

OVERVIEW

Sunset Evaluation Report: Marriage and Family Therapists

Report No. 02-01, January 2002

Summary

We evaluated the regulation of marriage and family therapists under Chapter 451J, Hawaii Revised Statutes (HRS), which is scheduled for repeal on December 31, 2002. We concluded that the State should no longer regulate marriage and family therapists; the regulatory law should be allowed to expire as scheduled. However, if regulation is continued, improvements are needed in the law and its administration.

Marriage and family therapists assist adults, children, and families with emotional, behavioral, and relationship problems. Therapists help people with childhood and adolescence difficulties, marriages in crisis, families needing assistance with senior parents, domestic violence, physical and sexual abuse, substance abuse, and other concerns.

In 1998, the Legislature enacted Chapter 451J, HRS, to protect the title of “marriage and family therapist” through a “licensing” program—actually a “title protection” or “certification” program—in the Department of Commerce and Consumer Affairs. As of August 2001, the Department of Commerce and Consumer Affairs reported 80 “licensed” marriage and family therapists in Hawaii.

The Hawaii Regulatory Licensing Reform Act, Chapter 26H, HRS, states that professions and vocations should be regulated only when necessary to protect the health, safety, or welfare of consumers. In assessing the need for regulation, evidence of abuses by providers of the service must be given great weight and the costs and benefits of regulation must be considered.

We found that the regulation of marriage and family therapists is not warranted. There is little evidence of harm in Hawaii. Since the start of the regulatory program in 1998, the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs has received only one complaint against a marriage and family therapist. Furthermore, the benefits of regulation are uncertain. Consumer protections would exist even without the regulatory program. “Licensure” fees do not fully support the program, and anticipated cost savings and improved access to care from regulation have not materialized.

However, if regulation of marriage and family therapists is continued, the regulatory law needs attention. Certain provisions are unnecessary, unclear, or inappropriate. Amendments concerning exemptions, “licensing” requirements, enforcement, and reciprocity should be considered.

Also, if regulation is continued, the Department of Commerce and Consumer Affairs should improve the operations of this program. Improvements are needed

with regard to the Marriage and Family Therapy Advisory Committee, examination administration, “licensure” record keeping, and program forms.

Recommendations and Response

We recommended that the Legislature allow Chapter 451J, HRS, the marriage and family therapist law, to be repealed as scheduled. If regulation of marriage and family therapists continues, we recommended that the Legislature amend Chapter 451J with regard to certain exemptions for overlapping professions, violation of ethical standards, and “licensing” by reciprocity. Also, if regulation continues, we recommended that the Department of Commerce and Consumer Affairs propose amendments clarifying the law and improve the operations of this regulatory program in several areas.

Responding to a draft of our report, the Department of Commerce and Consumer Affairs said it defers to the Legislature on whether the marriage and family therapist regulatory law should be allowed to be repealed as scheduled. The department said it “generally supports elimination of, or deregulation of licensing requirements when a demonstrated need does not exist for government intervention or oversight.” The department agreed with some of our recommendations, disagreed with others, and presented additional perspectives.

This report includes draft legislation to implement recommended changes in the regulatory law if the law is not repealed.

Marion M. Higa
State Auditor
State of Hawaii

Office of the Auditor
465 South King Street, Room 500
Honolulu, Hawaii 96813
(808) 587-0800
FAX (808) 587-0830