

1
2
3
4
5 IN THE UNITED STATES DISTRICT COURTS
6 FOR THE EASTERN DISTRICT OF CALIFORNIA
7 AND THE NORTHERN DISTRICT OF CALIFORNIA

8
9 RALPH COLEMAN, et al.,

10 Plaintiffs, No. CIV S-90-0520 LKK JFM P (E.D. Cal.)

11 v.

12 ARNOLD SCHWARZENEGGER,
13 et al.,

Defendants.

14 _____ /
15 MARCIANO PLATA, et al.,

16 Plaintiffs, No. C 01-1351 TEH (N.D. Cal.)

17 v.

18 ARNOLD SCHWARZENEGGER,
19 et al.,

Defendants.

20 _____ /
21 CARLOS PEREZ, et al.,

22 Plaintiffs, No. C 05-5241 JSW (N.D. Cal.)

23 v.

24 JAMES TILTON, et al.,

Defendants.

25 _____ /
26

1 JOHN ARMSTRONG, et al.,

2 Plaintiffs,

No. C 94-2307 CW (N.D. Cal.)

3 v.

4 ARNOLD SCHWARZENEGGER,
et al.,

ORDER TO SHOW CAUSE

5 Defendants.

6 _____ /

7
8 The Receiver in Plata, the Special Master in Coleman, and the Court Representatives in
9 Perez and Armstrong have presented to the judges in the above-captioned cases an agreement
10 that they have reached during the coordination meetings that they have held to date. The
11 agreement, which is attached to this order, is presented to the undersigned for review and
12 approval.

13 Good cause appearing, IT IS HEREBY ORDERED that the parties in the above-
14 captioned cases are granted until March 28, 2008 to show cause why the attached agreement
15 should not be adopted as an order of the court. Any response to this order to show cause shall be
16 filed in each of the above-captioned cases and served on all of the parties to all of the cases and
17 on the Receiver, the Special Master, and the Court Representatives. Thereafter, the request for

18 ////

19 ////

20 ////

21 ////

22 ////

23 ////

24 ////

25 ////

26 ////

1 approval of the agreement will be taken under submission for individual and joint consideration
2 by the undersigned.

3
4 **IT IS SO ORDERED.**

5
6 DATED: 03/13/08


7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

10 DATED: 03/13/08


11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
THELTON E. HENDERSON
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF CALIFORNIA

13 DATED: 03/13/08


14
15
16
17
18
19
20
21
22
23
24
25
26
JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF CALIFORNIA

13 DATED: 03/13/08


14
15
16
17
18
19
20
21
22
23
24
25
26
CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF CALIFORNIA

**ONE PAGE AGREEMENT ON PILOT PROGRAM FOR
CHIEF EXECUTIVE OFFICER**
Health Care Manager

INTRODUCTION

Currently, there is no civil service position or classification for the chief health care manager/administrator in the prisons. The role is being filled on an acting basis by individuals in various classifications, generally by the Chief Medical Officer.

On April 13, 2007, the Receiver filed a motion for waiver of state law permitting him to hire career executive appointees to remediate gross inadequacies in the current management and supervision of the medical health care delivery system. The chief executive position in the adult prisons was among those discussed by the Receiver in his motion.

The Receiver's motion proposed the hiring of civil service employees so they can be integrated into the state system. He proposed that the applicant pool be open to any person (rather than limited to current civil service employees) and that all appointees serve at-will. The Receiver stated further that he would work with the State Personnel Board and Department of Personnel Administration to develop job descriptions, qualifications, classifications and competitive salary ranges.

Prior to court action on the Receiver's motion, the State Personnel Board and Receiver entered into a stipulated agreement filed with the *Plata* Court.

On September 11, 2007, the *Plata* Court issued its Order Adopting August 20, 2007 Stipulation Between Receiver and State Personnel Board (“Order”). The Order sets forth a pilot program to test the effectiveness of the stipulated hiring mechanism for medical health care executives/administrators within CDCR for three prisons. The core elements of the mechanism call for the use of new civil service classifications with minimum qualifications that the Receiver concurs are essential for developing and maintaining a constitutionally adequate medical care system. Candidates with the requisite qualifications from inside and outside the state service may apply. Individuals can be appointed on a limited term (non-tenured) basis for up to two years, during which the incumbent will be subject to discipline for cause or release without cause. Once permanent status is acquired, it will be followed by a one-year probationary period.

