

2021 LEGISLATIVE SESSION OVERVIEW

- Commissioner Downing was sworn into office on the first day of the 67th legislative session.

2021 Stats:		2019 Stats:	
• Bill Draft Requests:	3,367	• Bill Draft Requests:	3,324
• Bills Introduced:	1,313	• Bills Introduced:	1,309
• Bills Adopted:	724	• Bills Adopted:	597
• Vetoed by Governor:	17	• Vetoed by Governor:	38

2021 House Members: 67-R, 33-D
2021 Senate Members: 31-R, 19-D

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2021 Montana Code Changes

INSURANCE

- HB 43 Telehealth
- SB 395 Pharmacy Benefit Manager Licensure
- HB 379 Non-Discriminatory Rate Setting
- HB 117 Claims History in Auto
- HB 195 Claims History in Home
- SB 28 Captive Insurance Exams
- SB 76 Captive Regulatory Fees
- SB 101 Direct Patient Care Safe Harbor
- SB 149 Exempt Health Care Sharing Ministries from Insurance Law
- HB 290 Self Storage Insurance Act
- SB 363 Annuity Suitability
- Mandatory Coverage
- HB 198 Workers Compensation Death Benefit

SECURITIES

- HB 64 Uniform Whistleblower Act
- HB 65 Register Securities Supervisors
- HB 66 Securities Restitution Fund

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HB 43
(Rep. Rhonda Knudsen)

Telehealth

Effective Date: January 1, 2022

- Requires coverage of telehealth by health plans, including the state health plan. Defines telehealth as including audio-only services.
- Allows companies to use any platform approved by federal law to be compliant with HIPAA for telehealth delivery.
- Does not allow site restrictions for the delivery of telehealth services.
- Expands the professions able to be reimbursed for telehealth.

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SB 395
(Sen. Greg Hertz)

Pharmacy Benefit Manager Oversight Act

Effective Date: January 1, 2022

- Requires pharmacy benefit managers (PBMs) to be licensed in Montana on January 1, 2022, for PBMs that contract with health plans and workers' compensation plans. The fee for initial licensure is \$1000 and the annual renewal fee is \$500.
- Requires licensed PBMs to submit a quarterly appeals report to the CSI with aggregated data on the number of maximum allowable cost appeals and outcomes of the appeals.
- Requires licensed PBMs to submit an annual transparency report to the CSI disclosing any money received by pharmaceutical manufacturers and money passed along to health plans.
- Requires CSI to conduct rulemaking to define network adequacy.
- Requires PBMs, upon request, to disclose to the contracted health plan or workers' compensation plan information regarding the specific plan's rebate pass through, MAC appeals, and other benefit information specific to the plan.

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HB 379
(Rep. Sue Vinton)

Non-discriminatory Rate Setting in Insurance

Effective Date: October 1, 2021

- Beginning October 1, 2021, it is not a prohibition against sex or marital status discrimination for a person to use accepted ratemaking methodologies based on sex or marital status in establishing insurance premium rates.
- Most health plans that are subject to implement the Patient Protection and Affordable Care act may not use gender or marital status for determining premium rates.

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HB 117

Revising Auto Insurance Laws Related to Claims History

Effective Date: October 1, 2021

Limits the amount of time an insurer may use adverse claims history for rates and coverage.

- Special risk classifications may be established for commercial automobile policies based on favorable aspects of an insured's claims history. Special risk classifications may not be established in commercial automobile policies based on adverse information that is 5 years old or older.
- Insurers may not refuse to issue, refuse to continue to insure, charge higher rates, or limit the amount of coverage available for private passenger automobile policies based on claims history that is 3 years old or older.

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HB 195
 Revise Insurance Claims History Information Relating to Property Insurance

Effective Date: October 1, 2021

Limits the amount of time an insurer may use adverse claims history for rates and coverage

- Special risk classifications may be established for personal homeowners' policies that are based on favorable aspects of an insured's claim history.
- Special risk classifications may not be established based on adverse information that is 7 years old or older.
- Insurers may not refuse to issue, refuse to continue to insure, charge higher rates, or limit the amount of coverage available under a personal homeowner policy based solely on adverse information contained in the loss experience that is 7 years old or older.

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HB 198
 Increase Death Benefit on Workers' Compensation

Effective Date: October 1, 2021

- There must be paid, in case of the death of an employee whose death is the result of an accidental injury arising out of the employment and happening in the course of the employment, the reasonable burial expenses of the employee, not exceeding ~~\$4,000~~ \$10,000.
- The payment is not a part of the compensation that might be paid but is a benefit in addition to and separate from compensation.

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HB 290
 Self-Storage Insurance Act

Effective Date: October 1, 2021

- Operators of a self-storage facilities who sell renters insurance at their facilities must hold a limited lines producer license beginning October 1, 2021.
- "Operator" means a business entity that is the owner, operator, lessor or sublessor of a self-storage facility or an agent or another person authorized to manage the facility or to receive rent from a renter under a rental agreement. The operator may be a resident or non-resident of the state.
- A limited lines producer license authorizes the operator and the employees and the authorized representatives of the operator to sell self-storage insurance coverage.
- An operator is not required to hold a license solely to display and make available to renters and prospective renters' brochures and other promotional materials.

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SB 28

Captive Insurance Exams

Effective Date: March 8, 2021

- Changes the requirement that captive insurance companies need an examination by CSI every 5 years to as often as the Commissioner considers advisable.
- Captive risk retention groups shall be examined every 5 years.

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SB 76

Captive Insurance Regulatory and Supervisory Account

Effective Date: May 7, 2021

- Increases the amount of premium tax CSI may receive for regulation of captive insurance from 5% of premium tax collected to 20% of premium tax collected.
- For FY 22 and FY 23, CSI will refund the increased funds to the general fund, but starting in FY 24, CSI will retain the funds collected.

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SB 101

Direct Patient Care Safe Harbor

Effective Date: October 1, 2021

- Creates the standards for a legal direct patient care (DPC) agreement between a patient and provider.
- DPC agreements must be in writing and clearly indicate the fee to be collected by the provider.
- Providers may not submit to a health insurance issuer a claim for payment for services provided to a patient under a DPC agreement.

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SB 149

Health Care Sharing Ministry (HCSM) Safe Harbor

Effective Date: October 1, 2021

- SB 149 establishes an exemption from regulation as the business of insurance that applies to HCSMs.
- Section 1 of SB 149 defines an HCSM as a nonprofit organization with the following characteristics:
 - (1) It is tax-exempt under Sections 501(a) and 501(c)(3) of the Internal Revenue Code;
 - (2) Its members:
 - Share a common set of ethical or religious beliefs; and
 - Share medical expenses among members in accordance with those beliefs without regard to the state in which a member resides or is employed;
 - (3) Its members retain membership even after developing a medical condition;
 - (4) It conducts an annual audit that is performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and that is made available to the public on request; and
 - (5) It does not use a compensated or commissioned insurance producer, representative, or other person to solicit or enroll members in this state, provided the foregoing does not apply to:
 - A salaried person employed by the HCSM who does not receive a commission, compensation, or other valuable consideration based on enrolling new members; or
 - A new member referral program providing credit for existing members of the HCSM with respect to not more than six new members annually.

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SB 363

Annuity Suitability

Effective Date: October 1, 2021

When selling or recommending an annuity, an insurance producer must act in the best interest of the consumer and provide documentation that the producer:

- (1) knows the consumers financial situation, insurance needs, and financial objectives;
- (2) understands the available options;
- (3) has a reasonably basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs and financial objectives over the life of the product; and
- (4) communicates the basis of the recommendation to the consumer in writing.

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HB 291

Mandatory Coverage

Effective Date: January 1, 2022

Requiring coverage of amplification devices, services for kids with hearing loss.

- Health plans must cover diagnosis and treatment of hearing loss for a covered child 18 years of age or younger.

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HB 63
Insurance Housekeeping

Effective Date: July 1, 2021

- Revised deadlines for Montana Reinsurance Program.
- Updated accreditation standards.

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HB 64
Uniform Whistleblower Act

Effective Date: March 26, 2021

- Provides monetary awards to whistleblowers and provide protections for those who make whistleblower complaints.
- HB 64 includes an express cause of action against employers that retaliate against whistleblowers. Funding for the monetary awards would be a percentage of the fine levied against the wrongdoer.
- "Monetary Sanction" means any monies, including penalties, disgorgement, and interest ordered to be paid as a result of an administrative or judicial action. The term does not include restitution.
- "Original Information" means any information that is derived from independent knowledge or analysis of a whistleblower not already know to the commissioner from any other source and not exclusively derived from an allegation "made in an administrative or judicial hearing, in a governmental report hearing, audit, or investigation, or from the news media, unless the whistleblower is the source of the information.
- "Whistleblower" means an individual who, alone or jointly with others, provides the state or other law enforcement agency with information relating to a possible violation of state or federal securities laws, including any rules or regulations thereunder, that has occurred, is ongoing, or is about to occur.

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HB 65
Registration of Securities Supervisors

Effective Date: July 1, 2021

- Adds supervisor to those who need to get a licensed in Montana.
- (a) "Salesperson" means an individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities. The term includes an individual who supervises another individual who falls within this definition. The term also includes but is not limited to the individual disclosed as the supervisor on a salesperson's form U4 of the uniform application for securities industry registration or transfer. A partner, officer, or director of a broker-dealer or issuer is a salesperson only if the person otherwise falls within this definition.

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HB 66
Securities
Restitution Fund

Effective Date: May 7, 2021

- Extends the sunset date for the Restitution Fund to **July 1, 2027**.
- Decreases the amount of money collected to the fund.
- Victims of securities fraud may be eligible to receive restitution.
- Claimants less than 60 years of age can receive the lesser of 25% of the ordered but not received restitution or \$25,000, whichever is less.
- Claimants that are vulnerable persons can receive the lesser of 50% of the ordered but not received restitution or \$50,000, whichever is less.

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