

# Sunrise Analysis: Regulation of Community Health Workers

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

**Report No. 22-08**  
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**OFFICE OF THE AUDITOR**  
STATE OF HAWAII



## OFFICE OF THE AUDITOR STATE OF HAWAII

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We report our findings and make recommendations to the Governor and the Legislature to help them make informed decisions.

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## Foreword

Our Sunrise Analysis of the Regulation of Community Health Workers was conducted pursuant to Senate Concurrent Resolution No. 2, Senate Draft 1 (2022 Regular Session), which requested the Auditor to conduct a sunrise review of the licensure and regulation of community health workers as proposed under Senate Bill No. 2882, also introduced during the 2022 Regular Session. Senate Bill No. 2882 proposes a regulatory framework that includes the creation of a licensing board and requirements for licensure.

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State Auditor

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## Sunrise Analysis: Regulation of Community Health Workers

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**C**OMMUNITY HEALTH WORKERS connect underserved communities with programs and services that impact health outcomes, addressing factors such as access to medical care, housing, and nutritious food. Some work in medical facilities, coordinating care or helping patients follow doctor’s orders, as noted in legislation introduced in 2022. Community health work is not limited to clinical settings, however; those we interviewed told us health insurance providers, prisons, schools, and homeless shelters also employ community health workers. Some community health workers simply say they work where they are needed, which may involve helping people apply for Medicaid or nutrition assistance on one day, then cleaning a kūpuna’s house on the next. As a recruitment facilitator for a statewide training program described, community health workers are translators – of language, culture, and bureaucracy – helping others navigate healthcare and social service systems.

During the COVID-19 pandemic, community health workers were tapped to bridge cultural and language gaps to bring important health information to hard-to-reach populations, such as those who live in

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**The threshold issue for determining if regulation is warranted is whether the regulation is reasonably necessary to protect “health, safety, or welfare.”**

**–Section 26H-2(1), HRS**

rural and remote areas or have limited English proficiency. Senate Bill No. 2882, introduced in the 2022 legislative session, would regulate the community health worker profession, requiring certification of the workforce.

Under the Hawai‘i Regulatory Licensing Reform Act, the Office of the Auditor must assess whether proposed regulation and licensing of professions is reasonably necessary to protect consumers’ health, safety, or welfare. The law makes clear that the purpose of regulation – whether full licensure or other restrictions – is to protect the public’s welfare, “not that of the regulated profession or vocation.” We found, as written, Senate Bill No. 2882 does not identify risks to public welfare as cause to regulate the workforce; instead, its stated intent is to “recognize the work and contributions of community health workers in the State of Hawai‘i,” which is inconsistent with state policy relating to the regulation of new professions and vocations.

## Hawai‘i Regulatory Licensing Reform Act

Section 26H-6, Hawai‘i Revised Statutes (HRS), requires the Auditor to analyze any new regulatory measures being considered for enactment that would subject unregulated professions to licensing, certification, or some other regulatory oversight. The assessment “shall set forth the probable effects of the proposed regulatory measure and assess whether its enactment is consistent with the policies set forth in section 26H-2.” Senate Concurrent Resolution No. 2, Senate Draft 1 (2022 Regular Session), requested the Auditor to conduct a sunrise review on the certification and regulation of community health workers as proposed in Senate Bill No. 2882.<sup>1</sup>

The State of Hawai‘i regulates professions only when certain criteria are met, the protection of health, safety, or welfare chief among them. We found the services broadly defined in Senate Bill No. 2882 do not meet that standard as they pose no unreasonable risk to public health, safety, or welfare. Furthermore, the legislation is intended to recognize and improve conditions for community health workers, not protect consumer safety. The Hawai‘i Regulatory Licensing Reform Act, Chapter 26H, HRS, clearly states the purpose of regulation is to protect the public, not the regulated profession or vocation.

<sup>1</sup> Senate Concurrent Resolution No. 2, Senate Draft 1, requests the Auditor to conduct a sunrise review of the regulation of community health workers proposed in Senate Bill No. 2882. We note that the bill was amended by two Senate committees during the 2022 legislative session and the most current version of the bill is Senate Bill No. 2882, Senate Draft 2. However, the amendments to the bill do not alter the provisions relevant for our assessment of the proposed regulation. For the purposes of this report, we have assessed the regulation as proposed in Senate Bill No. 2882, as we are requested to do in the concurrent resolution.



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## Definition of a Community Health Worker

There is no standard definition, scope of practice, or set of core competencies for a community health worker at the state or national level. The Centers for Disease Control and Prevention's National Center for Chronic Disease Prevention and Health Promotion describes community health workers as "frontline public health workers who are trusted members or have a particularly good understanding of the culture and language of the community served. Also known as promotoras and various other terms, [community health workers] are effective at connecting the community to needed health and social services and improving the quality and cultural competence of health service delivery."

