

# COMPLAINT FOR VIOLATION OF HATCH BY MICHIGAN GOVERNOR RICK SNYDER

## Summary of Complaint

Michigan Governor Rick Snyder (Snyder) has violated the Hatch Act by using his official authority and influence to affect the result of his own reelection campaign by awarding no-bid contracts to a vendor of Michigan's federally-funded Medicaid program, the owners of which have contributed to his reelection campaign.

### I. Governing Law

#### A. Federal Law

The State of Michigan receives federal funds for the Medicaid program and Snyder, as Governor, performs duties in connection with those funds – he is the head of the executive branch of state government which administers the Medicaid program. See 5 USC 1501.

As such, Snyder is subject to the restrictions of the Hatch Act:

- (a) A State or local officer or employee may not –
  - (1) use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

5 U.S.C. 1502 (a)(1).

#### B. State Law

##### 1. State Administrative Board

Snyder chairs and controls the State Administrative Board, a 7-member body whose responsibilities include approving all state contracts, including those for the Medicaid program. See MCL 17.1-17.3.

The Governor controls this Board in 2 ways. First, the Governor, Lt. Governor (elected together with the Governor) and 2 gubernatorial appointees, the State Treasurer and Director of the Department of Transportation, constitute a 4-person majority of its 7 members. See id. 17.1. Second, the Governor can veto actions of the Board. See id. 17.2 (2). Such vetoes can only be overridden by 5 votes meaning that the Governor and his/her appointees can block any veto override.

## 2. Competitive Bidding Requirement for State Contracts

Except in cases of emergencies or imminent threat to public health or safety, Michigan law requires that all state contracts be competitively bid. See MCL 18.261(3).

### II. Facts

J&B Medical Supply, owned by Fawzi and Mary Shaya, is a vendor for Michigan's federally funded Medicaid program.

J&B's initial competitively bid contract with Michigan was for a five-year period – three years, plus an option to extend it for two years to July 2013. That option was exercised and the contract ran until July 1, 2013, at which point the competitively bid contract ended.

Under Michigan law, the Snyder administration was required to seek competitive bids from vendors before awarding any new contracts after July 1, 2013. MCL 18.1261(3) requires that the State “shall utilize competitive solicitation for all purchases authorized under this act” except in a narrow set of circumstances inapplicable here.

Despite Michigan law requiring competitive bids, the Snyder-controlled State Administrative Board awarded two no-bid contracts to the Shaya family's company. On February 19, 2013, the Board awarded a new no-bid contract to J&B running from July 1, 2013 to December 31, 2013 and totaling \$8,679,958.02. On November 23, 2013, the Board awarded another no-bid contract to J&B, this time for one year, totaling \$17,359,916.04. On June 10, 2014 – the day after the Shaya family hosted a fundraiser for Snyder – J&B's no-bid contract with Michigan was increased by the Board by \$390,598.11.

During the period when J&B had these contracts with the state, its executives have given tens of thousands of contributions to Snyder's campaign.

This relationship between the contracts and the campaign contributions is illustrated on June 9, 2014, when the owners of J&B Medical Supply hosted a fundraiser for Snyder. The lavish event, attended by about 150 contributors, featured crystal stemware, professional lighting design and custom-made Rick for Michigan candy and water bottles. The family posted a video from the fundraiser, which can be viewed here, <http://www.electablog.com/2014/10/breaking-more-corruption-in-the-snyder-administration-26-4-million-in-no-bid-contracts-awarded-to-campaign-donor.html> . The fundraiser yielded \$73,800 for Snyder's reelection. One day after the fundraiser, the Board increased the J&B no bid contract with the state by \$390,598. All these facts are detailed in attached news articles.

III. Claimed Violations of Hatch Act by Snyder

Snyder and/or agents of his campaign solicited the participation of J&B Medical Supply in his political activity of financially supporting his campaign while J&B Medical Supply sought no bid Medicaid contracts from the State Administrative Board chaired and controlled by Snyder.

Snyder clearly used his official authority and influence as Governor and Chair of the State Administrative Board to affect the result of his election through soliciting and receiving political campaign donations from the owners and executives of J&B Medical Supply which sought and was awarded several no bid sole source Medicaid contracts worth tens of millions of federal dollars by the State Administrative Board in violation of state procurement law.

