

**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on HB2657 HD1  
RELATING TO BEHAVIOR ANALYSIS**

REPRESENTATIVE ROY M. TAKUMI, CHAIR  
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
Hearing Date: February 12, 2018                      Room Number: 329

1    **Fiscal Implications:** None.

2    **Department Testimony:**

3            The Department of Health (DOH) strongly supports HB2657 HD1 RELATING TO  
4 BEHAVIOR ANALYSIS. The DOH-Developmental Disabilities Division (DDD) operates  
5 Hawaii's §1915(c) Medicaid Intellectual and Developmental Disabilities (I/DD) Home and  
6 Community-Based Services Waiver on behalf of the Department of Human Services,  
7 MedQUEST Division. DOH-DDD is committed to raising the quality of behavioral  
8 interventions. We are committed to using Licensed Behavior Analysts (LBAs) and Licensed  
9 Psychologists working within their respective scopes of practice when an adult participant of  
10 the I/DD waiver needs a formal Functional Behavioral Analysis and oversight for the  
11 implementation of a Behavior Support Plan. However, elements of the current statute are  
12 impacting provision and access to behavior analytic services for adults in the waiver.

13            Please note that for children in any §1915(c) waiver who have Autism Spectrum  
14 Disorders (ASD), the Centers for Medicare and Medicaid Services (CMS) has clarified that  
15 services for the treatment of ASD must be provided through the child's Medicaid health plan  
16 through their Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit, and  
17 **cannot** be provided as a Medicaid Waiver service. Therefore, the provision of behavior analysis  
18 in the I/DD waiver is only for adults, and most often for people with entrenched and challenging  
19 behaviors that include self-harm and aggression toward others.

1           A primary issue in §465D-2, HRS, is the broad definition of the practice of behavior  
2 analysis. While the intent of the Legislature was to establish standards for the licensing of  
3 behavior analysts to address autism, the broad definition is being interpreted to mean that even  
4 simple behavioral interventions, including for adults without autism, require a licensed behavior  
5 analyst. There is a lack of workforce of LBAs in Hawaii, and a shortage of LBAs to supervise  
6 Registered Behavior Technician (RBT) training hours. These factors, coupled with the fact that  
7 most LBAs provide services to children with autism primarily in office-based settings, are  
8 limiting access to behavioral analysis services for adults in the waiver who have high-end  
9 behaviors that require staff-intensive approaches, and who access their services in homes and in  
10 the community. They require implementation of services by teams of people that include a mix  
11 of RBTs and trained direct support workers often for many hours during the day and night.

12           DOH also supports HB 2657 because it will help ensure Hawaii's compliance with the  
13 I/DD waiver, including its numerous requirements for quality assurance, participant safeguards,  
14 and ensuring the rights of participants. DDD has developed the operational policies and  
15 procedures necessary for oversight of behavioral practices, including positive behavioral  
16 supports, restrictive interventions, adverse event reporting, and a behavior support review  
17 committee. Provider agencies are required to maintain an active nationally-recognized behavior  
18 support program. Further, the I/DD waiver requires the state to maintain an adequate provider  
19 pool to address the needs of participants.

20           Specifically, DOH supports the amendments to Chapter 465-D, HRS, as stated in  
21 HB2657 HD1 for the following reasons:

- 22           1)       **Adds the term “applied” to “behavioral analysis”** throughout the statute  
23 where it is missing, to have consistency of terms, and distinguishing simple analysis for  
24 understanding functions of behaviors and implementing routine interventions with those  
25 functions that only a licensed person can perform;
- 26           2)       **Adds an exemption for individuals who design or implement behavior**  
27 **analytic services for participants of Waiver.** DDD has access to LBAs through a

1 service called Training and Consultation and has strong quality oversight of behavioral  
 2 practices as mentioned earlier. As such, this amendment to Chapter 465D, HRS, will  
 3 mitigate for the broad definition of practice of behavior analysis, and allow DOH-DDD  
 4 to manage the utilization of behavioral services for cases where the design and  
 5 implementation requires a LBA. Without this exemption, LBAs are far less likely to  
 6 work with our population, and access to this critically needed service will continue to be  
 7 limited; and

8 3) **Adds an exemption for Caregivers.** Caregivers are not expressly included in  
 9 the exemptions listed in §465D-7, HRS. Currently, a “family member” is exempt from  
 10 licensing under §465D-7(a)(4), HRS. DOH seeks an amendment for caregivers as stated  
 11 in HB2657 HD1, the same as the family exemption in the current statute. Without this  
 12 exemption, by January 2019, any caregiver reinforcing behaviors in homes must first  
 13 become an RBT by obtaining the credential from the Behavior Analyst Certification  
 14 Board. This will likely disrupt placements for waiver participants as most caregivers will  
 15 not choose to go through the extensive process to become an RBT.

16 **Offered Amendments:** The DOH offers the following amendments to HB 2657 HD1

17 **Amend Section 4 on page 7, line 18:**

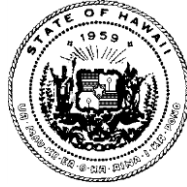
18 Change rehabilitative to habilitative.

19 **Amend Section 7 on page 12, line 11:**

20 Change effective date to upon its approval.

21  
 22  
 23 Thank you very much for the opportunity to testify.  
 24

DAVID Y. IGE  
GOVERNOR



PANKAJ BHANOT  
DIRECTOR

CATHY BETTS  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 11, 2018

TO: The Honorable Representative Roy M. Takumi, Chair  
House Committee on Consumer Protection & Commerce

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 2657 HD1 – RELATING TO BEHAVIOR ANALYSIS**

Hearing: Monday, February 12, 2018, 2:00 p.m.  
Conference Room 329, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the intent and supports the measure.

