

AMENDED IN SENATE JUNE 13, 2013

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 Department of Human Resources department to be the certifying body for CommuniCal certified medical interpreters (CCMIs), to establish a certifying examination for those interpreters, (CCMIs), and to authorize other interpreters meeting specified requirements, including a screening test, to provide CommuniCal services. The bill would require the department to (1) develop, monitor, and evaluate interpreter competency, qualifications, training, certification, and continuing education, (2) commencing September 1, 2014, to approve an examination and certification process to test and certify the competency of medical interpreters, and (3) 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 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. meet the requirements to provide CommuniCal services. The bill would require the department to establish the Community Advisory Committee for purposes of assisting the department in the above-described tasks. The bill would also require the Department of Human Resources department to establish and charge fees that do not exceed reasonable costs for applicants to take the exam any department-administered examinations and be certified or authorized and listed in the registry registry, and would require the Department of Human Resources department, in consultation with the Community Advisory Committee, 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~~ *CommuniCal interpreters* 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~~ *CommuniCal interpreters* 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 ~~CCMIs~~ *CommuniCal interpreters* 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  
14 Act of 1975 (Chapter 2.2 (commencing with Section 1340) of  
15 Division 2 of the Health and Safety Code), Section 11135 of the  
16 Government Code, Section 1259 of the Health and Safety Code,  
17 and California civil rights law.

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

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

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

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

35 (h) Professional medical interpretation services help reduce  
36 avoidable medical errors and provider malpractice liability for  
37 physicians and other health care providers.

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

5 SEC. 2. It is the intent of the Legislature to do all of the  
6 following:

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

10 (b) Establish a mechanism for accessing federal Medicaid  
11 matching funds to provide a majority of the funding for the  
12 CommuniCal program.

13 (c) Enable trained and qualified interpreters to meet the demand  
14 for language services for a significant portion of the estimated  
15 3,000,000 Medi-Cal beneficiaries with limited English proficiency.

16 (d) Facilitate accurate and timely communication between  
17 limited-English-proficient patients and their health care providers,  
18 which will improve quality of care, reduce medical errors, increase  
19 patient understanding and compliance with health diagnoses and  
20 care plans, and reduce the cost of health care by eliminating waste,  
21 such as unnecessary tests and other care.

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

24  
25 CHAPTER 13. COMMUNICAL-~~CERTIFIED~~ MEDICAL  
26 INTERPRETERS

27  
28 Article 1. Certification and Registration of CommuniCal  
29 Medical Interpreters  
30

31 3599.50. (a) For purposes of this chapter, the following  
32 definitions apply:

33 (1) "CommuniCal" means the Medi-Cal Patient-Centered  
34 Communication program established pursuant to Article 4.6  
35 (commencing with Section 14146) of Chapter 7 of Part 3 of  
36 Division 9 of the Welfare and Institutions Code.

37 (2) "CommuniCal certified medical interpreter" or "CCMI"  
38 means an interpreter who has been certified pursuant to *subdivision*  
39 (b) of Section 3599.51.

1 (3) “CommuniCal interpreter” means an interpreter who is  
2 authorized to provide CommuniCal services pursuant to Section  
3 3599.51.

4 (3)

5 (4) “Certifying body” or “department” means the Department  
6 of Human Resources State Department of Health Care Services.

7 (4) “Exam” means the CommuniCal Certified Medical  
8 Interpreter Exam.

9 (5) “Community Advisory Committee” means the committee  
10 established pursuant to Section 3599.53.

11 (b) Notwithstanding any other law, the Department of Human  
12 Resources State Department of Health Care Services shall serve  
13 as the CommuniCal certified medical interpreter (CCMI) certifying  
14 body. The certifying body shall select an examination through  
15 which competency will be tested and provide for the certification  
16 of Spanish-language medical interpretation within 120 days of the  
17 implementation of this bill. The examination shall be known as  
18 the CommuniCal Certified Medical Interpreter Exam. It shall have  
19 both an oral and a written component. The oral component shall  
20 be conducted in person in each of the major metropolitan areas in  
21 the State of California. do both of the following:

22 (1) Develop, monitor, and evaluate interpreter competency,  
23 qualifications, training, certification, and continuing education  
24 requirements for medical interpreters.

