

# OVERVIEW

## *Sunrise Analysis: Genetic Counselors*

Report No. 06-07, October 2006

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### Summary

In Senate Concurrent Resolution No. 31, Senate Draft 2 of the 2006 Regular Session, the Legislature requested the Auditor to analyze a proposal to regulate genetic counselors. The Hawai'i Regulatory Reform Act (Chapter 26H, Hawai'i Revised Statutes) requires such an analysis to ensure that new regulation is enacted only when necessary to protect the health, safety, and welfare of the public. The Auditor is also to examine the probable effects of the proposed regulation and assess alternative forms of regulation.

Genetic counselors are health professionals who specialize in medical genetics and counseling. They work as part of health care teams that provide information and support to families and individuals who have genetic diseases or who may otherwise be at risk.

Genetic counseling is a relatively new field of study, with the first graduate program established in 1969. The American Board of Genetic Counseling was incorporated in 1993 to accredit graduate programs in genetic counseling and to certify genetic counselors. Accreditation is based on developing practice-based competencies in communication, critical thinking, and assessment skills and on professional ethics and values.

To be eligible for certification, applicants must have graduated from an accredited genetic counseling program, pass a certification examination, submit a logbook documenting 50 cases of counseling roles and clinical situations, and have letters of recommendation from a program director and two certified genetic counselors. All applicants have four years after graduation to achieve certification and those certified must be recertified every ten years.

Hawai'i currently has ten to 12 genetic counselors. Almost all have been certified or are working toward certification. Most work for health care facilities or for the state Department of Health.

To date, four states have enacted legislation to license genetic counselors but only one state has implemented a licensing program and another is currently promulgating rules.

The bill establishing a "licensing" program in Hawai'i, Senate Bill No. 3231, Senate Draft 2, is largely a title protection measure. It authorizes "licensees" to use the title "licensed genetic counselor" or "genetic counselor" but does not prohibit practice by non-licensed practitioners if they do not represent themselves as licensed genetic counselors. The bill exempts trainees, students, and such licensed professionals as physicians, nurses, social workers, psychologists, and others so long as they do not represent themselves as genetic counselors.



Supporters of the “licensing” proposal argue that regulation would ensure that services are provided only by trained individuals, prevent psychological distress or inaccurate information, and increase the number of qualified genetic counselors by enabling them to receive reimbursement from third-party payers.

We found that the regulation of genetic counselors is not necessary. There is no evidence of harm to consumers that would warrant licensing. Three other states have found that licensing of this profession does not meet sunrise criteria; the governor of a fourth state vetoed a bill establishing licensing in his state. He stated that the potential for harm was vague and speculative and current national certification was an adequate alternative.

The proposed “licensing” program would not prevent unqualified persons from doing genetic counseling—it would only prevent them from calling themselves genetic counselors if they were not licensed. Cases of harm cited by supporters of regulation stem from misinformation or misdiagnosis by physicians or other health care practitioners—who would be exempted from genetic counseling regulation. Moreover, the proposed program has no bearing on direct, commercial marketing of DNA testing and counseling, especially at-home genetic self testing, which is a burgeoning industry.

Other protections are in place for the public. Genetic counselors do not practice independently. They are not listed in telephone directories. Although they may work fairly autonomously, they are supervised by medical geneticists or physicians. Genetic counselors may recommend tests but only physicians may order them.

Supporters of licensing argue that licensing would result in increased visibility and status, improved job security, and higher pay. However, job enhancement for an occupation is not a reason for the State to license that occupation. In addition, there is no evidence that licensure would attract more genetic counselors to Hawai‘i. Insurance reimbursements are a high priority for genetic counselors but that may not necessarily follow enactment of S.B. No. 3231, S.D. 2. The bill creates a certification program, not a true licensing program.

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## Recommendations and Response

We recommend that Senate Bill No. 3231, Senate Draft 2, not be enacted. Also, we make no recommendation on an implementing agency inasmuch as our analysis concludes that the proposed regulation does not meet the criteria for regulation in the Hawai‘i Regulatory Reform Act.

The Department of Commerce and Consumer Affairs declined to respond to a draft of our report.

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