

AMENDED IN ASSEMBLY APRIL 11, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1263**

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**Introduced by Assembly Member John A. Pérez**

February 22, 2013

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An act to add Chapter 13 (commencing with Section 3599.50) to Division 4 of Title 1 of the Government Code, and to add Article 4.6 (commencing with Section 14146) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1263, as amended, John A. Pérez. Medi-Cal: CommuniCal.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing federal law provides for increased administrative funding for translation and interpretation services provided in connection with the enrollment, retention, and use of services under the Medicaid Program.

This bill would require the department to establish the Medi-Cal Patient-Centered Communication program (CommuniCal), to be administered by a 3rd-party administrator, to, commencing July 1, 2014, provide and reimburse for medical interpretation services to Medi-Cal beneficiaries who are limited English proficient (LEP). This bill would establish the CommuniCal Program Fund in the State Treasury, which would consist of moneys dedicated to the CommuniCal program, to be

used upon appropriation by the Legislature to the department solely to fund the CommuniCal program.

Existing law provides for the certification of administrative hearing interpreters and medical examination interpreters for purposes of administrative adjudications.

This bill would require the ~~State Personnel Board~~ *Department of Human Resources* to be the certifying body for CommuniCal certified medical interpreters (CCMIs), to establish a certifying examination for those interpreters, and to maintain a registry of those persons who pass the exam, as specified. Commencing July 1, 2014, the bill would require Spanish-language interpreters to pass the exam and be listed on the registry in order to be eligible to provide services under CommuniCal. The bill would require the ~~State Personnel Board~~ *Department of Human Resources*, by July 1, 2014, to determine appropriate testing, training, and experience standards for other language interpreters to also be placed on the registry as CCMIs, as specified. The bill would also require the ~~State Personnel Board~~ *Department of Human Resources* to establish and charge fees that do not exceed reasonable costs for applicants to take the exam and be certified and listed in the registry and would require the ~~State Personnel Board~~ *Department of Human Resources* to adopt quality standards and medical interpretation certification requirements through regulations. The bill would require the Department of Human Resources to notify the individual of the acceptance or denial of his or her inclusion on the registry within 10 days of the submission of the application.

The Ralph C. Dills Act provides for employer-employee relations between the state and its employees, as specified, including, among other things, the right of state employees to form, join, and participate in the activities of employee organizations for the purpose of representation on all matters of employer-employee relations, as specified.

This bill would provide that CCMIs would have the right to form, join, and participate in the activities of a labor organization of their own choosing for the purpose of representation of specified employer-employee matters. The bill would provide that CCMIs would not be considered state employees for purposes of the bill, but would have the right to be represented by an exclusive labor organization of their own choosing for the purpose of collective bargaining with the state on matters of mutual concern, as specified.

The bill would provide that upon application by petition, authorization cards, or union membership cards of a labor organization adequately showing that a majority of CCMIIs in the state desire to be represented exclusively by that labor organization, and no other labor organization is currently certified as the exclusive representative, the Public Employment Relations Board shall certify and grant exclusive representation to that labor organization, and would establish other election procedures to be administered by that board.

The bill would require that any agreement resulting from collective bargaining be legally binding upon the state and committed to writing, and would further require that, upon the completion of discussions and collective bargaining, any agreement be reduced to writing and be presented to the appropriate administrative, legislative, or other governing body in the form of a binding agreement, resolution, bill, law, or other form required for adoption.

The bill would provide that, after the certification of a labor organization, the state shall approve and have deducted, upon authorization in the case of dues deduction, from the appropriate reimbursement or other payment to the employee the monthly amount of dues or service fees as certified by an executive officer of the labor organization, and shall transmit the amount to the treasurer of the labor organization.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California has long been recognized as one of the most
- 4 racially and linguistically diverse states; the state is home to
- 5 residents who speak over 200 languages.
- 6 (b) Approximately one in five Californians is limited English
- 7 proficient (LEP) and identifies as speaking English less than very
- 8 well.
- 9 (c) Language access and the right to interpretation services is
- 10 required under Title VI of the federal Civil Rights Act of 1964,
- 11 the Dymally-Alatorre Bilingual Services Act of 1973 (Chapter
- 12 17.5 (commencing with Section 7290) of Division 7 of Title 1 of
- 13 the Government Code), the Knox-Keene Health Care Service Plan

1 Act of 1975 (Chapter 2.2 (commencing with Section 1340) of  
2 Division 2 of the Health and Safety Code), Section 11135 of the  
3 Government Code, Section 1259 of the Health and Safety Code,  
4 and California civil rights law.

