

OVERVIEW

THE AUDITOR
STATE OF HAWAII

Sunrise Analysis of Two Proposals to Regulate Nutritionists

Summary

We analyzed whether nutritionists should be regulated as proposed in Senate Bill No. 1499 and House Bill No. 966 introduced during the 1995 Regular Session. We concluded that regulation is not warranted and the proposed measures are flawed.

The terms "nutritionist" and "dietitian" are often used interchangeably. Nutritionists and dietitians plan nutrition programs, supervise meal preparation, help prevent and treat illness, and promote healthy eating through education and research. They evaluate people's diets and suggest appropriate modifications. They also direct food services for hospitals, schools, and other institutions. Some teach in academic settings.

The American Dietetic Association is the major professional organization. The association's Commission on Dietetic Registration awards the title of registered dietitian to persons who meet academic and experience requirements and pass a certification examination.

Senate Bill No. 1499 and House Bill No. 966 would regulate the use of certain titles. With some exceptions, unless licensed as a nutritionist by the State, no one could lawfully engage in the practice of nutrition and dietetics and use the title "nutritionist," "licensed nutritionist," or any other designation that would indicate or imply that the person is a nutritionist.

The bills create a seven-member Board of Examiners in Nutrition and Dietetics. License applicants would be required to meet certain academic and experience requirements and pass a board examination, unless the applicant is licensed by endorsement. Endorsement would be available to anyone licensed as a nutritionist or dietitian in another state with requirements equivalent to Hawaii's, or credentialed as a registered dietitian by the Commission on Dietetic Registration, or certified and registered by any other organization that represents equivalent competency and is sanctioned by the board.

Hawaii's Sunset Law says that professions and vocations should be regulated only when reasonably necessary to protect the health, safety, and welfare of consumers. In assessing the need for regulation, evidence of abuses must be given great weight. The Auditor also must consider the cost of regulation to taxpayers.

The regulation of nutritionists is not warranted. We found little documented evidence of abuse or harm to the public by nutrition practitioners. Evidence from testimony and interviews was anecdotal. Furthermore, examples of "documented harm" offered in a recent report by the Department of Health do not clearly demonstrate that the alleged harm was caused by nutritionists or by persons representing themselves as nutritionists.

Furthermore, many protections are already in place to protect the public in matters of nutrition. For example, most nutritionists work for organizations such as hospitals that evaluate their qualifications before hiring. Also, registered dietitians—who account for most of the nutritionists in Hawaii—must follow the Code of Ethics of the American Dietetic Association or face disciplinary action by the association.

Regulation would bring uncertain benefits to the public and would be costly. For example, if the regulatory program were assigned to the Department of Commerce and Consumer Affairs, a start-up appropriation of about \$60,000, and possibly more than \$100,000, would be required. Application/license fees to support the program could run from about \$600 to nearly \$4,000 per person depending on such factors as how many of Hawaii's more than 300 dietitians and nutritionists choose to be licensed.

In addition, both Senate Bill No. 1499 and House Bill No. 966 are flawed. The bills establish a confusing regulatory scheme that would be difficult to implement. Enforcement officials would have to determine whether the individual was engaged in nutrition and dietetics practice, not an easy task given the broad definitions in the bills. Furthermore, the bills favor the interests of registered dietitians at the expense of other members of the nutrition community, who could be put out of business by the proposed law. Also, the composition of the proposed licensing board lacks a proper balance of consumers and professionals.

Recommendations and Response

We recommend that Senate Bill No. 1499 and House Bill No. 966 not be enacted.

The Department of Commerce and Consumer Affairs says it echoes our concerns regarding flaws in the proposed form of regulation. It says such flaws would make for "a possibly unfair, inequitable, problematic and inconsistent licensing process."

The Department of Health says there is agreement with the general findings of the report. The department also raises several questions about our methodology, sources, and other issues which we address in our comments on agency responses.

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