

*Attorneys at Law*  
**Reynolds, Motl and Sherwood**  
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*Linda M. Deola  
Brenda Lindlief Hall  
Jonathan R. Motl  
James P. Reynolds  
Frederick F. Sherwood  
Deborah S. Smith  
David K.W. Wilson, Jr.*

RECEIVED  
COMMISSIONER OF  
POLITICAL PRACTICES

SEP 22 2008 10:43 AM  
401 North East Chance Gulch  
Helena, Montana 59601  
(406) 442-3261  
Fax: (406) 443-7294

September 22, 2008

**HAND DELIVERED**

Dennis Unsworth  
Commissioner of Political Practices  
1205 Eighth Ave.  
P.O. Box 202401  
Helena, Montana 59620-2401

Dear Mr. Unsworth:

I am Jonathan Motl. My address is 401 North Last Chance Gulch, Helena, Montana. My phone number is 406-442-3261. My signature is verified below. Please consider the contents of this letter as a complaint against the following three incidental political committees formed to oppose Initiative 159 (I-159): Summit Independent Living Center, Inc; Montana Health Care Association; and Montana Health Solutions. My complaint, as set out below, is that each of these committees has violated Montana's campaign finance and reporting requirements, as defined by Montana statutory and administrative law.

1. Summit Independent Living Center, Inc.

The Summit Independent Living Center, Inc. (Summit) is a Montana corporation currently providing long term health care to Montanans. [See Summit Exs. 1 through 5 to this Complaint.] Summit filed as an incidental political committee against I-159 on May 30, 2008. Summit filed two incidental committee C-4 reports, listing \$2,748.97 in expenditures in its June 10, 2008 C-4 report and \$1,391.97 of expenditures in its July 10, 2008 C-4 report. Those reports fail to comply with the requirements of Montana law in the following manner.

a. *Failure to Report In-Kind Staff and Office Overhead Costs.*

I hereby complain that Summit failed to report the fair market value of the in-kind staff and office overhead costs that it expended against I-159. The details of this complaint are set out below.

Summit prepared a website [<http://summitilcagainsti159.cummitilc.org>], an overall fact sheet [Summit, Ex. 1], a list of opponents [Summit, Ex. 2], an argument [Summit, Ex. 3], a "get involved" primer [Summit Ex. 4], and a self primer [Summit, Ex. 5]. The website and the documents are explicitly designed to oppose I-159. In addition to the website and document activity, on at least three occasions Summit organized and delivered clients to I-159 petition sites in Missoula where the Summit clients attempted to dissuade individuals from signing I-159 petitions. [Witness to activity is C.B. Pearson and his phone is 406-549-2848, Ex. 11.]

Reportable expenditures made by Summit against I-159 are broadly defined under Montana law to include "anything of value." See §13-37-101(7)(11), MCA. The Summit C-4 reports do not meet the "anything of value" standard because they do not disclose or list the fair market value of the work of the paid Summit staff who created the website, prepared the documents or provided support for demonstrators. Specifically, Summit's June 10, 2008 C-4 report listed no value for staff in-kind or office overhead and its July 10, 2008 C-4 report listed no value for office overhead. Staff in-kind is required to be reported at fair market value, including wages, fringes and office overhead. In *Griffin v. Mont-PIRG*, [CPP Decision dated August 13, 2002, see pages 54-55] the CPP found that a proportional share of the salary, office space, equipment and supplies used by an adjunct professor to the University of Montana needed to be reported as an incidental committee ballot campaign expense because the professor had his students gather signatures in support of Initiative 125. Accordingly, the professor and/or the University became an incidental committee required to disclose the value of the in-kind expenditure to support to I-125. See also the similar decision of *Montanans for Families and Fairness v. Canyon Ferry Road Baptist Church*, March 3, 2006.

Likewise, the CPP decision of *Mt. Common Cause v. Mt. Chamber of Commerce*, June 20, 2000, at p. 42, determined that seven associations or corporations related to the hospitality industry engaged in ballot campaign activities such that they became incidental committees required to disclose as initiative contributions the value of the in-kind services of their paid professional staff. Similarly, a CPP Decision required an attorney (whose office already had filed as an incidental committee) to further disclose as a ballot campaign expense the fair market value of "office overhead," including use of business office space. (*Griffin v. Mont-PIRG*, *supra* at p. 47.) Still further, a CPP decision required a private for-profit corporation to file as an incidental committee and disclose the fair market value of all in-kind contributions,

including the value of the time of its paid support staff used to carry out a mailing to its Montana customers urging their support of an initiative. (*In the Matter of the Complaint against Montanans for Clean Water and the Orvis Company, Inc.*, February 27, 1997.)

In describing the overall requirements for reporting expenditures made in ballot campaigns the CPP stated: "If a business, corporation, membership association, partnership, club, union, committee, firm or group makes an employee, officer, board member or independent contractor available for campaign-related services, the fair market value of those services must be reported by the entity as an in-kind contribution." (*See Matter of the Complaint against Montanans for Common Sense Water Laws/Against I-122, supra* at p. 76.) The CPP further decided that the "[e]ntities ... who provide equipment or property for campaign related activities, must report the fair market value of the equipment and property [provided]." (*Id.*) Summit violated Montana's campaign finance laws when it failed to report these costs.

*b. Failure to Report Website Development Costs.*

Summit developed an extensive website against I-159 [see above]. MIHC's July 10 C-6 M & R report supplement showed its website development costs at about \$6,000. No such costs were reported by Summit. A website is an item of property and "[e]ntities ... who provide equipment or property for campaign related activities, must report the fair market value of the equipment and property [provided]." (*See Matter of the Complaint against Montanans for Common Sense Water Laws/Against I-122, supra* at p. 76.) Summit violated Montana's campaign finance laws when it failed to report these costs.

