

AMENDED IN SENATE JULY 10, 2013

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN SENATE JUNE 13, 2013

AMENDED IN ASSEMBLY APRIL 11, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 1263**

**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 to be the certifying body for CommuniCal certified medical 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) by September 1, 2014, approve an examination and certification process to test and certify the competency of medical interpreters, and (3) maintain a registry of those persons who 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 to establish and charge fees that do not exceed reasonable costs for applicants to take any department-administered examinations and be certified or authorized and listed in the registry, and would require the department, in consultation with the Community Advisory Committee, to adopt quality standards and medical interpretation certification requirements through regulations.

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 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 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 *including their base reimbursement rate.*

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 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 members of the labor organization 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.

1 (c) Language access and the right to interpretation services is  
2 required under Title VI of the federal Civil Rights Act of 1964,  
3 the Dymally-Alatorre Bilingual Services Act of 1973 (Chapter  
4 17.5 (commencing with Section 7290) of Division 7 of Title 1 of  
5 the Government Code), the Knox-Keene Health Care Service Plan  
6 Act of 1975 (Chapter 2.2 (commencing with Section 1340) of  
7 Division 2 of the Health and Safety Code), Section 11135 of the  
8 Government Code, Section 1259 of the Health and Safety Code,  
9 and California civil rights law.

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

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

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

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

27 (h) Professional medical interpretation services help reduce  
28 avoidable medical errors and provider malpractice liability for  
29 physicians and other health care providers.

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

34 SEC. 2. It is the intent of the Legislature to do all of the  
35 following:

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

1 (b) Establish a mechanism for accessing federal Medicaid  
2 matching funds to provide a majority of the funding for the  
3 CommuniCal program.

4 (c) Enable trained and qualified interpreters to meet the demand  
5 for language services for a significant portion of the estimated  
6 3,000,000 Medi-Cal beneficiaries with limited English proficiency.

7 (d) Facilitate accurate and timely communication between  
8 limited-English-proficient patients and their health care providers,  
9 which will improve quality of care, reduce medical errors, increase  
10 patient understanding and compliance with health diagnoses and  
11 care plans, and reduce the cost of health care by eliminating waste,  
12 such as unnecessary tests and other care.

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

15  
16 CHAPTER 13. COMMUNICAL MEDICAL INTERPRETERS

17  
18 Article 1. Certification and Registration of CommuniCal  
19 Medical Interpreters

20  
21 3599.50. (a) For purposes of this chapter, the following  
22 definitions apply:

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

27 (2) "CommuniCal certified medical interpreter" or "CCMI"  
28 means an interpreter who has been certified pursuant to subdivision  
29 (b) of Section 3599.51.

30 (3) "CommuniCal interpreter" means an interpreter who is  
31 authorized to provide CommuniCal services pursuant to Section  
32 3599.51.

33 (4) "Certifying body" or "department" means the State  
34 Department of Health Care Services.

35 (5) "Community Advisory Committee" means the committee  
36 established pursuant to Section 3599.53.

37 (b) Notwithstanding any other law, the State Department of  
38 Health Care Services shall serve as the CommuniCal certified  
39 medical interpreter (CCMI) certifying body. The certifying body  
40 shall do both of the following:

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

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

8 3599.51. (a) As a condition of certification, an interpreter shall  
9 complete at least one of the following:

10 (1) Pass an examination administered by a nonprofit organization  
11 selected by the department that is nationally accredited to offer  
12 certification examinations for health care interpreters.

13 (2) Pass an examination developed by a state-established  
14 language testing and certification program that includes, at a  
15 minimum, both an oral and written component and the following  
16 competency standards:

17 (A) A documented and demonstrated professional level of  
18 language fluency in both English and the other specified language.

19 (B) A fundamental knowledge, in both English and the other  
20 specified language, of health care terminology and concepts  
21 relevant to health care delivery systems.

22 (C) Education and training in interpreter ethics, conduct,  
23 practice, and confidentiality. The department shall adopt standards  
24 in interpreter ethics, conduct, practice, and confidentiality  
25 promulgated by the California Healthcare Interpreters Association,  
26 the National Council on Interpreting in Health Care, or both.

27 (3) Achieve the designation of Certified Healthcare Interpreter  
28 from the Certification Commission for Healthcare Interpreters  
29 (CCHI).

30 (4) Achieve the designation of Certified Medical Interpreter  
31 from the National Board of Certification for Medical Interpreters  
32 (NBCMI).

33 (5) Hold a current interpreter's certification pursuant to Article  
34 4 (commencing with Section 68560) of Chapter 2 of Title 8 or  
35 Article 8 (commencing with Section 11435.05) of Chapter 4.5 of  
36 Part 1 of Division 3 of Title 2.

37 (b) Each interpreter who has met the requirements of subdivision  
38 (a), is listed on the CommuniCal Medical Interpreter Registry  
39 established pursuant to subdivision (e), and has been issued a

1 certificate by the certifying body shall be known as a CommuniCal  
2 Certified Medical Interpreter (CCMI).

3 (c) (1) In addition to the certification process described in  
4 subdivision (b), commencing July 1, 2014, the department shall  
5 authorize CommuniCal services to be provided by an interpreter  
6 of languages of lesser diffusion or languages for which a CCMI  
7 examination has not been created. The department shall send an  
8 authorization letter to any person who satisfies the requirements  
9 of this subdivision.

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

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

- 17 (i) Managing an interpreter encounter.
- 18 (ii) Health care terminology.
- 19 (iii) Interacting with other health care professionals.
- 20 (iv) Preparing for an interpreting encounter.
- 21 (v) Cultural responsiveness.

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

24 (d) Commencing July 1, 2014, in order to be eligible to provide  
25 CommuniCal services pursuant to Article 4.6 (commencing with  
26 Section 14146) of Chapter 7 of Part 3 of Division 9 of the Welfare  
27 and Institutions Code, an interpreter shall be certified as a CCMI  
28 or shall be authorized to provide CommuniCal services pursuant  
29 to subdivision (c).

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

33 (f) (1) In order to meet anticipated demand for services under  
34 CommuniCal, the certifying body shall authorize an interpreter to  
35 provide CommuniCal services, until the interpreter becomes  
36 certified pursuant to subdivision (b) or receives an authorization  
37 letter pursuant to subdivision (c), if the person meets all of the  
38 following requirements:

1 (A) The interpreter can demonstrate that as of January 1, 2014,  
2 he or she has worked regularly and professionally as an in-person  
3 medical interpreter during the previous two years.

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

5 (C) The interpreter has a minimum of a United States high  
6 school diploma or General Education Development (GED), or its  
7 equivalent from another country.

8 (D) The interpreter has demonstrated linguistic proficiency in  
9 English and another specified language.

10 (2) In addition to the provisional authorization provided in  
11 paragraph (1), the certifying body shall authorize an interpreter to  
12 provide CommuniCal services, until the interpreter becomes  
13 certified pursuant to subdivision (b) or receives an authorization  
14 letter pursuant to subdivision (c), if the person graduated from an  
15 accredited medical interpreter training program at a college or  
16 university before January 1, 2014.

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

21 3599.52. (a) The certifying body shall establish and charge  
22 fees, which do not exceed the reasonable costs, for applicants to  
23 take any department-administered examination offered pursuant  
24 to Section 3599.51. The certifying body shall establish and charge  
25 a single fee that does not exceed the reasonable costs for  
26 certification, authorization, and listing on the registry. The purpose  
27 of these fees is to cover the annual projected costs of carrying out  
28 this article.

29 (b) Each CommuniCal interpreter shall pay a registry and  
30 certification or authorization fee, not to exceed the reasonable  
31 costs, for the renewal of the certification or authorization and  
32 continued listing on the registry. The registry and certificate or  
33 authorization fee shall be due on July 1 of each year.

34 (c) The certifying body shall establish, maintain, administer,  
35 and publish annually an updated registry of CommuniCal  
36 interpreters. The certifying body may remove the name of a person  
37 from the registry if any of the following conditions occurs:

38 (1) The person is deceased.