5 (d) The demand for medical interpretation services by Medi-Cal  
6 beneficiaries is significant, with 45.2 percent of Medi-Cal  
7 beneficiaries speaking a language other than English.

8 (e) The state will experience an even greater demand for  
9 language services as health care reform measures are implemented  
10 over the next few years and 35 percent of Californians expected  
11 to become newly eligible for Medi-Cal as a result of the federal  
12 Patient Protection and Affordable Care Act (Public Law 111-148)  
13 will speak English less than well.

14 (f) In California, language assistance services are provided in  
15 an uncoordinated manner that lacks transparency and  
16 accountability, and a majority of services are currently provided  
17 ad hoc by family members and friends or untrained staff.

18 (g) California has the opportunity to meet the growing demand  
19 early on by accessing millions of dollars in federal matching funds  
20 to provide medical interpretation services to LEP Medi-Cal  
21 beneficiaries.

22 (h) Professional medical interpretation services help reduce  
23 avoidable medical errors and provider malpractice liability for  
24 physicians and other health care providers.

25 (i) A coordinated program to offer medical interpreter services  
26 will improve health care outcomes for LEP Californians and help  
27 control health care costs that result from a lack of access to  
28 preventative and primary care.

29 SEC. 2. It is the intent of the Legislature to do all of the  
30 following:

31 (a) Create the CommuniCal program, which shall provide  
32 reliable access to language interpretation for Medi-Cal beneficiaries  
33 who are limited English proficient.

34 (b) Establish a mechanism for accessing federal Medicaid  
35 matching funds to provide a majority of the funding for the  
36 CommuniCal program.

37 (c) Enable trained and qualified interpreters to meet the demand  
38 for language services for a significant portion of the estimated  
39 ~~three million~~ 3,000,000 Medi-Cal beneficiaries with limited English  
40 proficiency.

1 (d) Facilitate accurate and timely communication between  
 2 limited-English-proficient patients and their health care providers,  
 3 which will improve quality of care, reduce medical errors, increase  
 4 patient understanding and compliance with health diagnoses and  
 5 care plans, and reduce the cost of health care by eliminating waste,  
 6 such as unnecessary tests and other care.

7 SEC. 3. Chapter 13 (commencing with Section 3599.50) is  
 8 added to Division 4 of Title 1 of the Government Code, to read:

9  
 10 CHAPTER 13. COMMUNICAL CERTIFIED MEDICAL  
 11 INTERPRETERS

12  
 13 Article 1. Certification and Registration of CommuniCal  
 14 Medical Interpreters

15  
 16 3599.50. (a) For purposes of this chapter, the following  
 17 definitions apply:

18 (1) “CommuniCal” means the Medi-Cal Patient-Centered  
 19 Communication program established pursuant to Article 4.6  
 20 (commencing with Section 14146) of Chapter 7 of Part 3 of  
 21 Division 9 of the Welfare and Institutions Code.

22 (2) “CommuniCal certified medical interpreter” or “CCMI”  
 23 means an interpreter who has been certified pursuant to Section  
 24 3599.51.

25 (3) “Certifying body” means the ~~State Personnel Board~~  
 26 *Department of Human Resources*.

27 (4) “Exam” means the CommuniCal Certified Medical  
 28 Interpreter Exam.