*c. Failure to Attribute.*

I-159 opponents have filed a complaint against MIHC alleging that a failure of attribution under § 13-35-225, MCA, for failing to use the words "Paid for By," even though the attribution information required by statute was set out. *See Montanans for Health Care Association v. MIHC*, case pending.

Summit has also failed to include the words "Paid for By" on those documents represented by Summit Exs. 2, 3, 4 and 5, as well as generally on its website. To the extent that any disclosure violation is found against MIHC it should be found equally against Summit. In making this complaint the complainant hereby states that this is a non-harmful, technical violation (unlike "b" and "c" above) that does not involve a failure to report expenditures. This particular complaint would not be filed, had it not been first initiated by I-159 opponents against MIHC.

*d. Failure to File as a Principal Ballot Committee.*

The Summit website is labeled, in part, "...summitilcagainsti159...". Summit has formed a committee "...organized to support or oppose a ballot issue..." and, as such, is required to file as a ballot committee [see 44.10.327(2)(a)(i)]. Summit was not involved in incidental activity, such as a one time or infrequent donation of staff time or money against I-159. Summit organized as an I-159 opponent just as MIHC organized as an I-159 proponent. Summit is therefore held to the same standard of reporting that MIHC is held, that of a ballot committee. Summit cannot fairly file scrawled handwritten reporting forms, carelessly omitting major activities and expenditures. Summit must file as a ballot committee and its failure to do so is a violation of Montana campaign finance law.

2. The Montana Health Care Association

The Montana Health Care Association (MHCA) is a non-profit corporation. [MHCA Ex. 6 to this complaint.] Its offices are located at 36 S. Last Chance Gulch, Suite A, Helena, Montana and its Executive Director at that same address is Rose M. Hughes [MHCA Ex. 7, this complaint]. There are 17 members of the Board of Directors listed. [Id.] The MHCA describes itself as: "We [the MHCA] represent profit and non-profit, independent and corporate owned, religious, fraternal and government-operated facilities, as well as hospital-based facilities. Our members provide skilled nursing, personal care, assisted living, home health, respite and therapy services." See Ex. 6. The MHCA filed as an incidental committee in opposition to I-159 on May 23, 2008.

*a. Failure to Report Value of In-Kind.*

The MHCA has an office staffed by an executive director, Rose Hughes. See Ex. 7. In addition the MHCA has a Board of Directors whose members represent nursing homes, hospitals and home care entities located in Helena, Kalispell, Havre, Billings, Baker, Hamilton, Libby, Lewistown, Butte, Wibaux, Missoula, and Sidney. See Ex. 8. The MHCA engaged in substantial activity in opposition to I-159. MHCA C-4 reports disclose that over a two month period it hired two law firms, a political process consultant (Gary Spaeth) and a video production firm, as well as placed ads in four newspapers.

Despite that reported activity the MCHA C-4 reported no proportional share of its on-going MCHA office or staff costs. It is noted that MCHA does report a fixed payment to RMS Management services and some reimbursement for RMS Management costs. That, however, is not the proper way to report the fair market value of MCHA internal costs and expenses, including amounts paid staff [see *Griffin*, supra]. It appears that MCHA wishes to designate its executive director, Rose Hughes, as just another consultant, like Gary Spaeth, whose fees and costs can be reported in lump sum. If allowed, this approach

will create a major loophole in the *Orvis, supra* decision as it will allow an entity to hide and not disclose the true fair market value of its internal costs, including paid staff and office overhead. The MIHC C-6 report determined and reported the fair market value of SEIU staff costs and expenses and I-159 opponents are required to do the same. MCHA violated Montana campaign finance law when it failed to disclose the proportional share of its Executive Director's time (and fee) spent against I-159. Further, MCHA violated Montana campaign finance law when it failed to disclose the proportional share of its office overhead (*Griffin v. Mont-PIRG, supra* at p. 47) and failed to identify any other special costs, such as travel reimbursement it spent in regard to I-159.

*b. Failure to File as a Ballot Committee.*

MCHA's extensive activity against I-159 shows that it "...organized to support or oppose a ballot issue..." Because of this activity MCHA is required to file as a ballot committee [see 44.10.327(2)(a)(i)]. MCHA was not involved in incidental activity, such as a one time or infrequent donation of staff time or money against I-159. MCHA was an I-159 opponent and it should be held to the same standard of reporting that MIHC is held, that of a ballot committee. It is noted that no I-159 opponent, including MCHA, created a ballot committee that was responsible for organizing and reporting overall in-kind expenditures against I-159. Instead I-159 opponents reported their activities under the disparate and lesser standards of incidental committees. MCHA, as the leader of the opposition, and Summit, for its outright and overall opposition, should be required to file as ballot committees.

### 3. Montana Health Solutions

Montana Health Solutions, LLC (MHS) is the management firm for Nightingale Nursing Services of Missoula. [See MHS Ex. 8] The MHS filed as an incidental committee in opposition to I-159 on May 30, 2008.

*a. Failure to Report Value of In-Kind.*

In this case the MHS has an office with staff. See Ex. 8. In order to comply with *Griffin* MHS must prepare a disclosure showing the proportional share of the fair market value of any staff time (salary) spent against I-159. Further, it must disclose the proportional share of its office overhead (*Griffin v. Mont-PIRG, supra* at p. 47) and identify any other special costs, such as travel reimbursement it spent in regard to I-159. The MHC C-4 reporting does not meet *Griffin* standards and therefore MHS has underreported its expenditures.

