

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

AB 1514 (Patterson) – As Introduced February 22, 2019

SUBJECT: Deaf and Disabled Telecommunications Program

SUMMARY: Authorizes a nurse practitioner (NP) to certify the needs of an individual who has been diagnosed by a physician and surgeon as being deaf or hard of hearing to participate in the California Deaf and Disabled Telecommunications Program (DDTP).

EXISTING LAW:

- 1) Requires the California Public Utilities Commission (CPUC) to design and implement a program to provide a telecommunications device capable of serving the needs of individuals who are deaf or hard of hearing, together with a single party line, at no charge additional to the basic exchange rate, to a subscriber who is certified as an individual who is deaf or hard of hearing by a licensed physician and surgeon, audiologist, or a qualified state or federal agency, as determined by the CPUC, and to a subscriber that is an organization representing individuals who are deaf or hard of hearing, as specified. (Public Utilities Code (PUC) Section 2881(a))
- 2) Authorizes a licensed hearing aid dispenser to certify the need of an individual to participate in the specified program if that individual has been previously fitted with an amplified device by the dispenser and the dispenser has the individual's hearing records on file before certification. In addition, a physician assistant may certify the needs of an individual who has been diagnosed by a physician and surgeon as being deaf or hard of hearing to participate in the specified program after reviewing the medical records or copies of the medical records containing that diagnosis. (PUC Section 2881 (a))
- 3) Requires the CPUC to design and implement a program to provide a dual-party relay system, using third-party intervention to connect individuals who are deaf or hard of hearing and offices of organizations representing individuals who are deaf or hard of hearing, as specified. (PUC Section 2881 (b))
- 4) Requires the CPUC to design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. The certification shall be provided by a licensed optometrist, physician and surgeon, or physician assistant, acting within the scope of practice of his or her license, or by a qualified state or federal agency as determined by the CPUC, as specified. (PUC Section 2881 (c))
- 5) Requires the CPUC to design and implement a program to provide access to a speech-generating device to any subscriber who is certified as having a speech disability at no charge additional to the basic exchange rate. The certification shall be provided by a licensed physician, licensed speech-language pathologist, or qualified state or federal agency, as specified. (PUC Section 2881 (d))

- 6) Requires licensure as a NP to meet specified requirements under statute and standards established by the Board of Registered Nursing. (BPC Section 2835)
- 7) Requires an applicant for initial qualification or certification as a NP, as specified, to meet the following requirements:
 - a) Hold a specified valid and active registered nursing license;
 - b) Possess a master's degree in nursing, a master's degree in a clinical field related to nursing, or a graduate degree in nursing; and,
 - c) Satisfactorily complete a NP program approved by the Board of Registered Nursing. (BPC Section 2835.5)
- 8) Provides that standardized procedures may be implemented that authorize a NP to do any of the following:
 - a) Order durable medical equipment, subject to any limitations set forth in the standardized procedures;
 - b) After performance of a physical examination by the NP and collaboration with a physician and surgeon, certify disability, as specified; or,
 - c) For individuals receiving home health services or personal care services, after consultation with the treating physician and surgeon, approve, sign, modify, or add to a plan of treatment or plan of care. (BPC Section 2835.7)

FISCAL EFFECT: Unknown. This bill has been keyed fiscal by the Legislative Counsel.

COMMENTS:

- 1) **Authors Statement:** According to the author, "AB 1514 is a simple fix to ensure that all patients who need to enroll in the Deaf and Disabled Phones Program can do so, and in a timely manner. Updating the code to ensure [NPs are added] to the list of certified providers will ensure that access to this program is not impeded for vulnerable individuals throughout the state who may not have access to a physician nearby yet are able to see a nurse practitioner for their primary needs."
- 2) **Background:** Ensuring that everyone has access to safe, reliable, and high-quality telecommunications service is a bedrock principle of telecommunications policy. The CPUC is tasked with developing and implementing programs to advance universal service. Universal service means that a minimum level of telecommunications service is available to everyone in the State at a reasonable rate. To do so, the CPUC implements a number of public programs to promote universal service, including the California High Cost Fund-A, the California High Cost Fund-B, the California Lifeline Program, the California Teleconnect Fund, the California Advanced Services Fund, and DDTP.

Such universal service programs are generally developed to provide support either for providers in areas of the state where it might not make economic sense to provide

telecommunications services, to certain areas, such as rural, remote, and sparsely populated areas; or support for individuals who otherwise might struggle to access affordable telecommunications services such as low income, deaf and disabled, or individuals living in or serving disadvantage communities and institutions.

The universal service programs are funded through a surcharge on each customer's phone bill for intrastate telecommunications services. The surcharge for each program is typically adjusted on an annual basis to ensure adequate funding to cover carrier claims and administrative costs. As of February 2019, the total surcharge for all universal service programs is 6.94 percent of each customer's phone bill for intrastate telecommunications service.

- 3) **DDTP:** Over four million Californians have some level of disability that inhibit their day to day lives. DDTP is a universal service program that provide specialized telephone equipment and relay services to individuals who have difficulty using the telephone due to difficulties seeing, hearing, speaking, moving, learning, or remembering. The Program is run by the CPUC which gathers input from two consumer advisory boards. The CPUC conducts outreach through service centers that provide the specialized equipment and teach individuals how to use them; field advisors who visit and assist with equipment suitability and installation; and education programs to help participants develop the skills necessary to effectively use their own phones. The Program is composed of the following three distinct and separate programs:

The California Telephone Access Program (CTAP): CTAP provides free specialized telephone equipment and services to those who have difficulties using a standard telephone. As of February 2019, DDTP has a total of 726,097 Californians in active possession of Program equipment.

