

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

In the matter of the repeal of ARM)	NOTICE OF PROPOSED REPEAL
6.6.1804 unfair discrimination;)	
6.6.4101 accreditation fees; 6.6.5101)	NO PUBLIC HEARING
small employer reinsurance;)	CONTEMPLATED
6.6.5201, 6.6.5202, 6.6.5203,)	
6.6.5204, 6.6.5207, 6.6.5208,)	
6.6.5210, 6.6.5211, 6.6.5212,)	
6.6.5215, 6.6.5216, 6.6.5219,)	
6.6.5220, 6.6.5221, 6.6.5224 Insure)	
Montana program; 6.6.5801,)	
6.6.5802, 6.6.5803, 6.6.5804, and)	
6.6.5805 managed care community)	
networks)	

TO: All Concerned Persons

1. The Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI), proposes to repeal the above-stated rules.

2. The CSI will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the CSI no later than 5:00 p.m. on August 10, 2017, to advise us of the nature of the accommodation that you need. Please contact Ramona Bidon or Lisa Monroe, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; (406) 444-1942; TDD (406) 444-3246; fax (406) 444-3499; or e-mail rbidon@mt.gov or lmmonroe@mt.gov.

3. The department proposes to repeal the following rules:

6.6.1804 UNFAIR DISCRIMINATION on page 6-208 of the Administrative Rules of Montana.

AUTH: 33-1-313, 33-20-208(8)(f), MCA
IMP: 33-20-208(8), MCA

REASON: The CSI is proposing to repeal this rule because it condones a practice no longer allowed by statute. Specifically, the rule authorizes issuance of life insurance policies on a sex distinct basis. Section 49-2-309, MCA prohibits discrimination in the issuance or operation of an insurance policy solely on the basis of sex. Issuance of life insurance policies differing only on the basis of the gender of the subject of the policy violates 49-2-309, MCA. Therefore, this rule conflicts with existing law and is unenforceable.

6.6.4101 ACCREDITATION FEES on page 6-1051 of the Administrative Rules of Montana.

AUTH: 33-1-313, 33-2-708, MCA
IMP: 33-2-708, MCA

REASON: The CSI is proposing to repeal this rule because in 1999, the Montana Legislature removed the agency's authority to establish an annual accreditation fee by rule. In its place, the legislature instituted the comprehensive fee specified in 33-2-708, MCA. As a result, this rule conflicts with existing law and is unenforceable.

6.6.5101 PLAN OF OPERATION on page 6-1171 of the Administrative Rules of Montana.

AUTH: 33-1-313, 33-22-1822, MCA
IMP: 33-22-1819, MCA

REASON: The CSI is proposing to repeal this rule because it applies to a program that no longer exists, and implements a now-repealed statute. Specifically, the rule incorporates by reference the plan of operation for the Montana Small Employer Health Reinsurance Program (SEHRP) adopted by the CSI pursuant to 33-22-1819, MCA. The SEHRP is no longer in existence, and 33-22-1819, MCA was repealed in 1999.

6.6.5201 DEFINITIONS on page 6-1181 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA
IMP: 33-22-2001, 33-22-2002, 33-22-2003, 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, MCA

REASON: Repeal of this rule is reasonably necessary because the authorizing and implementing statutes are to be repealed effective October 1, 2017. The rule implemented the Montana Small Business Health Insurance Pool program, also known as Insure Montana. The program ended effective December 31, 2015, and has been fully wound down. Therefore, this rule is no longer needed.