Some states have adopted the American Public Health Association's definition for their policies: "A community health worker is a frontline public health worker who is a trusted member of and/or has an unusually close understanding of the community served. This trusting relationship enables the worker to serve as a liaison/link/intermediary between health/social services and the community to facilitate access to services and improve the quality and cultural competence of service delivery. A community health worker also builds individual and community capacity by increasing health knowledge and self-sufficiency through a range of activities such as outreach, community education, informal counseling, social support and advocacy."

Community health workers who spoke with the Office of the Auditor explained that there is no consensus on a single definition for the workforce; one called a community health worker a "jack-of-all-trades" while another described them as peers, "the aunties and uncles in our community people will go to for help." And, as the program coordinator for the statewide training program at Kapi'olani Community College explained, the various definitions of community health workers are so broad that some who fall under the classification have no idea they are community health workers at all. It might be clear to a lactation consultant for new mothers or someone who works out of a needle exchange van, for instance, but those who help people apply for housing or Supplemental Nutrition Assistance Program benefits might not recognize that they are considered community health workers.

Senate Bill No. 2882 defines community health worker as a person who:

1. Has expertise or experience in public health;
2. Works in an urban or rural community, either for pay or as a volunteer, in association with a local health care system, clinic, facility, or hospital;
3. To the extent practicable, provides cultural mediation among individuals, communities, and health and social service programs;
4. Provides culturally appropriate health education and information;
5. Advocates for individuals and communities;
6. Assists members of the community to improve their health and increases the capacity of the community to meet the health care needs of its residents and achieve wellness;
7. Provides care coordination, case management, and system navigation assistance;
8. Implements individual and community assessments;
9. Conducts outreach and participates in evaluations and research;
10. May give coaching, social support, peer counseling, and guidance on health behaviors; and
11. May provide direct services such as first aid or blood pressure screening.

The bill also requires that community health workers work in association with community-based organizations, local health care systems, facilities, clinics, or hospitals.<sup>2</sup>

As we are required to do, we assessed the proposed regulation of the profession defined in Senate Bill No. 2882.

## **Community Health Worker Workforce in Hawai‘i**

We were unable to determine how many community health workers are employed in Hawai‘i. Senate Bill No. 2882 states that there are “over two thousand community health workers actively engaging with local communities through community-based organizations, local health care

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<sup>2</sup> “No person shall practice community health work under this chapter except under the direct order of, or in association with, a community-based organization, local health care system, facility, clinic, or hospital.” Senate Bill No. 2882, § -4.

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facilities, clinics, or hospitals.” However, the U.S. Department of Labor’s Bureau of Labor Statistics estimated approximately 280 individuals were employed as “Community Health Workers” in Hawai‘i in a May 2021 report. The bureau noted that “Health Education Specialists” are excluded from the estimate and counted 230 health education specialists in a separate category.<sup>3</sup> Workers from both categories could be considered community health workers as defined in Senate Bill No. 2882.

While we could not identify a reason for these disparate figures, those we talked to suspect the number of community health workers in Hawai‘i might be in the hundreds rather than thousands. For perspective, the Hawai‘i Public Health Institute has a listserv for 200-300 community health workers and allies, and hosted an in-person conference in July 2022 that had about 200 attendees, including about 30 allies, such as those who offer community health worker training. Faculty for Kapi‘olani Community College’s Community Health Worker Training Program said that they have trained at least 130 individuals since 2019.

## **Community Health Worker and Public Health Organizations**

### **Hawai‘i Primary Care Association (HPCA)**

HPCA represents federally qualified health centers and has long included community health workers in its network. In testimony, HPCA supported the intent of Senate Bill No. 2882 but noted obstacles to regulation and concerns for existing community health workers: “These employees are key members of our teams. It would truly be unfortunate if in our mutual and sincere desire to promote the credentials of this profession, we inadvertently force many loyal, hardworking, and essential workers out of their jobs.”

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<sup>3</sup> Under the U.S. Bureau of Labor Statistics’ definition, community health workers “[p]romote health within a community by assisting individuals to adopt healthy behaviors. Serve as an advocate for the health needs of individuals by assisting community residents in effectively communicating with healthcare providers or social service agencies. Act as liaison or advocate and implement programs that promote, maintain, and improve individual and overall community health. May deliver health-related preventive services such as blood pressure, glaucoma, and hearing screenings. May collect data to help identify community health needs.”

The bureau states health education specialists “[p]rovide and manage health education programs that help individuals, families, and their communities maximize and maintain healthy lifestyles. Use data to identify community needs prior to planning, implementing, monitoring, and evaluating programs designed to encourage healthy lifestyles, policies, and environments. May link health systems, health providers, insurers, and patients to address individual and population health needs. May serve as resource to assist individuals, other health professionals, or the community, and may administer fiscal resources for health education programs.”

### **Hawai‘i Public Health Institute (HIPHI)**

HIPHI has a community health worker initiative and has convened a network of community health workers since 2018. About 200 community health workers and allies attended an in-person conference in July 2022. HIPHI submitted comments on Senate Bill No. 2882, expressing support for the intent of the legislation but listing concerns about its current form. “At this time we would prefer the certification program be optional for [community health workers] and for employers to decide if they will require certification,” HIPHI’s testimony stated. HIPHI noted the long-term goal for many community health workers is for their services to be reimbursable.

### **American Public Health Association (APHA)**

APHA’s definition of a community health worker supports a breadth of community health worker services:

“A community health worker is a frontline public health worker who is a trusted member of and/or has an unusually close understanding of the community served. This trusting relationship enables the worker to serve as a liaison/link/intermediary between health/social services and the community to facilitate access to services and improve the quality and cultural competence of service delivery.

“A community health worker also builds individual and community capacity by increasing health knowledge and self-sufficiency through a range of activities such as outreach, community education, informal counseling, social support and advocacy.”

APHA’s definition has been the model for other states, including Massachusetts, New Mexico, Oregon, Rhode Island, and Texas.

## **Objectives of the Study**

Assess the proposed regulation of community health workers under Senate Bill No. 2882 against the criteria for professional and vocational regulation provided in the Hawai‘i Regulatory Licensing Reform Act, Chapter 26H, HRS, including its probable effects and identifying alternative forms of regulation.

## **Methodology**

We reviewed articles, studies, reports, and other documents from the United States Department of Labor’s Bureau of Labor Statistics, the Centers for Disease Control and Prevention, the United States Department of Health and Human Services, and the National

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## Sunrise Assessment Criteria

**IN THIS SUNRISE REPORT**, we assess whether community health workers should be subject to regulation, as proposed in Senate Bill No. 2882. Under Section 26H-6, HRS, new regulatory measures being considered for enactment that, if enacted, would subject unregulated professions to licensing or other regulatory controls shall be referred to the Auditor for analysis. This analysis “shall set forth the probable effects of the proposed regulatory measure and assess whether its enactment is consistent with the policies set forth in section 26H-2.”

Section 26H-2, HRS, states:

**Policy.** *The legislature hereby adopts the following policies regarding the regulation of certain professions and vocations:*

- (1) The regulation and licensing of professions and vocations 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) Regulation in the form of 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) Professional and vocational regulations which 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) Professional and vocational 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 for regulation and licensure shall be imposed for all vocations and professions subject to regulation; provided that the aggregate of the fees for any given regulatory program shall not be less than the full cost of administering that program.*

*In addition, Section 26H-6, HRS, directs that the analysis also assess alternative forms of regulation.*

Association of Community Health Workers. We also examined other jurisdictions' regulatory schemes relating to community health workers. We interviewed staff at the Hawai'i Department of Health, Hawai'i Community Health Workers Association, Hawai'i Public Health Institute, and Kapi'olani Community College, as well as community health workers from O'ahu, Kaua'i, and Hawai'i Island. We also contacted the Hawai'i Office of Commerce and Consumer Protection, the Department of Commerce and Consumer Affairs Regulated Industries Complaint Office, and the Better Business Bureau. We conducted this study from May 2022 to July 2022 in accordance with Sections 26H-2 and 26H-6, HRS.

## **Assessment of Impact on Health, Safety, or Welfare**

We found no evidence that community health worker services, as defined in Senate Bill No. 2882, put consumers' health, safety, or welfare at risk. The services listed in Senate Bill No. 2882 include case work, peer counseling, education, research, and outreach, as well as direct services such as blood pressure screening and first aid. They do not include any direct medical treatment, aside from first aid.

Current community health workers told us liability concerns – their own and their employers' – prevent them from straying beyond what they are trained or authorized to do. Those we talked to explained their roles are distinct from other members of a clinical team. “We don't try to do the doctor's job. We don't try to do the nurse's job. We don't prescribe medicine. The state regulates all of that,” a community health worker from Hawai'i Island told us. A community health worker for a Native Hawaiian health care system on O'ahu described the work as roughly 90 percent social services and 10 percent talking to people about medical conditions, noting that the latter requires professional training first. She said when patients need medical treatment, community health workers refer them to their primary-care doctors or help them understand when they should call the emergency room. A Kaua'i-based community health worker added that they need to stay within the scope of what they are trained to do: “If we don't know the answer to that question, we refer them to someone who does.” For example, if someone needs help with Hawai'i Medicaid or Supplemental Nutrition Assistance Program benefits, they refer them to the Department of Human Services. For a behavioral health issue, they have them reach out to their case manager.

