



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF STATE HOSPITALS

Compliance Review Unit
State Personnel Board
May 21, 2015

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INTRODUCTION

Established by the California Constitution, the State Personnel Board (the SPB or Board) is charged with enforcing and administering the civil service statutes, prescribing probationary periods and classifications, adopting regulations, and reviewing disciplinary actions and merit-related appeals. The SPB oversees the merit-based recruitment and selection process for the hiring of over 200,000 state employees. These employees provide critical services to the people of California, including but not limited to, protecting life and property, managing emergency operations, providing education, promoting the public health, and preserving the environment. The SPB provides direction to departments through the Board's decisions, rules, policies, and consultation.

Pursuant to Government Code section 18661, the SPB's Compliance Review Unit (CRU) conducts compliance reviews of appointing authority's personnel practices in four areas: examinations, appointments, equal employment opportunity (EEO), and personal services contracts (PSC's) to ensure compliance with civil service laws and board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews. The SPB conducts these reviews on a three-year cycle.

The CRU may also conduct special investigations in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of California Department of State Hospitals (DSH) personnel practices in the areas of examinations, appointments, EEO, and PSC's from April 1, 2012, through June 30, 2013. The following table summarizes the compliance review findings.

Area	Finding	Severity
Examinations	Job Analyses Were Not Developed or Used for the Examination Process	Very Serious
Examinations	Examination Files Were Missing Documentation	Serious
Appointments	Equal Employment Opportunity Questionnaires Were Not Separated from Applications	Very Serious
Appointments	Unlawful Appointment	Very Serious
Appointments	Hiring Individuals Below Rank Three Was Not Documented	Serious
Appointments	Appointment Files Were Missing Documentation	Serious

Area	Finding	Severity
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed	Serious
Equal Employment Opportunity	Equal Employment Opportunity Officer Does Not Monitor the Composition of Oral Panels in Departmental Exams	Very Serious
Personal Services Contracts	Personal Services Contracts Complied With Procedural Requirements	In Compliance

A color-coded system is used to identify the severity of the violations as follows:

- Red = Very Serious
- Orange = Serious
- Yellow = Non-serious or Technical
- Green = In Compliance

BACKGROUND

The DSH manages the California state hospital system, which provides mental health services to patients admitted into DSH facilities. The department strives to provide effective treatment in a safe environment and in a fiscally responsible manner. The DSH's vision is caring today for a healthy tomorrow. The mission is to provide evaluation and treatment in a safe and responsible manner, seeking innovation and excellence in hospital operations, across a continuum of care and settings. The values of the DSH are safety, treatment, and responsibility, and the goals are a safe environment, responsible stewardship, excellence in forensic evaluation, and excellence in treatment.

The DSH oversees five state hospitals and three psychiatric programs located in state prisons. All eight facilities are fully licensed by the California Department of Public Health, and must regularly meet or exceed regulatory standards to continue providing care. The DSH was created by Governor Jerry Brown's 2012-13 Budget, which eliminated the Department of Mental Health by transferring its various functions to other departments. As of 2014, the department employs over 11,000 staff and serves over 6,000 patients in a 24/7 hospital system supported by a \$1.6 billion budget.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing DSH examinations, appointments, EEO program, and PSC's from April 1, 2012, through June 30, 2013. The DSH review began as a baseline review. The review was later expanded to allow for a full compliance review. The primary objective of the review was to determine if DSH personnel practices, policies, and procedures complied with state civil service laws and board regulations, and to recommend corrective action where deficiencies were identified.

A cross-section of DSH examinations and appointments were selected for review to ensure that samples of various examinations and appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the DSH provided, which included examination plans, examination bulletins, job analyses, 511b's, scoring results, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The review of the DSH EEO program included examining written EEO policies and procedures; the EEO officer's role, duties, and reporting relationship; the internal discrimination complaint process; the upward mobility program; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC). The CRU also interviewed appropriate DSH staff.

DSH PSC's were also reviewed.¹ The DSH executed PSC's for equipment maintenance and repairs, patient workshops/training classes, acute patient, administrative, copier/fax and registry services.

On February 20, 2015, an exit conference was held with the DSH to explain and discuss the CRU initial findings and recommendations, and to provide the DSH with a copy of the CRU draft report. The DSH was given until May 11, 2015 to submit a written response to the CRU draft report. On May 8, 2015, the CRU received and carefully reviewed the response, which is attached to this final compliance report.

