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# Sunset Evaluation: Mental Health Counselors

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A Report to the  
Governor  
and the  
Legislature of  
the State of  
Hawai'i

Report No. 08-06  
March 2008



**THE AUDITOR**  
STATE OF HAWAI'I

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## Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawai'i State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. *Financial audits* attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.
2. *Management audits*, which are also referred to as *performance audits*, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called *program audits*, when they focus on whether programs are attaining the objectives and results expected of them, and *operations audits*, when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.
3. *Sunset evaluations* evaluate new professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with criteria established by statute.
4. *Sunrise analyses* are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Auditor as to its probable effects.
5. *Health insurance analyses* examine bills that propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Auditor for an assessment of the social and financial impact of the proposed measure.
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Hawai'i's laws provide the Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the Governor.



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# OVERVIEW

## *Sunset Evaluation: Mental Health Counselors*

Report No. 08-06, March 2008

### Summary

We evaluated the regulation of mental health counselors under Chapter 453D, Hawai'i Revised Statutes (HRS), which is scheduled for repeal on December 31, 2008. Mental health counselors are trained to treat emotional and behavioral disorders, to prevent problems, and to promote mental health in individuals, families and groups. Counseling may be done either on a one-to-one basis or in a group setting. Counselors work in a wide array of settings including independent practice. Counselors use a variety of therapeutic techniques to address problems such as depression, substance abuse, suicidal impulses, stress, and grief. The counseling profession is growing rapidly and is relatively youthful. The percentage of counselors under the age of 35 grew from 11.5 percent in 1995 to 16.3 percent in 2002. Currently, about 100,000 people are working as mental health counselors. The U.S. Bureau of Labor Statistics expects the employment numbers to grow by 30 percent between 2006 and 2016, or much faster than the average of all occupations.

In three prior sunrise reports on counselors, we concluded that based on the criteria for regulation, the proposal to regulate mental health counselors was not warranted. However, in 2004, the Legislature established a licensing program for mental health counselors without further analysis by our office. The Legislature noted that the mental health delivery system needed substantial improvement and believed that licensing would make economic sense. Hawai'i had a shortage of licensed mental health professionals; licensing would increase their availability, reduce costs, and achieve parity with other professionals licensed in related fields. Progress towards achieving these goals would have an overall benefit to the consumers—an outcome intended by Section 26H-5, HRS.

Licensing began on July 1, 2005. The Department of Commerce and Consumer Affairs (DCCA) reports a total of 177 licensed mental health counselors—119 on Oahu, 47 on the neighbor islands, and 11 on the mainland. The Professional and Vocational Licensing Division (PVL) of DCCA has reported no problems in implementing the law. The National Board for Certified Counselors was contracted to administer the examination. Generally, it takes PVL 10 to 12 business days to process licenses upon the receipt of licensing fees.

Except for California, all other states and the District of Columbia have some form of licensure for counselors. Licensing of mental health counselors has stimulated growth in training programs and enrollment. For example, as of 2007, a total of 510 graduate counseling programs have been accredited by the Council for Accreditation in Counseling and Related Programs—an independent agency recognized by the Council for Higher Education Accreditation. In the last two



years alone, the number of programs increased by 15 percent with 66 programs being added and accredited. In Hawai'i, a rising number of students are enrolled in graduate programs in community counseling at the University of Hawai'i at Mānoa and at Hilo and Chaminade University.

Federal and state regulations are qualifying more and more licensed specialty categories of mental health professionals for reimbursement. As reimbursements increase for less costly services, costs are likely to be reduced. At the same time, Hawai'i consumers benefit by having expanded and more accessible mental health services.

As we found in prior reports, there is little evidence that the practice of mental health counseling could harm the public. Since the law was implemented, only two complaints have been filed with the Regulated Industries Complaints Office at the DCCA. Even though licensing is not warranted based on criteria in Section 26H-2, HRS, we found that from the broader perspective of Section 26H-5, HRS, licensure appears to be achieving several public interest objectives sought by the Legislature. Once licensing is made permanent, more and more programs will recognize mental health counselors as qualified providers. Federal programs will also qualify them for direct reimbursement. This will expand the types of services available to clients, improve their access, and reduce their costs. Therefore, we conclude that the licensing program under Chapter 453D, HRS, should be reenacted.

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## Recommendations and Response

We recommend that Section 26H-4(b), HRS, be amended to remove the repeal date of December 31, 2008 for the licensing of mental health counselors, and that Chapter 431M, HRS, on Mental Illness, Alcohol and Drug Treatment Insurance Benefits, be amended to add licensed mental health counselors to the list of practitioners. Draft legislation is provided in Appendix B.

The Department of Commerce and Consumer Affairs opted not to provide a response.

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Hawai'i

Conducted by

The Auditor  
State of Hawai'i  
and  
Diana M. Chang,  
Consultant

Submitted by

**THE AUDITOR**  
STATE OF HAWAI'I

Report No. 08-06  
March 2008

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## Foreword

This “sunset” report on mental health counselors was prepared in response to a provision in the Hawai‘i Regulatory Licensing Reform Act, Chapter 26H, Hawai‘i Revised Statutes (HRS), that requires the Auditor to perform an evaluation of the regulatory program under Chapter 453D, HRS, scheduled for repeal on December 31, 2008.

This evaluation, conducted by Diana M. Chang, consultant, presents our findings and recommendations on whether the proposed regulation complies with policies in the licensing reform law and whether the public interest requires that the regulatory program be reenacted, modified, or permitted to expire.

We wish to express our appreciation to the Department of Commerce and Consumer Affairs and other organizations and individuals whom we contacted during the course of the evaluation.

Marion M. Higa  
State Auditor

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# Chapter 1

## Introduction

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The Hawai'i Regulatory Licensing Reform Act, Chapter 26H, Hawai'i Revised Statutes (HRS) (the "sunset" law), establishes policies for occupational regulation and schedules the repeal of newly enacted regulations for specified occupations. The sunset law directs the State Auditor to evaluate each board, commission, and regulatory program prior to its repeal date. Under Section 26H-5, HRS, the Auditor must determine whether the program complies with the policies set forth in Section 26H-2, HRS, and whether the public interest requires that the law establishing the regulatory program should be reenacted, modified, or permitted to expire.

If the Auditor finds that the law establishing the regulatory program should be modified, the Auditor must include drafts of recommended legislation in the report that would improve the policies, procedures, or practices of that program. Even if the Auditor finds that the regulatory law should not be reenacted, the Auditor must still evaluate the effectiveness and efficiency of the program and make appropriate recommendations to improve regulatory policies, procedures, and practices.

We evaluated the regulation of mental health counselors under Chapter 453D, HRS, which is scheduled for repeal on December 31, 2008.

