

STAND. COM. REP. NO. 1296-16

Honolulu, Hawaii

March 24, 2016

RE: S.B. No. 1311  
S.D. 2  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committees on Health and Consumer Protection & Commerce, to which was referred S.B. No. 1311, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

beg leave to report as follows:

The purpose of this measure is to specify that a licensed or credentialed educational or healthcare practitioner practicing within the practitioner's own recognized scope of practice is exempt from chapter 465D, Hawaii Revised Statutes (HRS), which includes the licensure requirements of behavior analysts.

The Department of Education testified in support of this measure. The State Council on Developmental Disabilities testified in support of this measure with amendments. The Hawaii State Teachers Association, Keiki Educational Consultants, Inc., Hawaii School Counselor Association, Hawaii Association for Behavior Analysis, and numerous individuals opposed this measure. The Department of Health, Special Education Advisory Council, Hawaii Disability Rights Center, and an individual commented on this measure.

Upon consideration, your Committees have amended this measure by:

- (1) Broadening the exemptions from chapter 465D, HRS, to specify that a licensed or credentialed practitioner, rather than a licensed or credentialed educational or

SB1311 HD1 HSCR HLT-CPC HMS 2016-2889



healthcare practitioner, practicing within the practitioner's own recognized scope of practice is exempt from chapter 465D, HRS;

- (2) Temporarily exempting from the licensing requirements for the practice of behavior analysis, direct support workers who provide autism treatment services pursuant to an Individualized Education Plan (IEP) on or before January 1, 2019;
- (3) Exempting from the licensing requirements for the practice of behavior analysis, a family member or legal guardian implementing an applied behavior analysis plan and who acts under the direction of a behavior analyst licensed in this State;
- (4) Defining "direct support worker";
- (5) Requiring the Department of Education to submit a report to the Legislature prior to the Regular Sessions of 2017 and 2018 on its plans and progress in implementing measures to comply with the licensure and certification requirements of chapter 465D, HRS;
- (6) Changing its effective date to July 1, 2012, to facilitate further discussion; and
- (7) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Should this measure proceed further in the legislative process, your Committees respectfully request that:

- (1) The Department of Education report to the Committee on Finance on:
  - (A) The numbers of Board certified behavior analysts and registered behavior technicians currently employed by the Department of Education, including a breakdown by complex areas;
  - (B) The number of children with an Individualized Education Plan (IEP) in the State, how many of the IEPs have provisions for autistic services, and how many of the IEPs involved children with Medicaid;



- (C) A description of DOE contracts with third-party providers that provide autistic services and the timeline of the request for proposal (RFP) that has been issued for these contracts, including any amendments that have been issued to the RFP; and
  - (D) Information on the fiscal impact of the certification and licensure requirements of Chapter 465D, HRS; and
- (2) The Department of Human Services report to the Chairs of the Committees on Health, Human Services, Consumer Protection and Commerce, and Finance on the prohibitions within the State plan and Medicaid managed care plans that prohibit collaboration of Medicaid providers in developing IEPs for children who have Medicaid and receive autistic services through their Medicaid plans.

As affirmed by the records of votes of the members of your Committees on Health and Consumer Protection & Commerce that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1311, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1311, S.D. 2, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committees on Health and  
Consumer Protection & Commerce,



ANGUS L.K. MCKELVEY, Chair



DELLA AU BELATTI, Chair





