

Honolulu, Hawaii

MAR 01 2018

RE: S.B. No. 2496  
S.D. 1

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

Sir:

Your Committees on Commerce, Consumer Protection, and Health and Human Services, to which was referred S.B. No. 2496 entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Exempt from licensure requirements for behavior analysts certain individuals who implement applied behavior analysis services or plans under the oversight or direction of others; and
- (2) Update and standardize the terminology used to refer to behavior analysts.

Your Committees received testimony in support of this measure from the Department of Health, Department of Human Services, Special Education Center of Hawaii, Hawaii Waiver Providers Association, Hawai'i Psychological Association, Lanakila Pacific, Full Life, Easter Seals Hawaii, The Arc of Kona, The Arc in Hawaii, Goodwill Industries of Hawaii, and thirty-one individuals. Your Committees received testimony in opposition to this measure from the Hawaii State Teachers Association; Hawaii Disability Rights Center; Autism Behavior Consulting Group Hawaii; Aloha Behavioral Associates, LLC; Hawai'i Association for Behavior Analysis; and one hundred thirteen individuals. Your Committees



received comments on this measure from the Department of the Attorney General, Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs, and Hawaii Medical Service Association.

Your Committees find 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 Committees note that the provision of applied behavior analysis services in the I/DD Waiver is only for adults and is most often used for people with entrenched and challenging behaviors that include self-harm and aggression toward others.

According to testimony received by your Committees, the broad definition of the practice of behavior analysis has been interpreted to mean 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 behavior analysis services for adults in the I/DD Waiver, who generally have high-end behaviors that require staff-intensive approaches. Accordingly, your Committees further find that 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 Committees have amended this measure by:

- (1) Clarifying that an individual who designs or implements applied behavior analysis services to participants in the Medicaid Home and Community-Based Services Waiver program pursuant to section 1915(c) of the Social Security Act on or before January 1, 2024, shall be exempt from behavior analyst licensure;
- (2) Clarifying that a family member, legal guardian, or caregiver implementing an applied behavior analysis plan

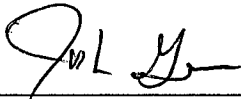


and who acts under the direction of a licensed behavior analyst or Hawaii-licensed psychologist shall be exempt from licensure;

- (3) Inserting a definition of "caregiver"; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection, and Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2496, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2496, S.D. 1, and be placed on the calendar for Third Reading.

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



---

JOSH GREEN, Chair



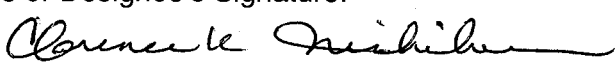
---

ROSALYN H. BAKER, Chair



The Senate  
Twenty-Ninth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce, Consumer Protection, and Health**  
**CPH**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2496	CPH / HMS	02/05/18		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
TOKUDA, Jill N. (VC)				/
CHANG, Stanley	/			
ESPERO, Will				/
IHARA, Jr., Les	/			
NISHIHARA, Clarence K.	/			
RUDERMAN, Russell E.				/
<b>TOTAL</b>	<b>4</b>			<b>3</b>
Recommendation:				
<input checked="" type="checkbox"/> Adopted <span style="margin-left: 200px;"><input type="checkbox"/> Not Adopted</span>				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

\*Only one measure per Record of Votes