*b. Failure to Include Amounts Spent.*

The handwritten notes from "MB" in the file (likely Mary Baker of the CPP staff) indicate that "checks" were written. There are no amounts reported that



name is subscribed to the within instrument, and acknowledged to me that he executed the same.

unfiled

JAMIE LEE LEE  
Notary Public for the State of Montana  
Residing at Townsend  
My commission expires May 16, 2009

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 22 day of September, 2008, a true and correct copy of the foregoing was mailed, first-class postage prepaid, addressed as follows:

Rose Hughes  
Montana Health Care Association  
36 South Last Chance Gulch, Suite A  
Helena, MT 59601

Mike Mayer  
Summit Independent Living Center  
P.O. Box 3184  
Missoula, MT 59806

Daryl Holzer  
Montana Health Solutions  
1501 North Avenue West  
Missoula, MT 59801

By 

**Summit Independent Living Center, Inc.**

**AGAINST I-159**

**Say NO  
to I-159**

<http://summitilc.org/againstI159.summitilc.org>

Paid for by: Summit Independent Living Center, Inc., AGAINST I-159, P.O. Box 3184, Missoula, MT 59806, 406.541.1111, www.summitilc.org, Attorney: [redacted] Lawyer, Treasurer



## The TRUTH about Initiative I-159

There is a petition drive currently going on to gather signatures in support of Initiative I-159 in an attempt to qualify it for the November 2008 ballot. The language below will appear on the petition and ballot initiative:

### BALLOT LANGUAGE FOR INITIATIVE NO. 159 (I-159)

#### INITIATIVE 159

#### A LAW PROPOSED BY INITIATIVE PETITION.

I-159 establishes a program to provide home care services to low-income disabled and elderly persons by individual home care providers. These services now are provided only by home care businesses. Both programs are paid for by government funds. Under the new program, a home care recipient chooses an individual home care provider who is trained and certified by the state. Individual home care providers may collectively bargain with the state, but only through a statewide union exclusively composed of individual providers, and they may not strike.

I-159 costs approximately \$2.6 million of state funds the first year, increasing to \$7 million by 2013, to train, certify, and supervise an increasing number of individual providers. To the extent available, federal Medicaid funds pay for the remaining program costs.

- FOR establishing a program to provide home care services by individual providers who may collectively bargain with the state.
- AGAINST establishing a program to provide home care services by individual providers who may collectively bargain with the state.

- ▶ **FACT:** I-159 is sponsored by the Service Employees International Union (SEIU), a well-funded international union with 1.9 million members.
- ▶ **FACT:** SEIU developed this ballot initiative totally on its own accord, with no consideration for input from the disability community, the aging network, the personal assistance provider agencies, or the state. This is a prime example of a wealthy out-of-state group forcing unwanted and unneeded change on Montana.
- ▶ **FACT:** The initiative is a backdoor way to unionize the personal care workforce. Individual providers (caregivers) would be forced to join SEIU and pay union dues, yet have no vote on joining or not.

**Since 1995, Montana has been offering quality, consumer-directed, in-home care services to assist people with disabilities and our seniors to continue living independently in the home and community of their choice.**

- ▶ **FACT:** The “individual provider” program would duplicate and eventually replace the existing Self-Directed Personal Assistance Services (SDPAS) program, which has worked well in Montana since 1995. The SDPAS program already allows consumers to direct their own care, including hiring, firing and supervising their caregivers through a co-employment relationship with provider agencies.
- ▶ **FACT:** The “individual provider” program exposes consumers to more risk for exploitation, abuse and neglect because it does away with the provider agencies who perform the oversight and accountability functions of the SDPAS program that help ensure consumer health, safety and welfare.
- ▶ **FACT:** The “individual provider” program places the consumers in the role of employer, taking on the risks, liabilities and responsibilities that accompany having employees. The state would be required to serve as a fiscal agent for consumers for payment of wages, filing taxes and other administrative functions, but consumers would still hold the liability for complying with wage and hour laws, workers compensation regulations, etc.
- ▶ **FACT:** Personal assistants who work as individual providers would be required to complete mandatory training, background check and certification requirements each year, regardless of their years of experience providing personal care.
- ▶ **FACT:** Currently, under the SDPAS Program consumers are responsible for and able to train their own caregivers to perform tasks based on their own personal needs. I-159 would take that opportunity away from consumers and instead, create a cookie-cutter, one-size-fits-all approach to training personal assistants which the state would be required to administer.
- ▶ **FACT:** Personal assistants working as individual providers would assume the liability for providing care to consumers. In the SDPAS program, consumers assume the medical liability for their care, not the caregivers.
- ▶ **FACT:** I-159 **will not** provide money to get people out of nursing homes, nor does it “rebalance” the long-term care system in Montana by shifting funds from nursing homes into home and community-based services.
- ▶ **FACT:** I-159 would expand state bureaucracy by requiring the state to assume the fiscal agent role currently done by private provider agencies, along with requirements for training, certification and registry of individual providers.
- ▶ **FACT:** I-159 is expensive, estimated at \$2.6 million the first year, and increasing to \$7 million a year in five years. The fiscal note for this initiative may be grossly underestimating the cost. Yet these increased costs do not go towards better wages and benefits for caregivers, or more services for consumers, they go towards increased administrative costs for the state.

Paid for by:  
Summit Independent Living Center, Inc.  
AGAINST I-159  
P.O. Box 3184  
Missoula, MT 59806  
406-728-1630

Mike Mayer, Treasurer

Summit is an advocacy and resource center for people with disabilities as well as an in-home, self-directed personal assistance program provider.