29 (b) Notwithstanding any other law, the ~~State Personnel Board~~  
 30 *Department of Human Resources* shall serve as the CommuniCal  
 31 certified medical interpreter (CCMI) certifying body. The certifying  
 32 body shall select an examination through which competency will  
 33 be tested and provide for the certification of Spanish-language  
 34 medical interpretation within 120 days of the implementation of  
 35 this bill. The examination shall be known as the CommuniCal  
 36 Certified Medical Interpreter Exam. It shall have both an oral and  
 37 a written component. The oral component shall be conducted in  
 38 person in each of the major metropolitan areas in the State of  
 39 California.

1 3599.51. (a) The certifying body shall select a nonprofit  
2 organization to administer the exam. The nonprofit organization  
3 shall have a statewide presence. A list of all interpreters who pass  
4 the exam shall be maintained by the certifying body and shall be  
5 known as the CommuniCal Certified Medical Interpreter Registry.  
6 A CCMI is someone who has passed the exam, is listed on the  
7 registry, and has been issued a certificate by the certifying body  
8 attesting that the person is a CommuniCal Certified Medical  
9 Interpreter.

10 (b) (1) Commencing July 1, 2014, in order to be eligible to  
11 provide services under CommuniCal, Spanish-language interpreters  
12 shall be required to pass the exam and be listed on the registry.

13 (2) For those languages of lesser diffusion or languages for  
14 which a recognized medical interpreter exam has not been created,  
15 the certifying body shall determine, by July 1, 2014, with certified  
16 medical interpreters and their exclusive representatives, appropriate  
17 testing, training, and experience standards for interpreters to also  
18 be placed on the registry and listed as CommuniCal Certified  
19 Medical Interpreters.

20 (3) In order to meet anticipated demand for services under  
21 CommuniCal, the state shall certify any of the following individuals  
22 as certified interpreters and place them on the registry:

23 (A) An individual who can demonstrate that as of January 1,  
24 2014, he or she has worked for a minimum of two years as an  
25 in-person medical interpreter.

26 (B) An individual who has graduated from an accredited medical  
27 interpreter training program at a college or university before  
28 January 1, 2014.

29 (4) The Department of Human Resources shall notify the  
30 individual of the acceptance or denial of his or her inclusion on  
31 the registry within 10 days of the submission of the application.

32 (5) The effective date of the registry shall be January 1, 2014.

33 3599.52. (a) The certifying body shall establish and charge  
34 fees, which do not exceed the reasonable costs, for applicants to  
35 take the exam. The certifying body shall establish and charge a  
36 single fee that does not exceed the reasonable costs for certification  
37 and listing on the registry. The purpose of these fees is to cover  
38 the annual projected costs of carrying out this article.

39 (b) Each CCMI shall pay a registry and certification fee, not to  
40 exceed the reasonable costs, for the renewal of the certification

1 and continued listing on the registry. The registry and certificate  
2 fee shall be due on July 1 of each year.

3 (c) The certifying body shall establish, maintain, administer,  
4 and publish annually an updated registry of CCMI's. The certifying  
5 body may remove the name of a person from the registry if any of  
6 the following conditions occurs:

7 (1) The person is deceased.

8 (2) The person notifies the board that the person is unavailable  
9 for work.

10 (3) The person does not submit a registry and certification fee  
11 or renewal fee as required by subdivision (b).

12 (4) The person fails to meet the quality standards and medical  
13 certification requirements established pursuant to Section 3599.53.

14 (d) For the 2013–14 fiscal year only, the fee for certification  
15 and listing on the registry pursuant to paragraph (3) of subdivision  
16 (b) of Section 3599.51 is waived.

17 3599.53. The certifying body shall adopt quality standards and  
18 medical interpretation certification requirements through  
19 regulations, which shall include, but not be limited to, maintaining  
20 patient confidentiality and familiarity or experience working with  
21 medical terminology. It shall determine the testing requirements  
22 for certification in each language and create a list of those  
23 languages where standards permit registration of the interpreter.