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### **Mental Health Counselors Perform a Variety of Functions**

Mental health counselors are trained to treat emotional and behavioral disorders and to promote mental health in individuals, families and groups. Counseling may be done either on a one-to-one basis or in a group setting. Counselors use a variety of therapeutic techniques to address problems such as depression, substance abuse, suicidal impulses, stress, and grief. They work to prevent problems and promote healthy development. Although a considerable overlap exists between counseling and other helping professions, counseling differs in its emphasis on developmental, preventative, and educational aspects in addition to focusing on remedial treatment.

Counselors work in a wide array of settings, including community agencies, hospitals, health care agencies, private and public substance abuse treatment centers, community mental health centers, and in independent practice. Nationwide, most mental health counselors work in state and local government agencies providing individual and family services, and dealing with mental retardation and substance abuse.



They often work closely with other mental health specialists such as psychiatrists, social workers, physicians, psychiatric nurses, and other counseling specialties.

***National trends show rapid growth***

The counseling profession is growing rapidly. It is also relatively youthful. According to a survey by the federal National Mental Health Information Center, the percentage of counselors under the age of 35 grew from 11.5 percent in 1995 to 16.3 percent in 2002.<sup>1</sup>

The U. S. Bureau of Labor Statistics estimates that about 100,000 are currently working as mental health counselors. It expects the employment of mental health counselors to grow by 30 percent, between 2006 and 2016 or much faster than the average of all occupations.<sup>2</sup> The bureau attributes this demand to the need to staff statewide networks that are being established to improve services to children and adolescents who have serious emotional disturbances, and to their families. In addition, growth in the counseling field has resulted from the increasing number of insurance programs that qualify counselors for reimbursement.

***Educational programs are increasing***

A significant increase is also found in the number of graduate programs in counseling and the number of graduates. Currently, more than 500 programs offer entry-level education programs in counseling. In the past 20 years, the number of graduates has doubled.<sup>3</sup>

The Council for Accreditation in Counseling and Related Programs (CACREP) is the independent agency recognized by the Council for Higher Education Accreditation for accrediting master's degree programs in counseling. Its curriculum is used as the basis for the requirements in most state licensing programs. As of 2007, a total of 510 graduate counseling programs have been accredited by CACREP. Exhibit 1.1 shows the number of CACREP accredited programs and their dramatic growth from 1980 to 2007. From 1985 to 1990, the number of programs grew from 61 to 112, or 84 percent; from 1990 to 1995, the number of counseling programs grew from 112 to 215, or 92 percent. Since then, the number of programs has more than doubled. In the last two years alone, the number of programs increased by 15 percent with 66 programs being added and accredited.

**Exhibit 1.1**  
**Number of CACREP Accredited Programs**

Year	Number of Programs Added	Cumulative Total	Percent Increase every 5 years
1980	16	20	-----
1985	41	61	205%
1990	51	112	84%
1995	103	215	92%
2000	100	315	47%
2005	129	444	41%
2007	66	510	15% (two years)

Source: Council for Accreditation of Counseling and Related Educational Programs, Directory of Accredited Programs, 2007.

In Hawai'i, an increasing number of students are enrolled in graduate programs in community counseling. These programs would satisfy the requirements to become a licensed mental health counselor. The University of Hawai'i's Department of Counselor Education reports that prior to 2004, it had one graduate in community counseling. Since then, 13 students have become enrolled in community counseling. In 2005, the University of Hawai'i at Hilo began offering a Master of Arts degree in counseling psychology. In May 2007 the program graduated eight students. Currently 16 students are enrolled full-time, and another four to five part-time. Chaminade University also offers a Master of Science degree in counseling with emphasis on school counseling, community counseling, and marriage and family counseling. Chaminade reports that about 20 students have completed its practicum in community counseling since 1985.

***Several professional organizations represent counselors***

Most mental health counselors belong to the American Counseling Association, the world's largest association representing professional counselors. It sets professional and ethical standards for the counseling profession. It represents the interests of its nearly 45,000 members before Congress and federal agencies. The association also promotes the public recognition of the counseling profession through accreditation, licensure, and national certification.

The American Mental Health Counselors Association (AMHCA) is the professional organization dedicated exclusively to mental health counselors. Its major policy efforts are directed at protecting members' interests and their right to practice. The association lobbies for the enactment of state licensure laws and to ensure that counselors are recognized in applicable federal laws. It works to educate and increase awareness among policy makers about mental illness and its effects.<sup>4</sup> The Hawai'i chapter of AMHCA has nine members.

## Certification

The National Board for Certified Counselors, Inc. (NBCC) is an independent, not for-profit, credentialing body for counselors. The NBCC certifies counselors who meet predetermined standards in their training and experience, and pass its National Counselor Examination (NCE) for licensure and certification. To be eligible to take the NCE, applicants need an advanced degree with a major in counseling from a regionally accredited college or university. Applicants must also meet specific semester hour requirements as well as supervised experience requirements. Applicants who pass the NCE may pursue specialty certification. The board offers specialty certification in school counseling, clinical mental health counseling, and addictions counseling. The board reports that over 42,000 counselors have the NCE certificate. Of these, approximately 1100 have been certified as clinical mental health counselors.<sup>5</sup>

## Licensing

Except for California, all other states and the District of Columbia have some form of licensure for counselors. States, however, differ in the types of counselors that are licensed and how the license is labeled. Some have provisional licenses for trainees and interns, others have more specialized, higher-level licenses, such as those for independent clinical mental health counselors. The requirements for a standard counselor license and for the more specialized license for the 49 states and jurisdictions that regulate counselors are shown in Appendix A. The standard licensed professional counselor (LPC) license typically calls for a master's degree in counseling, two years or 3000 hours of supervised clinical experience beyond the master's degree, the passage of a state-recognized or NCE examination, and adherence to ethical codes and standards. The more specialized licensed clinical professional counselor (LCPC) license generally requires the passage of the National Clinical Mental Health Examination conducted by the NBCC. To simplify the data shown in Appendix A, instead of following all the different titles used by the states, we used the designation LPC for the standard professional counselor license. We used the designation LCPC for the more specialized tier of licensure that calls for additional training or passage of the National Certified Clinical Mental Health Counselor Examination (NCMHCE).

### ***Hawai'i counselors reflect national trends***

Data on the employment status and number of mental health counselors in Hawaii is scarce. Licensing data from the Department of Commerce and Consumer Affairs (DCCA) show that a total of 177 mental health counselors have become licensed since the regulatory program was instituted in 2005. Of the 177 licensees, 119 are on Oahu, 47 are on the neighbor islands, and 11 are on the mainland.

We found no data identifying where the licensed mental health counselors are employed. We learned that some work at the mental health divisions at the Department of Health, or vocational rehabilitation services at the Department of Human Services. Others work for the many private agencies, such as the Salvation Army and Hina Mauka, under contract with state agencies to provide for substance abuse counseling and at other mental and behavioral health services agencies. Some are in private independent practice or teach at educational institutions.