# Summit ILC AGAINST I-159

Summit ILC Home  
Against I-159 Home  
I-159 Fact Sheet  
FAQ's  
Opponents of I-159  
Get Involved  
Contact Us

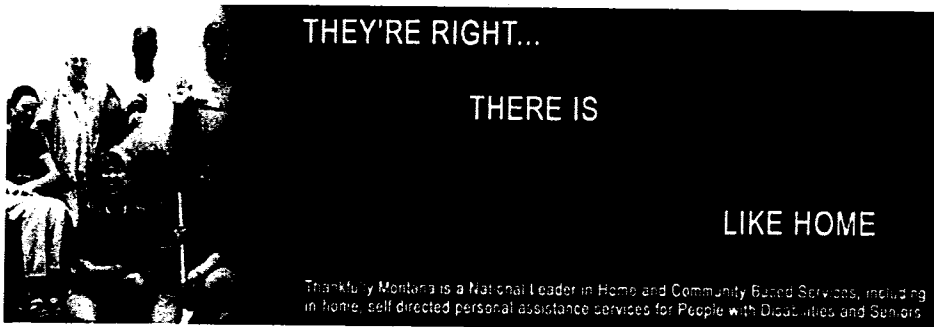
Read the Initiative  
Initiative Fiscal Note

### Who is SEIU?

Read About them on  
Union Facts

### Misleading Missouri

This same basic initiative is being sought by SEIU in Missouri as well and the language there is misleading too. That is why this lawsuit has been filed there. ⚡



THEY'RE RIGHT...

THERE IS

LIKE HOME

Thankfully Montana is a National Leader in Home and Community Based Services, including in-home, self-directed personal assistance services for People with Disabilities and Seniors

### Opponents of I-159

The following organizations/groups/individuals are also opposing I-159, the Montana In Home and Community Care Act, because it does **not** improve consumer-directed options for in-home care or increase the quality of in-home care. The result would be a decreased level of care for thousands of Montanans, forced unionization and potentially lower wages for thousands of Montana caregivers, as well as higher administrative and bureaucratic costs for our state and our families.

Montanan's for Quality Home Care

Progressive Personal Care

North Central Independent Living Services

Montana Health Care Association

Montana Chamber of Commerce

Montana AARP

Living Independently for Today & Tomorrow

Montana already has quality consumer directed, in-home personal assistance services available.

Self-Directed Personal Assistance Services: A Consumer's Guide

Senior & Long Term Care Division Olmstead Plan Update

Home & Community-Based Services

Personal Assistance

Hiring In-Home Help: A Consumers Practical Guide

### Health Care for Healthcare Workers

The 2007 legislative session allocated funds to reimburse Medicaid personal assistance and private duty nursing agencies that provide health insurance coverage to workers.

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### Frequently Asked Questions:

- What is in-home care?
- What in-home services are currently available in Montana?
- Is Summit ILC opposing I-159 because it is anti-union?
- Is there a long waiting list for in-home personal assistance services as proponents of I-159 are leading us to believe?

### What is in-home care?

Personal assistance service (PAS) is provided to persons who reside at home and have a medical necessity for assistance with activities of daily living. Services provided in the program include assistance with the following activities of daily living:

- bathing
- toileting
- mobility (including transferring from place to place)
- eating
- nutritional planning and meal preparation
- dressing
- personal hygiene and grooming
- exercise

Medical escort to a Medicaid-reimbursed service may be authorized in addition to the above activities when assistance is needed en-route or at destination.

Individuals who need help with activities of daily living may also receive help with the following:

- household tasks related to their living area
- food shopping
- laundry

### What in-home services are currently available in Montana?

Montana currently has four options available for people in need of long-term care services and who wish to receive those services in their own homes. They are:

#### • Self-Directed Personal Assistance Services (SDPAS)

Under this program, in existence since 1995, consumers have total responsibility and flexibility over their own care. This includes managing a personal assistant's work schedule, length of employment, and training.

A provider agency provides oversight of your self-directed personal assistance services. A provider agency is an organization that enrolls with the Department of Public Health and Human Services to oversee personal assistance services. You can choose which agency you use.

#### • Agency-Based Personal Assistance Services

Under the agency-based option for care, the person selects a qualified provider agency. The agency works with the person to establish the schedule for service provision and provides the trained staff necessary for the delivery of care. A nurse from the provider agency completes an on-site

visit at least once every 180 days for supervision of care.

- **Home and Community-Based Services (HCBS)**

The Home and Community Based Services program (also known as the Medicaid Waiver program) is an enhancement of the basic personal assistance programs and covers services that are otherwise not covered covered under the state plan for in-home personal assistance services. Under this program people, who would otherwise be institutionalized, are more fully able to access services that greatly increase their ability to live in their own home and community rather than in a nursing home. The services are made available through the Department of Public Health & Human Services (DPHHS) and the Senior and Long Term Care Division (SLTC).

- **Big Sky Bonanza Program**

This is a program enhancement of the Self-Directed Personal Assistance Program and Home and Community-Based Services. The Big Sky Bonanza program enables consumers on the HCBS waiver program, with support through an Independence Advisor and Financial Manager, to direct services formerly controlled by case managers, including personal assistance services and other supports such as habilitation aids, homemaking service, purchasing adaptive equipment and environmental modifications, etc.

**Is Summit ILC opposing I-159 because it is anti-union?**

No. We do not oppose I-159 because we are anti-union, as some would lead you to believe, because we are not anti-union. We have worked very closely with unionized labor organizations on numerous occasions and believe it is every employee's right to organize should they choose to do so but we believe that it should be those workers who make that decision, not the union's. This initiative does not give workers that choice but instead, stipulates that "Individual home care providers may collectively bargain with the state, but only through a statewide union exclusively composed of individual providers, and they may not strike," thereby eliminating one of a worker's most fundamental rights of choosing to unionize or not.

**Is there a long waiting list for in-home personal assistance services as proponents of I-159 are leading us to believe?**

No. Personal Assistance Services is an entitlement service and therefore, has no waiting list. Individuals, as long as they are financially eligible, can also receive a 20 day temporary authorization of services paid for by Medicaid while they await a full assessment and authorization of their eligibility for services. The goal of the Personal Assistance Services program is to prevent or delay nursing facility placement by providing medically necessary, long-term maintenance or supportive care in the home.

