Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR’s Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR’s website does not indicate CalHR support for the proposal.

A. GENERAL INFORMATION

1. Date          2. Department
2022-03-17       Department of State Hospitals

3. Organizational Placement (Division/Branch/Office Name)
   Directorate/Hospital Strategic Planning and Implementation

4. CEA Position Title
   Assistant Deputy Director, Remediation Planning and Implementation

5. Summary of proposed position description and how it relates to the program's mission or purpose. (2-3 sentences)
   Under the direction of the Deputy Director, Hospital Strategic Planning and Implementation, the Assistant Deputy Director serves as a member of the executive leadership team and is responsible for leading the statewide effort to develop and implement a remedial plan related to high-profile and sensitive litigation. Provides high-level coordination, policy direction and decision making regarding the intersection of the department divisions, state hospitals and department program services delivered in partnership with county mental health departments, county Sherriff’s, and community service providers that all have an integral role in the successful implementation of the remedial plan. Assists the Director and Chief Deputy Director, in policy formulation and implementation related to the design of the remedial plan; and acts on behalf of the Director in representing the department with the Governor’s Office, the Legislature, the Court, and other stakeholders on matters involving litigation.

6. Reports to: (Class Title/Level)
   Deputy Director, Hospital Strategic Planning and Implementation/Level B

7. Relationship with Department Director (Select one)
   ☑ Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
   ☐ Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

   (Explain): [Blank]

8. Organizational Level (Select one)
   ☑ 4th
   ☐ 1st ☐ 2nd ☐ 3rd ☐ 5th (mega departments only - 17,001+ allocated positions)
9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

This position leads the statewide effort to develop and implement a remedial plan related to Stiavetti v. Clendenin, which requires the department to deliver substantive treatment services within 28 days to individuals committed to the department as incompetent to stand trial on felony charges. Under the direction of the Deputy Director of Hospital Strategic Planning and Implementation, this position will be responsible for working with the department’s divisions, state hospitals, and programs to develop and implement a comprehensive plan to deliver access to services within the court ordered timeframes. This position will assist the Director and Chief Deputy Director, Program Services, in policy formulation and implementation related to the design of the remedial plan. The plan will encompass expanding service delivery across the state, including Department of State Hospitals, Jail-based Competency Treatment programs in county jails, through developing sub-acute capacity options in the community, and in providing community-based restoration and diversion services in partnership with county mental health programs. This position with ensure coordination amongst the programs, divisions, and state hospitals in increasing access to services, provide policy guidance and direction to the programs, ensure that program performance data and compliance data is collected and monitored, and issues identified, and corrective actions implemented to continue progress in meeting the court ordered timelines.

This position serves as the primary subject matter expert and testifies as needed in court and to the Legislature on DSH’s programs and services related to Incompetent to Stand Trial's (IST), remedial plan efforts, progress toward meeting court-ordered timelines for providing access to services, and other topics as needed related to the litigation, including working with DSH’s Legal Division and the Office of the Attorney General as well as present at stakeholder meetings with plaintiff’s attorneys.

Furthermore, this position directly supervises the Senior Psychologist Supervisors and the Branch Chief within the Patient Management Unit (PMU); and provides executive leadership for the PMU related to litigation pressures and remediation.
B. SUMMARY OF REQUEST (continued)

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- Program is directly related to department's primary mission and is critical to achieving the department's goals.
- Program is indirectly related to department's primary mission.
- Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description:

DSH's mission is to provide evaluation and treatment in a safe and responsible manner, by leading innovation and excellence across a continuum of care and settings. As part of its mission, the department provides restoration of competency services to individuals who have been arrested for felony crimes and found incompetent to stand trial (IST) and referred to the department by county courts. DSH provides restoration of competency services in four (4) of its five (5) state hospitals, in its conditional release programs, in jail-based competency treatment programs in partnership with county Sheriffs, and in a community-based restoration program in partnership with Los Angeles County which is set to expand to multiple other counties across the state. Additionally, DSH partners with various counties to provide diversion opportunities for individuals found incompetent to stand trial. This proposed CEA position, housed within the Division of Hospital Strategic Planning and Implementation, will serve as an extension of the Director and Chief Deputy Director, Program Services and lead the department’s efforts in developing and implementing its remedial plan related to litigation regarding the timely access to treatment for individuals found IST and committed to DSH. This remedial plan will incorporate short-, medium- and long-term goals and objectives toward ensuring timely access to treatment.
B. SUMMARY OF REQUEST (continued)

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

For over a decade, DSH has experienced a significant and persistently increasing number of referrals from county courts of individuals found incompetent to stand trial requiring restoration of competency services. In response, DSH has increased capacity to treat ISTs in DSH hospitals, expanded or implemented new programs for jail- and community-based restoration of competency, implemented systems improvements, and implemented diversion programs in partnership with counties. Despite the efforts, the growth in referrals out-paced DSH’s efforts and DSH has experienced growing wait lists and wait times for restoration of competency services. Additionally, in response to the world-wide COVID-19 pandemic, DSH had to implement operational and infection control changes that impacted its efficiency and capacity for treating ISTs and further increased its waitlist and wait times. In 2015, the American Civil Liberties Union sued DSH regarding the length of time individuals found IST were waiting in jail for transfer to a DSH restoration of competency program (Stiavetti v. Clendenin). In 2017, the Alameda Superior Court ruled that DSH must initiate restoration of competency services for individuals found incompetent to stand trial within 28 days of receipt of the patient’s commitment. DSH appealed the decision and ultimately the appellate court upheld the superior court’s decision. Subsequently, DSH appealed to the California Supreme Court and the court declined to hear the petition in August 2021. As such, the original court order is now final and DSH must come into compliance with court-order timelines to deliver substantive competency restoration services to all IST defendants committed to DSH. In December 2021, the Alameda Superior Court established the following timeline for DSH to come into compliance with the 28 days:

Within 12 months of August 27, 2021, the DSH and the DDS must commence substantive services for all IST defendants within 60 days from the transfer of responsibility date.