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## **Proposed regulation could push existing community health workers out of the field**

Community health workers and advocates who spoke with the Office of the Auditor did not feel that regulation is appropriate for the workforce defined in the bill, suggesting an optional certification process instead. The community health worker community, and their employers, are concerned that the legislation, in its current form, could inadvertently force existing community health workers out of the field and make recruitment from underserved communities a greater challenge. For instance, the bill states, “No person shall practice community health work under this chapter except under the direct order of, or in association with, a community-based organization, local health care system, facility, clinic, or hospital,” which has raised concerns about community health workers employed by health insurance providers, prisons, schools, and other community-based organizations. At minimum, the legislation needs to redefine the workforce and clarify the list of workplaces if regulation is going to apply to the entire profession, said a community health worker who works for a health insurance provider and recently completed a 16-credit training program through Kapi‘olani Community College.

Furthermore, while those we spoke with for this analysis are in favor of a process to recognize community health workers and allow them to bill health insurers for their services, they are concerned that the proposed regulation could push existing community health workers out of the field.

Stakeholders we spoke with prefer an optional certification path for those seeking health insurance reimbursement or who want to pursue higher positions. One community health worker suggested that if an education or certification requirement is necessary, the state might consider a tiered system, perhaps (1) on-the-job training, (2) formal training, (3) certification, (4) higher education. A community health worker instructor suggested a registry program with a nominal fee, akin to the Hawai‘i Food Handlers Card, which is more like a registration process to keep track of everyone and ensure they meet very basic requirements.

Based on the services listed in the bill and discussions with community health workers and trainers, we found mandatory certification is not reasonably necessary to protect the health, safety, or welfare of consumers of community health worker services. It is our conclusion that the community health worker workforce does not meet the threshold for professional and vocational regulation based on the criteria in Section 26H-2, HRS.



## Assessment of Evidence of Abuse

We were unable to obtain any evidence of abuse by community health workers, including complaints against community health workers. We asked the Office of Consumer Protection, the Department of Commerce and Consumer Affairs' Regulated Industries Complaints Office, and the Better Business Bureau if they had received complaints about community health workers. The Office of Consumer Protection did not respond to our query. The Better Business Bureau responded that no businesses are listed under the category "community health worker" and they could not locate complaints without specific business information. The Regulated Industries Complaints Office does not receive complaints about community health workers since they are not regulated.

## Assessment of Costs

The Department of Commerce and Consumer Affairs' Professional and Vocational Licensing Division said it would require at least three additional positions to administer the regulation of community health workers, including an executive officer and secretarial staff. The department provided the estimated costs to fund certain positions that might be needed:<sup>4</sup>

- Executive Officer/Regulatory Boards and Commissions  
Administrative Assistant I: \$55,200 (annual salary) + \$33,120 (fringe) = \$88,320
- Secretary II: \$41,000 (annual salary) + \$24,600 (fringe) = \$65,600
- Office Assistant V: \$38,004 (annual salary) + 22,802.40 (fringe) = \$60,806.40

It is our understanding that these positions would not be dedicated to administering the regulation of community health workers, if such regulation was to be enacted. Executive officers and administrative personnel often administer multiple professional and vocational licensing programs, i.e., multiple regulatory programs share these resources, but the Division Administrator said that existing staff does not have the capacity to take on this work and requesting additional positions would likely be the only option.

The Department of Commerce and Consumer Affairs was unable to provide fees for licensure but speculated they could be more than

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<sup>4</sup> The Department of Commerce and Consumer Affairs' Licensing Administrator stated the department would need to request three additional positions "at a minimum" to administer the regulation of community health workers. However, in a follow-up email, the administrator provided the cost estimates for four positions, including an Office Assistant IV and an Office Assistant V. For clarity, we used the estimate for the higher paid office assistant position.

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\$1,000 to cover overhead.<sup>5</sup> The department’s testimony on Senate Bill No. 2882 noted the costs to community health workers seeking certification could be significant and questioned whether all would be able to afford it.

## **Assessment of Impact to Access of Profession**

Under Senate Bill No. 2882, there are two paths to certification as a community health worker: completion of a community health worker program through the University of Hawai‘i or its community college system, or, alternatively, 3,000 hours of work as a supervised traditional health worker,<sup>6</sup> whether voluntary or for pay.

