



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

1947 Center Street, 2nd Floor, Berkeley, CA 94704 Tel: 510.981.5300 TDD: 510.981.6903 Fax: 510.981.5395
E-mail: publichealth@ci.berkeley.ca.us - <http://www.cityofberkeley.info/health/>

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.



Community Health Commission

Community Health Commission

DRAFT MINUTES

Regular Meeting, Thursday, March 23rd, 2023

The meeting convened at 6:42p.m. with Commission Chair Katz presiding.

ROLL CALL

Present: Commissioner Webber, Bechtolsheim, Smart, Spigner, Adams, Lee, Katz.

Absent: Commissioner Nightingale, Rosales.

Excused: None.

Staff present: Roberto Terrones, Lisa Hernandez, Kellie Knox.

Community Members: None.

COMMENTS FROM THE PUBLIC: None.

ACTION ITEM

1. M/S/C (Smart/Spigner): Motion to adopt minutes from the February 23rd, 2023, meeting.

Ayes: Commissioner Webber, Bechtolsheim, Smart, Spigner, Adams, Lee, Katz.

Noes: None.

Abstain: None.

Absent from vote: Commissioner Nightingale, Rosales.

Excused: None.

Motion Passed.

Respectfully submitted, Roberto Terrones, Commission Secretary.

Minutes will be approved at the April 27th, 2023, meeting.

A Vibrant and Healthy Berkeley for All



Community Health Commission

Community Health Commission

APPROVED MINUTES Regular Meeting, Thursday, February 23rd, 2022

The meeting convened at 6:36p.m. with Commission Chair Katz presiding.

ROLL CALL

Present: Commissioner Webber, Bechtolsheim (8:03), Smart, Spigner, Adams (7:21), Katz.

Absent: Commissioner Rosales.

Excused: Commissioner Nightingale.

Staff present: Roberto Terrones, Lisa Hernandez, Kellie Knox.

Community Members: None.

COMMENTS FROM THE PUBLIC: None.

ACTION ITEM

1. M/S/C (Webber/Spigner): Motion to adopt minutes from the February 23rd, 2023, meeting.

Ayes: Commissioner Webber, Smart, Spigner, Katz.

Noes: None.

Abstain: None.

Absent from vote: Commissioner Rosales, Bechtolsheim.

Excused: Commissioner Nightingale.

Motion Passed.

2. M/S/C (Smart/Adams): Motion to approve the Community Health Commission 2023 Work Plan.

A Vibrant and Healthy Berkeley for All

Ayes: Commissioner Webber, Smart, Spigner, Adams, Katz.

Noes: None.

Abstain: None.

Absent from vote: Commissioner Rosales, Bechtolsheim.

Excused: Nightingale.

Motion Passed.

3. M/S/C (Spigner/Webber): Motion to appoint Commissioner Katz as Chair of the Community Health Commission.

Ayes: Commissioner Webber, Bechtolsheim, Spigner, Adams, Katz.

Noes: None.

Abstain: None.

Absent from vote: Commissioner Rosales, Smart.

Excused: Commissioner Nightingale.

Motion Passed.

4. M/S/C (Webber/Adams): Motion to appoint Commissioner Smart as Vice-Chair of the Community Health Commission.

Ayes: Commissioner Webber, Bechtolsheim, Spigner, Adams, Katz.

Noes: None.

Abstain: None.

Absent from vote: Commissioner Rosales, Smart.

Excused: Commissioner Nightingale.

Motion Passed.

This meeting adjourned at 8:38 p.m.

Respectfully submitted, Roberto Terrones, Commission Secretary.

Minutes were approved at the March 23rd, 2023, meeting.



Office of the City Manager

Community Health Commission 2021 Work Plan

Guiding Philosophy: To look at health through the lens of equity, and to address, ameliorate, and abolish health inequities in Berkeley through our work while advancing other public health efforts.

