



GOV. MSG. NO. 1224

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 22, 2016

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 22, 2016, the following bill was signed into law:

SB2670 HD1 CD1

RELATING TO BEHAVIOR ANALYSTS
ACT 123 (16)

Sincerely,

A handwritten signature in black ink that reads "David Y. Ige".

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO BEHAVIOR ANALYSTS.

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

1 SECTION 1. The legislature finds that licensure for the
2 practice of behavior analysis in Hawaii is needed for the
3 public's health, safety, and welfare. Act 199, Session Laws of
4 Hawaii 2015, codified as chapter 465D, Hawaii Revised Statutes,
5 established standards for the licensing of behavior analysts to
6 address the present and critical need to ensure that persons
7 requiring diagnosis and treatment for autism receive the care
8 they need. Act 199 recognized that behavior analysts and the
9 practice of behavior analysis should be subject to regulation
10 and control to protect the public from unqualified practitioners
11 and from unprofessional conduct. Additionally, health insurance
12 plans in the State will only provide reimbursement for services
13 from behavior analysts who are licensed in the State. The
14 legislature finds that licensure of behavior analysts is
15 necessary for both client protection and access to services.

16 Current licensure requirements exempt registered and
17 credentialed behavior technician paraprofessionals who, under
18 the direction of a licensed behavior analyst implement behavior



1 plans designed and developed by the licensed behavioral analyst.
2 The legislature finds that there are currently more than three
3 hundred individuals in the State who receive behavior
4 intervention services from paraprofessional providers who
5 implement behavior plans developed by behavioral specialists
6 through the State's Developmental Disabilities Medicaid Waiver
7 program. While ensuring the provision of quality services by
8 properly trained providers is of the utmost importance, the
9 State's current credentialed workforce is inadequate to meet
10 present needs. If current, non-credentialed providers are
11 unable to continue to serve their clients, hundreds of Medicaid
12 waiver recipients will face withdrawal of care and may become
13 at-risk for self-harm or harm to others.

14 Thus, policies that ensure that a qualified workforce can
15 continue to provide necessary behavior interventions for
16 Medicaid waiver recipients while simultaneously facilitating
17 efforts to build an adequate workforce of credentialed
18 paraprofessionals and licensed professionals to implement
19 behavior plans are imperative.

20 Initial costs for behavior analyst licensure and annual
21 fees to maintain this license can total over \$1,000, which can



1 be a significant expenditure for behavior analysts, many of whom
2 are paid hourly with minimal benefits. Reducing the surcharge
3 on the license and renewal fee will ease the financial burden of
4 behavior analyst licensing, thereby encouraging the licensure of
5 behavior analysts and increasing the number of licensed behavior
6 analysts available to the public.

7 The purpose of this Act is to ensure that behavioral
8 services continue to be available for clients who depend on them
9 while facilitating the long-term development of an adequate
10 professional and paraprofessional workforce by:

- 11 (1) Reducing the surcharge for behavior analyst licensing
12 from \$100 to \$50; and
13 (2) Enabling the continued availability of necessary
14 behavior intervention services for Medicaid waiver
15 recipients.

16 SECTION 2. Section 465D-6, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Upon issuance of a new license and at each license
19 renewal period, each behavior analyst shall pay, in addition to
20 a license fee or renewal fee, a surcharge of [~~\$100,~~] \$50, which
21 shall be maintained in a separate account within the compliance



1 resolution fund established pursuant to section 26-9(o). At the
2 end of each quarter, the moneys contained in the separate
3 account established pursuant to this section shall be
4 transferred to the compliance resolution fund until such time
5 that the total transferred amounts equal the amount appropriated
6 in section 5 of Act 199, Session Laws of Hawaii 2015.
7 Thereafter, no surcharge shall be assessed, and any funds in
8 excess of the amount appropriated in section 5 of Act 199,
9 Session Laws of Hawaii 2015, shall be deposited into the
10 compliance resolution fund."

11 SECTION 3. Section 465D-7, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) This chapter is not intended to restrict the practice
14 of other licensed or credentialed healthcare practitioners
15 practicing within their own recognized scopes of practice and
16 shall not apply to:

17 (1) An individual working within the scope of practice or
18 duties of another licensed profession that overlaps
19 with the practice of behavior analysis; provided that
20 the person does not purport to be a behavior analyst;



- 1 (2) An individual who implements or designs applied
2 behavior analysis services and possesses board
3 certification as an assistant behavior analyst by the
4 Behavior Analyst Certification Board and who practices
5 in accordance with the most recent supervisory and
6 ethical requirements adopted by the Behavior Analyst
7 Certification Board under the direction of a behavior
8 analyst licensed in this State;
- 9 (3) An individual who directly implements applied behavior
10 analysis services [~~is~~] and:
- 11 (A) Is credentialed as a registered behavior
12 technician by the Behavior Analyst Certification
13 Board, and is under the direction of a behavior
14 analyst licensed in this State; or
- 15 (B) Is a direct support worker who provides medicaid
16 home and community-based services pursuant to
17 section 1915(c) of the Social Security Act on or
18 before January 1, 2019;
- 19 For purposes of this paragraph, "direct support
20 worker" means a paraprofessional who directly
21 implements intervention or assessment plans under



- 1 supervision and does not design intervention or
2 assessment plans;
- 3 (4) A family member implementing an applied behavior
4 analysis plan within the home who acts under the
5 direction of a behavior analyst licensed in this
6 State;
- 7 (5) An individual who engages in the practice of behavior
8 analysis with nonhuman or nonpatient clients or
9 consumers including but not limited to applied animal
10 behaviorists and practitioners of organizational
11 behavior management;
- 12 (6) A matriculated graduate student or postdoctoral fellow
13 whose activities are part of a defined behavior
14 analysis program of study, practicum, or intensive
15 practicum; provided that the student's or fellow's
16 activities or practice is directly supervised by a
17 behavior analyst licensed in this State or an
18 instructor in a Behavior Analyst Certification Board-
19 approved course sequence; or
- 20 (7) An individual pursuing experience in behavior analysis
21 consistent with the Behavior Analyst Certification

1 Board's experience requirements; provided that the
2 experience is supervised by a behavior analyst
3 licensed in this State."

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval;
7 provided that section 3 shall apply retroactive to January 1,
8 2016.

APPROVED this 22 day of JUN, 2016



GOVERNOR OF THE STATE OF HAWAII