Montana Department of LABOR & INDUSTRY

Licensing Reform Task Force

Healthcare Subcommittee

Policy Option for Healthcare Subcommittee Review

Topic: Certified Nursing Assistant (CNA) registry administration
Prepared for: Healthcare Subcommittee

Executive Summary

Montana can pursue a targeted Healing Arts Act option to move day-to-day CNA registry administration to **DLI** while keeping CNAs in a **registration** model rather than converting them into fully licensed professionals.

The recommended structure would place routine registry administration—applications, certification processing, renewals, recordkeeping, verification, complaint intake for non-federal professional-conduct issues, and 24-month inactivity clean-up—with DLI.

DPHHS would retain the functions federal law reserves to the state survey and certification agency, including long-term care facility surveys, facility certification, abuse/neglect/misappropriation investigations, and placement of substantiated federal findings on the Nurse Aide Registry.

This option directly supports Executive Order 1-2026 by reducing unnecessary barriers to workforce entry, aligning licensing/credentialing administration with workforce needs, improving access to health care services—especially in rural communities—and producing a concrete legislative recommendation for the 2027 Montana Legislative Session.

Policy Question

Should Montana delegate day-to-day CNA registry administration to DLI while keeping CNAs registered rather than licensed and preserving DPHHS's federally required survey-agency functions?

Recommended Policy Option

DLI should recommend legislation authorizing **delegated CNA registry administration under the Healing Arts Act**, supported by an interagency memorandum of understanding with DPHHS and any CMS notice or state-plan coordination needed to reflect the changed administrative structure.

The legislation should:

- Keep CNAs classified as **registered**, not licensed, unless the State separately elects to create an optional or parallel state credential.
- Delegate routine CNA registry administration to DLI, including application intake, certification processing, renewals, recordkeeping, public lookup, verification, and 24-month inactivity clean-up.
- Preserve DPHHS's exclusive role as the state survey and certification agency for long-term care facility surveys, facility certification, abuse/neglect/misappropriation investigations, and placement of substantiated federal findings on the registry.
- Authorize DLI to accept complaints, investigate, and impose discipline for general professional-conduct issues that are distinct from federal abuse/neglect/misappropriation findings.
- Prohibit fees for federal registry registration, renewal, maintenance, or listing, while allowing further analysis of whether fees may be charged for any separate state credential or non-registry disciplinary process.

Federal law permits daily operation and maintenance of the registry to be delegated, but only the state survey and certification agency may place abuse, neglect, or misappropriation findings on the registry. The recommended shared model therefore places routing administration with DLI and preserves non-delegable survey-agency authority with DPHHS.

Division of Responsibilities

Function	Recommended Responsible Entity	Policy Rationale
Applications, certification processing, renewals, recordkeeping, verification, public lookup, and 24-month inactivity clean-up	**DLI**	Uses DLI's licensing infrastructure and creates a more consistent applicant-facing process.
Long-term care facility surveys, facility certification, and facility enforcement	**DPHHS**	Preserves DPHHS's role as the state survey and certification agency.
Abuse, neglect, and misappropriation investigations and placement of substantiated findings on the federal registry	**DPHHS only**	Federal law reserves these functions to the state survey and certification agency.
General professional-conduct complaints, investigations, and sanctions unrelated to federal abuse/neglect/misappropriation findings	**DLI**	Allows DLI to maintain professional standards within a registration framework.
Training program approval / NATCEP coordination	**Shared / to be defined by MOU**	Federal requirements must be maintained; operational support may be delegated if CMS-compliant.
Overall federal registry accountability	**State / DPHHS retained accountability, with DLI delegated operations**	Maintains federal compliance while improving administration.

Executive Order 1-2026 Initiatives Addressed

This policy option addresses the following Executive Order 1-2026 initiatives:

- **Removing unnecessary burdens and barriers.** DLI administration could reduce applicant confusion, align CNA processing with other occupational credentials, and remove avoidable administrative friction while preserving resident-protection safeguards.
- **Improving access to professional services across Montana, including rural communities.** CNAs are an entry-level health care workforce category and part of the nursing pipeline. Streamlined processing can support faster workforce entry for facilities and communities experiencing staffing pressure.
- **Evidence-based review of whether licensure or regulation is necessary and tailored.** The recommended registration model avoids over-regulating CNAs as licensed professionals while preserving the public-protection functions required under federal law.
- **Review of whether existing licensing structures contribute to workforce shortages or rural access constraints.** The proposal gives the Subcommittee a concrete CNA-specific option to evaluate for workforce-entry impacts.
- **Alignment with rural health transformation initiatives.** The option supports the Executive Order's focus on aligning health care occupational licensing structures with CMS rural health transformation priorities.
- **Development of proposed 2027 legislation.** The policy option can be advanced as a targeted Healing Arts Act component for the Task Force's initial report and 2027 legislative package.

Key Benefits

- **Cleaner agency roles:** DLI handles applicant-facing registry administration; DPHHS retains federal survey-agency functions.
- **Improved workforce access:** A consistent DLI-administered process may reduce delays and confusion for CNAs and employers.
- **Public protection preserved:** DPHHS continues abuse, neglect, and misappropriation findings; DLI may address non-federal professional-conduct issues.
- **Operational modernization:** DLI can use existing occupational licensing systems for applications, renewals, verification, and public lookup.
- **Registry maintenance:** DLI can conduct 24-month inactivity clean-up, improving registry accuracy.
- **Legislative clarity:** The Healing Arts Act can define the exact DLI/DPHHS split and reduce uncertainty about who does what.

Risks and Issues to Resolve

- **Federal no-fee rule.** Montana may not charge CNAs fees tied to federal registry registration, listing, renewal, or maintenance. If the State wants cost recovery, counsel should evaluate whether a separate state credential or non-registry disciplinary fee structure is necessary and defensible.
- **Non-delegable DPHHS authority.** DLI cannot investigate and place federal abuse, neglect, or misappropriation findings on the registry. Any bill draft must clearly reserve those functions to DPHHS.
- **MOU and data-sharing needs.** DLI and DPHHS will need data-sharing, referral, notice, appeal, and registry-update protocols.
- **IT and transition costs.** DLI should assess whether eBiz/POL can support CNA volume, renewal cycles, employer verification, public lookup, and federal reporting needs.
- **Training program oversight.** The Subcommittee should decide whether NATCEP operational review remains with DPHHS, moves partly to DLI, or is shared under federal specifications.

Recommended Subcommittee Action

The Healthcare Subcommittee should advance a **shared-administration CNA option** for Task Force review:

> Montana should authorize DLI to administer day-to-day CNA registry functions under the Healing Arts Act while keeping CNAs registered rather than licensed, preserving DPHHS's federally required survey-agency authority, prohibiting fees for federal registry registration, and using an interagency MOU to define implementation, data-sharing, and enforcement protocols.

Before final recommendation, DLI should prepare: (1) a current-state CNA process map; (2) a DLI/DPHHS authority matrix; (3) a federal compliance checklist; (4) an IT and fiscal estimate; (5) a draft MOU outline; and (6) bill-drafting instructions for the 2027 legislative package.