
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



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

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



1 Initial costs for behavior analyst licensure and annual
2 fees to maintain this license can total over \$1,000, which can
3 be a significant expenditure for behavior analysts, many of whom
4 are paid hourly with minimal benefits. Reducing the surcharge
5 on the license and renewal fee will ease the financial burden of
6 behavior analyst licensing, thereby encouraging the licensure of
7 behavior analysts and increasing the number of licensed behavior
8 analysts available to the public.

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

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

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

20 "(a) Upon issuance of a new license and at each license
21 renewal period, each behavior analyst shall pay, in addition to



1 a license fee or renewal fee, a surcharge of [~~\$100,~~ \$50, which
2 shall be maintained in a separate account within the compliance
3 resolution fund established pursuant to section 26-9(o). At the
4 end of each quarter, the moneys contained in the separate
5 account established pursuant to this section shall be
6 transferred to the compliance resolution fund until such time
7 that the total transferred amounts equal the amount appropriated
8 in section 5 of Act 199, Session Laws of Hawaii 2015.
9 Thereafter, no surcharge shall be assessed, and any funds in
10 excess of the amount appropriated in section 5 of Act 199,
11 Session Laws of Hawaii 2015, shall be deposited into the
12 compliance resolution fund."

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

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

19 (1) An individual working within the scope of practice or
20 duties of another licensed profession that overlaps



- 1 with the practice of behavior analysis; provided that
2 the person does not purport to be a behavior analyst;
- 3 (2) An individual who implements or designs applied
4 behavior analysis services and possesses board
5 certification as an assistant behavior analyst by the
6 Behavior Analyst Certification Board and who practices
7 in accordance with the most recent supervisory and
8 ethical requirements adopted by the Behavior Analyst
9 Certification Board under the direction of a behavior
10 analyst licensed in this State;
- 11 (3) An individual who directly implements applied behavior
12 analysis services [~~is~~] and:
- 13 (A) Is credentialed as a registered behavior
14 technician by the Behavior Analyst Certification
15 Board, and is under the direction of a behavior
16 analyst licensed in this State; or
- 17 (B) Is a direct support worker who provides medicaid
18 home and community-based services pursuant to
19 section 1915(c) of the Social Security Act on or
20 before January 1, 2019;



1 For purposes of this paragraph, "direct support
2 worker" means a paraprofessional who directly
3 implements intervention or assessment plans under
4 supervision and does not design intervention or
5 assessment plans;

6 (4) A family member implementing an applied behavior
7 analysis plan within the home who acts under the
8 direction of a behavior analyst licensed in this
9 State;

10 (5) An individual who engages in the practice of behavior
11 analysis with nonhuman or nonpatient clients or
12 consumers including but not limited to applied animal
13 behaviorists and practitioners of organizational
14 behavior management;

15 (6) A matriculated graduate student or postdoctoral fellow
16 whose activities are part of a defined behavior
17 analysis program of study, practicum, or intensive
18 practicum; provided that the student's or fellow's
19 activities or practice is directly supervised by a
20 behavior analyst licensed in this State or an



1 instructor in a Behavior Analyst Certification Board-
2 approved course sequence; or
3 (7) An individual pursuing experience in behavior analysis
4 consistent with the Behavior Analyst Certification
5 Board's experience requirements; provided that the
6 experience is supervised by a behavior analyst
7 licensed in this State."

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

10 SECTION 5. This Act shall take effect on July 1, 2112;
11 provided that section 3 shall apply retroactive to January 1,
12 2016.



Report Title:

Licensing; Behavior Analysis; License and Renewal Fee

Description:

Reduces the surcharge on the license and renewal fee for behavior analysts from \$100 to \$50. Temporarily exempts from the licensing requirements for the practice of behavior analysis direct support workers who provide Medicaid home and community-based services pursuant to the Social Security Act through January 1, 2019. (SB2670 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

