



Office of the Auditor
465 S. King Street
Rm. 500
Honolulu, HI 96813
Ph. (808) 587-0800

Jan K. Yamane
Acting State Auditor
State of Hawai'i

**Professional
and vocational
regulations are
to be eliminated
if they have no
further benefits to
consumers.**

**—Hawai'i sunset law,
Section 26H-2, HRS**

Sunset Evaluation: Respiratory Therapists

Report No. 15-08, June 2015

Regulation of respiratory therapists benefits consumers but program could be improved

The *Hawai'i Regulatory Licensing Reform Act*, Chapter 26H, HRS, establishes policies for regulating certain professions and vocations and schedules the repeal of newly enacted occupational regulatory programs. It also requires the Auditor to evaluate each board, commission, and regulatory program prior to its repeal date. We evaluated the regulation of respiratory therapists under Chapter 466D, HRS (*Respiratory Therapists*), which is scheduled for repeal on June 30, 2016.

Regulation of respiratory therapists complies with statutory criteria, continues to benefit consumers, and is warranted

We found that continued state regulation of respiratory therapists is warranted because key statutory criteria have been fulfilled. Regulation of respiratory therapists is reasonably necessary to protect the health and safety of consumers. Licensure, the strictest form of state regulation, is consistent with other health-related occupations (such as doctors, nurses, and others) and is warranted because consumers' health and safety may be jeopardized by the nature of services offered by respiratory therapists—some of which are invasive and potentially hazardous. Furthermore, the cost of respiratory therapy services to consumers has not been increased by the regulation of respiratory therapists; regulation has not unreasonably restricted entry into the profession by qualified persons; and fees appear to be covering the cost of the regulatory program. We conclude that regulation of respiratory therapists has benefits to consumers and should continue. In addition, every state except Alaska regulates respiratory therapists. We recommend that Section 26H-4, HRS, be amended to rescind the repeal of Chapter 466D, HRS.

Department should improve the respiratory therapists program

The Department of Commerce and Consumer Affairs could make several improvements to the respiratory therapist program's operations. Specifically, it should determine whether the program is breaking even, better document its review of applicants' qualifications, amend the license application to remove an overly broad question and correct a technical statutory reference, adopt administrative rules for the program and consider adding program fees to existing administrative rules, improve the program's website, and amend the Regulated Industries Complaints Office form to include respiratory therapists.

Agency response

The department agreed with most of our recommendations and supports the continued regulation of respiratory therapists. It disagreed with our recommendation to request information concerning only prior convictions related to respiratory care, stating it is in the interest of public protection to consider convictions outside the profession. The department also disagreed with our recommendation to improve the program's website by adding a clear link to the program's fees, saying it believes applicants already have clear and direct access to application forms, which include fee information.