The only waiting list for any of the services listed above is for the Home and Community-Based Services program, however, I-159 would only be a personal assistance service and therefore, does not even cover the array of services offered by the HCBS program. Furthermore, the waiting list for the HCBS program is not 1,100 people as proponents are often expressing but rather, about 600.

**More coming Soon**

---

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
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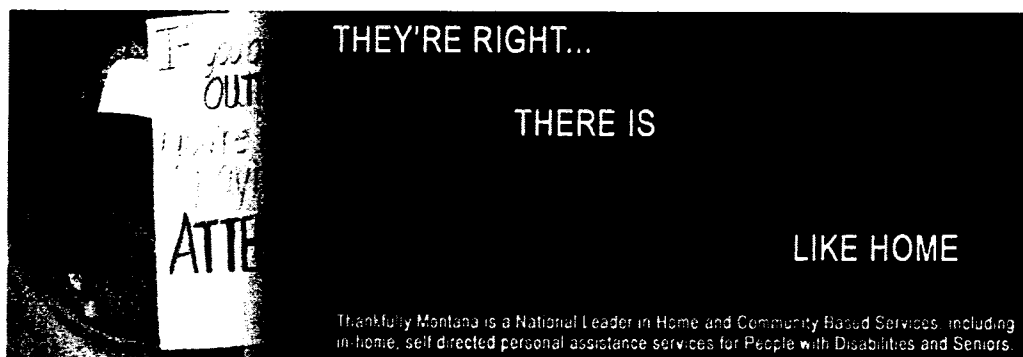
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Thankfully Montana is a National Leader in Home and Community Based Services, including in-home, self directed personal assistance services for People with Disabilities and Seniors.

## Get Involved in Opposing I-159

In order to keep I-159 off of the November ballot, we need to educate as many people as possible about the facts surrounding the initiative as well as about the quality in-home services that already exist here in Montana in order to prevent as many signatures as possible.

In order to get I-159 qualified for the November ballot, signature gatherers have until June 20, 2008 to collect over 22,000 signatures in 34 of Montana's 100 Legislative House Districts so the more signatures we can prevent, the better chance we have that this will die soon.

### Things You Can Do:

- **Learn more about I-159** by reading the initiative, the initiative's fiscal note, our I-159 Fact Sheet, and by browsing through the Frequently Asked Questions
- **Talk to your family and friends** about the facts surrounding I-159 and urge them not to sign the petition if they are approached by a signature gatherer
- **Forward this website address to every person you know** in Montana and help spread the word about what I-159 is really about
- **If you see someone gathering signatures** for I-159 ask them if you can see the initiative in it's entirety (by law they are required to have a copy with them). While you're there, ask them if they are aware of the existing in-home care services available and try to educate them on how I-159 really does not improve Montana's in-home services. If you are not able to do this, contact Summit ASAP and let us know where you saw the signature gatherer and we will attempt to get someone there.
- **Volunteer your time with Summit** to hand out fliers and talk with people about how I-159 is wrong for Montana
- **Join the Montana Independent Living Action Alert System** to stay up-to-date on this as well as other local, state, and national issues that affect people with disabilities
- **We urge you not to sign the petition** but of course, after you have studied all of the facts and you are sure you understand what this initiative will do to Montana's in-home care providers and recipients, if you still feel it is something you want to sign, then that is your decision

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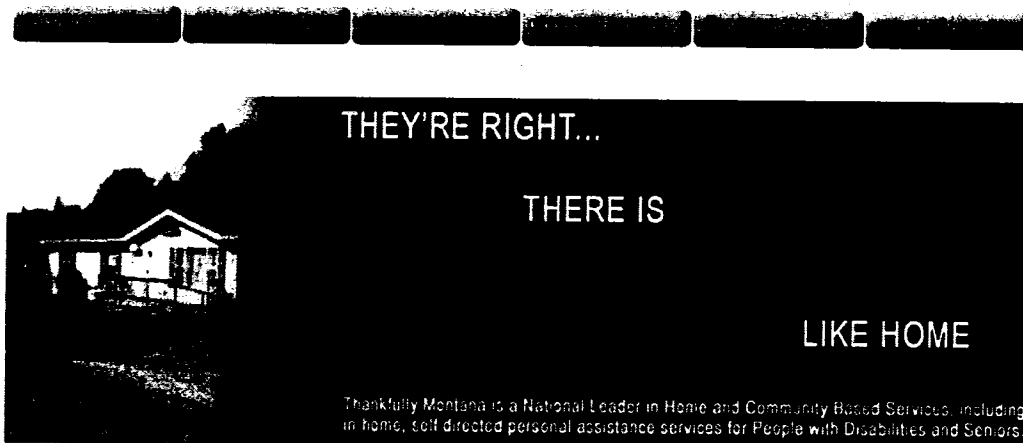
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### Why does Summit ILC oppose I-159?

Isn't Summit an Advocate for in-home services for people with disabilities? Absolutely!! Summit has played a key role in the development of consumer-directed personal assistance services in Montana. First with the establishment of the self-directed personal assistance services program in 1995 and more recently in 2006, with the Big Sky Bonanza program that allows advanced consumer direction of personal assistance and home and community-based services.

Since 1997, Summit has been as provider of Medicaid-funded self-directed personal assistance services in seven counties of Western Montana. We have also been strong advocates for improving long-term care services in Montana.