Mission/Purpose:

1. Collaborate with the community and the Berkeley Public Health Division, and City of Berkeley to eliminate health inequity by:
 - a. Advocating for good policy to council that has the potential to improve the health of Berkeley residents that can be implemented, monitored, and evaluated.
 - b. Representing the community through the diversity of this commission
 - c. Increasing the public education/social marketing efforts, understanding, and awareness of issues
 - d. Advocating together with the residents of Berkeley most affected by institutional, social, organizational inequities/disparities
 - e. Providing a public forum for all community members to share concerns, ideas
2. Achieve general public health progress by being responsive to community needs and facilitating general health and safety.

Overall goals, issues & priorities: All issues can be addressed through a health equity lens.

- Include a focus on the impact of covid-19 and the city's response to it
- Increase healthy food security
- Advocate for the expansion of affordable housing
- Continue to urge that Alta Bates Berkeley Medical Campus remain open while also helping to suggest actions to address consequences of planned closure
- Be responsive in potential recommendations to help Berkeley residents, and care providers and clinics cope with potential federal disruption in healthcare policy and federal spending cuts
- Further address more social determinants of health
- Continue to be a community advocate to City Council to address structural, institutional, and health inequities impacting all underserved populations

- Work to have community health data measures documented in a timely manner and to promptly evaluate and act on novel data such as the Health Status Report
- Work to support policies and initiatives that advance UHC such as Medicare for all
- Advise the City Council as the Public Health Department develop their strategic plan

General steps and actions needed to meet priorities:

1. Better follow up with council implementations
2. Conduct outreach to encourage the Berkeley community to engage with the CHC
3. Collaborate with other commissions to share resources and support recommendations
4. Focused/specialized ad-hoc subcommittees
5. Keep track of local, state, and federal policy and data flow

Specific steps and actions needed to meet priorities: Subcommittees

- **Strategic Planning subcommittee**
 - Serve as point of contact with Public Health Division for city's strategic plan and facilitate deliberation between full commission and division.
 - Recommend structure of portion of agenda to educate commission on strategic plan development
- **Acute Services for Berkeley**
 - Continue to recommend actions to keep Alta Bates open
 - Consider ways to increase emergency care access in Berkeley
- **Basic Needs Security**

Focus on healthy food security and affordable/accessible housing

 - In terms of healthy food security:
 - Identify food recovery donation systems
 - Connect communities with healthy food resources (awareness)
 - Advocate for policies to mitigate unhealthy food consumption
 - Advocate for affordability and accessibility of healthy foods
 - in supporting programs like the Berkeley Food Institute, etc.,
 - In terms of accessible/affordable housing:
 - Identify areas of stark homelessness
 - Connect homeless communities with resources (awareness)
 - Advocate for affordable housing
 - Advocate for increased rent control

- Investigate how Covid-19 has exposed and increased the impact of inequities on basic needs of Berkeley residents
- Connect with the community based organizations and appropriate city of Berkeley departments to acquire information about available resources for Berkeley residents.
- Work with community based organizations to disseminate resources to Berkeley residents around basic needs, including housing, food, healthcare, and public health care
- **Policy tracking**
 - Track City Council minutes, state, and national legislative actions
 - Priority areas:
 - Affordable housing throughout the city of Berkeley
 - Homeless encampments: ensure they are receiving necessary care and resources
 - Covid-19 related policies
 - Access to education due to remote learning
- **Health Equity Subcommittee**
 - Engage Stakeholders on LGBT health equity issues to help complement findings of the Health Status Report
 - Follow up on status of the African American Holistic Resource Center
 - Work on cultural competency for health care providers
 - Review the Health Status Report- dialogues with staff and community to investigate the data and inequities, and recommend program interventions for the City Public Health Division
 - Implement efforts to improve immigrant access to health care
 - Investigate community access to telehealth and other technologies to improve healthcare equity
 - Meet with the public health officer to be informed and updated regarding the city's response to Covid-19, including the vaccination program, and ensure the consideration of health equity to include at risk populations based on emerging literature
- **Chronic Disease Prevention**
 - Recommend presenters that can educate the commission on innovative approaches to chronic disease prevention
 - Consider the use of high profile figures in media campaigns to educate the community about chronic disease prevention.
 - Recommend interventions to address diabetes, obesity, heart diseases, and other chronic conditions highlighted by the Berkeley health status report.