**PURPOSE:** The purpose of the bill is to clarify the scope of practice of behavior analysis to mean the practice of applied behavior analysis. Broadens the exemption of licensed or credentialed practitioners practicing within their own recognized scopes of practice who are exempt from the Behavior Analyst Law, to include participants in the Medicaid Intellectual and Developmental Disabilities Home and Community-Based Waiver.

The Department of Health's (DOH)-Developmental Disabilities Division (DDD) operates Hawaii's Medicaid Intellectual and Developmental Disabilities (I/DD) Home and Community-Based Services Waiver on behalf of our DHS Med-QUEST Division. We agree with DDD that we all seek strong behavioral health services for both our children and adult beneficiaries. However, elements of the current statute are impacting provision and access to behavior analytic services for adults who are served by the I/DD waiver.

Please note that for children served by the I/DD waiver who also have Autism Spectrum Disorders (ASD), the Centers for Medicare and Medicaid Service (CMS) has clarified that ASD treatments and services must be provided through the child's Medicaid health plan

through their Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit. It cannot be provided as an I/DD waived service.

Therefore, the provision of behavior analysis in the I/DD waiver is applicable only for adults, and most often for people with entrenched and challenging behaviors that include self-harm and aggression toward others. These services are quite different than those to treat ASD.

One of the primary issues that has emerged in section 465D-1, Hawaii Revised Statutes (HRS), is the broad definition of the practice of behavior analysis. While the intent of the legislature was to establish standards for the licensing of behavior analysts to address autism, the broad definition is being interpreted to mean that even simple behavioral interventions, including for adults without autism, require a licensed behavior analyst. This is challenging for several reasons – while there is progress in developing the capacity of the workforce, there continues to be insufficient workforce of Licensed Behavioral Analysts (LBA) in Hawaii, as well as a shortage of LBAs to supervise Registered Behavior Technician (RBT) training hours.

Additionally, the LBAs provide services to children with autism primarily in office-based setting. It is much more challenging to address DDD's behavioral health needs. The difficulty is most acute for adults served by the I/DD waiver who have high-end behaviors that require staff-intensive approaches, and who access their services in homes and in the community. These adults require implementation of services by teams of people that include a mix of RBTs and trained direct support workers, often for many hours during the day and night.

For these reasons, DHS supports since it will improve access to the necessary quality services for the adults served by the waiver, and still maintain the appropriate quality assurance, participant safe-guards and the rights of the participants.

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



**STATE OF HAWAII**  
STATE COUNCIL  
ON DEVELOPMENTAL DISABILITIES  
1010 Richards Street, Room 122  
HONOLULU, HAWAII 96813  
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543

February 12, 2018

The Honorable Roy M. Takumi, Chair  
House Committee on Health and Human Services  
Twenty-Ninth Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

Dear Representative Takumi and Members of the Committees:

SUBJECT: HB 2657 HD1 - Relating to Behavior Analysis

The State Council on Developmental Disabilities **supports HB 2657 HD1**. This measure clarifies the scope of practice of behavior analysis.

In the 1990's when Waimano Training School and Hospital was closing, the success of integrating hundreds of people with DD and challenging behaviors was due to the training individuals had from the psychologist and the treatment guidelines of the Department of Health Developmental Disabilities Division.

Staff and individuals with DD, including Autism, benefitted from the professional support of a psychologist, a recreational therapist, speech therapist, occupational therapist, physical therapist, an ophthalmologist, and an audiologist. People learn and respond differently to various techniques, so there were times the speech therapist's techniques worked best when addressing a person's behavior and other times an audiologist, whose method of music therapy and aromatherapy, provided a soothing response from an individual that no longer needed to be restrained to calm herself. The Council interviewed many families of individuals considered "high-end behavior" that were successfully integrated into the community. Every family member and individual credited the professional support of the above-mentioned disciplines for their success.

The Department of Health, Developmental Disabilities Division (DOH/DDD) is responsible for developing the operational policies and procedures necessary for oversight of behavioral practices, including positive behavioral supports, restrictive interventions, adverse event reporting, and a behavior support review committee to support the behavioral needs of individuals with intellectual/developmental disabilities.

Honorable Roy M. Takumi  
February 12, 2018  
Page 2

As such, the Council respectfully requests that the DOH/DDD be referred to for any proposed amendments with clarifying the definition of the practice of behavior analysis.

Thank you for the opportunity to submit testimony in **support of HB 2657 HD1, given the proposed amendments from the Department of Health.**

Sincerely,

A handwritten signature in blue ink that reads "Daintry Bartoldus". The signature is written in a cursive style with a large initial "D".

Daintry Bartoldus  
Executive Administrator

**HB-2657-HD-1**

Submitted on: 2/11/2018 7:14:05 PM

Testimony for CPC on 2/12/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Louis Erteschik	Hawaii Disability Rights Center	Comments	No

Comments: While we had a lot of concerns with the original version of this bill, we understand that the HD1 version represents compromise language agreed to by stakeholders, of which we were a part. For that reason we have no objection to this current bill.



COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Roy M. Takumi, Chair  
Rep. Linda Ichiyama, Vice Chair

Monday, February 12, 2018  
2:00 PM  
Conference Room 329  
State Capitol  
415 South Beretania St.

HB 2657 HD1 Relating to Behavior Analysis Services—**Oppose as written**

Honorable Chair Takumi, Vice Chair Ichiyama, and members of the committee,

The Hawai'i Association for Behavior Analysis (HABA) supports additional time for the DOH-DDD Division waiver program under Section 4, exemption (3) and the expanded language for caregivers under Exemption 5; however, we strongly oppose the current language of exemption (1). As currently written, exemption (1) would significantly weaken the consumer protections afforded under current law.