### We oppose I-159 because:

- The "individual provider" program would duplicate existing services. Since 1995, Montana has been offering quality, consumer-directed, in-home care services to assist people with disabilities and our seniors to continue living independently in their homes and community of choice through the SDPAS program. The SDPAS program already allows consumers to direct their own care, including hiring, firing and supervising their caregivers through a co-employment relationship with provider agencies. Click here for more information on available services.
- The "individual provider" program would be harmful to consumers. It would expose them to more risk for exploitation, abuse and neglect because it does away with the provider agencies and the oversight and accountability functions they perform in the SDPAS program. The "individual provider" program places the consumers in the role of employer, taking on the risks and liabilities that accompany having employees. The state would be required to serve as a fiscal agent for consumers for payment of wages, filing taxes and other administrative functions, but consumers would still hold the liability for complying with wage and hour laws, workers compensation regulations, etc. Something that is currently the responsibility of provider agencies. Click here for more information on problems with the individual provider model.
- I-159 is sponsored by the Service Employees International Union (SEIU), a well-funded international union with 1.9 million members. SEIU developed this ballot initiative totally on its own accord, with no consideration for input from the disability community, the aging network, the personal assistance provider agencies, personal assistants, case managers, or the state officials who administer Montana's long-term-care programs. This unilateral attempt to make significant changes in our state's long-term-care services is unacceptable. Montana stakeholders have a right to be involved in the planning and development of new service options, and must be at the table when decisions are made. There must be **NOTHING ABOUT US WITHOUT US!!**
- The primary purpose of I-159 is to unionize the personal care workforce without giving that workforce the opportunity to vote on whether they want to or not. The initiative compels individual providers to join the union and requires collective

Montana already has quality consumer directed, in-home personal assistance services available.

Self-Directed Personal Assistance Services: A Consumer's Guide

Senior & Long Term Care Division  
Olmstead Plan Update

Home & Community-Based Services

Personal Assistance

Hiring In-Home Help: A Consumers Practical Guide

### Health Care for Healthcare Workers

The 2007 legislative session allocated funds to reimburse Medicaid personal assistance and private duty nursing agencies that provide health insurance coverage to workers.

bargaining between the state and the union to determine the "individual providers' wages, hours, working conditions, training, workforce sustainability, and other benefits..." But consumers have absolutely no input into this collective bargaining process, let alone consumer control. As the employer of individual providers, consumers have the right to have meaningful involvement in determining the mandatory training requirements and conditions under which their caregivers would work. In this arrangement the workers do not get to choose whether they want to form a union, and the employers (consumers) have no say in the collective bargaining process. So much for both employee and employer rights! Click here to read more on our position of employees' right to organize.

- The estimated cost for I-159 is \$2.6 million the first year, with an increase to \$7 million a year in five years. Yet these increased costs do not go towards better wages and benefits for caregivers, or more services for consumers, they go towards increased administrative costs for the state. There is no money attached to this initiative to get people out of nursing homes, or to "rebalance" Montana's long-term-care system by shifting funds out of the nursing homes budget into home and community-based services. Additional money should be spent improving existing services, not developing another model that duplicates services already available.
- The mandatory training and background check requirements of I-159 would take away consumer control. In the current SDPAS program, consumers have the choice, ability, and the responsibility to choose and train their caregivers to meet their own individual needs. Personal assistants who work as individual providers would be required to complete mandatory training, background check and certification requirements each year under I-159, regardless of their years of experience providing personal care. Often times, consumers utilize family members or friends as caregivers in the SDPAS program who typically do not work for other consumers. They have been trained by consumers to meet consumers' unique needs. This new one-size fits all, cookie-cutter approach to training caregivers means that consumers will have to spend additional time retraining their own caregivers to meet their own personal needs.

---

Summit Independent Living Center, Inc.

AGAINST I-159

P.O. Box 3184

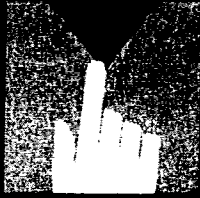
Missoula, MT 59806

406-728-1630

Mike Mayer, Treasurer

Summit is an advocacy and resource center for people with disabilities  
as well as an in-home, self-directed personal assistance program provider.

This page was last updated on June 30, 2008



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 36 S Last Chance Gulch  
 STE A  
 Helena, MT 59601

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## Mark Your Calendar for These Great Meetings!!

**2008 MHCA FALL CONVENTION and EXPOSITION**  
 September 21-24, 2008 - Billings Crowne Plaza Hotel

**\*\*\*Click Here to Download the ATTENDEE BROCHURE\*\*\***

**\*\*\*Click Here to Download the EXHIBITOR BROCHURE\*\*\***

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## **DIETARY TRAINING**

*REVISED F325 & F371 TAGS FOR NUTRITION & SANITATION  
 DON'T LET YOUR FACILITY GET CAUGHT IN THE DANGER ZONE!*

October 21, 2008 - Red Lion Colonial Hotel - Helena

**\*\*\*Click Here to Download the REGISTRATION BROCHURE\*\*\***

## **2009 MHCA SPRING CONVENTION**

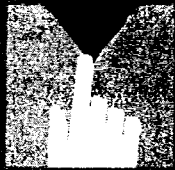
March 22-25, 2009 - Red Lion Colonial Inn - Helena  
 Contact the MHCA office at 443-2876 or send email to  
[skopec@rmsmanagement.com](mailto:skopec@rmsmanagement.com) for more information.

**ABOUT MHCA:** The Montana Health Care Association is a non-profit, member-driven professional association serving Montana's long term care facilities. Founded in 1962 and originally representing only nursing homes, MHCA has opened its membership to all organizations involved in long term care. We represent profit and non-profit, independent and corporate-owned, religious, fraternal and government-operated facilities, as well as hospital-based facilities. Our members provide skilled nursing, personal care, assisted living, home health, respite and therapy services.

The association and its members are dedicated to improving the quality of long-term health care in Montana through educational programs and proactive advocacy with the Legislature and administrative agencies. MHCA also serves as an information source for its members, state regulatory agencies, the Montana Legislature and the general public.