ISSUES & AGREEMENTS

1. Nature of Position

- A. Health care services at each adult institution will be administered by a single manager/administrator, i.e., Chief Executive Officer (CEO) responsible for health care delivery systems within one or more specified institutions as a means of ensuring coordinated multi-functional services and interdisciplinary interactions within the prison that are vital to a managed care delivery system. As such, the CEO will be responsible for directing the entire health care program at the institution(s), including medical, pharmacy, nursing, mental health and dental services.

- 1 B. The CEO will provide the day-to-day management and supervision
2 of all health care operations at the institutional level. S/he will
3 manage/supervise administrative support functions and/or monitor,
4 plan and evaluate those functions that are required for healthcare
5 insofar as they are acquired through staff directed by the wardens,
6 including business services (procurement, space, equipment and
7 supply management), personnel, budget and accounting program
8 support, and security/custody.
- 9 C. Those from within the same clinical disciplines supervised by the
10 CEO at the regional and/or statewide level (e.g., nursing, medical,
11 mental health and dental) will assist the CEO, and provide
12 functional guidance to members of their professions insofar as it
13 concerns such matters as clinical standards, clinical protocols,
14 clinical policies and the quality of services being delivered by
15 members of their professions at the institution level.
- 16 D. The CEO will act as the hiring authority for medical as determined
17 by the Receiver, and for mental health and dental care as
18 determined by CDCR.
- 19 E. The CEO will evaluate the performance of subordinates based on
20 standards, processes and consultations as determined by the
21 Receiver for medical personnel and CDCR for mental health and
22 dental personnel.
- 23 F. CEOs' direct supervisors will be the Regional Health Care
24 Program Administrator for their prisons, who, like the CEOs,
25 receive direction and are responsible for the delivery of care
26 consistent with the expectations of the Receiver and the CDCR
 Chief Deputy Secretary, Division of Correctional Health Care
 Services.

2. New classification development

The *Plata* receivership is the project lead for development of the new CEO classification. The Receiver's staff has shared the class specification with the Chief Deputy Secretary of the CDCR Division of Correctional Healthcare Services (DCHCS), who will in turn be responsible for ongoing communicating with *Perez*, *Coleman* and *Armstrong* representatives.

The *Plata* receivership will present the class specification to the State Personnel Board for review and approval pursuant to the "Order Adopting August 20, 2007, Stipulation Between Receiver and State Personnel Board."

The CEO minimum qualifications will include significant experience in, and understanding of, the management of large, complex organizations delivering health care services. Clinical experience will not be a prerequisite.

////

////

1 **3. Salary setting**

2 The *Plata* receivership will have a salary survey conducted and will provide the results to the
3 Chief Deputy Secretary of the CDCR Division of Correctional Healthcare Services, before
3 proceeding to the Department of Personnel Administration with a salary-setting request.

4 **4. Recruitment and Selection at Pilot Project Institutions**

5 The *Plata* receivership and the DCHCS Chief Deputy Secretary (or designee) shall jointly select
6 which three prisons shall participate in the pilot project after discussion in the *Armstrong*,
6 *Coleman*, *Perez* and *Plata* formal coordination meeting forum.

7 The Receiver (or designee) and the Chief Deputy Secretary of the DCHCS shall jointly engage
8 in CEO recruitment and selection.

9 **5. Performance Evaluations**

10 The CEOs will be evaluated by the Regional Health Care Program Administrators based on the
10 expectations of the Receiver and the CDCR Chief Deputy Secretary, Division of Correctional
10 Healthcare Services.

11 **6. Tenure**

12 It is anticipated that the individuals selected will first be appointed on a two-year limited term
13 basis, and that the granting of permanent status shall be based on agreement of the *Plata*
13 receivership and the DCHCS Chief Deputy Secretary (or designee) that an individual's
14 performance merits a permanent appointment.