HB 2271, also relating to behavior analysis, was amended in the Health and Human Services committee on Thursday, February 8<sup>th</sup> to ensure consumers received quality behavior analytic interventions from licensed, trained, and qualified providers across all levels of service delivery no matter the setting in which services are provided. Numerous licensed teachers have testified they do not have the training, experience, or time to oversee behavior analytic services but are often required to do so. The language as written in HB 2657 for exemption (1) is too general and we respectfully ask the legislature to amend the current language by returning exemption (1) to its original language and adding additional language in (b) to clarify that the language of this law does not restrict the practice of licensed psychologists working in their scope, or of those under their direction, as written in the psychology licensure law Chp. 465 and Hawaii Administrative Rules Chapter 98.

Section 4

**§465D-7 Exemptions.**

(1) An individual working within the scope of practice or duties of another licensed profession that overlaps with the practice of behavior analysis;

(b) Nothing in this chapter shall be construed to prevent any licensed psychologist, or persons who are exempt from this chapter, from engaging in the practice of behavior analysis in this State as long as

the person is not in any manner held out to the public as a "licensed behavior analyst" or "behavior analyst" and the behavior analysis services provided by the licensed psychologist are within the licensed psychologist's recognized scope of practice."

Mahalo,

Kathleen Penland, M. Ed. BCBA, LBA

*Kathleen Penland*

President, Hawai'i Association for Behavior Analysis



Testimony in Support of HB2657 HD1

Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair  
House Committee on Consumer Protection and Commerce  
Hearing Date: February 12, 2018 Room Number: 329

Honorable Representatives:

The Arc in Hawaii strongly supports HB2657 HD1, which seeks to amend portions of HRS 465- D.

The Arc in Hawaii, a private non-profit agency, provides services to individuals with intellectual and developmental disabilities (ID/DD) and their families across Oahu. Together with its national and neighbor-island Arc affiliates, The Arc in Hawaii promotes and protects the rights of people with ID/DD and actively supports their right to be included and fully participate in the community throughout their lifetime.

We understand the very real concerns that underlie HRS 465-D. While we agree that the licensing of BCBA's is important and that they serve a very important role, it is our belief that the statute as written is too broad and needs clarification. We also believe requiring that every individual providing Direct Services to individuals with BSPs be a certified RBT is both unnecessary and unworkable in the real world environment in which we operate.

The Arc in Hawaii serves adults with ID/DD who may or may not be on the autism spectrum. Most of the participants we serve have minor behavioral issues that can be addressed with simple behavioral protocols. A Behavioral Support Plan (BSP), requiring the services of a Licensed Behavioral Analyst (LBA), is not necessary in these situations. Given the current shortage of LBAs in Hawaii it is also not realistically workable.

Roughly a third of our Direct Service staff members have been with The Arc in Hawaii for over 10 years. A vast majority of them do not possess a degree, nor do they have the time, resources, or in some cases the capacity necessary to obtain RBT certification. They do absolutely possess the compassion and dedication to our participants that are of paramount importance to providing quality services. In many cases their relationships with our participants are long-standing and very deep which is also crucial to our participants' well-being. Additionally, staff undergo rigorous training on a regular basis and are provided appropriate oversight to ensure proper care.

465-D's broad outlines would seem to require that the presence of one participant whose behavior requires a BSP in an ADH classroom or in an Arc-operated waiver home would mean

that all staff in those environments would have to be certified RBTs. That would create a staffing and scheduling nightmare for us. The likely dramatic increase in staff turnover would disrupt relationships and even long-standing placements that provide our participants with the consistency and emotional stability they need.

We humbly submit that our agency can more than adequately address the needs behind 465- D under the following regime:

- 1) Training and consultation services from an LBA or Psychologist to provide an overarching framework for needed behavioral support plans, along with
- 2) A mix of both RBTs and Direct Service workers providing ADH, PAB and CLS services to implement those plans.

We caution that:

- 1) Given the difficult employment market we currently face, a raise in reimbursement rates to cover additional salary costs will be imperative if we are to provide necessary behavioral support plans successfully under even an amended statute.
- 2) Sufficient time to develop appropriate implementation guidelines and to develop an adequate workforce will also be necessary to ensure success, again even under an amended statute.

Thank you very much for allowing us to submit testimony on behalf of HB2657 HD1.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lei Fountain', with a long horizontal flourish extending to the right.

Lei Fountain  
Executive Director



# Hawai'i Psychological Association

## *For a Healthy Hawai'i*

---

P.O. Box 833  
Honolulu, HI 96808

[www.hawaiipsychology.org](http://www.hawaiipsychology.org)

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

Testimony  
IN STRONG SUPPORT OF HB2657  
RELATING TO BEHAVIOR ANALYSIS SERVICES

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE  
Rep. Roy M. Takumi, Chair  
Rep. Linda Ichiyama, Vice Chair

Monday, February 12, 2018 2:00 pm  
Conference Room 329

The Hawaii Psychological Association (HPA) strongly supports House Bill 2657 HD1 which incorporates an amendment recommended by the association. As licensed psychologists, we are aware that our scope of practice, 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 who we may use to supervise paraprofessionals, direct support workers, and family members in the implementation of a behavioral program. This version of the bill 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 issue.