24 3599.54. The exclusive representative of CCMI's and a  
25 nonprofit organization shall partner to create and administer a  
26 training program for medical interpreters, in order to prepare  
27 interpreters for the exam or other certification standards established  
28 for languages of lesser diffusion and provide continuing education  
29 for those CCMI's placed on the registry. A community advisory  
30 committee shall be established to make recommendations on  
31 interpreter certification and services.

32 3599.55. The relationship of CCMI's to all parties and recipients  
33 of service is one of independent contractor, unless otherwise  
34 specified by law.

35 3599.56. Only interpreters certified pursuant to this article shall  
36 be represented by a labor organization for purposes of collective  
37 bargaining pursuant to Article 2 (commencing with Section 3610).

1 Article 2. Collective Bargaining for CommuniCal Certified  
2 Medical Interpreters  
3

4 3610. (a) CCMI shall have the right to form, join, and  
5 participate in the activities of a labor organization of their own  
6 choosing for the purpose of representation on all matters specified  
7 in this section. The state action antitrust exemption to the  
8 application of federal and state antitrust laws is applicable to the  
9 activities of CCMI and their exclusive representatives authorized  
10 under this article or other applicable law.

11 (b) CCMI shall have the right to be represented by an exclusive  
12 labor organization of their own choosing for the purpose of  
13 collective bargaining with the State of California on matters of  
14 mutual concern, including, but not limited to, the following:

15 (1) Development, maintenance, and application of the registry.

16 (2) The setting of reimbursements and rates for state-funded  
17 medical interpreter programs.

18 (3) The allocation, process, procedure, distribution,  
19 methodology, and manner of payment of interpreter  
20 reimbursements and rates.

21 (4) Professional development, certification and training,  
22 recruitment and retention of qualified interpreters, and language  
23 access quality standards.

24 (5) Dispute resolution mechanisms binding on third-party  
25 administrators and their subcontractors of state-funded interpreter  
26 programs.

27 (6) Mechanisms and funding to improve state-funded medical  
28 interpreter programs and the stability, funding, rules, regulations,  
29 and operation of state-funded medical interpretation programs.

30 (7) Scheduling systems of interpreter services under state-funded  
31 interpreter programs.

32 (8) Mediums and modes of delivery of interpretation services  
33 under state-funded medical interpretation programs.

34 (9) The improvement and expansion of quality medical  
35 interpretation services.

36 (10) The collection and disbursement of established dues or  
37 fees to the exclusive representative of CCMI.

38 (c) This section shall not apply to work performed as an  
39 employee of an employer.

1 (d) The appropriate bargaining unit for CCMIIs shall be a  
2 statewide unit of eligible CCMIIs.

3 (e) CCMIIs are not public employees and this article does not  
4 create an employer-employee relationship between CCMIIs and  
5 the state or patient-centered communication brokers for any  
6 purpose, including, but not limited to, state employee eligibility  
7 for health or retirement benefits, or vicarious liability in tort.

8 3611. A labor organization as referenced in this section is  
9 defined as a labor organization described in Section 501(c)(5) of  
10 the Internal Revenue Code which has as its primary purpose the  
11 representation of public service providers in their relations with  
12 state and other public entities.

13 3612. Upon request by a labor organization that is signed by  
14 20 percent of CCMIIs, the certifying body shall furnish to the labor  
15 organization a list of all CCMIIs including full names, telephone  
16 numbers, email addresses, and mailing or home addresses within  
17 five days of the request.

18 3613. (a) Upon application by petition, authorization cards,  
19 or union membership cards of a labor organization adequately  
20 showing that a majority of CCMIIs in the state desire to be  
21 represented exclusively by that labor organization, and no other  
22 labor organization is currently certified as the exclusive  
23 representative, the Public Employment Relations Board (PERB)  
24 shall certify and grant exclusive representation of the CCMIIs to  
25 the labor organization for the purposes set forth in this section.