¹ If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931.) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed in the examination announcement. (Gov. Code, § 18934.) Generally, the final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, the DSH conducted 112 examinations. The CRU reviewed 77 of these examinations, which are listed below:

Classification	Exam Type	Exam Components	Examination Date	No. of Eligibles
Assistant Director of Dietetics	Open	Qualification Appraisal Panel (QAP ²)	8/24/2012	10
Chief Dentist	QAP	Open	6/22/2012	5

² The qualification appraisal panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

Classification	Exam Type	Exam Components	Examination Date	No. of Eligibles
Career Executive Assignment (CEA), Assistant Deputy Director, Forensic Services	CEA	Statement of Qualifications (SOQ) ³	9/04/2012	1
CEA, Chief, Forensic Services Program	CEA	SOQ	10/30/2012	8
CEA, Clinical Administrator, Metropolitan	CEA	SOQ	1/11/2012	4
CEA, Clinical Administrator, Salinas Valley	CEA	SOQ	11/29/2012	6
CEA, Clinical Administrator, Vacaville	CEA	SOQ	10/30/2012	4
CEA, Executive Director, Atascadero	CEA	SOQ	7/12/2012	4
CEA, Executive Director, Salinas Valley	CEA	SOQ	8/29/2012	1
CEA, Executive Director, Vacaville	CEA	SOQ	7/10/2012	3
CEA, Hospital Administrator, Vacaville	CEA	SOQ	10/30/2012	5
CEA, Medical Director, Coalinga	CEA	SOQ	7/27/2012	4
Clinical Laboratory Technologist (Safety)	Open	QAP	Continuous	3
Clinical Laboratory Technologist (Safety)	Open	QAP	6/15/2012	2
Clinical Psychologist Intern	Open	Education & Experience (E&E) ⁴	Continuous	52

³ In a statement of qualifications (SOQ's) examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

⁴ In an education and experience (E&E) examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

Clinical Psychology Intern	Open	Supplemental Application (SA) ⁵	Continuous	75
Clinical Social Worker (Health/Correctional Facility)-Safety	Open	QAP	Continuous	28
Clinical Social Worker (Health/Correctional Facility)-Safety	Open	QAP	9/10/2012	19
Consulting Psychologist	Open	E&E	Continuous	20
Consulting Psychologist	Open	E&E	Continuous	1
Consulting Psychologist	Open	E&E	Continuous	3
Cook Specialist I	Open	QAP	6/15/2012	25
Cook Specialist II	Open	QAP	9/25/2012	1
Cook Specialist II	Open	QAP	8/01/2012	1
Cook Specialist II	Open	QAP	Continuous	1
Coordinator of Nursing Services	Open	QAP	11/28/2012	2
Dietician Technician (Safety)	Open	QAP	6/29/2012	10
Food Service Technician I	Open	Written ⁶	4/05/2012	83
Food Service Technician I	Open	Written	6/04/2012	64
Food Service Technician I	Open	Written	7/18/2012	15
Food Service Technician II	Open	Written	6/04/2012	19
Food Service Technician II	Open	Written	7/18/2012	56
Health Record Technician I	Open	QAP	8/10/2012	38
Health Services Specialist (Safety)	Open	QAP	Continuous	22
Health Services Specialist (Safety)	Open	QAP	9/27/2012	6
Health Services Specialist (Safety)	Open	QAP	12/06/2012	13
Medical Technical Assistant (Psychiatric)	Open	QAP	Continuous	2
Medical Transcriber	Open	QAP	Continuous	6
Nursing Coordinator (Safety)	Open	QAP	Continuous	18

⁵ In a supplemental application (SA) examination, applicants are not required to present themselves in person at a predetermined time and place. Supplemental applications are in addition to the regular application and must be completed in order to remain in the examination. Supplemental applications are also known as "rated" applications.

⁶ A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

Pharmacy Technician	Open	QAP	10/17/2012	46
Physician and Surgeon (Safety)	Open	E&E	Continuous	2
Program Director, (Mental Disabilities Safety)	Departmental Promotional	QAP	11/01/2012	58
Psychiatric Technician (Safety)	Open	QAP	Continuous	11
Psychiatric Technician (Safety)	Open	QAP	6/22/2012	56
Psychiatric Technician (Safety)	Open	QAP	7/02/2012	55
Psychiatric Technician (Safety)	Open	QAP	8/07/2012	42
Psychiatric Technician (Safety)	Open	QAP	9/14/2012	41
Psychiatric Technician (Safety)	Open	QAP	10/19/2012	48
Psychiatric Technician Assistant (Safety)	Open	QAP	11/14/2012	78
Psychiatric Technician Trainee (Safety)	Open	QAP	10/12/2012	58
Psychiatric Technician Trainee (Safety)	Open	QAP	6/27/2012	53
Psychiatric Technician Training Candidate	Open	QAP	10/12/2012	55
Psychologist (Health Facility-Clinical-Safety)	Open	QAP	9/18/2012	6
Registered Nurse (Safety)	Open	QAP	Continuous	154
Registered Nurse (Safety)	Open	QAP	9/05/2012	58
Registered Nurse (Safety)	Open	QAP	9/12/2012	13
Registered Nurse (Safety)	Open	QAP	10/12/2012	36
Registered Nurse (Safety)	Open	QAP	10/25/2012	13
Rehabilitation Therapist, State Facilities (Art-Safety)	Open	QAP	Continuous	6
Rehabilitation Therapist, State Facilities (Dance-Safety)	Open	QAP	Continuous	2
Rehabilitation Therapist, State Facilities (Recreation-Safety)	Open	QAP	10/24/2012	4
Rehabilitation Therapist, State Facilities (Recreation-Safety)	Open	QAP	Continuous	1