Sincerely,

Raymond A. Folen, Ph.D., ABPP  
Executive Director

**Testimony in Strong Support of HB2657**

TO:

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

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Roy M. Takumi, Chair  
Rep. Linda Ichiyama, Vice Chair

Rep. Henry J.C. Aquino      Rep. Calvin K.Y. Say  
Rep. Ken Ito                      Rep. James Kunane Tokioka  
Rep. Aaron Ling Johanson      Rep. Ryan I. Yamane  
Rep. Matthew S. LoPresti      Rep. Bob McDermott  
Rep. John M. Mizuno

NOTICE OF HEARING

DATE:      Monday, February 12, 2018  
TIME:      2:00 P.M.  
PLACE:     Conference Room 329  
              State Capitol  
              415 South Beretania Street

**From:** Dr. Nancy Atmospera-Walch, DNP, MPH, MCHES, LNHA, CCHN, CMC, BSN, RN  
President, AIM Healthcare Institute  
President, ADVANTAGE Health Care Provider

**Report Title:**      RELATING TO BEHAVIOR ANALYSIS

**Description:**      Clarifies the scope of practice of behavior analysis to mean the practice of applied behavior analysis. Broadens and clarifies the exemption of licensed or credentialed practitioners practicing within their own recognized scopes of practice who are already exempt from the Behavior Analyst Law.

Good Afternoon to All of You, Honorable Representatives!

I am Dr. Nancy Atmospera-Walch, President, and the Chief Nursing Officer of Advantage Health Care Provider, a private company that is providing services to one of our most vulnerable population, the Intellectually and Developmentally Disabled (I/DD) in the islands of Oahu, Maui, and Kauai.

Honorable Representatives, as you can see the alphabet soup after my name, I am one of the many healthcare professionals who value and believe in certification or credentialing for it shows that the individual who passes such certification has a basic knowledge of the subject matter; although it does not guarantee quality care. However, the current law, HRS 465-D has become prohibitive to other licensed and credentialed professionals like me, a Registered Nurse, who is practicing in my scope of practice.

Providing the Very Best Quality Care to the "Special Population, the Intellectually and Developmentally Disabled (I/DD)" is Our Business!

## Testimony in Strong Support of HB2657 HD1



The current law is an insult to the Nursing Profession for the current law does not allow us at all to supervise any Direct Support Workers who are licensed as Registered Behavior Technician. Yes, I have a Bachelor of Science in Nursing, a Master of Public Health and Doctor of Nursing Practice, A Licensed Registered Nurse, A Licensed Nursing Home Administrator, but I am NOT allowed to supervise an RBT, who is a High School Graduate and attended a 40-hour online training with no specified hours of clinical internship that is supervised by BCBA. I am not belittling the BCBA. but what concerns me is their inclusive behavior and disregard of other healthcare professionals who have similar training, experience, and education and within the scope of practice of their profession. I hate to say it, but it is almost self-serving to the LBA license holders, for there are no other healthcare professionals allowed to do any supervision of RBTs. And not only that, I am not even allowed to take the Board Certification of a Behavior Analyst, in spite of all the degrees, experience, and training that I have. In our Nursing Education, a clinical and theoretical training in psychiatry, community health, and psychology were included and when a patient goes into crisis and must be admitted in the hospital, it is the Registered Nurses that care for them and nurse them to the community. Unlike the Board of Nursing Home Administrators, in which a Healthcare Professional with a Master of Public Health or Nursing can take the NHA Board Examination, regardless whether they have experience as a Nursing Home Administrator, and the Behavior Analyst Certification Board should follow the lead of the Nursing Home Board, which is to allow healthcare professionals with certain educational training to take the LBA certification.

The patients that we serve who are I/DD and have behavior issues and they have been handled all these years with behavioral protocols as the majority of these patients do not belong to the Autism Spectrum Disorder. Prior to the existence of HRS 465-D, if a Behavior Support Plan is needed, it was developed by a Behaviorist, who then trained the Direct Support Worker and supervised by a Registered Nurse after. I highly recommend that this should continue for a Behavioral Support Plan (BSP), requiring the services of a Licensed Behavioral Analyst (LBA), is not necessary for these situations. Currently, there is a shortage of LBAs in Hawaii, and to continue the law, many of the current workers would have to be laid off and in addition, there would be no supervisors, either, meaning that HRS 465-D is not realistic and workable for there is No developed workforce. There should be a coordinated effort in building the workforce before we have laws that require us to do it. In fact, I would like to ask the question of what are we going to do with a current workforce who are quite capable and competent but don't have the capacity to get such certification? My patients in the island of Maui and Kauai would definitely suffer if HRS 465-D continues as it is now.

In addition, to employ RBTs, it means higher pay and therefore the State must give us better rates to be able to compete in the marketplace for such skills. Furthermore, with the implementation of the CMS "Final Rule," we are educating caregivers to create a family home and atmosphere as Home and Community Based Services is mostly in the home setting. As such, caregivers should be considered a "family member" and not have to become a Registered Behavior Technician (RBT), as the current law suggests. In the proper place and the right patients, this strategy is great, but caregivers should not be forced to become an RBT. As the current President of the Hawaii Waiver Provider Association (HWPA), the organization of agency providers servicing the I/DD, I know that our member Agency Providers have qualified staff to address the behavioral needs of our patients with Intellectual and Developmental Disability. In addition, many if not all of our patients who have behavioral issues have a psychologist or psychiatrist and some, they have both, whom they go and visit at a minimum of once a month and some are weekly. The current law suggests that Agency Providers like ADVANTAGE must have our staff become Licensed Behavior Analysts (LBAs), but as I have said earlier, we have qualified staff to manage our patients with behavioral issues and even if we want to, access to schools is very limited and costly for a skill that is not necessary for the current population that we have been servicing for the past ten years. CMS is advocating the My Choice My Way concept for the I/DD population, and we, the Agency Providers of the I/DD should also have the Choice and we should not be forced to have our staff become Licensed Behavior Analysts (LBAs).