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## **Mental Health Counselors Sought Licensure**

Counselors have repeatedly submitted proposals for regulation to the Legislature, beginning in 1988, again in 1992, and still again in 1998. Senate Bill No. 2341 of the 1998 legislative session proposed to regulate both professional mental health counselors and professional rehabilitation counselors. The bill was referred to the Auditor for analysis under the “sunrise” provision in the Hawai‘i Regulatory Licensing Reform Act, Chapter 26H, HRS. The bill defined mental health counseling as “the rendering of a therapeutic counseling service that integrates a developmental, wellness, and multicultural model of human behavior involving certain methods and techniques of appraisal including but not limited to consulting, counseling, and referral.” Applicants for licensure would need a master’s or doctoral degree from an accredited institution in counseling, complete two academic terms of practicum experience in a counseling setting, complete 1000 hours of direct counseling work, and pass the NCE.

Our sunrise analysis of Senate Bill No. 2341 concluded that, based on the criteria for regulation, the proposed licensing program was not warranted. The regulatory program did not fit the normal definition of licensure. It was a “title protection” law that would simply prohibit persons from using the title of professional or licensed mental health counselor. We found little risk of harm to consumers. Instead, the proposed program seemed geared to protecting the interests of practitioners instead of consumers. The competency of practitioners did not appear to be an issue. Testimony on the bill indicated that financial and employment considerations motivated practitioners to seek “licensure.” We had similar findings in our earlier sunrise reports on counselors.<sup>6</sup>

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## **Chapter 453D, HRS, Regulates Mental Health Counselors**

Act 209, Session Laws of Hawai‘i 2004 codified in Chapter 453D, HRS, established the licensing of mental health counselors. The bill proposing licensure was not referred to the Auditor for a sunrise analysis. In enacting the bill, the Legislature noted that the mental health delivery

system needed substantial improvement. There was a shortage of qualified professionals who could provide services for the *Felix* consent decree and other mental health programs.<sup>7</sup> Access to mental health services was a particular problem in rural areas and on the neighbor islands. Transportation to Oahu for patients who needed treatment was costing thousands of dollars.

The Legislature believed that licensing would make economic sense since reimbursements for professional counselors was approximately 30 percent less than the rates for licensed psychologists. It hoped that licensing would increase the availability of qualified mental health professionals, reduce costs, and achieve parity for masters-level mental health professionals with that of other core-helping professionals already licensed in psychology, psychiatric nursing, social work, and marriage and family therapy.

Chapter 453D, HRS, established a licensing program in the Department of Commerce and Consumer Affairs to be administered by the director. The licensing of mental health counselors was made effective as of July 1, 2005. The law restricts the use of the title “licensed mental health counselor” or “mental health counselor” to those who meet specified educational and experiential licensure requirements.

The practice of mental health is defined as:

The rendering of professional counseling services based on specialized education, training, and experience to individuals, families, or groups for compensation, monetary or otherwise. These professional counseling services include applying the respective principles, methods, and theories of counseling, human development, learning theory, group and family dynamics, rehabilitation, and the etiology of mental illness and dysfunctional behavior, and defining goals and developing a treatment plan of action aimed toward the prevention, treatment, and resolution of mental and emotional dysfunction and intra or interpersonal disorders to all persons irrespective of diagnosis. “Practice of mental health counseling” includes but is not limited to:

- (1) The assessment, diagnosis, and treatment of, and counseling for, mental and emotional disorders;
- (2) The assessment, diagnosis, and treatment of, and counseling for, substance abuse and conduct disorders defined in the approved diagnostic and statistical manual for mental disorders;

(3) The application of educational techniques aimed at the prevention of these disorders; and

(4) The provision of consultative services to individuals, couples, families, groups, organizations, and communities.<sup>8</sup>

To qualify for licensure, applicants need:

- A master's degree or doctoral degree from an accredited educational institution in counseling or in an allied field that includes graduate course work in counseling of at least 48 semester hours or 72 quarter hours in eight specified course areas;
- At least two academic terms of supervised mental health practicum of at least three semester hours or five quarter hours per academic term in a mental health counseling setting with 300 hours of supervised client contact;
- To complete not less than 3000 hours of supervised post-graduate practice in mental health counseling with 100 hours of face-to-face clinical supervision that must be completed in no less than two years and no more than four years; and
- To pass the National Counselor Examination for licensure and certification.

The director may accept mental health counselors currently licensed by and residing in other states with substantially the same requirements for licensure.

The law is basically a title protection act. It exempts the clergy; students and interns working towards a degree in mental health or for licensure as a psychologist; social workers; marriage and family therapists or another licensed professional; state, federal, and county employees; qualified members of other licensed professions; registered vocational rehabilitation specialists; and persons whose practice overlaps with that of mental health counselors provided they do not call themselves licensed mental health counselors or mental health counselors.

The law also establishes grounds for refusal, revocation, denial or other conditions of licensure. These include engaging in false, fraudulent, or deceptive advertising or making untruthful statements; being addicted to drugs; procuring a license through fraud or deceit; having been convicted of a crime related to the qualifications or functions of the profession; professional misconduct, incompetence, gross negligence or manifest

incapacity in the practice of the profession; or engaging in conduct contrary to the recognized standard of ethics for the licensed profession.

The law was amended twice, first by Act 14, Session Laws of Hawai‘i (SLH) 2006 and then by Act 252, SLH 2007. Act 14, SLH 2006, raised the licensure requirements by clarifying that education, training, and experience must be specialized to the field of mental health. The practicum intern experience must be in a mental health counseling setting and supervised by a licensed professional in the mental health occupations, such as a psychiatrist, psychologist, clinical social worker, registered nurse with a specialty in mental health, or marriage and family therapist. In addition, the law added the requirement for post-graduate, face-to-face practice of mental health counseling supervised by a licensed mental health professional.

Act 14, SLH 2006, had the unintended consequence of prohibiting licensure for applicants who applied for licensure under the original standards. Act 252, SLH 2007, corrected this problem by providing an alternative to the requirement that practicum and post-graduate experience be supervised by a licensed mental health professional. Applicants who graduated prior to July 1, 2007 could have their training attested to by certain parties other than a licensed mental health professional.

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## Objectives of the Evaluation

1. Determine whether regulation of the practice of mental health counseling is warranted.
2. Assess the impact of the current regulatory requirements and whether they are appropriate.
3. Determine whether the regulatory program is being implemented effectively and efficiently.
4. Make recommendations as appropriate.