Senior Psychiatric Technician (Safety)	Open	QAP	8/21/2012	16
Senior Medical Technical Assistant (Psychiatric)	Open	QAP	Continuous	4
Senior Psychologist (Health Facility) (Specialist)	Open	QAP	Continuous	24
Sexually Violent Predator Evaluator	Open	E&E	Continuous	1
Sexually Violent Predator Evaluator	Open	E&E	Continuous	1
Sexually Violent Predator Evaluator	Open	E&E	Continuous	0
Staff Psychiatrist (Safety)	Open	QAP	11/14/2012	2
Staff Services Analyst (General)	Departmental Promotional	Written	9/19/2012	20
Supervising Cook I	Open	QAP	8/09/2012	6
Supervising Registered Nurse (Safety)	Open	QAP	Continuous	26
Supervising Registered Nurse (Safety)	Open	QAP	Continuous	1
Supervising Registered Nurse (Safety)	Open	QAP	Continuous	6
Unit Supervisor (Safety)	Open	QAP	Continuous	8
Unit Supervisor (Safety)	Open	QAP	6/27/2012	30
Unit Supervisor (Safety)	Open	QAP	8/22/2012	13

FINDING NO. 1 – Job Analyses Were Not Developed or Used for the Examination Process

Summary:

While a job analysis was not required for the CEA examinations that the DSH administered, a job analysis was required for each of the civil service examinations. The DSH provided job analyses for the majority of examinations that were reviewed; however, the DSH was unable to provide job analyses for the Psychiatric Technician Trainee (Safety) and Rehabilitation Therapist (Recreation-Safety) examinations. Without copies of the job analyses to review, the CRU is unable to determine if the civil service examinations were administered utilizing job-related examination procedures as required by the Merit Selection Manual (MSM).

Classification	List Active Date	List Expiration Date	No. of Eligibles	No. of Vacant Positions as of 8/06/2014
Psychiatric Technician Trainee (Safety)	Multiple dates	Multiple dates	111	2
Rehabilitation Therapist, State Facilities (Recreation-Safety)	Multiple dates	Multiple dates	5	0

Criteria: The MSM, which is incorporated in California Code of Regulations, title 2, § 50, mandates the development and use of a job analysis for the examination process. A “job analysis shall serve as the primary basis for demonstrating and documenting the job-relatedness of examination processes conducted for the establishment of eligible lists within the State’s civil service.” (MSM (Oct. 2003), § 2200, p. 2.) The MSM requires that job analyses adhere to the legal and professional standards outlined in the job analysis section of the MSM, and that certain elements must be included in the job analysis studies. (*Ibid.*) Those requirements include the following: (1) that the job analysis be performed for the job for which the subsequent selection procedure is developed and used; (2) the methodology utilized be described and documented; (3) the job analytic data be collected from a variety of current sources; (4) job tasks be specified in terms of importance or criticality, and their frequency of performance; (5) and job tasks must be sufficiently detailed to derive the requisite knowledge, skills, abilities (KSAs), and personal characteristics that are required to perform the essential tasks and functions of the job classification. (MSM, § 2200, pp. 2-3.)

Severity: Very Serious. The examinations may not have been job-related or legally defensible.

Cause: Per DSH, the audit period selected by the SPB (April 1, 2012 through June 30, 2013) was a challenging time for the DSH as the department was transitioning from the department of Mental Health (DMH) to the current DSH (December 7, 2011 through July 1, 2012). The DSH has mitigated this area by establishing a Job Analysis Unit in September 2012 to develop job analyses for DSH

classifications. The unit will soon complete job analyses for all DSH classifications.

Action: To correct this deficiency, the DSH must abolish the examination lists that have not yet expired for the following classifications:

- (1) Psychiatric Technician Trainee (Safety)
- (2) Rehabilitation Therapist State Facilities (Recreation-Safety)

Within 60 days of the SPB's Executive Officer's approval of findings and recommendations, the DSH must submit to the CRU a written report of compliance verifying that the above-state examination lists have been abolished. Copies of any relevant documents should be included with the report. Prior to the DSH administering any future examinations, the DSH must create and develop each examination based upon a job analysis that meets the requirements of the MSM.

Furthermore, the CRU finds the appointments that were made from the examinations that were administered without a job analysis were made in good faith and did not merit being voided.

FINDING NO. 2 – Examination Files Were Missing Documentation

Summary: The DSH submitted 77 examination files that did not contain 12 examination bulletins, 17 security documents, and 2 signed rating sheets.

Criteria: In relevant part, civil service laws require that the employment procedures of each state agency shall conform to the federal and state laws governing employment practices. (Gov. Code, § 18720.) State agencies are required to maintain and preserve any and all applications, personnel, membership, or employment referral records and files for a minimum period of two years after the records and files are initially created or received. (Gov. Code, § 12946.) State agencies are also required to retain personnel files of applicants or terminated employees for a minimum period of two years after the date the employment action is taken. (*Ibid.*) In addition, all applications for a state civil service position must be

maintained and preserved on file for at least two years. (Cal. Code Reg., tit. 2, §174.).