Associate and sponsor members include various individuals and companies that provide services and products to long term care facilities.

The MHCA Scholarship Foundation is a non-profit charitable organization organized to raise funds and provide scholarships to individuals working in member long term care facilities who wish to pursue their education in an accredited LPN or RN program, or a graduate nursing or other advanced training program in long term care nursing.



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Helena, MT 59601

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### EXECUTIVE DIRECTOR

Rose M. Hughes  
36 S. Last Chance Gulch, Suite A  
Helena, MT 59601  
(406) 443-2876 Fax: (406) 443-4614  
[rhughes@rmsmanagement.com](mailto:rhughes@rmsmanagement.com)

### PRESIDENT

Deborah M. Wilson, R.N., Administrator  
Brendan House  
350 Conway Drive  
Kalispell, MT 59901  
(406) 751-6500  
[dwilson@krmc.org](mailto:dwilson@krmc.org)

### VICE PRESIDENT

Lori Henderson, Administrator  
Northern Montana Care Center  
24 - 13th Street  
P.O. Box 1231  
Havre, MT 59501  
(406) 262-1900  
[hendlor@nmhcare.org](mailto:hendlor@nmhcare.org)

### SECRETARY

Eagle Cliff Manor  
1415 Yellowstone River Road  
Billings, MT 59105  
(406) 245-9330  
[brian.huso@lantisnet.com](mailto:brian.huso@lantisnet.com)

### TREASURER

David Espeland, Administrator  
Fallon Medical Complex  
202 S. 4th Street West  
P.O. Box 820  
Baker, MT 59313  
(406) 778-3331  
[deespela@fallonmedical.org](mailto:deespela@fallonmedical.org)

Brian Huso, Administrator

DISTRICT 1 CHAI  
Kathryn Beaty, A  
Valley View Esta  
Center  
225 North 8th Str  
Hamilton, MT 5  
(406) 363-1144  
[kbeaty@thegoodi](mailto:kbeaty@thegoodi)

DISTRICT 1 ADDI  
REPRESENTATI  
David Sande, Jr.,  
Libby Care Cente  
308 East 3rd Stre  
Libby, MT 59923  
(406) 293-6285  
[admin@libbycare](mailto:admin@libbycare)

DISTRICT 2 CHAI  
Dianne Scotten, /  
Central Montana  
Center  
408 Wendell Ave  
Lewistown, MT 5  
(406) 538-6267  
[dscotten@cmmcc](mailto:dscotten@cmmcc)

DISTRICT 3 CHAI  
Eileene Stevens,  
Crest Nursing Ho  
3131 Amherst Av  
Butte, MT 59701  
(406) 494-7035  
[crestnh@rfwave](mailto:crestnh@rfwave)

DISTRICT 4 CHAI  
Sheri Cislo, Regi  
Evergreen Health  
P. O. Box 5355  
Helena, MT 5960  
(406) 465-1810  
[scislo@ehcmail.c](mailto:scislo@ehcmail.c)

DISTRICT 5 CHAI  
Kerry Ashment, /  
Billings Health ar  
2115 Central Ave  
Billings, MT 5911  
(406) 656-6500  
[kashment@thego](mailto:kashment@thego)

DISTRICT 6 CHAI  
Maureen Brophy,  
Wibaux County N  
712 South Wibau  
Wibaux, MT 593  
(406) 796-2429  
[mb1028066@mic](mailto:mb1028066@mic)

ASSISTED LIVIN  
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(406) 652-6989  
[jannin@marquisc](mailto:jannin@marquisc)

2nd ASSISTED L  
REPRESENTATI  
Pat Holland, Adm  
Big Sky Senior Li  
3701 Elizabeth W  
Butte, MT 5970  
(406) 494-4900

[admin@bigskysl](mailto:admin@bigskysl)

DISTRICT 1 VICE  
Tammy Talley, A  
Riverside Health  
1301 East Broad  
Missoula, MT 59  
(406) 721-0680  
[ttalley@thegoodn](mailto:ttalley@thegoodn)

DISTRICT 2 VICE  
Vacant

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DISTRICT 4 VICE  
Sherri Maharg, A  
Aspen Gardens  
13 Bumble Bee C  
Helena, MT 596  
(406) 457-0092  
[s.maharg@bresn](mailto:s.maharg@bresn)

DISTRICT 5 VICE  
Vacant

DISTRICT 6 VICE  
Theresa Livers, A  
Sidney Health Ce  
104 14th Avenue  
Sidney, MT 5927  
(406) 488-2300  
[tlivers@siqneyhe](mailto:tlivers@siqneyhe)

ASSISTED LIVIN  
Colleen Benjamir  
Edgewood Vista  
1225 Wicks Lane  
Billings, MT 591  
(406) 256-5398  
[colleen\\_benjamir](mailto:colleen_benjamir)

Contact Information:

Rose Hughes, Executive Director  
Montana Health Care Association  
36 South Last Chance Gulch, Suite A  
Helena, MT 59601  
Phone: (406)443-2876 Fax: (406)443-4614  
Email: [rhughes@rmsmanagement.com](mailto:rhughes@rmsmanagement.com)

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Great Falls, MT  
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Administrator  
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Great Falls, MT  
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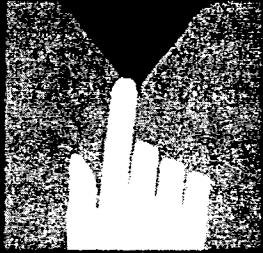
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## **Archived Story**

### **Caregivers lack raises, insurance**

**By TYLER CHRISTENSEN of the Missoulian**

Nightingale Nursing is desperately in need of more workers. It could recruit more, says owner Bill Woody, if it were able to offer higher wages and health insurance.