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## Scope and Methodology

To assess the need to regulate mental health counselors, we applied the following criteria from Section 26H, HRS, of the Hawai‘i Regulatory Licensing Reform Act:

1. Regulation shall be undertaken only where reasonably necessary to protect the health, safety, or welfare of consumers of the services; the purpose of regulation shall be the protection of the public welfare and not that of the regulated profession or vocation;

2. Full licensure or other restrictions on certain professions or vocations shall be retained or adopted when the health, safety, or welfare of the consumer may be jeopardized by the nature of the service offered by the provider;
3. Evidence of abuses by providers of the service shall be accorded great weight in determining whether regulation is desirable;
4. Regulations that artificially increase the costs of goods and services to the consumer shall be avoided except in those cases where the Legislature determines that this cost is exceeded by the potential danger to the consumer;
5. Regulations shall be eliminated when the Legislature determines that they have no further benefits to consumers;
6. Regulation shall not unreasonably restrict entry into professions and vocations by all qualified persons; and
7. Fees imposed for the regulatory program shall not be less than the full cost of administering the program.

We also examined the overall impact of regulating mental health counselors and whether the regulation is beneficial to consumers. We reviewed literature on mental health counseling and its regulation, including relevant federal regulation and regulation in other states. We also reviewed complaints filed with national organizations and the DCCA's Regulated Industries Complaints Office. We examined whether the program was being implemented effectively and efficiently by the DCCA's Professional and Vocational Licensing Division. We interviewed selected mental health counselors and officials from various state and community agencies.

Our work was performed from January 2008 to March 2008.



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# Chapter 2

## Regulation of Mental Health Counselors Benefit the State

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This chapter presents our findings and recommendations on whether mental health counselors should continue to be licensed. The criteria in the sunset law, Chapter 26H, Hawai‘i Revised Statutes (HRS), provide that regulation is warranted only when reasonably necessary to protect consumers. In addition, under Section 26H-5, HRS, the Auditor’s evaluation of the regulatory program subject to repeal must determine whether the public interest requires that the law establishing the program be reenacted, modified, or permitted to expire. As we found in prior sunrise reports, there is little evidence of abuse by mental health counselors sufficient to warrant continued licensing. However, from a broader perspective, licensure appears to be achieving several objectives sought by the Legislature that is in the public interest.

The Legislature noted that Hawai‘i had a shortage of licensed mental health professionals that could provide basic mental health and case management services. It hoped that regulation would expand the pool of qualified professionals who could provide the needed treatment, broaden the necessary mental health services and reduce their costs, and help mental health counselors achieve parity with other core-helping professions that are licensed. Progress towards achieving these goals would have an overall benefit to the consumers.

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### Summary of Finding

Even though licensing of mental health counselors is not warranted based on criteria in Section 26H-2, HRS, continued licensing is in the public interest in accordance with Section 26H-5, HRS, as some evidence exists that the state as a whole will benefit. Licensure will likely expand the number of qualified professionals who can provide needed mental health services, increase access to services, and reduce the costs of these services.

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### Licensure Does Not Meet Criteria in the Sunset Law

The criteria in the sunset law place the burden of proof on those occupational groups that seek licensure. The law says that licensure is warranted when there is evidence that incompetent or fraudulent practitioners of the occupation would endanger the health, safety, and welfare of consumers. The law was enacted to ensure that the benefits from regulation protect consumers from harm and not accrue to the practitioners seeking licensure.

Based on the criteria in the sunset law, licensure of mental health counselors would not be warranted. We found little evidence that the practice of mental health counselors could harm the public. Since the law was implemented in 2005, only two complaints have been filed with the Regulated Industries Complaints Office at the Department of Commerce and Consumer Affairs. One case was closed because of the department's lack of jurisdiction over the issue and the second case remains under investigation.

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## **Despite Sunset Policy, Licensure May Be Beneficial**

Sunset law policy takes a narrow view of the need for regulation. These policies primarily seek to ensure that practitioners are qualified and competent to practice their professions. However, a broader perspective of the public interest may require that the licensing program continue. The Legislature recognized this when it enacted Chapter 453D, HRS, in 2004. It foresaw that licensure might accomplish several objectives that could be beneficial to the state. The Legislature noted that the mental health delivery system needed substantial improvement, particularly in light of the demands imposed by the *Felix* consent decree. The state had a significant shortage of professionals who could address the mental health needs of adults and children. Access to mental health services was a particular problem for rural residents on the neighbor islands. Transportation costs for these residents increased the cost of care. The Legislature hoped that licensure would increase the availability and scope of mental health services. The Legislature also believed that mental health counselors should have parity with other core-helping professionals who had already become licensed, such as clinical social workers, marriage and family counselors, and advanced practice registered nurses.

## ***Shortage of mental health professionals remains acute***

There is general agreement that the acute shortage of qualified mental health workers will continue. The increasing demand for mental health workers is shaped by a number of factors. These include demographic changes, changes in the health care system, and other factors such as technology and pharmacological advances.

Demographic changes alone will have a significant impact on the demand for providers of mental health services. In a report on mental health in the United States in 2002, the National Mental Health Information Center anticipated that the greatest demand for services would occur among the Hispanic population. The age categories of 55 to 64, and 65 and over, would grow the fastest. Assuming constant levels of services, more mental health services would be required for minority groups and older persons.<sup>1</sup>

The demand for mental health professionals will also continue to increase because of changes in the system of care, such as the move to large managed care organizations. These systems place restrictions on the kinds and amount of services that can be provided by mental health workers. The move is towards the quickest, least expensive forms of treatment using a variety of specialty mental health providers. The use of psychiatric services and long-term psychotherapy has decreased and more use is being made of a variety of nonphysician providers.

In the past five years, state and federal certification rules have also been changing. Medicare, Medicaid, and other state and federal programs now permit a greater variety of specialty mental health workers to offer services for which they will be reimbursed. This trend will likely increase the number of mental health workers and their training in the certified occupations.

In addition, large numbers of military service members suffering from post traumatic stress disorders will be returning from the war zones. New federal benefits are being enacted to address the need for mental health professionals. The events of September 11, 2001 also demonstrated the need for professionals to respond with crisis and grief counseling.

***Conditions in Hawai'i reflect national trends***

Similar trends are seen in Hawai'i. Mental health services administrators at the Departments of Health and Human Services confirm that qualified mental health workers are in short supply, particularly in the rural areas. Private providers of mental health services who have purchase of service contracts with the State are also having difficulty finding qualified workers.

Private providers say they would welcome having more mental health counselors. They say that mental health counselors provide a valuable service and offer a more integrated, holistic approach to treatment. For example, clients who come in for substance abuse treatment often suffer from mental health disorders, developmental disabilities, retardation, or other family problems. Recidivism is less with mental health workers who view and treat a client in his or her entire milieu.

***Training programs have increased***

To meet the increasing demand and growth in employment opportunities, the number of graduate programs and students in mental health counseling have increased. As seen in Exhibit 1.1, in 1995, the Council for Accreditation of Counseling and Related Education Programs (CACREP) accredited 215 counseling programs. Twelve years later in 2007, CACREP accredited a total of 510 programs, more than double the number in 1995.

The number of graduate programs in Hawai'i has also increased. The University of Hawai'i at Manoa and Chaminade University offer graduate programs that would meet the requirements for licensure as a mental health counselor. In 2005, the University of Hawai'i at Hilo began offering a master's degree in counseling psychology. It graduated its first eight students in May 2007. Currently 16 students are enrolled and six are expected to graduate in May 2008. The University of Hawai'i at Manoa has 13 graduate students in its community counseling or mental health counseling program. Chaminade University reports that many of the counseling students who shifted to marriage and family therapy counseling after the occupation became licensed are shifting back to mental health counseling now that licensure is available.

***Licensure may increase access and decrease costs***

A primary legislative objective was to increase access and reduce the costs for mental health services. The Legislature found that reimbursement rates for professional counselors were 30 percent less than those for licensed psychologists. As noted earlier, federal and state regulations are qualifying more and more licensed specialty categories of mental health professionals for reimbursement. Some of these licensed mental health workers, such as social workers and marriage and family therapists, have made legislative and policy gains that have opened reimbursement and employment opportunities. As reimbursements increase for less costly services, costs are likely to be reduced. At the same time, Hawai'i consumers benefit by having expanded and more accessible mental health services.

The professional mental health counselor organizations are aggressively pursuing this option. Until recently, mental health counselors could receive reimbursement only when they work under the supervision of a qualified mental health professional such as a physician. However, this has begun to change with their licensure being instituted in 49 states and becoming more established. The American Mental Health Counselors Association recently announced that it has five proposals in Congress that would allow mental health counselors to bill Medicare.

**Some federal programs allow reimbursement**

Tricare is the health care program for active duty service members, National Guard and Reserve members, retirees, their families, survivors, and certain former spouses. It offers a network of military and civilian health care services to its members. The program offers behavioral health coverage for services that are considered medically necessary. Authorized providers include psychiatrists, clinical psychologists, certified psychiatric nurse specialists, clinical social workers, and certified marriage and family therapists. It will also reimburse pastoral

counselors and mental health counselors who work under physician referral and supervision.

In 2006, Congress passed the Veterans Benefits, Healthcare, and Information Act. The legislation would provide increased support for service members returning from the war on terror, improve outreach, and increase the number of clinicians treating post traumatic stress disorder. The new law would also add mental health counselors to the list of appointed positions within the Veterans Healthcare Administration and to the occupational classifications at the federal Office of Personnel Management.

### **Some state programs reimburse licensed mental health counselors**

Hawai'i benefits to the extent that it can expand needed mental health services with the help of federal dollars. Hawai'i's federal reimbursement percentage for medical assistance is 55.11 and 68.58 for the State's children health insurance program. This means that for every dollar that the State spends for mental health services under Medicaid, it receives more than half in return from the federal government. Increasing reimbursements can be done most easily by expanding the categories of mental health professionals who are qualified for direct reimbursement.

This is slowly becoming accomplished. Chapter 431M, HRS, mandates insurance benefits for mental illness, alcohol, and drug treatment. Under Act 38, Session Laws of Hawai'i 2007, the Legislature amended Chapter 431M, HRS, to add marriage and family therapists to the list of providers for covered benefits for mental health services. More and more programs are making reimbursements for these services.

Hawai'i's Medicaid program is separated into a fee-for-service program and Med-QUEST. Generally the fee-for-service program is for those over age 65, or certified blind or disabled. Med-QUEST is a managed care program that offers eligible Hawai'i residents coverage through health plans. Participants must meet an asset and income test. Med-QUEST covers mental health services. According to the Hawaii Medical Service Association (HMSA), mental health counselors may provide mental health services under the direction of a qualified provider such as a psychologist or psychiatrist. The qualified provider would bill HMSA for the services provided under a "blended" rate.

The Medicaid Rehabilitation Option program allows certain specialized behavioral health services to be paid using federal Medicaid funds. Recently, marriage and family counselors have become eligible for reimbursement under this program. The Department of Health's Adult

Mental Health Division says that once licensing for mental health counselors becomes permanent, it is likely that they will also become eligible for reimbursement. Currently, mental health counselors can be reimbursed for case management services under a Medicaid waiver.

***Mental health counselors may achieve parity***

Mental health counselors have qualifications approximately equivalent to those of other licensed helping professions, such as clinical social workers, marriage and family therapists, and advanced practice registered nurses. The Legislature thought it only fair to avoid discrimination and to give parity to mental health counselors. Exhibit 2.1 compares the education, experience, and examination requirements for advanced practice registered nurses, clinical social workers, marriage and family therapists, and mental health counselors. They are very similar.

**Exhibit 2.1  
Licensure Requirements for Advanced Practice Registered Nurses, Clinical Social Workers, Marriage and Family Therapists, and Mental Health Counselors**

Occupation	Education	Experience	Examination
Advanced Practice Regis. Nurses	Master's in Nursing	Current license	Certification in a nursing specialty from recognized national certifying body
Clinical Social Workers	Master's in Social Work	3000 hrs. post-master's clinical experience	Clinical level examination by Assoc. of Social Work Boards
Marriage & Family Therapists	Master's in Marriage & Family Therapy, 33 semester hours specified coursework. 1 year practicum	1000 hrs. of marriage & family therapy experience and 200 hrs. clinical supervision	National Marriage & Family Therapy Exam
Mental Health Counselors	Master's in Counseling, 48 semester hours specified coursework. 2 terms practicum	3000 hrs. post grad. mental health counseling under licensed mental health practitioner	National Counselor Exam

Source: Chapters 457, 467E, 451J, and 453D, HRS.

The Legislature also sought to achieve parity with the licensing requirements in the other 48 states that license mental health counselors. This is likely to happen once licensure is made permanent and the 2008 repeal date for the licensure of mental health counselors is removed from the sunset law.

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## Processing of Applications Has Been Efficient

After some initial questions about qualifications for licensure, mental counselors report that they had no difficulty in applying for their licenses. Licensing began on July 1, 2005. The Professional and Vocational Licensing Division (PVL) reported no problems in implementing the law. Applications had been prepared and a contract had been signed with the National Board for Certified Counselors to administer the examination. Generally the turn around time for PVL to process licenses is 10 to 12 business days upon the receipt of licensing fees.

Initially, there was a lack of clarity in the requirements in the law that raised questions about the type of experience that would qualify an applicant for licensure. Act 14, SLH 2006, corrected this by setting the terms and conditions required for practicum intern and post-graduate experience, and clarifying that “mental health” counseling services are based on specialized education, training, and experience that a practitioner has completed. Act 14, SLH 2006, also prohibited registered rehabilitation specialists in the Department of Labor and Industrial Relations from using the mental health counselor title unless the person is a licensed mental health counselor. However, Act 14, SLH 2006, created an inadvertent problem by making ineligible those applicants who had qualified under the original requirements. Act 252, SLH 2007, corrected this by grandfathering those students who had graduated from an accredited program before the enactment of Act 14, SLH 2006.