Severity: Serious. Without documentation, the CRU cannot verify if examinations were properly conducted.

Cause: Per DSH, the DSH complies with Government Code Section 18720 along with Section 12946 which requires that DSH maintain examination records. Nevertheless, it appears that the department has provided insufficient communication and tools to DSH staff to ensure that the department retains all necessary examination documents.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DSH submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the record retention requirements of Government Code section 12946. Copies of any relevant documentation should be included with the plan.

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and board rules. (Gov. Code, § 19050.) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual's job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the compliance review period, the DSH made 570 appointments. The CRU reviewed 232 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Licensed Vocational Nurse (Safety)	Additional Appointment	Limited Term	Intermittent	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Physician and Surgeon (Safety)	Additional Appointment	Permanent	Intermittent	1
Psychiatric Technician (Safety)	Additional Appointment	Limited Term	Intermittent	1
Rehabilitation Therapist, State Facilities (Music-Safety)	Additional Appointment	Limited Term	Intermittent	1
Accountant I (Specialist)	Certification List	Permanent	Full Time	2
Assistant Seamer	Certification List	Permanent	Full Time	2
Clinical Psychology Intern	Certification List	Limited Term	Part Time	2
Clinical Social Worker (Health/Correctional Facility)-Safety	Certification List	Permanent	Full Time	12
Clinical Social Worker (Health/Correctional Facility)-Safety	Certification List	Permanent	Intermittent	2
Communications Operator	Certification List	Permanent	Full Time	1
Consulting Psychologist	Certification List	Permanent	Full Time	4
Cook Specialist II	Certification List	Permanent	Full Time	1
Cook Specialist II	Certification List	Limited Term	Full Time	1
Custodian	Certification List	Permanent	Full Time	2
Custodian (LEAP)	Certification List	Permanent	Full Time	4
Food Service Supervisor I	Certification List	Limited Term	Full Time	1
Food Service Technician I	Certification List	Permanent	Full Time	1
Food Service Technician I	Certification List	Permanent	Part Time	20
Food Service Technician II	Certification List	Permanent	Full Time	9
Health Record Technician I	Certification List	Limited Term	Full Time	1
Health Services Specialist (Safety)	Certification List	Permanent	Full Time	1
Hospital Police Officer	Certification List	Permanent	Full Time	8
Information Systems Technician	Certification List	Permanent	Full Time	1
Investigator	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Medical Technical Assistant (Psychiatric)	Certification List	Limited Term	Full Time	3
Nurse Practitioner (Safety)	Certification List	Permanent	Full Time	2
Office Assistant (General)	Certification List	Permanent	Full Time	1
Office Services Supervisor II (General)	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	8
Office Technician (Typing) (LEAP)	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Limited Term	Full Time	1
Pharmacist I	Certification List	Permanent	Full Time	1
Psychiatric Technician Apprentice	Certification List	Limited Term	Full Time	2
Psychiatric Technician Assistant (Safety)	Certification List	Permanent	Full Time	1
Psychiatric Technician (Safety)	Certification List	Permanent	Full Time	21
Psychologist (Health Facility-Clinical-Safety)	Certification List	Permanent	Full Time	4
Public Health Nurse II	Certification List	Permanent	Full Time	2
Registered Nurse (Safety)	Certification List	Permanent	Full Time	7
Research Analyst II	Certification List	Permanent	Full Time	1
Senior Medical Technical Assistant (Psychiatric)	Certification List	Limited Term	Full Time	1
Senior Psychiatrist (Supervisor), Correctional and Rehabilitative	Certification List	Permanent	Full Time	3
Senior Psychiatric Technician (Safety)	Certification List	Permanent	Full Time	6
Staff Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	4
Staff Information Systems Analyst (Supervisor)	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Staff Psychiatrist (Safety)	Certification List	Permanent	Full Time	2
Staff Psychiatrist Correctional and Rehabilitation Services (Safety)	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	9
Staff Services Analyst (General)	Certification List	Limited Term	Full Time	1
Staff Services Analyst (General) (LEAP)	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Limited Term	Full Time	1
Systems Software Specialist II (Technical)	Certification List	Permanent	Full Time	1
Systems Software Specialist III (Technical)	Certification List	Permanent	Full Time	1
Unit Supervisor (Safety)	Certification List	Permanent	Full Time	1
Unit Supervisor (Safety)	Certification List	Limited Term	Full Time	1
Accounting Administrator II	Compelling Management Needs	Permanent	Full Time	1
Staff Services Manager III	Compelling Management Needs	Permanent	Full Time	1
Hospital Police Sergeant	Mandatory Reinstatement	Permanent	Full Time	1
Psychiatric Technician (Safety)	Mandatory Reinstatement	Permanent	Full Time	3
Senior Psychiatric Technician (Safety)	Mandatory Reinstatement	Permanent	Full Time	1
Supervisor, Vocational Services	Mandatory Reinstatement	Permanent	Full Time	1
Associate Governmental Program Analyst	Permissive Reinstatement	Permanent	Full Time	1
Associate Personnel Analyst	Permissive Reinstatement	Limited Term	Intermittent	1
Cook Specialist II	Permissive Reinstatement	Limited Term	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Food Service Technician I	Permissive Reinstatement	Limited Term	Full Time	2
Food Service Technician I	Permissive Reinstatement	Limited Term	Intermittent	2
Maintenance Mechanic	Permissive Reinstatement	Permanent	Full Time	1
Nurse Practitioner	Permissive Reinstatement	Limited Term	Intermittent	1
Office Assistant (Typing)	Permissive Reinstatement	Permanent	Full Time	1
Physician & Surgeon (Safety)	Permissive Reinstatement	Permanent	Intermittent	1
Program Technician	Permissive Reinstatement	Permanent	Full Time	1
Registered Nurse (Safety)	Permissive Reinstatement	Limited Term	Intermittent	1
Senior Psychiatric Technician (Safety)	Permissive Reinstatement	Permanent	Full Time	1
Senior Psychiatric Technician (Safety)	Permissive Reinstatement	Limited Term	Full Time	1
Senior Psychiatric Technician (Safety)	Permissive Reinstatement	Limited Term	Intermittent	1
Staff Information Systems Analyst (Specialist)	Permissive Reinstatement	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Permissive Reinstatement	Permanent	Full Time	1
Unit Supervisor (Forensic Facility)	Permissive Reinstatement	Limited Term	Full Time	1
Accountant I (Specialist)	Transfer	Permanent	Full Time	1
Cook Specialist II	Transfer	Permanent	Full Time	2
Coordinator Volunteer Services	Transfer	Permanent	Full Time	1
Health and Safety Officer	Transfer	Permanent	Full Time	1
Hospital Police Officer	Transfer	Permanent	Full Time	2
Laundry Worker	Transfer	Permanent	Full Time	1
Medical Technical Assistant (Psychiatric)	Transfer	Limited Term	Full Time	2
Personnel Specialist	Transfer	Limited Term	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Property Controller II	Transfer	Permanent	Full Time	1
Psychiatric Technician (Safety)	Transfer	Permanent	Full Time	1
Psychiatric Technician (Safety)	Transfer	Limited Term	Full Time	1
Public Health Nurse I, Departments of Mental Health and Development	Transfer	Permanent	Full Time	1
Senior Psychiatric Technician (Safety)	Transfer	Permanent	Full Time	1
Staff Systems Analyst (General)	Transfer	Permanent	Full Time	1
Supervising Registered Nurse (Safety)	Transfer	Permanent	Full Time	4
Telephone Operator	Transfer	Limited Term	Full Time	2
Training Officer II	Transfer	Limited Term	Full Time	1
Vocational Instructor (Landscape Gardening-Safety)	Transfer	Permanent	Full Time	1
Skilled Trades Journeyperson (Casual Employment) (Electrician)	Temporary Authorization Utilization (TAU)	Limited Term	Intermittent	1
Laborer-Building Trades-Casual Employment	TAU	Limited Term	Intermittent	2
Pre-Licensed Pharmacist	TAU	Limited Term	Full Time	1
Pre-Licensed Psychiatric Technician (Safety)	TAU	Limited Term	Intermittent	2
Sheetfed Offset Press Operator III	TAU	Limited Term	Intermittent	1
Custodian	Voluntary Transfer	Permanent	Full Time	1
Registered Nurse (Safety)	Voluntary Demotion	Permanent	Intermittent	1
Psychiatric Technician (Safety)	Voluntary Demotion	Permanent	Full Time	1