26 (b) Upon application by petition, authorization cards, or union  
27 membership cards of a labor organization adequately showing that  
28 less than a majority but at least 30 percent of CCMIIs desire to be  
29 represented exclusively by that labor organization, and no other  
30 labor organization is currently certified as the exclusive  
31 representative, the matter to determine representation shall be set  
32 for a mail ballot election administered by PERB pursuant to its  
33 rules and regulations for administering elections. If a PERB  
34 regulation or rule conflicts with this section, this section shall  
35 control.

36 (c) PERB shall accept, review, and certify all valid applications  
37 submitted pursuant to subdivisions (a) and (b) pursuant to its rules  
38 and regulations. If a PERB regulation or rule conflicts with this  
39 section, this section shall control.

40 (d) Any representation election shall be a mail ballot election.

1 (e) Within 10 days of receipt of an adequate petition,  
2 authorization cards, or union membership cards necessitating an  
3 election, PERB shall conduct a preelection conference with the  
4 labor organization and the state prior to scheduling an election for  
5 the purpose of clarifying issues, obtaining stipulations, executing  
6 a directed election order or consent election agreement, and taking  
7 other actions to expedite the process. The labor organization and  
8 the state shall engage in a good faith effort to reach a consent  
9 election agreement stipulating the parties to appear on the ballot,  
10 the form of the ballot, the CCMIs eligible to vote, the rules  
11 governing the election, and the date, time, and other specifics of  
12 the mail ballot election. The state shall be represented by the  
13 Department of ~~Personnel Administration~~ *Human Resources* and  
14 the State Department of Health Care Services.

15 3614. No other labor organization shall be permitted to  
16 intervene in an election unless prior to the preelection conference,  
17 by petition, authorization cards, or union membership cards, the  
18 intervening labor organization adequately shows at least 30 percent  
19 of CCMIIs in the state as of January 1 of the year the application  
20 is made desire to be represented exclusively by the intervening  
21 labor organization.

22 3615. PERB shall proceed to determine all issues or matters  
23 in dispute. The determination and a directed election order or  
24 consent election agreement between the labor organization and  
25 the state shall be made within seven days of the conference.

26 3616. (a) PERB shall initiate a mail ballot election within 10  
27 days of the execution of a directed election order or consent  
28 election agreement. The election shall provide for an affirmative  
29 vote for employee representation by the petitioning employee  
30 organization. The proposition receiving the votes of a majority of  
31 all valid votes cast shall win the election. Should no option receive  
32 an absolute majority vote of all valid votes cast, a runoff vote  
33 between the two options receiving the highest number of votes  
34 shall occur within seven days.

35 (b) A preelection meeting shall occur with the labor organization  
36 and the state 30 minutes prior to the mailing of ballots for the  
37 purpose of resolving any final issues prior to the commencement  
38 of the mail ballot election.

1 (c) The election shall be conducted in accordance with the  
2 procedures established and approved pursuant to the consent  
3 election agreement or directed election order.

4 (d) The supervising official from PERB shall determine the date  
5 and time ballots must be received for tabulation, which date shall  
6 not be sooner than 10 days or more than 20 days from the date the  
7 voting commences. PERB shall be charged with validating the  
8 ballots against a list of CCMI's provided by the ~~State Personnel~~  
9 ~~Board~~ *Department of Human Resources*.

10 (e) A labor organization certified by PERB as receiving a  
11 majority of all valid votes cast is the exclusive representative of  
12 all CCMI's in the state for purposes set forth in this section. All  
13 CCMI's who are eligible for the bargaining unit pursuant to Section  
14 3610 subsequent to certification of the labor organization shall be  
15 part of the bargaining unit and represented by the certified labor  
16 organization.

17 3617. Discussions and collective bargaining between the  
18 certified labor organization and the state and its designated agents  
19 in the Department of ~~Personnel Administration~~ *Human Resources*  
20 and the State Department of Health Care Services shall commence  
21 within 30 days upon certification and at any time thereafter upon  
22 request of the labor organization.

23 3618. The state and its designated agents in the Department of  
24 ~~Personnel Administration~~ *Human Resources* and the State  
25 Department of Health Care Services shall be required to meet with  
26 the certified labor organization before any regulation is proposed,  
27 promulgated, set, or otherwise presented concerning any of the  
28 purposes for collective bargaining set forth in Section 3610.

29 3619. Any agreement resulting from collective bargaining shall  
30 be legally binding upon the state and committed to writing. Upon  
31 the completion of discussions and collective bargaining, any  
32 agreement shall be reduced to writing and be presented to the  
33 appropriate administrative, legislative, or other governing body in  
34 the form of a binding agreement, resolution, bill, law, or other  
35 form required for adoption. Nothing herein shall prevent the parties  
36 from agreeing to and effecting those provisions of an agreement  
37 which have received legislative approval or those provisions which  
38 do not require legislative action.

1 3620. Nothing in this article shall affect the right of a CCMI  
2 to authorize a dues or service fee deduction from his or her  
3 reimbursement.

4 3621. (a) After the certification of a labor organization, the  
5 state shall approve and have deducted, upon authorization in the  
6 case of dues deduction, from the appropriate reimbursement or  
7 other payment to members of the labor organization the monthly  
8 amount of dues or service fees as certified by an executive officer  
9 of the labor organization and shall transmit the amount to the  
10 treasurer of the labor organization.

11 (b) After the certification of a labor organization, the state shall  
12 approve and have deducted from the appropriate reimbursement  
13 or other payment to nonmembers a reasonable fair share service  
14 fee for the cost of representing them in negotiations, contract  
15 administration, subsidy rates, benefits, payment systems, training  
16 opportunities, and other matters related to those purposes listed in  
17 subdivision (b) of Section 3610. This fair share service fee shall  
18 not exceed the annual dues paid by members of the labor  
19 organization. The state shall transmit the amount of the fair share  
20 fee to the treasurer of the labor organization.

21 3622. Dues or fair share service fee obligations shall continue  
22 in effect as long as the labor organization is the recognized  
23 bargaining representative, notwithstanding the expiration of any  
24 agreement between the state and the recognized labor organization.

25 3623. (a) The state, through its designated agents in the  
26 Department of ~~Personnel Administration~~ *Human Resources* and  
27 the State Department of Health Care Services, shall meet and  
28 collectively bargain in good faith with representatives of a certified  
29 labor organization and shall consider fully the proposals made by  
30 the labor organization on behalf of CCMI's. "Meet and collectively  
31 bargain in good faith" means that the state and its designated agent  
32 and representatives of a certified labor organization shall have the  
33 mutual obligation to collectively bargain within a reasonable length  
34 of time in order to freely exchange information, opinions, and  
35 proposals.

36 (b) The state shall not interfere with, intimidate, restrain, coerce,  
37 or discriminate against CCMI's due to the exercise of their rights  
38 under this section. A complaint alleging any violation of this  
39 section shall be processed as an unfair practice charge by PERB  
40 pursuant to its rules and regulations. The initial determination as

1 to whether the charge of unfair practice is justified and, if so, the  
2 appropriate remedy necessary to effectuate the purposes of this  
3 section, shall be a matter within the exclusive jurisdiction of PERB.  
4 PERB shall apply and interpret unfair labor practices consistent  
5 with existing judicial interpretations of this section. If a PERB  
6 practice, regulation, interpretation, or rule conflicts with this  
7 section, this section shall control.

8 3624. Any charging party, respondent, or intervenor aggrieved  
9 by a final decision or order of PERB in an unfair practice case,  
10 except a decision of PERB not to issue a complaint in such a case,  
11 and any party to a final decision or order of PERB in a  
12 representation, recognition, or election matter that is not brought  
13 as an unfair practice case, may petition for a writ of extraordinary  
14 relief from that decision or order pursuant to Section 3520.

15 3625. Execution of a valid written agreement between the state  
16 and the certified labor organization shall bar the filing of an  
17 application or petition for certification of a majority representative  
18 for the length of the agreement except as otherwise provided in  
19 this article. No application or petition for certification shall be  
20 valid within one year of any prior certification.

21 3626. Should any court declare any other provision of this  
22 chapter void, invalid, illegal, or unconstitutional, the remaining  
23 provisions shall remain in full force.

24 3627. (a) The state shall not encourage or discourage  
25 membership in a labor organization and shall not discriminate  
26 against any CCMI on the basis of union activity, concerted action,  
27 union membership, age, sex, race, religious beliefs, color, national  
28 origin, sexual orientation, gender identity, or disability in  
29 accordance with and as required by applicable state and federal  
30 law. A CCMI shall not be subject to punitive action, or threatened  
31 with punitive action, for the exercise of lawful action as an elected,  
32 appointed, or recognized representative of any bargaining unit.

33 (b) Unless otherwise stated in this article, the state may adopt  
34 reasonable rules and regulations after consultation in good faith  
35 with representatives of a certified labor organization for the  
36 administration of CCMI employer-employee relations under this  
37 article. In the case of any conflict between rules and regulations  
38 enacted pursuant to this article, including those subdivisions  
39 adopting PERB rules, regulations, or procedures, the provisions  
40 of this section shall control.

1 3628. Nothing in this chapter may be construed to interfere  
2 with CCMI rights and responsibilities under federal law.

3 SEC. 4. Article 4.6 (commencing with Section 14146) is added  
4 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions  
5 Code, to read:

6

7

Article 4.6. CommuniCal

8

9 14146. For the purposes of this article, the following definitions  
10 shall apply:

11 (a) “CommuniCal” means the Medi-Cal Patient-Centered  
12 Communication program.

13 (b) “CommuniCal certified medical interpreter” or “CCMI”  
14 means an interpreter certified under the CommuniCal program  
15 pursuant to Article 1 (commencing with Section 3599.50) of  
16 Chapter 13 of Division 4 of Title 1 of the Government Code.

17 (c) “Department” means the State Department of Health Care  
18 Services.

19 (d) “Medi-Cal managed care organizations” or “MMCOs” means  
20 all models of Medi-Cal managed care, including county-organized  
21 health systems, geographic managed care, and two-plan models.

22 (e) “Patient-centered communication broker” or “broker” means  
23 the third-party administrator for the CommuniCal program.

24 14146.10. (a) The department shall establish the CommuniCal  
25 program to provide and reimburse for certified medical  
26 interpretation services to Medi-Cal beneficiaries who are limited  
27 English proficient (LEP).

28 (b) Commencing July 1, 2014, CommuniCal shall offer medical  
29 interpreter services to Medi-Cal providers serving Medi-Cal  
30 beneficiaries on either a fee-for-service or managed care basis  
31 pursuant to this article. The department shall adopt policies to  
32 prohibit duplicate payments to CCMI and Medi-Cal MMCOs for  
33 beneficiaries enrolled in an MMCO.

34 (c) A health care provider or entity entering into a Medi-Cal  
35 provider agreement or a Medi-Cal managed care contract with the  
36 state, including MMCOs and their subcontracting plans, and  
37 fee-for-service providers, may utilize CommuniCal to provide  
38 medical interpreter services to Medi-Cal beneficiaries.

39 (d) All contracts between MMCOs and their subcontractors,  
40 including health providers and other health plans, shall include

1 provisions describing access to CommuniCal medical interpreter  
2 services.

3 (e) The department shall pursue all available sources of federal  
4 funding to establish and operate CommuniCal and shall seek any  
5 federal approvals necessary to implement this article.

6 14146.11. CommuniCal shall include the provision of  
7 in-person, telephonic, and video medical interpretation services.  
8 To meet language access requirements and ensure patient safety,  
9 in-person interpreter services shall be the preferred mode of  
10 medical interpretation in the following instances whenever  
11 possible:

12 (a) Family meetings regarding medical care.

13 (b) Medical encounters involving difficult or agitated patients.

14 (c) Medical encounters to make treatment decisions.

15 (d) Obtaining informed consent involving review of documents.

16 (e) Any medical encounter that, in the physician's judgment,  
17 requires in-person interpretation for the health, safety, or well-being  
18 of the patient.