IV. Certification, Consent and Signature

I certify that all the statements made in this complaint (including any continuation pages) are true, complete, and correct to the best of my knowledge and belief. I understand that a false statement or concealment of a material fact is a criminal offense punishable by a fine of up to \$250,000, imprisonment for up to five years, or both. 18 U.S.C. § 1001.

I consent to OSC's communication with the pertinent individuals involved in my complaint. I agree to allow OSC to disclose my identity as the complainant, and information from or about me, if OSC decides that such disclosure is needed to investigate the allegation(s) is my complaint. I understand that regardless of the Consent Statement I choose, OSC may disclose information from my complaint file when permitted by the Privacy Act.

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Complainant's Signature

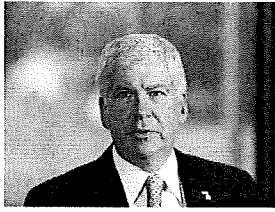
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Date Signed

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# Democrats slam Gov. Snyder over health care contract

By David Eggert, Associated Press 10:54 p.m. EDT October 20, 2014



(Photo: Associated Press)

**LANSING** The Michigan Democratic Party on Monday accused Republican Gov. Rick Snyder's administration of twice extending a state contract without competitive bidding last year and increasing its worth earlier this year just a day after the company's executives held a fundraiser for his campaign.

Snyder spokeswoman Sara Wurfel called the allegations — levied nearly two weeks before he faces Democrat Mark Schauer in the Nov. 4 election — "ridiculous, offensive and baseless."

The State Administrative Board in 2013 granted six-month and one-year extensions worth up to \$26.4 million to J&B Medical Supply, which supplies diapers and other incontinence products to Medicaid recipients. Then this past June, it unanimously increased the contract's value by up to \$390,000 a day after J&B executives hosted a fundraiser for Snyder that raised more than \$54,000 after expenses.

Party Chairman Lon Johnson said documents uncovered by Democrats "raise serious questions regarding whether pay to play is standard operating procedure inside Rick Snyder's administration."

The Snyder administration, however, said the timing was a coincidence and extensions are not unprecedented in state contracts.

Administration officials said the \$390,000 change to the contract was necessitated by 18,000 new recipients becoming eligible when Michigan's Medicaid expansion program began in April and had been in the works at least a month before the June 9 fundraiser.

"We're not going to apologize for helping make sure Michiganders got the supplies they need to live healthy, productive lives," Wurfel said.

Wixom-based J&B requested the adjustment on May 5 and an Administrative Board committee preliminarily approved it on June 3, said Caleb Buhs, spokesman for the state Department of Technology, Management and Budget.

"This was well, well into motion before the Administrative Board meeting took place on June 10," he said.

Democrats — including Schauer and GOP Attorney General Bill Schuette's opponent Mark Totten — also questioned why the \$113 million contract, first authorized by then-Democratic Gov. Jennifer Granholm's administration in 2008, was not rebid in 2013 after Granholm officials exercised allowable one-year options in 2009 in exchange for a 1 percent price reduction.

"These actions by the governor to approve no-bid contracts with J&B are an apparent violation of provisions of the Michigan Management and Budget Act," Johnson said.

Snyder officials said they twice extended the contract because a new integrated care program serving dual Medicaid-Medicare enrollees had made it difficult to estimate future purchasing volumes.

"It didn't make sense to bid out a multiyear contract until those questions could be answered," Buhs said.

He said discussions continue on how to proceed with the J&B contract, which is due to expire at the end of the year.

The Democratic Party found an Internet video of the fundraiser in Bloomfield Hills, which was hosted by Fawzi and Mary Shaya and Abu-Bakar Sheikh. Sheikh is J&B's chief financial officer; and the Shayas founded the business.

The administrative board approves state contracts and is comprised of representatives for the governor, lieutenant governor, secretary of state, attorney general, state treasurer, school superintendent and transportation director.

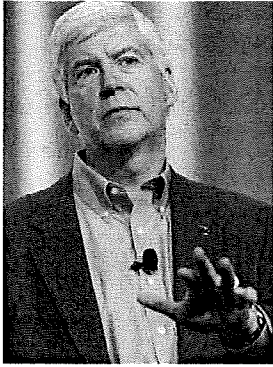
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# Dems: Snyder fundraiser fueled contract hike

Chad Livengood, Detroit News Lansing Bureau 3:33 p.m. EDT October 20, 2014



(Photo: Detroit News file)

*Lansing* — A Wixom medical supply company received a nearly \$400,000 increase to its state contract for incontinent supplies in June, one day after the company's executives threw a lavish fundraiser for Gov. Rick Snyder in Bloomfield Hills.