39 (2) The person notifies the board that the person is unavailable  
40 for work.

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

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

5 (d) For the 2013–14 fiscal year only, the fee for certification,  
6 authorization, and listing on the registry as described in Section  
7 3599.51 is waived.

8 3599.53. (a) The certifying body shall adopt quality standards  
9 and medical interpretation certification requirements through  
10 regulations, which shall include, but not be limited to, maintaining  
11 patient confidentiality and familiarity or experience working with  
12 medical terminology. It shall determine the testing requirements  
13 for certification in each language and create a list of those  
14 languages where standards permit registration of the interpreter.

15 (b) For purposes of assisting with the tasks described in  
16 subdivision (a), the certifying body shall establish the Community  
17 Advisory Committee. The Community Advisory Committee shall  
18 include interested stakeholders that reflect the diversity of the state  
19 in terms of race, ethnicity, gender, sexual orientation, immigration  
20 status, and geography, including representatives of all of the  
21 following industries:

22 (1) Government.

23 (2) Health care providers, such as health care service plans,  
24 physicians, community and federally qualified health clinics,  
25 hospitals, or both.

26 (3) Limited-English-proficient consumers.

27 (4) Health care or language access advocates.

28 (5) Medical or health care interpreters.

29 (6) Any other expert or individual that the department deems  
30 appropriate.

31 3599.54. The exclusive representative of CommuniCal  
32 interpreters and a nonprofit organization, and the Community  
33 Advisory Committee shall partner to create and administer a  
34 training program for medical interpreters, in order to prepare  
35 interpreters for any department-administered examination offered  
36 pursuant to Section 3599.51 or other certification standards  
37 established for languages of lesser diffusion and provide continuing  
38 education for those CommuniCal interpreters placed on the registry.  
39 The Community Advisory Committee shall make recommendations  
40 on interpreter certification and services.

1 3599.55. The relationship of CommuniCal interpreters to all  
2 parties and recipients of service is one of independent contractor,  
3 unless otherwise specified by law.

4 3599.56. Only CommuniCal interpreters shall be represented  
5 by a labor organization for purposes of collective bargaining  
6 pursuant to Article 2 (commencing with Section 3610).

7  
8 Article 2. Collective Bargaining for CommuniCal Certified  
9 Medical Interpreters

10  
11 3610. (a) CommuniCal interpreters shall have the right to  
12 form, join, and participate in the activities of a labor organization  
13 of their own choosing for the purpose of representation on all  
14 matters specified in this section. The state action antitrust  
15 exemption to the application of federal and state antitrust laws is  
16 applicable to the activities of CommuniCal interpreters and their  
17 exclusive representatives authorized under this article or other  
18 applicable law.

19 (b) CommuniCal interpreters shall have the right to be  
20 represented by an exclusive labor organization of their own  
21 choosing for the purpose of collective bargaining with the State  
22 of California on matters of mutual concern, including, but not  
23 limited to, the following:

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

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

27 (3) The allocation, process, procedure, distribution,  
28 methodology, and manner of payment of interpreter  
29 reimbursements and rates.

30 (4) Professional development, certification and training,  
31 recruitment and retention of qualified interpreters, and language  
32 access quality standards.

33 (5) Dispute resolution mechanisms binding on third-party  
34 administrators and their subcontractors of state-funded interpreter  
35 programs.

36 (6) Mechanisms and funding to improve state-funded medical  
37 interpreter programs and the stability, funding, rules, regulations,  
38 and operation of state-funded medical interpretation programs.

39 (7) Scheduling systems of interpreter services under state-funded  
40 interpreter programs.

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

3 (9) The improvement and expansion of quality medical  
4 interpretation services.

5 (10) The collection and disbursement of established dues or  
6 fees to the exclusive representative of CommuniCal interpreters.

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

9 (d) The appropriate bargaining unit for CommuniCal interpreters  
10 shall be a statewide unit of eligible CommuniCal interpreters.