FINDING NO. 3 – Equal Employment Opportunity Questionnaires Were Not Separated from Applications

Summary: The DSH did not separate 122 EEO questionnaires from 1,756 STD. 678 employment applications.

Criteria: Government Code section 19704 makes it unlawful for a hiring department to require or permit any notation or entry to be made on any application indicating or in any way suggesting or pertaining to any protected category listed in Government Code section 12940, subdivision (a) (e.g., a person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status). Applicants for employment in state civil service are asked to provide voluntarily ethnic data about themselves where such data is determined by the California Department of Human Resources (CalHR) to be necessary to an assessment of the ethnic and sex fairness of the selection process and to the planning and monitoring of affirmative action efforts. (Gov. Code, § 19705.) The EEO questionnaire of the state application form (STD. 678) states, "This questionnaire will be separated from the application prior to the examination and will not be used in any employment decisions."

Severity: Very Serious. The applicants' protected classes were visible, subjecting the agency to potential liability.

Cause: Per the DSH, in a number of incidents, EEO questionnaires were not separated from employment applications. It is DSH practice to separate these documents; however, it appears that DSH has provided insufficient instruction to employees to ensure that all questionnaires are separated from the employment application.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DSH submit to the CRU a written corrective action plan that the department will implement to ensure conformity with in the future that EEO questionnaires are separated from all applications. Copies of any relevant documentation should be included with the plan.

FINDING NO. 4 – Unlawful Appointment

Summary: A candidate in a non-reachable rank was appointed to Psychiatric Technician. More than one year has elapsed, and the candidate accepted the job offer in good faith. DSH readily recognized and admitted they made an error when making this appointment.

Criteria: California Code of Regulations, title 2, § 254 (Rule 254) mandates that each vacancy for a class in which the certification of eligibles is under Government Code §19057, the department shall fill a vacancy by eligible in the three highest names certified. Governmental Code section 19057 refers to promotional employment lists. Rule 254 additionally mandates that each vacancy for a class in which the certification of eligible is under Government Code §19057.1, 19057.2 and 19057.3, the department shall fill a vacancy by eligibles in the three highest ranks certified. Government Code § 19057.1, 19057.2 and 19057.3 refers to professional, scientific, administrative and management classifications.

Severity: Very Serious. An illegal appointment provides the employee with an unfair and unearned appointment advantage over other employees whose appointments have been processed in compliance with the requirements of civil service law. Illegal appointments which are not corrected also create appointment inconsistencies that jeopardize the equitable administration of the civil service merit system.

When an illegal appointment is voided, the employee loses any tenure in the position, as well as seniority credits, eligibility to take promotional examinations, and compensation at the voided appointment level. If “bad faith” is determined on the part of the appointing power, civil or criminal action may be initiated. Disciplinary action may also be pursued against any officer or employee in a position of authority who directs any officer or employee to take action in violation of the appointment laws. If bad faith is determined on the part of the employee, the employee may be required to reimburse all compensation resulting from the illegal appointment and may also be subject to disciplinary action.

Cause: Per the DSH, the DSH has a compliant process for appointing candidates from ranks four and below. That process was not followed in this instance.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DSH submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure the department will improve its hiring practices. Copies of any relevant documentation should be included with the plan.

FINDING NO. 5 – Hiring Individual Below Rank Three Was Not Documented

Summary: Per the DSH, the DSH did not provide sufficient documentation to the CRU to show how they cleared ranks one through three (reemployment, State Restriction of Appointments (SROA⁷, etc.) of the certification list prior to making an appointment to Office Technician.

Criteria: California Code of Regulations, title 2, § 254 (Rule 254) mandates that each vacancy for a class in which the certification of eligibles is under Government Code §19057, the department shall fill a vacancy by eligible in the three highest names certified. Governmental Code section 19057 refers to promotional employment lists. Rule 254 additionally mandates that each vacancy for a class in which the certification of eligible is under Government Code §19057.1, 19057.2 and 19057.3, the department shall fill a vacancy by eligibles in the three highest ranks certified. Government Code § 19057.1, 19057.2 and 19057.3 refers to professional, scientific, administrative and management classifications.

⁷ The state restriction of appointments (SROA) program is intended to prevent the layoff and separation of skilled and experienced employees from State service. The SROA program assists in placing affected employees by temporarily restricting the methods of appointment available to appointing powers. Employees on SROA lists are granted preferential consideration over all other types of appointments except appointments from reemployment lists and mandatory reinstatements.

Severity: Serious. Without documentation establishing the basis for hiring below the top three ranks, the CRU could not verify whether one appointment to Office Technician was properly conducted.

Cause: Per the DSH, the DSH has a compliant process for appointing candidates from ranks four and below. That process was not properly documented in this instance.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DSH submit to the CRU a written corrective action plan that addresses the corrections the department will implement to improve its hiring practices. Copies of any relevant documentation should be included with the plan.

FINDING NO. 6 – Appointment Files Were Missing Documentation

Summary: The DSH submitted 232 appointment files that did not contain 69 job bulletins.

Criteria: In relevant part, civil service laws require that the employment procedures of each state agency shall conform to the federal and state laws governing employment practices. (Gov. Code, § 18720.) State agencies are required to maintain and preserve any and all applications, personnel, membership, or employment referral records and files for a minimum period of two years after the records and files are initially created or received. (Gov. Code, § 12946.) State agencies are also required to retain personnel files of applicants or terminated employees for a minimum period of two years after the date the employment action is taken. (*Ibid.*)

Severity: Serious. Without documentation, the CRU could not verify if the appointments were legal.

Cause: Per the DSH, the DSH complies with Government Code Section 18720 along with Section 12946 which requires that DSH maintain appointment records as required. Nevertheless, it appears that the department has provided insufficient communication and tools to

DSH staff to ensure that the department retains all necessary appointment documents.

Action: It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the DSH submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the record retention requirements of Government Code section 12946. Copies of any relevant documentation should be included with the plan.

FINDING NO. 7 - Probationary Evaluations Were Not Provided for All Appointments Reviewed

Summary: The DSH did not prepare, complete, and/or retain required probationary reports of performance for 74 of the 232 appointments reviewed by CRU.

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Accountant I (Specialist)	Certification List	2	6
Assistant Seamer	Certification List	1	3
Clinical Social Worker (Health/Correctional Facility)- Safety	Certification List	4	12
Communications Operator	Certification List	1	3
Consulting Psychologist	Certification List	3	6
Cook Specialist I	Certification List	1	3
Custodian	Certification List	2	6
Food Services Technician I	Certification List	20	59
Food Services Technician II	Certification List	4	10
Health Services Specialist (Safety)	Certification List	1	3
Hospital Police Officer	Certification List	7	21
Office Assistant (General)	Certification List	1	3
Office Services Supervisor II (General)	Certification List	1	3
Office Technician (Typing)	Certification List	1	3
Psychologist (Health Facility-Clinical-Safety)	Certification List	1	2

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Public Health Nurse li	Certification List	1	3
Research Analyst II	Certification List	1	3
Senior Psychiatric Technician (Safety)	Certification List	2	6
Staff Services Analyst (General)	Certification List	9	22
Systems Software Specialist II (Technical)	Certification List	1	2
Unit Supervisor (Safety)	Certification List	1	1
Accountant I (Specialist)	Transfer	1	3
Cook Specialist II	Transfer	2	6
Coordinator of Volunteer Services	Transfer	1	3
Health and Safety Officer	Transfer	1	3
Hospital Police Officer	Transfer	1	3
Laundry Worker	Transfer	1	3
Property Controller	Transfer	1	3
Staff Services Analyst (General)	Transfer	1	3
TOTALS:		74	207

Criteria: A new probationary period is not required when an employee is appointed by reinstatement with a right of return. (Cal. Code Regs., tit. 2, § 322, subd. (d)(2).) However, the service of a probationary period is required when an employee enters state civil service by permanent appointment from an employment list. (Cal. Code Regs., tit. 2, § 322, subd. (a).) In addition, unless waived by the appointing power, a new probationary period is required when an employee is appointed to a position under the following circumstances: (1) without a break in service in the same class in which the employee has completed the probationary period, but under a different appointing power; and (2) without a break in service to a class with substantially the same or lower level of duties and responsibilities and salary range as a class in which the employee has completed the probationary period. (Cal. Code Regs., tit. 2, § 322, subd. (c)(1) & (2).)

During the probationary period, the appointing power is required to evaluate the work and efficiency of a probationer at sufficiently

frequent intervals to keep the employee adequately informed of progress on the job. (Gov. Code, § 19172; Cal. Code Regs., tit. 2, § 599.795.) The appointing power must prepare a written appraisal of performance each one-third of the probationary period. (Cal. Code Regs., tit. 2, § 599.795.)

Severity: Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

Cause: Per the DSH, it is DSH policy to provide probationary evaluations to our employees. It is evident by this finding that procedures for ensuring that these evaluations occur are insufficient.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DSH submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code section 19172.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to equal employment opportunity; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the CalHR by providing access to all required files, documents and data. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795.)

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the

head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

The CRU reviewed the DSH EEO program that was in effect during the compliance review period. In addition, the CRU interviewed appropriate DSH staff.

FINDING NO. 8 - Equal Employment Opportunity Officer Does Not Monitor the Composition of Oral Panels in Departmental Exams

Summary: The DSH’s EEO officer does not monitor the composition of the oral panels for departmental exams.

Criteria: The EEO officer at each department must monitor the composition of oral panels during departmental examinations. (Gov. Code, § 19795, subd. (a)).

Severity: Very Serious. Requiring the EEO Officer to monitor oral panels is intended to ensure protection against discrimination in the hiring process.

Cause: Per the DSH, the DSH uses CalHR certified chairpersons to administer each oral examination panel. Chairperson training includes education on EEO principles and the chairperson ensures that EEO requirements are followed during the oral examination process of each candidate. By following this practice, the DSH assumed it was compliant with this requirement.

