

OVERVIEW

Sunrise Analysis of a Proposal to Regulate Professional Mental Health Counselors and Professional Rehabilitation Counselors

Report No. 99-21, August 1999

Summary

We analyzed the proposed regulation of professional mental health counselors and professional rehabilitation counselors set forth in Senate Bill No. 2341 introduced in the Regular Session of 1998. The Legislature specifically requested this analysis in both Senate Concurrent Resolution No. 25, House Draft 1 and House Concurrent Resolution No. 53, House Draft 1 of the 1998 session.

Mental health counseling and rehabilitation counseling are two specialties within the field of counseling. Mental health counselors may help people deal with emotional problems, addictions, substance abuse, stress, educational decisions, career concerns, and family, parenting, and marital problems. Rehabilitation counselors help people deal with personal, social, and vocational effects of their disabilities which may result from birth defects, disease, accidents, or life's stresses. Clinical mental health counselors usually have a master's degree. Some rehabilitation counselors have a master's degree; others do not.

The number of mental health counselors and rehabilitation counselors in Hawaii is uncertain. One reason is that the two occupations are not regulated under these occupational titles by the State, so no roster of regulated persons exists. Another reason is that many people provide mental-health-counseling type services or rehabilitation-counseling-type services under different titles, such as social worker, psychologist, or vocational rehabilitation specialist.

The Hawaii Regulatory Licensing Reform Act, Chapter 26H, Hawaii Revised Statutes, states that professions and vocations should be regulated only when necessary to protect the health, safety, or welfare of consumers. We found that regulation of professional mental health counselors and professional rehabilitation counselors is not warranted. The occupations pose little risk of serious harm to consumers. State agencies that we contacted have received minimal consumer complaints against mental health counselors, rehabilitation counselors, or persons performing related work under different titles. Our finding of limited evidence of harm echoes six of our previous reports that have analyzed the desirability of regulating similar occupations (social workers, professional counselors, marriage and family therapists, and occupational therapists).

Furthermore, we found that some protections already exist for customers of mental health counselors and rehabilitation counselors. For example, the majority of these consumers obtain services through organizations, such as hospitals and other health care facilities, that oversee the counselors. In addition, these hospitals and other health care facilities must comply with standards for behavioral health care adopted by the Joint Commission on Accreditation of Healthcare Organizations that address patient care and services.



Furthermore, regulation is supposed to focus on ensuring the basic competency of the practitioner. However, our previous reports on counseling-related professions concluded that potential harm results not from a lack of competency but from unethical actions, fraud, sexual abuse, and financial irresponsibility. Such harm is difficult to prevent through regulation, which focuses on verifying the practitioner's technical competency, not character. Even if the competencies of mental health counselors and rehabilitation counselors were a significant problem, the capacity of regulatory authorities to assess and assure the competency of counselors has not been clearly demonstrated.

Moreover, charging fees sufficient to cover the State's costs of regulating these occupations could raise the costs of services to consumers and unnecessarily restrict entry into the occupations.

Regulation, we found, would benefit practitioners more than consumers.

Furthermore, Senate Bill No. 2341 proposing regulation contains many flaws. The bill is confusing and would be difficult to implement if enacted. It attempts to set precise licensing standards in a field that lacks consensus on how to ensure competency. Flaws in the bill include an unclear definition of mental health counseling, the confusing use of some key terms, and a questionable approach to exemptions.

Recommendations and Response

We recommend that Senate Bill No. 2341 not be enacted.

The Department of Commerce and Consumer Affairs elected not to submit a response to a draft of this report.

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