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## Conclusion

The licensing of mental health counselors does not meet the criteria in the policies that focus on potential harm to consumers. However, we find that the regulation has numerous other benefits that are in the public interest to require that mental health counselors continue to be licensed.

Licensing of mental health counselors has stimulated growth in training programs and in the number of students in mental health counseling programs. This should alleviate the acute shortage of mental health professionals working in Hawai‘i. Once licensing is made permanent, more and more programs will recognize mental health counselors as qualified providers. More and more federal programs will also qualify them for direct reimbursement. This will expand the types of services available to clients, improve their access, and reduce their costs. Therefore, we conclude that the licensing program of mental health counselors under Chapter 453D, HRS, should be reenacted.



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## Recommendations

1. Amend Section 26H-4(b), HRS, to remove the repeal date of December 31, 2008 for the licensing of mental health counselors. Language is provided in Appendix B.
2. Consider amending Chapter 431M, HRS, on Mental Illness, Alcohol and Drug Treatment Insurance Benefits, to add licensed mental health counselors to the list of practitioners who can diagnose and treat these disorders. Language is provided in Appendix B.

**Appendix A**  
**Licensing Requirements by State and Jurisdiction**

State	Title	Education	Experience	Exam
Alabama	LPC	Masters - 48 grad. sem. hrs.	3000 hrs	NCE
Alaska	LPC	Masters -60 grad. sem. hrs.	2 yrs/3000 hrs	NCE
Arizona	LPC	Masters - 60 grad. sem. hrs.	2 yrs/3200 hrs	NCE, NCMHCE
Arkansas	LPC	Masters - 60 grad. sem. hrs.	3 yrs/3000 hrs	NCE & oral exam
California	No licensure			
Colorado	LPC	Masters - 48 grad. sem. hrs.	2 yrs/2000 hrs	NCE & Jurisprudence Exam
Connecticut	LPC	Masters - 60 grad. sem. hrs. & 6th year	1 yr/3000 hrs	NCE or NCMHCE
Delaware	LPC	Masters - 48 grad. sem. hrs.	2 yrs/3200 hrs	NCE or NCMHCE
District of Columbia	LPC	Masters - 60 grad. sem. hrs.	2 yrs/3500 hrs	NCE, NCMHCE
Florida	LPC	Masters - 60 grad. sem. hrs.	2 yrs/1500 hrs	NCMHCE
Georgia	LPC	Masters + 300 hrs. internship	4 yrs/2400 hrs	NCE
Hawaii	LPC	Masters - 48 grad. sem. hrs.	2 yrs/3000 hrs	NCE
Idaho	LPC	Masters - 60 grad. sem. hrs.	1000 hrs	NCE
	LCPC	Masters - 60 grad. sem. hrs.	LPC + 2 yrs/2000 hrs	NCMHCE
Illinois	LPC	Masters - 48 grad. sem. hrs.	2 yrs/3360 hrs nurse asst. (na)	NCE
	LCPC	Masters or Cert. Clinical Mental Health Counselors		NCE & NCMHCE
Indiana	LPC	Masters - 60 grad. sem. hrs.	3000 hrs	NCMHCE
Iowa	LPC	Masters - 45 grad. sem. hrs.	2 yrs/1000 hrs	NCE or NCMHCE
Kansas	LPC	Masters - 60 grad. sem. hrs.	na	NCE
	LCPC	Add 15 hrs. clinical practicum	LPC + 2 yrs/4000 hrs	NCMHCE
Kentucky	LPC	Masters - 60 grad. sem. hrs.	4000 hrs	NCE
Louisiana	LPC	Masters - 48 grad. sem. hrs.	2 yrs/3000 hrs	NCE
Maine	LPC	Masters - 48 grad. sem. hrs.	2 yrs/2000 hrs	NCE
	LCPC	Masters - 48 grad. sem. hrs.	2yrs/3000 hrs	NCMHCE
Maryland	LPC	Masters - 60 grad. sem. hrs.	3 yrs/3000 hrs	NCE & Md. Exam
Massachusetts	LPC	Masters - 60 grad. sem. hrs.	2 yrs/3360 hrs	NCMHCE
Michigan	LPC	Masters - 48 grad. sem. hrs.	2yrs/3000 hrs	NCE
Minnesota	LPC	Masters - 48 grad. sem. hrs.	1yr/2000 hrs	NCE
	LCPC	Masters - 24 grad. sem. hrs.	4000 hrs	NCMHCE
Mississippi	LPC	Masters - 60 grad. sem. hrs.	2yrs/3500 hrs	NCE
Missouri	LPC	Masters - 48 grad. sem. hrs.	2 yrs/3000 hrs	NCE
Montana	LPC	Masters - 60 grad. sem. hrs.	3000 hrs	NCE or NCMHCE & Mont. Exam
Nebraska	LPC	Masters	5 yrs/3000 hrs	NCE or NCMHCE
	LCPC	Masters	2yrs/3000hrs + LMHP credential	
Nevada	LPC	Masters	2 yrs/3000 hrs	NCE or NCMHCE
New Hampshire	LPC	Masters - 60 grad. sem. hrs.	2 yrs/3000 hrs	NCMHCE and exam
New Jersey	LPC	Masters - 60 grad. sem. hrs.	3 yrs/4500 hrs	NCE
New Mexico	LCPC	Masters - 48 grad. sem. hrs.	2 yrs/3000 hrs	NCE and NCMHCE
New York	LPC	Masters - 48 grad. sem. hrs.	3000 hrs	NCMHCE
North Carolina	LPC	Masters - 48 grad. sem. hrs.	2 yrs/2000 hrs	NCE or NCMHCE
North Dakota	LPC	Masters - 48 grad. sem. hrs	2 yrs/400 hrs	NCE
	LCPC	Masters - 60 grad. sem. hrs.	2yrs/3000hrs + LPC credential	NCMHCE + video session
Ohio	LPC	Masters - 60 grad. sem. hrs.	2yrs/3000 hrs	NCE
	LCPC	Masters - 60 grad. sem. hrs.		NCMHCE
Oklahoma	LPC	Masters - 60 grad. sem. hrs.	3 yrs/3000 hrs	NCE and Exam
Oregon	LPC	Masters - 48 grad. sem. hrs.	3 yrs/2400 hrs	NCE, NCMHCE and OR Exam
Pennsylvania	LPC	Masters - 60 grad. sem. hrs.	3 yrs/3600 hrs	NCE
Puerto Rico	LPC	Masters	500 hrs	NCE
Rhode Island	LCPC	Masters - 60 grad. sem. hrs.	2 yrs/2000 hrs	NCMHCE
South Carolina	LPC	Masters - 48 grad. sem. hrs.	2 yrs/1500 hrs + LPC credential	NCMHCE or NCE

<b>South Dakota</b>	LPC LCPC	Masters - 48 grad. sem. hrs. Masters - 60 grad. sem. hrs.	2000 hrs 2 yrs/2000 hrs + LPC credential	NCE NCMHCE
<b>Tennessee</b>	LPC	Masters - 60 grad. sem. hrs.	2yrs/1000 hrs	NCE & NCMHCE and TN Exam
<b>Texas</b>	LPC	Masters - 48 grad. sem. hrs.	3 yrs/3000 hrs	NCE and TX Exam
<b>Utah</b>	LCPC	Masters - 60 grad. sem. hrs.	2 yrs/4000 hrs + CPC credential	NCE & NCMHCE and UT Exam
<b>Vermont</b>	LCPC	Masters - 60 grad. sem. hrs.	2 yrs/3000 hrs	NCE and NCMHCE
<b>Virginia</b>	LPC	Masters - 60 grad. sem. hrs.	4000 hrs	NCMHCE
<b>Washington</b>	LPC	Masters	3 yrs/3000 hrs	NCMHCE or NCE
<b>West Virginia</b>	LPC	Masters - 60 grad. sem. hrs.	2 yrs/3000 hrs	NCE
<b>Wisconsin</b>	LPC	Masters - 42 grad. sem. hrs.	2 yrs/3000 hrs	NCE or NCMHCE and Wisc. Exam
<b>Wyoming</b>	LPC	Masters - 48 grad. sem. hrs.	3000 hrs	NCE

Licensing Acronyms

\*LPC: Licensed Professional Counselor/clinical counselors

\*LCPC: Licensed clincial Mental Health Practitioners

Source: American Counseling Association, Licensure Requirements for Professional Counselors, 2008 Edition, Alexandria, VA.

TWENTY-FOURTH LEGISLATURE, 2008  
STATE OF HAWAII

**.B. NO.**

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**A BILL FOR AN ACT**

RELATING TO MENTAL HEALTH COUNSELORS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 26H-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "~~§26H-4~~ **Repeal dates for newly enacted professional and**  
4 **vocational regulatory programs.** ~~[(a)]~~ Any professional or  
5 vocational regulatory program enacted after January 1, 1994, and  
6 listed in this section shall be repealed on December 31, 2008.  
7 The auditor shall perform an evaluation of the program, pursuant  
8 to section 26H-5, prior to its repeal date.

9           ~~[(b) Chapter 453D (mental health counselors) shall be~~  
10 ~~repealed on December 31, 2008.]"~~

11           SECTION 2. Section 431M, Hawaii Revised Statutes, is  
12 amended by adding a new definition to be appropriately inserted  
13 and to read as follows:

14           "Licensed mental health counselor" means a person:

15           (1) Who engages in the practice of mental health  
16           counseling and uses the title of licensed mental  
17           health counselor;

18           (2) Who has been issued a license under chapter 453D; and

**.B. NO.**

1           (3) Whose license is in effect and not revoked or  
2           suspended."

3           SECTION 3. Section 431M-3, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5           "(a) Covered benefits for alcohol dependence, drug  
6 dependence, or mental illness insurance policies, hospital or  
7 medical service plan contracts, and health maintenance  
8 organization health plan contracts shall be limited to those  
9 services certified by the insurance or health care plan  
10 carrier's physician, psychologist, licensed clinical social  
11 worker, marriage and family therapist, [~~or~~] advanced practice  
12 registered nurse, or licensed mental health counselor as  
13 medically or psychologically necessary at the least restrictive  
14 appropriate level of care."

15           SECTION 4. Section 431M-4, Hawaii Revised Statutes, is  
16 amended to read as follows:

17           "**§431M-4 Mental illness, alcohol and drug dependence**  
18 **benefits.** (a) The covered benefit under this chapter shall not  
19 be less than thirty days of in-hospital services per year. Each  
20 day of in-hospital services may be exchanged for two days of  
21 nonhospital residential services, two days of partial  
22 hospitalization services, or two days of day treatment services.

**.B. NO.**

1 Visits to a physician, psychologist, licensed clinical social  
2 worker, marriage and family therapist, [~~or~~] advanced practice  
3 registered nurse, or licensed mental health counselor shall not  
4 be less than thirty visits per year to hospital or nonhospital  
5 facilities or to mental health outpatient facilities for day  
6 treatment or partial hospitalization services. Each day of in-  
7 hospital services may also be exchanged for two outpatient  
8 visits under this chapter; provided that the patient's condition  
9 is such that the outpatient services would reasonably preclude  
10 hospitalization. The total covered benefit for outpatient  
11 services in subsections (b) and (c) shall not be less than  
12 twenty-four visits per year; provided that coverage of twelve of  
13 the twenty-four outpatient visits shall apply only to the  
14 services under subsection (c). The other covered benefits under  
15 this chapter shall apply to any of the services in subsection  
16 (b) or (c). In the case of alcohol and drug dependence  
17 benefits, the insurance policy may limit the number of treatment  
18 episodes but may not limit the number to less than two treatment  
19 episodes per lifetime. Nothing in this section shall be  
20 construed to limit serious mental illness benefits.

21 (b) Alcohol and drug dependence benefits shall be as  
22 follows:

**.B. NO.**

- 1           (1) Detoxification services as a covered benefit under  
2           this chapter shall be provided either in a hospital or  
3           in a nonhospital facility that has a written  
4           affiliation agreement with a hospital for emergency,  
5           medical, and mental health support services. The  
6           following services shall be covered under  
7           detoxification services:
- 8           (A) Room and board;
  - 9           (B) Diagnostic x-rays;
  - 10          (C) Laboratory testing; and
  - 11          (D) Drugs, equipment use, special therapies, and  
12              supplies.
- 13           Detoxification services shall be included as part of  
14           the covered in-hospital services, but shall not be  
15           included in the treatment episode limitation, as  
16           specified in subsection (a);
- 17          (2) Alcohol or drug dependence treatment through  
18           in-hospital, nonhospital residential, or day treatment  
19           substance abuse services as a covered benefit under  
20           this chapter shall be provided in a hospital or  
21           nonhospital facility. Before a person qualifies to  
22           receive benefits under this subsection, a qualified

**.B. NO.**

1           physician, psychologist, licensed clinical social  
2           worker, marriage and family therapist, [~~or~~] advanced  
3           practice registered nurse, or licensed mental health  
4           counselor shall determine that the person suffers from  
5           alcohol or drug dependence, or both; provided that the  
6           substance abuse services covered under this paragraph  
7           shall include those services that are required for  
8           licensure and accreditation and shall be included as  
9           part of the covered in-hospital services as specified  
10          in subsection (a). Excluded from alcohol or drug  
11          dependence treatment under this subsection are  
12          detoxification services and educational programs to  
13          which drinking or drugged drivers are referred by the  
14          judicial system and services performed by mutual self-  
15          help groups;

- 16          (3) Alcohol or drug dependence outpatient services as a  
17          covered benefit under this chapter shall be provided  
18          under an individualized treatment plan approved by a  
19          qualified physician, psychologist, licensed clinical  
20          social worker, marriage and family therapist, [~~or~~]  
21          advanced practice registered nurse, or licensed mental  
22          health counselor and shall be services reasonably



**.B. NO.**

1 expected to produce remission of the patient's  
2 condition. An individualized treatment plan approved  
3 by a marriage and family therapist, licensed clinical  
4 social worker, ~~[or]~~ an advanced practice registered  
5 nurse, or licensed mental health counselor for a  
6 patient already under the care or treatment of a  
7 physician or psychologist shall be done in  
8 consultation with the physician or psychologist.