11 (e) CommuniCal interpreters are not public employees and this  
12 article does not create an employer-employee relationship between  
13 CommuniCal interpreters and the state or patient-centered  
14 communication brokers for any purpose, including, but not limited  
15 to, state employee eligibility for health or retirement benefits, or  
16 vicarious liability in tort.

17 3611. A labor organization as referenced in this section is  
18 defined as a labor organization described in Section 501(c)(5) of  
19 the Internal Revenue Code which has as its primary purpose the  
20 representation of public service providers in their relations with  
21 state and other public entities.

22 3612. Upon request by a labor organization that is signed by  
23 20 percent of CommuniCal interpreters, the certifying body shall  
24 furnish to the labor organization a list of all CommuniCal  
25 interpreters including full names, telephone numbers, email  
26 addresses, and mailing or home addresses within five days of the  
27 request.

28 3613. (a) Upon application by petition, authorization cards,  
29 or union membership cards of a labor organization adequately  
30 showing that a majority of CommuniCal interpreters in the state  
31 desire to be represented exclusively by that labor organization,  
32 and no other labor organization is currently certified as the  
33 exclusive representative, the Public Employment Relations Board  
34 (PERB) shall certify and grant exclusive representation of the  
35 CommuniCal interpreters to the labor organization for the purposes  
36 set forth in this section.

37 (b) Upon application by petition, authorization cards, or union  
38 membership cards of a labor organization adequately showing that  
39 less than a majority but at least 30 percent of CommuniCal  
40 interpreters desire to be represented exclusively by that labor

1 organization, and no other labor organization is currently certified  
2 as the exclusive representative, the matter to determine  
3 representation shall be set for a mail ballot election administered  
4 by PERB pursuant to its rules and regulations for administering  
5 elections. If a PERB regulation or rule conflicts with this section,  
6 this section shall control.

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

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

12 (e) Within 10 days of receipt of an adequate petition,  
13 authorization cards, or union membership cards necessitating an  
14 election, PERB shall conduct a preelection conference with the  
15 labor organization and the state prior to scheduling an election for  
16 the purpose of clarifying issues, obtaining stipulations, executing  
17 a directed election order or consent election agreement, and taking  
18 other actions to expedite the process. The labor organization and  
19 the state shall engage in a good faith effort to reach a consent  
20 election agreement stipulating the parties to appear on the ballot,  
21 the form of the ballot, the CommuniCal interpreters eligible to  
22 vote, the rules governing the election, and the date, time, and other  
23 specifics of the mail ballot election. The state shall be represented  
24 by the Department of Human Resources and the State Department  
25 of Health Care Services.

26 3614. No other labor organization shall be permitted to  
27 intervene in an election unless prior to the preelection conference,  
28 by petition, authorization cards, or union membership cards, the  
29 intervening labor organization adequately shows at least 30 percent  
30 of CommuniCal interpreters in the state as of January 1 of the year  
31 the application is made desire to be represented exclusively by the  
32 intervening labor organization.

33 3615. PERB shall proceed to determine all issues or matters  
34 in dispute. The determination and a directed election order or  
35 consent election agreement between the labor organization and  
36 the state shall be made within seven days of the conference.

37 3616. (a) PERB shall initiate a mail ballot election within 10  
38 days of the execution of a directed election order or consent  
39 election agreement. The election shall provide for an affirmative  
40 vote for employee representation by the petitioning employee

1 organization. The proposition receiving the votes of a majority of  
2 all valid votes cast shall win the election. Should no option receive  
3 an absolute majority vote of all valid votes cast, a runoff vote  
4 between the two options receiving the highest number of votes  
5 shall occur within seven days.

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

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

13 (d) The supervising official from PERB shall determine the date  
14 and time ballots must be received for tabulation, which date shall  
15 not be sooner than 10 days or more than 20 days from the date the  
16 voting commences. PERB shall be charged with validating the  
17 ballots against a list of CommuniCal interpreters provided by the  
18 State Department of Health Care Services.