But because Nightingale primarily cares for Medicaid users, it can't afford to, he said. In fact, Medicaid reimbursement rates are so low, it's costing him upward of \$10,000 a month just to keep his in-home health care business afloat.

And so, every chance he gets, Woody travels from his office in Missoula to the state Capitol to speak in support of a proposed program that would increase the reimbursement rate to providers, while requiring health insurance for workers who care for Medicaid patients. "I swear the guy has worn a groove from Missoula to Helena," said Mike Hanshew of Montana Health Solutions LLC, the management firm for Nightingale Nursing Services.

Senate Bill 206, as currently proposed, would insure nearly 2,000 Montanans for about \$2.9 million in state funds, which would draw an additional \$6 million in matching federal funds, Hanshew explained. The bill, sponsored by Sen. John Cobb, R-Augusta, passed out of committee on Monday and is advancing through the House.

Hanshew is very familiar with the bill. Before becoming director of policy at Montana Health Solutions, he was an administrator in the Montana Department of Health and Human Services' Senior and Long-Term Care Division. After retiring, he was asked to join a study group for the 2003 Legislature and charged with researching ways to redesign Montana's Medicaid program.

The programs he looked at in other states had significant drawbacks, he said. Many of them were complex and politically controversial. It occurred to him that a simpler way to increase the number of insured workers would be to pay health-care providers better and require them to insure their work force.

The proposed Health Insurance for Health Care Workers program is an unconventional solution, Hanshew conceded, but so far it hasn't seen much opposition. Most lawmakers seem to understand that given the increasingly competitive marketplace for health-care workers, most of Montana's employers would offer insurance as a recruitment tool if they could.

"If Medicaid doesn't pay enough, it doesn't happen," he said.

If this program doesn't work, Woody said, more providers will be forced into their option of last resort - which is to limit the number of Medicaid patients under their care. Already they are turning away potential clients in some locations because they can't find enough workers to care for them.

Six of the state's in-home health care providers have closed in last 18 months, he noted.

When Woody and his brother purchased Nightingale Nursing in 1996, the business focused on private-pay clients, he said. At the time, a number of other providers were closing their doors, so he looked into accepting Medicaid as a way of filling the growing health-care gap.

"Now we are probably 90 percent Medicaid," Woody said.

Meanwhile, he helped the business grow from a 40-employee endeavor into a top employer with locations in Alaska, Arizona, New Mexico and Nevada. A couple of years ago, the business split into Consumer Direct Personal Care and Nightingale Nursing, both of which are managed by Montana Health Solutions.

"These are all our companies, but we split them up because we wanted people to be able to get to the services they needed directly rather than having to go through all the channels of a large corporation," he explained.

Providers who deal mostly in private pay have the luxury of setting their own rates, Woody said. They can charge whatever they need to get by, but those who care primarily for Medicaid patients have their rates set for them as a matter of public policy.

In Montana, nearly 110,000 residents eligible for Medicaid received services in fiscal year 2006. That year, the state's total Medicaid expenditures ran to \$675 million, only about 68 percent of which was covered by the federal government, said Colleen Noel of Montana Medicaid.

Rates have not kept up with the rising costs of health insurance and the minimum wage, putting providers who accept Medicaid patients at a distinct disadvantage.

"We can't set our prices," Woody said. "The governor, the Legislature and the Department of Health set our prices, and the prices aren't high enough to pay our caregivers. Health insurance is the most important thing we need."

Nightingale nursing director Susan Palmer said new employees in Missoula are started at \$9.56 an hour and then, within a few months, receive an automatic raise to \$9.85. Unfortunately, that's where wages tend to stick.

"We have no room left for health insurance and wage increases," she said. "It gives us no ability to give them any sort of step increase for long-term employment."

That makes it hard for Nightingale to compete for workers, Woody said.

"It is particularly bad in Missoula, in Helena, in Great Falls and in Billings," he said. "The metro areas are worse than the rural, because there's just more people and there's more options for employees."

DirecTV, for instance, is starting new workers at \$9 plus benefits, including full health-care coverage, he noted.

"Within months (of opening), they took 700 to 900 people out of the Missoula work force, and we know because they took some of those jobs from us," Woody said.

It doesn't help that in-home care is a physically and emotionally demanding service, he added.

"This is a hard job," he said. "This is people coming in and doing very personal things. You want someone who's just not there for the money. You want people who are really committed to this."

Unfortunately, the company is currently seeing a 50 percent turnover rate. It's a constant drain on resources just to find replacement staff, Palmer said.

In 2006, Nightingale hired 274 employees - but lost 376, she said, "which means that we end up having to pay a fair amount of overtime for those we still have just to continue to cover our clients' needs."

Nightingale Nursing currently provides caregiving and nursing services, as well as personal care assistance, to 388 clients. Last year, it cared for more than 500 clients and took on more than 135,000 visits, which can be "anything from 15 minutes up to a 12-hour shift," Palmer said.

"Some of our clients are people who one day got up and got dressed for work and they went outside and slipped on the ice, and now they're a (quadriplegic) in a wheelchair and they are dependent on Medicaid to keep them alive in their home," she continued. "That could be you, it could be me, our neighbor, our children."

While nursing homes are an important piece of the health-care continuum, Woody said, most people would prefer to remain in their homes as long as possible. Also, nursing-home care averages \$40,000 a year, while basic in-home care costs an average of \$10,000 a year.

"This crosses party lines," Woody said. "We all know people who need these services. If our goal is to get people off of minimum wage and keep people out of the nursing homes, we have to do this."

Reporter Tyler Christensen can be reached at 523-5215 or [tyler.christensen@lee.net](mailto:tyler.christensen@lee.net)

Name:

Email: