, or community care facility licensed

in California or any other state, the court, date, and case number of the filing, and whether a discharge was granted. If a discharge was not granted, the applicant shall provide copies of any court findings supporting denial of discharge.

- Proof of the right to possess the facility at the time the application will be granted and the name and address of any persons or entities that own the real property on which the facility seeking licensure is located.
- Fire clearance
- Any other information as may be required by the City/County.
- The information required pursuant to this section, other than individuals' social security numbers, shall be made available to the public upon request, and shall be included in the department's public file regarding the facility.
- An application fee that covers the cost of reviewing the application.

The City/County may require the prospective owner or operator to furnish other information or documents at its discretion. Failure of the applicant to provide any needed information may result in the denial of the application. Failure of the proposed owner or operator to disclose affiliations with other facilities will result in the denial of the application or revocation of license.

2. Considering the Application

The application will be submitted and reviewed by the City/County. The City/County will hold a public hearing before approving or denying the application.

The application may be approved if the City/County believes the facility will be operated in full compliance with all applicable statutes and regulations governing the operation of skilled nursing facilities while under the ownership or operational control of the applicant.

The City/County retains sole discretion over approval or denial of an application for a license but the following will result in automatic denial or revocation of a license:

The prospective owner or operator or any affiliate of the prospective owner or operator:

- Has owned, operated or managed any facility that has received more than one class "AA" citation from the Department of Public Health within any 24-month period.
- Has owned, operated or managed any facility that has received three or more of any combination of a class "AA" citation, a class "A" citation, or a deficiency constituting an immediate jeopardy violation in the preceding five years.

- Is on the List of Excluded Individuals/Entities of the United States Department of Health and Human Services Office of Inspector General.
- Has owned, operated, or managed a facility that was terminated from the federal Medicare Program or the Medi-Cal program due to noncompliance, had its license suspended or revoked, or was subjected to receivership.
- Has been convicted of a crime as defined in Health and Safety Code Section 1265.2.

Knowingly making a false statement or withholding material information on the application. The City may assess a civil penalty of ten thousand dollars (\$10,000) for making a false statement or withholding material information on an application for licensure or renewal.

The City/County shall consider the performance of associated facilities such as the number of regulatory complaints and civil lawsuits filed against them and publicly available data regarding facility staffing and other performance measures. The City/County shall consult with the local long term care Ombudsman program regarding the performance of associated facilities.

3. Approval or Denial of the Application

Approved owners and operators will be granted a license and may assume ownership or operational control of the facility. Denied operators or operators awaiting approval may not assume operational control.

The approval or denial shall be communicated in writing. If the license is denied, the written denial shall state the reason for the denial

Applicants who are denied licensure may seek an appeal. The applicant may not own or operate the facility at issue while the appeal is pending.

4. Enforcement

Any violation of this section is a misdemeanor. If a facility is being operated, in whole or in part, by an unlicensed person or entity, the licensed owner, licensed operator, unlicensed owner, and unlicensed operator are all subject to the following measures:

- A ban on admitting new residents to the facility;
- A daily fine of up to \$10,000 / day. The fines may be assessed on the individual operators in their personal capacity, in addition to the entities;;
- Up to one year in jail;criminal liability,
- A civil suit for injunctive relief.

The penalties available in this section are cumulative to any other penalty or punishment available under any other law.

Geoengineering Experiments at the Berkeley Marina (Lee)

- A startup called Make Sunsets (<https://makesunsets.com/>) recently released a sulfur dioxide-filled weather balloon at the Berkeley marina. A CBS Mornings video (<https://www.youtube.com/watch?v=XmVsat8-Dso>; posted April 22, 2023) shows the company founders launching the balloon with the Berkeley pier and other identifying features clearly visible in the background, and the company YouTube account confirms the location with a comment that currently (4/23/23) reads, "Thank you CBS Mornings for documenting our launch in the Berkeley Marina!"
- Sulfur dioxide particles could at high concentrations, in theory, reflect sunlight and decrease global warming. However, in an MIT Tech Review article about the company (<https://www.technologyreview.com/2022/12/24/1066041/a-startup-says-its-begun-releasing-particles-into-the-atmosphere-in-an-effort-to-tweak-the-climate/>), climate experts describe their work as "wildly premature" and potentially "violating the rights of communities" where they are working.
- The company has a history of skirting government regulations and the Mexican government banned geoengineering after the company set up operations in La Ventana, Baja California Sur (<https://www.gob.mx/semarnat/prensa/la-experimentacion-con-geoingenieria-solar-no-sera-permitida-en-mexico>, <https://www.theverge.com/2023/1/18/23560446/mexico-ban-solar-geoengineering-make-sunsets-startup-experiments>).
- The scale of their work is likely too small to materially impact the health of Berkeley residents, but there are likely too many unknowns to be certain and the founders have stated that they have released weather balloons without the ability to recover them after landing. I believe that inaction could set a dangerous precedent and may encourage other companies to conduct experiments on our community.
- I believe there is an opportunity for Berkeley to lead by example, and we could consider enacting regulations that establish a community engagement process prior to any geoengineering testing being allowed in our city.