We heard some concerns about the cost of training and its availability statewide but community health workers we spoke with said they did not consider these to be unreasonable barriers to entering the profession. Kapi‘olani Community College is currently the only campus offering a training program in Hawai‘i but its program coordinator said the curriculum could be offered statewide as long as funding is available through tuition or grants. For instance, a federal grant allowed training to be offered statewide in 2018, which enabled a community health worker we spoke with to complete training on Kaua‘i.

Community health workers and advocates caution that some community health workers may not have the prerequisites needed to qualify for a program at the community college level, pointing out that they are valued for their understanding of the culture of those they serve with and may share similar characteristics. Not all have a high school diploma or English proficiency, for example, which could make recruiting new community health workers from under-resourced populations difficult. The Hawai‘i Public Health Institute’s testimony on Senate Bill No. 2882 stated a preference for the certification program to be optional for community health workers, letting employers decide whether to require certification.<sup>7</sup> The institute also pointed out that community health workers tend to be paid less than traditional health care workers, which could make certification a financial hardship.

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<sup>5</sup> The Hawai‘i Regulatory Licensing Reform Act requires that a fee be imposed on all professions and vocations subject to state regulation and that the aggregate amount of the fees for any given regulatory program “shall not be less than the full cost of administering that program.”

<sup>6</sup> Senate Bill No. 2882 defines a “traditional health worker” as a (1) community health worker; (2) personal health navigator, (3) certified peer specialist, or (4) doula.

<sup>7</sup> As we have noted throughout, it is the state’s policy, clearly articulated in Section 26H-2, HRS, that “regulation or licensing of professions and vocations shall be undertaken only where reasonably necessary to protect the health, safety, or welfare of consumers of the services.”



**“There is no empirical evidence showing that CHWs [community health workers] with certification perform their job better than CHWs without certification.”**

**– Centers for Disease Control and Prevention**

We acknowledge these concerns but do not believe they create an unreasonable barrier for those who wish to become community health workers. However, we note there may be potential obstacles for existing community health workers. For instance, other jurisdictions offer educational programs for their community health workers that would not be recognized in Hawai‘i under the proposed regulatory scheme. And community health workers who have already completed training in Hawai‘i relayed concerns that prior training may not count toward certification, requiring them to return to school to remain in the profession.

## Alternate Forms of Regulation

The Hawai‘i Regulatory Licensing Reform Act requires our office to assess alternative forms of regulation. We did not find a regulatory scheme comparable to that proposed in Senate Bill No. 2882, as no other jurisdiction has moved to require a certification program for its entire community health worker population. Instead, we offer a brief overview of what other states have done to support their community health workers and suggestions from Hawai‘i’s community health workers and advocates, noting that Chapter 26H does not appear to support “voluntary” certification.

According to the Centers for Disease Control and Prevention (CDC), as of July 2018, nine states had implemented a voluntary statewide community health worker certification process (Arizona, Florida, Indiana, Massachusetts, New Mexico, Ohio, Oregon, Rhode Island, and Texas). Other states are considering different strategies to promote workforce development, such as increasing opportunities for community health worker training and making the financing of community health worker positions sustainable. According to the CDC, “There is no empirical evidence showing that CHWs [community health workers] with certification perform their job better than CHWs without certification. Certification is not seen by the field as a prerequisite for CHW practice, as the core CHW functions of relationship- and trust-building involve skills and traits that are not easily taught.”

Instead of regulation, more than a dozen states have defined the scope of practice for community health workers or specified community health worker roles, responsibilities, and functions for specific health conditions. Other states require certification under certain conditions. For instance, Indiana requires certification from the Division of Mental Health and Addiction for community health workers who assist individuals with serious mental illness through a Medicaid state plan. New Mexico allows community health workers to be certified at a generalist or specialist level; specialty areas include basic clinical

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support skills, heart health, chronic disease, behavioral health, maternal and child health, and developmental disabilities.

## **Conclusion**

The Hawai‘i Regulatory Licensing Reform Act requires that professions should be regulated only when reasonably necessary to protect the health, safety, or welfare of consumers of their services. Furthermore, the law states that “the purpose of regulation shall be the protection of the public welfare and not that of the regulated profession or vocation.” Senate Bill No. 2882 appears intended to benefit the profession, recognizing the important work community health workers perform to help individuals navigate medical and social service systems and live healthier lifestyles; it does not suggest that regulation is needed for consumer protection, and we do not believe that the types of services in the bill for which certification would be required are such that reasonably endanger the health, safety, or welfare of those benefiting from the services.