Therefore, I am truly asking you respectfully to support and pass HB2657 HD1 as the Bill "broaden the exemption of licensed or credentialed practitioners practicing within their own recognized scopes of practice," and by supporting HB2657, you will continue to follow the Developmental Disabilities Division Waiver Program Standard Operating Procedures.

Thank you for this opportunity to provide my testimony, and for hearing HB2657 HD1bill.

Respectfully submitted,

(electronically signed /*Nancy Atmospera-Walch*/)

Dr. Nancy Atmospera-Walch  
DNP, MPH, MCHES, LNHA, CCHN, CMC, BSN, RN  
President, AIM Healthcare Institute  
President, ADVANTAGE Health Care Provider



COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Roy M. Takumi, Chair  
Rep. Linda Ichiyama, Vice Chair

Monday, February 12, 2018  
2:00 PM  
Conference Room 329  
State Capitol  
415 South Beretania St.

HB 2657 HD1 Relating to Behavior Analysis Services—**Oppose as written**

Honorable Chair Takumi, Vice Chair Ichiyama, and members of the committee,

I support additional time for the DOH-DDD Division waiver program and the expanded language for caregivers; but strongly oppose the current language of exemption (1) in HD1 and respectfully ask the legislature to return the language to its original version as written in the current law.

Mahalo for your consideration,

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

Maui



Date: February 11, 2018

To: Rep. Roy M. Takumi, Chair, and Rep. Linda Ichiyama, Vice Chair

Hearing: February 12, 2018, 2:00, Room 329

From: Richard J. Kravetz, Ph.D.  
(808) 258-2598

Re: Testimony in Strong Support of HB2657 HD1, 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 Health Developmental Disabilities Division and Early Intervention Section as well as the Hawaii Department of Education.

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 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.

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 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, who have been providing and supervising ABA services as part their own recognized scope of practice.

Such a restriction of services will not well serve our community, which continues to need to retain and increase its professional and paraprofessional workforce. We need everyone.

Thank you for the opportunity to share my concerns.

**HB-2657-HD-1**

Submitted on: 2/11/2018 9:39:02 AM

Testimony for CPC on 2/12/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charles M. Lepkowsky, Ph.D.	Hawai'i Psychological Association	Support	No

Comments:

I strongly support House Bill 2657 HD1 which incorporates an amendment recommended by the Hawaii Psychological Association (HPA). 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 the supervision of assistants such as postdoctoral fellows, students and unlicensed master's level clinicians who I may use to supervise paraprofessionals, direct support workers, and family members in the implementation of a behavioral program. This version of the bill 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.

Charles M. Lepkowsky, Ph.D.

PSY 1529

**HB-2657-HD-1**

Submitted on: 2/11/2018 11:29:05 AM

Testimony for CPC on 2/12/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shayna Fujii		Support	No

Comments:

I strongly support House Bill 2657 HD1 which incorporates an amendment recommended by the Hawaii Psychological Association (HPA). 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 the supervision of assistants such as postdoctoral fellows, students and unlicensed master's level clinicians who I may use to supervise paraprofessionals, direct support workers, and family members in the implementation of a behavioral program. This version of the bill 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.

**HB-2657-HD-1**

Submitted on: 2/11/2018 1:52:20 PM

Testimony for CPC on 2/12/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brian Burdt		Oppose	No

Comments:

I oppose the current language of exemption (1) in HD1.

Date: February 11, 2018

To: Rep. Roy M. Takumi, Chair, and Rep. Linda Ichiyama, Vice Chair

Hearing: February 12, 2018, 2:00, Room 329

From: Linda Hufano, Ph.D.  
(808)258-2250

Re: Testimony in Strong Support of HB2657 HD1, Relating to Behavior Analysis Services,  
including Amendments proposed by the Hawaii Psychological Association

I strongly support HB2657 HD1, including amendments proposed by the Hawaii Psychological Association (HPA).

HB2657 clarifies that licensed psychologists and other professionals whose scope of practice overlaps with behavior analysis would be allowed to continue to provide behavior analysis and supervise others to do so, which we had always understood the intent of Chapter 465D of the Hawaii revised Statutes to be.

### **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 direct support workers. Thus, to say that behaviorism or applied behavior analysis (ABA) is new to Hawaii would be a misstatement.

Twenty years ago, the state began contracting ABA services for individuals 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 individuals with autism, 2) to consult with team members, and 3) to supervise direct support workers and families implement ABA in the home, community school and/or workplace.

In later years, agencies in Hawaii trained master’s level to assess and design behavioral interventions, consult with team members and supervise paraprofessionals/direct support workers – 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 incorrect.

## **“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 BCBA’s achieve better outcomes than licensed psychologists or other licensed professionals. HABA cited a research study by Dennis Dixon et al. wherein BCBA’s achieved better results than non-BCBA’s. 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 agency<sup>1</sup>, 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.

## **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)<sup>2</sup> 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”)<sup>3</sup>.
- 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 ABPP<sup>4</sup>, 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.<sup>5</sup>

---

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> See APA Council Meeting Minutes dated 2/24 and 25, 2017, email shared by HPA Representative, June Ching.

<sup>4</sup> Personal communication to Dr. Linda Hufano from Kathy Holland, ABPP, on 2/28/17.

<sup>5</sup> 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.

- 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 field<sup>6</sup>, 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.
- 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 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, depression, or PTSD, that are frequently co-morbid 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 our understanding from parents of individuals with autism and case managers, that waitlists for ABA services covered by insurance vary between providers from anywhere from 6 months to two years. Individuals with autism deserve access to all qualified professionals and their assistants.

---

<sup>6</sup> 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.



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 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.



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

[www.apa.org](http://www.apa.org)



Please Recycle



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

[www.apa.org](http://www.apa.org)



Please Recycle

ichiyama2 - Naomi

**LATE**

From: dr.dlogan@gmail.com  
Sent: Saturday, February 10, 2018 10:33 PM  
To: CPCtestimony  
Subject: Testimony in strong SUPPORT OF HB 2657 HD1

Diane Logan  
PO Box 5488  
Kailua Kona, HI 96745-5488

February 11, 2018

Roy M. Takumi  
Chair

Dear Honorable Takumi:

Testimony  
IN STRONG SUPPORT OF HB2657  
RELATING TO BEHAVIOR ANALYSIS

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair

Monday, February 12, 2018 2:00 pm  
Conference Room 329  
State Capitol  
415 South Beretania Street

I strongly support House Bill 2657 HD1 which incorporates an amendment recommended by the Hawaii Psychological Association (HPA). 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 the supervision of assistants such as postdoctoral fellows, students and unlicensed master's level clinicians who I may use to supervise paraprofessionals, direct support workers, and family members in the implementation of a behavioral program. This version of the bill 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,

Diane Logan  
8087855443



ichiyama2 - Naomi

**LATE**

From: kellar@hawaii.edu  
Sent: Saturday, February 10, 2018 10:58 PM  
To: CPCtestimony  
Subject: Testimony in strong SUPPORT OF HB 2657 HD1

Follow Up Flag: Follow up  
Flag Status: Flagged

Michael Kellar  
435-E Haleloa Place  
Honolulu, HI 96821-2251

February 11, 2018

Roy M. Takumi  
Chair

Dear Honorable Takumi:

Testimony  
IN STRONG SUPPORT OF HB2657  
RELATING TO BEHAVIOR ANALYSIS

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair

Monday, February 12, 2018 2:00 pm  
Conference Room 329  
State Capitol  
415 South Beretania Street

I strongly support House Bill 2657 HD1 which incorporates an amendment recommended by the Hawaii Psychological Association (HPA). 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 the supervision of assistants such as postdoctoral fellows, students and unlicensed master's level clinicians who I may use to supervise paraprofessionals, direct support workers, and family members in the implementation of a behavioral program. This version of the bill 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,



ichiyama2 - Naomi

---

From: chrisharkins29@gmail.com  
Sent: Saturday, February 10, 2018 11:53 PM  
To: CPCtestimony  
Subject: Testimony in strong SUPPORT OF HB 2657 HD1

Christopher Harkins  
3010 Vista Pl  
Honolulu, HI 96822-1641

February 11, 2018

Roy M. Takumi  
Chair

Dear Honorable Takumi:

Testimony  
IN STRONG SUPPORT OF HB2657  
RELATING TO BEHAVIOR ANALYSIS

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair

Monday, February 12, 2018 2:00 pm  
Conference Room 329  
State Capitol  
415 South Beretania Street

I strongly support House Bill 2657 HD1 which incorporates an amendment recommended by the Hawaii Psychological Association (HPA). As a student of psychology, I am aware that my scope of practice, 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 who I may use to supervise paraprofessionals, direct support workers, and family members in the implementation of a behavioral program. This version of the bill 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,

Christopher Harkins  
8082080248





ichiyama2 - Naomi

---

From: mlcourter@hotmail.com  
Sent: Sunday, February 11, 2018 12:23 AM  
To: CPCtestimony  
Subject: Testimony in strong SUPPORT OF HB 2657 HD1

Marcie Courter  
177 Alea place  
Makawao, HI 96768-8723

February 11, 2018

Roy M. Takumi  
Chair

Dear Honorable Takumi:

Testimony  
IN STRONG SUPPORT OF HB2657  
RELATING TO BEHAVIOR ANALYSIS

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair

Monday, February 12, 2018 2:00 pm  
Conference Room 329  
State Capitol  
415 South Beretania Street

I strongly support House Bill 2657 HD1 which incorporates an amendment recommended by the Hawaii Psychological Association (HPA). 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 the supervision of assistants such as postdoctoral fellows, students and unlicensed master's level clinicians who I may use to supervise paraprofessionals, direct support workers, and family members in the implementation of a behavioral program. This version of the bill 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,

Dr. Marcie Courter  
8088664245



ichiyama2 - Naomi

---

From: dlipsitt@gmail.com  
Sent: Sunday, February 11, 2018 12:53 AM  
To: CPCtestimony  
Subject: Testimony in strong SUPPORT OF HB 2657 HD1

David Lipsitt  
87 floral sr  
Newton, MA 02461

February 11, 2018

Roy M. Takumi  
Chair

Dear Honorable Takumi:

Testimony  
IN STRONG SUPPORT OF HB2657  
RELATING TO BEHAVIOR ANALYSIS

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair

Monday, February 12, 2018 2:00 pm  
Conference Room 329  
State Capitol  
415 South Beretania Street

I strongly support House Bill 2657 HD1 which incorporates an amendment recommended by the Hawaii Psychological Association (HPA). 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 the supervision of assistants such as postdoctoral fellows, students and unlicensed master's level clinicians who I may use to supervise paraprofessionals, direct support workers, and family members in the implementation of a behavioral program. This version of the bill 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,

David Lipsitt, Psy.D.

ichiyama2 - Naomi

---

From: iirie@waimanalohealth.org  
Sent: Sunday, February 11, 2018 6:33 AM  
To: CPCtestimony  
Subject: Testimony in strong SUPPORT OF HB 2657 HD1

Ivan Irie  
41-1347 Kalaniana'ole Hwy  
Waimanalo, HI 96795-1247

February 11, 2018

Roy M. Takumi  
Chair

Dear Honorable Takumi:

Testimony  
IN STRONG SUPPORT OF HB2657  
RELATING TO BEHAVIOR ANALYSIS

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair

Monday, February 12, 2018 2:00 pm  
Conference Room 329  
State Capitol  
415 South Beretania Street

I strongly support House Bill 2657 HD1 which incorporates an amendment recommended by the Hawaii Psychological Association (HPA). 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 the supervision of assistants such as postdoctoral fellows, students and unlicensed master's level clinicians who I may use to supervise paraprofessionals, direct support workers, and family members in the implementation of a behavioral program. This version of the bill 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,

Ivan Irie, PsyD  
8082599917



ichiyama2 - Naomi

---

From: minke@hawaii.edu  
Sent: Sunday, February 11, 2018 9:08 AM  
To: CPCtestimony  
Subject: Testimony in strong SUPPORT OF HB 2657 HD1

Karl Minke  
700 Richards St. Apt. 2205  
Honolulu, HI 96813-4621

February 11, 2018

Roy M. Takumi  
Chair

Dear Honorable Takumi:

Testimony  
IN STRONG SUPPORT OF HB2657  
RELATING TO BEHAVIOR ANALYSIS

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair

Monday, February 12, 2018 2:00 pm  
Conference Room 329  
State Capitol  
415 South Beretania Street

I support House Bill 2657 HD1 with the amendment recommended by the Hawaii Psychological Association (HPA). I am past Chair of the Department of Psychology, U.H. Manoa and past Director of Clinical Studies for the same department. In addition, I am author or co-author on a number of the early studies demonstrating the effectiveness of behavioral interventions, serving as the empirical basis for the later specialty known as "Applied Behavior Analysis." Most clinical psychologists are well trained in the practice of behavioral interventions and the supervision of assistants such as postdoctoral fellows, students and unlicensed master's level clinicians as well as paraprofessionals, direct support workers, and family members in the implementation of a behavioral program. The proposed amendment clarifies psychologists' scope of practice as including the practice and supervision of behavioral interventions and would prevent an inappropriate narrowing of the behavioral health workforce to individuals following a specific theoretical orientation within the broader, evidence based, cognitive-behavioral approach used by psychologists today .

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

Sincerely

Karl Minke, Ph.D, UH Manoa retired  
808-228-1832



Various Testimonies of *licensed psychologist* in SUPPORT

#	NAME	#	NAME	#	NAME
1	Marie Terry-Bivens	37		73	
2	June W J Ching	38		74	
3	Stephen Choy	39		75	
4	Richard J Kim	40		76	
5	Fahy Bailey	41		77	
6	Ryan Terao	42		78	
7	Ivan Irie	43		79	
8	Christina Uemura	44		80	
9	Jean Adair-Leland	45		81	
10	Richard Kappenberg	46		82	
11	Lyle Herman	47		83	
12	Jeffrey D. Stern	48		84	
13	Mary Ann Hill	49		85	
14	Roger Hamada	50		86	
15	Marnie Richard	51		87	
16	Michael Christopher	52		88	
17	Katie Nova	53		89	
18	Shayna Fujii	54		90	
19	William Higa	55		91	
20	Peter Guay	56		92	
21	Joseph Eubsnsks	57		93	
22	Lucas Morgan	58		94	
23	Michelle Kawasaki	59		95	
24	Gail Tice	60		96	
25	Virginia E.H. Cynn	61		97	
26	Judith White	62		98	
27	Alex Bivens	63		99	
28	Cori Takesue	64		100	
29	Greta Kugler	65		101	
30	Nancy Sidun	66		102	
31	Jill Oliveira Gray	67		103	
32		68		104	
33		69		105	
34		70		106	
35		71		107	
36		72		108	

**ichiyama2 - Naomi**

---

**From:** oliveiraj009@gmail.com  
**Sent:** Sunday, February 11, 2018 8:53 AM  
**To:** CPCtestimony  
**Subject:** Vote against harmful provisions in Tax Reform

Jill Oliveira Gray  
326A Iolani Ave.  
Honolulu, HI 96813-6110

February 11, 2018

Roy M. Takumi  
Chair

Dear Honorable Takumi:

Testimony  
IN STRONG SUPPORT OF HB2657  
RELATING TO BEHAVIOR ANALYSIS

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair

Monday, February 12, 2018 2:00 pm  
Conference Room 329  
State Capitol  
415 South Beretania Street

I strongly support House Bill 2657 HD1 which incorporates an amendment recommended by the Hawaii Psychological Association (HPA). 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 the supervision of assistants such as postdoctoral fellows, students and unlicensed master's level clinicians who I may use to supervise paraprofessionals, direct support workers, and family members in the implementation of a behavioral program. This version of the bill 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,

Jill Oliveira Gray  
8083499267

ichiyama2 - Naomi

---

From: anniecutter@gmail.com  
Sent: Sunday, February 11, 2018 10:03 PM  
To: CPCtestimony  
Subject: Testimony in strong SUPPORT OF HB 2657 HD1

Annie Nguyen  
610 Auwai St #A  
Kailua, HI 96734-2432

February 12, 2018

Roy M. Takumi  
Chair

Dear Honorable Takumi:

Testimony  
IN STRONG SUPPORT OF HB2657  
RELATING TO BEHAVIOR ANALYSIS

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair

Monday, February 12, 2018 2:00 pm  
Conference Room 329  
State Capitol  
415 South Beretania Street

I strongly support House Bill 2657 HD1 which incorporates an amendment recommended by the Hawaii Psychological Association (HPA). 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 the supervision of assistants such as postdoctoral fellows, students and unlicensed master's level clinicians who I may use to supervise paraprofessionals, direct support workers, and family members in the implementation of a behavioral program. This version of the bill 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,

Annie Nguyen  
8083811838



February 12, 2018

The Honorable Roy M. Takumi, Chair  
The Honorable Linda Ichiyama, Vice Chair  
House Committee on Consumer Protection and Commerce

Re: HB 2657, HD1 – Relating to Health Insurance

Dear Chair Takumi, Vice Chair Ichiyama, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 2657, HD1 which, among other things, seeks to clarify the scope of practice of behavior analysis to mean the practice of applied behavior analysis, and broadens the exemption of licensed or credentialed practitioners practicing within their own recognized scopes of practice who are already exempt from the Behavior Analyst Law, to include participants in the Medicaid Intellectual and Developmental Disabilities Home and Community-Based Waiver.

HMSA appreciates the intent of this measure to increase access to ABA services in our state. At the request of legislators last year, HMSA started working with the psychologist community to create a pilot program to recognize and reimburse psychologists providing ABA services to our members. We are moving forward with the pilot, and hope to have feedback to Legislators and other stakeholders on the outcome of the program. That being said, we do have concerns with HB 2657, HD1.

We continue to have concerns with Section 4(a)(1) which would significantly expand the supervisory responsibilities of unlicensed individuals delivering ABA services. While we understand the need to expand access to services, we are concerned that this level of expansion could compromise the quality of care being delivered.

The Committee may want to consider amending Section 4(a)(3) to ensure the exemption being sought is applied specifically to the services being delivered within the waiver program and with some oversight to ensure those individuals are delivering the appropriate level and standard of care:

“An individual who designs or implements applied behavior analysis services to participants in the medicaid home and community-based services waiver program pursuant to section 1915(c) of the Social Security Act, only to the extent that those services are provided under the medicaid home and community-based services waiver program pursuant to section 1915(c) of the Social Security Act; provided that a behavioral review committee provides quality assurance and oversight;”

We appreciate the previous Committee’s effort to define “caregiver” in HB 2657, HD1; however, we suggest the Committee further define the additional places of service within HRS 465D for consistency and clarity.



An Independent Licensee of the Blue Cross and Blue Shield Association

We look forward to continuing our work with the stakeholders to safely and efficiently expand ABA services in our state. Thank you for allowing us to provide comments on HB 2657, HD1.

Sincerely,

A handwritten signature in black ink, appearing to read "JD", with a long horizontal flourish extending to the right.

Jennifer Diesman  
Senior Vice-President-Government Relations

DAVID Y. IGE  
GOVERNOR



**LATE TESTIMONY**

PANKAJ BHANOT  
DIRECTOR

CATHY BETTS  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 11, 2018

TO: The Honorable Representative Roy M. Takumi, Chair  
House Committee on Consumer Protection & Commerce

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 2657 HD1 – RELATING TO BEHAVIOR ANALYSIS**

Hearing: Monday, February 12, 2018, 2:00 p.m.  
Conference Room 329, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the intent and supports the measure.

**PURPOSE:** The purpose of the bill is to clarify the scope of practice of behavior analysis to mean the practice of applied behavior analysis. Broadens the exemption of licensed or credentialed practitioners practicing within their own recognized scopes of practice who are exempt from the Behavior Analyst Law, to include participants in the Medicaid Intellectual and Developmental Disabilities Home and Community-Based Waiver.

The Department of Health's (DOH)-Developmental Disabilities Division (DDD) operates Hawaii's Medicaid Intellectual and Developmental Disabilities (I/DD) Home and Community-Based Services Waiver on behalf of our DHS Med-QUEST Division. We agree with DDD that we all seek strong behavioral health services for both our children and adult beneficiaries. However, elements of the current statute are impacting provision and access to behavior analytic services for adults who are served by the I/DD waiver.

Please note that for children served by the I/DD waiver who also have Autism Spectrum Disorders (ASD), the Centers for Medicare and Medicaid Service (CMS) has clarified that ASD treatments and services must be provided through the child's Medicaid health plan

through their Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit. It cannot be provided as an I/DD waived service.

Therefore, the provision of behavior analysis in the I/DD waiver is applicable only for adults, and most often for people with entrenched and challenging behaviors that include self-harm and aggression toward others. These services are quite different than those to treat ASD.

One of the primary issues that has emerged in section 465D-1, Hawaii Revised Statutes (HRS), is the broad definition of the practice of behavior analysis. While the intent of the legislature was to establish standards for the licensing of behavior analysts to address autism, the broad definition is being interpreted to mean that even simple behavioral interventions, including for adults without autism, require a licensed behavior analyst. This is challenging for several reasons – while there is progress in developing the capacity of the workforce, there continues to be insufficient workforce of Licensed Behavioral Analysts (LBA) in Hawaii, as well as a shortage of LBAs to supervise Registered Behavior Technician (RBT) training hours.

Additionally, the LBAs provide services to children with autism primarily in office-based setting. It is much more challenging to address DDD's behavioral health needs. The difficulty is most acute for adults served by the I/DD waiver who have high-end behaviors that require staff-intensive approaches, and who access their services in homes and in the community. These adults require implementation of services by teams of people that include a mix of RBTs and trained direct support workers, often for many hours during the day and night.

For these reasons, DHS supports since it will improve access to the necessary quality services for the adults served by the waiver, and still maintain the appropriate quality assurance, participant safe-guards and the rights of the participants.

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