19 (e) A labor organization certified by PERB as receiving a  
20 majority of all valid votes cast is the exclusive representative of  
21 all CommuniCal interpreters in the state for purposes set forth in  
22 this section. All CommuniCal interpreters who are eligible for the  
23 bargaining unit pursuant to Section 3610 subsequent to certification  
24 of the labor organization shall be part of the bargaining unit and  
25 represented by the certified labor organization.

26 3617. Discussions and collective bargaining between the  
27 certified labor organization and the state and its designated agents  
28 in the Department of Human Resources and the State Department  
29 of Health Care Services shall commence within 30 days upon  
30 certification and at any time thereafter upon request of the labor  
31 organization.

32 3618. The state and its designated agents in the Department of  
33 Human Resources and the State Department of Health Care  
34 Services shall be required to meet with the certified labor  
35 organization before any regulation is proposed, promulgated, set,  
36 or otherwise presented concerning any of the purposes for  
37 collective bargaining set forth in Section 3610.

38 3619. Any agreement resulting from collective bargaining shall  
39 be legally binding upon the state and committed to writing. Upon  
40 the completion of discussions and collective bargaining, any

1 agreement shall be reduced to writing and be presented to the  
2 appropriate administrative, legislative, or other governing body in  
3 the form of a binding agreement, resolution, bill, law, or other  
4 form required for adoption. Nothing herein shall prevent the parties  
5 from agreeing to and effecting those provisions of an agreement  
6 which have received legislative approval or those provisions which  
7 do not require legislative action.

8 3620. Nothing in this article shall affect the right of a  
9 CommuniCal interpreter to authorize a dues or service fee  
10 deduction from his or her reimbursement.

11 3621. (a) After the certification of a labor organization, the  
12 state shall approve and have deducted, upon authorization in the  
13 case of dues deduction, from the appropriate reimbursement or  
14 other payment to members of the labor organization the monthly  
15 amount of dues or service fees as certified by an executive officer  
16 of the labor organization and shall transmit the amount to the  
17 treasurer of the labor organization.

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

28 3622. Dues or fair share service fee obligations shall continue  
29 in effect as long as the labor organization is the recognized  
30 bargaining representative, notwithstanding the expiration of any  
31 agreement between the state and the recognized labor organization.

32 3623. (a) The state, through its designated agents in the  
33 Department of Human Resources and the State Department of  
34 Health Care Services, shall meet and collectively bargain in good  
35 faith with representatives of a certified labor organization and shall  
36 consider fully the proposals made by the labor organization on  
37 behalf of CommuniCal interpreters. “Meet and collectively bargain  
38 in good faith” means that the state and its designated agent and  
39 representatives of a certified labor organization shall have the  
40 mutual obligation to collectively bargain within a reasonable length

1 of time in order to freely exchange information, opinions, and  
2 proposals.

3 (b) The state shall not interfere with, intimidate, restrain, coerce,  
4 or discriminate against CommuniCal interpreters due to the exercise  
5 of their rights under this section. A complaint alleging any violation  
6 of this section shall be processed as an unfair practice charge by  
7 PERB pursuant to its rules and regulations. The initial  
8 determination as to whether the charge of unfair practice is justified  
9 and, if so, the appropriate remedy necessary to effectuate the  
10 purposes of this section, shall be a matter within the exclusive  
11 jurisdiction of PERB. PERB shall apply and interpret unfair labor  
12 practices consistent with existing judicial interpretations of this  
13 section. If a PERB practice, regulation, interpretation, or rule  
14 conflicts with this section, this section shall control.

15 3624. Any charging party, respondent, or intervenor aggrieved  
16 by a final decision or order of PERB in an unfair practice case,  
17 except a decision of PERB not to issue a complaint in such a case,  
18 and any party to a final decision or order of PERB in a  
19 representation, recognition, or election matter that is not brought  
20 as an unfair practice case, may petition for a writ of extraordinary  
21 relief from that decision or order pursuant to Section 3520.

22 3625. Execution of a valid written agreement between the state  
23 and the certified labor organization shall bar the filing of an  
24 application or petition for certification of a majority representative  
25 for the length of the agreement except as otherwise provided in  
26 this article. No application or petition for certification shall be  
27 valid within one year of any prior certification.

28 3626. Should any court declare any other provision of this  
29 chapter void, invalid, illegal, or unconstitutional, the remaining  
30 provisions shall remain in full force.

31 3627. (a) The state shall not encourage or discourage  
32 membership in a labor organization and shall not discriminate  
33 against any CommuniCal interpreter on the basis of union activity,  
34 concerted action, union membership, age, sex, race, religious  
35 beliefs, color, national origin, sexual orientation, gender identity,  
36 or disability in accordance with and as required by applicable state  
37 and federal law. A CommuniCal interpreter shall not be subject  
38 to punitive action, or threatened with punitive action, for the  
39 exercise of lawful action as an elected, appointed, or recognized  
40 representative of any bargaining unit.

1 (b) Unless otherwise stated in this article, the state may adopt  
 2 reasonable rules and regulations after consultation in good faith  
 3 with representatives of a certified labor organization for the  
 4 administration of CommuniCal interpreter employer-employee  
 5 relations under this article. In the case of any conflict between  
 6 rules and regulations enacted pursuant to this article, including  
 7 those subdivisions adopting PERB rules, regulations, or procedures,  
 8 the provisions of this section shall control.

9 3628. Nothing in this chapter may be construed to interfere  
 10 with CommuniCal interpreter rights and responsibilities under  
 11 federal law.

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

15  
 16 Article 4.6. CommuniCal  
 17

18 14146. For the purposes of this article, the following definitions  
 19 shall apply:

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

22 (b) “CommuniCal certified medical interpreter” or “CCMI”  
 23 means an interpreter certified under the CommuniCal program  
 24 pursuant to subdivision (b) of Section 3599.51 of the Government  
 25 Code.

26 (c) “CommuniCal interpreter” means an interpreter who is  
 27 authorized to provide CommuniCal services pursuant to Section  
 28 3599.51.

29 (d) “Community Advisory Committee” means the committee  
 30 established pursuant to Section 3599.53 of the Government Code.

31 (e) “Department” means the State Department of Health Care  
 32 Services.

33 (f) “Medi-Cal managed care organizations” or “MMCOS” means  
 34 all models of Medi-Cal managed care, including county-organized  
 35 health systems, geographic managed care, and two-plan models.

36 (g) “Patient-centered communication broker” or “broker” means  
 37 any third-party administrator for the CommuniCal program.

38 14146.10. (a) The department shall establish the CommuniCal  
 39 program to provide and reimburse for certified medical

1 interpretation services to Medi-Cal beneficiaries who are limited  
2 English proficient (LEP).

3 (b) Commencing July 1, 2014, CommuniCal shall offer medical  
4 interpreter services to Medi-Cal providers serving Medi-Cal  
5 beneficiaries on either a fee-for-service or managed care basis  
6 pursuant to this article. The department shall adopt policies to  
7 prohibit duplicate payments to CommuniCal interpreters and  
8 Medi-Cal MMCOs for beneficiaries enrolled in an MMCO, in  
9 consultation with the Community Advisory Committee.

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

15 (d) All contracts between MMCOs and their subcontractors,  
16 including health providers and other health plans, shall include  
17 provisions describing access to CommuniCal medical interpreter  
18 services.

19 (e) The department shall pursue all available sources of federal  
20 funding to establish and operate CommuniCal and shall seek any  
21 federal approvals necessary to implement this article, in  
22 consultation with the Community Advisory Committee.

23 14146.11. CommuniCal shall include the provision of  
24 in-person, telephonic, and video medical interpretation services  
25 by a CommuniCal interpreter. To meet language access  
26 requirements and ensure patient safety, in-person interpreter  
27 services shall be the preferred mode of medical interpretation in  
28 the following instances whenever possible:

- 29 (a) Family meetings regarding medical care.
- 30 (b) Medical encounters involving difficult or agitated patients.
- 31 (c) Medical encounters to make treatment decisions.
- 32 (d) Obtaining informed consent involving review of documents.
- 33 (e) Any medical encounter that, in the physician's judgment,  
34 requires in-person interpretation for the health, safety, or well-being  
35 of the patient.
- 36 (f) Psychiatric encounters.
- 37 (g) End-of-life discussions.
- 38 (h) Other circumstances identified by the Community Advisory  
39 Committee.

1 14146.12. (a) CommuniCal shall be administered by a  
2 patient-centered communication broker.

3 (b) The department shall create and administer a competitive  
4 Request for Proposals (RFP), and shall execute the resulting  
5 contract.

6 (c) The broker shall be responsible for all of the following  
7 duties:

8 (1) Registering CommuniCal interpreters with Medi-Cal.

9 (2) Verifying the eligibility of an interpreter to provide  
10 CommuniCal services with the State Department of Health Care  
11 Services.

12 (3) Verifying Medi-Cal eligibility for interpreter services  
13 utilizing the state’s Medi-Cal Eligibility Data System (MEDS).

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

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

18 (6) Making payments to CommuniCal interpreters, including  
19 any dues and service fee deductions.

20 (7) Scheduling CommuniCal interpreter appointments with  
21 Medi-Cal providers.

22 (8) Monitoring the quality of CommuniCal interpreter services  
23 and complying with state oversight requirements of the program,  
24 in consultation with the Community Advisory Committee,  
25 including determining the need for multiple brokers to administer  
26 CommuniCal.

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

29 (10) Any other duties determined to be appropriate by the  
30 Community Advisory Committee.

31 (d) The department shall make all applicable Medi-Cal reporting  
32 requirements known to the broker and shall be responsible for the  
33 broker’s compliance with these requirements.

34 14146.13. (a) Notwithstanding any other law, only interpreters  
35 certified or authorized pursuant to Article 1 (commencing with  
36 Section 3599.50) of Chapter 13 of Division 4 of Title 1 of the  
37 Government Code may participate in CommuniCal.

38 (b) CommuniCal interpreters shall be responsible for all of the  
39 following:

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

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

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

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

10 (c) Unless otherwise prohibited by this article or applicable law,  
11 CommuniCal interpreters may do any of the following:

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

14 (2) Provide office space, equipment, support services, forms,  
15 supplies, and business cards, except as otherwise provided in this  
16 article.

17 (d) (1) For purposes of the CommuniCal program, CommuniCal  
18 interpreters are not state employees. CommuniCal interpreters  
19 shall be independent contractors of the state.

20 (2) For purposes of the CommuniCal program, CommuniCal  
21 interpreters are not employees of the broker, health care providers,  
22 or consumers.

23 (3) The state action antitrust exemption to the application of  
24 federal and state antitrust laws is applicable to the activities of  
25 CommuniCal interpreters and their exclusive representatives  
26 authorized under this article or other applicable law.

27 14146.135. (a) The base reimbursement rate for CommuniCal  
28 interpreters shall be ~~no less than sixty dollars (\$60) per hour~~ *subject*  
29 *to collective bargaining*.

30 (b) Reimbursement may be adjusted for factors, including, but  
31 not limited to, geography, language spoken, availability of  
32 interpreters, level of certification, travel time, or other factors, in  
33 consultation with the Community Advisory Committee.

34 14146.14. The department shall issue guidance on the  
35 administration of the CommuniCal program to ensure compliance  
36 with this article and all applicable state and federal laws by all  
37 contractors and subcontractors of the program, in consultation with  
38 the Community Advisory Committee.

39 14146.15. (a) The CommuniCal Program Fund is hereby  
40 created in the State Treasury. Notwithstanding Section 16305.7

1 of the Government Code, any interest and dividends earned on  
2 deposits in the fund shall be retained in the fund for purposes  
3 specified in subdivision (c).

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

6 (c) Moneys in the fund shall, upon appropriation by the  
7 Legislature to the department, be used solely to fund the  
8 CommuniCal program.

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