



CALIFORNIA STATE PERSONNEL BOARD
801 Capitol Mall • Sacramento, CA 95814

WHEREAS, the Union of American Physicians & Dentists (UAPD) requested that the State Personnel Board's (Board) Executive Officer review for compliance with Government Code section 19130(b), six personal services contracts promulgated by the Department of Mental Health (Department) for psychiatric services at Atascadero State Hospital (ASH); and

WHEREAS, on February 4, 2008, the Executive Officer issued a decision in SPB File No. 07-031(b), approving the six personal services contracts on the grounds that the contracts complied with the provisions of Government Code section 19130(b)(3); and

WHEREAS, UAPD appealed the Executive Officer's decision to the Board in PSC No. 08-03; and

WHEREAS, after carefully considering the findings of fact and conclusions of law set forth in the Decision issued by the Executive Officer, as well as the written briefs and the oral arguments presented by the parties, the Board has concluded that it cannot render its decision without additional information as to: (1) how the Department came to compensate its contract psychiatrists at such a high rate relative to the pay offered civil servant psychiatrists; and, (2) whether the higher contract remuneration rate has created an artificial shortage of civil servant psychiatrists, thereby eliminating justification for the contracts under 19130(b)(3); and

WHEREAS, the Board finds that, pursuant to its authority set forth in Public Contracts Code section 10337(b), the most expeditious manner for resolving the

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question of whether the proposed personal services contracts for psychiatric services comply with the requirements of Government Code section 19130(b) is to schedule PSC No. 08-03 for evidentiary hearing before an Administrative Law Judge, who shall thereafter issue a Proposed Decision for review by the Board.

IT IS RESOLVED AND ORDERED THAT:

PSC Case No. 08-03 is hereby remanded to the Chief Administrative Law Judge, or his or her designee, who shall conduct an evidentiary hearing, and thereafter issue a Proposed Decision for review by the Board concerning the following issues:

- (1) How did the Department come to compensate its contract psychiatrists at a rate so much higher than that paid to civil servant psychiatrists; how was the contract rate determined and justified; and under what authority was the contract rate determined?
- (2) Has the high compensation paid by the Department to its contract psychiatrists resulted in a shortage of civil servant psychiatrists at Atascadero State Hospital?
- (3) If the reason for the Department's inability to recruit civil service psychiatrists is its payment of appreciably higher remuneration to contract psychiatrists than it is offering to its civil servants, has the Department created an "artificial" shortage of psychiatrists willing to work as civil servant psychiatrists at Atascadero State Hospital and, if so, is the Department estopped from relying upon the provisions of Government Code section 19130(b)(3) as justification for the contracts?