19 (f) Psychiatric encounters.

20 (g) End-of-life discussions.

21 14146.12. (a) CommuniCal shall be administered by a  
22 patient-centered communication broker.

23 (b) The department shall create and administer a competitive  
24 Request for Proposals (RFP), and shall execute the resulting  
25 contract.

26 (c) The broker shall be responsible for all of the following  
27 duties:

28 (1) Registering CCMI's with Medi-Cal.

29 (2) Verifying CCMI certification with the ~~State Personnel Board~~  
30 *Department of Human Resources*.

31 (3) Verifying Medi-Cal eligibility for interpreter services  
32 utilizing the state's Medi-Cal Eligibility Data System (MEDS).

33 (4) Submitting billing summaries to Medi-Cal, aggregating the  
34 cost for services provided.

35 (5) Ensuring compliance with all Medi-Cal and applicable  
36 CommuniCal reporting requirements.

37 (6) Making payments to CCMI's, including any dues and service  
38 fee deductions.

39 (7) Scheduling CCMI appointments with Medi-Cal providers.

1 (8) Monitoring the quality of CommuniCal interpreter services  
2 and complying with state oversight requirements of the program.

3 (9) Creating CommuniCal promotional materials for distribution  
4 to Medi-Cal providers, MMCOs, and beneficiaries.

5 (d) The department shall make all applicable Medi-Cal reporting  
6 requirements known to the broker and shall be responsible for the  
7 broker's compliance with these requirements.

8 14146.13. (a) Notwithstanding any other law, only interpreters  
9 certified pursuant to Article 1 (commencing with Section 3599.50)  
10 of Chapter 13 of Division 4 of Title 1 of the Government Code  
11 may participate in CommuniCal.

12 (b) CCMI's shall be responsible for all of the following:

13 (1) Performing interpreter services independent of other policies,  
14 rules, or procedures of conduct, except as provided by this article  
15 or by applicable law.

16 (2) Performing interpreter services independent of direction,  
17 except as otherwise provided by this article and applicable law.

18 (3) Preparing and submitting documentation to the broker in  
19 support of time worked or other services rendered.

20 (4) Directing and controlling the manner and means of  
21 interpretation services, except as otherwise provided in this article.

22 (c) Unless otherwise prohibited by this article or applicable law,  
23 CCMI's may do any of the following:

24 (1) Advertise, promote, or otherwise communicate availability  
25 for services to clients and the general public.

26 (2) Provide office space, equipment, support services, forms,  
27 supplies, and business cards, except as otherwise provided in this  
28 article.

29 (d) (1) For purposes of the CommuniCal program, CCMI's are  
30 not state employees. CCMI's shall be independent contractors of  
31 the state.

32 (2) For purposes of the CommuniCal program, CCMI's are not  
33 employees of the broker, health care providers, or consumers.

34 (3) The state action antitrust exemption to the application of  
35 federal and state antitrust laws is applicable to the activities of  
36 CCMI's and their exclusive representatives authorized under this  
37 article or other applicable law.

38 14146.135. (a) The base reimbursement rate for CCMI's shall  
39 be no less than sixty dollars (\$60) per hour.

1 (b) Reimbursement may be adjusted for factors such as  
2 geography, language spoken, availability of interpreters, level of  
3 certification, and travel time.

4 14146.14. The department shall issue guidance on the  
5 administration of the CommuniCal program to ensure compliance  
6 with this article and all applicable state and federal laws by all  
7 contractors and subcontractors of the program.

8 14146.15. (a) The CommuniCal Program Fund is hereby  
9 created in the State Treasury. Notwithstanding Section 16305.7  
10 of the Government Code, any interest and dividends earned on  
11 deposits in the fund shall be retained in the fund for purposes  
12 specified in subdivision (c).

13 (b) Moneys in the fund shall consist of any funds dedicated to  
14 the CommuniCal program.

15 (c) Moneys in the fund shall, upon appropriation by the  
16 Legislature to the department, be used solely to fund the  
17 CommuniCal program.