

Honolulu, Hawaii

APR 04 2018

RE: H.B. No. 2657  
H.D. 1  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,  
to which was referred H.B. No. 2657, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO BEHAVIOR ANALYSIS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify and standardize the terminology used to refer to behavior analysts and the practice of applied behavior analysis; and
- (2) Broaden and clarify the exemption of licensed or credentialed practitioners practicing within their own recognized scopes of practice who are already exempt from the Behavior Analyst Law.

Your Committee received testimony in support of this measure from the Department of Health; State Council on Developmental Disabilities; Board of Psychology; Hawai'i Psychological Association; Alaka'i Na Keiki, Inc.; Aloha Behavioral Associates; Arc of Kona; and one individual. Your Committee received testimony in opposition to this measure from three individuals. Your Committee received comments on this measure from the Regulated Industries Complaints Office of the Department of



Commerce and Consumer Affairs, Hawaii Medical Service Association, Hawai'i Association for Behavior Analysis, and two individuals.

Your Committee finds that the Department of Health's Developmental Disabilities Division operates Hawaii's Medicaid Intellectual and Developmental Disabilities Home and Community-Based Services Waiver (I/DD Waiver) on behalf of the Department of Human Services, Med-QUEST Division. Your Committee notes that the provision of applied behavior analysis services in the I/DD Waiver is for adults and is most often used for people with entrenched and challenging behaviors that include self-harm and aggression toward others.

Your Committee further finds that under existing law, the broad definition of the "practice of behavior analysis" has been interpreted to mean that even simple behavior interventions, including for adults without autism, require a licensed behavior analyst. Although the number of licensed behavior analysts is growing, there is a current shortage of licensed behavior analysts in the State. This lack of workforce, coupled with the shortage of licensed behavior analysts needed to supervise registered behavior technician training hours, has limited access to applied behavior analysis services for adults in the I/DD Waiver. Accordingly, this measure supports access to the necessary applied behavior analysis services for adults in the I/DD Waiver, while also maintaining appropriate quality assurance, participant safeguards, and participant rights.

Your Committee additionally finds that under existing law, well-qualified professionals have been unintentionally restricted from providing behavior analysis services to individuals with autism and other behavioral challenges. Such services include the well-established, two-tiered delivery model for applied behavior analysis-based autism treatment that has been routinely used in the field of psychology, in research and private practice, since the 1980s. This measure therefore clarifies psychologists' scope of practice, as it relates to behavior analysis.

Finally, your Committee has heard the concerns that existing law has unintentionally restricted the certification of assistants and behavior technicians to one certifying agency, although there are other national certifying agencies who are accredited by the American National Standards Institute or the National Commission



for Certifying Agencies. Amendments to this measure to address these concerns are therefore needed.

Your Committee has amended this measure by:

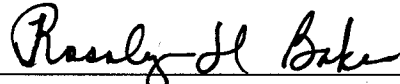
- (1) Clarifying the qualified individuals who work under the direction of certain licensed practitioners and who are exempt from licensure as a behavior analyst, to include:
  - (A) Assistant behavior analysts with board certification from a national certifying agency who practice under the direction of a licensed behavior analyst or licensed psychologist;
  - (B) Behavior technicians credentialed by a nationally recognized training organization who are under the direction of a licensed behavior analyst or licensed psychologist; and
  - (C) Matriculated graduate students or post-doctoral fellows whose activities or practice is directly supervised by a licensed behavior analyst, licensed psychologist, or instructor from a nationally recognized training organization;
- (2) Clarifying that the definition of "caregiver" includes individuals who provide habilitative services, rather than rehabilitative services, in certain care settings;
- (3) Removing a restriction under existing law that prevented licensed psychologists, engaged in the practice of applied behavior analysis within the recognized scope of practice for licensed psychologists, from referring to themselves as behavior analysts; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2657, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached



hereto as H.B. No. 2657, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

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



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ROSALYN H. BAKER, Chair



