

OVERVIEW

THE AUDITOR
STATE OF HAWAII

Sunset Evaluation Update: Sanitarians

Summary

We evaluated the regulation of sanitarians under Sections 321-13 to 321-15, Hawaii Revised Statutes, and concluded that the public interest is best served by terminating regulation.

Sanitarians are environmental health practitioners who enforce state and federal environmental standards. They inspect, sample, test, and manage aspects of the environment that could harm the public's health, such as food manufacturing plants, food service establishments, public swimming pools, and sewage disposal. Most of Hawaii's 183 licensed sanitarians work for government agencies.

It is unlawful for anyone to practice as a sanitarian without a license. The Department of Health's rules say that no one may use the title "registered sanitarian" and perform the duties of a registered sanitarian unless the person is licensed.

The regulatory program is operated by an advisory committee of licensed sanitarians who are supervisors employed by the Sanitation Branch in the Department of Health. The committee administers the licensing examination, reviews applications, and makes recommendations on these matters to the director of health.

We found that sanitarians need not be regulated to protect the public. There were no complaints against sanitarians or other evidence of harm. Nationwide, there is a trend toward deregulating them. Both licensed and unlicensed sanitarians perform similar duties at the Department of Health, the largest single employer of sanitarians. Protection of the public depends on the quality of the department's sanitation program, not on the licensing of individual sanitarians. Licensing is used primarily by the department as a condition of promoting sanitarians from entry level positions.

We also found that the statutes do not clearly define the scope of practice, the requirements for licensure, and what sanitarians can and cannot do. Furthermore, locating the licensing program in the Sanitation Branch raises questions of impartiality and objectivity. Branch supervisors who serve on the advisory committee are in the difficult position of recommending for or against licensing of individual members of their staff. If a complaint were filed against a branch sanitarian, it is not clear whether members of the advisory committee would respond as supervisors of the employee or as neutral board members.

Recommendations and Response

We recommend that the regulation of sanitarians should be repealed by deleting the word "sanitarians" from Section 321-13, HRS. If the Legislature decides to continue the regulation of sanitarians, it should enact a new chapter placing regulatory authority with the Department of Commerce and Consumer Affairs. The new law should define the occupation precisely and establish the scope of practice; exemptions from licensure; requirements for education, training, and experience; prohibited acts and practices; and penalties.

The Department of Health disagrees with our recommendation to end the regulation of sanitarians. It says that the absence of consumer complaints about sanitarians shows regulation is working and that the department needs licensed sanitarians to effectively administer its inspection and sanitation programs. The department agrees with us that the statutes regulating sanitarians are imprecise and inconsistent and that the Sanitation Branch of the department is not the appropriate place for the regulatory program.

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