

DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Tuesday, February 7, 2018
10:30 a.m.

**TESTIMONY ON HOUSE BILL NO. 2271, RELATING TO THE PRACTICE OF
BEHAVIOR ANALYSIS.**

TO THE HONORABLE JOHN M. MIZUNO, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Constance Cabral, and I am an Executive Officer within the Professional and Vocational Licensing Division (“PVL”). Thank you for the opportunity to testify on this measure, which is a companion to S.B. 2925. PVL takes no position on this measure and offers the following comments.

H.B. 2271 clarifies the scope of licensure for individuals engaged in the practice of behavior analysis in the school setting.

This measure provides for “board certification from a national certifying agency” on page 3, lines 4-5 and page 4, lines 11-12 and lines 14-15. As PVL lacks the expertise to determine the credibility of national certifying agencies, we respectfully request that such agencies be identified in this measure.

Thank you for the opportunity to provide testimony on H.B. 2271.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/07/2018

Time: 10:30 AM

Location: 329

Committee: House Health and Human
Services

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: HB 2271 RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS.

Purpose of Bill:

Department's Position:

The Department of Education (Department) strongly supports HB 2271. This measure clarifies the scope of licensure for individuals engaged in the practice of behavior analysis in a school setting and ensures services identified in a student's Individualized Education Program (IEP) are provided by licensed and credentialed professionals.

Role of the IEP Team. The IEP team determines if applied behavior analysis (ABA) services are needed pursuant to the requirements of the Individuals with Disabilities Education Act (IDEA) and Hawaii Administrative Rules (HAR) Chapter 60. The goal of the IDEA is to provide students with a disability a free appropriate public education through individualized and specialized education and related services.

Current law and clarity provided by HB 2271. At this time, Chapter 465D provides a broad definition of the practice of behavior analysis. This definition may be interpreted to include all behavioral interventions used with all students by all employees, and thus directly impacts all school personnel and students in public, charter and private schools. Passage of the proposed HB 2271 will allow the Department to focus on allocating appropriate resources and the delivery of ABA services to students who require these services to progress and/or gain new skills or replacement behaviors.

Recommended amendments. The Department respectfully offers the following amendments for consideration:

(page 6, line 1) Insert "in an educational setting" so language reads "(B) Is a direct support worker in an educational setting who..."

(page 5, lines 10, 12-13, and 18-19; page 7, lines 12 and 15-16) Strike "~~Behavior Analyst~~"

~~Certification Board~~ and replace with “national certifying agency”

Building internal capacity. The Department needs additional time to build its internal capacity of licensed behavior analysts (LBA) and credentialed paraprofessionals that provide evidence-based interventions as part of an ABA program.

This measure affords the Department sufficient time to develop capacity of existing personnel. Should HB 2271 move forward, the Department estimates 38 LBAs and 575 registered behavior technicians (RBTs) will be needed based on 575 total students who are receiving or may potentially require ABA services.

Further, should all currently identified employees in a training program successfully complete a certification program, the Department will have a sufficient number of LBAs; however, an additional 421 RBTs will still be required. The table below provides current and near future capacity of LBAs and RBTs who are credentialed or in a training program.

HIDOE BACB (Behavior Analyst Certification Board) Credentialed Personnel				
District/ Complex Area	# of LBAs	# of Individuals in a BCBA* Training Program	# of RBTs	# of Individuals in a RBT Training Program
Honolulu District	1	0	0	10
Central District	1	4	1	21
Leeward District	0	15	0	44
Windward District	4	8	5	29
Hawaii District	0	4	0	30
Maui District	5	7	2	3
Kauai District	1	0	0	5
STATE	3	1	1	3
Total	15	39	9	145

*BCBA – Board Certified Behavior Analyst

Autism Spectrum Disorder (ASD) students. As of February 1, 2018, 1909 students with Autism Spectrum Disorder (ASD) are enrolled in Hawaii public schools. Three hundred thirty-five (335) of the total 1909 ASD students, or 17.5 percent, have IEPs that include ABA services. All 335 of those students are receiving an ABA program.

Costs. The cost of obtaining a Board Certified Behavior Analyst (BCBA) certification for LBAs has been estimated at \$20,000 per individual. This includes both the graduate level coursework and required hours of supervision. RBT certification runs about \$1,100 per individual and comprises both didactic and performance training. It should be noted that a RBT must be supervised by a LBA in order to retain their credential. The cost is approximately \$12,600 annually per RBT.

This measure proposes clarifying the scope of ABA service delivery to students who require ABA services to progress and/or gain new skills or replacement behaviors. Based on HB 2271, the Department anticipates initial program implementation costs to be approximately \$2.0M with additional post-implementation costs to sustain internal capacity.

Thank you for the opportunity to provide testimony on this measure.

The Hawaii State Department of Education seeks to advance the goals of the Strategic Plan which is focused on student success, staff success, and successful systems of support. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.

DAVID Y. IGE
GOVERNOR



CATHERINE PAYNE
CHAIRPERSON

STATE OF HAWAII
STATE PUBLIC CHARTER SCHOOL COMMISSION
(‘AHA KULA HO‘ĀMANA)

<http://CharterCommission.Hawaii.Gov>
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813
Tel: (808) 586-3775 Fax: (808) 586-3776

FOR: HB 2271 Relating to the Practice of Behavior Analysis
DATE: February 7, 2018
TIME: 10:30 A.M.
COMMITTEE: House Committee on Health and Human Services
ROOM: Room 329
FROM: Sione Thompson, Executive Director
State Public Charter School Commission

Chair Mizuno, Vice Chair Kobayashi, and members of the Committee:

The State Public Charter School Commission (“Commission”) appreciates the opportunity to submit this testimony in **SUPPORT of HB 2271**, which clarifies the scope of licensure for individuals engaged in the practice of behavior analysis in a school setting.

The Commission appreciates the efforts of this committee and the department in advancing the needs of public school students and public charter school students who currently receive applied behavior analysis (ABA) services. The Commission looks forward to collaborating with this committee, the DOE, and public charter schools in moving this legislation forward.

Thank you for the opportunity to provide this testimony.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
EWA MAKAI MIDDLE SCHOOL
91-6291 Kapolei Parkway
Ewa Beach, Hawai'i 96706
Telephone (808) 687-9500 Fax (808) 685-2052

February 7, 2018

Department: Education
Testimony Submitted by: Kim Sanders

Title of Bill: HB 2271 Relating to the Practice of Behavioral Analysis

I strongly support HB 2271 which would clarify the scope of Licensure for individuals engaged in the practice of behavior analysis in a school setting and ensures services identified in a student's Individualized Education Program (IEP) are provided by licensed and credentialed professionals.

The role of the IEP team is to determine if applied behavior analysis (ABA) services are needed pursuant to the requirements of the Individuals with Disabilities Education Act (IDEA) and Hawaii Administrative Rules (HAR) Chapter 60. The goal of the IDEA is to provide students with a disability a free appropriate public education through individualized and specialized education and related services.

Currently, Chapter 465D provides a broad definition of the practice of behavior analysis. This definition may be interpreted to include all behavioral interventions used with all students by all employees, and thus directly impacts all school personnel and students in public, charter and private schools. Passage of delivery of ABA services to students who require these services to progress and/or gain new skills or replacement behaviors.

Thank you for considering this testimony in support of HB 2271.

Sincerely,

Kim Sanders
Principal, Ewa Makai Middle School


AN AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY EMPLOYER



STATE OF HAWAII
DEPARTMENT OF EDUCATION
WINDWARD OAHU DISTRICT
46-169 KAMEHAMEHA HIGHWAY
KANEEOHE, HAWAII 96744

DATE: Wednesday, February 7, 2018

TO: Representative John M. Mizuno, Chair
Representative Bertrand Kobayashi, Vice Chair
Members of the Health and Human Services Committee

FROM: 
Matthew C.W. Ho
Complex Area Superintendent, Castle-Kahuku

SUBJECT: Support of HB 2271, Relating to the Practice of Behavior Analysis

I am writing in support of **HB 2271, Relating to the Practice of Behavior Analysis**, as this measure clarifies the scope of licensure for individuals engaged in the practice of behavior analysis in a school setting, and ensures services identified in a student's Individualized Education Program (IEP) are provided by licensed and credentialed professionals.

This bill will bring clarity to the current law, and help the Department of Education (DOE) build internal capacity of licensed behavior analyst and credentialed paraprofessionals which provide evidence-based interventions as part of an applied behavior analysis (ABA).

Please know that our schools do their best to provide for all students and their needs. Nearly all DOE employee and volunteers use behavioral interventions when working with students to ensure a safe learning environment for all.

I strongly urge that you pass this bill so the DOE is able to move forward and continue to address student behavior and towards providing an optimal learning environment for all students.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
EWA ELEMENTARY SCHOOL
91-1280 RENTON ROAD
EWA, HAWAII 96706
PHONE: (808) 681-8202 / (808) 681-8203
FAX: (808) 681-8206

Department: Education
Testimony Submitted by: Stan Tamashiro
Principal
Ewa Elementary School

Title of Bill: HB 2271 Relating to the Practice of Behavioral Analysis

I strongly support HB 2271 which would clarify the scope of Licensure for individuals engaged in the practice of behavior analysis in a school setting and ensures services identified in a student's Individualized Education Program (IEP) are provided by licensed and credentialed professionals.

The role of the IEP team is to determine if applied behavior analysis (ABA) services are needed pursuant to the requirements of the Individuals with Disabilities Education Act (IDEA) and Hawaii Administrative Rules (HAR) Chapter 60. The goal of the IDEA is to provide students with a disability a free appropriate public education through individualized and specialized education and related services.

Currently, Chapter 465D provides a broad definition of the practice of behavior analysis. This definition may be interpreted to include all behavioral interventions used with all students by all employees, and thus directly impacts all school personnel and students in public, charter and private schools. Passage of delivery of ABA services to students who require these services to progress and/or gain new skills or replacement behaviors.

Thank you for considering this testimony in support of HB 2271.

TESTIMONY IN SUPPORT OF HB2271

To: Representative Justin Woodson
Representative Richard Creagan
Representative Aaron Johansson
Representative Chris Lee
Representative John Mizuno
Representative Dee Morikawa
Representative Takashi Ohno
Representative Kyle Yamashita
From: Jan Iwase, Principal of Daniel K. Inouye Elementary School
Re: HB2271.

My name is Jan Iwase, and I am the principal of Daniel K. Inouye Elementary School.

I am submitting testimony in support of HB2271 relating to the practice of behavior analysis and the “scope of licensure for individuals engaged in the practice of behavioral analysis in a school setting.”

Our teachers are highly qualified and have the skills, knowledge, passion, and experience to work with all students, including those with behavioral challenges. Teachers may use a variety of strategies including the use of behavior analysis to shape behavior. School team members provide interventions and services to meet the educational, social, and communication goals of students and keep data to determine what kinds of interventions are having the most success for individual students. School teams who work with these students are already licensed in their respective fields.

Students with severe behavioral challenges could benefit from more intensive behavioral therapy from a licensed practitioner such as a registered behavior technician supervised by a Board-certified behavioral analyst. However, the school team should make that determination based on the needs of the student. Not all students require that level of support.

I support HB227

If you have any questions, you can call me at 305-3400 or email me at jan_iwase@notes.k12.hi.us.

Thank you for this opportunity to provide testimony on HB2271.

HB-2271

Submitted on: 2/5/2018 3:45:14 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Charles M. Lepkowsky, Ph.D.	Hawai'i Psychological Association	Comments	No

Comments:

As a licensed psychologist, I ask that you support House Bill 2271 only with the amendment recommended by the Hawaii Psychological Association (HPA).

Scope of practice for licensed psychologists as defined in Hawaii state statute includes the practice of "Behavior Analysis" and the supervision of assistants such as postdoctoral fellows, students and unlicensed master's level clinicians whom the psychologist may use to supervise paraprofessionals, direct support workers, and family members in the implementation of a behavioral program. The proposed amendment would clarify psychologists' scope of practice as including the supervision of behavioral interventions and would prevent an unnecessary narrowing of the behavioral health workforce by allowing more variety in the acceptable training and certification requirements for paraprofessional workers and their supervisors.

Thank you for the opportunity to provide testimony on this important topic.

Respectfully submitted,

Charles M. Lepkowsky, Ph.D.
Licensed Psychologist PSY 1529



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature, State of Hawaii
House of Representatives
Committee on Health and Human Services

Testimony by
Hawaii Government Employees Association

February 7, 2018

H.B. 2271 – RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of H.B. 2271, which seeks to clarify the scope of licensure for individuals providing behavioral health analysis in a school setting. This measure further ensures that services identified in a student's Individual Education Program (IEP) shall be provided by licensed and credentialed professionals.

As currently written, existing statute may be interpreted to include all behavioral intervention services provided to all students by all employees. This interpretation adversely affects the ability of approximately 800 behavioral health employees in our school system by jeopardizing their ability to provide these needed services.

This measure seeks to clearly identify the scope of behavioral analysis service delivery. We strongly supports the purpose of this bill, which will ensure the continued provision of necessary services to this vulnerable student population and protect the hundreds of positions that are potentially adversely impacted by the current interpretation of statute.

We strongly support and urge the passage of H.B. 2271.

Respectfully submitted,


for Randy Perreira
Executive Director



Hawai'i Psychological Association

For a Healthy Hawai'i

P.O. Box 833
Honolulu, HI 96808

www.hawaiipsychology.org

Email: hpaexec@gmail.com
Phone: (808) 521-8995

Testimony SUPPORTING HB 2271
RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS
and recommending amendments

HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES
REPRESENTATIVE JOHN M. MIZUNO, CHAIR
REPRESENTATIVE BERTRAND KOBAYASHI, VICE CHAIR

Wednesday, February 7, 2018 10:30AM
Conference Room 329
State Capitol
415 South Beretania Street

The Hawaii Psychological Association (HPA) strongly supports House Bill 2271 with amendments that clarify the scope of practice for psychologists and other qualified professionals. The HPA is very concerned that language in Act 199, the previous legislation applying to treatment services for autism and the licensure of Board Certified Behavior Analysts (BCBAs), unintentionally restricted well-qualified professionals from providing services to children with autism and other behavioral challenges and unintentionally provided a monopoly for one certifying agency, the Behavior Analyst Certification Board. The HPA supports HB 2271 provided that it seeks to correct the restraint of trade issues that the previous legislation created.

Our intention is to clarify the language so that properly trained psychologists can continue to provide services and continue to supervise paraprofessionals in the multi-tiered delivery model that is the standard of practice in autism. We support HB 2271 with the proposed amendment which would clarify psychologists' scope of practice, as defined in Hawaii state statute, to include the practice of "Behavior Analysis" and the supervision of assistants such as postdoctoral fellows, students and unlicensed master's level clinicians. In a multi-tiered model, a psychologist may supervise post-doctoral fellows, students and unlicensed master's level clinicians as these trainees then supervise paraprofessionals, direct support workers, and family members in the implementation of a behavioral program. This clarification would prevent an unnecessary narrowing of the behavioral health workforce by allowing more variety in the acceptable training and certification requirements for paraprofessional workers and their supervisors.

Proposed amendments:

- (1) **Section 2(3)b**: Persons meeting the licensing requirements of this chapter or persons who are exempt from this chapter.
- (2) **Section 3(a)(1)**: An individual working within the scope of practice of duties of another licensed profession that overlaps with the practice of behavior analysis, including individuals directly supervised by a licensed professional, such as unlicensed master's mental health practitioners, students, and postdoctoral fellows, who may train and supervise a paraprofessional, direct support worker, or parent/guardian in implementing an ABA intervention provided that that supervision is within that licensed professional's recognized scope of practice; and provided further that the licensed professional and the supervised individual shall not use the title of "licensed behavior analyst" or "behavior analyst"; and provided further that the licensed professional and the supervised individual shall not use the title of "licensed behavior analyst" or "behavior analyst";

Please see the attached document from the American Psychological Association Practice Organization: "Statement on Behavior Analysis and Behavior Analysts" and the second attached document from the American Psychological Association on: "Applied Behavior Analysis" which both serve to further support the position that Behavior Analysis is a long practiced discipline within psychology.

We strongly support HB 2271 with the proposed amendments which clarifies psychologists' scope of practice and prevents an unnecessary narrowing of the behavioral health workforce within the school setting.

Tanya Gamby, Ph.D.
President
Hawaii Psychological Association



AMERICAN
PSYCHOLOGICAL
ASSOCIATION
PRACTICE ORGANIZATION

Statement on Behavior Analysis and Behavior Analysts

The APAPO Board approved the following “Statement on Behavior Analysis and Behavior Analysts” at its February 2012 meeting:

Psychologists have a long history of developing and implementing effective services, including behavior analysis, for individuals with autism spectrum disorders and their families. Licensed psychologists with competence in behavior analysis are qualified to independently provide and to supervise the provision of behavior analytic services. Therefore, qualified licensed psychologists should be allowed to provide behavior analysis and to call the services they provide “behavior analysis” or “applied behavior analysis” without obtaining additional credentials or licensure. Other professionals who provide behavior analysis should be required by law or regulation to demonstrate education, training and supervision appropriate to a defined scope of practice and to the needs of the jurisdiction. The APAPO Board supports advocacy to ensure that any legislation or regulations regarding behavior analysts or the practice of behavior analysis contain provisions to protect consumers by ensuring that they receive services by appropriately qualified professionals. Further, the APAPO Board recommends that, to the extent that behavior analysts are regulated separately by state law, the benefits of regulation under the state board of psychology should be considered.

The APAPO Board position is supported by two APA policy documents, the [APA Model Act for State Licensure](#) (PDF, 111KB) and the [APA Ethical Principles of Psychologists and Code of Conduct](#). Specifically, section B.3 of the Model Act includes “behavior analysis and therapy” within the definition of the practice of psychology; and Ethics Code Standard 2 requires that “psychologists provide services, teach, and conduct research with populations and in areas only within the boundaries of their competence.”

750 First Street, N.E.
Washington, DC 20002-4242
(202) 336-5800
(202) 336-5797 Fax
(202) 336-6123 TDD

An affiliate of the American Psychological Association



AMERICAN
PSYCHOLOGICAL
ASSOCIATION

Applied Behavior Analysis

Adopted as APA Policy by APA Council of Representatives in February 2017

The principles of applied behavior analysis (also known as behavior modification and learning theory), developed and researched by psychology and competently applied in the treatment of various disorders based on that research, is clearly within the scope of the discipline of psychology and is an integral part of the discipline of psychology. Across the United States, applied behavior analysis is taught as a core skill in applied and health psychology programs. As such, the American Psychological Association (APA) affirms that the practice and supervision of applied behavior analysis are well-grounded in psychological science and evidence-based practice. APA also affirms that applied behavior analysis represents the applied form of behavior analysis which is included in the definition of the “Practice of Psychology” section of the APA Model Act for State Licensure of Psychologists. Therefore, APA asserts that the practice and supervision of applied behavior analysis is appropriately established within the scope of the discipline of psychology.

Suggested Citation

American Psychological Association. (2017). *APA Policy: Applied Behavior Analysis*.

Retrieved from: <http://www.apa.org/about/policy/applied-behavior-analysis.aspx>

750 First Street, NE
Washington, DC 20002-4242
(202) 336-5500
(202) 336-6123 TDD



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HB-2271

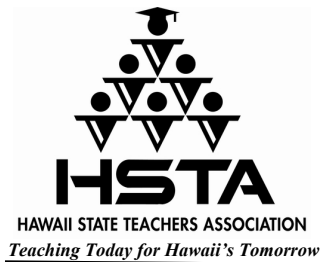
Submitted on: 2/4/2018 3:22:03 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jenny Welham	Jenny Welham MD LLC	Oppose	No

Comments:

As a pediatrician who cares for children with autism, I strongly oppose HB2271. It is short-sighted and unjust to withhold treatment for our children by qualified ABA therapists. This will cause treatment to be extended and decrease its effectiveness. By not investing fully in our children now, we will pay the price with its long ranging impact on our children, their families, our teachers and our society.



1200 Ala Kapuna Street ♦ Honolulu, Hawaii 96819
Tel: (808) 833-2711 ♦ Fax: (808) 839-7106 ♦ Web: www.hsta.org

Corey Rosenlee
President
Justin Hughey
Vice President
Amy Perruso
Secretary-Treasurer
Wilbert Holck
Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON
HEALTH and HUMAN SERVICES

RE: HB 2271 - RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS

WEDNESDAY, FEBRUARY 7, 2018

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Mizuno and Members of the Committee:

The Hawaii State Teachers Association **opposes HB 2271**, relating to the practice of behavior analysis.

Act 199, Session Laws of Hawaii 2015, otherwise known as Luke's Law, established the behavior analyst program within the Department of Commerce and Consumer Affairs and created licensing requirements for behavior analysts. Licensing of behavior analysis services was made concurrent with mandated insurance coverage for diagnosis and treatment related to autism disorders, with which nearly 1,500 public school students are currently diagnosed.

Behavior analysis means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. The practice of behavior analysis includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis, as well as the use of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop positive behaviors.

Unfortunately, the DOE is experiencing a shortage of licensed behavior analysts and, in 2016, successfully sought an amendment to state law to allow teachers to perform behavior analysis and prescribe services. Yet, teachers are not trained or qualified to make behavioral diagnoses, and being commanded to do so—some teachers have been threatened with termination for refusing to complete behavioral diagnoses for which they have no professional training—interferes with their ability

to provide a quality learning environment for their students, taking time away from lesson planning, professional development and collaboration, delivery of personalized learning, and more.

This measure does not rectify the current problems facing the behavior analyst community or the children who depend on their services. To begin, it does not eliminate the staffing shortage that has led to teachers performing behavior analysis, which can only be closed by providing the DOE with funding to hire licensed behavior analysts, either as employees of the department or by contracting with the many private providers who are currently being denied access to the children they're qualified to serve.

Moreover, this bill does not repeal teachers from the definition of "direct support worker" under HRS §465D-7, which would prevent teachers from being compelled to perform diagnostic and health-based work for which they are not qualified. Finally, it does not call upon the DOE to allow private behavior analysts to assist students during school hours, despite private insurance companies agreeing to pay for their services. Instead, this proposal further consecrates into state law the problematic and unethical practice of allowing behavior analysis to be conducted by unqualified individuals, whose time is better spent on the professions for which they've been rigorously trained.

According to the DOE's own report to the legislature in *Report on Behavior Analyst and Certification Requirements Implementation*, dated January 5th, 2018, the department is supporting efforts for 39 DOE personnel to become BCBA's in an approved program, and assisting another 145 departmental personnel in becoming Registered Behavior Technicians (RBTs) by 2019. We need to continue in this direction, rather than further weakening Luke's Law.

To ensure our most vulnerable keiki are given the care they deserve, the Hawaii State Teachers Association asks your committee to **oppose** this bill.

HB-2271

Submitted on: 2/5/2018 6:04:57 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Oppose	Yes

Comments:

We strongly oppose this bill and also believe very strongly in the value of applied behavior analysis as the most effective treatment for children with autism spectrum disorders. We were very involved in the effort a few years ago which led to the legislative mandate for private insurance to cover it. We then successfully brought a court action to force DHS to cover it under the Medicaid EPSDT program. In the past few years since ABA was mandated, DOE has been an incredible obstacle to its implementation in the schools. Despite a ruling from the 9th Circuit which specifies that ABA is the presumptively appropriate therapy to be provided to children with autism spectrum disorders in their IEPs under the IDEA, the DOE consistently refuses to implement it. Somehow, despite the evidence submitted by parents in these IEPs, the DOE often seems to find some pretextual justification to support their position that it is "not necessary". Despite the fact that state law requires that functional behavioral assessments be performed by licensed behavior analysts, the DOE often refuses to do so. Most recently, despite the mandate under Medicaid law that medically necessary ABA services be provided in the schools, the DOE refuses to allow providers to come onto campuses to do so. These providers are paid from Medicaid funds and so allowing them to come into the schools would have zero impact on the DOE budget. It would not cost them one penny. Yet, they refuse to allow it under the guise of "non- DOE employees are not allowed on campus", despite the fact the protocols are currently in place for providers such as skills trainers to come to the schools to work with children. In terms of the overall state budget, these "medically necessary services" are funded by Medicaid which means that half the costs are paid by the federal government.

Instead of complying with the current law, the DOE has sponsored this bill and now seeks to further restrict the conditions under which a child could receive applied behavior analysis services and seeks to further erode the qualifications required of those who would provide the service. If it is simply a matter of the DOE lacking the resources to implement ABA, then there are measures pending before the legislature that could appropriate sufficient sums of money. If, however, as we suspect, the DOE position is really based on an antithetical view of ABA, then a mere appropriation will not be sufficient and the legislature in that case would be better advised to consider

stronger measures to reign in a DOE that seems to lack the will to want to provide appropriate services to children with autism.

We urge the Committee to reject this measure and send a message to the DOE that further non-compliance with the law will not be accepted.

2/7/18

COMMITTEE ON HEALTH & HUMAN SERVICES

Rep. John M. Mizuno, Chair

Rep. Bertrand Kobayashi, Vice Chair

Conference Room 329

State Capitol

HB 2271 Relating to the Practice of Behavior Analysis--Testimony in OPPOSITION

Honorable Chair Mizuno, Vice Chair Kobayashi, and members of the committee,

Thank you for the opportunity to submit testimony on HB 2143 relating to the practice of Behavior Analysis. I am submitting testimony in opposition of HB 2271 on behalf of the Hawai'i Association for Behavior Analysis (HABA).

HABA's mission is to educate, advocate for, and support both providers and consumers of Applied Behavior Analysis (ABA). HABA has obtained over 200 pieces of testimony in opposition of HB 2271. Of the 200 pieces, 153 were submitted by parents and community members. Only 47, or 24%, reflect the positions of ABA providers in the state. The outcry from parents and community members speaks to how important this issue is to those who are most deeply affected. Hawai'i public schools have let our children with developmental disabilities fall through the cracks for far too long. We cannot allow the status quo in the Department of Education (DOE) to continue. HABA represents its members, Hawai'i's ABA providers, and the consumers of ABA in standing in strong opposition to HB 2271.

HABA opposes HB 2271 for the following reasons:

- Bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA)
- Bill seeks to limit ABA services to students as a reactive approach. Bill requires a "fair first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. "... when serving a student who's behaviors

have not been amenable... to multi-tiered positive behavioral supports..." Why wait until our keiki fail before implementing something we know will work?

- "National certifying agency" is too broad, a concern of consumer protection
 - Please note: Last year's testimony on SB 739 included letters from CARD, QABA, and BICC, all of which are organizations with a financial interest in the outcome of this bill. In addition, according to their online registries, there are currently only 154 active ABATs (QABA), with 0 in Hawaii, and 1847 active BCATs (BICC), with only 2 in Hawaii. There are currently 587 RBTs in Hawai'i with capacity growing daily.
- "... A direct support worker who directly implements an applied behavior analysis program under supervision of a licensed professional and does not design intervention or assessment plans" is also too broad. What are the minimum credentials, initial and ongoing training, and supervision requirements for the direct support worker? We respectfully defer to the testimony of Dr. Gina Green, Association for Profession of Behavior Analysts (APBA) for additional comment on this matter specifically.
- ABA programming for learners, as any other specialized field, should be designed and supervised by qualified professionals. This group of professionals with appropriate training in applied behavior analysis are those who are board certified as behavior analysts (BCBA) or licensed clinical psychologists with explicit training and supervision in behavior analysis. While much of the day-to-day ABA work can be performed by certified teachers and well-trained registered behavior technicians (RBTs), behavior analytic programs should always be overseen by highly-trained [licensed] professionals.

Please see the document added on to the end of this testimony, where we review and respond to the DOE's concerns with Chapter 465-D.

HABA stands firmly in support of our teachers and keiki having access to appropriately licensed and qualified behavior analysts in the DOE setting. While we appreciate the support of teachers and other IEP team members, the DOE, as a system, has not made transparent efforts to build capacity and provide ABA in their schools. We encourage the ongoing discussion of how to collectively improve the integrity of behavioral health services here in Hawai'i and are willing to work together to make this happen. As always, we are available for questions.

Mahalo,
Kathleen Penland, M. Ed. BCBA, LBA

Kathleen Penland

President, Hawai'i Association for Behavior Analysis



Written in response to the Hawai'i Department of Education's: **"Report on Behavior Analyst and Certification Requirements Implementation"** (submitted to the Legislature: dated January 5, 2018)

http://www.hawaiipublicschools.org/Reports/LEG18_ABA.pdf

(1) DOE Statement: "Act 199, Session Laws of Hawai'i, codified as Chapter 465D, established standards for the licensing of behavior analysts to address the present and critical need to ensure that persons requiring diagnosis and treatment for autism receive the care they need. Act 199 recognized that behavior analysts and the practice of behavior analysis should be the subject to regulation and control to protect the public from unqualified practitioners and from unprofessional conduct."

HABA Reply: Chapter 465-D, Behavior Analyst Licensure, originally served as a companion bill to the Autism Insurance Legislation (also known as "Luke's Law"). Despite it being spurred to assist in regulating services for individuals with autism, behavior analysis is a respected, stand-alone profession that does not align itself with any one population, disease, or disorder. It would be incorrect to consider ABA as an "autism-only" treatment,

the same way it would be incorrect to consider psychological services appropriate only for those who have been diagnosed as schizophrenic.

“Although autism insurance laws may be the impetus for regulating behavior analysts, the definition of practice should not be restricted to practice with a particular consumer or client population. This Model Act presumes practice will involve human clients and consumers. Please see Section F for exemptions of the practice behavior analysis in other contexts” (e.g., applied animal behavior) (Behavior Analyst Model Licensing Act – BAMLA).

(2) DOE Statement: “Program planning and implementation are progressing and ongoing.”

HABA Reply: There are currently no existing positions or external postings for licensed behavior analysts or Registered Behavior Technicians in the Hawai’i DOE, as evidenced by the Hawai’i DOE directory (11/20/2017; 1/5/2018).

The DOE 1/5/2018 Directory lists Daniel Cordial as a Behavior Health Specialist (BHS). It is our understanding the DOE no longer employs Mr. Cordial. In June 22, 2017, a report was filed with RICO (Regulated Industries Complaints Office) against Mr. Cordial for practicing behavior analysis outside his scope of training and qualifications. On July 12, 2017 RICO informed the complainant that the “above-referenced case number will be referred to the Field Investigation Section of the Regulated Industries Complaints Office” (RICO).

(3) DOE Statement: Teachers practice overlaps with the practice of ABA. “Therefore, the recognized scope of practice of teachers and other professionals overlap with the practice of behavior analysis. Licensed teachers and other licensed educational professionals are exempt per HRS 465-7(a)(1).

HABA Reply: “ABA programming for learners, as any other specialized field, should be designed and supervised by qualified professionals. This group of professionals with appropriate training in applied behavior analysis are those who are board certified as behavior analysts (BCBA) or licensed clinical psychologists with explicit training and supervision in behavior analysis. While much of the day-to-day ABA work can be performed by certified teachers and well-trained registered behavior technicians (RBTs), behavior analytic programs should always be overseen by highly-trained [licensed] professionals” (New York).

Teachers are not licensed by the Department of Commerce and Consumer Protection (DCCA), which means they are not regulated by RICO (Regulated Industries Complaints Office). As stated in Chapter 465-D, a teacher “directly implements intervention or

assessment plans under supervision and does not design intervention or assessment plans.”

<https://cca.hawaii.gov/pvl/files/2015/12/HRS465D-BehaviorAnalysts-0716.pdf>

“The board of examiners filed an action against the board of education, DPI, and the speech pathologists, alleging that persons unqualified under the Licensure Act for Speech and Language Pathologists and Audiologists, N.C. Gen. State 90-292-90-319 (1993), were employed in public schools to practice speech pathology. The trial court entered summary judgment against the board of examiners. The court reversed the summary judgment and it remanded the action to the trial court. The court held that (1) the school employees did not qualify for an exemption from the licensing requirements in N.C. Gen. Stat. 90-294(c)(4) because they did not hold proper credentials as speech pathologists; (2) N.C. Gen. Stat. 115C-296(a), 115C-21(b)(1) (1994), which authorized the board of education to certify teachers and the DPI to administer board of education policies did not take precedence over the specific terms of the Licensure Act and did not give the board of education or DPI power to employ non-credentialed speech pathologists; and (3) the power conferred to the board of education under N.C. Const. art. IX. 5, was subject to limitation and revision by North Carolina’s legislature.”

This would be the same as saying teachers practice overlap with the practice of speech and language therapists, and therefore “the recognized scope of practice of teachers overlap with the practice of speech pathology, and are exempt per Chapter 468”, which is not the case.

(4) DOE Statement: Students with severe behavior needs require an intensive program where a Licensed Behavior Analyst (LBA) is necessary to develop and supervise a behavior program.

HABA Reply: We agree, which is why we are especially concerned that there are currently no licensed behavior analysts (LBA) employed by the Department of Education (DOE) (HIDOE Provider Directory: 1/5/2018). We would also like to emphasize that behavior analysis is a treatment modality that is appropriate for children whose deficits might be referred to as mild or severe. There is no research that suggests ABA is only effective or necessary for severely impacted children.

(5) DOE Statement: “Typically these cases involve students who engage in behaviors that are harmful to self and/or others (i.e., physical aggression, property destruction, self-injurious behaviors) and whose behaviors remain unchanged after provided with

positive behavioral interventions. As a result, the Individualized Education Program (IEP) team may determine the need for a comprehensive Applied Behavior Analysis (ABA) program developed and supervised by an LBA.”

There are approximately 1,000 ASD students who require intensive instruction, as indicated by the need for one-to-one support. These students may require ABA as an IEP service provided by an LBA and Registered Behavior Technician (RBT).

HABA Reply: The DOE website lists 1,820 students who have qualified for an IEP under a classification of autism.

- How many of these students have been recommended Applied Behavior Analysis (ABA)?
- How many of these students have ABA included in their Individualized Educational Programs (IEP)?
- How many of these students have a Licensed Behavior Analyst (LBA) as a member of their IEP team?
- How many of these students have a Registered Behavior Technician (RBT) as a member of their IEP team?
- How many students without an autism diagnosis have a Behavior Support Plan (BSP) as part of the IEP programming? Of those students, how many have a Licensed Behavior Analyst as a member of their IEP team?

(6) DOE Statement: “Health insurance plans pay for medically necessary ABA therapy pursuant to a treatment plan. HMSA, Kaiser, and Quest have acknowledged the HDOE’s responsibility for developing and implementing ABA as part of the student’s IEP.”

HABA Reply: The Hawai’i DOE has not accepted responsibility for developing and implementing ABA as part of students IEPs.

(7) DOE Statement: “Health insurance plans do not fund services provided in the IEP, which are considered duplicative.”

HABA Reply: Because the Hawai’i DOE does not currently provide ABA, designed and overseen by Licensed Behavior Analysts (LBA) and provided by Registered Behavior Technicians (RBT) none of the behavioral health services offered by the DOE are considered duplicative or reimbursable by health insurers.

(8) DOE Statement: “The HIDOE’s guidance does not allow a parent’s private provider on campus during the school day to serve students, as this would interfere with the school’s obligation to implement the student’s educational program. All educationally relevant services, including ABA, are provided by the HIDOE.”

HABA Reply: Agreed, all educationally relevant services, including ABA, should be provided by the HIDOE. Because the HIDOE does not currently provide services designed and overseen by Licensed Behavior Analysts (LBA) and provided by Registered Behavior Technicians (RBT), it would be appropriate to say that the HIDOE does not currently provide Applied Behavior Analysis (ABA).

Because the Department of Education (DOE) is supposed to provide services to clients, it does not preclude insurers from their medical responsibility in the case that the HIDOE does not authorize services by appropriately licensed and credentialed specialists (e.g., LBAs and RBTs).

(9) DOE Statement: “In addition, the HIDOE is not required to implement a student’s medically-related treatment plan. It is a HIDOE policy not to allow private providers on campus as it would interfere with the school’s obligation to implement a student’s IEP and to provide special education and related services under the IDEA.”

HABA Reply: The HIDOE is currently failing to recommend, accept, or provide students who have significant behavioral challenges access to ABA, during the school day. Not only has the DOE denied access to educational access, the DOE is now actively prohibiting students’ from accessing medically necessary care during the school day as well.

(10) DOE Statement: “Many states have determined that the ABA licensure standard is consistent with the accepted standards of their respective educational professionals. These states have also recognized that the ABA licensure standard could prohibit public and private school employees from performing their full scope of work.”

HABA Reply: Hawai’i was the 42nd state to pass autism insurance, and was the 25th state to pass licensure. Hawai’i is unique because we have one district for our entire state. This is the main reason why the Hawai’i behavior analysis licensure law did not carve out the HIDOE. In many states, original behavior analyst licensure laws had language, which included each state’s Department of Education (DOE).

Despite having a state law indicating so, school districts in many states, employ behavior analysts full-time, including districts in Alabama, California, Connecticut, Florida, Indiana, Massachusetts, Maine, New Jersey, North Dakota, Pennsylvania, Rhode Island, Virginia, and West Virginia.

School-based claiming: In some states, such as Massachusetts, Medicaid (e.g., Mass Health) recipients are able to access ABA services during the school day. These services, provided by DOE personnel, are at least partially reimbursable for the school districts, so long as individuals providing treatment are Licensed Behavior Analysts (LBA).

<http://www.mass.gov/eohhs/docs/masshealth/bull-2015/sbm-29.pdf>

(11) DOE Statement: “The HODOE’s implementation plan is focused on ensuring that all students in need of ABA are served by qualified professionals.”

HABA Reply: The DOE website lists 1,820 students who have qualified for an IEP under a classification of autism.

- How many of these students have been recommended Applied Behavior Analysis (ABA)?
- How many of these students have ABA included in their Individualized Educational Programs (IEP)?
- How many of these students have a Licensed Behavior Analyst (LBA) as a member of their IEP team?
- How many of these students have a Registered Behavior Technician (RBT) as a member of their IEP team?
- How many students without an autism diagnosis have a Behavior Support Plan (BSP) as part of the IEP programming? Of those students, how many have a Licensed Behavior Analyst as a member of their IEP team?

(12) DOE Statement: “Two (2) new State-level (Office of Curriculum, Instruction and Student Support) Behavior Intervention Educational Specialist II positions –The primary job responsibility for these positions is the coordination of training and supervision of LBA candidates and RBTs. Positions are currently in the recruitment process for these two positions appropriated by the 2017 Legislature.

HABA Reply: This is a move in a positive direction. However, two positions are not nearly enough to cover student need, especially given Neighbor Island and rural areas. There are

currently (DOE Directory: 1/5/2018) zero (0) full-time positions within the HIDOE for Behavior Analysts, who work in the capacity as a Behavior Analyst.

(13) DOE Statement: “Partnerships with Institutions of Higher Education – Leeward Community College offers a one-credit RBT course available to educational assistants. In anticipation of more employees needing to become LBAs, the University of Hawai’i and the HIDOE is expanding the current Memorandum of Understanding to include BCBA program scholarships for qualifying employees to begin in the 2018-2019 school year.”

HABA Reply: The HIDOE has also undermined efforts aimed at building capacity within the state:

- Reserved 30 spots at free 40-hour RBT training, 28 were no-shows
- At least 10 graduate-level students were informed their tuition reimbursement would not apply to their BCBA courses at other universities. These students were forced to drop their graduate classes/BCBA program as a result.
- Significant funding for scholarships for DOE employees were offered to those interested in pursuing certification towards becoming a behavior analyst. Multiple meetings and offerings were made to Hawai’i DOE Administration, including our current Superintendent Christina Kishimoto (9/12/2017) and the Hawai’i Board of Education (HIBOE) (11/17/2017; 11/21/2017; 12/5/2017).
- The DOE has refused candidates attending other universities access to practicum supervisors on campus to provide supervision towards BCBA

(14) DOE Statement: “Contracting LBAs and RBTs when needed – To address shortages in geographic areas, the HIDOE is considering a request for proposal that would require providers to hold BACB credentials.”

HABA Reply: In order to appropriately build capacity, the HIDOE may need to consider contracting with agencies that employ a number of licensed behavior analysts (LBA) across the islands.

The DOE is also encouraged to recruit LBAs who have sufficient expertise and experience in behavior analysis. Equipping an entire state’s workforce, and future candidates with supervision provided by novice or entry-level behavior analysts would be poor practice for any profession.

(15) DOE Statement: “Increased HIDOE LBA and RBT personnel – The HIDOE employs 154 RBTs (credentialed and in training) and 54 LBAs (licensed and in training).”

HABA Reply: No person other than a licensed behavior analyst (LBA) may refer to him or herself as an LBA (including “an LBA in training”). To do so would be a direct violation of Chapter 465-D.

There are currently (1/5/2018) zero (0) full-time positions within the HIDOE for Behavior Analysts, who work in the capacity as a Behavior Analyst and not some other job title (e.g., ACT, BISS, SBBH, BHS).

No person other than a properly credentialed Registered Behavior Technician (RBT) may refer to him or herself as an RBT (including “an RBT in training”). To do so would be a direct copyright infringement of the Behavior Analyst Certification Board (BACB).

Even if someone possess the credential of Registered Behavior Technician (RBT), they may not call themselves an RBT or claim they are practicing as an RBT, unless they meet all supervision and related requirements. Currently, RBTs are required to have at least 5% of their hours supervised by a Licensed Behavior Analyst (LBA), who agrees to be the “Responsible Certificant” for the RBT (<http://www.bacb.com>).

(16) DOE Statement: “The cost of obtaining a Board Certified Behavior Analyst (BCBA) certification has been estimated at \$20,000 per individual and includes both the graduate level coursework and required hours of supervision. The cost of obtaining an RBT certification has been estimated to be \$1,100 per individual, which includes both didactic, and performance training. It should be noted that RBT must receive LBA supervision (approximately \$12,600 annually) to retain their credential.”

HABA Reply: How were these figures determined? They appear to be estimated on the very high end, possibly double what other estimates for these services have been (RBT: 40 hours of training, as little as \$50/seat; competency performance (3 hours), up to \$300; flight (if neighbor island), \$200; exam, \$50; estimate: \$600 *as compared to HIDOE estimate of \$1,100*).

We remain interested in working collaboratively with stakeholders to ensure our keiki have access to ABA by licensed and qualified providers in the DOE. Any person interested in learning more about Hawai'i's Behavior Analysis Licensure law (Chapter 465-D), or the practice of behavior analysis in our state, may contact HABA Legislative Chair, Dr. Amanda

N. Kelly at legislation@Hawaiiaba.org or HABA 2018 President, Kathleen Penland at president@Hawaiiaba.org.

HB-2271

Submitted on: 2/7/2018 4:53:07 AM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
chanel	wahinepio	Oppose	No

Comments:

Aloha Mai,

My son, who is 9, has severe autism. After constantly advocating for my son's constitutional right to have an RBT work with him in the DOE setting 6 hours a day and provide ABA therapy, data shows that in only 2 months his expressive speech improved from 10 words to 30 words causing self-injury and aggression to decrease by nearly 50%. The RBT taught him the skills he needed to use an augmentive communication device to communicate the specific foods he wanted to eat and identify what emotion he was feeling. Before having an RBT in the school setting, he could not even say or understand "yes" or "no". I find myself constantly having to fight for my son's rights so that he can have a CHANCE to reach his maximum potential as a member of the community and prevent him from being INSTITUTIONALIZED. Why are our legislatures so focused on taking away services from the school-aged Autism community when prevention and early intervention is so critical to the increasing numbers of Hawaii's children being diagnosed with Autism spectrum disorder. I am disappointed and frustrated every time Hawaii's legislatures try to pass a bill that would cause my son to regress. Any parent with a child on the spectrum would NEVER support a bill such as this one.

-Chanel Wahinepio, RN

HB-2271

Submitted on: 2/6/2018 8:54:07 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kelly	Stern	Oppose	No

Comments:

Dear Hearing Committee,

I am writing as both a concerned citizen as well as the former lead Educational Specialist for School Based Behavioral Health in the State of Hawaii, Department of Education (2009-2015) and lead District Educational Specialist in Nanakuli-Waianae for the Project AWARE grant to increase access of mental health services to students in need (2015-2017).

I am writing to **oppose HB2271** because there is a need for a small change of language. I would support HB2271 if you would include language in section 2 line 1-6 to **specify the student population with the most severe behaviors symptoms often associated with autism or other related developmental disorders.**

The requested amendment needs to include and address the target population because those students are the ones who would benefit from both behavior analysis and the ABA methods of intervention. Not all behavioral health practitioners need to be certified behavior analysts to be effective with students. Remember, the energy behind this bill has been driven from professionals and families in the autism and developmental disabilities field.

Students need other kinds of evidence based interventions that do not include ABA, and there are capable, qualified school personnel who are delivering many kinds of interventions supported by Positive Behavior Interventions and Supports (evidence based practices). To date the groups who promoted the early bills for behavior analysis are not the professionals who work with children with mental health concerns (unless co-morbid), or who are incarcerated or socially maladjusted, or have experienced trauma and the associated implications related to those problems (though some needing ABA have experienced trauma, their severe developmental disability usually calls for ABA interventions). Furthermore, ABA and other behavior supports are not recommended for youth who have experienced trauma. They need other kinds of treatment modalities from mental health professionals along with 1 caring adult who supports them in their development and growth. The DOE has so many doing that every day.

Therefore, you must specify the population that ABA is targeted for and represent the population it is intended for. That must be clear in this bill and all the bills pertaining to this subject of ABA and board certified behavior analyst certification.

Respectfully Submitted,

Kelly A. Stern



COMMITTEE ON HEALTH & HUMAN SERVICES
Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair
Rep. Della Au Belatti
Rep. Andria P.L. Tupola
Rep. Lei R. Learnmont

Wednesday, February 7, 2018, 10:30am
Conference Room 329, State Capitol

IN STRONG OPPOSITION OF HB2271

Aloha Chair, Vice Chair, and members of the Committee,

My name is Dr. Amanda Kelly. I am licensed behavior analyst and formerly a licensed teacher. I would like to submit testimony today in **STRONG OPPOSITION OF HB2271**. The Hawai'i Department of Education (DOE) has asked the legislature to introduce a bill relating to Behavior Analyst Licensure (Chapter 465-D). This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst (LBA) in the DOE setting.

I worry about the Department's resistance to providing applied behavior analysis (ABA) services. What appears to be a systemic, philosophical stance against collaborating with Licensed Behavior Analysts and Registered Behavior Technicians (RBTs), places our most vulnerable keiki directly in harm's way. The Individuals with Disabilities Education Act (I.D.E.A.) is a federal law that requires a proactive approach whenever behaviors impede the learning of a student or those around them. This bill appears to violate several federal laws: I.D.E.A., Free and Appropriate Education (F.A.P.E.), and the Americans with Disabilities Act (ADA).

"Behavior analysts are trained to develop, deliver, and monitor educational programming that is driven by the results it produces with students. Collaborative consultation with the moment-to-moment coaching it entails can assist educators [in creating] their own evidence-based practices (Hursh, 2007, p. 44)" ([Fielding, 2013](#)). ABA programming for learners, as any other specialized field, should be designed and supervised by qualified professionals. This group of professionals with appropriate training in applied behavior analysis are those who are board certified as behavior analysts (BCBA) or licensed clinical psychologists with explicit training and supervision in behavior analysis. While much of the day-to-day ABA work can be performed by certified teachers and well-trained registered behavior technicians (RBTs), behavior analytic programs should always be overseen by highly-trained licensed professionals" ([New York](#)).

HB2271 sets our teachers up to fail and allows our students to suffer.

Our teachers are caring and committed to helping our keiki succeed. Our teachers are being tasked with responsibilities that exceed their skill sets. Despite asking for help, for access to Licensed Behavior Analysts (LBA), our teachers' requests are denied. I oppose this bill, in part, because it is unfair to them. Teachers who advocate too loudly or who have asked too many questions have been reprimanded, and in some cases actively retaliated against, being terminated from their teaching positions (<https://www.facebook.com/forourkeiki/videos/540341319680229/>).

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Parents may require a school district to fund ABA services if the parents can show that such services are necessary to allow the child to make reasonable progress in the curriculum and to benefit educationally from instruction. There must be sufficient evidence from a qualified professional, which supports this conclusion. The qualified professional may be a child's therapist, an independent evaluator with appropriate qualifications, or district staff (Attorney Hickman). When a child requires a particular methodology to receive FAPE, the district has an obligation to use that method (REB vs Hawaii, 2017) (<http://cdn.ca9.uscourts.gov/datastore/opinions/2017/09/13/14-15895.pdf>).

IEP teams in Hawai'i frequently refuse to accept outside evaluations; often debating and rejecting legitimate diagnoses, which directly impact educational access. I believe this occurs in large part because we are missing Licensed Behavior Analysts (LBAs) as team members, and because our teachers are afraid to speak up for fear of retaliation.

Information that would be useful to advance these discussions

- How many students have behavior support plans (BSP) as part of their IEP?
- How many students require functional behavior assessments (FBA)?
- How many students have come to the IEP with a recommendation for ABA?
- Of those, how many students did the team agree required ABA?
- How many IEPs list applied behavior analysis (ABA)?
- Of those, how many IEPs list Licensed Behavior Analysts (LBA) or Registered Behavior Technicians (RBTs) in the service delivery grid?

Data that may be relevant to these discussions

Teachers | Hawai'i DOE

- 13,320 teaching positions in Hawai'i (HNN, 11/22/2017)
- 1,011 of current teaching positions are filled by emergency hires (HNN, 11/22/2017)
- 311 of our Special Education Teaching positions lack a licensed teacher (HNN, 11/22/2017)

Students | Hawai'i DOE ...although we should be looking beyond autism...

- 1,820 students reported to qualify for an IEP under autism (DOE website, 2018)
- 1,100 students with autism who require a 1:1 paraprofessional (DOE Testimony, delivered by Superintendent Kishimoto, 1/31/18 for SB2520)

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Licensed Behavior Analysts (LBAs)

- 30,000 behavior analysts worldwide (1/8/2018, BACB)
- 218 Licensed Behavior Analysts (LBAs) in Hawai'i (2/4/18, DCCA)
- 15 number of DOE employees who are licensed as a behavior analyst (1/5/18, DOE)
- 0 number of DOE employees working as a behavior analyst (1/5/18, DOE)

Registered Behavior Technicians (RBT)

- 587 Registered Behavior Technicians (RBTs) in Hawai'i (2/4/2018, BACB)
- 9 Registered Behavior Technicians (RBTs) in the Hawai'i DOE (1/5/2018, DOE)
- 0 number of DOE employees working as an RBT (1/5/18, DOE)

ABA in other States

- 31 states currently regulate the practice of behavior analysis (APBA)
- 46 states offer ABA services funded through health insurances; provided by licensed behavior analysts, and licensed psychologists practicing in their scope and experience
- At least 35 school districts have information about services available online (For Our Keiki)
- Schools in at least 14 states offer ABA services by BACB credentialed Behavior Analysts

Medicaid and ABA Services in the DOE

- Medicaid is required to cover ABA services for children, up to age 22 under EPSDT (CMS)
- This includes before and after school, as well as when school is in session
- In states where school-based Medicaid claiming is established (such as Massachusetts), Medicaid can reimburse for a percentage of ABA services, when those services are provided by a Licensed Behavior Analyst (LBA) and/or Registered Behavior Technician (RBT), as appropriate.

<http://www.mass.gov/eohhs/docs/masshealth/bull-2015/sbm-29.pdf>

Whereas the Department of Health (DOH-DDD) has made several good faith efforts (such as commissioning a rate study, updating waiver standards to include Licensed Behavior Analysts (LBAs), as well as Registered Behavior Technicians (RBTs), and proposing a rate increase 20% above Medicaid rates), the Department of Education (DOE) has actively resisted and undermined efforts aimed at establishing an adequate workforce, despite several efforts made by community organizations and Universities, resistance from the DOE remains.

1. The Hawai'i DOE refuses to provide ABA (2016, 2017, 2018)

They have actively and explicitly provided instructions to their staff to refrain from making or considering ABA as a treatment modality for any student. This includes recorded conversations from an Attorney General

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with the Education division, who traveled to numerous schools across the islands and shared, "Right now the advice that I'm giving you who have this issue, in any case where we have this issue, I tell them "we're not going to, you know (inaudible) when it comes to ABA methodology, we're not putting it on the IEP" (10/18/2017). <https://www.facebook.com/forourkeiki/videos/524566931257668/>).

2. Hawai'i cohort with the University of West Florida was established (2016)

The DOE forced at least 10 students enrolled in the program to drop the program, as they would not be issuing tuition reimbursement for anyone enrolled. Students who remained enrolled in our program have been prohibited from having supervisors and professors on DOE campus to provide practicum supervision (similar to a teaching practicum supervisor).

3. \$1million in scholarships for BACB certification was offered, but declined by DOE (2016 & 2017). In response, we were told, "it isn't the right time". We met with other stakeholders and offered scholarships to them.

4. 40-hour Registered Behavior Technician (RBT) training offered for free (2016)

This training was offered through partnership with the University of West Florida and Keiki Educational Consultants (my private practice at the time). Assets elementary school was generous enough to host the event. 50 spaces were offered and individuals with DOE email addresses reserved 30 spaces. On the first day of the training, there were 28 no-shows, all of whom had DOE email addresses.

5. Health plans offered to fund ABA services provided at school by LBAs and RBTs (2017)

The DOE, specifically Debra Farmer, Suzanna Mulcahy, and Superintendent Kishimoto have refused to offer these services as part of students' IEPs. They have also refused to collaborate with outside professionals or to agree that ABA is medically necessary and needed for students' to access their education and make meaningful progress on robust and ambitious goals (Endrew F. vs. Douglas County).

https://www.supremecourt.gov/opinions/16pdf/15-827_0pm1.pdf

Our keiki deserve better. Our teachers deserve better.

For them, I encourage you to vote "no" on **HB2271**.



Amanda N Kelly, PhD, BCBA-D, LBA

(808) 298-2658 | forourkeiki@gmail.com

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IN STRONG OPPOSITION OF HB2271

Frankie Servetti - **PARENT**

1148 Kupulau Drive | Maui

fscmaui@gmail.com

I oppose changing Chapter 465 D because this service is a necessary for the success of each and every child.

What did the state learn the last time? This piece of legislation will warrant another Felix Consent decree.

Our keiki's future depends on us!! I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Dr. Lori Babbitt

23 Kahoea Pl | Maui

lgbabbs@gmail.com

As an LBA practicing in Hawaii, it is imperative that we continue to provide quality and skilled ABA resources to our s. With all due respect, if Psychologists and teachers demonstrated ABA knowledge and skills needed in being effective in their assessment, planning, treatment, and monitoring of challenging behavior and developmental deficits, this law would not have been necessary - in keeping with our 49 other states and the international communities. Please do not set Hawaii back! Hawaii keiki need and deserve to have RBT, BCaBA, and BCBA support in order to make the best progress in these critical years, as they set the tone and quality of their very lives. I support our teachers and keiki, and am in opposition of changing Chapter 465-D, Behavior Analyst Licensure law.

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Wednesday, February 7, 2018, 10:30am

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IN STRONG OPPOSITION OF HB2271

Kevin Abella

15-1867 4th Avenue | Hawaii

kevinabella04@gmail.com

Allowing children to receive evidence based services, ABA, in the school setting speaks volumes as to how we educate our keiki and how the community/state expects treatment for our special needs community.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Kim Wolff

58-117 Kaunala St | Oahu

kwolffbcba@gmail.com

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Linda Barton

92-1491 Aliinui Dr. | Oahu

lindaasolla@gmail.com

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Jason Barton

92-1491 Aliinui Dr | Oahu

cheer1445s@netscape.net

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Jeanette Irvine - **PARENT**

95-1044 Ainamakua Dr. H Mililani | Oahu

jeanetteirvine@gmail.com

As a **parent** whose child has benefited from ABA and is now completely independent I oppose the changing of Chapter 465-D. without having had professionals who were credentialed I know my child would not be as successful as he is today.

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Sheryl Cunningham - **PARENT**

91341 Ewa Beach Road

sherylcunn808@gmail.com

My **son** has made huge progress thanks to ABA services. He has been accepted into a private school only because he receives ABA services and the DOE will not allow him to have ABA services.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Maile Rogers - **PARENT**

68-386 Kikou St. Waialua, HI 96791 | Oahu
maile_m@yahoo.com

My **son** is autistic. He's considered "high functioning" because he's smart, has a large vocabulary, and can do math problems in his head. But high functioning doesn't mean that his autism doesn't affect him, sometimes very severely, in ways that others can't see or don't interpret as struggling. He has issues socially, emotionally, and behaviorally. The education the DOE provides cannot and should not be limited to academics. The help he receives should not be contingent on the severity of his disability. Whether a child has a severe disability or not, whether their disability "appears" severe or not, should not hinder the possible growth that licensed and trained behavior analysts can provide to any child with a disability. Research has shown that earlier and more intense interventions, implemented by appropriately trained and licensed behavior analysts can limit the amount of time that intervention is needed, and can greatly increase a child's potential. Please don't take away the possibility of a bright, independent future from my son and other keiki like him.

ABA is needed in Hawaii schools. Our keiki have been waiting. DOE needs to work with Behavior Analysts. Psychologists are useful team members, but are no replacement for experts in ABA. My son was getting "help" through the DOE for over a year and made zero progress. The first signs of progress we ever saw were when we were finally able to access privately funded ABA services provided in our home, provided by Licensed Behavior Analysts (LBAs) and Registered Behavior Technicians (RBTs). He can only make so much progress without support in natural social situations like the ones provided at school. He needs the support of Licensed Behavior Analysts (LBAs) to help him be his best self and have a fulfilling life. The earlier and the more intensive his support is, the more effective it will be in the long term. Please help our keiki.

Included as part of my testimony is a transcription of a discussion at my son's IEP meeting on 12/5/2017 at Waialua Elementary. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Discuss the need for his diagnosis to be included in the IEP. Principal says STUDENT qualified under ADHD and his emotional needs and inattentiveness, so we would not reflect his autism in the IEP.

Amanda Kelly, PhD, BCBA-D, LBA, asked Principal if he could show the members of the team where in Chapter 60 it said this was the procedure. Is there a state guideline?

Principal: No, I'm just saying as a point of logic, the need for special education eligibility criteria. The eligibility criteria were ADHD.

Dr. Kelly: He was only allowed to qualify under one criterion. He also actually qualified for emotional as well. He did not qualify under autism category; we all agreed it impacted his ability to access the curriculum.

Principal: starts to speak

Dr. Kelly (28:36): I do not need to belabor semantics. My recommendation is that autism be listed.

Principal (28:47): If he qualified for emotional and ADHD, my recommendation would be those two diagnoses or nothing. It is already documented earlier.

Dr. Kelly: It should be a team discussion because we have conflicting points.

Mother: I have concerned that he did not qualify for eligibility for autism because he can talk. You can talk and have autism.

Principal: I think it is a gross oversimplification to say he wasn't eligible because he could talk. I think with the input from the speech therapist and all the people who evaluated him, they did not see communication as an issue that was affected.

Dr. Kelly: Actually that is incorrect. It was the area of non-verbal communication that we all agreed that was impacted by. It was the fact that he was not severely impacted by a verbal-vocal standpoint. Regardless, I think we have a limited amount of time. Let's move on. If we need to table this. Okay.

Principal: He did not qualify under autism. I know you think he could have retroactively under autism, but at the time it was emotional and he did qualify under ADHD. So I am fine with including those two.

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Dr. Kelly: Is there another reason why you would like autism excluded from his IEP, Principal?

Principal: Okay, the logic I am working on says the need for special educational related services, so therefore we are expressing what is going to drive the particular services he is going to receive. The services he is going to receive are based on his needs and the needs spring from the eligibility criteria that he was made eligible under. So that's my logic. If later it turns out I am wrong, I will say sorry (31:31).

Mother: We had a clear discussion last time that whatever he qualified under wasn't going to impact his services.

Principal: We are not even at the services section.

Mother: You weren't at the last meeting. (31:42)...

Principal: I am saying right now...

Mother: The category he qualifies for will not impact the services he gets. He is autistic. There is no getting around that. It impacts his social interactions with friends, it impacts his ability to interpret social cues, it impacts his ability to work through transitions. Those are part of his needs and I expect there are going to be things in this IEP aimed at helping my son meet those needs. Whether or not he qualifies under autism, he has autism and he qualified for SPED services, so autism services will be included in his SPED services because he's autistic and he has these needs.

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IN STRONG OPPOSITION OF HB2271

Ililani Foree - **PARENT**

PO box 44669 | Hawaii

irc4ee@yahoo.com

My son is being denied services and being harmed. I believe that the DOE needs to provide the right people to do assessments to get all the needed services and resources that my son needs to be in a safe educational environment at his school. In fact I believe that it is doing my son an injustice because he could be put in possible danger with not receiving the right services. I find that knowingly that my son needed a crisis plan to be done right away that this would be a high priority to be done correctly and in an affective why it wasn't I find it highly unethical as a professional and here are the following reasons. - Improper assessment - lacking recommendation of a behavior analyst - resulting in harm and delayed access to treatment (do we pull him out of school to keep him safe) - They ignored and minimized concerns brought to light by Aiden's crisis plan - neglected to mention Aiden's ambulance or hospitalization - neglected to include relevant occurrences of behavior (11/22/17, 9-1-1 called, restrained, urinated himself) - provided a draft of his report - The Agency did not provide the report before meeting, meaning we had to cancel our son's IEP meeting, further delaying us access to answers and proper care. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Amy Grant

61-280 Kamehameha Hwy | Oahu

amyjean1984@gmail.com

Our Keiki deserve access to ABA services. ABA should never be a "last resort" it should be the gold standard! We demand our Keiki be put FIRST!! The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

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Ashley Monden

ashley.monden@student.chaminade.edu

This is my first year working as a licensed Special Education Teacher in the Department of Education and I'm currently seeking my licensure as a Board Certified Behavior Analyst. Before this I was a 1:1 paraprofessional and an Educational Assistant both here on Oahu and on the Big Island. As a 1:1 I've experienced what it's like to work with high needs student who needs the direct supervision of an adult. I went to numerous trainings, looked online for strategies that could give me insight, talked to DOE autism consultants, and supervisors. None of them could give me feedback or show me by example on how to help my students. Over the years I found Applied Behavior Analyst (ABA) strategies and tried them with my students. Through trial and error I saw improvements. I worked with various different disabilities and found that ABA strategies make a big difference when consistent and done the right way. After working 8 hours in my classroom, I work in the evenings and weekends as a Registered Behavior Technician (RBT). This summer I worked with a child who received 6 hours of ABA therapy in the home setting and in as little as 3 months made a lot of gains such as now being able to sit to finish a task, respond to his name, and verbally saying what he wants instead of being aggressive! If our students receive the same support within the school day imagine the outcome! In the DOE school setting we are already failing our keiki by having untrained 1:1's who are just there as an extra body. By allowing LBA (Licensed Behavior Analyst) in the school would only add strength to our educational system and show that we truly do support our teachers who have the biggest jobs "educating our keikis". Why do we want to allow our keikis to fail when we are constantly pushing for success!?

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Jeaustine Larson - **PARENT**

2249 Elou St | Oahu

l Larson905@yahoo.com

We have lived in Hawai'i for a little over two years. In those two years, it has taken us over 20 months to finally get our **son**, who is autistic, an IEP. We finally got one put in place about two months ago. We were previously told, "as long as his grades are good, his lack of social skills is not our concern." We also had an incident with his first ABA company; they were providing services with uncredentialed direct support workers (DSW). This resulted in little to no progress made for our son and very poor services. The Behavior Analyst Licensure law needs to stay and be implemented. General Psychiatrists and Psychologists are not trained in autism, the way Licensed Behavior Analysts (LBAs) are. They do get training, but it is not as extensive as is required by the Behavior Analyst Licensure law. Our children deserve the best we can offer them, not the minimum that exists.

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

I oppose changing Chapter 465-D, our Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Roger Larson - **PARENT**

2249 Elou St | Oahu

larson905@hotmail.com

My name is Roger Larson. I am the father of a SPED student at Wheeler Middle School in the Central District on Oahu. I am submitting testimony opposing the DOE's proposal of changing Chapter 465-D. Our children are our future. When teachers instruct their students, we build the foundation for equality and prosperity for tomorrow's generations. Every dollar invested in our community's public schools yields exponential returns, not just for our economy, but also for the promise of a more open and democratic society. We need to keep and strictly enforce Chapter 465-D in our public schools to ensure that teachers and students both have the assets needed to help our keiki succeed. Several administration members at my son's school have stated that they are not qualified to handle my son's issues or adequately support him. They also state that they would love to do more and do the right thing for my son but are told by their district and DOE leadership to not comply with State laws and regulations regarding autism support as it is "not required based off their interpretation." It is a shame that a military family has had to fight for over two years to finally begin to get the care my son needs. We still have a long way to go in that regard since the district and state DOE leadership has been extremely unhelpful and has attempted to undermine the care of our children by threatening teachers and support workers. To deliver the schools our keiki deserve, please oppose this bill. This is a matter of support for our children's future! We need your help.

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws: I.D.E.A., FAPE, and the American with Disabilities Act (ADA). I stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting.

Mahalo. Roger Larson

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Stephanie Phelan | stephanie.h.phelan@gmail.com

66-059 Alapii St., Haleiwa, HI 96712, Oahu

My name is Stephanie Phelan, I am a practicing Licensed Behavior Analyst in Hawaii and I am writing with concern regarding proposed legislation to change Chapter 465-D, the Behavior Analyst Licensure law. Proposed changes include a provision that would limit the requirement of behavior analytic services in schools only for students with severe challenges with problem behavior, communication, or social interactions, and would only be provided when other interventions have not been effective. Applied Behavior Analysis (ABA) is the only evidence-based treatment for Autism Spectrum Disorder. ABA services are not meant to be used as a last resort when non evidence-based interventions fail. This provision would be in violation of the Individuals with Disabilities Education Act (IDEA) that mandates students with disabilities to receive individualized, proactive interventions to ensure they receive a free and appropriate public education (FAPE). By limiting their access to ABA we are hindering our keiki's ability to succeed in school. Additionally, the proposed changes to the legislation would seek to allow any paraprofessional or direct support worker in the Department of Education (DOE) Schools to implement ABA. This provision would jeopardize the quality and success of ABA programs. Research in the application of ABA has shown again and again that if ABA interventions aren't implemented as they were designed, the interventions are less likely to be successful. It is critical that those responsible for the implementation of ABA services are thoroughly trained in ABA principles, concepts, and methodologies. Through requiring the Registered Behavior Technician credential, we are ensuring a high level of competency and helping to control for the quality and success of ABA programs. As a Behavior Analyst, I want to see all our keiki succeed and flourish in school. Across the country we have witnessed the positive impact that ABA services can have for students and I believe ABA professionals including the LBAs and RBTs are an asset to our keiki's school teams. We want to help, and will be most successful in doing so with the Behavior Analyst Licensure law as it stands, without the proposed revisions. The proposed revisions will not only limit our keiki's access to medically-necessary evidence-based treatment and as a result limit their access to a free and appropriate public education, but it will also decrease the effectiveness of behavior analytic service delivery as a result of lack of quality control for those providing the services. Thank you for your consideration of my testimony. If there is more information I can provide, please do not hesitate to contact me.

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IN STRONG OPPOSITION OF HB2271

Sungalina Lee - **PARENT**

1 Ohana Nui Way HNL 96817 | Oahu

slee@assets-school.net

As a **parent**, educator and engaged citizen, I am concerned that changing the licensure law, Chapter 465-D, will harmfully affect the most vulnerable of our keikis and families. We are a state who prides ourselves in our values, especially those related to our children and, families so this new effort is not algebras with our values or the needs of teachers, students, parents or our community.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Sara Dinkelo

2056 A Puu Place, Wahiawa, HI | Oahu

sdinkelo@gmail.com

As a LBA, I can't stress enough the need for our keiki impacted by autism to have access to applied behavior analysis in schools. It's not a methodology but a science with regimented data collections systems to ensure progress and to make program changes based on performance. It is not possible to be "trained" to run an ABA program; it requires credentialed, licensed professionals who abide by strict ethical guidelines to do. Our teachers need support; they cannot teach and be required to do something that is out of their practice. ABA should not be limited to those with severe problem behaviors (however they should be prioritized) but an individual's access to ABA can impact their outcomes across their lifespan. Our keiki have a right to a free and appropriate education. ABA needs to be available to all children who need it and it needs to be provided by licensed credentialed professionals (LBAs), or else it is not ABA. I stand by current licensure law and oppose any changes. I support our teachers getting the resources they need to have productive classrooms and help our keiki live productive lives.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Peggy Brandt - **PARENT**

3288 Pamakani Place | Oahu

peggy.brandt@gmail.com

I oppose changing the licensure law because residents of Hawaii deserve to be supported with the best practices available to them. From my first-hand experience, they will not receive this without legal support.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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Joelle Branch - **PARENT**

91872 Puhikani St. | Oahu

Jbranch409@yahoo.com

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Josh Wilson

2056a Puu Pl, Wahiawa | Oahu

rollout1983@yahoo.com

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Anastasia Kellercollins

91-129 Nohoihoewa Way | Oahu

anastasiakellercollins@gmail.com

Sometimes it is so hard to do what is right. Sometimes it's too easy not to. Please do what is right. The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support our teachers and our keiki

COMMITTEE ON HEALTH & HUMAN SERVICES

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Rep. Andria P.L. Tupola
Rep. Lei R. Learnmont

Wednesday, February 7, 2018, 10:30am
Conference Room 329, State Capitol

IN STRONG OPPOSITION OF HB2271

Corrie Lynn Montalvo
911054 Hoakalei Street | Oahu
kuuipom77@gmail.com

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Andrea Keeseey

66-235A Kamehameha Hwy Haleiwa HI 96712

ak.keeseey@gmail.com

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Lo Edmonds

66-235A Kamehameha Hwy Haleiwa HI 96712 | Oahu

loedmonds@gmail.com

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Rachel Sammis

66-235A Kamehameha Hwy Haleiwa HI 96712

rachelsammis@gmail.com

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Lisa Sakuda
1131 D Wainiha Street, Oahu
lisasak46@gmail.com

If we are pushing for Inclusion in the next school year, the DOE should allow Licensed Behavior Analysts (LBA) to come into the school, and help the teachers write the Functional Behavior Assessment (FBA), and help write Behavior Support Plans (BSP) for the students. We also need Registered Behavior Technicians to help work with the child in the classroom, they are supervised by an (LBA/BCBA). Applied Behavior Analysis does not only help children diagnosed with Autism, it can also help other children in the classroom, and it can help the teachers as well. Your teachers need help; they are tired at the end of the day. They feel the pressure with all the testing required by them, they do not need added stress by asking them write an Functional Behavior Assessment (FBA) on a student. They know nothing about writing an FBA. Would you want someone who is not a Licensed Surgeon to operate on your child? Help you teachers; they work very hard for our children. By not allowing ABA in the school, we are not hurting ourselves, but we are hurting the children, and we are making special education teachers want to quit. I have a couple of Special Education teachers who say they are very tired, and drained at the end of the day. They feel like they do not have the support they need. All they want to do is teach the children. We want the best for our keiki, and they deserve the best education. Put yourself in a SPED teacher shoes, put yourself in a child's shoes, and put yourself in a parent's shoes. How would you want your child, grandchild, niece or nephew to be treated, what kind of education would you want for your family?

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.
I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Christina Libby

41-611 Inoaole St Waimanalo Oahu 96795

clibby@maulolearning.com

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Nikole Ross
94-232 Emoloa Pl | Oahu
nikole.ross82@gmail.com

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IN STRONG OPPOSITION OF HB2271

Melissa Urquidi - **PARENT**

1620 Ala Aoloa Lp | Oahu

melissaurquidi@hotmail.com

I am writing this testimony as a **parent** of a child with Autism and as a BCBA. I have experienced the effects of a failure 1st approach in the educational setting for my own child and strongly feel that his lack of success in his home school is a result of not having qualified licensed behavior analysts and RBTs overseeing, leading, and implementing effective ABA methodologies. As a BCBA I strongly urge our representatives to not allow other professions to oversee and implement ABA programs that require specific education and training that only BCBAs possess.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Shanda Strickland
PO Box 894811 Mililani | Oahu
ssg808@yahoo.com

Any opportunity to improve environments, communication and access to positive, inclusive experiences should not only be utilized, but celebrated. Removing qualifications for those who directly impact the fundamentals of keiki, teachers, school and families, is in direct conflict with the philosophy and commitment of those who promise to aid our keiki.

To those promoting this declination - I respectfully challenge you to imagine a system that, intentionally or not, promotes a culture of inequality and inadequate care, a ranking system and segregation of preferred diagnosis and community exclusion. Perhaps this decision can benefit by asking you, "Who comes to mind when you discuss adequate and sufficient training, support, regulation and care?" Is it a person in your Ohana? Your neighborhood? Your church? Your community? Your employment? I beg to differ if you say "no one." "No one" is not an option, because it is everyone. Everyone is effected because "that person" we reference is someone's child who is currently in our public education system, or our department of health system, that "that person" is a friend, a neighbor, a community member that is equally deserving of scientifically proven approaches to minimize barriers and increase access to reinforcement. I doubt you say "no one" though, because you - like all of us, are effected and I hope you are equally driven to promote sustainable and ethical interventions. Scientifically proven interventions, not just adequate training but rather a higher criterion of clinical expectations and knowledge base that demands a base level of care, clinical oversight, ongoing education and supervision. One far above what your are promoting. Those who are promoting this Bill - I encourage you to reference our professional code of ethics and for some, your oaths. Reference FAPE, IDEA/IDEIA, ADA, Felix Decree and Luke's Law. I ask you to truly listen to those state and federal regulations, learn from our past mistakes and look to yourself and those around you, to improve our system, not break it down. It should not be needed to encourage you to be and do pono. Needless to say, I unequivocally oppose the Bill. Shanda S. Strickland MS, BCBA, LBA

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.
I stand in strong support of our teachers and our keiki!

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IN STRONG OPPOSITION OF HB2271

Naomi Tachera - **PARENT**

PO Box 6388 | Hawai'i

nkaae@hawaii.edu

Aloha, My name is Naomi Tachera; I live on Hawai'i with my family including **two sons** Kaiao (7) and Kaleohano (5) with autism spectrum disorder. They are currently enrolled in public education and receive special education services with IEP's, what's not included in their IEP's is applied behavior analysis, despite years (since 2014) of advocating for FAPE under IDEA. The IEP teams are not taking into consideration the level of my children's disability and how autism impedes their ability to access a free and appropriate education with the use of ABA provided by a Board Certified Behavior Analyst licensed in the State of Hawai'i. Despite the fact that the DOE has lost in the ninth circuit court (R.E.B vs. State of Hawai'i DOE) in February 2017 because "DOE violated the IDEA by failing to specify Applied Behavioral Analysis ("ABA") as a methodology in the IEP" and after the passing of Chapter 465D Behavior Analyst Licensure Law in 2016, the DOE makes no effort to hire BCBA's working in that capacity. They instead are asking for an exemption to NOT provide FAPE in addition to restrictions set forth by an "IEP Team decision" on whether or not a student needs ABA only after they've exhausted all other strategies that do not work. That's taking away time from our precious children! If this analogy were the medical field and everyone that works in the hospital can claim to be a medical doctor or perform medical procedures, then consumers cannot be protected from malpractice. The reason why only people with demonstrated competency (i.e. BCBA competency in ABA) should practice in their scope of practice is for consumer protection. If the Legislation decides to support the DOE with this exemption regarding Chapter 465D, families, including myself will start to sue public school employees individually because of their involvement in violations of the Individuals with Disabilities Education Act (Crofts v. Issaquah School District). My entire family continues to suffer from overwhelming stress, hardship, and harassment from DOE staff members for advocating for our two children, no family deserves this treatment, no child with a disability deserves to be forgotten, and no community deserves to watch the most vulnerable members suffer.

Mahalo, Naomi Tachera

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Eric Tachera - **PARENT**
PO Box 6388 | Hawai'i
kealiiloa@yahoo.com

Aloha, My name is Eric Tachera; I live on Hawai'i with my family **including two sons** Kaiao (7) and Kaleohano (5) with autism spectrum disorder. They are currently enrolled in public education and receive special education services with IEP's, what's not included in their IEP's is applied behavior analysis, despite years (since 2014) of advocating for FAPE under IDEA. The IEP teams are not taking into consideration the level of my children's disability and how autism impedes their ability to access a free and appropriate education with the use of ABA provided by a Board Certified Behavior Analyst licensed in the State of Hawai'i. Despite the fact that the DOE has lost in the ninth circuit court (R.E.B vs. State of Hawai'i DOE) in February 2017 because "DOE violated the IDEA by failing to specify Applied Behavioral Analysis ("ABA") as a methodology in the IEP" and after the passing of Chapter 465D Behavior Analyst Licensure Law in 2016, the DOE makes no effort to hire BCBA's working in that capacity. They instead are asking for an exemption to NOT provide FAPE in addition to restrictions set forth by an "IEP Team decision" on whether or not a student needs ABA only after they've exhausted all other strategies that do not work. That's taking away time from our precious children! If this analogy were the medical field and everyone that works in the hospital can claim to be a medical doctor or perform medical procedures, then consumers cannot be protected from malpractice. The reason why only people with demonstrated competency (i.e. BCBA competency in ABA) should practice in their scope of practice is for consumer protection. If the Legislation decides to support the DOE with this exemption regarding Chapter 465D, families, including myself will start to sue public school employees individually because of their involvement in violations of the Individuals with Disabilities Education Act (Crofts v. Issaquah School District). My entire family continues to suffer from overwhelming stress, hardship, and harassment from DOE staff members for advocating for our two children, no family deserves this treatment, no child with a disability deserves to be forgotten, and no community deserves to watch the most vulnerable members suffer.

Mahalo, Eric Tachera

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Jolie Kaae - **GRANDPARENT**

PO Box 6388 Kamuela, HI 96743, Hawai'i

kaaeohana@aol.com

Aloha, My name is Jolie Kaae; I live on Hawai'i with my family. I have **two grandsons** Kaiao (7) and Kaleohano (5) who have autism spectrum disorder. They are currently enrolled in public education and receive special education services with IEP's, what's not included in their IEP's is applied behavior analysis, despite years (since 2014) of their parents advocating for FAPE under IDEA. The IEP teams are not taking into consideration the level of my grandchildren's disability and how autism impedes their ability to access a free and appropriate education with the use of ABA provided by a Board Certified Behavior Analyst licensed in the State of Hawai'i. Despite the fact that the DOE has lost in the ninth circuit court (R.E.B vs. State of Hawai'i DOE) in February 2017 because "DOE violated the IDEA by failing to specify Applied Behavioral Analysis ("ABA") as a methodology in the IEP" and after the passing of Chapter 465D Behavior Analyst Licensure Law in 2016, the DOE makes no effort to hire BCBA's working in that capacity. They instead are asking for an exemption to NOT provide FAPE in addition to restrictions set forth by an "IEP Team decision" on whether or not a student needs ABA only after they've exhausted all other strategies that do not work. That's taking away time from our precious children! If this analogy were the medical field and everyone that works in the hospital can claim to be a medical doctor or perform medical procedures, then consumers cannot be protected from malpractice. The reason why only people with demonstrated competency (i.e. BCBA competency in ABA) should practice in their scope of practice is for consumer protection. If the Legislation decides to support the DOE with this exemption regarding Chapter 465D, our family, our community will start to sue public school employees individually because of their involvement in violations of the Individuals with Disabilities Education Act (Crofts v. Issaquah School District). My entire family continues to suffer from overwhelming stress, hardship, and harassment from DOE staff members for advocating for our two grandchildren, no family deserves this treatment, no child with a disability deserves to be forgotten, and no community deserves to watch the most vulnerable members suffer.

Mahalo, Jolie Kaae

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Kaleo Kaae - **GRANDPARENT**

PO Box 6388 Kamuela, HI 96743 | Hawai'i

kaaeohana@aol.com

Aloha, My name is Kaleo Kaae; I live on Hawai'i with my family. I have **two grandsons** Kaiiao (7) and Kaleohano (5) who have autism spectrum disorder. They are currently enrolled in public education and receive special education services with IEP's, what's not included in their IEP's is applied behavior analysis, despite years (since 2014) of their parents advocating for FAPE under IDEA. The IEP teams are not taking into consideration the level of my grandchildren's disability and how autism impedes their ability to access a free and appropriate education with the use of ABA provided by a Board Certified Behavior Analyst licensed in the State of Hawai'i. Despite the fact that the DOE has lost in the ninth circuit court (R.E.B vs. State of Hawai'i DOE) in February 2017 because "DOE violated the IDEA by failing to specify Applied Behavioral Analysis ("ABA") as a methodology in the IEP" and after the passing of Chapter 465D Behavior Analyst Licensure Law in 2016, the DOE makes no effort to hire BCBA's working in that capacity. They instead are asking for an exemption to NOT provide FAPE in addition to restrictions set forth by an "IEP Team decision" on whether or not a student needs ABA only after they've exhausted all other strategies that do not work. That's taking away time from our precious children! If this analogy were the medical field and everyone that works in the hospital can claim to be a medical doctor or perform medical procedures, then consumers cannot be protected from malpractice. The reason why only people with demonstrated competency (i.e. BCBA competency in ABA) should practice in their scope of practice is for consumer protection. If the Legislation decides to support the DOE with this exemption regarding Chapter 465D, our family, our community will start to sue public school employees individually because of their involvement in violations of the Individuals with Disabilities Education Act (Crofts v. Issaquah School District). My entire family continues to suffer from overwhelming stress, hardship, and harassment from DOE staff members for advocating for our two grandchildren, no family deserves this treatment, no child with a disability deserves to be forgotten, and no community deserves to watch the most vulnerable members suffer.

Mahalo, Kaleo Kaae

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Olympia Frink - **PARENT**

66-916 Kuewa Dr Waialua, HI 96791 | Oahu

supgirl77@gmail.com

Our schools need behavior analysts, particularly Licensed Behavior Analysts (LBAs) and Registered Behavior Technicians (RBTs) to get our special Ed children the education they deserve. The teachers and current professionals are too few on campus, and have proven they are not able to provide the proper support in reference to kids with autism.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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Kenny Frink - **PARENT**

66-916 Kuewa Dr Waialua, HI 96791

kennyfrink71@gmail.com

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IN STRONG OPPOSITION OF HB2271

Tyler Rogers - **PARENT**

68-386 Kikou St. Waialua, HI 96791 | Oahu

rogerstyj@hotmail.com

ABA is needed in Hawai'i schools. Our keiki have been waiting. DOE needs to work with Behavior Analysts. Psychologists are useful team members, but are no replacement for experts in ABA. My **son** is autistic. Rather than getting proper support in school, he has been suspended multiple times for things directly related to his disability because the school doesn't know how to handle children with behavior issues. He needs the support of licensed behavior analysts in the school setting to help supplement the therapy he already has access to in the home through our private insurance. Please help our keiki.

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Tara Ormond - **PARENT**

70 Niuhi Street | Oahu

tara.ormond07@gmail.com

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I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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Carla Jager

95-1517 Ainamakua Drive Apt 87 Mililani | Oahu

carla.jager94@gmail.com

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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Leanne Nagai

2471 Auhuhu Street | Oahu

nagai.leanne@gmail.com

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Alexandra Sagastume

1255 Nuuanu Avenue | Oahu

aps88@comcast.net

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Vania Simmons - **PARENT**

68025 Apuhihi St | Oahu

brazilnut@hawaii.rr.com

We definitely need more parents with children on the spectrum in Congress! Only those parents truly understand the needs of the children with autism. Applied Behavior Analysis is a scientifically validated approach to understanding behavior and how it is affected by the environment and a known strategy to change/modify the behavior of children on the spectrum. I am opposed to changing the Chapter 465-D. Sincerely, A proactive and concern **parent** of a child with autism.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

COMMITTEE ON HEALTH & HUMAN SERVICES

Rep. John M. Mizuno, Chair

Rep. Bertrand Kobayashi, Vice Chair

Rep. Della Au Belatti

Rep. Andria P.L. Tupola

Rep. Lei R. Learnmont

Wednesday, February 7, 2018, 10:30am

Conference Room 329, State Capitol

IN STRONG OPPOSITION OF HB2271

Celeste Nishijima

98-410 Koauka Loop, Apt. 6G | Hawaii

celesterodrigues92@gmail.com

As an RBT and an individual pursuing my BCBA credential, I believe that our teachers and keiki deserve the best support available. Our teachers work extremely hard everyday to teach our keiki, and the support of licensed behavior analysts and RBTs will help teachers to ensure that all keiki have access to an appropriate education. Chapter 465-D ensures that our keiki have access to applied behavior analysis services by licensed behavior analysts and RBTs. Our keiki are the future, and they deserve the evidence-based treatment of ABA delivered by licensed professionals. We need to give our keiki the very best we have to offer!

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Michelle Lam

3938 Kilauea Ave. | Oahu

michelle_l808@yahoo.com

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Debi Hoohuli-Rosa | 506 Kumulani Dr | Maui | debi.hoohuli@gmail.com

What happens when non-licensed and non-credentialed individuals attempt to practice or implement behavior analytic procedures? I moved to Maui in 2014 and worked for a contracted agency as a Skills Trainer within the Department of Education (DOE). I initially worked in a fully self contained classroom overseen by a Special Education Teacher who was so bogged down by paperwork she had little to no time to spend teaching the keiki. There were keiki in the classroom who had problematic behaviors, including but not limited to, aggression, self-injurious behaviors and elopement. One of the keiki's parents requested a Board Certified Behavior Analyst (BCBA) consultation, specifically stating that they were interested in receiving an updated Behavior Support Plan (BSP) for their keiki. A District Autism Consultant (no identifiable licensure) came to the classroom several times and within the course of her visits made scientifically impractical and potentially harmful biomedical, non-evidenced based recommendations such as: chelation therapy and gluten-free/casein free diet. When parents asked if these were ABA interventions, she stated, "ABA means a lot of different things, these interventions would be considered ABA." The interventions were considered by the parents but ultimately not utilized. No recommendations were made to the teacher for the classroom other than, "use trialing - an ABA method - to teach him to communicate." The teacher was then provided with a template form and advised by the Autism Consultant Teacher (ACT) to write a Behavior Support Plan (BSP) based on information received from the Paraprofessional (1:1 assistant). This resulted in an ineffective and non-functional BSP. The following year, I witnessed a District Autism Educational Assistant, who after 6 months of working with a keiki with severe behaviors without a BSP in place, make a formal recommendation to a parent of a child with ADHD and Autism that included the purchase and use of CBD, a cannabis compound! Since then I have worked at 19 different schools on the of Maui, including two private schools and have on several occasions witnessed support staff, administrators, and teachers engage in unethical behavior including social disapproval, shaming, physical abuse, and inappropriate restraints and seclusion in attempts to intervene on inappropriate and problematic behaviors that our keikis engage in. The majority of the occurrences that I witnessed involved keiki who had poorly written or no Crisis or Behavior Support Plans (BSP). Further investigation determined that the majority of the BSPs the staff were directed to implement were not based on Functional Behavior Assessments (FBA), per federal law, and in fact, several were actually based on a template distributed to Behavior Health Specialists (BHS), School Psychologists and teachers by the District Consultants. Faulty BSPs developed by unlicensed individuals, implemented by non-credentialed individuals result in due process hearings, teacher and direct care staff burn out, high turnover rates of front line staff, and severe injury to staff and keiki, as well as the unethical treatment of staff and keiki. Our most vulnerable keiki are placed in harm's way when non-licensed and non-credentialed individuals attempt to practice or implement behavior analytic procedures. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Aimee Watkins

Po box 1237 Kapaau HI 96755

aimeemalialani@hotmail.com

Our keiki need these behavior analyst specialists, the law is there for a reason- with more keiki needing these specialized services everyday we can't afford this change. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support our teachers and our keiki

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IN STRONG OPPOSITION OF HB2271

Chelsey Mendoza

P.O. Box 492535 Keaau | Hawaii 96749

chelseysalomon@gmail.com

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I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Trisha Petit - **PARENT**

4192 Keanu St., #4 | Oahu

tpetit808@outlook.com

The DOE has already been violating the law.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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Lohea Merola - **PARENT**

75-6081 Alii Drive X103, Kailua Kona, HI 96740

limmerola@gmail.com

My **son** was diagnosed with autism spectrum disorder. He has grown leaps and bounds due to a program he was fortunate to be a part of that included an RBT and a BCBA. Since he has been in the DOE progression has been minimal and the teacher often asks me why my son does not perform and she does not know how to work with my child on skills like eating and doing schoolwork. I have asked for additional support in the classroom and they cannot provide anyone to work on specific skill sets that will set my child up for success in his educational career. I have only asked for the teacher to take data and for us to work together on a program of how to teach my son and what skill sets we should focus on, but what is happening currently in the school does not replace ABA therapy. I know this first hand because my son is not progressing at the speed that he did when he was immersed in an ABA program.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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Kaiolohia Tolentino
P.O. Box 2467 | Hawaii
kaikait55@gmail.com

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IN STRONG OPPOSITION OF HB2271

Dawn Decoito - **PARENT**

94-520 Kupuohi Street, Apt 101, Waipahu | Oahu
ddecoito808@gmail.com

Why is Department so quick to want to carve themselves out of a law that was designed to protect our most vulnerable? The current position is upsetting, illegal, and unconscionable.

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Erin O'Donnell

Po Box 437333 | Hawaii

nellieod@yahoo.com

Our keiki need and deserve the right type of providers with the qualifications to serve them. As a provider I have seen kids who need special needs behavior analysts to serve them, this can't be done by just anyone and certainly not teachers who need to focus on all the students in a classroom. Give our keiki, their families and teachers the support to help them thrive and grow with the right tools.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Juri Ishida
95-024 Waihau St | Oahu
jurishida@gmail.com

I have seen some children with Autism forced to leave DOE due to lack of professional help (ABA). These children, including my child, have so much potential and are be able to academically strive with the help of ABA. Train the direct staffs with ABA under Licensed Behavior Analysts (LBA); have them obtain RBT credentials and the learning environment for both children with Autism and teachers would be so much better. Please take care of our keikis.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.
I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Jesica La Rue - **PARENT**

Hc2 Box 5726, 16~1703 41st Orchidland | Hawai'i

Divineewon@gmail.com

Our **son** is a student with DOE on the Big of Hawai'i. His FSC class is not supporting his behavioral and educational needs. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Felicia Clausen - **PARENT**

5029 Milburn Loop | Oahu

garneyfs@gmail.com

As a **parent**, we want our children to get the services they are entitled and depend upon. There are many challenges that they face and having a child with Autism- Applied Behavior Analysis (ABA) has become a major key to our home and life. It is important that the provider is licensed. ABA has allowed my child to be able to function around peers, the community and in the home. It has helped with self-injury, tantrums and poor self-regulation. My child has so much grow and has been reaching his potential with the help of his Licensed Behavior Analyst (LBA) and Registered Behavior Technician (RBT). Our children deserve the right to have ABA by licensed providers in the school.

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I oppose changing Chapter 465-D, behavior analyst licensure law. I stand in strong support of our teachers and our keiki.

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Nicole Olival

PO Box 732 Hawai'i

dojah8@yahoo.com

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IN STRONG OPPOSITION OF HB2271

Simone Hawkins
2055 Ala Wai Blvd #502 Honolulu
simonehawkins@teampbs.com

I believe this would have a negative impact on the kids.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.
I stand in strong support of our teachers and our keiki.

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John Paul (JP) Phelan

66-059 Alapii St., Haleiwa, HI 96712, Oahu

I believe this would have a negative impact on the kids. The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting. I support licensed behavior analysts. It's the right thing to do for our keiki.

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Corey Wolff

58-117 Kaunala St | Oahu

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IN STRONG OPPOSITION OF HB2271

Lawson Cosseboom
61-280 Kamehameha Highway
Haleiwa, Oahu

We need licensed providers to aid our teachers and our keiki. It's not rocket science, it's common sense. Why is the Hawaii DOE so quick to ask to be carved out from something that was created to protect consumers? Let's do the right thing Hawaii, for our keiki, our teachers, and our community.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.
I stand in strong support of our teachers and our keiki

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IN STRONG OPPOSITION OF HB2271

Nikki Shigematsu

P.O. box 324 | Hawaii

nikkishigematsu@yahoo.com

What is going on in our state DOE system?? The need is here and NOW, the funds are available!!! We want answers as to why so much wasted time at the expense of our keiki. What legitimate reasoning does the DOE have refusing to follow federally mandated laws, designed to aid our keiki!!!!

I oppose changing Chapter 465-D, behavior analyst licensure law.

I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Marija Colic
1645 Ala Wai Blvd Apt 508
colicmarija@outlook.com

I am new to Hawai'i, but not new to quality services. As a provider, I know the value of licensed and appropriately credentialed staff. Let's do the right thing for our keiki.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.
I stand in strong support of our teachers and our keiki

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IN STRONG OPPOSITION OF HB2271

Dawna Moody - **GRANDPARENT**

70 Niuhi Street | Oahu

dawna_moody@yahoo.com

My grandson has a doctor's diagnosis of autism but it has taken 18 months for his school to accept this diagnosis and allow him to receive services. He was denied over and over. The principal and others vehemently fought to discourage this family from getting the services and support in school that he needed. The problem is that we have been down this road before. We had to fight for OUR son to get services back in the 1990's. We had to sue the DOE. Which worked. In our grandson's case every avenue was explored but it too came down to a lawsuit. The imminent threat resulted in him FINALLY receiving the services he was legally due for the past 18 months. And now the DOE would like to do away with the very thing that makes it possible for many of these severely affected children to be able to function in the world. Having behavior analysts follow these children and support them to learn and grow is vital to their ability to make sense of their very confused perception of what is happening around them every day. The DOE has refused to train and hire licensed, trained professionals that would be available to work in the schools, hand in hand with the educators. The DOE has prohibited teachers from receiving further training and even gone as far as threatening the jobs of teachers who had expressed a desire to receive further training that would help them with these lost children. I oppose the DOE's desire to take away the requirement to provide one-on-one support to those children most in need. The DOE has been lazy and stubborn in not realizing that this is a new world. We have the ability to diagnose disabilities much earlier and provide the needed support. We can help these children navigate the education system successfully. Don't allow the DOE to take away something that was fought so long and hard for by LUKE, his family, and many others who have remained unnamed. Don't make lawsuits the only stick that can force compliance. I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

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IN STRONG OPPOSITION OF HB2271

Kahalenoe Kamalani

95-169 Kipapa Drive 33 | Oahu

kpk@hawaii.edu

I am a strong believer in learning through failure and I can even say that some of my most profound learning experiences arose from my failures. In fact, I believe in failing so much that I allow my children fail and then rejoice with them when they come back stronger and smarter from those failures. I can do this because my children are equipped with the tools to succeed and persevere despite those setbacks. However, for most individuals with disabilities- failure is not an option, in fact, in many cases it can be detrimental to their long term success. We actually have to do the exact opposite, which is continually ensure that we set them up for success. We set up learning situations where they can get it right. Using the principles of behavior through applied behavior analysis (ABA), we can help our most vulnerable students to be successful. ABA should not be used as a last resort; instead, it should be accessible to every child that can benefit from this science. The longer the learning history, especially when failure is involved, the harder it is for the student. Why put our children who already struggle through even more unnecessary struggle by postponing effective treatment as a last resort. I oppose HB 2271 because I believe waiting to fail first is counterproductive to everything our educational system aims to not do.

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IN STRONG OPPOSITION OF HB2271

Kaiki Gunderson-Cook

PO Box 343 Kamuela, HI 96743

risingtide80@hotmail.com

The DOE needs to support the children of Hawaii. Resources should be offered for educational opportunities, not taken away. This includes children with autism. The DOE should provide this support by having Licensed Behavior Analysts who understand ABA, because they understand the needs of the children. These children will grow up and become a part of our everyday community. We need to make sure they are supported as much as possible in the classroom to teach, mold, and promote the best person that each child can become. We want them to thrive and become an active community member as adults.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Rachel Sanchez - **PARENT**

rsanchez701@yahoo.com

I would like to share our personal journey about our **son** Julian diagnosed with autism/speech delay at the age of 3 years old. After his diagnosis, we started with enrolling him in an ALL day Early Childhood Program located at our nearest elementary school. Along came additional services needed outside of school to include, speech therapy, occupational therapy, physical therapy, and ABA services. In order to make sure we did everything for my son that was needed, we only relied on reputable companies in our area. I can say that throughout the years Julian progressed but this is also due to the fact that we had exceptionally trained therapists in our home. It was intense therapy as he grew to age 7-10 years old. We had a trained therapist in our home 2 hours a day 5 days a week while I homeschooled some of the years and kept all of his therapy appointments and social/community programs going. All of our therapists interacted so that each knew what was being worked on with Julian. I also provided details and had to keep on top of all of it. I couldn't imagine having someone untrained in the specific ABA methods used for my son at the time. It's because of those trained individuals, that I attribute his amazing success back into a great public high school, with minimum supports now because of his independence and becoming a wonderful student academically and socially. He is now 14yrs. old What an amazing journey thus far and looking forward to what's ahead for him. I'm grateful for our trained ABA Therapists whom were so dedicated to Julian and us as our family needed so desperately in his younger years. I ask that my testimony be attributed to keeping only trained ABA Therapists in our schools and outside reputable companies who specialize in ABA. It's truly detrimental to our children's progress. Thank you for your time in reading our story. Rachel Sanchez 702-637-8142

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Wendi Park

94-290 Lupua Place

wendihp@msn.com

Knowledge is power, and our children and those supporting our children, teaching our children, and parents loving their children deserve the right to access ABA through and in the DOE. Teachers, Psychologists, Behavior Support Specialists, Speech Therapists, Occupational therapists, are all valued team members, but no one should be replacing another in their role of expertise. Each team member brings knowledge to the table and the Keiki deserve the right to have these specialists working together including an LBA. Our children have no time to waste and the earlier we can help them in all parts of their lives, school, home, and within our communities the better it can be for the individual, their families, our schools, and our state.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

COMMITTEE ON HEALTH & HUMAN SERVICES

Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair
Rep. Della Au Belatti
Rep. Andria P.L. Tupola
Rep. Lei R. Learnmont

Wednesday, February 7, 2018, 10:30am
Conference Room 329, State Capitol

IN STRONG OPPOSITION OF HB2271

Jeanette Perez | jcperez@hawaii.edu

16-768 Milo street Keaau HI 96749

I strongly oppose HB2271. I am a licensed special education teacher here in Hawaii who has since left the classroom due to poor management by administrators, harassment on a personal level by an administrator and no support for special education. I worked at the same school I did my student teaching. I was excited and focused on providing the best care and education to my students. I worked in the fully self-contained classroom for 5 years. Three of those years were with students with multiple disabilities from PreK-5th grade and two were in an "autism" class created by the school. The school has gone through multiple administrators but at one point my concerns were heard and the administration at the time agreed that students on the autism spectrum (ASD) needed a more specialized environment with multiple supports. As the teacher in this class, I struggled with how to support my students. I did receive 2 helpful trainings (PECS and TEACCH) from the district office but quickly realized it was not enough. I then heard of Luke's Law and began to read up on it. I then found that Chapter 465-D which is the licensure of Behavior Analyst law in Hawaii. After reading it and learning more about it, I realized that I was being asked to work outside of my scope and sequence as a teacher. I was not given access to Board Certified Behavior Analyst (BCBA) but was asked to do the work. I was not given training on Functional Behavior assessments or Behavior support plans. This is when I decided to pursue my license in Behavior Analysis. I knew that I wanted to continue working with children with special needs, especially those on the autism spectrum. I am now in my 5th course out of 6 and can only look back and think about how much I could have helped my former students. If I had this knowledge and most importantly, been supervised by a BCBA to apply the knowledge with a student my impact could have been more profound. It is incredibly disappointing to see the DOE try and undermine the work of behavior scientist. Behavior science is unfortunately not common knowledge and it is also not a part of the teaching programs here in Hawaii. Instead of working with licensed behavior analyst, the DOE would rather train their staff in restraints. Denying the effectiveness and the science behind ABA is like denying the science behind climate change. Do we as a state move forward together and deny evidence-based practices in behavior change and allow anyone to perform the duties of a licensed professional? Would this be an acceptable proposal in any other work setting? Would we allow hospital employees from janitors and cafeteria staff implement medical interventions? Would we let any doctor perform brain surgery? Would we allow anyone with a driver's license drive heavy equipment or semi-trucks? NO! There are specialized educational programs and licenses that one needs to obtain to perform these jobs. We need to hold our Department of Education employees to the same standard as we do for those in other positions. If the DOE does not have the capacity to internally bring this service to all students who need it, they need to contract out from a private provider. Denying students medically necessary services in the DOE setting is in direct violation of FAPE and IDEA. Mahalo for your time.

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IN STRONG OPPOSITION OF HB2271

Kira Burleson

2134-Mott Smith Dr Honolulu, HI 96822 (Oahu)

kburleson@teampbs.com

ABA is essential for the correct FBA and interventions to be implemented. The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting. I support licensed behavior analysts. It's the right thing to do for our keiki.

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IN STRONG OPPOSITION OF HB2271

Joshua O’Kain | Ewa Beach | Oahu
jokain@teampbs.com

When I began my career as a special educator with profoundly impacted high school students, I had the privilege of working alongside a classroom BCBA. This BCBA was able to help two of my children obtain intensive ABA treatment in my classroom during the school day because of their needs. With this BCBA’s support, I was able to modify my classroom (with her oversight) to create child-centered behavior reduction and skill acquisition programming that led to each and every one of my students having a method of communication with their peers and other adults around them. This single change in their education helped lead each child to a more meaningful and relevant high school experience. I believe that, if all teachers who are in these severe and profound classrooms had access to support from a BCBA for consultation and/or direct therapy with an RBT, our teachers would be able to concentrate on creating and incorporating quality curriculum and incorporating the methods that the RBTs/BCBAs implement. Our teachers, although well meaning, do not have the support necessary to be successful in their classrooms, especially when the expectations are that they should perform FBAs and BIPs. I have seen, first hand, as an instructor at the University of Hawai’i for emergency hires and BCBA track students, that our teachers do not have the knowledge necessary to manage and prevent challenging behaviors. Most of the teachers that I observed and taught, did not have the ability or knowledge to create FBAs and BIPs that were fit for implementation. They also utilized ABA “methodology” incorrectly and inconsistently. Although many of them were almost at the end of their course sequences, they were mainly focused on how to teach rather than how to manage behaviors. Even their “mentor” or “supervising” teachers, when asked, could not identify appropriate methods. This is quite concerning to me as a university instructor and it should be concerning to all educators and parents.

In my opinion, if we were able to collaborate to improve our education support systems to include BCBAs and RBTs as a related service (much like services such as OT or PT), we would be able to make better use of our teachers’ skill sets and help them to appropriately manage behaviors and utilize ABA as a related service to gain appropriate consultation and oversight as they relate to instruction with intensive, empirically validated methods that may be suggested by an LBA. Out of the 40-50 children that I have worked with on the s, I would say not even one has had appropriate services or instruction that would be maximizing their functional or academic skills. I’m uncertain why our DOE is resistant to having help from outside agencies. I can say that, as a general Ed and licensed special education teacher, as well as a Licensed Behavior Analyst, across 4 states, I have seen a variety of schools. I can say, with confidence, that the state of our SPED programs in Hawai’i are dismal, at best. It is our responsibility as educators and citizens to assure that our keiki have the best education possible so that they can become active, productive members of society.

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IN STRONG OPPOSITION OF HB2271

Chelsea Jeansonne - **PARENT**

988 Ohana Nui Circle | Oahu

miahj81@yahoo.com

My son is 5 and has had ABA since he was three. He had a RBT one on one all day at school. We moved to Hawaii in July. The school determined he did not need a one on one paraprofessional. He also was not offered any ABA services during the school day. We have to use private ABA. Since most companies have a one-year wait list for afternoon appointments we have to pull from the school day. He will miss 15 hours a week from school to attend ABA therapy. He can't function in the classroom until we get the behaviors in control. The school has threatened us with truancy since we pull him 15 hours a week from the classroom. However, we have no choice but to pull him in order to receive the medically necessary ABA therapy. We have seen huge gains thanks to ABA therapy. We are considering homeschool next year in order to maintain a more stringent therapy schedule. He is not progressing in the classroom and SPED like we know he can. This is due to not having his RBT with him during the school day. He struggles staying on task without constant redirection. He still needs that one on one attention and the school has made little effort to help accommodate his individual needs. We asked about providing his RBT in the classroom but we were told several times that this was not allowed. We asked for one through the school and we received no response of yes or no. They ignored my question. The purpose of IDEA is to make sure that all children are able to have their individual learning needs met in the classroom. My son needs ABA to meet his individual needs. The IEP he has does not accommodate all of his individual need. The school is not holding up their end of FAPE. Which in all honesty I don't have a clue how they are legally allowed to get away with this. Their job is to make sure all children have the education that fits their needs. The school is not making sure that my child receives all the accommodations he needs. I feel they are doing what is best for them and not what is best for my child. ABA is a huge component to the success of my son. The school is not providing the best education for him. So we will be looking elsewhere. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Patti Heath

2112 Point Welcome Pl | Oahu

patricia.heath1@gmail.com

ABA is essential to improving the quality of life our kids can develop over the years. Please don't take this away from them. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Bernadette Cuba - **PARENT**

98-142 Lipoa Place#307 | Oahu

stuntman300@gmail.com

Please don't get rid of ABA provided by behavior analysts. I think kids need it in school thank you very much. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Molly Stemmler

59-602 A Kamehameha Highway | Oahu

refugee.molly@gmail.com

If we are facing capacity issues as a state, let's come up with solutions for increasing the capacity of qualified providers in our state. The answer is simply not to carve individuals out from these protections. Prior to the behavior analyst licensure law, individuals in our state were receiving behavior support for intense and severe behaviors by a cadre of mixed "professionals". The intention of the ABA licensure law was to bring credibility to behavioral practices and to increase consumer protections in our state. Why would the legislature agree to reduce these protections for our most vulnerable? As a society, we must take care of each other. It's our kuleana.

I oppose changing Chapter 465-D, behavior analyst licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Heidi Nobmann
67-249 KIAPOKO ST | Oahu
heidinobmann@gmail.com

The people of Hawaii deserve trained professionals so they have the opportunity to succeed. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Kendall Mindar

533 Kaukaalii St. | Oahu

kendilynn7@hotmail.com

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws: I.D.E.A., FAPE, and the American with Disabilities Act (ADA). I stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting.

Our kids deserve the best possible help they can get. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Johanna Poore
168 Kline Rd. | Oahu
jrasbrat@yahoo.com

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I stand in strong support of our teachers and our keiki. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Kellie Crowder

67-242 Kanalu St. | Oahu

kellcrowder@gmail.com

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IN STRONG OPPOSITION OF HB2271

Meagan Bresson
70 Niuhi street | Oahu
meagan.bresson@gmail.com

These behavior analysts are crucial for autistic children like my nephew. We have seen leaps and bounds while he was under the care of a licensed behavior analyst and for the schools to decide that he doesn't need it is bull---.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Denita Mortensen | Oahu - **PARENT**

denita.mortensen@gmail.com

As the mother of a child with disabilities I know how very important it is for children to have early intervention. In other states child psychologists, therapists and special education teachers are trained to analyze and advocate for the needs of the child within the public schools to ensure their progression and scholastic success. As educators, parents and indeed all members of the community will agree that helping our children become and do their best is not only beneficial to the child but to society in general. We have a duty to provide the best learning environment for all our children not just the ones who fit easily into the less-than-perfect existing educational model. The funding is there. We pay taxes and expect it to be used in a prudent way to provide for the needs of ALL our children.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Maureen McComas - **PARENT**

7221 Luhi Place | Oahu

rainbowmomhi@gmail.com

I stand in strong opposition of this bill, which would limit Applied Behavior Analysis in the DOE using a "fail first" approach. Our child made minimal progress in the DOE without ABA programming overseen by qualified and licensed LBA's, and has since made robust progress given applied behavior analysis (ABA) to access her learning. ABA has provided her meaningful access to communication and has decreased behaviors that impacted her progress. What this bill is suggesting is that our child will have to regress and fail in order to qualify for Applied Behavior Analysis to be included in her DOE programming. That is not providing her with a FAPE.

Our child made minimal progress in school, and was provided poorly implemented ABA prior to and after the licensing law went into effect- by unlicensed and unqualified staff. Her behaviors prevented her from accessing her learning. As **parents** we made the difficult decision to remove her from school and place her in a clinical ABA setting where she has blossomed into a happy engaged learner who for the first time has meaningful communication. She has made amazing progress in all areas working with the dedicated and passionate staff that includes only licensed LBA's and RBT's who provide individualized ABA that is specifically designed to meet her unique needs in behavior, communication and social skills. Despite this documented progress, the DOE refuses to include ABA into her school programming.

We strongly oppose changing Chapter 465-D Behavior Analyst Licensure Law - we have seen firsthand the amazing benefits of ABA programming provided by licensed and certified providers, and have seen firsthand the damage that can be caused by unqualified direct support workers. I stand in strong support #fourourkeiki!

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IN STRONG OPPOSITION OF HB2271

John McComas - **PARENT**
7221 Luhi Place | Oahu
rainbowmomhi@gmail.com

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IN STRONG OPPOSITION OF HB2271

Whitney Moody
68-386 Kikou St | Oahu
whittygirl83@yahoo.com

This is ridiculous! You need to have licenses behavior analysis on staff in order to help children with different abilities, especially with things like ASD. My nephew attends a public school here, and he needs this help in order to be successful! All our keiki deserve the opportunity to be successful!

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws: I.D.E.A., FAPE, and the American with Disabilities Act (ADA). I stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting

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IN STRONG OPPOSITION OF HB2271

Kelsey Kamaau
67-456 Kioe St | Oahu
kelskamaau@gmail.com

I strongly oppose this and believe all children need to be treated with equity - some children need more help than others - so do it right and give them that help in the right way with people that have the education and expertise to help them!!

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws: I.D.E.A., FAPE, and the American with Disabilities Act (ADA). I stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting.

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IN STRONG OPPOSITION OF HB2271

Gina Konishi

1581 Violet Street | Oahu

geegina46@yahoo.com

I'm in strong support for ABA in schools because I have a cousin that teaches in the public school system here in Hawaii. She's worked as a 1:1 with students with autism here and also on the neighbor islands. I have witnesses the large amount of dedication that she puts in with her students and coworkers. My cousin Ashley puts in the time and effort to research strategies that help behavioral students and also seek advice from licensed behavior analysts. She often tells me her struggle working under unqualified professionals who use strategies that have not been vetted. I work in the healthcare facility and having people with the right skills and knowledge gives us the assurance of the do's and don'ts on appropriate treatment and procedures. Like in many professions we always seek other professionals for guidance when we are unfamiliar. Why should children be any different or be an exception to the rule? Students that have had the opportunity to have my cousin Ashley as a teacher has made great gains not because she's a teacher but because she knows what it takes to make an impact on each of her students and she's not afraid to seek professionals BCBA's for guidance.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Coco Pollock

68-300 Mahina ai street, 68-300 | Hawaii

cocopollock@gmail.com

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Shazlei Sampaio-ribucan - **PARENT**

911159 keahumoa pkwy | Oahu

ms.shazlei@yahoo.com

ABA is needed. My **son** has severe autism and is non-verbal. Imagine yourself or your child need something and its going to be taken away. How would you react and do when you fight for your child to have something and it's going to be gone. ABA – we need it.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Wendy Lowry

67-345 Kaiea Pl | Oahu

wendylowryonline@gmail.com

Special Ed in Hawaii is so far behind the rest of the country. They need better help!

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Tasi Taylor

68-017 Waialua | Oahu

tasi.taylor@gmail.com

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Sara Rowley

68-450 Kikou Street | Oahu

sararowley55@gmail.com

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws: I.D.E.A., FAPE, and the American with Disabilities Act (ADA). I stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Rep. Della Au Belatti

Rep. Andria P.L. Tupola

Rep. Lei R. Learnmont

Wednesday, February 7, 2018, 10:30am

Conference Room 329, State Capitol

IN STRONG OPPOSITION OF HB2271

Lyle Moody - **GRANDPARENT**

70 Niuhi Street | Oahu

dawna_moody@yahoo.com

Please don't let the school system get away with denying my **grandson** the services he needs. They need to step up and provide the services that these kids are eligible for and to make sure there are trained professionals ready to provide the service. Why is the DOE not stepping up to take care of our children? Please do what is best for our children. I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

I stand in strong support of our teachers and our keiki.

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Brighton John

68450 Kikou street | Oahu

brightyy101@gmail.com

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IN STRONG OPPOSITION OF HB2271

Carly Penaranda

68-416 kikou St | Oahu

carlybeth.swim@gmail.com

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IN STRONG OPPOSITION OF HB2271

Jennifer Hales
70 Niuhi St | Oahu
jenniemoody92@gmail.com

My nephew is autistic and his behavior analysts have done WONDERS for him. His quality of life is better, he is happy and his behavior has completely changed for the better. Please help my nephew. The DOE needs to have licensed behavior analysts on staff to help kids with behavior issues. Please don't let the DOE get away with not helping these kids.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support our teachers and of our keiki.

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IN STRONG OPPOSITION OF HB2271

Mai Waye

951062 Kamalino St. Mililani HI 96789 | Oahu

tawmdl@aol.com

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IN STRONG OPPOSITION OF HB2271

Sarah Sutton

67-616 Kahui Street, Waialua | Oahu

sarah@sustainablemuseums.net

Applied Behavior Analysis (ABA) is one of the most powerful tools we have to address autism and other development and emotional challenges. Its adaptive nature ensures appropriateness for each case. What we do for our keiki now when they are young makes an exponential difference for them, their families, and their communities and Hawai'i in the future. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Lisha Padilla | 99-943 Halawa Heights Rd. Aiea, HI 96701 | lishac57@gmail.com

My name is Lisha Padilla. I am a former teacher in the Leeward District on Oahu. I am submitting testimony in opposition. Our children are our future. When teachers instruct their students, we build the foundation for equality and prosperity for tomorrow's generations. Every child in our state deserves an education founded in evidence-based practices that ensures they are graduating with the skills and knowledge necessary to be contributing members of society. These bills change the language in the current law relating to ABA services delivered in schools. We can all agree that our teachers already go above and beyond to support our Keiki. By limiting ABA services as a reactive approach, rather than a proactive one, we will be putting additional strain on our teachers in the classroom. Our Keiki deserve services delivered by qualified professionals. When a child with special needs requires speech therapy to make adequate progress in his/her education, they are provided with a licensed SLP. When a child with special needs requires gross motor therapy in order to make progress in his/her education, they are provided with a licensed PT. When he/she needs occupational therapy, he/she is provided with a licensed OT. When that same child needs behavior interventions, he/she should be afforded a licensed professional to provide high quality services. As a former special education teacher, I can attest to the improvements that I have seen first hand, in my students who received ABA services. I can also attest to amount of work that gets piled onto a teacher's plate when those services are not provided. I would never purport to be an SLP and design/implement speech language services, as I do not have specific training in the area of speech/language pathology. I would never purport to be a PT or an OT, and design/implement interventions in physics therapy or occupational therapy. Yet year after year, the DOE expected me to design and implement behavioral interventions for my students with severe disabilities (including Autism). Precious instructional time was spent developing behavioral interventions for my students that should have been spent teaching or lesson planning. I count myself extremely lucky that my own education included many courses in applied behavior analysis, but even then, when designing behavioral programs, it felt like I was doing more than one person's job. I can say first hand that when I had support from a licensed behavior analyst, I had time to do MY job: being a teacher. The DOE needs to provide adequate services for students with special needs, which reflect the value of our hardworking teachers. To deliver the services our keiki deserve, please oppose this bill. We need your help. Mahalo.

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IN STRONG OPPOSITION OF HB2271

Noelle Dennard
94-1071 Kaukahi Place, A9
nchapman@alumni.princeton.edu

I work as an RBT at a private clinic, and I have seen firsthand what ABA therapy can do for kids with special needs. I also have heard many negative things, from parents and from DOE-contracted skills trainers, about the lack of training and organization in many of the agencies that are contracted for special education workers. It seems that ineffective programming often goes unchanged for long periods of time in settings where ABA professionals are not present. By contrast, the programs at our clinic are being evaluated every day by BCBA's and RBTs, and the constant communication ensures that programming is always being improved for maximum efficacy. I think special education in public schools would benefit greatly if ABA professionals were always present in those settings.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Melody Ericson

98-1729 Kaahumanu Street #B

melodymansour@hotmail.com

I support our teachers and our Keiki! I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

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IN STRONG OPPOSITION OF HB2271

Alison Dinsmore

1916 Fox Blvd | Oahu

ali_r_lose@yahoo.com

DOE should have their own ABA in schools. I'm a RBT and work with children that have autism; I have also worked in a public school. It's really sad to see the lack of education and help provided to children in the DOE. The children are our future and we should be doing everything in our power to help these children thrive and succeed in life. The easiest way to do this is to educate teachers, students, and DOE skills to help these children. The DOE should be adding more ABA services, not taking services away.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Benjamin Penland

471B Hinano Way | Oahu

bpenland@gmail.com

Our children deserve quality treatment provided by Licensed Behavior Analysts and nothing less. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Carolyn Penland

471B Hinano Way | Oahu

bpenland@gmail.com

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IN STRONG OPPOSITION OF HB2271

Forest Penland - **PARENT**

471B Hinano Way | Oahu

kathleenmpenland@gmail.com

Licensed Behavior Analysts can help our keiki reach their fullest potential. Broadening the law to "any licensed professional" to design, implement, and oversee ABA will allow the status quo to continue. We cannot allow that. Thank you for your consideration. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Stephanie Pollock

68 300 Mahinai Ai Street Waialua | Oahu

workingoutinparadise@yahoo.com

All children should have the help they need no matter how severe their case has been deemed.

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IN STRONG OPPOSITION OF HB2271

Kerilyn Pollock

68 300 Mahinai Ai Street Waialua | Oahu

keriynpollock@yahoo.com

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Michelle Rogers
68-386 Kikou St Waialua HI 96791
michellejumprope@gmail.com

Please don't cancel this program or the funding for it. It is need in schools so badly. I work in a school and these programs help so many. Not only do they help the children but help the parents that totally need help. This program is helping my nephew right now and he truly needs it sense he has been in the program he has been able to do much better but he still needs more help so I plead with you to not cancel it.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Tracey Kashiwa

1503 Emerson St. Honolulu, HI96813 | Oahu

tracey.kashiwa@gmail.com

Every kid that enters the DOE deserves a chance! I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Stephanie Ngo

531 Hahaione St. Apt. 13C | Oahu

sngo@hawaii.edu

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and of our keiki.

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IN STRONG OPPOSITION OF HB2271

Alaina Mead
70 Niuhi St Honolulu, HI 96821 | Oahu
alaina.rogers@gmail.com

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Josh Mead

70 Niuhi St Honolulu, HI 96821 | Oahu

senormead@yahoo.com

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Cosette Rogers

70 Niuhi St Honolulu, HI 96821 | Oahu

cosette.rogers@gmail.com

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Keri Monteith
92-924 Palailai St.
keri_stuart@yahoo.com

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Shaelee Johnson

55-521 Naniloa Loop | Oahu

shaeleejane@gmail.com

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IN STRONG OPPOSITION OF HB2271

Kawohionalani Jenkins

68-069 Au street Waialua HI 96791

kawohi@autismbehaviorconsulting.com

Aloha! My name is Kawohi Jenkins and I am submitting a testimonial as to why DOE should keep ABA. First things first. The science speaks for itself. It has had a significant impact with helping kids with autism. It's the only proven treatment to make an impact on kids with autism. I've seen it be used to help kids with severe problem behavior. I've seen it help kids who before couldn't or wouldn't speak. I've seen it help kids open up to a positive teaching environment. I've seen parents cry in gratitude for the work that has been done for this. ABA has changed my life. I've found a love for this work and science that I never knew before hand. To take away ABA from kids who could benefit from it violates the first rule for kids when it comes to their education. If you take away ABA, you take away kids rights to an appropriate education for them. You take away the potential a child has trapped under disorders or learning issues. You take away a parents joy of hearing their child say mom or dad for the first time. You take away all of the success that could have been had. ABA should stay in the DOE.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Victoria Kelleher

1025 A'e Street #305 Kapolei, hi 96707

kelleher.victoria@yahoo.com

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IN STRONG OPPOSITION OF HB2271

Adessa Lovell

2080 Aheahea St. | Oahu

adessaslavens@gmail.com

I have personally witnessed the way ABA can change family's lives. It should not be removed. ABA is scientifically backed and I support it and the families that need these services!

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Joanne Getty

92-1185 Palahia Street Kapolei, HI 96707 | Oahu

joanne@autismbehaviorconsulting.com

I believe we should uphold the current licensure laws for behavior analysts. These laws support teachers (as well as students and families) by helping them get access to licensed professionals in their classrooms. The outcome of our children impacted by Autism and other developmental disabilities depends on it!

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Amy Smith Wiech

68-275 CROZIER LOOP | Oahu

amy@autismbehaviorconsulting.com

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IN STRONG OPPOSITION OF HB2271

Lorelei Bandola

91-1034 Akai street | Oahu

ll.fajardo@yahoo.com

Children with autism deserve the right to receive effective treatment under licensed BCBA's and RBT's. Research has shown that children benefit from ABA and BCBA's are experienced professionals who can make a difference for these individuals to live better lives.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Karlette Johnson
68-386 Kikou St, Waialua, HI 96791 | Oahu
utahcamper@gmail.com

I strongly believe in the value of behavior analysts in our schools to work with autistic children. I have personally seen a huge difference that these professionals make with my nephew. I strongly oppose legislation to remove these professionals from our schools.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Jerry Rogers

68-386 Kikou St Waiialua HI 96791 | Oahu

gorgefrog@gmail.com

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Karla Rogers

68-386 Kikou St Waialua HI 96791 | Oahu

operationivy9@hotmail.com

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Kathleen Norris

6518 103 St Ewa Beach, Oahu

knorris@teampbs.com

ABA is the practice of using science to improve lives by trained professionals. As a sibling of an adult with autism with minimal access to ABA, I am heartbroken that services were not widely available which stunted his social growth. I have worked as an RBT in a school on the main land, and i have seen the positive impact on multiple children's lives. I left the banking world to work in this field because of the positive impact it makes. I stick with science.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Christine Cosio - **PARENT**

1406 Peter Buck St. Honolulu, HI 96817

christine_cosio@yahoo.com

No Child Left Behind. Every Student Succeeds. Is this just a slogan? My **son** has autism. I have an obligation to him and I will do whatever I can to help him be independent in the future. I need help. I've been asking, begging and sometimes fighting to get the appropriate support to help him. The laws are in place to protect him. Why suddenly change them now? Give it a try! Try giving my son what he deserves. Why steal from a helpless child. Why do you make it difficult for him to access ABA in school? I want a licensed and trained professional to plan and properly implement behavior programs for him. My son needs help. Please don't deprive him anymore. Give it a try. Let's see what happens. ABA is an evidenced based treatment. I've seen him flourish with ABA at home. Please provide it in school where he spends most of his time learning with his peers.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

COMMITTEE ON HEALTH & HUMAN SERVICES

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Rep. Andria P.L. Tupola

Rep. Lei R. Learnmont

Wednesday, February 7, 2018, 10:30am

Conference Room 329, State Capitol

IN STRONG OPPOSITION OF HB2271

Gina Gillstrom

504 Kaiolohia St. Kihei 96753 | Maui

ginagillstrom9175@gmail.com

Our keiki deserve support. Teachers are asking for help. We are ashamed of our public schools. No wonder our teachers are leaving. We have over 300 emergency hires for special education. Why would the DOE fight to take away the rights of our keiki rather than ensure them? It is time for our legislators to hold the state departments accountable. They pull down federal funds yet they violate the federal protections that are to be afforded to the most vulnerable in our community. I stand in strong support of our keiki and our teachers.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and of our keiki.

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Tammy Chang
3103 Esther St | Oahu
tamacha@gmail.com

The task to improve Hawaii public schools is daunting. However, there have been major strides in moving Hawaii up the scale, providing effective and efficient education to all of Hawaii's Keiki. Let us not go backwards. Let us support the difficult changes that NEED to be made for our keiki. Let us stay on the difficult path together, keeping our keiki as the main focus. Money should never be more important than our sustainable future.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Barney Mollena - **PARENT**

37 West Waiko Road | Maui

barneymollena@gmail.com

I have a 5 year old son who is autistic. He is non-verbal and can't function in school without his RBT. Without his RBT I know it will be detrimental for him. He has walked away from us in seconds and we wouldn't have a clue where he went. And because he doesn't acknowledge people, it's a scary moment until he is found. Fortunately for me I have a fenced in property to keep him in but he has found his way out when visitors would forget to close our gate. I feel without ABA services we would be forced to keep him at home for his safety. I won't let him be a tragedy should this bill be allowed. The sad part is my son is so smart and has learned to read on his own from the age of two. His memory is amazing and he could name most of the animals and mimic the sound they make. When he was 4 years old, the pre-school teachers would let him read a book during circle time and the children would be amazed that he knew how to read. With his RBT, it is showing him how to function with others that are different than him and be able to express himself to others. Also he is learning how to follow directions to do everyday tasks. With him this is done with constant hand over hand directions.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Michelle Foushee - **PARENT**
153-104 Anderson Ct. | Oahu
mlfoushee1@gmail.com

If it weren't for ABA my **son** wouldn't be where he is today! I'm so grateful for ABA and I want to keep ABA as long as they accept my son in the program. They have not only helped my son who is autistic but as helped myself in so many ways! We need ABA

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Nicole Skotz

1059 Iopono loop | Oahu

niciskotz@gmail.com

Hello, I am a licensed behavior analyst, but more than that I stand with everyone who wants and expects most effective teaching methods. ABA is a research based science that can and does help individuals with autism and helps teach teachers on how to best support students. What is occurring in schools is sub par and does not support the children who are being let down everyday. Children are being blamed for challenging behavior, when environments are not effective and training is not occurring for teachers and 1:1 providers. Our children do not get a choice as to where they get to learn and it is unethical and inhumane to the give them sub par and in some cases problematic teaching environment where they are not understood. There needs to be rules as far as training and having confidence in the teaching that is being done. Credentialing is the way to ensure that confidence. Our kids deserve better and i know that it is possible if we work together as a community. Our goal is the same: to educate and give all children in schools a bright and thriving future.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Tracey Kashiwa

1503 Emerson St #4 Honolulu, hi 96813 | Oahu

turtlettk@hotmail.com

We fight, like there is no tomorrow. ALL kids deserve the same educations! I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Denise Thornton - **PARENT**

PO Box 226 Keaau, Hi 96749

deniserhornton808@yahoo.com

My **daughter** is in need of ABA therapy. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Maggie Gaylor

91-2049 Kaioli Street #2704, Ewa Beach, HI, 96706

maggie.gaylor@yahoo.com

Prior to becoming an RBT I was an under-trained worker in the DOE as a skills trainer. Now that I have been trained, tested, and properly supervised I can see the true difference between a skills trainer and a RBT. I am able to now work so much more efficiently for my clients and provide them with the best care. I have been able to see children go from sitting alone in a corner all day flourish socially and initiate play with their peers. I have seen children who don't talk learn to say "Mama" and the tears well up in that mama's eyes. I have seen children who were so frustrated because they couldn't communicate their wants and needs that they would bite themselves and now they can say "I need a break." These children deserve every chance they can to succeed and we can't wait for them to fail before we give them the help they need. Our Keiki deserve better, they deserve the best!

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Alyson Morita

47-465 Hui Aeko Place Kaneohe, HI 96744

amor.620@hotmail.com

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IN STRONG OPPOSITION OF HB2271

Randi Lee
2256 Liliha St. | Oahu
randi.lee86@gmail.com

ABA is the only scientifically proven effective treatment for children and adults with autism. It is our responsibility to make sure that our keiki are given the best possible treatment so that they can live the most independent and successful lives possible. DO NOT TAKE AWAY ABA FROM OUR KEIKI!

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IN STRONG OPPOSITION OF HB2271

Richard Elg - **PARENT**

1620 Ala Aoloa Loop | Oahu

rich_elg@hotmail.com

As a **parent** of a child with autism, I am alarmed and appalled that the state would try to remove ABA services from children in need. It is imperative that children be given support from individuals that are licensed in the field of Behavior Analysis. Without licensed BCBAs, children will not get the care and support that they desperately need to succeed.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Stacey Kuhn, MS, BCBA, LBA
1253 S Beretania St, Suite 2710 Honolulu HI 96814 | Oahu
staceykuhn@kuhnbc.com

My name is Stacey Kuhn, Board Certified Behavioral Analyst and Licensed Behavior Analyst in the state of Hawaii. I am the founder of Kuhn Behavioral Consulting Services, a Kama'aina company, and Behavioral Health Center of Excellence accredited provider in the state of Hawaii, and I have over 24 years of experience in the field of Behavior Analysis. I oppose SB739 and HB 2143. I oppose SB2925 and HB2271 I stand in support of the amendments and changes for the current bills as suggested by HABA. Thank you for allowing me to submit testimony.

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IN STRONG OPPOSITION OF HB2271

Emily Ferguson

195 Clarey Pl | Hawaii

emilyquinn1616@gmail.com

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws: I.D.E.A., FAPE, and the American with Disabilities Act (ADA). I stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting.

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Daiquiri Hammond

142 Reno Rd. | Hawaii

naturenymp555@gmail.com

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Jackie Gailey
115 Kilu Lane | Oahu
gangstaj08@gmail.com

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Heidi Nobmann
67-249 Kiapoko Street | Oahu
heidinobmann@me.com

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IN STRONG OPPOSITION OF HB2271

Diana Powell

91-2290 Kanela Street Ewa Beach HI 97606

dpowell@acesaba.com

A lack of qualified behavior analysts in the DOE setting overseeing much needed ABA services for students with autism is unethical and dangerous, in addition to violating several federal laws including I.D.E.A, F.A.P.E., and the American with Disabilities Act. As a Board Certified Behavior Analyst (BCBA) and Licensed Behavior Analyst (LBA) in Hawai'i, I have unfortunately seen the results of lack of qualified personnel in the public school settings firsthand. The result is a dangerous setting for our keiki as well as school personnel; too often children are injured unnecessarily due to untrained, uninformed staff and a lack of qualified behavior analysts overseeing the treatment of students with autism and related developmental disorders.

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. I stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Lara Bollinger, M.S.Ed. BCBA, LBA - lara.bollinger@gmail.com
61-280 Kamehameha Hwy. Haleiwa, HI | Oahu

First, thank you all so much for passing Chapter 465-D, to ensure the licensure of Behavior Analysts. I am writing today to lend my voice in STRONG opposition of HB2271. This bill would allow our most vulnerable keiki to fail before giving them much needed support in Hawaii's public schools. I have several concerns with the bill.

1. In my experience, keiki who are exposed to quality behavioral programming can make significant progress while those that are exposed to sub-par programming can develop additional challenges, stall in their learning, or regress. Waiting for our keiki to fail will cause more problems in the long run and is unfair to them and their families.
2. Treating behavioral and learning difficulties as a reactive strategy is just plain wrong. Our goal as professionals is always to prevent problems. Doctors do preventative "well child" check ups to catch problems early and treat them before little problems become big problems. The same can be said for good Applied Behavior Analysis (ABA). We should not be waiting until students are failing before Licensed Behavior Analysts (LBAs) are called to be part of the team.
3. The Individuals with Disabilities Education Act (IDEA) requires that students are given access to a Functional Behavioral Assessment (FBA) anytime that their behavior is impeding their learning or the learning of others. In Hawaii, Chapter 465-D requires that the FBA is completed by an LBA or a Licensed Psychologist with ABA in the scope of their practice. By not completing this FBA, the Department of Education is opening itself up to many due process cases and potential lawsuits.
4. Additionally, this appears to violate the provision of a Free and Appropriate Public Education (FAPE) as guaranteed under IDEA. In particular, this appears to violate the appropriate education portion. If a child needs behavioral interventions as a part of their education in order for it to be appropriate for him or her, then not providing those interventions is a violation of FAPE. Children are different and their needs must be considered in writing their individual education plan. If those needs are not addressed in the plan, then FAPE may be violated for that child, opening the DOE up to additional due process cases and lawsuits. I urge you to oppose HB2271. This bill will do nothing but perpetuate harm for Hawaii's keiki with special needs. Thank you for your time and your desire to do what is right! Let's continue to work together as a state to Malama Our Keiki!

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IN STRONG OPPOSITION OF HB2271

Sierra Whittington
123 Koloko Ct Unit 101 Wahiawa HI 96786
sierra.whittington@icloud.com

So many kiddos will suffer if these bills are passed. I'm saddened by the lack of compassion these potential bills are showing. These kids need ABA services. I've experience so many miracles since I've started providing ABA services. These one on one services provide so much help to these kids and it's important that we keep these services for families and for schools. I have one mom terrified for her kiddo if these bills are passed. She states, "If this happens, this will affect my kid tremendously. He doesn't have his RBT for in school, but he does have her for our home services. A psychologist, whom he already has, will replace his RBT if this bill passes. Which will not be good! His psychologist sees him once every 90 days to redo his prescriptions. How do they expect her to understand his home environment, his behavioral problems/anger issues, in her office?! How is she going to help him with social skills and how to cope with everything, in her office?! She puts a band-aid on his behavior with his medicine, but she doesn't help it go completely away. His RBT helps a lot with his at home behaviors and keeps him on track. Helps him to cope when he is upset and gives him options. If this is taken away from him, it won't just be bad for my child; it will be bad for all of us. He has come a long way, and this will make him backtrack and spiral out of control. Praying for all the kids that could potentially be affected by this.

I stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting.

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IN STRONG OPPOSITION OF HB2271

Joy Oliveira | HC1 Box 4015 | Hawaii | JoyMoana21@gmail.com

I am a Special Education Teacher from the Big Island of Hawai'i. I would like to submit testimony to share that there is a devastating impact when Applied Behavioral Analysis (ABA) and services for our keiki are not provided or done so by unqualified personnel. In addition to our keiki, I beg you to consider the negative impact the lack of adequate services and providers have on all students and our hard working teachers in Hawai'i. Not just the child requiring services is impacted, but all students witnessing classroom behaviors are impacted on a daily basis. The longer we wait to install appropriate services, the longer the students miss critical instruction. I personally witnessed unqualified people developing and implementing inappropriate strategies and the results were truly devastating. Not only were some interventions suggested highly inappropriate, but also some were emotionally and physically harmful. As an emergency hire teacher, I was asked to complete Functional Behavioral Assessments and develop Behavior Support Plans for my students and assist in daily implementation. Admittedly, I was not adequately trained, and my coursework had not covered this task in depth. I was instructed that as a Special Education teacher, we are already qualified to support students. This was not accurate and I desperately needed help, my students needed help. I needed the daily access to specialized knowledge and support of a Registered Behavioral Technician. I needed them to monitor behavior and collect data and under the supervision of a BCBA, modify plans as necessary. I needed to be able to manage my classroom and focus on teaching all of my students. The School Based Behavioral Health (SBBH) employee was also a licensed counselor had been instructed to assist me. She and I expressed that neither of us were sufficiently trained in Behavioral Analytical Practices. We needed access to personnel for clarification, and be supported appropriately to improve outcomes for our students. After completing a forty-hour training for Registered Behavioral Technicians nearly two years ago, I affirmed my belief that appropriately developed strategies would absolutely and positively impact students especially within the school setting. I truly believe it is necessary for Functional Behavior Assessments and the development of Behavioral Intervention Plans require the direct supervision of a Board Certified Behavioral Analyst (BCBA) or individuals who can certify that they possess adequate training. Students who spend the majority of their day in school, are already failing, we cannot afford to continue to wait for the provision of services where they spend the majority of day, in the school setting. Additionally, all personnel providing services should meet the basic credentials that a Registered Behavior Technician or a Board Certified Behavior Analysts possess. This is the most vulnerable population of our keiki who need us to responsibly provide services through qualified professionals that are trained specifically conduct a Functional Behavioral Assessments, develop interventional strategies based on data. Teachers need support for their students so that they can succeed. I am asking, for the sake of both our students and our teachers for your support in ensuring we truly provide what is best for our keiki.

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IN STRONG OPPOSITION OF HB2271

Cathryn Langan - **PARENT**
2953 Kalihi St. Apt. A, Honolulu, HI 96819
cathryn.langan@gmail.com

Aloha, I am writing to oppose this bill. As a **parent** of a child on the autism spectrum, I want a Registered Behavior Technician; someone trained in understanding behavior, working with my child. Someone with an autism specific credential may not know how to work fully with my child, who yes, is a child with autism but is also so much more than that. Also, I feel uneasy about licensed psychologists overseeing treatment, as there is no guarantee that a licensed psychologist will adequately know how to work with my child from a behavioral perspective. I also oppose this bill as I feel that many students in need would benefit from licensed behavior analysts (LBA) assisting with services in the DOE setting. This piece of legislation will not allow schools to "provide special education and specific services tailored to meet unique needs of students with disabilities," as outlined in PL 94-142. I **personally am uneasy about sending my child to a DOE school to start in kindergarten this fall because I have seen many children fall behind because they were not provided with adequate services which could have been improved by having LBAs assisting with their service plans.**

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Nicole Domingo

98-417 Hookanike St. #A Pearl City, HI 96782

darqpique@gmail.com

I worked in the school for 5 years with children with autism before starting at my current job at a center where we do ABA treatment for children with autism. I learned so much more about autism and how to support and work with children with autism. I wish I had my knowledge of ABA when I was working in the school. Removing ABA from schools would be detrimental to children and negatively impact services children diagnosed with autism would receive.

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws: I.D.E.A., FAPE, and the American with Disabilities Act (ADA). I stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Cheryl Ebisui
95-1091 Auina St | Oahu
cebisui@teampbs.com

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Catherine Wilson
PO Box 375 | Kauai
catuare@hawaii.rr.com

Dear Member of the Committee,

Thank you for the opportunity to testify. I am Catherine Wilson, a Board Certified Behavior Analyst and a Hawaii State Licensed Behavior Analyst. I am also in my last year of a clinical psychology doctorate degree. I own and operate a local behavior company, ABA Positive Support Services. This bill will greatly compromise the quality of ABA services provided throughout the state of Hawaii. There is only reason the state would be interested in pursuing an alternative track for credentialing one to one providers of applied behavior analysis. That reason is to avoid the time and effort it would take to assure that individuals are receiving quality services. The current legislation requires the Registered Behavior Technician (RBT) credential for one to one providers of ABA. The Behavior Analyst Certification Board (BACB) oversees this credential. The BACB has an established system to credential people, which includes training, continued supervision and a code of ethics. There is no reason to move away from what is already working. If a potential staff is willing to go through an alternative autism specific credential they should be significantly more enthusiastic to go through a process which is nationally recognized. Any alternate credential would produce a watered down version of the real thing. I believe our children deserve better than that. Licensed psychologists are not behavior analyst. As a clinical psychology student, I believe I have a clear understanding of the two professions. The education, training and implementation are different. They are not interchangeable. Only board certified behavior analyst should supervise the one to one providers.

Please feel free to contact me directly with questions or comments. I am available.

Thank you,
Catherine Wilson, M.Ed., BCBA, LBA, LMHC

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Wednesday, February 7, 2018, 10:30am

Conference Room 329, State Capitol

IN STRONG OPPOSITION OF HB2271

Jennifer Frazier
1103 Mills Blvd
jennkae81@icloud.com

The DOE needs to work hand in hand with ABA providers. Behavior is synchronous to learning.

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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Heidi Burgoyne

67-170 Kuhi st Waialua

hbhawaii@gmail.com

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Maria Futo
58-306 Kaunala Pl Haleiwa
Manefuto@gmail.com

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Bryant Vergara

99-260 Aiea Heights Drive Aiea, HI 96701

bryantv@hawaii.edu

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Brandi OCallaghan
1135 Panana St #1102
br.ocallaghan@yahoo.com

I work with special education students and they need these services. If we wait for students to fail then they are already missing concepts and relationships instead of modifying it for them from the outset. Students who are allowed to struggle and fail, when we know they need help, feel horrible about themselves. This attitude can become permanent and they will always be stunted emotionally. We want our citizens to feel capable and valued. Our entire society benefits from early interventions.

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Ashley Hogan, 46-255 Kahuhipa st Kaneohe HI

ahogan216@gmail.com

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IN STRONG OPPOSITION OF HB2271

Emely Suazo

515 Ulumawao St, Kailua, HI 96734

ESuazo@stepshawaii.com

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Mahalo,

Emely Suazo, BCBA, LBA

STEPS, LLC

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Andrea Baumes

5171 Warden Ct. Honolulu, HI 96818

andrea.baumes@gmail.com

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Vanessa Montes

1611 Keeaumoku St. #308 | Oahu

vmontes@hawaii.edu

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IN STRONG OPPOSITION OF HB2271

Ariel Keunui
91-201 Kamoawa Place | Oahu
arielpahayahay@gmail.com

I am currently an RBT on Oahu and I fully support Hawaii's teachers and Keiki and oppose this bill.

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IN STRONG OPPOSITION OF HB2271

Noveleenne Tuliao

94-269 Pupukoa St. Waipahu 96797 | Oahu

ntuliao13@gmail.com

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Shannon Patalano

469 ena rd | Oahu

patalano4@gmail.com

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IN STRONG OPPOSITION OF HB2271

Courtney Manning

68-281 Au St

cmanning@maulolearning.com

I have worked in the ABA field since 2013. During my 5 years of working in this field I have seen exceptional growth in our kiddos from their services during school hours. ABA during school hours does not restrict or prevent kids from learning or growing.. I have seen so many amazing kids grow, learn, and hit major learning milestones. If we took away ABA services during school hours our kids would be stripped of these opportunities.

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Mia Manzo
PO Box 152, Honomu, HI
miamanzo@gmail.com

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Sneha Bagchi

1830 Wilikina Dr Apt 912 | Oahu

jaisneha90@gmail.com

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Brendan Hales

70 Niuhi St. | Oahu

bdan.hales@gmail.com

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Ryota Takahara

945 Kapahulu Avenue Apt. B, Honolulu, HI 96816

ryota302@gmail.com

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Vikki Kawamura
95-1014 Liho Street
vikk9ff@gmail.com

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ANONYMOUS TESTIMONY

I've been in ABA as a RBT for 3 years and received ABA services for my brother for 5 years and taught for 2 years in the DOE setting with special needs and after being on all sides of this I strongly believe that ABA is a mutually beneficial experience for everyone. The story of applied behavior analysis in education in the United States is inextricably tied to the significant increase in Autism Spectrum Disorder (ASD) diagnoses among school-age children that emerged in the mid-1990s. Suddenly, classrooms were overwhelmed with special needs children who exhibited sometimes severe behavioral issues, impacting both their own education and the schooling of others. With that being said again I strongly believe that ABA is beneficial to call parties in the classroom; teacher, student and families.

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Michelle Haia

68-024 Apuhihi st Waialua | Oahu

mhhsia@gmail.com

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Sheleah Watson – PARENT

59-470 Alapio Road Haleiwa HI 96712 | Oahu

sheleahdiego@yahoo.com

Please think about our Leuko. My son is autistic and really needs this service to help him function and become independent and be self-sufficient, as he becomes an adult.

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Melinda Seymour

59-065 Paumalu Place

melindabcba@gmail.com

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Elizabeth Hand

PO Box 30958 | Kauai

bugdragoo@gmail.com

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Suzanne Machos

47-736 Akakoa Place #2, Kaneohe 96744

suzanne.machos@gmail.com

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Denby Siemer

PO Box 437 Waialua HI 96791 | Oahu

pelagicblue@gmail.com

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IN STRONG OPPOSITION OF HB2271

Lauralei Tanaka
3276 Uilani Place | Oahu
jnltanaka@msn.com

Aloha, I oppose any changes to the Behavior Analyst Licensure law. Our keiki need individuals who are educated and schooled in behavior analysis, not simply baby sitters. We need individuals who have been trained and who are required to receive continuous training to work with our children in order to keep them safe and to make sure that our children are taught using evidence based methods to help them reach their full potential.

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Yvonne San Agustin

91-1016 Mikohu St

yvonnemonique522@gmail.com

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Kristen Holdaas

47-356 Hui Koloa Pl

kbarry35@gmail.com

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I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

COMMITTEE ON HEALTH & HUMAN SERVICES

Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair
Rep. Della Au Belatti
Rep. Andria P.L. Tupola
Rep. Lei R. Learmont

Wednesday, February 7, 2018, 10:30am
Conference Room 329, State Capitol

IN STRONG OPPOSITION OF HB2271

Brian San Agustin
91-1016 Mikohu St
b.sanagustin@yahoo.com

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Nancy Trujillo Sisemore

610 Ala Moana Blvd | Oahu

trujillo-nancy@hotmail.com

Legislation must be upheld to promote professional standards of services and to protect the rights of those in need. The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting. I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I support our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Rebecca Seiter
352 Aina Lani Pl, Kauai, HI 96746
rebeccaseiter@yahoo.com

To Whom it May Concern,

I am a Registered Behavior Technician on Kauai doing home visits with school-aged children diagnosed with Autism. While I believe that ABA therapy in the home is important and relevant to changing a child's overall behavior and skills, I have also come to realize how important it is to have that balance during the school day with consistent ABA techniques as well. It is counter-therapeutic to provide ABA structure in one setting and not in another. It allows the child the opportunity to operate with one set of rules during the school setting and then with another set of rules in the home setting. Behavior becomes setting-based, which is not allowing them to truly develop much needed skills, and often hinders overall mastery and progress.

Additionally, with ABA only in the home setting, it is extremely difficult to communicate regularly with the daily school providers to see what strategies are being used or are effective. Likewise, there is no way to model across settings what therapies are being used in the home that are making significant progress there.

I hope my thoughts are helpful.

Aloha,

Rebecca Seiter
808-634-0397

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IN STRONG OPPOSITION OF HB2271

Erin Stephenson

36 Puu Hale St.

erinam.step@gmail.com

Please do the best for our keiki! Families need all the services they can get access to. This is so important for the development of our kids! I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Brandi Barretto - **PARENT**

PO Box 30343 | Oahu

brandibarretto@gmail.com

My son received three years of "ABA" therapy in which his behavior support staff were constantly changing. Of 6 interventionists, only one was a Board Certified Behavior Analyst (BCBA). Targets and goals were met consistently and efficiently ONLY when the BCBA supervised his case. Anything less was a waste of valuable learning time.

Now the Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure, which seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students, like my son, access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting.

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IN STRONG OPPOSITION OF HB2271

April Woolley

66-939 Kiekonea Way | Oahu

acasey@hawaii.rr.com

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Jordan Hall
96-212 Waiawa Rd apt 106 | Oahu
jordan_th81@msn.com

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Kahoni Rowland

96-212 Waiawa Rd apt 106 | Oahu

kahoni47@gmail.com

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IN STRONG OPPOSITION OF HB2271

Lauren Kapp

Po box 5076 Kaneohe | Oahu

LaurenDKapp@gmail.com

I have been a skills trainer for 5 years and an RBT for 2 years. I am scheduled to take my BCaBA exam this month. Having gained the knowledge I have of Applied Behavior Analysis, I can now see the difference in programs that utilize ABA appropriately versus those that do not. ABA in untrained hands can actually make behaviors worse, further hindering the life of the client and their family. I have witnessed the result of what happens when ABA is not used correctly in schools. It is detrimental to the student, and the entire learning environment. I can't stress enough how important it is to have trained individuals assessing, creating and implementing behavior change programs. Please consider the wellbeing of our students, staff, and families and keep ABA in our schools!

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Jessica Huggins

46-318 Haiku Rd. Apt 87 | Oahu

jessica.leanne17@yahoo.com

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IN STRONG OPPOSITION OF HB2271

Jackie Belding
3-2600 Kaumualii Hwy, STE 1300, PMB 340
Lihue HI 96777 | Kauai
jackiebaker15@hotmail.com

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IN STRONG OPPOSITION OF HB2271

Julian Leigh

134 Kapahulu Ave. #916, Waikiki 96815 | Oahu

msjulianhawaii@hotmail.com

I have worked for ten plus years as a Skills Trainer in Hawaii Public School Special Education classrooms. Most teachers and most school administrators I have encountered are ill-equipped to assess and provide services required by each unique special needs student. There is inconsistency in the behavioral programs designed, as each teacher and school administration approach the child with their own priorities and level of expertise. The inconsistency that results is extremely damaging for our children with special needs and stifles their potential. ABA is the national standard for assessing and addressing the needs of these children and Hawaii DOE must welcome that standard of service provision into our classrooms.

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Hannah Risko
1395 Pueo Rd | Hawaii
hannahrisko@gmail.com

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Maggie Frazier
P.O. Box 1630 | Hawaii
maggiemfrazier@gmail.com

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IN STRONG OPPOSITION OF HB2271

GIGI CALI - PARENT

94-1038 LUMIAUUAU ST

Gigi.sean@yahoo.com

Providing additional support in the school environment will slow educators and parents to work as a team by increasing communication, increase observations, implement positive reinforcement at the appropriate time. RBT also provide support to DOE educators to focus on the classroom as a whole oppose to giving attention to a student who needs behavioral support. My son has made an astronomical advancement in his speech language social skills as well as his academic learning. He is currently having more time in the gen ed environment where he can learn from his peers. Without RBT these children will lose the ability to learn because RBT provides the child opportunities to succeed and assist these students to working through their challenges and giving family's hope that their child will survive and become independent. RBT is not only an advocate for students but a liaison between educators and family

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IN STRONG OPPOSITION OF HB2271

Cori Webb

58-372 Kamehameha Hwy | Oahu

coriwebb86@gmail.com

ABA is vital in these children's lives! We make a difference!! Don't take that away from them! Educate yourselves!! Understand what we do and how it works!!

I oppose changing Chapter 465-D, Behavior Analyst Licensure law. I stand in strong support of our teachers and our keiki.

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IN STRONG OPPOSITION OF HB2271

Rochelle Hall - **PARENT**

PO Box 18,68, Kealahou, HI. 96750

Rochellejhall@gmail.com

My daughter has been approved for ABA but the school refuses to allow the providers on campus and they do not provide the support my daughter needs to access her curriculum. She struggles daily, particularly socially and deserves to have this support during her remaining years in school. We met Superintendent Kishimoto on September 18 when she came to speak on the Big Island. That day we asked her what families like us are supposed to do and she told us she needed time to get data and now this bill is introduced. It is disrespectful and disheartening. I expect more of our public schools. My daughter deserves better from us. All of us.

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I stand in strong support of our teachers and our keiki. I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

Kind regards,
Rochelle Hall

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IN STRONG OPPOSITION OF HB2271

John Lopez
6495B 103rd St, Ewa Beach, HI 96706
jokainlopez@gmail.com

As an advocate and a professional in the field, I have heard and experienced the tyranny of low expectations in our education system for children with significant developmental delays. ABA providers that I work with have made significant impacts for the children that we work with in home and community based settings. It is always the limitations of the school that parents mention to be what is "holding them back". The fact that ABA providers would be limited to home and community based settings vs Speech and Occupational therapists which perform skills across all settings, limits their ability to impact our keiki's lives to their full potential. Furthermore, teachers need this help. Many teachers that I have met are burnt out and underprepared. They deserve to have help in managing and preventing challenging behaviors. Do what's right, this bill, as is, is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis' having access to appropriately licensed and qualified behavior analysts in the DOE setting.

I stand in strong support of our teachers and our keiki. I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

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IN STRONG OPPOSITION OF HB2271

Melissa Sandwell
2444 Hiihawai Street Apt 2104 Honolulu, HI
Msandwell@gmail.com

Do the right thing for our Keiki!!

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I stand in strong support of our teachers and our keiki.
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IN STRONG OPPOSITION OF HB2271

Rebekah Walker - **PARENT**
53-972 Kamehameha Hwy
Hau'ula Oahu 96717
Matagiwalker@gmail.com

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I stand in strong support of our teachers and our keiki.

My **daughter** has benefited from early intervention with ABA services. It pains me to think that other Autistic children would be denied these services of highly trained aides. With early intervention of trained aides hopefully our children on the Autism Spectrum will have the best opportunities for their success

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

Mahalo,
Rebekah Walker

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IN STRONG OPPOSITION OF HB2271

Justine Tubana
94-541 Loaa St.
Waipahu, HI 96797
j2bana14@gmail.com

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This bill is harmful!!!

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I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

Kristine D. Dickson

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IN STRONG OPPOSITION OF HB2271

Cherlyn Jensen
91-1029 Kamaaha Ave #1203
Kapolei, Hi 96707
Cjensen@bayada.com

Our children deserve quality professional care from those who are qualified in the field of ABA.

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IN STRONG OPPOSITION OF HB2271

Beau Laughlin
41 Laumakani Lp
Kihei HI 96753 | Maui
bochacompany@gmail.com

All people with disabilities have a right to effective treatment. For some this may be applied behavior analysis. This is Federal Law. All students should be able to access services they find meaningful. It is time for egos to step aside in this arena of the DOE versus behavior analysis. It is time to realize we need to come together and respect each other for the good of our community.

I stand in strong support of our teachers and children.

I oppose changing Chapter 465-D, Behavior Analyst Licensure Law.

Sincerely,
Beau Laughlin, M.S. BCBA

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IN STRONG OPPOSITION OF HB2271

Sara Sato
2241 Kauhana Street Honolulu, Hawaii 96816
saratsuki@gmail.com

My name is Sara Sato and I am an Board Certified Behavior Analyst (BCBA) who has experience as working as a special education teacher and a contracted BCBA in the Hawaii DOE. I also have previously worked in schools in the San Francisco Bay Area as a BCBA consultant. Having experiences in these settings have given perspective to what models are successful in supporting and teaching students with disabilities as well as structures and systems that fail. Unfortunately, the Hawaii DOE is more often than not failing to provide the necessary, adequate, and appropriate supports for their special needs students.

One area I find to be the most lacking in the Hawai'i DOE system is the understanding of what ABA is. Applied Behavior Analysis (ABA) is NOT just a way to address challenging behavior. BCBA's are not only necessary to teach a child to stay on task. ABA is the science of teaching. As BCBA's we can look at any situation, break it down into components, examine what might be wrong, look at the objective, and utilizing the principles of behavior and effective teaching, develop a game plan to reach our terminal goal. While this may sound simple, and in theory it really is, our work as Behavior Analysts is constant, systematic, and consistent analyzing of our objectives and making changes based on data to produce meaningful changes in our clients lives. Simply put, teacher's are not put through the same type of training and methodology during their course/field work. For many BCBA's who have masters degrees in special education, an additional 6 or more course sequence plus 1500 fieldwork hours are required to even qualify to sit for the exam. Just these requirements alone show a huge discrepancy in the general experience of a special education teacher and a BCBA. There are numerous FANTASTIC teachers and scores of EXCELLENT BCBA's in Hawai'i. Both groups come from different backgrounds and different skill sets. The bottom line is we want to provide the BEST education that can be provided to our Keiki. It's not a matter of one group or the other, it's working together, celebrating our individual strengths and supporting our areas of need to turn our failing education system into one that we all can be proud and confident of.

Our Keiki and our future are so deserving of this.
Please OPPOSE HB2271.

COMMITTEE ON HEALTH & HUMAN SERVICES

Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair
Rep. Della Au Belatti
Rep. Andria P.L. Tupola
Rep. Lei R. Learmont

Wednesday, February 7, 2018, 10:30am
Conference Room 329, State Capitol

IN STRONG OPPOSITION OF HB2271

Geri Pinnow - **PARENT**

Luke Pinnow - **SELF-ADVOCATE**

Ewa Beach, Oahu

gpinnow@rocketmail.com

Say no to Luke. That is what the Department of education said to him as a preschooler and continued to say now as a senior. There are people who have the skills just waiting to help him access his education but DOE says NO! Is Luke not deserving and kids just like him? His Christmas card to me was I'll be brave Mom. Really? Is this a war where your son writes home and says he'll be brave? No mother of a 17 yr. Old high schooler in 2017 should get a Christmas card that says, "I'll be brave." But that is what Luke is trying to tell us. He's had to fight for access to his education. Can you imagine all the non-verbal keiki with autism and what they'd tell you? Imagine with me when we leave this world that these sweet angels will thank us for trying to help. Will you do the right thing? Kids can't wait year after year. We are having them experience year after year of cruelty. Why? The teachers are asking for help, they see the potential in the children, the parents and the community as a whole know the help exists, the children are literally crying for help, and the DOE says, "Will not!" Help exists, the choice is yours. Will you help our state and tell the DOE to let help in NOW!

Since I cannot testify in person, I am sending video testimony: [Help Luke get ABA in the DOE](https://www.facebook.com/forourkeiki/videos/541725256208502/)
<https://www.facebook.com/forourkeiki/videos/541725256208502/>

COMMITTEE ON HEALTH & HUMAN SERVICES

Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair
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Rep. Lei R. Learnmont

Wednesday, February 7, 2018, 10:30am
Conference Room 329, State Capitol

IN STRONG OPPOSITION OF HB2271

Ashley Brown - **PARENT**

iambamaa4@gmail.com

My name is Ashley Brown. We are an Army family with two sons. We've lived in Hawaii for almost eight years now, own a home in Waialua and vote in Hawaii. My husband has served over twenty five years to date and is still on active duty. He's served three tours of duty in Iraq and has two purple hearts for wounds received in combat in Iraq. As his wife I'm also sad to say that he suffers from the effects of Traumatic Brain Injury and PTSD. Despite this he still works long hours to defend our country and support our family with little to no support from state resources.

From a state that prides itself on Aloha and Ohana we are shocked to hear that the State is considering adopting a 'fail first' approach to dealing with disabilities in the Department of Education. We are an example of restricted services and the "fail first" approach can and will do harm to even more families across this State if this bill is allowed to pass.

Our son Bowen Brown is 15 yrs old and just spent over 150 days locked up in 2 different acute care inpatient wards not equipped to deal with autism. He spent over 60 days at Queens and then 90 days in the UCLA psychiatric unit.

We recently had to send our son 4,700 miles away from family to try and receive needed autism behavioral services. As I speak/write, our son is currently in Virginia while I, his mother is here in Hawaii. This is where he'll stay for the foreseeable future.

We are trying to get him help in residential program that is only approved for 5 months. We desperately need a functional behavioral assessment (FBA) by Licensed BCBA to identify target behaviors that cause danger to his school and our Waialua community.

We requested, last August, an FBA and IEP with behavior plan to address Bo's dangerous behaviors. We also requested that Waialua Elementary school to help enroll Bo in Child and adolescent mental health. We were hoping for a team effort to help us address Bo's behaviors.

Instead DOE placed Bo on 8 hrs a week homebound services with zero access to any FBA or ABA services or speech therapy. Child and adolescent mental health refused to help us until he was discharged from Queens and Department of Developmental services turned him down because his IQ score was 3yrs old.

COMMITTEE ON HEALTH & HUMAN SERVICES

Rep. John M. Mizuno, Chair

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Wednesday, February 7, 2018, 10:30am

Conference Room 329, State Capitol

IN STRONG OPPOSITION OF HB2271

So DOE, DDD and CAMHD have denied all services to help address Bo's dangerous autism behaviors. Behaviours such as breaking out of his home, running into traffic, and episodic violent behaviour against both family and strangers. All of these behaviours are clearly dangerous to our community and often results in avoidable tragedies nationwide as we see so often in the news.

To summarize our situation: the DOE offered zero support or help to to address Bo's behaviors and instead he was placed into a homebound program with 10 hours a week of educational services. And now, as a result, we had to leave our child 150 days in a acute psychiatric hospitals and then ship him off to Virginia. That is neither Aloha or supportive of the Ohana.

Now we are less than 4 months with a discharge date from Residential care paid by Tricare and DOE refuses speech therapy and an FBA to help facilitate safe transition to Waiialua community and school. Without an FBA and ABA we can't address or help Bo with these dangerous behaviors.

So to summarize, our son is over 4k miles away from home with a return date in 4 months and we can't get DOE to plan and assist with his transition back to school and community. We desperately need an FBA and ABA therapy to address his behavior so he doesn't end up back in Queens cycling in and out until he ends up hurting someone in our community.

Please don't create more barriers to care for our children. It is dangerous and harmful to the family and community.

COMMITTEE ON HEALTH & HUMAN SERVICES
Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair
Rep. Della Au Belatti
Rep. Andria P.L. Tupola
Rep. Lei R. Learnmont

Wednesday, February 7, 2018, 10:30am
Conference Room 329, State Capitol

IN STRONG OPPOSITION OF HB2271

Dustin Platter
78-69821 Waiolu Road, Kailua Kona, HI 96740
Dustinplatter@msn.com

I am a general education first grade teacher including four children with ASDs full day in the classroom. I would be lost without ABA. I have two semesters of graduate courses in special-education including a course and a supervision in applied behavior analysis. That course along with my supervision have made it possible for me to differentiate my instruction to a minimal level necessary. Even with what I know, I could use more help in guidance in the practice of ABA. ABA is a necessary aspect of my teaching. Not only would these students with an ASD not be successful, my general classroom instruction would be much weaker without the use of ABA. I will not wait to use my knowledge of ABA until something dangerous occurs or, as the DOE suggests, a child injures themselves or somebody else.

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting.

I stand in strong support of our teachers and our keiki.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.



2/7/2018

COMMITTEE ON HEALTH & HUMAN SERVICES

Rep. John M. Mizuno, Chair

Rep. Bertrand Kobayashi, Vice Chair

My name is Anne Lau and I am the Clinical Director of the Autism Behavior Consulting Group. I am writing to express my **STRONG OPPOSITION** for **HB 2271**.

The decision to provide Applied Behavior Analysis services has *always* been in the hands of a student's multi-disciplinary school team. Unfortunately for many of Hawai'i's students, the Department of Education rarely makes this decision. This is why consumer protections were put in place years ago. The Department of Education has successfully delayed providing appropriate services for long enough!

This amendment to current law would allow the status quo of a lack of supervision over poorly crafted "positive behavioral supports" to continue within the Department of Education. If this amendment is passed, we will continue to see cases of abuse, claims of failure to provide due process, and wasted potential for the keiki of Hawai'i.

Please help our families and our taxpayers by voting **NO to HB 2271**.

Thank you for your time.

Respectfully,


Anne Lau, M.Ed. BCBA
Clinical Director
Autism Behavior Consulting Group, Inc.



Autism Behavior Consulting Group, Inc. / ABC Group

PO Box 1162, Waialua, Hawaii 96791-1162
Phone: 808-277-7736

E-mail: info@autismbehaviorconsulting.com

www.AutismBehaviorConsulting.com



February 6, 2017

State Capitol
415 South Beretania Street

Re: STONG OPPOSITION for HB2271

Dear Members of the Committee,

My name is Amy Smith Wiech, I am a Doctoral Level Board Certified Behavior Analyst and Licensed Behavior Analyst. I am the Founder of Autism Behavior Consulting Group (ABC Group), a Kama'aina company, treating kids with autism and other developmental disabilities in Hawaii for over 10 years. I am also a parent member of Special Education Advisory Committee (SEAC) for DOE. I have over 25 years experience in Behavior Analysis.

Thank you so much for the opportunity to testify in STRONG OPPOSITION of HB2271.

We support efforts, we don't support carve-outs!

The Hawaii DOE has introduced a bill that would allow them to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach and criteria to access Applied Behavior Analytic (ABA) treatment and would not allow students in need access to a licensed behavior analyst or ABA treatment in the DOE setting. As it is now, students in DOE face barriers to accessing a FAPE and allowing the use of ABA treatment in schools. This bill would deeply impact the safety, and well-being of hundreds of students mostly who have moderate-severe problematic behavior and require the oversight and planning by a Board-Certified Behavior Analyst (BCBA) to reduce and ameliorate the behavioral barriers so that they can access public education via FAPE.

This bill is believed to violate several federal laws, specifically IDEA (1997) and IDEIA (2004), and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keiki having access to appropriately licensed and qualified behavior analysts and ABA treatment in the DOE setting.



Allowing this bill to pass as written would be an egregious offense against the children of Hawaii! Many unthinkable abuses have already occurred on DOE campuses in recent years due to the lack of trained and appropriately credentialed individuals who work with individuals diagnosed with IDD/DD/Autism in our state. I can think of many publicized lawsuits due to untrained DOE staff who have violated a student's rights due to resorting to coercive methods of controlling their behavior
<http://www.hawaiinewsnow.com/story/24352807/exclusive>

We look encourage DOE to work with HABA and other entities to assist them in building capacity for hiring appropriately trained BCBA's and RBT's within the DOE for the children and individuals who need ABA in public schools. ABC Group stands committed to assisting the DOE and DOH with capacity building endeavors.

Thank you so much for addressing this important issue for the constituents of Hawaii.

Sincerely,

A handwritten signature in black ink, appearing to read 'Amy Wiech', written in a cursive style.

Amy Wiech, PhD, BCBA-D, LBA
Board Certified Behavior Analyst- Doctoral
Founder /Executive Director of ABC Group Hawaii

HB-2271

Submitted on: 2/4/2018 12:03:25 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Stephany Cecil		Oppose	No

Comments:

I oppose any initiative that limits children access to services they need.

HB-2271

Submitted on: 2/5/2018 7:42:49 AM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeanette White		Oppose	No

Comments:

2/5/2018 HB2271

Good morning,

Chair Mizuno, Vice Chair Kobayashi and members of the House Committee on Health & Human Services:

My name is Jeanette White. I'm writing on my behalf of my 5 year old son.

Currently, my son is no longer in the DOE special education system because I have had to pull him out and place him privately where he can get the Applied Behavior Analysis (ABA) services he needs from the appropriately trained and licensed individuals. The DOE did not allow insurance-covered behavior analysis to happen on campus during school hours and they would NOT provide it for my son.

I was disturbed to find out about HB2271. This would only hurt my son and others who do not fall under this category. This bill would make it impossible for my son to receive any services. This is a fail first approach that is unacceptable.

I can tell you that my son has hit other children at school, but we were never notified about it. I only found out from someone doing an observation. If we're never told about things that go on, how can it be brought to the table during our IEP meetings so he can get the help needed? We need the assurance that those providing services to my son in school have a standard to follow. We need to know that behavior analysis is being offered appropriately by trained and certified individuals in this specialty.

We are fortunate enough to be able to send my son to private school where he is currently receiving appropriate services. We may not be so fortunate come August.

I oppose this bill with the hope that you will not allow the DOE to continue further harm my child and others that need similar support.

I appreciate any help that we can get to achieve this goal.

Sincerely,

Jeanette White

Email: jeanettew1@yahoo.com

HB-2271

Submitted on: 2/5/2018 8:59:41 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Ninci		Oppose	No

Comments:

I am in strong opposition of SB 2271.

Concern 1:

“The department of education was not aware that the definition of “practice of behavior analysis” could be interpreted so broadly, applicable to all department of education employees and volunteers, even when these employees or volunteers are performing their function of redirecting students while they are standing in lunch lines or on the playground.”

Response:

Individualized applied behavior analysis (ABA) supports need to meet the seven dimensions of ABA. Everything from the consent process, goal selection, and initial treatment selection to clear terms for the termination of the program are important components to constitute a “Behavior Change Program,” as defined in the Professional and Ethical Compliance Code for Behavior Analysts by the Behavior Analyst Certification Board. This resource helps to clarify the technical definition of ABA programs. Simple redirections or rules and system-wide reinforcement or standard group-based supports would not constitute an individualized Behavior Change Program. The behavior analyst licensure law is intended to protect the most vulnerable populations (e.g., individuals that warrant ABA supports to have access to a Free and Appropriate Public Education [FAPE] or access to the Least Restrictive Environment [LRE] during the school day). Treatment integrity and progress monitoring are important components to an individualized focused or comprehensive ABA program. Special educators commonly have educational coursework, applied projects, or professional developments that are ABA-focused. The way the licensure law is currently written better ensures teachers will have access to behavioral consultation when needed. Among those who need the most help are emergency hire special education teachers or long term substitute teachers, which in the state of Hawaii, are commonly licensed teachers that are placed in an area outside of their scope (e.g., general education teacher in a special educator placement). Teachers would have access to more help with training and oversight of paraprofessionals and they should always still have a major stake in the program as a professional with educational expertise on the team. The role of the behavior analyst in the schools is to support ABA assessment and

programming needs, training needs, and to monitor individualized ABA program practices and quality. Some ABA programs may need more support from a behavior analyst than others and some teachers or school staff may need more training and support than others in implementing ABA programs for students. Behavior analysts are trained as consultants to be responsive to those needs and recommend the least restrictive procedures (these are ethical guidelines). It is important to make ABA supports explicit and transparent in the Individualized Education Programs (IEPs) and Behavior Intervention Plans (BIPs) of students for whom it is recommended (by their team). Over time, teachers and school staff would be better equipped to generalize previously learned skills to similar cases when it comes to ABA programming.

Concern 2: “(a) Persons engaged in the practice of behavior analysis in a school setting shall meet the licensing requirements of this chapter or possess board certification from a national certifying agency only when serving a student:”

This section appears to completely remove the requirement for a licensed professional with ABA in their scope to be on a team where ABA support is warranted.

Other concerns in this bill – it appears to be focused just on individuals with challenging behaviors or social-communication skill deficits. Individualized ABA programs are not restricted to these skill sets. Other skills may be of priority in individualized ABA programs such as leisure skills, personal hygiene skills, safety skills, vocational supports, academic skill acquisition, task engagement, etc. These are all skills that may be included in an IEP and may warrant ABA supports, depending on the contextualized needs of the case and determination of the team. The needs of the case are always determined by a team per federal special education law. This bill removes the minimum and standard required training for paraprofessionals as well, which is a concern for ensuring a consistent quality of services for consumers and across populations that warrant ABA supports.

I believe the rationale for this bill has fundamental misperceptions regarding ABA programs that can be clarified through collaboration in the community. Thank you for considering how this bill would affect behavioral supports ensured in DOE schools.

Aloha and thank you for the opportunity to submit testimony.

Jennifer Ninci, PhD, BCBA-D, LBA

Honolulu, HI

HB-2271

Submitted on: 2/6/2018 9:42:39 AM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Bonnie Koba		Oppose	No

Comments:

HB-2271

Submitted on: 2/6/2018 9:43:29 AM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Burdt		Oppose	No

Comments:



THE SENATE
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018

COMMITTEE ON HEALTH & HUMAN SERVICES

Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair

Wednesday, February 7, 2018
10:30 AM
Conference Room 329
State Capitol
415 South Beretania St.

HB 2271 Relating to the Practice of Behavior Analysis—**Testimony in strong opposition**

Honorable Chair Mizuno, Vice Chair Kobayashi, and members of the committee,

I **strongly oppose HB 2271** as this bill would weaken current consumer protections for children in need of behavior analytic programming in a school setting.

Over the years, this legislature has listened to testimony from countless families. Families on neighbor islands pleading for help from qualified providers, military families talking of having to homeschool their children because the public system would not provide the services their child had been receiving in other states, and from parents of older children discussing what could have been for their child. The legislature has also heard from numerous licensed teachers and the Hawai'i State Teachers Association (HSTA) stating that they have seen what unqualified "help" looks like and that they need the support of licensed behavior analysts and Registered Behavior Technicians (RBT) to meet the needs of their students. This state has made significant progress in recent years to ensure children can access the behavioral services they need, from trained and competent providers, regardless of the setting in which those services are delivered and **I ask you to uphold this commitment to our keiki and vote no on this bill.**

Current law affords consumer protection by establishing set standards for minimum training, competency, and ongoing supervision across all settings and funding sources in which applied behavior analysis (ABA) services are provided. As the field of behavior analysis grows, various credentials have become available; however, it is of utmost importance any credential is thoroughly evaluated to ensure consumer protection. In reviewing available literature, the Behavior Analyst Certification Board (BACB) credentials meet key areas of excellence including the use of psychometric procedures, use of job analysis studies, evidence-based training, evidence-based supervision dosage, and a system for disciplinary actions (ethical compliance) in addition to many others (Green, 2011; Carr et al, 2017; Institute for Credentialing Excellence, 2017). The BACB credentialing body is recommended by Autism Speaks and the Association for Science in Autism Treatment (ASAT) as a means for consumers to identify qualified practitioners in the field of ABA. Removing the BACB credentials and changing the language to unspecified "national certifying

agency” will decrease consumer protections. Additionally, the current law allows for other licensed practitioners working in their scope, with *demonstrated coursework, training, and experience in ABA*, to provide services under their own respective licensure law.

Mahalo for your consideration,



Kristen Koba-Burd, M.S., BCBA, LBA

Maui

References

Carr, J.E., Nosik, M.R., & DeLeon, I.G. (2017). The Registered Behavior Technician™ credential: A response to Leaf et al., *Behavior Analysis in Practice*. Retrieved from <http://link.springer.com/article/10.1007/s40617-017-0172-1>.

Green, G. (2011). How to evaluate alternative credentials in behavior analysis. Retrieved from <http://www.iabaonline.com/wp-content/uploads/2013/03/How-to-Evaluate-Alternative-Credentialsin-Behavior-Analysis-Green-G.pdf>

Institute for Credentialing Excellence. (2016). *National commission for certifying agencies (NCCA) standards*. Retrieved from <http://www.credentialingexcellence.org/p/cm/ld/fid=66>

HB-2271

Submitted on: 2/6/2018 10:20:37 AM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Krekel		Oppose	No

Comments:

Deborah Krekel

44-483 Kaneohe Bay Dr.

Kaneohe, HI 96744

Oahu

dakrekel4@gmail.com

Dear Legislators,

As a parent of a child with autism we have fought long and hard for him to receive appropriate services. Please do not subject our children to failure. Having evidence based ABA services in place as early as possible is critical. If we wait for them to fail first the chance for a future for so many of these children will be lost.

The Hawaii DOE has introduced a bill, relating to Behavior Analyst Licensure. This bill seeks to limit ABA services to students as a reactive approach. This bill requires a "fail first" approach, and would not allow students in need access to a licensed behavior analyst in the DOE setting. This bill is believed to violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). We stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting.

I stand in strong support of our teachers and our keiki.

I oppose changing Chapter 465-D, Behavior Analyst Licensure law.

Sincerely,

Deborah Krekel

HB-2271

Submitted on: 2/6/2018 10:30:29 AM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Desi McKenzie		Oppose	Yes

Comments:

Desiree A. F. McKenzie

Aubrey L. McKenzie

95-510 Wikao St. G106

Mililani, Hawaii 96789

February 6, 2018

RE HB #2271

Aubrey and I oppose HB2271.

Aubrey, 19, who has Down syndrome, Autism and is hearing impaired attends Pearl City High School as PCHS is the only high school nearby that services the needs of hearing impaired high school students.

Aubrey was diagnosed with Autism by the Hawaii Department of Education itself by two different doctors when Aubrey first showed the signs of Autism **ten years ago** at age 9. As the DOE refused to appropriately address Aubrey's need for ABA therapy, Aubrey's family obtained an IEE from Dr. Karen Tyson who confirmed in **2014** that Aubrey was Autistic and also made the recommendation for ABA Therapy under the Supervision of a BCBA.

Ten years later, despite relentless advocacy from her Mother, the DOE has failed to provide Aubrey with ABA Therapy under the supervision of a BCBA.

In addition, in a recent meeting during Aubrey's 2017-2018 school year, the DOE (Leeward District #2 person) denied that Hawaii State Law Chapter 465D exists. This ABA Law was put in place by legislators to ensure that students like Aubrey are provided ABA therapy supervised by a Licensed Behavior Analysts.

Aubrey has had a long succession of 1:1 skills trainers that change every few months-- when she should have been provided an RBT or Registered Behavior Technician as well.

As a result of the absence of ABA Therapy at all by qualified personnel, Aubrey has severely regressed in all areas to include behavior, communication, academics, etc. In addition, she is suffering from anxiety and the self-calming repetitive behaviors like scratching herself until she bleeds, picking her thumbs until they bleed, engaging in unending self-talk, rubbing off her eyebrows, etc. that make it difficult for her to function, let alone learn in school and be accepted when she navigates society.

How is this preparing a 19 year old to be career and college ready?

If the Department of Education is allowed to deny a student like Aubrey what it is that they are entitled to by Federal Law, FAPE, for years and years this is what will happen! We cannot wait! In the process, we allow these behaviors to become even more firmly engrained and more difficult to redirect and to establish appropriate behaviors.

But most importantly we allow students like Aubrey to SUFFER NEEDLESSLY! She is bright enough to know that she is capable so much more. She is now allowed the right to basic human dignity and acceptance!

Let us all do what is pono and help Aubrey and others like her in our state. She needs ABA Therapy in her school, home and community and environment--supervised and provided by the appropriate personnel NOW!

Mahalo for your thoughtful consideration. Aubrey is counting on all of you.

Malama pono,

Desi and Aubrey McKenzie

My name is Ashley Brown. We are an Army family with two sons. We've lived in Hawaii for almost eight years now, own a home in Waialua and vote in Hawaii. My husband has served over twenty five years to date and is still on active duty. He's served three tours of duty in Iraq and has two purple hearts for wounds received in combat in Iraq. As his wife I'm also sad to say that he suffers from the effects of Traumatic Brain Injury and PTSD. Despite this he still works long hours to defend our country and support our family with little to no support from state resources.

From a state that prides itself on Aloha and Ohana we are shocked to hear that the State is considering adopting a 'fail first' approach to dealing with disabilities in the Department of Education. We are an example of restricted services and the "fail first" approach can and will do harm to even more families across this State if this bill is allowed to pass.

Our son Bowen Brown is 15 yrs old and just spent over 150 days locked up in 2 different acute care inpatient wards not equipped to deal with autism. He spent over 60 days at Queens and then 90 days in the UCLA psychiatric unit.

We recently had to send our son 4,700 miles away from family to try and receive needed autism behavioral services. As I speak/write, our son is currently in Virginia while I, his mother is here in Hawaii. This is where he'll stay for the foreseeable future.

We are trying to get him help in residential program that is only approved for 5 months. We desperately need a functional behavioral assessment (FBA) by Licensed BCBA to identify target behaviors that cause danger to his school and our Waialua community.

We requested, last August, an FBA and IEP with behavior plan to address Bo's dangerous behaviors. We also requested that Waialua Elementary school to help enroll Bo in Child and adolescent mental health. We were hoping for a team effort to help us address Bo's behaviors.

Instead DOE placed Bo on 8 hrs a week homebound services with zero access to any FBA or ABA services or speech therapy. Child and adolescent mental health refused to help us until he was discharged from Queens and Department of Developmental services turned him down because his IQ score was 3yrs old.

So DOE, DDD and CAMHD have denied all services to help address Bo's dangerous autism behaviors. Behaviours such as breaking out of his home, running into traffic, and episodic violent behaviour against both family and strangers. All of these behaviours are clearly dangerous to our community and often results in avoidable tragedies nationwide as we see so often in the news.

To summarize our situation: the DOE offered zero support or help to to address Bo's behaviors and instead he was placed into a homebound program with 10 hours a week of educational

services. And now, as a result, we had to leave our child 150 days in a acute psychiatric hospitals and then ship him off to Virginia. That is neither Aloha or supportive of the Ohana.

Now we are less than 4 months with a discharge date from Residential care paid by Tricare and DOE refuses speech therapy and an FBA to help facilitate safe transition to Waialua community and school. Without an FBA and ABA we can't address or help Bo with these dangerous behaviors.

So to summarize, our son is over 4k miles away from home with a return date in 4 months and we can't get DOE to plan and assist with his transition back to school and community. We desperately need an FBA and ABA therapy to address his behavior so he doesn't end up back in Queens cycling in and out until he ends up hurting someone in our community.

Please don't create more barriers to care for our children. It is dangerous and harmful to the family and community.

HOUSE OF REPRESENTATIVES
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018

COMMITTEE ON HEALTH & HUMAN SERVICES

Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair

Rep. Della Au Belatti Rep. Andria P.L. Tupola
Rep. Lei R. Learmont

NOTICE OF HEARING
Conference Room 329
State Capitol
415 South Beretania Street

POSITION: OPPOSE: HB2271

I respect the intent of this bill; however, I must stand in opposition to this bill in its current form. This bill in its current form will limit ABA services to students. This bill requires a "fail first" approach and would not allow students in need access to a licensed behavior analyst (LBA) in the DOE setting.

Continuity of services for students is very important inside and outside the classroom. All bill pertaining to ABA services should be in the best interest of the student no matter how well intentioned and should be crafted with input from various stakeholders to include seasoned LBAs, DOE administrators in a concerted effort toward mutual agreement and understand for how services should be provided.

Furthermore, this bill is believed will violate several federal laws; I.D.E.A., FAPE, and the American with Disabilities Act (ADA). I stand firmly in support of our teachers and keikis having access to appropriately licensed and qualified behavior analysts in the DOE setting. This bill should be deferred until the above is ascertained and that there is clear indication that such legislation will not violate federal law.

Mahalo,

Ken Farm

Member-At-Large
Neighborhood Board No15.
Kalihi-Palama

COMMITTEE ON HEALTH & HUMAN SERVICES

Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair

Rep. Della Au Belatti
Rep. Andria P.L. Tupola
Rep. Lei R. Learnmont

Wednesday, February 7, 2018, 10:30am
Conference Room 329, State Capitol
415 South Beretania Street

STRONG OPPOSITION OF HB2271

Aloha Chair, Vice Chair, and members of the Committee:

Please accept my apologies for the additional (late) submission. After searching through my computer this evening, I have compiled a packet of information, which I feel is germane to the discussions regarding HB2271.

This additional packet includes the following:

- 7/12-7/20/2017: Email exchanges (DOE) Debra Farmer and Suzanne Mulcahy
- 8/3/2017: Senator Dela Cruz letter to Superintendent Kishimoto
- 10/2/2017: Superintendent Kishimoto's response to Senator Dela Cruz
- 10/18/2017: Transcription: Education Division to Special Education teachers
- 11/2017: Response from (DOE) Annie Kalama to Debi Hoohuli-Rosa
- 11/7/2017: Dr. Kelly's testimony to the Board of Education
- 11/28/2017: Superintendent memo re: Functional Behavior Assessments
- 12/4/2017: DOE employee letter to supervisor re: unethical and illegal behavior
- 12/27/2017: Letter from Dr. Eileen Walko re: patient needing access to ABA
- 1/18/2018: Dr. Kelly's testimony to the Board of Education

- Collection of statements from DOE staff re: accessibility of applied behavior analysis for public school students

I am available for questions.

Respectfully Submitted,



Amanda N. Kelly, PhD, BCBA-D, LBA



Health Plan Approval for ABA During School Day

Amanda Kelly <akelly@anuenueaba.com>

Wed, Jul 12, 2017 at 6:05 PM

To: Deb_T_Farmer/CIB/HIDOE@notes.k12.hi.us, Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us

Cc: Joanne Brinich <Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us>

Good Evening Deb,

I have a client who has been authorized to receive 40 hours per week of applied behavior analysis services through his health insurer. These services have been determined to be medically necessary to ameliorate the client's symptoms associated with his diagnosis of autism. The family and I have spoken with Joanne Brinich, Central District Education Specialist, in addition to the client's IEP team about coordinating these services. When Joanne and I spoke this afternoon, she recommended I reach out to you and Suzanne, as she did not believe this had ever been done in Hawai'i before. When we spoke, she also informed me that she will be away for the remainder of the summer (July 14 - August 1).

This is certainly the first time I have had a health plan authorize applied behavior analysis services to explicitly occur in the school setting. For this particular case, I was asked to demonstrate that the client was not currently receiving applied behavior analysis services by a licensed behavior analyst in his DOE placement. Currently, Daniel Cordial, the Behavioral Health Specialist (BHS) assigned to the case *does not possess a Hawai'i state license of any kind*. He is not qualified or credentialed to provide behavior analytic services in Hawai'i or any other state. Provided with this information, the health plan authorized 40 hours per week of applied behavior analysis services as appropriate for this client.

This situation will require some creative problem-solving; as this client will need to have his applied behavior analysis services delivered during the school day. I see this as an opportunity for the Department of Education and the health plans to work together and malama our keiki. As school begins in a few short weeks, we will want to develop a plan quickly. I look forward to working with you, Suzanne, and Joanne to identify a meaningful and timely solution. I truly believe we can find a way to have this child remain in his community, neighborhood school, while receiving access to doctor prescribed, medically necessary care.

Mahalo nui,

Amanda N. Kelly, PhD, BCBA-D, LBA
Director, Anuenue Behavior Analysts
Ph: (808) 298-2658 | F: (808) 441-0944



Amanda Kelly <akelly@haldsamback.com>

Health Plan Approval for ABA During School Day

Deb_Farmer/OCISS/HIDOE@notes.k12.hi.us
<Deb_Farmer/OCISS/HIDOE@notes.k12.hi.us>
To: Amanda Kelly <akelly@anuenueaba.com>
Cc: Joanne_Brinich/CENDO/HIDOE <Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us>,
Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us

Mon, Jul 17, 2017 at 8:26 AM

Hi Amanda,

Please provide me with the doctor order that provides the time for the specific time for this service. Also, what is the health plan?

thanks, Debbie

Amanda Kelly --07/12/2017 06:07:22 PM---Good Evening Deb, I have a client who has been authorized to receive 40 hours per week of

From: Amanda Kelly <akelly@anuenueaba.com>
To: Deb_T_Farmer/CIB/HIDOE@notes.k12.hi.us, Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us
Cc: Joanne_Brinich/CENDO/HIDOE <Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us>
Date: 07/12/2017 06:07 PM
Subject: Health Plan Approval for ABA During School Day

[Quoted text hidden]

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Health Plan Approval for ABA During School Day

Amanda Kelly <akelly@holdsambeck.com>

Tue, Jul 18, 2017 at 7:25 AM

To: Deb_Farmer/OCISS/HIDOE@notes.k12.hi.us

Cc: Amanda Kelly <akelly@anuenueaba.com>, Joanne_Brinich/CENDO/HIDOE

<Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us>, Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us

Aloha Debbie,

I am able to share that Kaiser and HMSA have issued these approvals and that this matter pertains to many clients, not only the one referenced in my original email (although his needs are the most dense of my existing clients). Curious what you see as next steps. If you would like, we can arrange a meeting with DOE administrators, ABA providers (HABA), health plans, and our legislators. If that is your desire, please send me dates and times you are available to meet. I urge us to move quickly however, as the school year is fast approaching.

Mahalo,

Amanda N. Kelly, PhD, BCBA-D, LBA
Director, Anuenue Behavior Analysts
Cell: (808) 298-2658
Office: (808) 518-4565
Fax: (808) 441-0944
Email: Akelly@anuenueaba.com

On Jul 17, 2017, at 8:26 AM, Deb_Farmer/OCISS/HIDOE@notes.k12.hi.us wrote:

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From: Amanda Kelly <akelly@anuenueaba.com>

To: Deb_T_Farmer/CIB/HIDOE@notes.k12.hi.us, Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us

Cc: Joanne_Brinich/CENDO/HIDOE <Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us>

Date: 07/12/2017 06:07 PM

Subject: Health Plan Approval for ABA During School Day

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Amanda Kelly <akelly@hidsamoa.net>

Health Plan Approval for ABA During School Day

Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us

Tue, Jul 18, 2017 at 7:41

<Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us>

AM

To: Amanda Kelly <akelly@anuenueaba.com>

Cc: Joanne_Brinich/CENDO/HIDOE <Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us>,

Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us

Amanda,

As with all doctor's orders for medical services during the school day, the school receives a copy of those orders for the student record and to be shared with appropriate staff. If you do have the orders, please provide them and we can discuss the issue with the school and the health provider. If there are no orders, then we cannot move forward.

thanks, Debbie

Amanda Kelly --07/18/2017 07:31:33 AM--Aloha Deb, It appears as though you replied from an email account I cannot respond to:

From: Amanda Kelly <akelly@anuenueaba.com>

To: Deb_T_Farmer/CIB/HIDOE@notes.k12.hi.us

Cc: Amanda Kelly <akelly@anuenueaba.com>, Joanne_Brinich/CENDO/HIDOE <Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us>,

Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us

Date: 07/18/2017 07:31 AM

Subject: Re: Health Plan Approval for ABA During School Day

[Quoted text hidden]

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Health Plan Approval for ABA During School Day

Amanda Kelly <akelly@anuenueaba.com>

Tue, Jul 18, 2017 at 8:14 AM

To: Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us

Cc: Joanne_Brinich/CENDO/HIDOE <Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us>, Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us

Debbi,

I am not familiar with the process for medical services being provided during the school day. Please call me to discuss, or if possible, email me an outline of the process. This will allow me to streamline supports for impacted families. As some of the information you are requesting is HIPPA protected, I am not able to share what you have requested, without obtaining additional written parental consent. If you want to address this on a case-by-case basis, I can certainly have my clients contact you directly.

Joanne is aware of at least three of the clients (EW, BF, TF) we are discussing, as these have been ongoing needs in Central District. I have petitioned the health plans to cover applied behavior analysis services, across settings, which they have willingly agreed to do, so long as we can prove there is not a duplication of services. Since the DOE does not currently offer fungible services, my requests were approved by the health plans (HMSA, Kaiser, and TRICARE). The next steps, as I see them, are to obtain district approval and assistance in coordinating these services for our families, as part of their medical team.

Mahalo,

Amanda N. Kelly, PhD, BCBA-D, LBA
Director, Anuenue Behavior Analysts
Cell: (808) 298-2658
Office: (808) 518-4565
Fax: (808) 441-0944
Email: Akelly@anuenueaba.com

On Tue, Jul 18, 2017 at 7:41 AM, <Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us> wrote:

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thanks, Debbie



Amanda Kelly <akelly@holdsamback.com>

Health Plan Approval for ABA During School Day

Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us

Tue, Jul 18, 2017 at 1:24

<Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us>

PM

To: Amanda Kelly <akelly@anuenueaba.com>

Cc: Joanne_Brinich/CENDO/HIDOE <Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us>,
Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us

Amanda,

Parents should be following the process under IDEA and Chapter 60 with the IEP team, for services requested by the parent. If a parent wants the school to consider a service, documentation needs to be provided, so the IEP team can consider the request.

Consistent with your information that these are HIPPA protected services, DHS has sent out a memo dated May 31, 2017 to Quest health providers, including Kaiser and HMSA. The memo states, "If justification is provided indicating the ABA service is medically necessary and approved by the QI (Hawaii's Quest Integration) health plan, the health plan will be responsible to provide and cover ABA services before or after school and when school is not in session.

thanks, Debbie

Amanda Kelly --07/18/2017 08:17:54 AM---Debbi, I am not familiar with the process for medical services being provided

From: Amanda Kelly <akelly@anuenueaba.com>

To: Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us

Cc: Joanne_Brinich/CENDO/HIDOE <Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us>,
Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us

Date: 07/18/2017 08:17 AM

Subject: Re: Health Plan Approval for ABA During School Day

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Amanda Kelly <akelly@huidpambeck.com>

Health Plan Approval for ABA During School Day

Amanda Kelly <akelly@anuenueaba.com>

Tue, Jul 18, 2017 at 3:25 PM

To: Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us

Cc: Joanne_Brinich/CENDO/HIDOE <Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us>, Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us

Deb,

You mention parents need to submit information to the IEP team. For the clients I am writing about, that has been done, as noted in my original email. In response, we have been told "district does not allow this". We have met with building based Principals (Jan Iwase, Malaea Wetzel, and Avis Nanbu) as well as the District Education Specialist, Joanne Brinich, who is copied on these email exchanges. Joanne shared that her hands are tied and encouraged me to reach out to you and Suzanne for direction on this matter, which was the impetus for my original email.

Please send me the link or information my clients and your Principals need to move forward with these doctor prescribed, medically-necessary services. I am the referring provider. It is my recommendation for these clients to receive applied behavior analysis across settings, which has been approved for clients I service through TRICARE, HMSA, and Kaiser. To be clear, we are not discussing Quest client services at this time. Therefore, the DHS memo you referenced is not applicable.

I will reiterate my original request. Please tell me what information the Department of Education needs to enable my clients' access to their medically-necessary care during the school day. If you are unable to assist, perhaps Suzanne could weigh in on the matter.

Mahalo,
Amanda

On Jul 18, 2017, at 1:24 PM, Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us wrote:

Amanda,

Parents should be following the process under IDEA and Chapter 60 with the IEP team, for services requested by the parent. If a parent wants the school to consider a service, documentation needs to be provided, so the IEP team can consider the request.

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thanks, Debbie

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From: Amanda Kelly <akelly@anuenueaba.com>

To: Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us

Cc: Joanne_Brinich/CENDO/HIDOE <Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us>, Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us

Date: 07/18/2017 08:17 AM

Subject: Re: Health Plan Approval for ABA During School Day



Health Plan Approval for ABA During School Day

Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us

Wed, Jul 19, 2017 at 7:44 AM

<Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us>

To: Amanda Kelly <akelly@anuenueaba.com>

Cc: Joanne_Brinich/CENDO/HIDOE <Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us> ,

Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us

Amanda,

I realize I have not been clear, please let me clarify. The medical service I referenced was skilled nursing, which is delivered on a school campus. Although this service is medical, parents do not pay for this service through their health insurance, rather this service is funded by DOE during the school day on a school campus. Skilled nursing is a related service under IDEA/Chapter 60, it is documented in the IEP. Skilled nursing on a school campus is considered an educational service protected under FERPA, not HIPPA.

The relevance of the DHS memo, is the unlikely position that both Kaiser and HMSA will treat their members differently based on their income status. I doubt that both health providers would discriminate between Quest and non-Quest members. However, I will verify the position of both health plans, Kaiser and HMSA, to be sure.

The Department's position is that only educational services are delivered within the school day. Those services that are medically necessary, such as skilled nursing, are delivered during the school day on a school campus at DOE expense, documented in the IEP and considered educational services.

Since the services you mentioned are protected by HIPPA and are paid through the parent's health plan, these are not educational services and are not be delivered during the school day on a school campus. The DOE has a specific mission to educate school age children/youth and our schools take this mission seriously.

thanks, Debbie

Amanda Kelly ---07/18/2017 03:26:57 PM---Deb, You mention parents need to submit information to the IEP team. For the clients I am writing ab

From: Amanda Kelly <akelly@anuenueaba.com>

To: Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us

Cc: Joanne_Brinich/CENDO/HIDOE <Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us> , Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us

Date: 07/18/2017 03:26 PM

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Health Plan Approval for ABA During School Day

Amanda Kelly <akelly@anuenueaba.com>

Thu, Jul 20, 2017 at 9:51 AM

To: Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us, Suzanne_Mulcahy/WINDO/HIDOE@notes.k12.hi.us

Cc: Joanne_Brinich/CENDO/HIDOE <Joanne_Brinich/CENDO/HIDOE@notes.k12.hi.us>

Debbie,

Thank you for this additional information. While this conversation was initially about access to medically-necessary applied behavior analysis services, one reason health plans are approving school-day requests are because clients are not receiving fungible services from the Department of Education (DOE). For my clients specifically, they have been denied access to applied behavior analysis services from licensed providers in their current DOE placements, which is a violation of state law (Chapter 465-D), as well as IDEA, for failing to provide students a free and appropriate public education (Endrew F. v. Douglas County School District, October 2016).

Over the past two decades, the nation has seen numerous insurance (46 states) and licensure laws (28 states) passed, which have improved educational and medical services for individuals with autism and related disorders, through access to applied behavior analysis. As someone who knows the value of applied behavior analysis; an evidence-based, scientific problem-solving approach, I have dedicated my career to increasing consumer access to services, both locally and at the national level.

It is disheartening and discouraging to experience such resistance and an unwillingness to collaborate from you, on behalf of the Hawai'i Department of Education. The Department's current position on applied behavior analysis appears to be in direct conflict with its own mission to educate our keiki:

"To serve our community by developing the academic achievement, character and social-emotional well-being of our students to the fullest potential. We work with partners, families and communities to ensure that all students reach their aspirations, from early learning through college, career and citizenship."

In order to advance these discussions and identify solutions, I would like to share the Department's official position with the health plans and providers, my clients, your principals, and our legislators. Will the Department be issuing an updated memo on these matters?

Amanda N. Kelly, PhD, BCBA-D, LBA
Director, Anuenue Behavior Analysts
Cell: (808) 298-2658
Office: (808) 518-4565
Fax: (808) 441-0944

On Wed, Jul 19, 2017 at 7:44 AM, <Deb_T_Farmer/OCISS/HIDOE@notes.k12.hi.us> wrote:

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The Senate

STATE CAPITOL
HONOLULU, HAWAII 96813

SENATOR DONOVAN M. DELA CRUZ

August 3, 2017

Dr. Christina Kishimoto
Superintendent
Department of Education
P.O. Box 2360
Honolulu, HI 96804

Aloha Superintendent Kishimoto:

My office received a concern from Ms. _____, who is the mother of _____, a preschool student at _____ Elementary School. _____ a four-year-old diagnosed with autism and _____ Syndrome as well as other health conditions. Ms. _____ provided the following information regarding her son's case.

During the 2015 legislative session, the Legislature passed, and the Governor signed, Act 199, Session Laws of Hawaii 2015, which requires the licensing of behavior analysts for the practice of applied behavior analysis (ABA). The "Practice of Behavior Analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. Practice of behavior analysis includes the empirical identification of functional relations between behavior and environmental factors, known as **functional assessment and analysis**. Practice of behavior analysis also includes the use of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions

According to Ms. _____, _____ has an Individualized Education Program, which she believes should not be utilized because his functional behavior assessment was not conducted by a licensed behavior analyst (LBA). Mr. Daniel Cordial, who is a Department of Education behavior health specialist, conducted _____ functional behavior assessment (FBA).

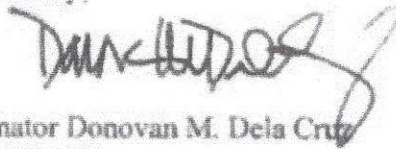
Dr. Kishimoto
August 3, 2017
Page 2

informed that [redacted] has been approved by his health plan to receive 40 hours of ABA services each week. He has been receiving ABA services, overseen by Dr. Amanda N. Kelly (LBA) and her team, for just over a month. Encouraged by her son's progress, [redacted] approached her healthcare provider and received confirmation that her plan will cover ABA services during school hours, so the next step would be to obtain district approval and assistance in coordinating these services, which are critical to [redacted] behavioral, academic, and social-emotional development.

Further, [redacted] refers to state (Chapter 465-D) and federal laws (L.D.E.A), in requesting that the department consider hiring a LBA to conduct a new FBA for [redacted]. She feels that services currently provided to [redacted] may not accurately reflect his most critical needs due to his behavior support plan (BSP) being developed by Mr. Cordial, who is unlicensed, and therefore, she believes is not qualified to conduct this assessment.

I would appreciate a response by Friday, August 18. Should you have any questions please feel free to contact my office.

Sincerely,



Senator Donovan M. Dela Cruz
District 22



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P. O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

October 2, 2017

The Honorable Donovan M. Dela Cruz
Senator, Twenty-Second District
415 S. Beretania Street, Room 208
Honolulu, HI 96813

Dear Senator Dela Cruz:

This letter is in response to your letter dated August 3, 2017 regarding the services being provided to Ms. [REDACTED] son [REDACTED], at [REDACTED] Elementary School.

Acts 199 (2015) and 107 (2016), Session Laws of Hawaii, codified as Chapter 465D, Hawaii Revised Statutes, established the requirement of statewide professional standards for the licensing of behavior analysts. Although the intent of this legislation was to ensure qualified personnel in the provision of healthcare for children with autism, it directly impacts the Hawaii State Department of Education's (HIDOE) charge in the provision of educational services to all students.

HRS Chapter 465D-7 allows for the following exemptions: "(a) This chapter is not intended to restrict the practice of other licensed or credentialed practitioners practicing within their own recognized scopes of practice and shall not apply to: (1) an individual working within the scope of practice or duties of another licensed profession that overlaps with the practice of behavior analysis; provided that the person does not purport to be a behavior analyst..."

The HIDOE currently recognizes the following licensed or credentialed professionals, whose practice commonly overlaps with behavior analysis, as exempt from the licensed behavior analyst requirement.

- General Education Teachers
- Special Education Teachers
- Resource Teachers
- School Psychologists
- Clinical Psychologists
- Behavior Health Specialists
- Counselors
- Related service providers (i.e., Speech Language Pathologist, Occupational Therapist, Physical Therapist, etc.)
- Social Worker

AN AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY EMPLOYER

The Honorable Donovan M. Dela Cruz

October 2, 2017

Page 2

The HIDEO is required to comply with the Individuals with Disabilities Education Act (IDEA) and Hawaii Administrative Rules Chapter 8-60; and therefore, must ensure that each student's Individualized Education Program (IEP) is developed by the IEP team and designed to maximize the child's access to and progress in the general education curriculum. Any parent(s)/legal guardian(s) requesting Applied Behavior Analysis (ABA) services through a healthcare provider during the school day may bring the healthcare plan to the IEP team for consideration. It is the IEP team's responsibility to review the healthcare plan and its educational relevance and benefit to the student regarding accessing and progressing in the general education curriculum. Any recommendations and/or services from the healthcare plan determined to be educationally relevant and included in the child's IEP will be provided by the HIDEO.

If a parent(s)/legal guardian(s) disagrees with the school on the program developed by the IEP team, there are procedural safeguards in place. They may:

- Request a mediator to help negotiate or resolve the disagreement;
- File a complaint with the HIDEO Complaints Management Program for review; or
- File for a due process hearing where a hearing officer, after reviewing evidence and hearing testimony, will render a decision with appropriate resolutions.

Should you have any questions, please contact Ms. Annie Kalama, Administrator, Special Needs Section, at (808) 305-9806 or via email at annie_kalama@notes.k12.hi.us.

Sincerely,



Dr. Christina Kishimoto
Superintendent

CMK:ak

c: Governor's Office, Chief of Staff
Governor's Education Policy Analyst
Department of Budget and Finance
Office of Curriculum, Instruction and Student Support

(10/18/2017) *Transcription of recorded meeting held for DOE elementary special education teachers. More information is available at the request of our legislators. Please contact Dr. Kelly at (808) 298-2658.*

EDUCATION DIVISION (AG): ...if you guys all agree that ABA methodology, you know was the appropriate methodology to be applied in the classroom, for this student, then you need to specify it. I'm not telling you don't do that, that's what your judgment is, that's fine, but be careful. That 9th circuit case doesn't say just cause someone says, "Oh, we need ABA methodology" —and that is an issue that crops up from time to time. Some of you might be aware that there's a particular advocate, for ABA services, named Amanda Kelly and she's pushing an agenda against the DOE —in different areas, but one of those is pushing ABA services to be provided by a BCBA, behavior analyst, in the classroom. I don't know if that means supplanting the teaching or as a supplementary service, because that part is not clear to me. The 9th circuit case is not clear to me what they meant by ABA methodology. Is it teaching? Or, if they meant behavioral services as a supplementary service. That is one of the areas we are exploring as an education division, because that part of the decision isn't that clear. It doesn't give the guidance to the DOE, how do we use this case, like in some of these other areas, like ABA methodology. Right now the advice that I'm giving you who have this issue, in any case where we have this issue, I tell them "we're not going to, you know (inaudible) when it comes to ABA methodology, we're not putting it on the IEP". However, if you as the IEP team believe it is an appropriate teaching methodology and you want to cite that, then fine. But that's different from than "Oh we also need ABA/behavioral services in this classroom, by a BCBA".

AUDIENCE: "So, if you were to use the words, ABA methodology, doesn't that term, that term like, you would have to be certified, right? In order to use that terminology or no?"

EDUCATION DIVISION (AG): Okay, um that's another little area. Are you guys aware of the licensing law that the DOE is facing? Chapter HRS 465-D.

AUDIENCE: No, I mean I know that...

EDUCATION DIVISION (AG): Okay, they refer to something called licensure for a behavioral analysis. Uh, there is a part, and it's not part of I.D.E.A., there is a sub-part in Hawaii Chapter, statutory law, licensing of behavioral analysis or analysts. Okay? That's related to something else, which has to do with insurance reimbursement for ABA service providers. But growing out of that, there's a change in the licensing laws for the state. The licensing laws for the state have a section on licensing of behavioral analysis. And in that law, —all you need to know is that all of you licensed teachers are exempt from those licensing issues. So, for instance, some teachers are aware of this, others are not. And I was taught this by a BCBA, a mom, that as part of your teaching, you use ABA methodologies. You may not recognize it as specific ABA methodology, but you use ABA methodologies. Now this person told

me that not all of our teachers know that expressly. Understand that they do. Okay, anyway that licensing requirement has an exemption for people like licensed teachers. People in your profession that might use behavioral services, that touch on ABA, they're not prohibited from using techniques, which some like ABA methodology. All I am telling you is that at an IEP meeting, if you use the buzz words, they need to have ABA methodology, blah, blah, blah, trust me, someone will make a claim, okay we need an IEP and then that will lead to another claim, which is now we would also like ABA behavioral services, implemented by a BCBA. I mean look, if that's what the team agrees is necessary then that's fine. But I just want you to be aware of it. If that's not what you meant, be weary of talking about it.

You have stuff that you do in your ordinary teaching that is, that someone could say is ABA methodology. But you don't have to say; you don't have to make excuses for that. You don't have to say, well okay, you can do it. All I can say is you can do it. Licensing laws clearly have an exemption for you. The problem for the DOE and it doesn't touch on any of you guys, the problem for the DOE is, it does not apply to the kind of people that you get help from in the district. You have like these BHS's, the ones I've run into are not licensed teachers, they could be licensed in other areas, like counseling. They are not licensed teachers and they are not licensed by that national board that licenses behavior analysts. Okay, the BACB. So they are not Board Certified technicians, under the BACB. They are DOE trained professionals that provide assistance for autistic kids. Uh, and that's a discussion that I think we should have with the state's SPED office. I'll work with them to work that out. Because that is a potential problem area, but that's nothing for you guys to worry about right now. This is a problem area. But for you teachers, this is a non-issue. Just do what you always have done. Okay? All I'm saying is listen. Momi [Patricia Robbins-Makaila, Autism Consulting Teacher] has touched on a point in that 9th circuit case that talked about ABA methodologies and all I'm telling you is unlike transition services that discussion by that court on ABA methodology is not as clear.

Cc: meilyee.cheng@hawaii.gov >

Response to Governor David Ige Email

Today at 12:33 PM

Dear Ms. Hoohuli-Rosa:

This is in response to your email dated October 10, 2017 to Governor David Ige regarding Applied Behavior Analysis (ABA) services.

The Hawaii State Department of Education (HIDOE) is required to comply with the Individuals with Disabilities Education Act (IDEA) and Hawaii Administrative Rules Chapter 8-60 in order to identify, evaluate, and educate individuals with disabilities. The goal of the IDEA is to provide students with a disability a free appropriate public education through individualized and specialized education and related services. Parent(s)/legal guardian(s) requesting to receive Applied Behavior Analysis (ABA) services through a healthcare provider during the school day should bring the treatment plan to the Individualized Education Program (IEP) team for review and consideration. It is the IEP team's responsibility to review the treatment plan and determine whether it is educationally relevant. The IEP team will then determine whether and to what extent autism specific methodologies including ABA are to be provided to student; any recommendations and/or services included in the student's IEP will be provided by the HIDOE.

As you may be aware, healthcare providers such as HMSA will pay for medically necessary ABA "therapy" pursuant to a treatment plan developed outside of the IEP process. The treatment team does not decide whether a student requires ABA services for educational purposes which is a decision reserved for the IEP team. In other words,

medically necessary ABA “therapy” pursuant to a treatment plan developed outside of the IEP process. The treatment team does not decide whether a student requires ABA services for educational purposes which is a decision reserved for the IEP team. In other words, it is the IEP team’s responsibility to determine whether a particular student requires a specific methodology (e.g., ABA) in order to make progress on his/her IEP goals and objectives. In addition, the HIDEOE is not required to implement a student’s medically-related treatment plan. It is a HIDEOE policy not to allow private providers on campus as it would interfere with the school’s obligation to implement a student’s IEP and to provide special education and related services under the IDEA. Be assured, however, that the HIDEOE does currently employ a number of licensed Behavior Analysts and Board Certified Behavior Analyst candidates and continues its efforts to train and hire additional personnel with these qualifications.

If a parent(s)/legal guardian(s) disagrees with the school on the program developed by the IEP team, there are procedural safeguards in place. They may:

- Ø Request a mediator to help negotiate or resolve the disagreement;
- Ø File a complaint with the HIDEOE Complaints Management Program for review; or
- Ø File for a due process hearing where a hearing officer, after reviewing evidence and hearing testimony, will render a decision with appropriate resolutions.

Should you have any questions, contact Ms. Annie Kalama, Educational Specialist, Special Needs Section, at (808) 305-9806 or via email at annie_kalama@notes.k12.hi.us.

c: Governor’s Office

11/7/2017

To the Hawai'i Board of Education:

My name is Dr. Amanda N. Kelly. I am writing to express concerns regarding Superintendent Kishimoto's position on hiring and collaborating with licensed behavior analysts (LBAs) for our keiki who require applied behavior analysis (ABA) in the school setting. In 2015, Governor David Ige signed autism insurance "Luke's Law" into law. That same year, he also signed licensure for behavior analysts into law (Chapter 465-D). In 2016, the Department of Education (DOE) contested the Behavior Analyst licensure law, seeking an exemption. Many families and teachers advocated for maintaining the licensure requirements within DOE public school settings. Our legislators agreed, offering only a temporary reprieve for the requirement of direct support workers to become Registered Behavior Technicians (RBT) until 1/1/2019. The expectation and requirement for licensed behavior analysts was upheld and effective as of 7/1/2016. In 2017, licensed psychologists challenged our law stating they were being pushed out of their right to practice applied behavior analysis (ABA). Our legislators agreed mechanisms exist for those who have behavior analysis in their scope of training and practice. They did not adjust the language of the licensure law during the 2017 session.

This summer, (July 2017) I received authorizations from several commercial health plans who offered to fund applied behavior analysis (ABA) services on DOE school campuses. Denial of this coverage is actually a violation of the mental health parity law. Unfortunately, when I reached out to the Department of Education's administrators, Debra Farmer and Suzanne Mulcahy, I received a less than satisfactory response. Simply put, Debra Farmer stated that insurer-funded ABA cannot occur on a school campus. In reply, I noted:

"While this conversation was initially about access to medically-necessary applied behavior analysis services, one reason health plans are approving school-day requests are because clients are not receiving fungible services from the Department of Education (DOE). For my clients specifically, they have been denied access to applied behavior analysis services from licensed providers in their current DOE placements, which is a violation of state law (Chapter 465-D), as well as IDEA, for failing to provide students a free and appropriate public education (Endrew F. v. Douglas County School District, October 2016).

It is disheartening and discouraging to experience such resistance and an unwillingness to collaborate from you, on behalf of the Hawai'i Department of Education. The Department's current position on applied behavior analysis appears to be in direct conflict with its own mission to educate our keiki: "To serve our community by developing the academic achievement, character and social-emotional well-being of our students to the fullest potential. We work with partners, families and communities to ensure that all students reach their aspirations, from early learning through college, career and citizenship."

In order to advance these discussions and identify solutions, I would like to share the Department's official position with the health plans and providers, my clients, your principals, and our legislators. Will the Department be issuing an updated memo on these matters?"

No additional response was received on behalf of the Hawai'i Department of Education.

On August 3, Senator Donovan Dela-Cruz issued a letter to Superintendent Kishimoto explaining his concerns with the apparent legal violations of the Department of Education for refusing children access to licensed behavior analysts (LBAs) and applied behavior analysis (ABA) on school campuses during the school day. He did not receive a reply for 2 months. Representative Beth Fukumoto also issued a letter to Superintendent Kishimoto on behalf of the same family. I am unsure if Representative Fukumoto ever received a reply.

On September 12, Dr. Kishimoto held a community meeting in Wahiawa on O'ahu. At that meeting several families and teachers spoke to Dr. Kishimoto about their concerns regarding lack of ABA services and licensed providers in the school settings. Dr. Kishimoto appeared to listen to concerns and asked families for their contact information. When the emails between myself and Debra Farmer were mentioned, Dr. Kishimoto said she had not seen these emails and was "interested in learning more".

On September 18, Dr. Kishimoto held a community meeting in Kona on the island of Hawai'i. I had printed a copy of the email exchanges between me and Debra Farmer (with Suzanne Mulcahy copied) to provide to the Superintendent at this meeting. Instead, Dr. Kishimoto was on my flight from O'ahu. So, when we landed, I handed Dr. Kishimoto the emails. I did not mention these emails at the meeting. However, Dr. Kishimoto was asked questions about how students could gain access to ABA and licensed providers during the school day. She responded by saying "I do not have the data in front of me". When asked her plan for bringing the DOE into compliance, Dr. Kishimoto quipped, now that it's litigious, the lawyers will have to figure it out. When asked how families and community members could go about getting ahold of Dr. Kishimoto, she stated, "If you wanted someone who sits at their desk, then you did not need a superintendent, you needed a secretary". When a parent asked, "Does the DOE currently have any licensed or credentialed behavior analysts, Dr. Kishimoto snapped and replied by saying, "I will not be cornered by you at a community meeting". This is alarming, upsetting, and disrespectful, but my concerns do not end here.

In a letter dated, October 2, 2017, Dr. Kishimoto issued a response to Senator Dela-Cruz. In her letter, the Superintendent states: "The Hawaii DOE currently recognizes the following licensed or credentialed professionals, whose practice commonly overlaps with behavior analysis, as exempt from the behavior analyst licensure law"

- general education teachers
- special education teachers
- resource teachers
- school psychologists
- clinical psychologists
- behavior health specialist
- counselors
- related service providers (e.g., Speech Pathologist, Occupational Therapist, Physical therapist, etc.)
- social worker

The actions of the superintendent and the letter she wrote, conveys an arrogance, as she feels (or has been lead to believe) that she's identified a loophole in our state licensure law. Instead, Dr. Kishimoto has publicly acknowledged several federal violations being committed by the Hawai'i DOE (e.g., FAPE, IDEA, and ADA). A class-action lawsuit is now being drafted and a federal case is going to be brought against the Hawaii Department of Education, Dr. Kishimoto, Debra Farmer, Suzanne Mulcahy, and the Hawai'i Board of Education. Lawsuits are no news to Dr. Kishimoto, as evidenced by this 2016 case in the Gilbert Public School District in Arizona.

Now, more than ever, is the time to unite and work together, rather than spend our energies working against one another. I am available to brainstorm solutions. I am here to help. This has been my missive all along. I invite you to learn more about me. I look forward to learning more about each of you and discovering how we can all work together #forourkeiki.

Mahalo,

Amanda N. Kelly, PhD, BCBA-D, LBA
For Our Keiki | <http://forourkeiki.webs.com>
(808) 298-2658 | forourkeiki@gmail.com




STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

November 28, 2017

TO: Deputy Superintendent, Complex Area Superintendents, Principals (All), Public Charter School Directors (All), District Educational Specialists, Student Services Coordinators, Special Education Teachers, and School Based Behavioral Health and Autism Personnel

FROM: Christina M. Kishimoto
Superintendent 

SUBJECT: **Functional Behavior Assessment/Behavior Support Plan Signature Page Procedures**

The Functional Behavior Assessment (FBA) is an assessment designed to identify the function or cause of serious behavior problems. It requires the collection and analysis of both student as well as environmental data and is a process that may occur over a period of time. Once completed, the results are utilized by the team for that individual student, i.e. Individualized Education Plan (IEP) Team, 504 Team, Student Support Team, or Student Intervention Team, etc, to identify targeted interventions that comprise the Behavior Support Plan (BSP).

The process of conducting a FBA or/and developing and implementing a BSP is a team effort. It is imperative that individuals who are knowledgeable of the student (including the parent) and professionals who are knowledgeable about behavior change make up the team.

To ensure fidelity of this team process, please include the attached FBA and BSP signature page to your FBA and BSP reports. Be sure to include all team members' names, signatures, titles, and active professional licensure. Applicable professional licensure may be held from the Hawaii Teacher Standards Board for teachers and school counselors; Hawaii Department of Commerce and Consumer Affairs for Mental Health Counselors, Social Workers, Clinical Psychologists, Marriage and Family Therapists, and Behavior Analysts; National School Psychologist Association for School Psychologists; or related professional licensure granted from other states or national boards.

Should you have any questions, please contact Dr. Wing Kan Hui, Educational Specialist, Student Support Section, at (808) 305-9787 or via email at wing_kan_hui@notes.k12.hi.us.

CMK:ar
Attachment

c: Assistant Superintendents
Superintendent's Office Directors
State Public Charter School Commission
Office of Curriculum, Instruction and Student Support

AN AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY EMPLOYER



STATE OF HAWAII
DEPARTMENT OF EDUCATION

Functional Behavior Assessment (FBA)/Behavior Support Plan (BSP)
Signature Page

Current School Year 20__/20__

Student Name: _____ Date of Birth: _____ Grade: _____ Eligibility: _____

School: _____ School ID: _____ Date of Report: _____

Team Members: Record names, signatures and licensure status of all individuals who contributed and shared responsibility for gathering and reviewing FBA/BSP data.

- FBA
- BSP

Name:	Position/Title	Signature	*License Type	License #

Applicable professional licensure may be held from the Hawaii Teacher Standards Board for teachers and school counselors; Hawaii Department of Commerce and Consumer Affairs for Mental Health Counselors, Social Workers, Clinical Psychologists, Marriage and Family Therapists, and Behavior Analysts; National School Psychologist Association for School Psychologists; or related professional licensure granted from other states or national boards.

December 4, 2017 (revised letter)
Original letter sent: 12/1/2017

██████████
On Tuesday, November 28, 2017, I met with Dr. Amanda N. Kelly, BCBA-D, LBA and Ms. ██████████, BCBA, LBA to address ethical concerns Dr. Kelly had regarding my actions as a State of Hawaii, Department of Education (DOE), Autism Consulting Teacher (ACT) who is pursuing certification towards becoming a behavior analyst.

Dr. Kelly brought to my attention, and the attention of my supervisor, actions that I engaged in, which led her to be concerned. She described situations in which I failed to advocate for appropriate steps to be followed when supporting teams with behavior assessments. Dr. Kelly shared she was specifically concerned that I had:

1. Allowed or encouraged others to change assessment dates on Functional Behavior Assessments (FBAs) and Behavior Support Plans (BSP), without first having an updated assessment conducted (BACB 1.04, 2.03, 2.05, 2.09, 3.01, 4.07)
2. Allowed or encouraged others to complete Functional Behavior Assessments, without first obtaining appropriate parental consents (BACB 1.04, 2.03, 2.05, 2.09, 4.04, 4.05)
3. Allowed or encouraged others to complete FBAs and develop BSPs, without advocating for Licensed Behavior Analysts to be team members, as outlined in Hawai'i Behavior Analyst Licensure Law, Chapter 465-D (BACB 1.04, 2.03, 2.05, 2.09, 3.01, 4.07)

The following are areas of the Behavior Analyst Certification Code (BACB), Professional and Ethical Compliance Codes, which were brought to my attention by Dr. Amanda N. Kelly:

1.04 Integrity. (a) Behavior analysts are truthful and honest and arrange the environment to promote truthful and honest behavior in others. (b) Behavior analysts do not implement contingencies that would cause others to engage in fraudulent, illegal, or unethical conduct. (e) If behavior analysts' ethical responsibilities conflict with law or any policy of an organization with which they are affiliated, behavior analysts make known their commitment to this Code and take steps to resolve the conflict in a responsible manner in accordance with law. (BACB 2014, rev. 2016 p.4)

2.03 Consultation. (a) Behavior analysts arrange for appropriate consultations and referrals based principally on the best interests of their clients, with appropriate consent, and subject to other relevant considerations, including applicable law and contractual obligations. (BACB 2014, rev. 2016 p.6)

2.05 Rights and Prerogatives of Clients. (a) The rights of the client are paramount and behavior analysts support clients' legal rights and prerogatives. (BACB 2014, rev. 2016 pp. 7-8)

2.09 Treatment/Intervention Efficacy. (a) Clients have a right to effective treatment (i.e., based on the research literature and adapted to the individual client). Behavior analysts always have the obligation to advocate for and educate the client about scientifically supported, most-effective treatment procedures. Effective treatment procedures have been validated as having both long-term and short-term benefits to clients and society. (BACB 2014, rev. 2016 pp. 8-9)

3.01 Behavior-Analytic Assessment. (a) Behavior analysts conduct current assessments prior to making recommendations or developing behavior-change programs. The type of assessment used is determined by client's needs and consent, environmental parameters, and other contextual variables. When behavior analysts are developing a behavior-reduction program, they must first conduct a functional assessment. (b) Behavior analysts have an obligation to collect and graphically display data, using behavior-analytic conventions, in a manner that allows for decisions and recommendations for behavior-change program development. (BACB 2014, rev. 2016 p.11)

4.04 Approving Behavior-Change Programs. Behavior analysts must obtain the client's written approval of the behavior-change program before implementation or making significant modifications (e.g., change in goals, use of new procedures). (BACB 2014, rev. 2016 p.12)

4.05 Describing Behavior-Change Program Objectives. Behavior analysts describe, in writing, the objectives of the behavior-change program to the client before attempting to implement the program. To the extent possible, a risk-benefit analysis should be conducted on the procedures to be implemented to reach the objective. The description of program objectives and the means by which they will be accomplished is an ongoing process throughout the duration of the client-practitioner relationship. (BACB 2014, rev. 2016 p.12)

4.07 Environmental Conditions that Interfere with Implementation. (a) If environmental conditions prevent implementation of a behavior-change program, behavior analysts recommend that other professional assistance (e.g., assessment, consultation or therapeutic intervention by other professionals) be sought. (b) If environmental conditions hinder implementation of the behavior-change program, behavior analysts seek to eliminate the environmental constraints, or identify in writing the obstacles to doing so. (BACB 2014, rev. 2016 p.12).

Per our conversation with Dr. Kelly she emphasized that I am required to hold myself accountable to the BACB Professional and Ethical Compliance Codes. Moving forward, to ensure that I am adhering with the BACB Professional and Ethical Compliance Code I have committed to taking the following actions:

1. Whenever functional behavior assessments or behavior plans are discussed, I will inform others of their rights and the rights of our students, as understood in Chapter 465-D (BACB 1.04, 2.05, 2.09)

2. Whenever assessments are to be conducted by teams, which I am a member of, appropriate written consents will be obtained from parents and/or legal guardians (BACB 2.03, 2.05, 2.09, 3.01, 4.04)
3. To reconcile any errors I may have made, I will be requesting to reconvene the teams, in which I have been involved, where the FBA and/or BSP were conducted without appropriate provisions. I will request to have my responsibility and roles on these teams to be actively supervised by Ms. [REDACTED] (BCBA, LBA) (BACB, 1.04, 4.05)
4. When there are inaccuracies or actions which I feel are in direct violation with local and federal laws, I will voice my concerns to my employer, in writing (BACB 4.07). In addition, I will work in collaboration with my DOE supervising employer and Ms. [REDACTED], my supervising behavior analyst, to identify a solution to these barriers that satisfies all parties.

I remain committed to my role as an Autism Consulting Teacher with the DOE and I appreciate your support of my efforts to become a behavior analyst. If you have any questions or concerns regarding this letter of clarification, please do not hesitate to let me know. My supervising behavior analyst, Ms. [REDACTED], and me would be more than happy to meet with you at your earliest convenience.

Sincerely,

[REDACTED]

Cc:

[REDACTED], BCBA, LBA
Amanda N. Kelly, PhD, BCBA-D, LBA



**KAISER
PERMANENTE.**

[REDACTED]

12/27/2017

[REDACTED]

[REDACTED]

[REDACTED] 206

Pt has services with BAYADA. Unfortunately per your DOE rules, the therapist is not allowed in the CLASSROOM. I think this would be the BEST place for the therapist to help [REDACTED] for his continued escalations and behavioral issues. It is difficult for the BAYADA therapist to work with the pt. in a community setting after school. The mom and mom's other children have to be there for the up to 15 hours of the time [REDACTED] has services for. The siblings can be distracting, of course, for [REDACTED]. As a result, IF BAYADA therapist can not be in the classroom (the class BAYADA aide would be the most preferable option for all concerned) it is important that [REDACTED] leave at NOON to get his services and to have a medical absence from NOON onward for his public school.

Sincerely,

WALKO, EILEEN B (M.D.)

HILO CLINIC
PEDIATRICS
1292 Waiianuenue Avenue
Hilo HI 96720
Dept Phone: 808-934-4000
kaiserpermanente.org

1/18/2018

Good Afternoon,

Unfortunately, I am unable to attend today's Board of Education meeting in person. Please accept this letter as my written testimony in place of presenting live.

Since September 2017, I have spoken to the Hawai'i Board of Education about my concerns as an advocate for families and providers in the state, specifically recipients and providers of Applied Behavior Analysis (ABA) services. For months, families have testified and shared their stories, as have teachers, siblings, and self-advocates. Although we have asked questions several times (e.g., "How many licensed behavior analysts are employed by the DOE"), we have not received any direct answers to our questions. Rather, we receive retaliatory responses for our advocacy efforts, specifically the cancelling of contracts, or denial of services for students themselves as a result of actions and statements made by Ms. Debra Farmer, DOE Special Education Administrator. As a result of inadequate action and lack of meaningful support, the community is moving forward and a class-action lawsuit will be brought against the state, as originally stated in my testimony on 11/7/2017.

The last time the HIBOE met, 12/5/2017 I asked several questions:

- How many licensed behavior analysts do you have on staff,
- How many are working in the capacity of an LBA,
- How many students have ABA written on their IEPs, and
- What dissemination efforts were taken to inform IEP teams and families about these available services

On January 5, 2018, the Hawai'i Department of Education released a legislative report titled: "Report on Behavior Analyst and Certification Requirements Implementation". This report speaks to some of the questions that I have asked in the past. However, the document also contains information that is incorrect and misleading. I have selected just a few of these errors to bring to your attention today.

DOE Statement: "...the recognized scope of practice of teachers and other professionals overlap with the practice of behavior analysis. Licensed teachers and other licensed educational professionals are exempt per HRS 465-7(a)(1)."

REPLY: Teachers are not licensed by the Department of Commerce and Consumer Protection (DCCA), which means they are not regulated by RICO (Regulated Industries Complaints Office). As stated in Chapter 465-D, a teacher "directly implements intervention or assessment plans under supervision *and does not* design intervention or assessment plans."

DOE Statement: There are approximately 1,000 ASD students who require intensive instruction, as indicated by the need for one-to-one support. These students may require ABA as an IEP service provided by an LBA and Registered Behavior Technician (RBT).

REPLY: The DOE website lists 1,820 students who have qualified for an IEP under a classification of autism.

- How many of these students have been recommended Applied Behavior Analysis (ABA)?
- How many of these students have ABA included in their Individualized Educational Programs (IEP)?
- How many of these students have a Licensed Behavior Analyst (LBA) as a member of their IEP team?
- How many of these students have a Registered Behavior Technician (RBT) as a member of their IEP team?
- How many students without an autism diagnosis have a Behavior Support Plan (BSP) as part of the IEP programming? Of those students, how many have a Licensed Behavior Analyst as a member of their IEP team?

DOE Statement: "Increased HIDOE LBA and RBT personnel- The HIDOE employs 154 RBTs (credentialed and in training) and 54 LBAs (licensed and in training).

REPLY: The purpose of the behavior analyst licensure law was to increase consumer protection by creating an easily recognizable license that allows a person to practice behavior analysis. While students of behavior analysis are allowed to practice (under the supervision of a licensed behavior analyst), they may not "purport to be a behavior analyst" per HRS 465-7(a)(1)."

HIDOE BACB Credentialed Personnel				
District/ Complex Area	# of LBAs	# of LBA Candidates	# of RBTs	# of RBT Candidates
Honolulu District	1	0	0	10
Central District	1	4	1	21
Leeward District	0	15	0	44
Windward District	4	8	5	29
Hawaii District	0	4	0	30
Maui District	5	7	2	3
Kauai District	1	0	0	5
STATE	3	1	1	3
Total	15	39	9	145

Looking at the information provided by the HIDOE (table titled "HIDOE BACB Credentialed Personnel"), it would be more accurate for the Department to state that they have 15 Licensed Behavior Analysts (LBA) and 9 Registered Behavior Technicians (RBT) currently, two years into implementation of Chapter 465-D. It should be noted during the 2016 Legislative session Suzanna Mulcahy reported to Representative Della Belatti, that there were 20 Board Certified Behavior Analysts in the DOE and "many more in the pipe". It appears that there are now 5 LESS behavior analysts than were reported 2 years ago. This is certainly a concerning trend.

Even if someone possess the credential of Registered Behavior Technician (RBT), they may not call themselves an RBT or claim they are practicing as an RBT, unless they meet all supervision and related requirements. Currently, RBTs are required to have at least 5% of their hours supervised by a Licensed Behavior Analyst (LBA), who agrees to be the "Responsible Certificant" for the RBT (<http://www.bacb.com>).

DOE Statement: “Many states have determined that the ABA licensure standard is consistent with the accepted standards of their respective educational professionals. These states have also recognized that the ABA licensure standard could prohibit public and private school employees from performing their full scope of work. As a result, 14 states have either limited or completely exempted schools and educational professionals from this law.

REPLY: This information is false and/or misleading. Many states that have licensure passed these laws 8-10 years ago. When we look at states that pushed autism insurance through early on, we will see low age and dollar caps. This is not because those states did not feel it was important, or that the research does not exist demonstrating efficacy, it was done for political reasons. In all states where autism insurance laws placed low age or dollar caps, they have revised, repealed, or redrafted language since, reflecting what later states have done.

In addition, because a state does not require licensure in school settings, does not mean schools are not providing Applied Behavior Analysis (ABA) by Licensed Behavior Analysts (LBAs). Massachusetts is very clearly one of those states. As a matter of fact, in order to pull funds from Mass Health (for school-based claiming) for ABA services delivered in the school setting, the state requires “the practitioner is required to be licensed by the Board of Registration of Allied Mental Health and Human Services Professions as an Applied Behavior Analyst (ABA), or if prior to January 6, 2016, may be a Board Certified Behavior Analyst (BCBA). In addition, services may be reimbursed if provided by a licensed physician, psychologist, or psychiatrist providing ABA within the scope of his or her licensure; or an Assistant Applied Behavior Analyst (AABA) or other paraprofessional working under the supervision of a licensed ABA. If prior to January 6, 2016, AABA or paraprofessionals may be working under the supervision of a BCBA.”
<http://www.mass.gov/eohhs/docs/masshealth/bull-2015/sbm-29.pdf>

At the same time the 2018 legislative report was released on the DOE website, the report that was intended for the 2017 legislative session was also added to the HIDOE website. Although the report is dated 12/29/2016, it should be publicly acknowledged that this report was not posted until 12/2017.

Reports for the 2017 Legislature

REPORTS ON BILLS AND RESOLUTIONS passed in the 2015 and 2016 Regular Session, Hawaii State Legislature.

	Authorizing Instrument	Subject	Report or Action Requested
1	Act 107 SB 1311, CD1 (2016)	Requires the DOE to report to the Legislature on implementing measures to comply with the behavior analyst licensure and certification requirements.	
2	Act 109 HB 0820, CD1 (2015)	Relating to Public Early Childhood Education	View report

As always, I am here to help. Now, more than ever, is the time to unite and work together.

Amanda N Kelly, PhD, BCBA-D, LBA
 For Our Keiki | www.forourkeiki.webs.com
forourkeiki@gmail.com | 808-298-2658

8/11/2016 In response to the Complaint Investigation on Case #1 [REDACTED] the Team agreed to provide 1614 minutes of Teacher Consult services that were not provided during the fourth quarter of school year 2015-2016. These services will be provided by December 2016 by a BCBA/BISS.

Please note the Supplementary Aids and Services - Program Modifications and Supports for School Personnel Tab would not accept the December 2016 date. Any of the 1614 minutes of Teacher Consult Service not used at the time of the Annual Individualized Education Program development date will be included on the next Annual Individualized Education Program.

Mrs. [REDACTED] would like Applied Behavior Analysis to be identified in the Supplementary Aids and Services, Program Modification and Supports for School Personnel section, however, it is not our practice to name specific sciences and/or programs.

Malaea_Wetzel/HALEIWA/HI... 7/18/17

To: Dr. Cc: K

Details



Hi Amanda and Mr. and Mrs. [REDACTED]

Thank you for resending your note to me. I appreciate you sharing that you are currently working with state leadership to help resolve the matter. Unfortunately, in my experience as a DOE administrator, I have NOT encountered any medical/school partnerships. I am aware of other schools working with doctors for medically fragile students, but I have never had those experiences. As for ABA services, personally, I do not know of any other situations. So I apologize, this is very foreign territory for me. Like you, I have been seeking guidance -- but my guidance comes from Joanne, who I am sure consults with Debbie Farmer.

I will wait to see what guidance you receive from Debbie or if I receive something on my side, I will let you know.

Thank you,
Malaea



11/17/17

Parents requested that Behavior Analysis be added under the data collection methods section in the (goals and objectives sections of the) IEP. The team discussed the recent updates to Hawai'i law about including Applied Behavior Analysis (ABA) in the IEP. The Autism Consultant Teacher [ACT], Dr. Lissa Goya indicated that the Hawai'i DOE does not do ABA during the school day. The insurance funded behavior analyst clarified new Hawaii law that stated behavior analytic strategies (for example, but not limited to: data collection methods, reinforcements, FBA/BSP, data analysis) should be reflected on the IEP when it's an integral part of education, also citing the REB vs. HIDOE case as a point of reference. At present time, Dr. Goya is pursuing coursework to become a Behavior Analyst and is being supervised by Wendi Park, BCBA/LBA, therefore, utilizing Behavior Analysis as a data collection method is appropriate.

HB-2271

Submitted on: 2/7/2018 8:15:24 AM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jari S.K. Sugano		Oppose	No

Comments:

Hb 2271

Chair Mizuno, Vice Chair Kobayashi and members of the Health committee.

I am a parent of two special needs children. At the age of 4 my son entered the DOE with severe sensory issues and required specialized help. He was eventually diagnosed with ADD, autism and Tourette's. DOE did not have adequate resources at that time for behavior supports so I hired a private BCBA to go into the school to help him and his school team. Today is he doing much better largely due to early intervention. He is now 12, mainstreamed, yet still requires social programmatic supports.

My 9 year daughter was bounced around the district since she was 3. She attended 3 schools in 6 years in central district. At her first school, the teacher could not handle her behavior issues so the principal would take her for a stroller ride daily around campus to relieve the teacher. She was in an isolated classroom at the back of campus with two other students and a TV/ VCR. Her behavior escalated over the years to self harm and aggressive behavior towards others.

Her behavior affected her ability to walk and as a result the DOE restricted her movement around campus vs providing her the behavior supports she needed.

For years we have battled the school & DOE for ABA behavior supports and we have come to the realization that the IEP team does not have the authority to grant ABA despite the district and DOE's best efforts to suggest they do.

They block access to ABA supports as it would require BCBA and RBT oversight which would cost the DOE money. Despite all the literature and science based, clinical based

evidence that shows ABA is effective and a benefit to my child, obtaining ABA support services has been a nightmare for us. DOE recently agreed to provide ABA services via her IEP but those services would be available out of her current district and in a segregated classroom for autistic children. We are going backwards in time here.

My daughter receives 3 hours of ABA services, 5 days a week at ABC Group in Aiea. There has been a 360 degree transformation. We appreciate the science base approach to behavior modification.

We strongly OPPOSE HB2271 as ABA should not be reserved for those with severe behavior cases at the DOE, it should be an early intervention treatment. This violates FAPE and IDEA. Moving the compliance deadline from 2019 to 2020 is just kicking the can down the road. Hold DOE accountable.

Mahalo,

Jari Sugano

Testimony SUPPORTING HB2271
RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS SERVICES
Including amendments

COMMITTEE ON HEALTH
Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair

Tuesday, Feb. 6, 2018
10:30 AM
Conference Room 329
State Capitol
415 South Beretania Street

Honorable Chair Mizuno, Vice Chair Kobayashi, and members of the State House committee on Health and Human Services. I served on the task force that resulted in the passage of Luke's Law. I spoke on behalf of the Hawaii Psychological Association supporting our colleagues with BCBA certificates providing services but was surprised to see restrictions to our scope of practice (as psychologists) emerge out of the legislation. I am confident that the passage of HB2271 (with amendments proposed by the Hawaii Psychological Association) will adequately address this inadvertent limitation of our scope of practice.

I strongly support HB2271. As a licensed psychologist, I am aware that my scope of practice, as defined in Hawaii state statute, includes the practice of "Behavior Analysis" and includes the direction of psychological assistants in this practice. I am very concerned that the original statute, Act 199, providing for the licensure of Board Certified Behavior Analysts (BCBAs) has been over-interpreted as making it illegal for my students and psychological assistants to provide behavioral interventions under my supervision. The proposed amendments would clarify psychologists' scope of practice as including the supervision of behavioral interventions and would prevent an unnecessary narrowing of the behavioral health workforce by allowing more variety in the acceptable training and certification requirements for paraprofessional workers and their supervisors.

Thank you for the opportunity to provide testimony on this important topic.

Sincerely,

Jeffrey D. Stern, Ph.D.
Past President, Hawaii Psychological Association

Date: February 6, 2018
To: Representatives Woodson, Creagan, Johanson, C. Lee, Mizuno, Morikawa, Ohno, Yamashita
Hearing: February 7, 2018, 10:30 a.m., Room 329
From: Linda Hufano, Ph.D.
(808) 258-2250
Re: Testimony Support of HB2271, Relating to the Practice of Behavior Analysis, As amended by the Hawaii Psychological Association

I am a behaviorally-trained psychologist and have worked as a psychologist in the public and private sectors for over 30 years.

Support for HB2271

I support of HB2271 as amended by the Hawaii Psychological Association (HPA). These amendments clarify the exemption of licensed psychologists and other licensed or credentialed professionals (which may include ABA-trained social workers, mental health counselors, and special education teachers) whose scope of practice overlaps with behavior analysis in ACT 199.

Chapter 465 of the Hawaii Revised Statutes expressly defines behavior analysis and therapy as within the scope of psychology, as well as our ability to supervise and direct assistants. The lack of clarification in ACT 199 has resulted in misinterpretations by state agencies and some insurance companies who mistakenly interpret ACT 199 as excluding ABA-trained psychologists from designing ABA programs for eligible individuals and/or supervising others to implement the programs.

Further confusing the exemption to ACT 199, are inaccurate statements from the Hawaii Association of Behavior Analysts (HABA).¹ In written testimony as well as a recently issued a statement HABA purports that “Psychologists typically do not provide a tiered approach to behavioral treatment” and suggest that it violation of the APA ethical code for psychologists to do so.

These statements are inaccurate. First, ABA trained psychologists have been using a tiered approach to behavioral treatment in Hawaii for over 20 years – including the Hawaii DOE, Early Intervention Section, Child and Adolescent Mental Health Division and Developmental Disabilities Division.

Second, last week members of the HPA communicated with Connie Galietti, JD, Director, Legal and Professional Affairs, Practice Directorate, American Psychological Association². Ms. Galietti reviewed the HABA statement that was sent to the HPA. In addition to finding a number of inaccuracies that Ms. Galietti was willing to “go down line by line”, she confirmed that it is fully within our scope of practice as for psychologists licensed in Hawaii (as written in Chapter 465 of the Hawaii Revised Statutes) to use a tiered model for supervising the delivery of ABA services, which would include supervising postdoctoral fellows, students and unlicensed master’s level practitioners who may in turn supervise paraprofessionals. Ms. Galietti further checked with the APA Ethics Office and informed me that the above practice for providing “ABA therapy” would not be an issue for them as “The Ethics Code’s focus is on psychologists using individuals who are competent for the service provided – either alone or **with the level of supervision given by the psychologist**”. The Ethics Officer went on to state “I would have more concern if the paraprofessional were using psychological assessment techniques (test) and not in training- see 9.07. But I am assuming this is “ABA therapy”.

¹ See HABA letter dated January 17, 2018, posted on their FB site.

² Personal communication between Connie Galietti, JD, Linda Hufano, Ph.D. and Richard Kravetz Ph.D., January 30, 2018.

History of ABA in Hawaii

The Departments of Psychology and Special Education at the University of Hawaii were among the first behaviorally-oriented programs in the nation. Professors in both programs have outstanding credentials in behavioral psychology – including formulating learning principles underlying applied behavior analysis with various populations, developing behavioral/instructional techniques, and training many of Hawaii's practicing psychologists and special education teachers. Thus, to say that behaviorism or applied behavior analysis (ABA) is new to Hawaii would be a misstatement.

Twenty years ago, the state contracted services for students with ASD out to the private sector. Hoahana Institute and its successor organizations, Alaka'i Na Keiki, Inc. and CARE Hawaii, were among the first to propose and implement ABA services using a three-tiered model based on the pioneering work of Ivar Lovaas (who traveled to Hawaii to help kick-off the program since it had been proposed by one of his former students). In this model, Hawaii psychologists trained postdoctoral residents from Hawaii and the Mainland to 1) assess and design behavioral interventions for students with autism, 2) to consult with teachers, and 3) to supervise paraprofessionals and families implement ABA in the school, home and community.

In later years, agencies in Hawaii trained master's level to assess and design behavioral interventions, consult with teachers and supervise paraprofessionals – some of whom are now licensed clinical social workers, licensed special education teachers, licensed marriage family therapists, licensed mental health counselors, and most recently, licensed behavior analysts. Thus, to say that psychologists do not supervise others in implementing ABA is untrue.

“The Gold Standard for Training and Supervision”

The Lovaas model has long been recognized as the gold standard for training and supervision based on research looking at “outcomes”. There is no research evidence to support the notion that BCBAs achieve better outcomes than licensed psychologists or other licensed professionals. HABA cited a research study by Dennis Dixon et al. wherein BCBAs achieved better results than non-BCBAs. Per written testimony from Dr. Dixon to last year's Senate Committee on SB739, this was a mischaracterization of his findings since licensed psychologists and other licensed professionals were specifically excluded from the study.

Similarly, there is no evidence to support that RBT training is superior, i.e., more effective or leads to better outcomes, than the ABA paraprofessional training provided by other nationally certified groups (which require training in autism for paraprofessionals who implement ABA for individuals with ASD), or the ABA paraprofessional training, as specified by the funding agency³, and provided by a contracted agency; or the ABA paraprofessional training provided by a licensed psychologist who is responsible, under his/her license, for ensuring competent service delivery to service recipients who require an individualized treatment plan.

Mandating national certification for paraprofessionals working with the DOE may result in the displacement of hundreds of qualified educational assistants who may not have the resources to obtain or maintain the certification which is costly in terms of energy and money. The ability to pass a written test may also be a barrier for highly qualified paraprofessionals who have years of experience delivering the services they have been trained to give. It bears noting that the research of Lovaas identified characteristics above and beyond test-taking skills for paraprofessionals who were effective in delivering

³ The Hawaii DOE, DOH, EIS, CAMHD, and DDD currently specify education, training and supervision requirements which meet or exceed RBT training in many areas, are less costly, and less likely to result in service delays. It is worth noting that paraprofessional turnover estimates in Hawaii are between 30-40 percent annually and 50% on the Mainland.

ABA programs. These include various personality variables such as the ability to be highly reinforcing with children and to be consistent and contingent. In the agency I work for we also look for individuals who can take direction, have good boundaries, can team with school staff, and are dependable.

Board Certification from the ABPP vs. Certification from the BACB

Opponents of last year's SB739, SD1, seemed to equate board certification from the Behavior Analysis Certification Board (BACB) with board certification from the American Board of Professional Psychology (ABPP). Thus, it is important to recognize the following:

- Board certification from the American Board of Professional Psychology (ABPP) is purely voluntary. Neither the Hawaii law pertaining to the licensure of psychologists or the American Psychological Association (APA) requires or recommends that psychologists obtain board certification from the American Board of Professional Psychology (ABPP)⁴ to provide Applied Behavior Analysis (ABA) or to supervise others in implementing ABA services. (See the attached "Motion recently passed by the APA Council Pertaining to ABA Policy")⁵.
- It is relevant to note that only 3-4% of all licensed psychologists in the U.S. - approximately 4,000 out of an estimated 107,000 - possess ABPP certification in one or more of 15 different areas. Of these 4,000 psychologists, only 141 possess certification in Behavioral and Cognitive Psychology. Per the ABPP⁶, certification in this area could mean the psychologist was examined in ABA, but it could also mean he or she was examined in behavior therapy, cognitive-behavior therapy, or cognitive therapy.⁷
- HABA's position that psychologists should obtain ABPP certification is totally without merit, and would certainly have the effect of, restricting the pool of qualified professionals who are trained in ABA and have been providing services to individuals with autism under contracts with the Hawaii DOE, EIS and DD Division for several years.
- The BCBA credential is not consistent with generally accepted concept of board certification in other human services professions where board certification is understood to mean a level of proficiency "over and above" what is required by the practitioner's professional organization or by individual state licensing boards. Consumers and other professionals familiar with the more traditional use of the term "board certification" may mistake the credentialing of behavior analysts as implying advanced proficiency when in fact it reflects a pre-license, certification for professionals with a master's degree in an area that may or may not have been in a human service field⁸, fewer course credits and supervised field hours than those required by than are required by licensed psychologists or other licensed professionals whose scope of practice overlaps with behavior analysis, and does not require post-master's or post-doctoral supervision prior to licensure.

⁴ The ABPP is a separate entity from the APA. The APA is the national professional organization for psychology which HABA confuses with the ABPP in various written communications.

⁵ See APA Council Meeting Minutes dated 2/24 and 25, 2017, email shared by HPA Representative, June Ching.

⁶ Personal communication to Dr. Linda Hufano from Kathy Holland, ABPP, on 2/28/17.

⁷ Only two licensed psychologists possess ABPP certification in Behavioral and Cognitive Psychology. The HPA knows both of these individuals, neither of whom specialize in ABA or ASD.

⁸ The BACB website currently indicates a master's degree in behavior analysis, education or psychology is acceptable and those applicants who are unsure or whether the field of study of their degree is acceptable may request a preliminary review. In the past, however, the BACB has approved master's degrees in many other fields, including art, English, history, business, and economics.

- To our knowledge, no funding source requires the ABPP certification. It is unreasonable and creates an unnecessary barrier to treatment by imposing a requirement on psychologists who have already surpassed educational and experience requirements than those completed by the average BCBA.
- Just as a psychologist would be expected to have sufficient training in ABA, we trust the BCBA to have specific training in ABA with the target population he or she works with or risk losing his or her license. The fact that the psychologist is licensed is what prevents the psychologist from acting outside of the scope of that license. There is no need for suggesting an additional requirement.

Why Should Individuals, Schools and Families Have Options

Compared with LBAs who are not trained in mental health, ABA-trained psychologists have the advantage of experience in treating the anxiety disorders, clinical depression, externalizing disorders such as ADHD, that are frequently co-morbid with autism (30 – 40% or more for each of the previously mentioned disorders). Suicide is also significantly high among individuals with autism. As mental health providers, they can incorporate for individuals presenting co-occurring disorders during the assessment, planning, and monitoring phases of ABA service delivery.

There is also a workforce issue. Everyone qualified provider is needed. It is clear in speaking with representatives of state agencies that there will be a significant lack of trained professionals and paraprofessionals to deliver ABA services if Chapter 465D of the Hawaii Revised Statute continues to be misinterpreted as restricted to LBA's and the persons they supervise.

It is also our understanding that in no other state are DD Divisions or Departments of Education mandated to certify their direct support workers/paraprofessional staff or exclusively use Licensed Behavior Analysts/BCBA's to supervise such individuals. Such a mandate would impede access of competent care to consumers desperately needing services, be an additional and unnecessary burden on taxpayers, be an unfair restraint of trade for professionals who have been providing this care, and create an illegal monopoly for Licensed Behavior Analysts, Registered Behavior Technicians and their national certifying board.

Thank you for the opportunity to submit testimony.

Date: February 6, 2018

To: Rep. Woodson, Creagan, Johanson, C. Lee, Mizuno, Morikawa, Ohno, Yamashita

Hearing: February 7, 2018, 10:30 a.m., Room 329

From: Richard J. Kravetz, Ph.D.
(808) 258-2598

Re: Testimony in Support of HB2271, Relating to Behavior Analysis Services as Amended by the Hawaii Psychological Association

I have worked in Hawaii as a psychologist for over thirty years. Since 1996, my work has included training and supervising paraprofessionals, practicum students, interns, postdoctoral residents and master's level clinicians in providing applied behavior analysis (ABA) through contracts with the Hawaii Department of Education as well as the Hawaii Department of Health Developmental Disabilities Division and Early Intervention Section.

Twenty years ago there were less than a handful of behavioral health professionals in Hawaii who were trained to provide ABA for individuals with autism. Over the past 20 years, as a Licensed Psychologist for the Hoahana Institute and Clinical Director of Alaka'i Na Keiki, Inc., I have had the privilege of training and supervising over 70 interns, postdoctoral fellows and unlicensed master's level mental health practitioners to deliver ABA services, consult with parents and relevant professionals, and supervise paraprofessionals and direct support workers within a tiered model of service delivery. Care Hawaii and Hawaii Behavioral Health have provided similar training experiences for psychologists in Hawaii. In turn, these psychologists have trained and supervised the next generation, including paraprofessionals, who when they learned what a difference they could make for children with Autism, decided to go back to school and are now among Hawaii's ABA and autism-trained special education teachers, licensed clinical social workers, licensed mental health counselors, and licensed marriage and family therapists, and include, as well, our State's newest group of licensed behavioral health professionals, i.e., behavior analysts.

Although the law licensing behavior analysts (Hawaii Revised Statutes, Chapter 465D), expressly exempts a licensed practitioner practicing within the practitioner's own scope of practice from the licensure requirements for behavior analysts, some state agencies and insurance companies are interpreting this new law as restricting licensed psychologists and other professionals from supervising behavior analysis even though it is within their recognized scope of practice. We are told that state agencies are trying to address how they are going to meet, what they understand to be, the requirement of the new law that behavioral interventions can only be delivered by certified Registered Behavior Technicians working under the supervision of an LBA.

I would like to point out that providing and supervising behavior analysis is firmly established as part of psychology. Behavior analysis is based on psychological principles, founded by psychologists including my mentor O. Ivar Lovaas; and continues to be developed by the research efforts of psychologists today.

Statutorily, Hawaii's law related to the licensure of psychologists (Hawaii Revised Statutes 465) specifically includes behavior analysis and therapy in its definition of the practice of psychology and also recognizes the scope of our practice to include supervising others including assistants, students, and post-docs in a tiered service delivery model.

Hawaii needs licensed psychologists as providers and supervisors in order to maintain and continue to develop an adequate and workforce of professionals and paraprofessionals. I am concerned that ACT 199 and related laws requiring that all direct support workers working with the Hawaii Department of Education and Developmental Disabilities Division be certified as Registered Behavior Technicians (RBTs) by January 1, 2019 and be supervised by a select group of ABA trained professionals, namely LBAs, will result in a **"restraint of trade"** for Licensed Psychologists as well as other qualified professionals, e.g., Licensed Mental Health Counselors, Licensed Clinical Social Workers, Advance Practice Registered Nurses, Severe/Autism Credentialed Special Education Teachers, who have been providing and supervising ABA services as part their own recognized scope of practice.

In no other state are departments of education and developmental disabilities required to utilize paraprofessionals who are certified by a national board. Such a restriction of services will rift qualified and experienced paraprofessionals of their jobs, be enormously costly, result in service delays, and not well serve our community, which continues to need to retain and increase its professional and paraprofessional workforce. The written tests developed by the national certifying boards that paraprofessional staff must pass do not reflect the skills they need in order to successfully implement a behavioral plan under supervision. As Lovaas found the essential skills revolve around the personal quality of the para – having the ability to be highly reinforcing, consistent and contingent. I would add to be supervisable and kid-friendly for those working in the school setting.

Thank you for the opportunity to share my concerns.

LATE

HB-2271

Submitted on: 2/7/2018 9:02:05 AM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nicholle S L Konanui		Oppose	No

Comments:

I do not support HB 2271.

Mahalo

From: davin <kauaiboy17@hotmail.com>
Sent: Wednesday, February 7, 2018 7:52 AM
To: hhstestimony
Subject: Testimony in SUPPORT of HB 2271 with amendments

Testimony SUPPORTING HB 2271
RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS
and recommending amendments

HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES
REPRESENTATIVE JOHN M. MIZUNO, CHAIR
EPRESENTATIVE BERTRAND KOBAYASHI, VICE CHAIR

Wednesday, February 7, 2018 10:30AM
Conference Room 329
State Capitol
[415 South Beretania Street](#)

Teachers and administrators in Hawaii's schools are trying hard to cope with a whole range of behavioral challenges presented by our students. We need more help to meet the needs of these students. We do NOT need arbitrary, bureaucratic rules imposing limitations on who is allowed to support our teachers and students by developing and implementing effective behavior plans. Basic behavioral strategies are ubiquitous tools used widely by parents, teachers and childcare professionals. Act 199 was put in place by the legislature to credential a new group of behaviorally trained professionals to help provide higher level behavioral interventions, especially for children with autism. However, instead, this simple professional licensure law has been used to justify severe limitations on the workforce available to support our teachers and students with behavioral challenges. There are psychologists and other licensed professionals (mental health counselors, clinical social workers, special educators) who live in our state and are well-trained in behavioral interventions. Our schools need to be free to employ these individuals - as well as Licensed Behavior Analysts - to help our children. For this reason, I support HB 2271 and the amendment proposed by the Hawai'i Psychological Association:

Section 3(a)(1): An individual working within the scope of practice of duties of another licensed profession that overlaps with the practice of behavior analysis, including individuals directly supervised by a licensed professional, such as unlicensed master's mental health practitioners, students, and postdoctoral fellows, who may train and supervise a paraprofessional, direct support worker, or parent/guardian in implementing an ABA intervention provided that that supervision is within that licensed professional's recognized scope of practice; and provided further that the licensed professional and the supervised individual shall not use the title of "licensed behavior analyst."

Sincerely,

Davin Yamase
Family Support Worker
Department of Education

From: Malieek_Cox/KAUAIIDO/HIDOE@notes.k12.hi.us
Sent: Tuesday, February 6, 2018 3:39 PM
To: hhstestimony

Testimony SUPPORTING HB 2271
RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS
and recommending amendments

HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES
REPRESENTATIVE JOHN M. MIZUNO, CHAIR
EPRESENTATIVE BERTRAND KOBAYASHI, VICE CHAIR

Wednesday, February 7, 2018 10:30AM
Conference Room 329
State Capitol
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Teachers and administrators in Hawaii's schools are trying hard to cope with a whole range of behavioral challenges presented by our students. We need more help to meet the needs of these students. We do NOT need arbitrary, bureaucratic rules imposing limitations on who is allowed to support our teachers and students by developing and implementing effective behavior plans. Basic behavioral strategies are ubiquitous tools used widely by parents, teachers and childcare professionals. Act 199 was put in place by the legislature to credential a new group of behaviorally trained professionals to help provide higher level behavioral interventions, especially for children with autism. However, instead, this simple professional licensure law has been used to justify severe limitations on the workforce available to support our teachers and students with behavioral challenges. There are psychologists and other licensed professionals (mental health counselors, clinical social workers, special educators) who live in our state and are well-trained in behavioral interventions. Our schools need to be free to employ these individuals - as well as Licensed Behavior Analysts - to help our children. For this reason, I/we support HB 2271 and the amendment proposed by the Hawai'i Psychological Association:

Section 3(a)(1): An individual working within the scope of practice of duties of another licensed profession that overlaps with the practice of behavior analysis, including individuals directly supervised by a licensed professional, such as unlicensed master's mental health practitioners, students, and postdoctoral fellows, who may train and supervise a paraprofessional, direct support worker, or parent/guardian in implementing an ABA intervention provided that that supervision is within that licensed professional's recognized scope of practice; and provided further that the licensed professional and the supervised individual shall not use the title of "licensed behavior analyst."

Sincerely,

Malieek Cox MA

School based behavior therapist
Waimea Canyon Middle School