- Recommend interventions to respond to deferred preventative care due to covid-19

➤ **Cannabis**

- Advocating for holistic education of cannabis use throughout the community
- Assessing holistically the risks and benefits of cannabis use in terms of community health
- Assessing holistically how cannabis should be integrated within the local economy while maintaining the health of the community .i.e. nurseries, dispensaries, etc.
- Prioritizing community health following the legalization of cannabis with emphasis on holistically understanding the risk and benefits of cannabis

District	Last	First	Community Health Commission Subcommittees 2022				
			Health Facilities	Health Equity	Basic Needs Security	Chronic Disease Prevention	Entheoge nic
1	Webber	Sara			X		
2	Bechtolsheim	Benjamin				X	
3	Nightingale	Jamila				X	
4	Smart	Karma		X	X		X
5	Spigner	Tora		X			
6	Adams	Joseph					X
7	Vacant	Vacant					
8	Rosales	Ces	X	X			
M	Katz	Andy	X				
			2	3	2	2	2

2023 Commission Meeting Dates

Name of Commission: Community Health Commission

Commission Secretary: Roberto Terrones

Please Note the Commission Meeting Dates for 2023 Below

Please fill in meeting date below. If no meeting for the month is scheduled please note as "No Meeting."

Example

Month	Meeting Day and Date	Time
February 2022	Wednesday 2/10/2022	7:00 pm

Month	Meeting Day and Date	Time
July 2022	No Meeting	

2023 Meeting Dates

Month	Meeting Day and Date	Time
January 2023	Thursday 1/26/2023	6:30 pm
February 2023	Thursday 2/23/2023	6:30 pm
March 2023	Thursday 3/23/2023	6:30 pm
April 2023	Thursday 4/27/2023	6:30 pm
May 2023	Thursday 5/25/2023	6:30 pm
June 2023	Thursday 6/22/2023	6:30 pm

Month	Meeting Day and Date	Time
July 2023	Thursday 7/27/2023	6:30 pm
August 2023	CHC Does not meet in August 2023	
September 2023	Thursday 9/28/2023	6:30 pm
October 2023	Thursday 10/26/2023	6:30 pm
November 2023	Thursday 11/23/2023	6:30 pm
December 2023	CHC does not meet in December 2023	

commission@cityofberkeley.info

City Clerk Department

Please contact our office at (510) 981-6908 with any questions.

2023			Thursday 12:00 PM	Thursday 12:00 PM	Monday 2:30 PM	Wednesday 11:00 AM	Thursday 5:00 PM
COUNCIL MEETING DATE	Reports Due to Dept. Director	Reports Due to CAO	Dept. Reports Due to Clerk Day 33	Agenda Committee Packet to Print Day 19	Agenda Committee Meeting Day 15	Final Agenda Meeting - (Print Agenda on wed.) Day 13	Council Agenda Delivery Day 12
Winter Recess [December 14, 2022 through January 16, 2023]							
Jan 17	12/1	12/1	12/15	12/29	1/4	1/4	1/5
Jan 31	12/9	12/9	12/29	1/12	1/16	1/18	1/19
Feb 14	12/29	12/29	1/12	1/26	1/30	2/1	2/2
Feb 28	1/12	1/12	1/26	2/9	2/8 (Tues)	2/15	2/10
Mar 14	1/26	1/26	2/9	2/23	2/22 (Tues)	3/1	3/2
Mar 21	2/2	2/2	2/16	3/2	3/6	3/8	3/9
Spring Recess [March 22 through April 10, 2023]							
Apr 11	2/23	2/23	3/9	3/23	3/27	3/29	3/30
Apr 25	3/9	3/9	3/23	4/6	4/10	4/12	4/13
May 9	3/23	3/23	4/6	4/20	4/24	4/26	4/27
May 23	4/6	4/6	4/20	5/4	5/8	5/10	5/11
May 30	4/13	4/13	4/27	5/11	5/15	5/17	5/18
Jun 6	4/20	4/20	5/4	5/18	5/31 (Tues)	5/24	5/25
Jun 13	4/27	4/27	5/11	5/25	5/29	5/31	6/1
Jun 27	5/11	5/11	5/25	6/8	6/12	6/14	6/15
Jul 11	5/25	5/25	6/8	6/22	6/26	6/28	6/29
Jul 25	6/8	6/8	6/22	7/6	7/10	7/12	7/13
Summer Recess [July 26 through September 11, 2023]							
Sep 12	7/27	7/27	8/10	8/24	8/28	8/30	8/31
Sep 19	8/3	8/3	8/17	8/31	9/6 (Tues)	9/6	9/7
Oct 3	8/11	8/11	8/25	9/8	9/12	9/14	9/15
Oct 10	8/25	8/25	9/8	9/22	9/28 (Wed)	9/28	9/29
Nov 7	9/15	9/15	9/29	10/13	10/19 (Wed)	10/19	10/20
Nov 14	9/28	9/28	10/12	10/26	10/30	11/1	11/2
Nov 28	10/12	10/12	10/26	11/10	11/13	11/15	11/16
Dec 5	10/19	10/19	11/2	11/17	11/20	11/22	11/23 (Wed)
Dec 12	10/27	10/27	11/9	11/23 (Wed)	11/27	11/29	11/30
Winter Recess [December 13, 2023 through January 15, 2024]							

Revised 09/29/2022

VTO Affected Dates

Holiday Affected Dates

Religious Holiday Affected
Date


BEN BARTLETT

CITY COUNCILMEMBER, DISTRICT 3

CONSENT CALENDAR

December 14, 2021

To: Honorable Mayor and Members of the City Council
 From: Councilmember Ben Bartlett
 Subject: Health Care Facility Oversight

RECOMMENDATION

Refer to the City Manager and the Community Health Commission an assessment of the breadth of regulatory control the City of Berkeley can exert on skilled nursing facilities, and create a process of accountability if complaints are found to be substantiated that threaten, or could potentially escalate to the point of threatening, the wellbeing of patients and/or violate federal, state, or local law; the business license of the offending facility will be suspended until the skilled nursing facility submits a report demonstrating rectification of the situation.

BACKGROUND

The California Department of Public Health (CDPH) mandates that skilled nursing facilities provide 3.5 hours of patient care to each patient per day.¹ For instance, some care facilities in Berkeley are reported to have as few as 6 staffers serving 66 patients, meaning that even if the staff worked around the clock, at most they would be able to offer 2.1 staff hours per patient per day. In 2021 alone, the facility has received 12 complaints, but not a single one has been followed up by an enforcement action². This is just a single example in an egregious pattern of lack of care met with lack of enforcement. In 2019, for example, skilled nursing facilities were found to violate an average of 23 federal and state laws per facility. Yet, in the 77 skilled nursing facilities across California, not a single regulation was enforced. As a result, there has been a history of negligence, mistreatment, and patient abuse within Californian care facilities.³

CURRENT SITUATION

The City has received numerous grievances from concerned community members over the quality of care in certain skilled nursing facilities in Berkeley. Community members complain of neglect, indifference, and harmful, negligent behavior with sometimes tragic consequences.

The City must address these hazards by creating internal procedures and policies designed to prevent further harmful acts. Precedence for license revocation policies can be found in other municipalities. For example, Chapter 6 Section 1.80 of Superior, Colorado Municipal Code states that business licenses can be suspended “when any activity conducted by the licensee, his or her employee or agent violates any federal, state or local rule, regulation or law.”⁴ The City

¹<https://canhrnews.com/guidelines-for-3-5-direct-care-service-hours-per-patient-day-dhppd-staffing-audits/>

² <https://www.cdph.ca.gov/Programs/CHCQ/LCP/CalHealthFind/Pages/SearchResult.aspx>

³ <https://calmatters.org/health/2021/10/nursing-homes-oversight-california-hearing/>

⁴ https://library.municode.com/co/superior/codes/municipal_code?nodeId=CH6BULIRE

of Berkeley could adopt such an ordinance to shutter inept care facilities and deter improper conduct and mismanagement.

Furthermore, to ensure enforcement, the City could mandate that all complaints be forwarded to the Environmental Health Division to be reviewed in a timely manner. This would prevent a backlog of complaints and strengthen City follow-through.

The City of Berkeley needs to enforce strict regulations over the performance and conditions of skilled nursing care facilities to ensure that patients are not stripped of their right to quality care. As stated above, a particularly skilled nursing care facility received 12 complaints in 2021, but there was zero enforcement action taken against them. With this recommendation, there will be a strict standard that skilled nursing care facilities must meet to guarantee that issues are adequately addressed by the City of Berkeley. Furthermore, it provides safeguards to ensure that patients are not neglected by those assigned to look after them.

FINANCIAL IMPLICATIONS

Determine as part of City Manager and Commission response.

Suppose the City can regulate skilled nursing facilities (generally not a City role). In that case, there could be significant financial implications because there is currently no staff assigned to this work in the City.

COMMUNITY CONSULTATIONS

This item was informed by consultations with and complaints raised by community members.

CONTACT PERSONS

Councilmember Ben Bartlett

James Chang

Hillary Phan

Jerry Wong

bbartlett@cityofberkeley.info

jchang@cityofberkeley.info

510-981-7130

510-981-7135

Model Ordinance for Local Long Term Care Facility Licensure

California law states that no person or entity shall operate a health facility without first obtaining a license (Health and Safety Code Section 1253). Unfortunately, the California Department of Public Health's (CDPH) licensing process has become dysfunctional to the point of irrelevance. CDPH takes no action when nursing home operations are transferred to unlicensed and unvetted operators. As a result, operators no longer need a license to own or run nursing homes in California. Virtually anyone or any company can acquire nursing homes in California, no matter how incompetent, financially unqualified, or terrible their track record they may be. As a result, California nursing homes are dominated by for-profit chains that, at best, are known for putting profits over care and, at worst, for routinely exposing residents to neglect and abuse that is causing residents to suffer severe harm, misery and torturous deaths. As the State continues to fumble with its role of nursing home oversight, cities and counties are encouraged to become proactive in vetting what people or entities are operating nursing homes in their communities.

The following model local ordinance is meant to ensure that no new entity can operate a nursing home without prior approval from the local community by creating consequences severe enough to discourage even the most unscrupulous operators. The model ordinance is also designed to ensure the local community has the information it needs to make good licensing decisions.

The ordinance

No person or entity shall own or operate a skilled nursing facility without first obtaining a local license. A skilled nursing facility is defined in Health and Safety Code Section 1250(c).

“Operate” means to exercise operational control, including but not limited to, managing, budget setting, and contracting with residents for admission.

Operation

1. Application

Any person(s) or entity(ies) seeking to own or operate a skilled nursing facility shall submit an application, signed under penalty of perjury that includes the following:

- A description of the services to be offered in the facility.
- The name of the proposed owner(s) / operator(s), type of facility to be owned or operated, address of facility to be owned or operated, name of the facility, and the name of the current owner and operator,
- Whether the owner or operator is for-profit or non-profit provider.
- If the proposed owner or operator is an entity, the application must include the name, address, and affiliation with any other long term care facilities of all directors, board

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.

Internal

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.