



EXHIBIT 1  
DATE 3.9.15  
SB 277

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## House Human Services Committee March 9, 2015

### SENATE BILL 277 Prohibiting DPHHS from Collecting Personally Identifiable Information About Direct Care Workers

For the record I am Rose Hughes of Helena, Executive Director of the Montana Health Care Association (MHCA). MHCA represents long term care facilities and agencies, including home care agencies which provide personal assistance services.

We support SB 277 because we believe the collection of personally identifiable information about our direct care workers is an infringement on these workers' right to privacy.

This bill is before you because DPHHS adopted a rule effective January 1, 2015, requiring personal assistance agencies to provide quarterly reports for all self-directed personal care workers. Despite a number of comments to its rule making proceeding opposing this provision, the department went ahead and adopted the rule and indicated in its adoption notice that it would make a decision in the future about whether to expand the reporting requirement to additional personal care workers.

We are unaware of any discussions the department had with any providers about the need for this information and the rationale behind this rule prior to the rule making proceeding. This provision came out of the blue. There is no rational basis for the department to be collecting this information. Any legitimate interest the department may have for wanting information about our work force can be easily obtained by collecting aggregate data about this work force.

SB 277 makes it clear that the department is not authorized to collect personally identifiable information about our workers. Why should our workers' private information be subject to the next data breach at DPHHS when there is no good reason for this department to be collecting this information in the first place? Our workers have a right to privacy - absent a compelling state interest to violate that privacy.

I urge you to support SB 277.

Thank you for the opportunity to provide testimony. I would be happy to answer questions or provide additional information.

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*MHCA...providing leadership and empowerment within the long term care continuum  
through education, advocacy, information and support to our members.*

(2) Self-directed PAS providers must maintain staff resources, including a program oversight staff and person-centered plan facilitator, to perform the necessary PAS duties as referenced in [New Rule III]. The program oversight staff and person-centered plan facilitator may be the same person.

(3) Self-directed program oversight staff must meet the following criteria:

- (a) have at least one year's experience in aging and disability services;
- (b) receive training in PAS; and
- (c) be free of conflict-of-interest criteria as referenced in [New Rule IX].

(4) Self-directed plan facilitators must meet the following criteria:

- (a) have at least one year's experience in aging and disability services;
- (b) receive certification in the person-centered planning process; and
- (c) be free of conflict-of-interest criteria as referenced in [New Rule IX].

(5) The PAS provider agency must provide documentation to verify program oversight staff and plan facilitator credentials, certification, and training.

(6) Self-directed PAS provider agencies must act as the employer of record for direct-care workers for the purposes of payroll and federal hiring practices.

(7) Effective January 1, 2015, self-directed PAS provider agencies must provide quarterly reports for all self-directed personal care attendants employed by the agency, in the format specified by the department. The quarterly report must include the names, addresses, and phone numbers, wages, years of experience in aging and disability services, availability of employee-sponsored health insurance, whether a background check was conducted, and, if so, whether it was a fingerprint criminal background check.

AUTH: 53-2-201, 53-6-101, MCA

IMP: 53-2-201, 53-6-113, MCA

NEW RULE XII AGENCY-BASED PERSONAL ASSISTANCE SERVICES:

PROVIDER COMPLIANCE (1) Providers of Personal Assistance Services (PAS) will be subject to compliance reviews to provide assurance to the department that services are being provided within the rules and policy of the program.

(2) The department will conduct compliance reviews on the provider's premises and through documentation requests. The provider must supply documentation requested by the department in a reasonable time frame and no later than 30 days following the request.

(3) The reviews will take place at times determined by the department.

(4) The department will determine compliance in the following service delivery areas:

- (a) service authorization documentation;
- (b) high-risk authorization;
- (c) amendments and temporary authorization;
- (d) service plan and member choice;
- (e) service delivery;
- (f) nurse supervision and oversight; and
- (g) health and welfare and serious occurrence reports.

(5) The department will determine compliance in the following administrative areas: