A Report
to the
Montana
Legislature

Performance Audit

Montana Medical Assistance Program: DLI's Management of Contracted Monitoring Services for Impaired Healthcare Practitioners

Department of Labor & Industry

August 2025

Legislative Audit
Division

23P-02

Performance Audits

Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Members of the performance audit staff hold degrees in disciplines appropriate to the audit process.

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August 2025

The Legislative Audit Committee
of the Montana State Legislature:

It is a pleasure to present our performance audit of the medical assistance program administered by the Department of Labor & Industry (DLI).

This report provides the Legislature information about the department's administration of the Montana Medical Assistance Program, including its transition from a long-standing vendor's contract and the process of selecting a new provider. This report includes recommendations for identifying and following up with any program participants who were not in DLI's program data after the initial vendor transition, as well as developing a transition management plan to be better prepared, should a new vendor be needed in the future. A recommendation that the department complete an overdue statutorily required external audit and ensure the program vendor implements quality assurance programming is also included. A written response from DLI is included at the end of the report.

We wish to express our appreciation to DLI personnel for their cooperation and assistance during the audit.

Respectfully submitted,

/s/ Angus Maciver

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Legislative Auditor

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	Jay Phillips, Deputy Commissioner
	Quinlan O'Connor, Chief Legal Counsel
	Graden Marcelle, Deputy Chief Legal Counsel
	Eric Strauss, Administrator, Employment Standards Division (through December 2024)
	David Cook, Deputy Administrator, Employment Standards Division
	Kevin Bragg, Bureau Chief, Professional & Occupational Licensing
Professional Licensure Boards	Allen Casteel, Great Falls, Presiding Officer, Board of Dentistry
	Ashleigh Magill, Whitefish, Presiding Officer, Board of Medical Examiners
	Paul Brand, Florence, President, Board of Pharmacy
	Sarah Spangler, Havre, Presiding Officer, Board of Nursing

Montana Legislative Audit Division

Performance Audit

Montana Medical Assistance Program

Department of Labor & Industry

A report to the Montana Legislature

Background

The Department of Labor & Industry (DLI) administers the Montana Medical Assistance Program, a compliance monitoring program for healthcare professionals. The program serves as a disciplinary sanction for board licensees who are found to be unable to practice their profession with reasonable skill and safety due to diagnosed substance use disorders, mental health conditions, or physical illnesses. Licensees may also self-refer to the program voluntarily and remain unknown to their board as long as they follow program requirements. Participants must be licensed under one of four state professional licensure boards to enroll: Dentistry, Medical Examiners, Nursing, and Pharmacy. DLI manages a contract with a for-profit vendor to run the program on the boards' behalf.

Program: Montana Medical Assistance Program

Program Revenue Source: License fees from the four program boards

Program Expenses: $542,284 per year for initial three-year contract term; total $1.63M

The Department of Labor & Industry's medical assistance program administration has been mostly effective. However, the agency did not adequately plan for or implement the transition away from the former program vendor in 2021-2022. While declining to renew the former vendor's contract was appropriate, the agency's last-minute decisions, untimely communication with stakeholders, and lack of contract enforcement led to stakeholder frustration, incomplete program data, and distrust that continue to exist today. While some challenges—such as time constraints, staff turnover, and external influences—were beyond the department's control, its failure to secure complete program data created serious risks for the public and the state.

KEY FINDINGS:

The program data DLI recovered from and provided by the former vendor was incomplete and unreliable. While the contract required the vendor to provide all program data for transition assistance, they likely withheld some data from the DLI. The department did not pursue additional action to recover participant information from the former vendor. While the final number of participants unaccounted for may always be unknown due to the limitations of data available, additional strategies could have helped identify missing program participants.

The DLI does not have a detailed transition plan in place to manage organizational change if a program vendor exits its contract. While some challenges were unavoidable, the DLI was unprepared for certain manageable aspects of its first vendor transition. Ultimately, this led to sustained distrust among some board members, participants, stakeholders, and the DLI. A more intentional approach to changing vendors would help the program continue its mission of protecting public safety during transition periods. Ill-timed announcements and mixed messaging may have been avoided if the agency was better prepared to manage the known aspects of pending changes.

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The DLI should ensure the vendor designs and implements a quality assurance program so it may better understand vendor operational performance. Having this information available would help the DLI understand whether the program is operating as intended, as well as better address stakeholder concerns regarding areas such as the vendor's responsiveness and timeliness. Facilitating an overdue external audit of performance objectives as required by law will further provide management information needed to understand the vendor's operations.

RECOMMENDATIONS:

In this report, we issued the following recommendations:
To the department: 3

Recommendation #1 (page 17):
Procurement, Contracting, and Grants Management
We recommend the Department of Labor & Industry work to ensure public safety by identifying additional former medical assistance program participants who were not in the DLI's program data after the initial vendor transition.

Department response: Partially Concur

Recommendation #2 (page 24):
Management and Operational Effectiveness
We recommend that the Department of Labor & Industry prepare a medical assistance program vendor transition plan that includes participant retention, a stakeholder analysis and communication plan, strategies to ensure full contract enforcement, and any additional activities necessary to ensure continuity of services and protect public safety.

Department response: Concur

Recommendation #3 (page 31):
Procurement, Contracting, and Grants Management
We recommend the Department of Labor & Industry improve its oversight of the program vendor to better understand vendor operations and confirm the program is operating as intended by completing a statutorily required program audit, working with the program vendor to ensure quality assurance programming is in place, and regularly engaging with the boards and external stakeholders.

Department response: Concur

Chapter I - Introduction

Introduction

Research shows healthcare providers experience impairing conditions, such as substance use disorder, at a higher rate than the general public. Given that they work in a high-stakes, safety-sensitive field, guardrails and support services must be available to ensure they are not practicing while impaired. Medical assistance programs are one such tool to ensure both, and also help professionals continue, or return to, working as a result of demonstrating the ability to practice with reasonable safety and skill. These programs monitor health care providers who are in the program for disciplinary reasons and also provide structured accountability to those who voluntarily enroll in the program.

Montana Medical Assistance Program Monitors Impaired Healthcare Professionals

Administered by the Department of Labor & Industry (DLI), Montana's medical assistance program (MAP) is a non-treatment compliance monitoring program for healthcare professionals licensed under four state professional licensure boards: the boards of Dentistry, Medical Examiners, Nursing, and Pharmacy. State law authorizing the program states it exists to assist and rehabilitate licensees who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness (§37-3-203 (Medical Examiners), §37-4-311 (Dentistry), §37-7-201 (Pharmacy), §37-8-202 (Nursing), MCA). The program does not provide clinical treatment. Rather, it is a case management and monitoring entity, ensuring licensees remain safe to practice health care or receive the treatment necessary to return to practice. The program experienced instability in the last few years, primarily due to several changes in program vendors. The Legislative Audit Committee prioritized an audit of the program in fiscal year 2023 after stakeholders raised significant concerns.

Table 1
Total Licenses Under Each of the Four MAP Boards

There are over 60,000 active healthcare practitioner licenses under the MAP boards.

Board	*Total Licenses
Nursing	**31,187**
Registered Nurses	24,735
Advanced Practice RNs	4,116
Licensed Practical Nurses	2,130
Medication Aides I & II	206
Medical Examiners	**22,037**
Physicians	11,918
Emergency Medical Technicians	4,778
Paramedics	1,713
Physician Assistants	1,486
Nutritionists	955
Advanced EMT	662
Emergency Medical Responders	307
Physician Residents	145
Podiatrists	73
Pharmacy	**4,955**
Pharmacists	2,432
Pharmacy Technicians	2,228
Pharmacist Intern	295
Dentistry	**2,093**
Dental Hygienists	1,095
Dentists	973
Denturists	25
Total Licenses	**60,272**

*Total licenses, *not* total unique individuals

Source: Compiled by the Legislative Audit Division using DLI license search records.

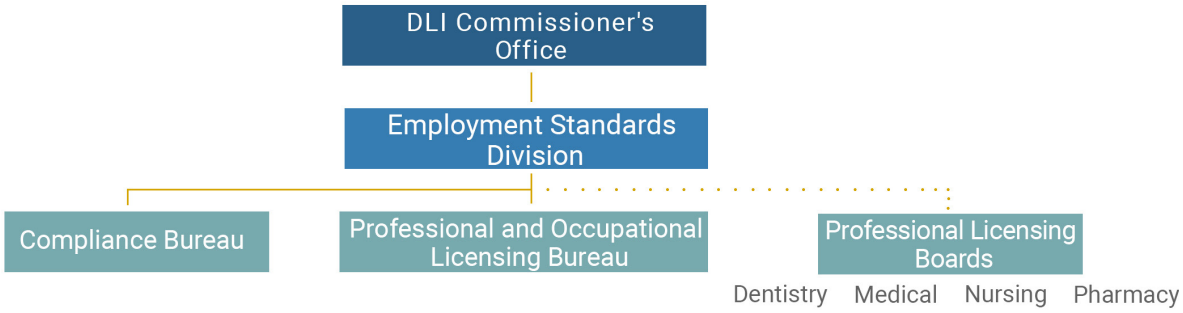
DLI supports the state workforce and provides administrative, clerical, and legal services to 29 licensure boards. It administers MAP for four healthcare-related boards through contracting with an independent vendor. Montana law requires DLI to oversee budgeting, record keeping, and reporting for its administratively attached boards (§2-15-121(2)(a), MCA).

Licensure boards set and enforce standards for state licensure in their respective professions, as well as the standards of conduct for their licensees. The boards exercise quasi-judicial and quasi-legislative powers to make administrative rules and set fees, among other responsibilities. Table 1 (page 1) detailed the specific license types and total licenses under each program board around the end of Quarter 3 of Fiscal Year (FY) 2025. An important distinction in the table is that the data outlines the total number of active licenses, not the total number of individual licensees practicing, under the boards. Some individuals hold several active licenses at the same time. For example, one must be licensed as a Registered Nurse (RN) in order to have an Advanced Practice RN license.

This organization chart delineates the different bureaus and boards that directly interface with or otherwise support functions or need information from the Montana Medical Assistance Program to carry out their functions.

Figure 1

DLI Organization Chart for Bureaus and Boards Related to MAP



Source: Compiled by the Legislative Audit Division using department records.

Staff from the Professional & Occupational Licensing Bureau provide administrative support for the licensure boards as executive officers. A staff person in this bureau also serves as the state liaison for the program's vendor. Staff in the Compliance Bureau work with MAP to obtain relevant information and/or provide referrals at various milestones of the formal licensee disciplinary process. Investigators in that bureau, as well as legal counsel from the Commissioner's Office, consult with and review materials from MAP as part of the disciplinary process, as well as to establish the vendor contract.

Scope & Objectives

Our audit examined DLI's administration of MAP transitions from the former program vendor to DLI, and from DLI to the current vendor a year later. Work also included efforts to determine whether participants under the former vendor were unaccounted for during the transition to DLI. This specific work was scoped from calendar years 2021 to 2022 to cover the program transitions to and from DLI. Data analyses using DLI disciplinary data ranged from fiscal year 2018 to January 2022. Specific work in this area included a large, multipurpose data analysis to identify ways in which MAP is involved with department and board processes.

We developed two objectives for this audit:

1. Does DLI effectively administer the medical assistance program?
2. Do the four medical assistance program boards effectively engage the program to ensure public safety?

Methodology

To answer our objectives, we completed the following steps:

- Interviewed DLI staff
- Interviewed Department of Administration staff
- Reviewed state law, rules, policies, and procedures
- Reviewed board meeting minutes and related documents
- Contacted and discussed with the former vendor our request for program data
- Reviewed DLI program participant data, license applications, complaints and monitoring records, and former vendor activity reports
- Compared the former and current vendors' contracts
- Interviewed the current vendor
- Interviewed professional associations, community treatment providers, and participants
- Anonymously surveyed MAP participants
- Surveyed board members
- Observed a DLI board member training
- Reviewed industry standards
- Interviewed program personnel in four other states (Arkansas, California, Washington, and Wyoming) and obtained program information from staff of one other (Oregon)
- Completed a data reliability assessment of the DLI licensing information system used to extract the majority of the data used in audit work

Chapter II - Background, How Programs Work, and Montana's Program Characteristics

Introduction

Starting in the 1960s, healthcare regulatory boards began rethinking disciplinary options for physicians with substance use disorders. Impaired physician programs, known as physician health programs today, emerged as a way to approach substance use disorders as an illness rather than an immediate disciplinary offense. Such programs eventually spread and expanded to serve professional populations beyond physicians.

Most states have medical assistance programs, though their organizational structures vary. Program structures influence where on a spectrum their emphasis lies, from public safety to licensee rights. Those prioritizing public safety have strong accountability and board involvement functions, often through reporting or direct oversight. Programs with a heavier program emphasis on licensee rights are typically those that do not have direct oversight from a regulatory board. The following sections describe various program characteristics, as well as Montana's specific program attributes.

Assistance Programs Across the Nation Have Differing Characteristics

Nuances in a program's organizational structure can make it difficult to classify, particularly given program models are not always mutually exclusive. However, the National Council of State Boards of Nursing and the Federation of State Physician Health Programs have observed that one or more of the following parties are typically involved:

- State professional licensing boards
- Executive branch agencies
- Professional medical associations or foundations of the associations
- Other independent corporations, e.g., nonprofit and for-profit organizations

Organizational structure also depends on the relationships between these entities and any program or entity authorizing statute, as applicable. For example, some state medical boards, such as Oregon's program boards, are standalone agencies rather than being administratively dependent on a different department, like in Montana. A state professional licensing board may be the sole entity running a state's program, as with the Arkansas Nursing Assistance Program. An authorized state agency or board may contract with a professional association or independent corporation to administer the program on the state's behalf. Some assistance programs are run as peer assistance programs that typically operate independently of a licensing board or other state entity.

Regardless of the specific parties, a formal contract or memorandum of understanding should be used when any organization outside the state's regulatory purview (e.g., professional associations or independent corporations) is responsible for running the program. These agreements can be structured differently. For example, six boards in Wyoming have separate contracts with a nonprofit organization to run all of their programs combined as one. However, the contracts are between the organization and the agency to which the boards are attached, not with the boards themselves.

Recommended practices suggest nonprofit entities are the most appropriate entities to run assistance programs. This scenario often sits in the middle of the continuum previously described: it provides participant confidentiality while also addressing public safety concerns. While not the norm, Oregon and California are run by for-profit organizations, as is the Montana program.

Funding sources for assistance programs can include state boards, healthcare organizations, professional medical societies, hospitals, malpractice insurance carriers, and participant fees. Funding sources aside, participants are typically required to pay for their own clinical treatment and specific program requirements.

While programs like MAP typically focus on healthcare practitioners, the professions served vary by state. Some programs serve non healthcare populations, such as lawyers or social workers. Others have unique program eligibility parameters: Washington serves a licensee's family members, while Connecticut serves all licensees under a department. States may also have separate programs that serve different license populations.

Another key program feature is an alternative-to-discipline option, or voluntary track, that allows licensees to enter the program without the knowledge of their board. This confidential option prevents formal discipline if they enroll and comply with program monitoring. Noncompliance, however, leads to board notification. While some argue this feature shields licensees from discipline, it can also enhance public safety by encouraging early intervention.

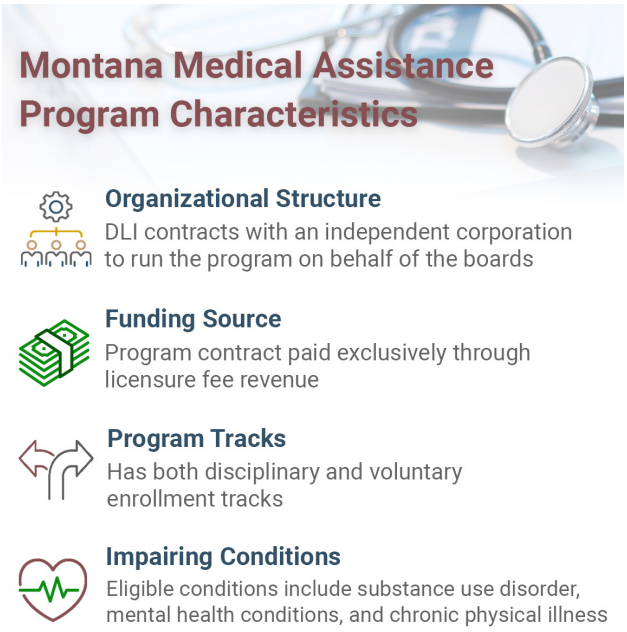
Medical assistance programs also vary in the type and number of potentially impairing conditions that make an individual eligible for enrollment. Most programs across the U.S. address substance use disorders and mental health disorders. Some also cover physical illnesses, sexual misconduct or professional boundary violations, and stress management.

Program Characteristics of Montana's Medical Assistance Program

The Montana Medical Assistance Program is established in Title 37 of Montana Code Annotated. The program has separate authorizing language under each boards' individual MCA Chapters: §37-3-203 (Medical Examiners), §37-4-311 (Dentistry), §37-7-201 (Pharmacy), and §37-8-202 (Nursing). MAP is run by a for-profit independent corporation whose contract is administered by DLI on behalf of the boards. It has both disciplinary and voluntary tracks. A licensee is eligible for the program if they have a substance use disorder, mental health condition, or chronic physical illness that impairs their ability to practice with reasonable skill and safety. Eligibility also requires the participant to be licensed under one of the four program boards.

Figure 2

Montana Medical Assistance Program Characteristics



Source: Compiled by the Legislative Audit Division.

MAP is funded solely by licensure fees collected by the four program boards; the amount each board pays towards the contract is prorated by the number of participants that the board has in the program. The table below outlines the MAP contract costs by board and year. Note the overall costs dropped in 2022 due to contract costs only extending through half of that fiscal year. The table's data is organized by program year, rather than fiscal year, as vendor payments for a given fiscal year may be remitted in the next.

Table 2
Medical Assistance Program Vendor Costs by Program Year and Board

Board	2018	2019	2020	2021	2022	2023	2024
Nursing	$352,212	$346,140	$359,452	$225,375	$254,364	$255,030	$411,656
Medical Examiners	$228,799	$225,820	$234,700	$243,499	$46,635	$66,249	$99,281
Pharmacy	$45,000	$45,000	$47,950	$48,000	$13,250	$18,953	$25,518
Dentistry	$35,150	$41,837	$36,350	$38,200	$16,517	$11,143	$24,629
Total	**$661,161**	**$658,796**	**$678,452**	**$555,074**	**$330,766**	**$351,374**	**$561,085**

Source: Compiled by the Legislative Audit Division.

There are additional program costs borne solely by program participants. While participants do not pay enrollment fees, they must pay for their testing and clinical treatment. Under the current vendor, participants now also pay to attend mandatory, online group support meetings.

The program usually has around 100-120 participants across all four boards' licensees, which is proportionally a small amount compared to total program board licensees. The table below outlines the total reported participant counts over time.

Table 3
Reported Medical Assistance Program Participants by Board Over Time

Board	Dec 2021	Dec 2022	Dec 2023	Dec 2024
Nursing	55	72	61	53
Medical Examiners	43	25	14	14
Pharmacy	10	8	3	2
Dentistry	5	2	3	1
TOTAL	**113**	**107**	**81**	**70**

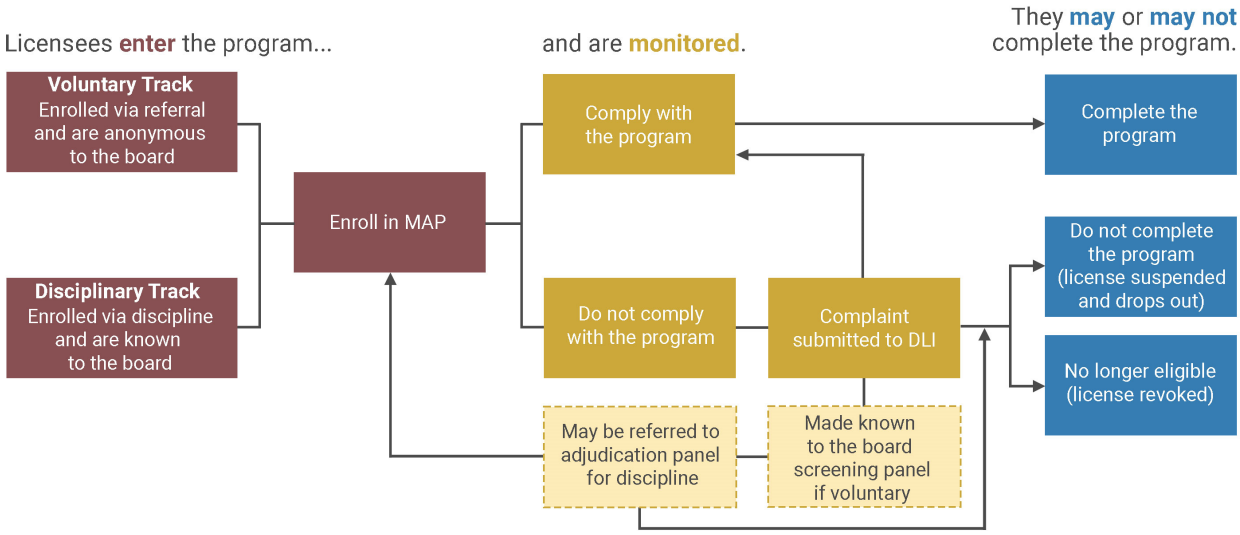
This data is from three different program entities; program status definitions are not known for all. The program status makes up from each total may be different.

Source: Compiled by Legislative Audit Division from department records.

While Table 1 (page 1) contains the number of licenses, rather than participants, it still helps establish the scope of each boards' licensee totals against which to compare total program participants. Most program participants are typically licensees under the Boards of Nursing and Medical Examiners. These are the two largest of the four boards in the program. Fewer enrollees in MAP are pharmacists and dentists relative to the size of both the program and the respective boards' populations. Research shows there are typically many barriers, the foremost being stigma, regarding a healthcare professional's willingness and ability to seek help for their illnesses.

Statute permits complaints against a licensee related to potential impairment to be submitted to the program rather than their board (§37-3-401(2)(a), MCA). In those cases, if the licensee is eligible to join the program based on a clinical evaluation, they may enroll under the voluntary track. As long as these individuals enroll and remain compliant with their monitoring requirements, they remain unknown to their board (§37-3-401(2)(b), MCA). Prospective participants can also reach out directly to the program to enroll.

Figure 3
Flow of Participants Through the Medical Assistance Program



Source: Compiled by Legislative Audit Division.

Individuals enroll in the program either under the voluntary track or, if required to under formal discipline per §37-1-312(1)(d), MCA, from their licensing board, the disciplinary track. While the specific participant's order of operations vary, all receive an initial clinical evaluation from a treatment provider and, as appropriate, initial treatment for their impairing condition.

Upon formally enrolling in the program, the program designs a monitoring agreement for the participant, which is a contract that outlines the specific expectations they must fulfill to maintain program compliance. Such requirements may include daily check-ins to a virtual case management and toxicology testing monitoring system, a minimum number of random toxicology tests annually, attending therapy, peer support groups, and other requirements. If the participant is still working or returning to work, the agreements may also contain workplace restrictions and require a workplace monitor.

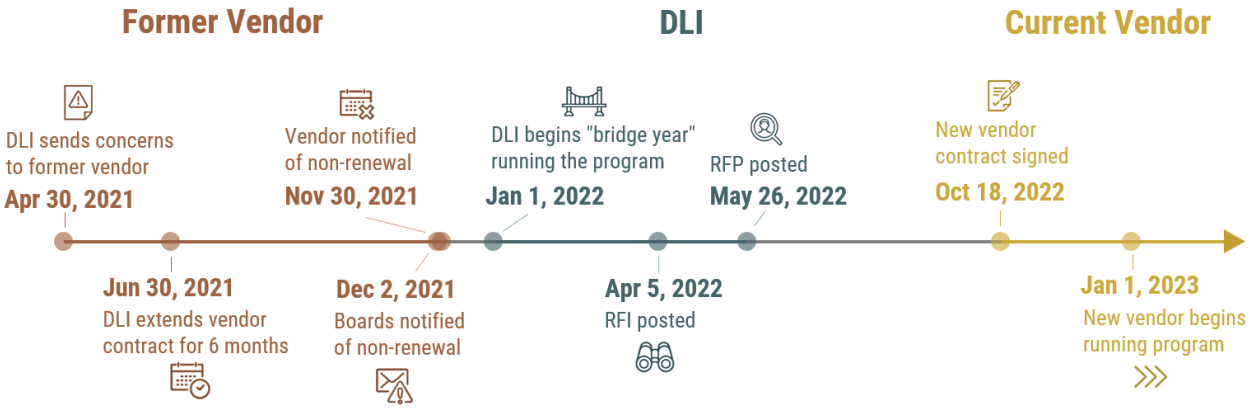
Should noncompliance occur, the program typically submits to the DLI a formal complaint against the participant. The complaint may be closed by the DLI (e.g., the program withdraws the complaint) or referred to the board's screening panel. The screening panel, which consists of half of a board's members, determines whether there is reasonable cause to believe a licensee has engaged in unprofessional conduct and, if so, whether formal adjudication is warranted. Regardless of the outcome at this juncture, voluntary participants become known to at least the board members on the screening panel. Individuals who become known to the screening panel but are not disciplined are still considered on the voluntary track. Regardless of whether complaints or discipline are involved, there are three general program outcomes, as shown in the blue boxes of Figure 3 (page 8). The participant could complete the program, not complete the program, or become ineligible to be enrolled in the program.

Professional assistance programs are recognized as crucial for protecting public safety and supporting healthcare professionals with impairing conditions. While the structure and operation of these programs vary, they share the common goals of balancing the health and recovery of practitioners and protecting public safety. The involvement of state boards, professional associations, and independent entities adds complexity to oversight, requiring careful attention to maintaining confidentiality while promoting recovery. As these programs evolve, fostering collaboration, accountability, and clear contractual agreements is essential to their continued success.

Navigating Instability in Montana's Medical Assistance Program

Between Spring 2021 and Spring 2023, MAP experienced significant organizational instability. The figure below lays out the major events that led to such instability. They include the DLI not extending the contract with the former vendor; the DLI taking the program in-house for a "bridge year" and the search for and transition to a new vendor, which is still running the program at the time of this report. The next two chapters explore, in depth, the events in this timeline.

Figure 4
Timeline of Events in the Administration of the Medical Assistance Program



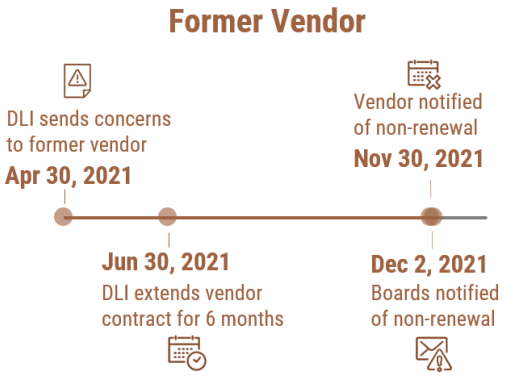
Source: Compiled by Legislative Audit Division.

Chapter III - Program Instability Due to Changes in Medical Assistance Program Vendors

Introduction

The DLI took over the Medical Assistance Program in early 2022 after ending its contract with a longtime nonprofit vendor. The decision followed serious complaints against the vendor's director, including harassment, discrimination, and legal concerns. DLI ultimately chose not to renew the vendor's contract but gave minimal notice to the program boards and stakeholders. Many were upset about the sudden transition, the lack of transparency, and concerns over DLI's ability to run the program without staff medical expertise.

Figure 5
Events Surrounding Nonrenewal of Former MAP Vendor's Contract



Source: Compiled by Legislative Audit Division.

During the transition from the former vendor, DLI did not receive complete or accurate participant data. Some participants were not in the department's program data, raising public safety concerns. DLI began searching for a new vendor, eventually awarding the contract, but some stakeholders worried about the lack of experts involved in the vendor selection process. This chapter outlines how gaps in communication, data recovery, and planning affected the safety and success of the program. It also recommends DLI identify participants who may still be unaccounted for.

Complaints Against Former Vendor Raise Legal Concerns and Trigger Investigations

The former medical assistance program vendor, a nonprofit organization in Billings, began formally facilitating the medical assistance program for the Board of Medical Examiners in 1989. The vendor started serving Board of Dentistry licensees in 1990. In 2017, the boards of Nursing and Pharmacy were also brought under the vendor's service umbrella, primarily for administrative efficiency.

In spring 2021, DLI received formal complaints about the program vendor. Three submitted to the Human Rights Bureau (HRB) by vendor employees in March 2021 alleged gender-based harassment, discrimination, and retaliation by the vendor director. The HRB, housed at DLI, completed a seven-month investigation into all three complaints. All three investigations found reasonable cause to believe retaliation occurred. Further, in the case of two complainants, the investigations found reasonable cause that sex-based discrimination occurred. One of these complaint documents, made public by a state newspaper, alleged that the vendor's director had a similar harassment complaint filed against him in the early 2000s, and that he had been fired by the nonprofit's board as a result but was subsequently re-hired.

Another complaint, separate from the HRB complaints mentioned above, submitted to the State Procurement Services Division at the Department of Administration (DOA), accused the former vendor of contract violations for paying a male employee more than a female employee for performing the same work.

Separately, a national advocacy organization submitted a letter of concern on behalf of a MAP participant. It alleged the participant was required to attend religion-based support programming as a condition of their monitoring contract (and, by extension, of being licensed to practice their profession). The participant was allegedly not permitted to engage in equivalent secular programming. This organization believed that the participant's board, via the vendor being an agent of the state by contract, was thus in violation of the First Amendment of the U.S. Constitution. Such an accusation opened the state to legal exposure.

DLI also had concerns regarding the potential legality of the program director's position that if a participant used prescribed medical marijuana, they were too impaired to practice safely. The Montana Medical Marijuana Act allows licensing boards to take action against licensees whose use of medical marijuana impairs their job-related performance. However, it does not permit board disciplinary action simply because the individual is using medical marijuana in accordance with state law (§16-12-515(2), MCA).

Department Decision Not To Renew Vendor Contract Announced With Minimal Notice

Upon receipt of these complaints, DLI took action in April 2021 via formal notice to the vendor, requesting they address all but the HRB complaints described above. This notice also requested the vendor provide all policies and procedures related to the concerns. DLI stated that the vendor's responses were unsatisfactory in addressing their requests. The vendor's contract with DLI ran on a fiscal year cycle, and the latest contract term was set to end June 2021, two months after DLI sent the formal notice. Per contract amendments, the former vendor was paid $530,000 for its last full year. Given that the complaints were received so close to the contract term's end and there would not be sufficient time to make other program administration arrangements, the department entered into a six-month contract extension to expire at the end of December 2021.

On November 30, 2021, one month before the contract extension's end, DLI formally notified the vendor that its contract would not be renewed. Several days later, the department announced to the MAP boards that DLI would be "shifting administration of the medical assistance program internally" rather than acquiring another vendor. DLI would begin running the program on January 1, 2022. This notice was made less than one month before the expiration of the contract. The nonprofit organization closed its doors permanently after the contract was not renewed. While contract management is within DLI's authority, notifying stakeholders of the decision earlier may have aided in their buy-in.

Stakeholders React to the Sudden Program Transition

Backlash from some program stakeholders followed the announcement. They included members of the Board of Medical Examiners and a state-level professional association. Outspoken in their dissatisfaction regarding DLI's decisions, their concerns included:

- *Lack of confidentiality:* Despite firewalls established by DLI, stakeholders feared that placing a confidential program under disciplinary authorities compromised participant privacy.
- *Program instability:* After 30+ years with the former vendor, a sudden, unannounced transition within a month created fear and distrust, including concerns among participants regarding their program status.
- *Lack of expertise:* DLI staff managing the program had no medical background or credentials in substance use or mental health support.
- *Lack of trust:* Stakeholders claimed that 20-30 participants left the program, some entities stopped referring individuals, and that certain treatment providers refused to work with DLI due to confidentiality concerns.
- *Lack of communication:* Some board members were aggrieved by DLI's lack of notice, exclusion from the decision, and their prior unawareness of vendor issues.

The most outspoken board members against the decision were those from the Board of Medical Examiners. The other program boards did not express concern with the former vendor's contract not being renewed. Members from both the Nursing and Dentistry boards noted they had experienced issues with the former vendor not reporting timely on participants who were not having success in the program. In listening to board meeting minutes around the transition, the Board of Pharmacy did not express concern or other commentary related to the announced program changes.

DLI Struggled To Retrieve Complete Program Information

In its nonrenewal letter to the former vendor, DLI requested the transfer of all program information subject to their contract, including all participant monitoring files. The contract required that the vendor provide transition assistance after the expiration or termination of the contract. It also required the vendor to create and retain all records supporting services for eight years after the termination of the contract. This included any electronic records created in the monitoring information system used by the former vendor.

Various DLI staff acknowledged issues acquiring data and concerns with the quality and consistency of what they did receive. In particular, they indicated that the assistance program participant counts between the end of the former vendor's contract and the beginning of DLI were incongruous for some boards. They believed the vendor did not provide a complete list of program participants and speculated data was removed from the monitoring information system ahead of the transfer.

DLI worked with the monitoring information system's administrator to take over the system from the former vendor. The department used the participants in this system as the baseline for building a list of program participants. The DLI assistance program staff observed that the former vendor failed to keep all participant information current.

Despite contract language requiring full program data transfer, participants in the vendor's data did not align with DLI's transition data. The transition data DLI used to create their participant list was a combination of the participants in the monitoring information system, any additional files provided by the vendor, and information on disciplinary participants' department compliance records.

Identifying Unaccounted for Participants as a Result of the First MAP Transition

A key aspect of audit work focused on confirming whether there were missing program participants. The former vendor's program activity reports, provided to boards quarterly, contained the last known set of participant statistics before their contract ended. These reports were the boards' only source of information to understand the program's operations and effectiveness, including participant outcomes.

We compared the data in the former vendor's final reports against the initial program data that DLI compiled at the start of their year running the program. The following observations made this work difficult to complete in a reliable fashion:

- Individuals in the former vendor's activity reports were identified by participant number generated by the monitoring information system.
- Some individuals in the former vendor's reports were not in DLI's participant data.
- Some individuals in DLI's data were not in the former vendors's reports, even though they were actively enrolled under the former vendor.

In comparing the former vendor's last data against DLI's initial data, we determined there were at least 27 individuals that were unaccounted for. The reason that the participant totals from before and after the first transition, as shown in Table 3 (page 7), are close is because there are individuals who are unaccounted for between both sets of data. However, because the former vendor's report data is anonymous, identifying some individuals is not possible. Regardless, our work confirmed both that DLI's program data was incomplete and that the former vendors' reports to the boards were inaccurate.

Additional Analysis Also Confirmed Participants Unaccounted For

DLI staff observed that the monitoring information system they inherited from the former vendor did not contain much historical information. To further identify any additional participants, we looked at additional, separate data records from those described in the previous section: formal complaint records and discipline monitoring records. These DLI records are considered part of the formal disciplinary processes for licensees. The formal complaint records we examined were those submitted by the former vendor because the participant was not compliant. As demonstrated in the Figure 3 (page 8) participant program flowchart, the program vendor is obligated to submit formal complaints for participant noncompliance. We also examined DLI discipline monitoring records with data values associated with assistance program enrollment.

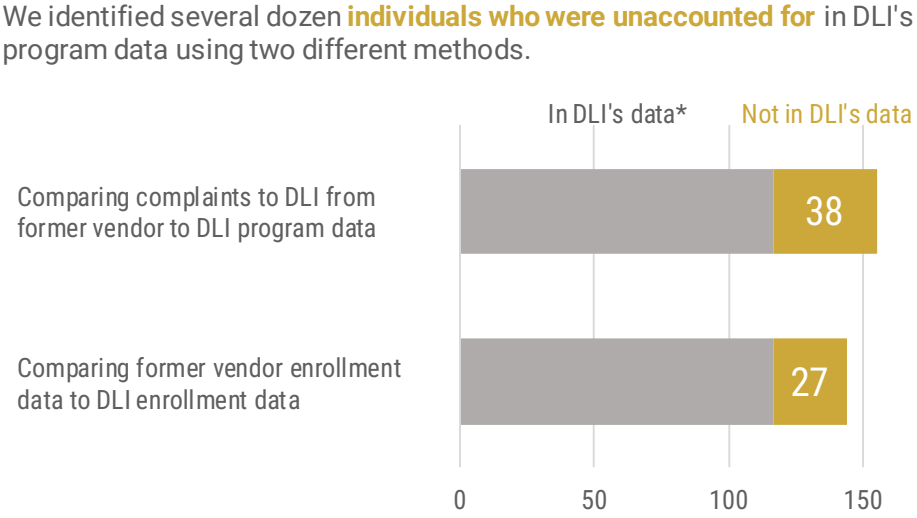
We identified 38 individuals via complaints and monitoring records from the previous vendor that were not in the DLI data. We determined the program statuses of seven individuals using corroborating evidence. While it is likely that the remaining 31 had legitimate reasons for not being in the DLI roster data, available corroborating data showed at least two had active licenses during the time DLI was running the program—but were not in any program data. Further, another three should have been in disciplinary track, given they had monitoring records in the DLI licensing information system.

Incomplete Data Means Exact Numbers Unknown but Work Verified Incomplete Program Participant Rosters

Comparison work from these two different analyses confirmed DLI staffs' concerns and observations that assistance program data obtained as part of the first transition was incomplete and unreliable. There are important limitations to acknowledge when comparing the work of the two analyses. Most importantly, because the identities of the 27 individuals are and will continue to be unknown, the two separate sets of missing individuals are not mutually exclusive in that each may contain some of the same individuals. As such, directly comparing or combining the two for a total number of missing individuals is not feasible. Regardless, Figure 6 below outlines known participants from DLI's initial program data after the transition against what it may have been, in total, if it had included individuals from either population.

Figure 6

Participants Not In DLI's Program Data Compared Against Known Participants



*We identified various data reliability issues, so these represent our best estimates.

Source: Compiled by Legislative Audit Division from department records.

Of further note, we provided the list of these 31 individuals to DLI after audit fieldwork. Staff looked into each of the cases surrounding the individuals (i.e., 38 total participants minus the seven whose program statuses we could confirm). Most individuals had suspended, inactive, or terminated licenses. Individuals with terminated licenses are not eligible to be monitored through the assistance program. However, questions remain regarding whether those with suspended or inactive licenses could have been practicing without being monitored by the program.

DLI stated that those of the 31 with active licenses at that time did not need to be known or monitored by the assistance program because the department's separate compliance function was already aware of these individuals. While program vendors are contractually obligated to retain all records supporting the program for eight years after services terminate, the department explained that retention of historic program information and documents, including previous participant documentation, was not necessary in these cases.

Accurate Accounting of All Participants Required To Ensure Public Safety

The former vendor's data was both incomplete and unreliable. It did not provide a full picture of participants under the former vendor during the transition. Audit work also confirmed DLI staff observations that up-to-date documentation or information in the former vendor's files was either withheld or did not exist. While the final number of participants may always be unknown due to the limitations of data available, it was clear additional strategies using DLI data, such as those completed as audit work, should have been used to identify any additional program participants. As such, the department should employ strategies using any additional data available to widen searches (e.g., additional monitoring type data values not identified by audit work) in efforts to ensure all previous program participants are accounted for.

DLI Believes Other Guardrails Were Sufficient To Ensure Public Safety

While DLI was aware that program data were incomplete, the department did not pursue further action to recover additional data even though doing so was within its authority. DLI staff characterized the transition as difficult, believing that the former vendor did not act in good faith in providing all program data. The contract, however, required the former vendor to "facilitate the orderly transfer of such services to State or its designees." The contract also stated that the "Contractor shall create and retain all records supporting the services for a period of eight years after…the completion date of this Contract."

DLI indicated there were several reasons the department did not pursue the former vendor further to recover unaccounted for data:

1. They were able to "back into" any missing disciplinary track individuals through DLI's information system disciplinary records, paired with taking over the former vendor's information system.
2. The program's primary function is to monitor disciplined licensees in accordance with state law, and thus the department was not as concerned with voluntary track participants who may not have been disclosed during the transition.
3. The disciplinary process would act as guardrails for any unknown participants who may have been practicing impaired.
4. No other real legal remedy made sense, given dissolution of the former vendor upon the end of the contract.

The former vendor contract required the organization's cooperation with DLI to ensure an orderly and complete transfer of data and services upon its termination. However, DLI did not enforce these contract terms, as the former vendor did not fully transfer program data, and the agency did not take subsequent actions to recover it. Ultimately, not all individuals enrolled in the program under the former vendor ended up in DLI's program roster.

DLI cannot adequately ensure public safety without an accurate account of all participants. Without program participants being monitored, there is a risk that licensees may be practicing while impaired.

RECOMMENDATION #1

We recommend the Department of Labor & Industry take additional steps to identify former medical assistance program participants who were not in DLI's program data after the initial vendor transition, including:

A. *Determining the license status and program status of the former participants identified by audit work,*

B. *Identifying any other individuals who may be unaccounted for using DLI data or any other strategies, and*

C. *Pursuing action to re-enroll these participants in the program, if applicable.*

Former Vendor Dissolved After Contract Nonrenewal

The former vendor dissolved after the program contract was not renewed. The vendor was paid $265,000 for the six-month term, the same rate agreed upon in the most recent contract term completed ($530,000 per year). While DLI discussed with the former vendor continuing to monitor voluntary track participants only, they declined, claiming the number of voluntary participants was insufficient to sustain their business. According to its articles of dissolution, the former vendor intended to distribute its "remaining charitable assets to other similar organizations." Additional paperwork indicated the vendor made a $75,000 charitable grant to the foundation attached to one of the four associations whose members are covered by the program. Of note, this association awarded the former vendor director with an award of merit a few months after the organization dissolved for their dedication to serving its constituents.

Program Transition Leads to Concerns From Stakeholders

At the end of January 2022, the DLI division administrator who intended to bring the program permanently in-house left the department. Around this time, DLI restructured its divisions, and an administrator from a different division took over. The new administrator's plans for the program and subsequent communications to the boards differed from messaging given by the previous administrator: they intended to find a new vendor for the program, and that DLI would only run MAP for as long as needed to secure and transition to the new vendor.

Discontented stakeholders continued to voice their concerns. Medical examiners board members expressed frustration that they were not involved in the discussion leading up to the decision to not renew, that they were not given an adequate rationale, and that it was unknown how participants were being supported or monitored once the change occurred.

Board of Medical Examiners' Disagreement With DLI's Authority

The Board of Medical Examiners argued that it, not DLI, had direct control over the program and its contract, interpreting the statutory phrase "the board shall establish" as granting decision-making authority. However, DLI's interpretation considered broader statutes beyond the program's authorization. Title 2, Chapter 15, MCA, requires the department to oversee budgeting, recordkeeping, and staffing for boards (§2-15-121(2)(a), (d), MCA). Title 37, MCA, further assigns DLI responsibility for supporting boards and managing legal risks (§37-1-121(1)(b), MCA), including those related to state contracts.

While the term "establish" caused confusion, interpreting it in isolation overlooks the broader statutory framework. DLI maintains that its authority aligns with these legal provisions, and we found this interpretation appropriate. Entering into (and terminating) contracts for programs established by boards' authorizing statute is an appropriate and necessary responsibility within the statutory jurisdiction of DLI.

Program Updates Provided to Other Boards Without Opposition

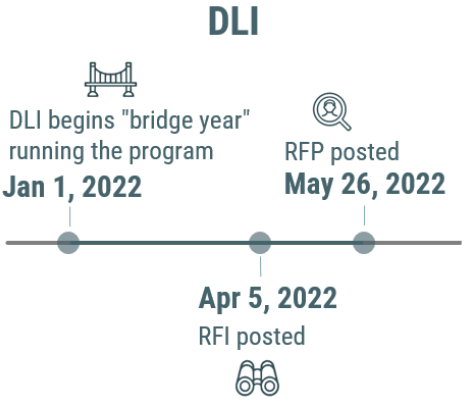
During this period, other boards showed little concern about the transition. The new DLI administrator provided an update at the first Board of Nursing meeting in 2022, and board members had no questions. The first Board of Pharmacy meeting that year did not include any mention or discussion of the program. At the Board of Dentistry, the new administrator gave a program update and apologized for a lack of transparency in decision-making. One board member inquired about the possibility of recouping the organization's remaining funds, but no concerns were raised across any of these three boards during meetings.

DLI Begins Procurement Process For New Vendor but the RFI Process Raised Concerns

The new division administrator decided acquiring a new vendor was the best path forward, citing board concerns over DLI's expertise and privacy. Since the boards agreed to fund a vendor, this was seen as a better option than keeping the program in-house. Early messaging suggested the department never intended long-term management.

The medical examiners board requested involvement in DLI's program actions and vendor selection, so an advisory group with members from all four boards was formed to provide feedback on procurement requests. The group met three times to discuss vendor requirements and the language of the Request for Information (RFI) and Request for Proposals (RFP).

Figure 7
DLI Runs MAP in 2022 While Searching For a New Program Vendor



Source: Compiled by Legislative Audit Division.

RFIs are designed to gather information from the industry on standards and best practices but do not result in contracts. One professional association opposed using an RFI, fearing it would prolong DLI's management and increase program instability. However, state procurement staff at the DOA believed RFI use was appropriate, given the long tenure of the previous vendor. Three vendors responded, with two later submitting proposals during the RFP process.

Stakeholders Concerned About Lack of Experts on the RFP Evaluation Committee

There were four RFP respondents. One respondent failed a section of the application and was excluded from consideration. The other three included a program in a neighboring state, a new nonprofit organization, and a for-profit vendor that was ultimately awarded the contract.

The selection committee consisted of five DLI staff. Some board members were frustrated that there was no board member representation, and stakeholders were also concerned that there were no subject-matter experts on the committee. While these concerns are understandable, procurement policies surrounding conflict of interest and requirements to avoid an appearance of impropriety complicate the reasonableness of board members' direct involvement in the evaluation committee. The new nonprofit organization applicant consisted of professional associations representing three of the four boards, and at least one concerned board member was heavily involved with the associations.

In Closing, DLI Must Rebuild Trust Through Transparency, Engagement, and Stronger Data Oversight

Given the challenges in transitioning the medical assistance program from the former vendor, the department should take further steps to ensure the accuracy and completeness of the participant roster. The sudden transition and communication breakdowns fostered distrust and instability within the program. As the department refines its approach to overseeing contracts and managing medical assistance programs, it must focus on transparency, engage stakeholders, and implement comprehensive data recovery efforts. These actions will be important in restoring confidence in the program and ensuring it can effectively meet its public safety responsibilities, particularly as the new vendor continues running the assistance program.

Chapter IV - Transition to New MAP Vendor and Ongoing Stakeholder Concerns

Introduction

This chapter reviews DLI's transition to a new vendor for the medical assistance program, launched in early 2023. Work showed that DLI updated the program's contract language to address past issues. Surveys and interviews with stakeholders—such as board members, participants, providers, and professional associations—revealed mixed or negative views about the current vendor's approach. The chapter also highlights the need for DLI to develop a clear transition plan, improve oversight, and rebuild trust with stakeholders to protect public safety and support healthcare professionals in recovery.

DLI and New Vendor Work Together To Transition MAP but Data Still Challenging

The new (current) vendor signed a contract with the department in October 2022 and launched the program in January 2023. A transition team consisting of DLI staff and vendor representatives worked into early 2023 to transition the program. A key task for the vendor was establishing a new electronic monitoring information system for the program, and challenges arose in getting such a system established. In November 2022, the new vendor rejected the IT provider it intended to use to implement a new information system due to security concerns. Due to the limited timeline for program implementation prior to their contract starting, the new vendor instead adopted the former vendor's provider, initially using the interface inherited by DLI from the former vendor. Finding the inherited system configuration inadequate, the vendor worked with the IT provider to develop a new interface that better coordinated management information.

Figure 8
Current Vendor is Found and Begins Running MAP in 2023

Source: Compiled by Legislative Audit Division.

DLI provided its list of participants to the new vendor. However, both DLI and the vendor still faced ongoing difficulties confirming the status of some participants. In a July 2023 board meeting, the vendor acknowledged ongoing challenges in accurately determining program enrollment six months after they took over the program.

DLI Updated Program Contract Language To Address Concerns With Former Vendor

The transition team also worked to establish program policies and procedures, as required by the new contract. Unlike the previous vendor, which was required to only "have a process" for key functions, the new contract mandates that policies, procedures, and forms be provided to DLI annually. This updated requirement, as with some others described below, was added to ensure that the department had contractual language to prevent or more directly address some issues experienced with the former vendor.

We compared the old and new vendor contracts and identified several key improvements made by DLI. While both contracts included termination, breach, and issue resolution clauses, new contract language formalized communication channels. For example, regular progress meetings are now required to review program performance and identify potential issues. DLI met with the vendor biweekly during the program launch, shifting to monthly meetings after six months. A board member participated in early meetings as well.

The new contract also aligns more closely with statutory definitions, specifying services and contractor responsibilities. Notably, it clarifies that contractors are not responsible for providing treatment. Additional contract updates address program staff expectations. For example, employees cannot be current program participants, and they must follow strict ethical standards, avoiding actual or perceived conflicts of interest.

We could not verify whether the new vendor has internal ethics policies to meet contract requirements. Vendor representatives indicated that corporate-level policies exist and that employees submit annual conflict-of-interest disclosures. Despite contract provisions granting auditors access to compliance-related records, these policies were not provided upon request. DLI explained that they do not manage the internal operations of a contractor, including obtaining high-level policies such as those we requested, and that they would not actively monitor for adherence in this case. Rather, the ethics section of the contract is intended to be a preemptive addition that also serves as the basis for DLI being able to remedy any potential concerns that may arise.

We also observed contract language changes that shifted to match DLI's expectations that the program's primary intention is to monitor participants. For example, vendor education and outreach expectations were outlined in more detail in the former vendor's contract, including mandatory presentations and materials, and target stakeholders. The new vendor's contract does not prescribe outreach beyond simply requiring its provision. Of note, several of the professional associations reported that the new vendor has never contacted them.

Overall, however, the updated contract introduces clearer expectations, structured communication avenues, and stronger oversight measures to prevent or otherwise address past challenges, should they arise with the new vendor.

Inadequate Support in Vendor Transitions and the Necessity for Additional Framework

While constructive updates were made, the current vendor's contract retains the same transition assistance language as the former vendor's. Both contracts require the vendor to ensure service continuity and a smooth transfer after expiration or termination. As previously discussed, the former vendor provided inadequate transition assistance. The data provided was incomplete and inconsistent with recent participant reports, and the vendor did not support a smooth transition. While transition assistance is a key aspect of any state contract, additional frameworks around change management could ensure smoother vendor transitions in the future, should the need arise. Smooth transitions are important in any contract, but especially for a program like this whose primary charge is public safety.

Lack of Planning Impacts Ability To Respond Quickly to Organizational Change

DLI does not have a detailed transition plan for managing vendor changes. While some challenges during the last transition were unavoidable, DLI was unprepared for several aspects, leading to sustained distrust among board members, stakeholders, and participants. Last-minute decisions, inconsistent messaging, and lack of communication exacerbated frustrations.

Stakeholder buy-in, a key element of organizational change management, requires open and regular communication. DLI did not take this approach, partly because it lacked a transition plan, an integral element of change management planning. Medical examiners board members, in particular, expressed frustration over the lack of transparency regarding the vendor transition. Earlier communication likely would have mitigated confusion and frustration. DLI lacks a management plan for future vendor changes. Without one, future transitions could further erode trust and destabilize the program. Organizational instability threatens the program's ability to protect the public from impaired healthcare providers.

Transition Plans Help Mitigate Risks and Improve Stakeholder Communication

Best practices in contract management and change management call for creating a plan in advance of major organizational change; transition plans are one such example. Recommended practices for medical assistance programs call for ensuring a streamlined continuation of services. Better preparation and proactive decision-making could have improved perceptions of DLI post-transition. A change management plan would help identify risks, such as incomplete data transfers, and implement mitigation strategies. Having a plan in place enhances organizational readiness and supports stakeholders through transitions.

The current vendor's contract for the medical assistance program ends on December 31, 2025. While there is no indication the vendor will discontinue its contract with DLI, it recently chose not to rebid for a similar program in the only other state where it runs a similar program. This may mean there is increased risk a new vendor may be needed. Without a transition plan, including better communication strategies, DLI risks repeating past missteps, further destabilizing a program that has already endured years of uncertainty.

RECOMMENDATION #2

We recommend the Department of Labor & Industry prepare a medical assistance program contractor transition plan that includes:

A. *A stakeholder analysis and communication plan,*

B. *Strategies to ensure full contract enforcement, including complete data transfer, and*

C. *Any additional activities necessary to ensure thorough continuity of services.*

Stakeholders Concerned About the New Vendor's Approach to Running MAP

While DLI acknowledges that the current vendor is meeting statutory requirements for the medical assistance program, those we interviewed during the audit, as well as participants we surveyed, raised several concerns about its administration of the program. Some concerns described were particularly serious. Additionally, we found that board members we surveyed lack trust in DLI staff competence, and overall satisfaction with the program's management declined as it transitioned between three different administrators over time.

New Vendor Was Satisfied With DLI's Support During Transition

We interviewed the current medical assistance program vendor. They have three primary staff: a program director, an operations manager, and one case manager, none of whom reside physically in the state. The vendor initially had a second case manager in Montana, but the position is now vacant due to turnover, with no clear plans for replacement. Currently, the program director also serves as a case manager. The program also has a medical director available to consult with staff on clinical concerns. The program director and operations manager previously split their work between the Montana program and another assistance program they run in another state. However, the vendor did not rebid for that other state's contract and is now phasing out its services. Once that program closes, both individuals will work full-time for Montana's program.

Vendor staff expressed overall satisfaction with DLI's support to get the program up and running, but noted that data provided by DLI (from the former vendor) was incomplete. They also believe the program previously lacked sufficient emphasis on participant accountability, a gap they said they are working to address.

Participants Impacted by Transitions Reported More Negative Impact With New Vendor

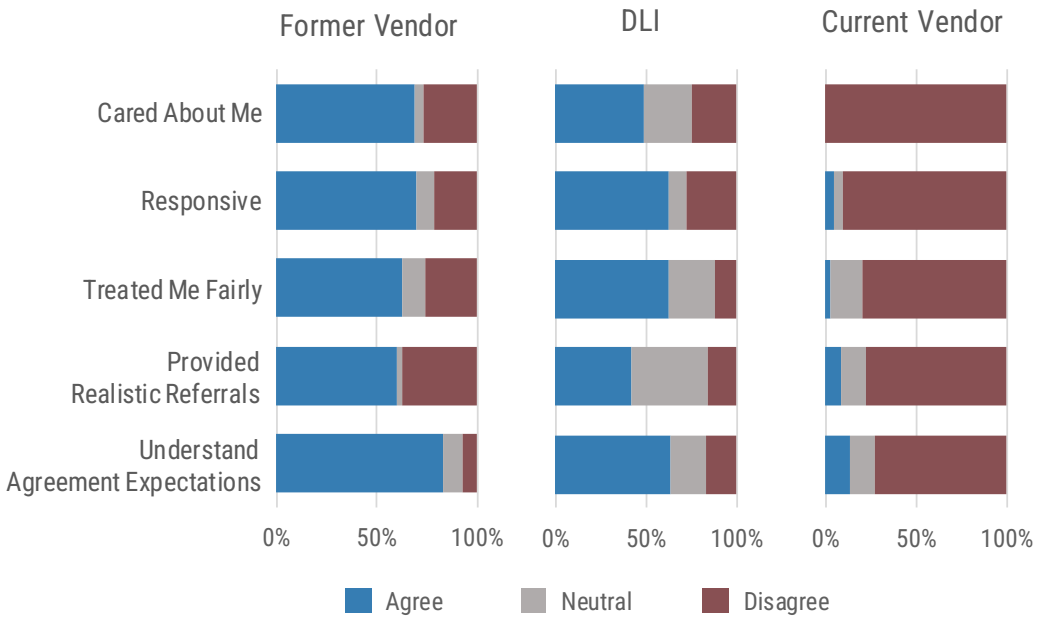
We surveyed 176 current and former program participants to learn their perceptions of the vendors that operated the program during their enrollment. We received 55 responses, for a response rate of 31 percent. Respondents were asked whether they agreed with five statements regarding each vendor and DLI:

- Staff were responsive.
- Staff treated me fairly.
- Provided treatment referrals that were realistic for my situation.
- I understood the expectations in my monitoring agreement.
- I felt that they cared about me.

More respondents agreed with these statements about the former vendor and DLI than the current vendor.

Figure 9

Participants' Agreement with Five Statements About Each Program Entity They Participated Under

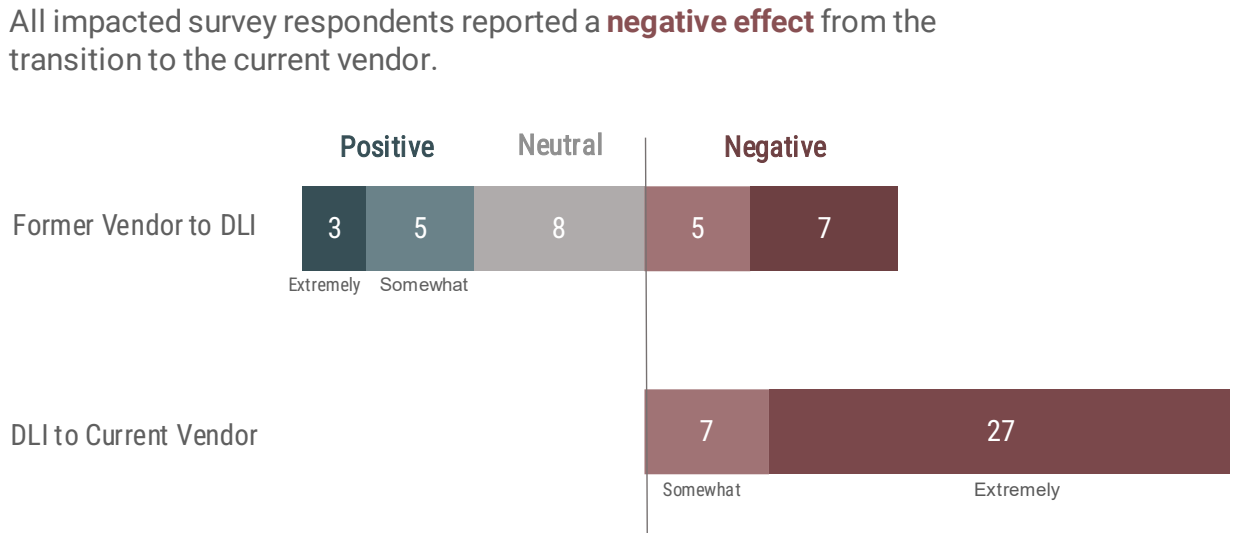


Source: Compiled by Legislative Audit Division from program participant survey results.

We found a similar response pattern when asking participants about the two vendor transitions. We asked whether a respondent experienced either of the program transitions. Those who indicated "yes" were then asked whether they felt the transition impacted them and, if so, whether they felt it was more positive or negative. Most respondents who said they experienced a transition reported it had impacted them as seen in Figure 10 (page 26).

Figure 10

Participant Survey Respondents Impacted by Program Transitions



Source: Compiled by Legislative Audit Division from program participant survey results.

More respondents reported a negative impact for the transition to the new vendor from DLI than for the transition to DLI from the former vendor. The figure above focuses on the impact participants felt the transitions had on them. Close to one-third of those affected by the first transition found it somewhat or extremely positive. None of the respondents viewed the second transition positively.

Some Participants Provided Additional Feedback Outside of Survey

Several program participants, including some outside the survey population, contacted us to share additional concerns. This additional feedback is not included in the survey results; it is summarized below. All individuals who provided additional input expressed dissatisfaction with the current vendor, describing its approach as punitive rather than supportive. Many alleged unfair treatment, which negatively affected their morale, self-esteem, and mental health. Some expressed fear of retaliation if the vendor learned of their survey participation and warned that others may have felt the same.

Key feedback themes from the additional input included:

- Difficulty reaching program staff and receiving timely responses.
- The 100 percent testing compliance policy being unrealistic, especially given Montana's rural nature and limited lab testing locations.
- Inconsistent and sometimes conflicting communication from staff regarding program requirements.
- Written guidelines and staff guidance did not always align, leading to noncompliance.
- Claims that monitoring agreement requirements changed mid-program, making completion requirements unclear.

The program does not diagnose or provide clinical treatment to participants. It relies on evaluations and recommendations from licensed treatment providers to outline appropriate treatment terms in participant monitoring agreements. Participants and treatment providers indicated that evaluator recommendations are not always followed by vendor staff when they develop monitoring agreements, raising concerns about the program's efficacy, consistency, and fairness.

DLI's Role in Handling Participant Concerns

We found the current vendor lacks a formalized appeals or internal review process for participants beyond escalating those cases for further review within the new vendor's staff hierarchy. The only options for appeals or concerns would be either the participant's licensure board or the DLI staff liaison between the department and the vendor. However, this staff person is also an executive officer for one of the four program boards. This may create perceived barriers for participants in the voluntary track who wish to remain unknown to their board, particularly when they are licensed under the board the staff person serves.

This DLI liaison handles participant concerns and complaints regarding the vendor. Their role involves gathering information from both the participants and vendor and considers program policies and procedures in the context of the participant's situation. Based on this information, DLI determines whether further action is needed or if the issue stems from the participant's inability to meet the program's monitoring requirements. The department intervenes on behalf of participants when they deem necessary. The staff member emphasized their ability and need to assess whether an individual is in a position to meet their requirements and take responsibility for their recovery.

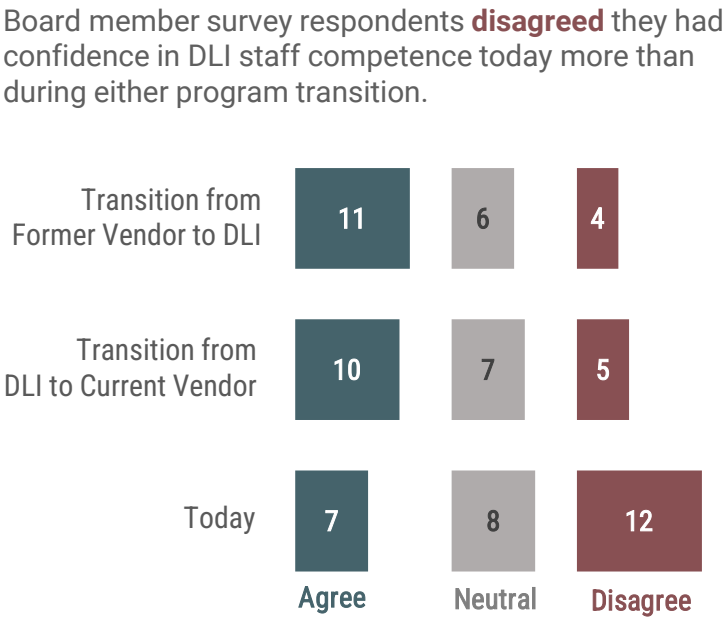
Staff told us that under the former vendor, DLI became too involved in individual cases, particularly in deciding whether monitoring requirements should be adjusted for some participants. Ultimately, they stressed that the program's primary focus is public safety. If a participant is not at a stage in their recovery where they can fully commit to and follow through with monitoring requirements, they may not be safe to return to practice.

Board Members Surveyed Were Dissatisfied With Program Entities and Transition Management

We also surveyed board members that served on the program boards between FY 2018 and July 2024. There were 78 total survey recipients and the survey had a 63 percent response rate. Board member survey responses mirrored trends seen in the participant survey, particularly regarding satisfaction with DLI's management of program transitions and confidence in DLI staff. Notably, both satisfaction and confidence declined between the first and second transitions, even though our observations indicated that the second transition's logistics were more effectively coordinated.

Further, board member agreement that they had confidence in DLI staff competence was lower at the time of the survey than during either transition period. Additionally, while satisfaction with DLI's management of the first transition was higher than the second, the difference was less pronounced. When discussing these findings with DLI, the agency indicated the department prioritizes ensuring boards fulfill their statutory responsibilities, and board members' opinions of the department or its staff are not a primary concern.

Figure 11
Board Survey Respondents' Satisfaction with Transitions Declined Over Time



Source: Compiled by Legislative Audit Division from board member survey results.

Transitions Were Time-Intensive for DLI Staff and Impacted Their Ability To Complete Job Responsibilities

Program instability and changes also affected various DLI staff. Compliance specialists rely on assistance program data to monitor disciplinary participants' progress in addressing sanctions. Early in 2023, there were concerns that the new vendor would struggle to provide timely information due to the challenges of setting up its program. However, since then, operations have stabilized, and compliance staff report receiving the necessary information without issue.

Additionally, the vendor procurement process was time-consuming for staff. Coordinating with the new vendor and assisting in program implementation also placed a significant demand on their time.

Stakeholder Discussions With Associations and Providers

We also interviewed professional associations and community treatment providers. Four professional associations representing program board licensees provided input on the current vendor. Associations' views of the current vendor were mixed. Some were critical of the current vendor, stating their programming does not take a recovery-based approach and does not treat participants fairly or with compassion. One concern was the lack of communication between the vendor and participants, as well as the broader healthcare community. However, others had either a neutral or positive opinion of the current vendor, though one representative acknowledged they had limited direct experience with the program at the time of the interview. Positive sentiments included appreciating the quality of program information provided to the boards and their professional presentation.

We also interviewed community treatment providers about their observations working with the program. Some acknowledged they understood why DLI did not renew the former vendor's contract, but had concerns about the new vendor. Concerns across those we spoke with included the current vendors' lack of experience operating in rural areas and that there were currently no program staff physically located in Montana. Another concern was that the current vendor may not always be following treatment recommendations when developing participant monitoring plans. Provider neutrality regarding the program included the observation that monitoring and accountability programs naturally generate participant frustration. A more general observation was that program success revolves around an organization's ability to effectively manage the program and support participants in a fair and recovery-focused manner.

Stakeholder Distrust May Threaten Program Participation and Impact

Despite improvements made to the current vendor contract and transition process, many of the same challenges seen during the initial vendor transition remain. Stakeholders claim communication from the current vendor has been limited or inconsistent. Many stakeholders also expressed ongoing concerns about the vendor's overall approach and DLI's management of the program. Some feel the program's current structure is more punitive than recovery-focused.

The program's statutory purpose is to help protect public safety through rehabilitating impaired healthcare practitioners. While DLI's realignment of the program contract and discussions with staff both emphasize a return to the program's focus to assisting the boards in enforcing their disciplinary authority, stakeholders clearly have concerns regarding this focus and the alleged internal dysfunction.

There are likely many causes behind the concerns expressed by program participants. Regardless of the concerns' veracity or accuracy, such levels of program scrutiny may escalate reputational threats that could discourage voluntary program enrollment and, ultimately, decrease opportunities to maximize public safety. Declining reputational value and growing distrust can lead to negative program outcomes and to the program not fulfilling its mission. It is in DLI's best interest to evaluate whether the vendor and the program are operating in the fashion that both it and the boards intend, to encourage participation by those licensees who would benefit from the program. DLI needs the ability to better understand and respond to these concerns in order to maximize enrollment opportunities, regain public trust, and measure and demonstrate accountability regarding the vendor's performance.

Additional Accountability Necessary To Adequately Address Concerns Moving Forward

We did not observe any established guidance for internal quality assurance practices in the vendor's policies or procedures. The current vendor explained that they review participant cases monthly to manually track several key program metrics to compile an annual report for the boards per statute and review participant cases monthly for quality. However, they indicated do not have a formal internal quality assurance process and may need to update their work instructions accordingly.

The current vendor must provide quarterly and annual reports to the program boards. The specific program information required is primarily participant-centric. For example, quarterly reports must include statistics like the current number of total enrolled licensees by board and profession, the number of participants enrolled by profession in each track, and the number of participants reported for noncompliance.

However, the vendor is not required to report any internal management information that would aid the department and boards in understanding the program's efficiency, such as timeliness of participant inquiry responses or the extent to which monitoring contracts align with clinical evaluations or aftercare requirements. Without understanding these functions, DLI and the boards are unable to accurately address stakeholder concerns like the ones outlined earlier in this chapter.

Further, DLI confirmed it has not yet facilitated an overdue external program audit of the medical assistance program, as required in statute. To promote accountability for Montana's program, state law calls for the medical assistance program to be subject to both internal and external audits within a 10-year period. Every 10 years, an external audit of program outcomes shall be conducted, with an internal audit being completed midway through the subsequent 5-year period from the external audit (§37-2-316, MCA). The last external program audit completed was in 2013. The audit resulted in 28 recommendations, including suggesting the former vendor develop a staff whistleblower policy, revise job descriptions to remove language suggesting they provide clinical treatment, and avoid conflict of interest by abolishing a policy requiring the nonprofit's board of director members with experience participating in an assistance program be under an active monitoring agreement with the program.

The department intends on engaging in an external audit for the program. Per DLI staff, they have completed documentation for scoping what an audit may examine and posted an RFP for finding an entity to complete the intended engagement in summer 2024. However, they have been unsuccessful in finding a vendor for the audit through the formal procurement process and networking efforts to identify organizations to encourage them to submit a bid. DLI indicated their search is ongoing.

Quality Assurance Practices Generate Information To Assess Vendor Operations and Enhance Program Accountability

Medical assistance programs should have quality assurance and improvement processes. The Federation of State Medical Boards, in its 2011 updated Policy on Physician Programs guidance, established that programs must develop audits of their own programs to demonstrate an "ongoing track record" of ensuring public safety and to reveal deficiencies if they occur. The Federation of State Physician Health Programs suggests quality assurance and improvement measures should be embedded into ongoing data collection as part of daily operations to promote and verify excellence in program delivery. Of further note, the National Council on State Boards of Nursing acknowledges that one way to adequately respond to or prevent undue public scrutiny is by engaging in ongoing program evaluation, including independent evaluations, to demonstrate ongoing accountability while still operating within the system of participant confidentiality. Taking steps such as these will help restore confidence in the Montana Medical Assistance Program by ensuring the program meets its mission of supporting recovery and protecting the public and can demonstrate ongoing accountability for its operations.

RECOMMENDATION #3

We recommend the Department of Labor & Industry improve its oversight of the Montana Medical Assistance Program vendor to better understand vendor operations and confirm the program is operating as intended by:

A. *Timely completing the statutorily-required program audit,*

B. *Working with the program vendor to ensure quality assurance programming is in place and includes regular reporting out to boards and DLI, and*

C. *Regularly engaging with the boards and external stakeholders to address their concerns.*

Chapter V - Assessing Board Engagement With the Medical Assistance Program in Ensuring Public Safety

Introduction

This chapter explores how Montana's professional licensing boards and DLI work with the state's medical assistance program to protect public safety. We examined how and when boards involve the program during licensing and disciplinary processes, and whether board members understand their roles and responsibilities. The program plays an advisory role in key decisions, especially when impairment is disclosed or suspected. Early and ongoing engagement between boards, DLI, and the program helps ensure safe licensing decisions and appropriate oversight of healthcare professionals. This chapter also reviews survey responses from board members and highlights the importance of training and role clarity to support effective board engagement.

Engagement During Nonroutine Applications and Disciplinary Processes

We conducted multiple analyses to evaluate when and how boards engaged the assistance program in licensing and disciplinary processes. Our goal was to determine whether boards engaged the program at different points in the licensing and disciplinary processes. We found that boards and the department engaged the program at multiple points, with the program offering an advisory role. This involvement assisted with staff and board decision-making, enhancing public safety. Audit work and discussions with department staff also suggested that involving the program early improves the efficiency of licensing and complaints processes. We also surveyed board members on their understanding of key responsibilities to ensure boards are leveraging the resources necessary, including engagement with the program, to help ensure public safety.

Our analyses included three data sets: nonroutine license applications, DLI complaint records, and DLI disciplinary monitoring records. These data were all available from DLI, as they are generated as part of department's and boards' licensing and disciplinary processes. While MAP may provide additional documents to support these processes when they are relied upon, the ownership and storage of the data is through the department.

How and When MAP Is Involved With Nonroutine Applications

One of the three data sets examined in this work included licensure applications flagged as nonstandard, or nonroutine. A nonroutine application is one that requires full board review due to factors such as evidence of unprofessional conduct or missing documentation. The department or boards may involve the assistance program in reviewing or advising on these applications. Each application was evaluated for evidence of program involvement and to determine whether the department classified it as nonroutine, meaning it was forwarded for full board review. We then compared application statuses with different program and board involvement and followed applicants' licensure status over time. We analyzed 195 licensure applications submitted between FY 2018 and FY 2022 in which applicants disclosed impairment, program participation, or substance use.

Most of the applications were not reviewed by the full board. These were either determined by the department to be routine or were screened out early by the department or program. Based on an interview with DLI, this was to be expected. DLI staff often refer potential nonroutine applications to executive officers, who may consult DLI legal counsel or the assistance program before referring applications to the entire board. Some applications were not considered nonroutine due to prior board-specific exemptions, which are no longer permitted under administrative rules.

We found the program was involved in some applications not sent to the full board. Self-referrals to the program in the early license application stages often led to their licenses not being forwarded to the board, as voluntary track participation precludes board involvement. Some applications timed-out; in these cases, full board approval was unlikely and rather than receiving formal discipline in the form of board denial, they were permitted to time out. A small proportion of these applications were approved. Around a fifth of the applications in the dataset were reviewed by the entire board and the program was involved in most of these cases. This demonstrates that, overall, the boards and department engaged the program to assist in determining whether applicants would be safe to practice upon a potential license issuance.

Looking at Board and Department Engagement Across the Licensee Disciplinary Process

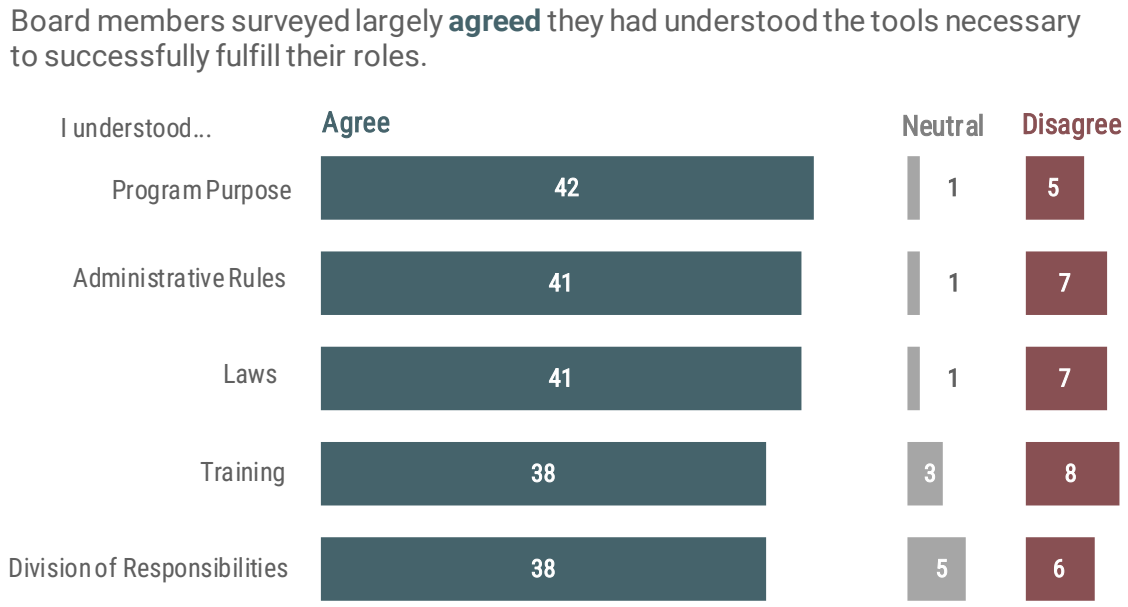
The second analysis examined DLI complaints records and disciplinary monitoring records. It aimed to identify any disciplinary trends among program participants and assess the boards' effectiveness in protecting public safety. There were 40 unique individuals against whom complaints were submitted by the former vendor between FY 2018 and calendar year end 2021. In examining the trajectory of these complaints through the disciplinary process, we found the board took disciplinary action against more than half of the individuals. This group of individuals contained a mix of those with active licenses as of January 2024 and those that were either revoked, suspended, terminated, or expired. We also examined complaints submitted by the program after individuals had enrolled, regardless of which track the participant was in. These are typically cases in which the participant is not complying with the program. Overall, there were no trends we observed from our work that would be unexpected from the individuals' complaint outcomes or overall board involvement. This work provides further confirmation that the program and boards do engage with one another to ensure public safety.

Board Members Surveyed Report Sufficient Understanding To Fulfill Their Roles

Our board member survey also asked if recipients agreed they understood Montana laws and administrative rules governing the program, the division of responsibilities between DLI and the boards, the program's purpose, as well as if they agreed they received enough training. As demonstrated in the figure, the majority of respondents felt they understood all the concepts.

Figure 12

Board Members Agree They Understand Law, Rules, and Other Concepts Related to Assistance Program



Source: Compiled by Legislative Audit Division using board member survey data.

We asked the board members these questions, as it was clear in listening to board meeting recordings that some members were not fully aware of the program's function or purpose. For example, some board members expressed concern the that program under DLI would not be able to serve participants in a health crisis; the DLI administrator reminded the members that the program does not provide health care or treatment, including in an emergency situation. As previously discussed, there was also disagreement among the Board of Medical Examiners regarding the correct interpretation of statute in relation to the program and the division of responsibilities between them and the department.

While the survey results are inconsistent with our observations of board meetings, it's important to note that new statutory requirements in 2023 (§37-1-123(8), MCA) now mandate annual training and conflict-of-interest disclosures for board members. The training addresses some of the concepts we surveyed. We observed the inaugural two-day board training, which emphasized the role of boards in regulation, not advocacy; the division of responsibilities between DLI and boards; and key legal frameworks relevant to board operations. An expansive board member handbook accompanied the training.

CONCLUSION

Department staff, board members, and medical assistance program staff engage each other at different points across the lifetime of an individual's license. These touchpoints help ensure the parties have the information necessary to protect the public without compromising the confidentiality of voluntary participants. Our review found that the engagement between the parties is appropriate and that the program's involvement at these junctures keeps boards sufficiently informed of individual circumstances to ensure public safety.

Department of Labor & Industry

Department Response

Montana Department of
LABOR & INDUSTRY

August 13, 2025

Angus Maciver, Legislative Auditor
Legislative Audit Division
Room, 160, State Capital
PO Box 201075
Helena, MT 59620-1705

Re: Department of Labor & Industry Response to Legislative Audit Division's *Montana Medical Assistance Program: DLI's Management of Contracted Monitoring Services for Impaired Healthcare Practitioners (23P-02).*

Dear Mr. Maciver;

The Department of Labor & Industry has reviewed the Montana Medical Assistance Program audit and would like to thank your audit staff for their review. As a department we welcome collaborative opportunities to improve the effectiveness of our programs ensuring quality services to all Montanans. Our responses to the recommendations are as follows:

Recommendation #1

We recommend the Department of Labor & Industry take additional steps to identify former medical assistance program participants who were not in DLI's program data after the initial vendor transition, including:

A. Determining the license status and program status of the former participants identified by audit work,
B. Identifying any other individuals who may be unaccounted for using DLI data or any other strategies, and
C. Pursuing action to re-enroll these participants in the program, if applicable.

DLI Response: Partially Concur

DLI does not concur with the LAD's assertion that program participants were "unaccounted for" or "missing" following the vendor transition. LAD identified 31 individuals as potentially unaccounted for, which DLI provided documentation confirming the status of each: all were identified as ineligible for program monitoring during DLI's administration due to license revocation, suspension, non-renewal, or unmet licensure requirements. DLI concurs one licensee's status was active through December 31, 2022, and wasn't actively enrolled in MAP program. This individual informed DLI they

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had retired from healthcare, did not intend to renew their license which required enrolling in monitoring, and was appropriately tracked, by DLI staff, monthly until license termination. Moving forward, DLI will ensure licensees who are tracked in this capacity and decide to renew their license are appropriately enrolled in MAP program.

Resources the audit overlooked were publicly posted final board orders that provide clear, formal documentation of disciplinary actions and licensure outcomes for all relevant participants. Accordingly, DLI maintains that all licensee statuses were properly documented, and there is no basis for the assertion that any program participants were unaccounted for nor at any time were the citizens of Montana at risk.

Recommendation #2

We recommend the Department of Labor & Industry prepare a medical assistance program contractor transition plan that includes:

A. A stakeholder analysis and communication plan
B. Strategies to ensure full contract enforcement, including complete data transfer, and
C. Any additional activities necessary to ensure the thorough continuity of services.

DLI Response: Concur

DLI acknowledges the need to create a vendor transition plan to minimize volatility when changing vendors. As noted in the report, DLI revised previous contract language to ensure effective transition of program data. DLI will work with its contracted vendor, within the scope of the existing agreement, to ensure transparency, continuity of services, and protection of the public. DLI will continue to determine appropriate enforcement mechanisms, should they be necessary, based on the totality of the circumstances and in the best interest of participating boards, licensees, and public good.

Recommendation #3

We recommend the Department of Labor & Industry improve its oversight of the Montana Medical Assistance Program vendor to better understand vendor operations and confirm the program is operating as intended by:

A. Timely completing the statutorily-required audit,
B. Working with the program vendor to ensure quality assurance programming is in place and include regular reporting out to boards and DLI, and
C. Regularly engaging with the boards and external stakeholders to address their concerns

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DLI Response: Concur

DLI is committed to meaningful engagement of board members and stakeholders during all phases of vendor transition and program oversight. When DLI recognized challenges in the program, we acted promptly initiating the RFP process for a new vendor to ensure programmatic transparency and continuity.

To strengthen contract oversight, DLI appointed a dedicated staff liaison to coordinate with the vendor, monitor compliance, and maintain open channels of communication. Prior to the new contract, DLI and vendor staff collaborated closely, to ensure there were uninterrupted services. Regular meetings with the vendor ensure that policy issues or operational concerns are addressed promptly and collaboratively.

DLI continues to proactively solicit and resolve concerns from participants, members, and stakeholders, and is working to implement additional mechanisms to foster collective problem-solving. Due to challenges in procuring audit services, DLI engaged with impacted boards to clarify audit parameters and requirements. While the complex nature of the program sometimes limits the availability of subject matter experts, DLI remains committed to full transparency. To ensure compliance and independent review, DLI will continue efforts to procure professional audit services in the coming year. These combined actions reflect DLI's ongoing dedication to transparency, continuous improvement, and stakeholder involvement.

Sincerely,

Sarah Swanson, Commissioner
Montana Department of Labor and Industry