With the general election two weeks away, the Michigan Democratic Party on Monday attempted to make political hay out of the timing of the contract increase and two no-bid multimillion-dollar increases in mail order medical supplies for Medicaid patients.

"These documents raise serious questions about whether pay-to-play is standard operating procedure in Gov. Snyder's administration," said Lon Johnson, chairman of the Michigan Democratic Party.

But a Snyder administration official said the timing "was a coincidence" as the contract increase had been in the works for more than a month before the governor's fundraiser at the Muslim Unity Center.

State records show J & B Medical Supply Inc. has had a contract with the Department of Community Health that began during former Gov. Jennifer Granholm's administration and has been twice extended by Snyder's administration without new bidding, as the contract allows.

On June 10, the State Administrative Board approved buying up to \$390,598 from J & B Medical for adult-size diapers. The added cost was needed to handle an extra 18,000 Medicaid recipients who recently enrolled through Snyder's expansion of the health care program for low-income residents, said Caleb Buhs, spokesman for the Department of Technology, Management and Budget.

Campaign finance records show the Shaya family, which owns and operates the J & B Medical Supply, has donated more than \$65,000 to Snyder's campaign over two election cycles. On June 9, the family threw a fundraiser for Snyder that cost more than \$19,000 — the most expensive shindig for the governor this election cycle — and generated nearly \$74,000 in campaign cash, records show.

The event's upscale meal and table settings was recorded in a video the Shaya family apparently had produced by a [Sterling Heights videographer \(http://www.essakdvp.com/\)](http://www.essakdvp.com/), which Democrats found on the Internet video website Vimeo.

After the Michigan Democratic Party publicized the video Monday morning, it was [quickly removed \(http://vimeo.com/100018643\)](http://vimeo.com/100018643), but Democrats preserved [a copy on YouTube \(https://www.youtube.com/watch?v=4zjreCT8fZl\)](https://www.youtube.com/watch?v=4zjreCT8fZl).

J & B Medical's chief financial officer, Abu-Bakar Sheikh, and co-founders Dr. Fawzi and Mary Shaya were listed as the fundraiser's hosts on a welcome sign in [the video \(https://www.youtube.com/watch?v=4zjreCT8fZl\)](https://www.youtube.com/watch?v=4zjreCT8fZl).

Donors included former state Sen. Loren Bennett, contract manager for J & B Medical. Bennett and two other company officials did not return messages Monday seeking comment.

## Funds requested May 5

Health department officials requested the additional funding May 5 and a finance committee for the State Administrative Board approved it on June 3. The expanded Medicaid program began April 1 and has added nearly 425,000 Michigan recipients, 102,000 more than expected in its first year.

After exercising the original contract's two one-year extensions, the State Administrative Board has since granted two no-bid extensions totaling \$26 million from July 2013 through Dec. 31 of this year.

Buhs said the last extension was necessary because "unknown volumes" of medical supplies for an ongoing project to integrate Medicaid and Medicare services for individuals eligible for both programs in the state.

"With uncertainty about future purchase needs, it did not make sense to bid out a multi-year contract at that time," Buhs told The Detroit News.

Since 2008, J & B Medical has done more than \$113 million in business with the state, according to contract records.

Johnson argued a competitive bidding process may have saved taxpayers money, suggesting Snyder's administration bent the rules to help a donor.

"This is the precisely the kind of abuse that laws requiring competitive bidding are designed to address," Johnson said.

Gov. Rick Snyder dismissed the Democrats' claims Monday after an unrelated event in Southgate.

"People are trying to make something out of it," Snyder said. "Basically, they've had an agreement with the state going back to before when I was governor. Healthy Michigan (Medicaid expansion) has been going so well, we needed to keep things going."

The State Administrative Board includes Snyder, the lieutenant governor, the attorney general, secretary of state, treasurer, the Transportation Department director, the superintendent of public instruction or their representatives. The board can bypass a bidding process if it's deemed "not appropriate," according to state law.

With J & B Medical's latest contract set to expire Dec. 31, state health and budget officials have not initiated a new bidding process, Buhs said.

"It is our practice to use an extension only as a temporary measure and not as a permanent alternative to bidding," Buhs said.

Staff Writer Charles E. Ramirez contributed.

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