25 (2) By September 1, 2014, in consultation with the Community  
26 Advisory Committee, approve an examination and certification  
27 process to test and certify the competency of medical interpreters  
28 pursuant to Section 3599.51.

29 3599.51. (a) The certifying body shall select a nonprofit  
30 organization to administer the exam. The nonprofit organization  
31 shall have a statewide presence. A list of all interpreters who pass  
32 the exam shall be maintained by the certifying body and shall be  
33 known as the CommuniCal Certified Medical Interpreter Registry.  
34 A CCMI is someone who has passed the exam, is listed on the  
35 registry, and has been issued a certificate by the certifying body  
36 attesting that the person is a CommuniCal Certified Medical  
37 Interpreter.

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

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

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

11 ~~(A) An individual who can demonstrate that as of January 1,~~  
12 ~~2014, he or she has worked for a minimum of two years as an~~  
13 ~~in-person medical interpreter.~~

14 ~~(B) An individual who has graduated from an accredited medical~~  
15 ~~interpreter training program at a college or university before~~  
16 ~~January 1, 2014.~~

17 ~~(4) The Department of Human Resources shall notify the~~  
18 ~~individual of the acceptance or denial of his or her inclusion on~~  
19 ~~the registry within 10 days of the submission of the application.~~

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

21 *3599.51. (a) As a condition of certification, an interpreter*  
22 *shall complete at least one of the following:*

23 *(1) Pass an examination administered by a nonprofit*  
24 *organization selected by the department that is nationally*  
25 *accredited to offer certification examinations for health care*  
26 *interpreters.*

27 *(2) Pass an examination developed by a state-established*  
28 *language testing and certification program that includes, at a*  
29 *minimum, both an oral and written component and the following*  
30 *competency standards:*

31 *(A) A documented and demonstrated proficiency in both English*  
32 *and the other specified language.*

33 *(B) A fundamental knowledge, in both English and the other*  
34 *specified language, of health care terminology and concepts*  
35 *relevant to health care delivery systems.*

36 *(C) Education and training in interpreter ethics, conduct,*  
37 *practice, and confidentiality. The department shall adopt standards*  
38 *in interpreter ethics, conduct, practice, and confidentiality*  
39 *promulgated by the California Healthcare Interpreters Association,*  
40 *the National Council on Interpreting in Health Care, or both.*

1 (3) Achieve the designation of Certified Healthcare Interpreter  
2 from the Certification Commission for Healthcare Interpreters  
3 (CCHI).

4 (4) Achieve the designation of Certified Medical Interpreter  
5 from the National Board of Certification for Medical Interpreters  
6 (NBCMI).

7 (b) Each interpreter who has met the requirements of subdivision  
8 (a), is listed on the CommuniCal Medical Interpreter Registry  
9 established pursuant to subdivision (e), and has been issued a  
10 certificate by the certifying body shall be known as a CommuniCal  
11 Certified Medical Interpreter (CCMI).

12 (c) (1) In addition to the certification process described in  
13 subdivision (b), commencing July 1, 2014, the department shall  
14 authorize CommuniCal services to be provided by an interpreter  
15 of languages of lesser diffusion or languages for which a CCMI  
16 examination has not been created. The department shall send an  
17 authorization letter to any person who satisfies the requirements  
18 of this subdivision.

19 (2) The certifying body, in consultation with the Community  
20 Advisory Committee, shall authorize an interpreter to provide  
21 CommuniCal services if the interpreter passes a screening test  
22 that includes both of the following:

23 (A) A written test, which need not be language specific, but  
24 which shall include the following categories of knowledge, skills,  
25 and abilities:

- 26 (i) Managing an interpreter encounter.
- 27 (ii) Health care terminology.
- 28 (iii) Interacting with other health care professionals.
- 29 (iv) Preparing for an interpreting encounter.
- 30 (v) Cultural responsiveness.

31 (B) An oral test utilizing the target language spoken by the  
32 interpreter to test his or her linguistic and interpreting skills.

33 (d) Commencing July 1, 2014, in order to be eligible to provide  
34 CommuniCal services pursuant to Article 4.6 (commencing with  
35 Section 14146) of Chapter 7 of Part 3 of Division 9 of the Welfare  
36 and Institutions Code, an interpreter shall be certified as a CCMI  
37 or shall be authorized to provide CommuniCal services pursuant  
38 to subdivision (c).

1 (e) *The certifying body shall maintain a list of all interpreters*  
2 *who meet the requirements of subdivisions (b) and (c), which shall*  
3 *be known as the CommuniCal Medical Interpreter Registry.*

4 (f) (1) *In order to meet anticipated demand for services under*  
5 *CommuniCal, the certifying body shall authorize an interpreter*  
6 *to provide CommuniCal services, until the interpreter becomes*  
7 *certified pursuant to subdivision (b) or receives an authorization*  
8 *letter pursuant to subdivision (c), if the person meets all of the*  
9 *following requirements:*

10 (A) *The interpreter can demonstrate that as of January 1, 2014,*  
11 *he or she has worked for a minimum of two years as an in-person*  
12 *medical interpreter.*

13 (B) *The interpreter is at least 18 years of age.*

14 (C) *The interpreter has a minimum of a United States high*  
15 *school diploma or General Education Development (GED), or its*  
16 *equivalent from another country.*

17 (D) *The interpreter has demonstrated linguistic proficiency in*  
18 *English and another specified language.*

19 (2) *In addition to the provisional authorization provided in*  
20 *paragraph (1), the certifying body shall authorize an interpreter*  
21 *to provide CommuniCal services, until the interpreter becomes*  
22 *certified pursuant to subdivision (b) or receives an authorization*  
23 *letter pursuant to subdivision (c), if the person graduated from an*  
24 *accredited medical interpreter training program at a college or*  
25 *university before January 1, 2014.*

26 (3) *If an interpreter who is authorized to provide CommuniCal*  
27 *services pursuant to paragraphs (1) and (2) does not become*  
28 *certified or receive an authorization letter by December 31, 2016,*  
29 *he or she shall not be authorized to provide CommuniCal services.*

30 3599.52. (a) *The certifying body shall establish and charge*  
31 *fees, which do not exceed the reasonable costs, for applicants to*  
32 *take the exam any department-administered examination offered*  
33 *pursuant to Section 3599.51. The certifying body shall establish*  
34 *and charge a single fee that does not exceed the reasonable costs*  
35 *for certification, authorization, and listing on the registry. The*  
36 *purpose of these fees is to cover the annual projected costs of*  
37 *carrying out this article.*

38 (b) ~~Each CCMH~~ *CommuniCal interpreter shall pay a registry*  
39 *and certification or authorization fee, not to exceed the reasonable*  
40 *costs, for the renewal of the certification or authorization and*

1 continued listing on the registry. The registry and certificate *or*  
 2 *authorization* 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 ~~CCMIs~~ *CommuniCal*  
 5 *interpreters*. The certifying body may remove the name of a person  
 6 from the registry if any of 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 *or*  
 11 *authorization* fee 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 *authorization*, and listing on the registry ~~pursuant to paragraph~~  
 16 ~~(3) of subdivision (b) of as described in~~ Section 3599.51 is waived.

17 3599.53. (a) The certifying body shall adopt quality standards  
 18 and 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 (b) *For purposes of assisting with the tasks described in*  
 25 *subdivision (a), the certifying body shall establish the Community*  
 26 *Advisory Committee. The Community Advisory Committee shall*  
 27 *include interested stakeholders that reflect the diversity of the state*  
 28 *in terms of race, ethnicity, gender, sexual orientation, immigration*  
 29 *status, and geography, including representatives of all of the*  
 30 *following industries:*

- 31 (1) *Government.*
- 32 (2) *Health care providers, such as health care service plans,*  
 33 *physicians, community and federally qualified health clinics,*  
 34 *hospitals, or both.*
- 35 (3) *Limited-English-proficient consumers.*
- 36 (4) *Health care or language access advocates.*
- 37 (5) *Medical or health care interpreters.*
- 38 (6) *Any other expert or individual that the department deems*  
 39 *appropriate.*

1 3599.54. The exclusive representative of ~~CCMIs~~ *CommuniCal*  
 2 *interpreters* and a nonprofit organization, *and the Community*  
 3 *Advisory Committee* shall partner to create and administer a training  
 4 program for medical interpreters, in order to prepare interpreters  
 5 for ~~the exam~~ *any department-administered examination offered*  
 6 *pursuant to Section 3599.51* or other certification standards  
 7 established for languages of lesser diffusion and provide continuing  
 8 education for those ~~CCMIs~~ *CommuniCal interpreters* placed on  
 9 the registry. ~~A community advisory committee~~ *The Community*  
 10 *Advisory Committee* shall be established to make recommendations  
 11 on interpreter certification and services.