Action: It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the DSH submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19795. Copies of any relevant documentation should be included with the plan.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the State. (Cal. Code Reg., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state's authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC's achieve cost savings for the state. PSC's that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC's, a state agency is required to notify the SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the compliance review period, the DSH had 226 PSC's that were in effect. The CRU reviewed 32 contracts which were subject to Department of General Services (DGS) approval and thus our procedural review, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
Advanced Copy Systems	Copier Maintenance	7/01/2012-6/30/2014	\$148,780.00	Yes
American Correctional	Registry Services	7/01/2011-6/30/2013	\$3,616,704.00	Yes
Anka Behavioral Health	Outpatient Mental Health Services	7/01/2012-6/30/2013	\$4,146,361.00	Yes
Anka Behavioral Health	Outpatient Mental Health Services	7/01/2012-6/30/2013	\$317,000.00	Yes
Bay Area Doctors, Inc.	Registry Services	9/29/2011-6/30/2013	\$3,628,800.00	Yes
CB Ventures, LLC	SVP Evaluators	1/01/2013-12/31/2014	\$555,347.22	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
Cogent Health Care of CA	Hospital Medicine Services	7/01/2012-6/30/2014	\$200,000.00	Yes
Community Hospital	Acute Hospital Care	7/01/2012-6/30/2014	\$20,000,000.00	Yes
Craig N. Teofilo, Psy.D.	SVP Evaluators	1/01/2013-12/31/2014	\$555,347.22	Yes
Data-tel	Fiber Optic Cabling	7/01/2012-6/30/2013	\$87,000.00	Yes
Dr. George Joseph Grosso	SVP Evaluators	1/01/2013-12/31/2014	\$555,347.22	Yes
Dr. Hy Malinek, Inc.	SVP Evaluators	1/07/2013-12/31/2014	\$555,347.22	Yes
DYK Incorporated	Emergency Repairs to Condensate Tank	7/06/2012-8/15/2012	\$84,867.00	Yes
ExMed Inc.	Registry Services	7/01/2011-6/30/2013	\$4,173,120.00	Yes
Gateways	CONREP Services	7/01/2012-6/30/2013	\$4,131,068.00	Yes
Harper Medical Group, Incorporated	CONREP Services	7/01/2012-6/30/2013	\$3,123,189.00	Yes
Jack P. Vognsen, Ph.D.	SVP Evaluators	1/07/2013-12/31/2014	\$555,347.22	Yes
JAM Fire Protection, Inc.	Fire Protection System	7/01/2012-6/30/2014	\$181,500.00	Yes
John Hupka, Ph.D.	SVP Evaluators	1/01/2013-12/31/2014	\$555,347.22	Yes
Kathleen Longwell, Ph.D.	SVP Evaluators	1/01/2013-12/31/2014	\$555,347.22	Yes
Liberty Health Services	CONREP Services	7/01/2012-6/30/2013	\$4,064,982.00	Yes
MED USA Pathology, Inc.	Pathologist - Lab Supervisor Services	7/01/2012-6/30/2013	\$149,760.00	Yes
Patriot Fire Protection	Fire Extinguisher Maintenance	7/01/2012-6/30/2014	\$90,646.20	Yes
Queen of the Valley Medical Center	Emergency Medical Services	7/01/2012-6/30/2013	\$5,500,000.00	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
Quest Diagnostics	Laboratory Services	7/01/2012-6/30/2014	\$400,000.00	Yes
Rasmey Sam and Associates	Translation and Interpreter Services	7/01/2012-6/30/2013	\$249,999.50	Yes
San Bernardino Care Co.	Convalescent Care	7/01/2012-6/30/2014	\$2,000,000.00	Yes
Solar Turbines, Inc.	Maintenance of Solar Saturn Gas Turbines	7/01/2012-12/31/2013	\$117,653.00	Yes
St. Bernardine's	Inpatient Medical Services	7/01/2012-6/30/2014	\$20,000,000.00	Yes
The Endoscopy Center of Santa Maria, Inc. dba Santa Maria Digestive Diagnostic Center	Ambulatory Surgical Center Services	12/10/2012-12/09/2014	\$150,000.00	Yes
Van Buren Dialysis	Dialysis Care Services	8/01/2012-6/30/2014	\$2,000,000.00	Yes
Van Buren Dialysis	Dialysis Lab	8/01/2012-6/30/14	\$150,000.00	Yes

FINDING NO. 9 – Personal Services Contracts Complied With Procedural Requirements

When a state agency requests approval from the Department of General Services (DGS) for a subdivision (b) contract, the agency must include with its contract transmittal a written justification that includes *specific and detailed factual information* that demonstrates how the contract meets one or more conditions specified in Government Code section 19131, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60.)

The total amount of all the PSCs reviewed was \$82,598,860.24. It was beyond the scope of the review to make conclusions as to whether DSH's justifications for the contract were legally sufficient. For all PSC's subject to DGS approval, the DSH provided specific and detailed factual information in the written justifications as to how each of the 32 contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the DSH's PSC's complied with procedural requirements.

DEPARTMENTAL RESPONSE

FINDING No. 1

The DSH concurs with the finding and will abolish the two appointment lists. The DSH has mitigated this area by establishing a Job Analysis Unit in September 2012 to develop job analyses for DSH classifications. The unit will soon complete job analyses for all DSH classifications.

FINDING NO. 2

The DSH concurs with the finding and will provide communication and tools to DSH staff to ensure that the department retains all necessary examination documents.

Finding No. 3

The DSH concurs with the finding and will provide instruction to DSH staff to ensure that these questionnaires are separated from the employment application.

Finding No. 4

The DSH concurs with the finding and will review proper appointment procedures with staff.

Finding No. 5

The DSH concurs with the finding and will review proper appointment procedures and documentation requirements with staff.

Finding No. 6

The DSH complies with Government Code Section 18720 along with Section 12946 which requires that DSH maintain appointment records as required. Nevertheless, it appears that the department has provided insufficient communication and tools to DSH staff to ensure that the department retains all necessary appointment documents.

Finding No. 7

The DSH concurs with the finding and will remind supervisors and management staff to follow established policy and processes for probationary evaluations. The DSH will also review our compliance procedures and develop a more effective approach.

Finding No. 8

The DSH concurs with the finding and will develop a compliant process.

Finding No. 9

The DSH concurs with the finding.

SPB REPLY

Based upon the DSH's written response, the DSH will comply with the CRU recommendations and findings and provide the CRU a corrective action plan. It is further recommended that the DSH comply with the afore-stated recommendations within 60 days of the Executive Officer's approval and submit to the CRU a written report of compliance.