6.6.5202 SMALL BUSINESS HEALTH INSURANCE PURCHASING POOL—
PREMIUM ASSISTANCE AND INCENTIVE PAYMENTS—SMALL BUSINESS
HEALTH INSURANCE TAX CREDITS on page 6-1181 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA
IMP: 33-22-2001, 33-22-2002, 33-22-2003, 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, 33-22-2009, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5202 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5203 REGISTRATION REQUIRED--ELIGIBILITY on page 6-1182 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2001, 33-22-2002, 33-22-2003, 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5203 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5204 FISCAL YEAR on page 6-1182 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2005, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5204 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5207 MEETINGS OF THE PURCHASING POOL BOARD on page 6-1182 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2003, 33-22-2004, 33-22-2005, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5207 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5208 PROGRAM MANAGER—ADMINISTRATOR FOR THE PURCHASING POOL on page 6-1183 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2001, 33-22-2002, 33-22-2003, 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5208 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5210 OFFICERS on page 6-1183 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2003, 33-22-2004, 33-22-2005, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5210 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5211 DUTIES OF THE OFFICERS on page 6-1184 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2003, 33-22-2004, 33-22-2005, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5211 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5212 PARLIAMENTARY AUTHORITY on page 6-1184 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2003, 33-22-2004, 33-22-2005, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5212 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5215 TIMELINE FOR THE PLAN OF OPERATION on page 6-1185 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2002, 33-22-2003, 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5215 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5216 TIMELINE FOR AUDITS OF THE BOARD on page 6-1185 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2005, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5216 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5219 PAYMENTS OF PREMIUM ASSISTANCE AND PREMIUM INCENTIVE PAYMENTS TO EMPLOYERS on page 6-1185 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5219 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5220 QUALIFIED ASSOCIATIONS on page 6-1186 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA
IMP: 33-22-2004, 33-22-2005, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5220 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5221 WAITING LIST on page 6-1186 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA
IMP: 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5221 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5224 INSURERS REQUIRED TO REPORT CANCELLATIONS on page 6-1186 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA
IMP: 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5224 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5801 MANAGED CARE COMMUNITY NETWORKS: DEFINITIONS on page 6-1701 of the Administrative Rules of Montana.

AUTH: 33-31-103, 33-31-115, 53-6-703, MCA
IMP: 53-6-703, MCA

REASON: Repeal of this rule is reasonably necessary because the authorizing and implementing statute 53-6-703, MCA was repealed in 2011. The rule pertained to managed care community networks, a managed care concept that developed in the 1990's. Managed care community networks were not successfully implemented in Montana, and the 2011 Legislature repealed the statutory language authorizing their existence. Therefore, this rule is no longer needed.

6.6.5802 CRITERIA FOR ASSESSING THE FINANCIAL SOUNDNESS OF A NETWORK on page 6-1701 of the Administrative Rules of Montana.

AUTH: 53-6-703(3), MCA

IMP: 53-6-703, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5802 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5801.

6.6.5803 PROTECTION AGAINST INSOLVENCY on page 6-1702 of the Administrative Rules of Montana.

AUTH: 33-31-115, 53-6-703(6), MCA
IMP: 53-6-703, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5803 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5801.

6.6.5804 REDUCTION OR ELIMINATION OF REQUIREMENTS on page 6-1702 of the Administrative Rules of Montana.

AUTH: 33-31-103, 33-31-115, 53-6-703(1)(a), MCA
IMP: 53-6-703, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5804 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5801.

6.6.5805 APPLICATION REVIEW FEE on page 6-1702 of the Administrative Rules of Montana.

AUTH: 33-31-115, 53-6-703(4), MCA
IMP: 53-6-703, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5805 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5801.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Michael A. Kakuk, Attorney, Office of the Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-0385; fax (406) 444-3497; or e-mail mkakuk@mt.gov, and must be received no later than 5:00 p.m., August 29, 2017.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Michael A. Kakuk at the above address no later than 5:00 p.m., August 29, 2017.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by

the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 10 persons based on an estimate of the insurers who may need to update their internal procedures to reflect these rule changes, and have not already done so. This number does not capture all Montana insurers, given that these rules are already not enforced or are unenforceable and insurers have generally accounted for these changes already.

7. The CSI maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may sign up by clicking on the blue button on the CSI's website at: <http://csimt.gov/laws-rules/> and may specify the subject matter they are interested in. Notices will be sent by e-mail unless a mailing preference is noted in the request. Requests may also be sent to the CSI in writing. Such written request may be mailed or delivered to the contact information in 2 above, or may be made by completing a request form at any rules hearing held by the CSI.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Michael A. Kakuk
Michael A. Kakuk
Rule Reviewer

/s/ Kris Hansen
Kris Hansen
Chief Legal Counsel

Certified to the Secretary of State July 10, 2017.