12 3599.55. The relationship of ~~CCMIs~~ *CommuniCal interpreters*  
 13 to all parties and recipients of service is one of independent  
 14 contractor, unless otherwise specified by law.

15 3599.56. Only ~~interpreters certified pursuant to this article~~  
 16 *CommuniCal interpreters* shall be represented by a labor  
 17 organization for purposes of collective bargaining pursuant to  
 18 Article 2 (commencing with Section 3610).

19  
 20 Article 2. Collective Bargaining for CommuniCal Certified  
 21 Medical Interpreters  
 22

23 3610. (a) ~~CCMIs~~ *CommuniCal interpreters* shall have the  
 24 right to form, join, and participate in the activities of a labor  
 25 organization of their own choosing for the purpose of  
 26 representation on all matters specified in this section. The state  
 27 action antitrust exemption to the application of federal and state  
 28 antitrust laws is applicable to the activities of ~~CCMIs~~ *CommuniCal*  
 29 *interpreters* and their exclusive representatives authorized under  
 30 this article or other applicable law.

31 (b) ~~CCMIs~~ *CommuniCal interpreters* shall have the right to be  
 32 represented by an exclusive labor organization of their own  
 33 choosing for the purpose of collective bargaining with the State  
 34 of California on matters of mutual concern, including, but not  
 35 limited to, the following:

- 36 (1) Development, maintenance, and application of the registry.
- 37 (2) The setting of reimbursements and rates for state-funded
- 38 medical interpreter programs.

1 (3) The allocation, process, procedure, distribution,  
2 methodology, and manner of payment of interpreter  
3 reimbursements and rates.

4 (4) Professional development, certification and training,  
5 recruitment and retention of qualified interpreters, and language  
6 access quality standards.

7 (5) Dispute resolution mechanisms binding on third-party  
8 administrators and their subcontractors of state-funded interpreter  
9 programs.

10 (6) Mechanisms and funding to improve state-funded medical  
11 interpreter programs and the stability, funding, rules, regulations,  
12 and operation of state-funded medical interpretation programs.

13 (7) Scheduling systems of interpreter services under state-funded  
14 interpreter programs.

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

17 (9) The improvement and expansion of quality medical  
18 interpretation services.

19 (10) The collection and disbursement of established dues or  
20 fees to the exclusive representative of ~~CCMHs~~ *CommuniCal*  
21 *interpreters*.

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

24 (d) The appropriate bargaining unit for ~~CCMHs~~ *CommuniCal*  
25 *interpreters* shall be a statewide unit of eligible ~~CCMHs~~  
26 *CommuniCal interpreters*.

27 (e) ~~CCMHs~~ *CommuniCal interpreters* are not public employees  
28 and this article does not create an employer-employee relationship  
29 between ~~CCMHs~~ *CommuniCal interpreters* and the state or  
30 patient-centered communication brokers for any purpose, including,  
31 but not limited to, state employee eligibility for health or retirement  
32 benefits, or vicarious liability in tort.

33 3611. A labor organization as referenced in this section is  
34 defined as a labor organization described in Section 501(c)(5) of  
35 the Internal Revenue Code which has as its primary purpose the  
36 representation of public service providers in their relations with  
37 state and other public entities.

38 3612. Upon request by a labor organization that is signed by  
39 20 percent of ~~CCMHs~~ *CommuniCal interpreters*, the certifying  
40 body shall furnish to the labor organization a list of all ~~CCMHs~~

1 *CommuniCal interpreters* including full names, telephone numbers,  
2 email addresses, and mailing or home addresses within five days  
3 of the request.

4 3613. (a) Upon application by petition, authorization cards,  
5 or union membership cards of a labor organization adequately  
6 showing that a majority of ~~CCMHs~~ *CommuniCal interpreters* in  
7 the state desire to be represented exclusively by that labor  
8 organization, and no other labor organization is currently certified  
9 as the exclusive representative, the Public Employment Relations  
10 Board (PERB) shall certify and grant exclusive representation of  
11 the ~~CCMHs~~ *CommuniCal interpreters* to the labor organization for  
12 the purposes set forth in this section.

13 (b) Upon application by petition, authorization cards, or union  
14 membership cards of a labor organization adequately showing that  
15 less than a majority but at least 30 percent of ~~CCMHs~~ *CommuniCal*  
16 *interpreters* desire to be represented exclusively by that labor  
17 organization, and no other labor organization is currently certified  
18 as the exclusive representative, the matter to determine  
19 representation shall be set for a mail ballot election administered  
20 by PERB pursuant to its rules and regulations for administering  
21 elections. If a PERB regulation or rule conflicts with this section,  
22 this section shall control.

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

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

28 (e) Within 10 days of receipt of an adequate petition,  
29 authorization cards, or union membership cards necessitating an  
30 election, PERB shall conduct a preelection conference with the  
31 labor organization and the state prior to scheduling an election for  
32 the purpose of clarifying issues, obtaining stipulations, executing  
33 a directed election order or consent election agreement, and taking  
34 other actions to expedite the process. The labor organization and  
35 the state shall engage in a good faith effort to reach a consent  
36 election agreement stipulating the parties to appear on the ballot,  
37 the form of the ballot, the ~~CCMHs~~ *CommuniCal interpreters* eligible  
38 to vote, the rules governing the election, and the date, time, and  
39 other specifics of the mail ballot election. The state shall be

1 represented by the Department of Human Resources and the State  
2 Department of Health Care Services.

3 3614. No other labor organization shall be permitted to  
4 intervene in an election unless prior to the preelection conference,  
5 by petition, authorization cards, or union membership cards, the  
6 intervening labor organization adequately shows at least 30 percent  
7 of ~~CCMHs~~ *CommuniCal interpreters* in the state as of January 1  
8 of the year the application is made desire to be represented  
9 exclusively by the intervening labor organization.

10 3615. PERB shall proceed to determine all issues or matters  
11 in dispute. The determination and a directed election order or  
12 consent election agreement between the labor organization and  
13 the state shall be made within seven days of the conference.

14 3616. (a) PERB shall initiate a mail ballot election within 10  
15 days of the execution of a directed election order or consent  
16 election agreement. The election shall provide for an affirmative  
17 vote for employee representation by the petitioning employee  
18 organization. The proposition receiving the votes of a majority of  
19 all valid votes cast shall win the election. Should no option receive  
20 an absolute majority vote of all valid votes cast, a runoff vote  
21 between the two options receiving the highest number of votes  
22 shall occur within seven days.

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

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

30 (d) The supervising official from PERB shall determine the date  
31 and time ballots must be received for tabulation, which date shall  
32 not be sooner than 10 days or more than 20 days from the date the  
33 voting commences. PERB shall be charged with validating the  
34 ballots against a list of ~~CCMHs~~ *CommuniCal interpreters* provided  
35 by the Department of Human Resources.

36 (e) A labor organization certified by PERB as receiving a  
37 majority of all valid votes cast is the exclusive representative of  
38 all ~~CCMHs~~ *CommuniCal interpreters* in the state for purposes set  
39 forth in this section. All ~~CCMHs~~ *CommuniCal interpreters* who  
40 are eligible for the bargaining unit pursuant to Section 3610

1 subsequent to certification of the labor organization shall be part  
2 of the bargaining unit and represented by the certified labor  
3 organization.

4 3617. Discussions and collective bargaining between the  
5 certified labor organization and the state and its designated agents  
6 in the Department of Human Resources and the State Department  
7 of Health Care Services shall commence within 30 days upon  
8 certification and at any time thereafter upon request of the labor  
9 organization.

10 3618. The state and its designated agents in the Department of  
11 Human Resources and the State Department of Health Care  
12 Services shall be required to meet with the certified labor  
13 organization before any regulation is proposed, promulgated, set,  
14 or otherwise presented concerning any of the purposes for  
15 collective bargaining set forth in Section 3610.

16 3619. Any agreement resulting from collective bargaining shall  
17 be legally binding upon the state and committed to writing. Upon  
18 the completion of discussions and collective bargaining, any  
19 agreement shall be reduced to writing and be presented to the  
20 appropriate administrative, legislative, or other governing body in  
21 the form of a binding agreement, resolution, bill, law, or other  
22 form required for adoption. Nothing herein shall prevent the parties  
23 from agreeing to and effecting those provisions of an agreement  
24 which have received legislative approval or those provisions which  
25 do not require legislative action.

26 3620. Nothing in this article shall affect the right of a ~~CCMH~~  
27 *CommuniCal interpreter* to authorize a dues or service fee  
28 deduction from his or her reimbursement.

29 3621. (a) After the certification of a labor organization, the  
30 state shall approve and have deducted, upon authorization in the  
31 case of dues deduction, from the appropriate reimbursement or  
32 other payment to members of the labor organization the monthly  
33 amount of dues or service fees as certified by an executive officer  
34 of the labor organization and shall transmit the amount to the  
35 treasurer of the labor organization.

36 (b) After the certification of a labor organization, the state shall  
37 approve and have deducted from the appropriate reimbursement  
38 or other payment to nonmembers a reasonable fair share service  
39 fee for the cost of representing them in negotiations, contract  
40 administration, subsidy rates, benefits, payment systems, training

1 opportunities, and other matters related to those purposes listed in  
 2 subdivision (b) of Section 3610. This fair share service fee shall  
 3 not exceed the annual dues paid by members of the labor  
 4 organization. The state shall transmit the amount of the fair share  
 5 fee to the treasurer of the labor organization.

6 3622. Dues or fair share service fee obligations shall continue  
 7 in effect as long as the labor organization is the recognized  
 8 bargaining representative, notwithstanding the expiration of any  
 9 agreement between the state and the recognized labor organization.

10 3623. (a) The state, through its designated agents in the  
 11 Department of Human Resources and the State Department of  
 12 Health Care Services, shall meet and collectively bargain in good  
 13 faith with representatives of a certified labor organization and shall  
 14 consider fully the proposals made by the labor organization on  
 15 behalf of ~~CCMs~~ *CommuniCal interpreters*. “Meet and collectively  
 16 bargain in good faith” means that the state and its designated agent  
 17 and representatives of a certified labor organization shall have the  
 18 mutual obligation to collectively bargain within a reasonable length  
 19 of time in order to freely exchange information, opinions, and  
 20 proposals.

21 (b) The state shall not interfere with, intimidate, restrain, coerce,  
 22 or discriminate against ~~CCMs~~ *CommuniCal interpreters* due to  
 23 the exercise of their rights under this section. A complaint alleging  
 24 any violation of this section shall be processed as an unfair practice  
 25 charge by PERB pursuant to its rules and regulations. The initial  
 26 determination as to whether the charge of unfair practice is justified  
 27 and, if so, the appropriate remedy necessary to effectuate the  
 28 purposes of this section, shall be a matter within the exclusive  
 29 jurisdiction of PERB. PERB shall apply and interpret unfair labor  
 30 practices consistent with existing judicial interpretations of this  
 31 section. If a PERB practice, regulation, interpretation, or rule  
 32 conflicts with this section, this section shall control.

33 3624. Any charging party, respondent, or intervenor aggrieved  
 34 by a final decision or order of PERB in an unfair practice case,  
 35 except a decision of PERB not to issue a complaint in such a case,  
 36 and any party to a final decision or order of PERB in a  
 37 representation, recognition, or election matter that is not brought  
 38 as an unfair practice case, may petition for a writ of extraordinary  
 39 relief from that decision or order pursuant to Section 3520.

1 3625. Execution of a valid written agreement between the state  
 2 and the certified labor organization shall bar the filing of an  
 3 application or petition for certification of a majority representative  
 4 for the length of the agreement except as otherwise provided in  
 5 this article. No application or petition for certification shall be  
 6 valid within one year of any prior certification.

7 3626. Should any court declare any other provision of this  
 8 chapter void, invalid, illegal, or unconstitutional, the remaining  
 9 provisions shall remain in full force.

10 3627. (a) The state shall not encourage or discourage  
 11 membership in a labor organization and shall not discriminate  
 12 against any ~~CCMI~~ *CommuniCal interpreter* on the basis of union  
 13 activity, concerted action, union membership, age, sex, race,  
 14 religious beliefs, color, national origin, sexual orientation, gender  
 15 identity, or disability in accordance with and as required by  
 16 applicable state and federal law. A ~~CCMI~~ *CommuniCal interpreter*  
 17 shall not be subject to punitive action, or threatened with punitive  
 18 action, for the exercise of lawful action as an elected, appointed,  
 19 or recognized representative of any bargaining unit.

20 (b) Unless otherwise stated in this article, the state may adopt  
 21 reasonable rules and regulations after consultation in good faith  
 22 with representatives of a certified labor organization for the  
 23 administration of ~~CCMI~~ *CommuniCal interpreter*  
 24 employer-employee relations under this article. In the case of any  
 25 conflict between rules and regulations enacted pursuant to this  
 26 article, including those subdivisions adopting PERB rules,  
 27 regulations, or procedures, the provisions of this section shall  
 28 control.

29 3628. Nothing in this chapter may be construed to interfere  
 30 with ~~CCMI~~ *CommuniCal interpreter* rights and responsibilities  
 31 under federal law.

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

35  
 36 Article 4.6. CommuniCal  
 37

38 14146. For the purposes of this article, the following definitions  
 39 shall apply:

- 1 (a) “CommuniCal” means the Medi-Cal Patient-Centered
- 2 Communication program.
- 3 (b) “CommuniCal certified medical interpreter” or “CCMI”
- 4 means an interpreter certified under the CommuniCal program
- 5 pursuant to ~~Article 1 (commencing with Section 3599.50) of~~
- 6 ~~Chapter 13 of Division 4 of Title 1 subdivision (b) of Section~~
- 7 ~~3599.51~~ of the Government Code.
- 8 (c) “CommuniCal interpreter” means an interpreter who is
- 9 authorized to provide CommuniCal services pursuant to Section
- 10 3599.51.
- 11 (d) “Community Advisory Committee” means the committee
- 12 established pursuant to Section 3599.53 of the Government Code.
- 13 ~~(e)~~
- 14 (e) “Department” means the State Department of Health Care
- 15 Services.
- 16 ~~(d)~~
- 17 (f) “Medi-Cal managed care organizations” or “MMCOS” means
- 18 all models of Medi-Cal managed care, including county-organized
- 19 health systems, geographic managed care, and two-plan models.
- 20 ~~(e)~~
- 21 (g) “Patient-centered communication broker” or “broker” means
- 22 ~~the any~~ third-party administrator for the CommuniCal program.
- 23 14146.10. (a) The department shall establish the CommuniCal
- 24 program to provide and reimburse for certified medical
- 25 interpretation services to Medi-Cal beneficiaries who are limited
- 26 English proficient (LEP).
- 27 (b) Commencing July 1, 2014, CommuniCal shall offer medical
- 28 interpreter services to Medi-Cal providers serving Medi-Cal
- 29 beneficiaries on either a fee-for-service or managed care basis
- 30 pursuant to this article. The department shall adopt policies to
- 31 prohibit duplicate payments to ~~CCMIs~~ *CommuniCal interpreters*
- 32 and Medi-Cal MMCOS for beneficiaries enrolled in an MMCO,
- 33 *in consultation with the Community Advisory Committee.*
- 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, *in*  
6 *consultation with the Community Advisory Committee.*

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

13 (a) Family meetings regarding medical care.

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

15 (c) Medical encounters to make treatment decisions.

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

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

20 (f) Psychiatric encounters.

21 (g) End-of-life discussions.

22 (h) *Other circumstances identified by the Community Advisory*  
23 *Committee.*

24 14146.12. (a) CommuniCal shall be administered by a  
25 patient-centered communication broker.

26 (b) The department shall create and administer a competitive  
27 Request for Proposals (RFP), and shall execute the resulting  
28 contract.

29 (c) The broker shall be responsible for all of the following  
30 duties:

31 (1) Registering ~~CCMIs~~ *CommuniCal interpreters* with Medi-Cal.

32 (2) Verifying ~~CCMI certification with the Department of Human~~  
33 ~~Resources~~ *the eligibility of an interpreter to provide CommuniCal*  
34 *services with the State Department of Health Care Services.*

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

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

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

- 1 (6) Making payments to ~~CCMIs~~ *CommuniCal interpreters*,  
 2 including any dues and service fee deductions.
- 3 (7) Scheduling ~~CCMI~~ *CommuniCal interpreter* appointments  
 4 with Medi-Cal providers.
- 5 (8) Monitoring the quality of CommuniCal interpreter services  
 6 and complying with state oversight requirements of the program,  
 7 *in consultation with the Community Advisory Committee, including*  
 8 *determining the need for multiple brokers to administer*  
 9 *CommuniCal*.
- 10 (9) Creating CommuniCal promotional materials for distribution  
 11 to Medi-Cal providers, MMCOs, and beneficiaries.
- 12 (10) *Any other duties determined to be appropriate by the*  
 13 *Community Advisory Committee*.
- 14 (d) The department shall make all applicable Medi-Cal reporting  
 15 requirements known to the broker and shall be responsible for the  
 16 broker’s compliance with these requirements.
- 17 14146.13. (a) Notwithstanding any other law, only interpreters  
 18 certified *or authorized* pursuant to Article 1 (commencing with  
 19 Section 3599.50) of Chapter 13 of Division 4 of Title 1 of the  
 20 Government Code may participate in CommuniCal.
- 21 (b) ~~CCMIs~~ *CommuniCal interpreters* shall be responsible for  
 22 all of the following:
- 23 (1) Performing interpreter services independent of other policies,  
 24 rules, or procedures of conduct, except as provided by this article  
 25 or by applicable law.
- 26 (2) Performing interpreter services independent of direction,  
 27 except as otherwise provided by this article and applicable law.
- 28 (3) Preparing and submitting documentation to the broker in  
 29 support of time worked or other services rendered.
- 30 (4) Directing and controlling the manner and means of  
 31 interpretation services, except as otherwise provided in this article.
- 32 (c) Unless otherwise prohibited by this article or applicable law,  
 33 ~~CCMIs~~ *CommuniCal interpreters* may do any of the following:
- 34 (1) Advertise, promote, or otherwise communicate availability  
 35 for services to clients and the general public.
- 36 (2) Provide office space, equipment, support services, forms,  
 37 supplies, and business cards, except as otherwise provided in this  
 38 article.
- 39 (d) (1) For purposes of the CommuniCal program, ~~CCMIs~~  
 40 *CommuniCal interpreters* are not state employees. ~~CCMIs~~

1 *CommuniCal interpreters* shall be independent contractors of the  
2 state.

3 (2) For purposes of the CommuniCal program, ~~CCMIs~~  
4 *CommuniCal interpreters* are not employees of the broker, health  
5 care providers, or consumers.

6 (3) The state action antitrust exemption to the application of  
7 federal and state antitrust laws is applicable to the activities of  
8 ~~CCMIs~~ *CommuniCal interpreters* and their exclusive  
9 representatives authorized under this article or other applicable  
10 law.

11 14146.135. (a) The base reimbursement rate for ~~CCMIs~~  
12 *CommuniCal interpreters* shall be no less than sixty dollars (\$60)  
13 per hour.

14 (b) Reimbursement may be adjusted for factors ~~such as,~~  
15 *including, but not limited to,* geography, language spoken,  
16 availability of interpreters, level of certification, ~~and~~ travel time,  
17 *or other factors, in consultation with the Community Advisory*  
18 *Committee.*

19 14146.14. The department shall issue guidance on the  
20 administration of the CommuniCal program to ensure compliance  
21 with this article and all applicable state and federal laws by all  
22 contractors and subcontractors of the program, *in consultation with*  
23 *the Community Advisory Committee.*

24 14146.15. (a) The CommuniCal Program Fund is hereby  
25 created in the State Treasury. Notwithstanding Section 16305.7  
26 of the Government Code, any interest and dividends earned on  
27 deposits in the fund shall be retained in the fund for purposes  
28 specified in subdivision (c).

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

31 (c) Moneys in the fund shall, upon appropriation by the  
32 Legislature to the department, be used solely to fund the  
33 CommuniCal program.

O