The California Relay Service (CRS): CRS, also known as 7-1-1, is a free service to those who are deaf, hard of hearing, or speech-disabled. It allows individuals to communicate with other telephone users by dialing designated toll-free numbers. During the 2018 calendar year, CRS received over one million calls that amounted to over two million total conversation minutes.

The Speech Generating Device Program (SGD): SGD was statutory included in DDTP in 2012 pursuant to AB 136 (Beall), Chapter 404, Statutes of 2012. SGD provide highly individualized complex communicating devices that meets the need for accessing and using at telephone network for individuals with speech disabilities.

The Program is funded through a surcharge on each customer's phone bill for intrastate telecommunications services, including traditional wireline, Voice over Internet Protocol and wireless service phone bills. As of March 2019, the DDTP surcharge is set at 0.5 percent.

- 4) **Nurse Practitioners:** NPs are licensed registered nurses who have a Master's degree in nursing and have completed a NP program approved by the Board of Registered Nursing. NPs possess additional preparation and skills in physical diagnosis, psycho-social assessment, and management of health illness needs in primary healthcare. The NP scope of practice is determined by standardized procedures, which are the legal mechanism for NPs to perform certain functions. An NP may perform standardized procedure functions only under

specified conditions. Currently law, provides standardize procedures for NPs to perform a number of functions in certain conditions, including ordering durable medical equipment; certifying disabilities, and approving, signing, modifying, or adding to a plan of treatment or plan of care.

- 5) **DDTP & NPs:** Currently a number of healthcare providers may certify the needs of an individual to participate in DDTP. A licensed hearing aid dispenser may certify an individual if they have been previously fitted with an amplified device by the dispenser, and a physician assistant may certify the needs of an individual who has already been diagnosed by a physician and surgeon as being deaf to participate in DDTP.

This bill would include NPs among the list of healthcare providers that would be able to certify an individual who has been diagnosed by a physician and surgeon as being deaf to participate in DDTP. Given the challenges the State faces in increasing the healthcare workforce, allowing NPs to certify a diagnoses would allow greater access to DDTP especially in medically underserved areas where it is not always practical for healthcare professional to be available at all times.

The author may wish to consider an amendment to include NPs to the list of healthcare providers that may certify an individual to be disabled or having a speech disability for purposes of participating in DDTP.

6) **Suggested Amendment:**

2881. (c) The commission shall also design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. The certification, including a statement of visual or medical need for specialized telecommunications equipment, shall be provided by a licensed optometrist, physician and surgeon, ~~or~~ physician assistant, or nurse practitioner, acting within the scope of practice of the applicable license, or by a qualified state or federal agency as determined by the commission. The commission shall, in this connection, study the feasibility of, and implement, if determined to be feasible, personal income criteria, in addition to the certification of disability, for determining a subscriber's eligibility under this subdivision.

(d) (1) The commission shall also design and implement a program to provide access to a speech-generating device to any subscriber who is certified as having a speech disability at no charge additional to the basic exchange rate. The certification shall be provided by a licensed physician, licensed speech-language pathologist, nurse practitioner, or qualified state or federal agency. The commission shall provide to a certified subscriber access to a speech-generating device that is all of the following:

(A) A telecommunications device or a device that includes a telecommunications component.

(B) Appropriate to meet the subscriber's needs for access to, and use of, the telephone network, based on the recommendation of a licensed speech-language pathologist.

(C) Consistent with the quality of speech-generating devices available for purchase in the state.

- 7) **Arguments in Support:** According to the California Association of Nurse Practitioners, “[DDTP] serves over 500,000 deaf or disabled Californians in a variety of ways, including amplified phones to make listening to conversations easier, bigger buttons that assist with dialing, and flashing lights that indicate incoming calls. In order to qualify for [DDTP], applicants must have a healthcare provider certify their need and sign their applications. Certified providers currently include (among others) physicians, speech-language pathologists, optometrist, and physician assistants, but do not include [NPs] [...] As the primary healthcare providers for many deaf and disabled Californians, [DDTP] must be updated to add NPs as certified providers [...] so that access to this important program is not impeded for some of the state’s most vulnerable populations.”
- 8) **Related Legislation:** AB 497 (Santiago) of 2019 extends the sunset date on the CPUC’s authority to collect a surcharge on intrastate telecommunications services to fund DDTP until January 1, 2025. *Status: Pending in the Assembly Committee on Communications and Conveyance.*
- 9) **Prior Legislation:** SB 129 (Wright) of 2013 extended the sunset date on the CPUC authority to collect a surcharge on intrastate telephone service to fund DDTP until January 1, 2020. *Status: Chaptered by the Secretary of State - Chapter 332, Statutes of 2013.*

AB 136 (Beall) of 2011 expanded DDTP to include assistance to individuals with speech disabilities. *Status: Chaptered by the Secretary of State - Chapter 404, Statutes of 2011.*

SB 1069 (Pavley) of 2010 authorized physician assistants to perform and certify physical examinations and other specified medical services, including for individuals to participate in DDTP. *Status: Chaptered by the Secretary of State - Chapter 512, Statutes of 2010.*

REGISTERED SUPPORT / OPPOSITION:

Support

California Association for Nurse Practitioners
Disability Rights California

Opposition

None on file.

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