

STAND. COM. REP. NO.

2641

Honolulu, Hawaii

MAR 02 2018

RE: S.B. No. 2925
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 Education and Commerce, Consumer Protection, and Health, to which was referred S.B. No. 2925 entitled:

"A BILL FOR AN ACT RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify the scope of licensure for individuals engaged in the practice of behavior analysis in a school setting; and
- (2) Broaden the licensing exemption for direct support workers who provide behavior analysis services in schools.

Your Committees received testimony in support of this measure from the Department of Education; Hawai'i Psychological Association; Hawai'i Association for Behavior Analysis; Alaka'i Na Keiki, Inc.; Hawaii Government Employees Association, AFSCME Local 152; AFL-CIO; National Association of Social Workers, Hawai'i Chapter; and numerous individuals. Your Committees received testimony in opposition to this measure from the Hawaii State Teachers Association; Hawaii Disability Rights Center; Aloha Behavioral Associates, LLC; and two individuals. Your Committees



received comments on this measure from the Department of Commerce and Consumer Affairs Regulated Industries Complaint Office and Department of Commerce and Consumer Affairs Professional and Vocational Licensing Division.

Your Committees find that behavior analysis is the scientific study of principles of learning and behavior. The practice of behavior analysis includes the empirical identification of functional relations between behavior and environmental factors, as well as the use of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help individuals develop new behaviors, increase or decrease existing behaviors, and display behaviors under specific environmental conditions.

Your Committees further find that it is important to support students' access to appropriately licensed and qualified behavior analysts in the Department of Education setting. Despite efforts by the Department of Education in the past to provide the appropriate services for students with autism spectrum disorder, some students and their families are still not receiving behavior analysis services. Your Committees believe that it is important to ensure that the Department of Education creates and implements a plan to provide Medicaid billable applied behavior analysis services to all students with autism spectrum disorder within the Department.

As such, your Committees have amended this measure by:

- (1) Amending the preamble to reflect the definition of behavior analysis and the legislative history of behavior analysis regulation in the State;
- (2) Deleting language that would have established a new section in chapter 465D, Hawaii Revised Statutes, related to the practice of behavior analysis in a school setting and licensing requirements;
- (3) Inserting language that exempts a direct support worker who provides autism treatment services pursuant to an individualized education plan and is under the direction of a licensed psychologist from chapter 465, Hawaii Revised Statutes;



- (4) Deleting language that would have exempted an individual working within the scope of practice or duties of another licensed profession that overlaps with the practice of behavior analysis from licensing requirements for providing behavior analysis services pursuant to chapter 465D, Hawaii Revised Statutes;
- (5) Inserting language that exempts the following individuals from licensing requirements for providing behavior analysis services pursuant to chapter 465D, Hawaii Revised Statutes:
 - (A) An individual licensed in the State who practices other professions and their supervisees, under certain circumstances;
 - (B) An individual licensed in the State who practices psychology and their supervisees, under certain circumstances;
 - (C) A licensed classroom teacher, or someone who is working as a classroom teacher and is enrolled in a teacher preparation program working toward licensure, in a school setting, under certain conditions; and
 - (D) An individual who designs or implements behavior analysis services to participants in the Medicaid home and community-based service waiver program on or before January 1, 2024;
- (6) Clarifying provisions that exempt an individual from licensing requirements for providing behavior analysis services pursuant to chapter 465D, Hawaii Revised Statutes, who directly implements and does not design behavior analysis services, including an individual who works within the scope of practice, is directly supervised by a licensed psychologist, and does not use the title of "licensed behavior analyst";



- (7) Clarifying the definition of "direct support worker" to mean a paraprofessional;
- (8) Clarifying provisions that would exempt a family member, legal guardian, or caregiver implementing a behavior analysis plan and who acts under the direction of a licensed behavior analyst from licensing requirements pursuant to chapter 465D, Hawaii Revised Statutes;
- (9) Inserting a definition for "caregiver" as it relates to the implementation of a behavior analysis plan under the direction of a licensed behavior analyst;
- (10) Inserting language that requires the Department of Education to create an implementation plan for the delivery of a Medicaid billable applied behavior analysis to all students diagnosed with autism spectrum disorder within the Department, including reporting requirements; and
- (11) 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 Education and Commerce, Consumer Protection, and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2925, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2925, S.D. 1, and be placed on the calendar for Third Reading.

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



ROSALYN H. BAKER, Chair

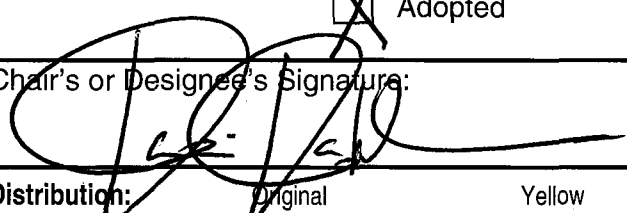


MICHELLE N. KIDANI, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Education
EDU

Bill / Resolution No.:* SB 2925	Committee Referral: EDU/CPH	Date: 2/28/18		
<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
KIDANI, Michelle N. (C)	✓			
KAHELE, Kaiali'i (VC)	✓			
DELA CRUZ, Donovan M.	✓			
ESPERO, Will	✓			
KIM, Donna Mercado	✓			
TOTAL	5			0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
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