9 Services covered under this paragraph shall be  
10 included as part of the covered outpatient services as  
11 specified in subsection (a); and

- 12 (4) Substance abuse assessments for alcohol or drug  
13 dependence as a covered benefit under this section for  
14 a child facing disciplinary action under section  
15 302A-1134.6 shall be provided by a qualified  
16 physician, psychologist, licensed clinical social  
17 worker, advanced practice registered nurse, ~~[or]~~  
18 certified substance abuse counselor~~[-]~~, or licensed  
19 mental health counselor. The certified substance  
20 abuse counselor shall be employed by a hospital or  
21 nonhospital facility providing substance abuse  
22 services. The substance abuse assessment shall

**.B. NO.**

1 evaluate the suitability for substance abuse treatment  
2 and placement in an appropriate treatment setting.

3 (c) Mental illness benefits.

4 (1) Covered benefits for mental health services set forth  
5 in this subsection shall be limited to coverage for  
6 diagnosis and treatment of mental disorders. All  
7 mental health services shall be provided under an  
8 individualized treatment plan approved by a physician,  
9 psychologist, licensed clinical social worker,  
10 marriage and family therapist, [~~or~~] advanced practice  
11 registered nurse, or licensed mental health counselor  
12 and [~~must~~] shall be reasonably expected to improve the  
13 patient's condition. An individualized treatment plan  
14 approved by a licensed clinical social worker,  
15 marriage and family therapist, [~~or~~] an advanced  
16 practice registered nurse, or licensed mental health  
17 counselor for a patient already under the care or  
18 treatment of a physician or psychologist shall be done  
19 in consultation with the physician or psychologist;

20 (2) In-hospital and nonhospital residential mental health  
21 services as a covered benefit under this chapter shall  
22 be provided in a hospital or a nonhospital residential

**.B. NO.**

1 facility. The services to be covered shall include  
2 those services required for licensure and  
3 accreditation[7] and shall be included as part of the  
4 covered in-hospital services as specified in  
5 subsection (a);

6 (3) Mental health partial hospitalization as a covered  
7 benefit under this chapter shall be provided by a  
8 hospital or a mental health outpatient facility. The  
9 services to be covered under this paragraph shall  
10 include those services required for licensure and  
11 accreditation and shall be included as part of the  
12 covered in-hospital services as specified in  
13 subsection (a); and

14 (4) Mental health outpatient services shall be a covered  
15 benefit under this chapter and shall be included as  
16 part of the covered outpatient services as specified  
17 in subsection (a)."

18 SECTION 5. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act shall take effect upon its approval.

**Report Title:**

Mental Health Counselors; Reimbursement; Sunset Review

**Description:**

Removes mental health counselors from sunset review schedule and removes requirement for repeal of law regulating mental health counselors. Makes mental health counselors eligible for reimbursement for mental health and alcohol and drug abuse treatment services.



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## Notes

### Chapter 1

1. U.S. National Mental Health Information Center, *Mental Health, United States, 2002*, U.S. Substance Abuse and Mental Health Services Administration, Department of Health and Human Services Publication No. SMA04-3938.
2. U. S. Bureau of Labor Statistics, *Occupational Outlook Handbook 2008-09 Edition*, [www.bls.gov/oco](http://www.bls.gov/oco).
3. U.S. National Mental Health Information Center, op. cit., p. 16.
4. American Mental Health Counselors Association, *Affect Public Policy*, [www.amhca.org/policy/](http://www.amhca.org/policy/)
5. National Board for Certified Counselors, *Statistics*, [www.nbcc.org/stats](http://www.nbcc.org/stats)
6. See, Hawai'i, The Auditor, *Sunrise Analysis of a Proposal to Regulate Professional Mental Health Counselors and Professional Rehabilitation Counselors*, Report No. 99-21, Honolulu, August 1999; *Sunrise Analysis of a Proposal to Regulate Professional Counselors*, Report No. 92-23, Honolulu, November 1992; and *Sunrise Analysis of a Proposal to Regulate Professional Counselors*, Report.No. 88-17, Honolulu, November 1988.
7. The decree, approved by U. S. District Court, required the State to create a system of care to provide necessary educational and mental health services to qualified handicapped children. See, Hawai'i, The Auditor, *Follow-Up and Management Audit of the Felix Consent Decree*, Honolulu, Report No. 01-16, December, 2001.
8. Section 453D-1, HRS.

### Chapter 2

1. U. S. National Mental Health Information Center, *Mental Health, United States, 2002*, U. S. Substance Abuse and Mental Health Services Administration, Department of Health and Human Services Publication No., SMA04-3938.

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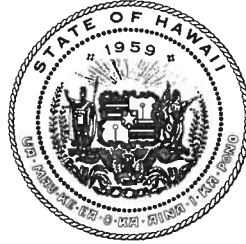
## Responses of the Affected Agency

### **Comments on Agency Response**

We submitted a draft copy of this report to the Department of Commerce and Consumer Affairs on March 12, 2008. As required under Section 26H-5(d), Hawai'i Revised Statutes, we gave the department 30 days to review and comment on the report. A copy of the transmittal letter to the department is included as Attachment 1. The department opted not to provide a response.



STATE OF HAWAII  
**OFFICE OF THE AUDITOR**  
465 S. King Street, Room 500  
Honolulu, Hawaii 96813-2917



MARION M. HIGA  
State Auditor

(808) 587-0800  
FAX: (808) 587-0830

March 12, 2008

*COPY*

The Honorable Lawrence M. Reifurth, Director  
Department of Commerce and Consumer Affairs  
King Kalakaua Building  
335 Merchant Street  
Honolulu, Hawaii 96813

Dear Mr. Reifurth:

Enclosed for your information are three copies, numbered 6 to 8, of our confidential draft report, *Sunset Evaluation Report: Mental Health Counselors*. We ask that you telephone us by Friday, March 14, 2008, on whether or not you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit them no later than Thursday, April 10, 2008.

The Governor, and presiding officers of the two houses of the Legislature have also been provided copies of this confidential draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marion M. Higa".

Marion M. Higa  
State Auditor

Enclosures