Within 18 months of August 27, 2021, the DSH and the DDS must commence substantive services for all IST defendants within 45 days from the transfer of responsibility date.

Within 24 months of August 27, 2021, the DSH and the DDS must commence substantive services for all IST defendants within 33 days from the transfer of responsibility date.

Within 30 months of August 27, 2021, the DSH and the DDS must commence substantive services for all IST defendants within 28 days from the transfer of responsibility date.

DSH must take significant actions quickly in order to meet these court ordered timeframes. The 2021 Budget Act provided DSH eight positions (including this CEA position) to manage and respond to the increased workload associated with this court case, including the remedial plan and compliance reporting. Additionally, the Budget Act of 2021 appropriated over $300M to DSH toward community-based restoration, diversion, and jail-based competency treatment programs, and establish new programs for sub-acute capacity in the community. The Budget Act of 2021 also authorized up to $75M in 2021/22 and $175M ongoing to implement additional solutions identified by an Incompetent to Stand Trial Workgroup, comprised of various county and state agency stakeholders to address the waitlist and meet the court-ordered timeframes. All of these efforts will require substantial leadership and time from the Director, Chief Deputy Director, Program Services, and Deputy Director for Hospital Strategic Planning and Implementation. Establishment of this CEA position to serve as an Assistant Deputy Director will assist the Director, Chief Deputy Director (Program Services), and Deputy Director (Hospital Strategic Planning and Implementation), in ensuring that a remedial plan is developed and implemented; and there is high-level policy direction and coordination occurring to ensure that all of the programs implemented to respond to the court order work efficiently and effectively together.
C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

This position will be responsible for policies that are at the intersection of the services that provide patient referral and coordination with the courts, programs that evaluate IST defendants to determine if they have restored to competency prior to admission to a DSH program and determine which program they should be referred to for services, the referral of the IST to the programs and services, and the coordination of movement of ISTs between the different levels of care both in the state hospitals and the community, including the Conditional Release Program, Community-Based Restoration, and Diversion all of which are under the authority of various Deputy Directors and Executive Directors. This position would make policy decisions where these programs intersect to ensure that ISTs get timely access to care and efficiently receive services. These would include policy areas such as 1) waitlist management and prioritization of service programs to facilitate access to individuals on the waitlist; 2) when an individual has eligibility for multiple programs identify the order in which the various programs operate; 3) how we efficiently and effectively move individuals between levels of care that are managed across state, county and private service operators; and 4) data collection and reporting for court monitoring of DSH’s progress in meeting court-ordered timelines. This position will be the primary subject matter expert testifying on behalf of the department in court relative to Stiavetti including any required data and outcomes monitoring. Further, the position would review for potential conflicts within existing policies and recommend to the Director, Chief Deputy, Program Services, and other division Deputy Directors, strategies to mitigate the conflict, as well as identify and develop new policies that cross over multiple program and administrative areas when required. In addition, the position will serve as the primary representative of the department at any meetings with the plaintiff’s counsel relative to the remedial plan.
C. ROLE IN POLICY INFLUENCE (continued)

13. What is the CEA position’s scope and nature of decision-making authority?

This position has a broad scope over multiple divisions, the state hospitals and community programs to ensure collaboration and coordination to develop and implement a remedial plan and oversight of the delivery of effective and efficient programs and services to meet court-ordered timelines. The position will have authority as an Assistant Deputy Director to make decisions on behalf of the Director and Chief Deputy Director of Program Services, and Deputy Director, Hospital Strategic Planning and Implementation toward meeting the goals and objectives of the department’s remedial plan. The position would also have decision-making authority on behalf of the Deputy Director, Hospital Strategic Planning and Implementation over the processes of the PMU to ensure compliance with court-ordered timelines and the remedial plan to accomplish this and would have direct supervisory responsibility for the senior management of that branch.

14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?

The position will both develop and implement new policy as well as interpret and implement existing policy. While the department’s deputy directors are responsible for policy development, interpretation, and implementation regarding their specific subject matter areas and program for which they are responsible, this position will develop and implement policy and interpret existing policies on how existing programs and new programs to be developed intersect in the treatment of ISTs committed to the department. If there are areas where policies conflict the position will develop policy to resolve the conflicts and ensure effective operation of the programs as they coordinate and collaborate in the service of an IST commitment. In addition, this position will have primary responsibility to develop, implement, and report to stakeholders, Agencies, the Governor’s Office, the Attorney General’s Office, and the Court on DSH’s progress in executing the remedial plan.