



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

**Date:** 02/04/2019  
**Time:** 02:55 PM  
**Location:** 229  
**Committee:** Senate Education

**Department:** Education

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

**Title of Bill:** SB 0341 RELATED TO THE PRACTICE OF BEHAVIOR ANALYSIS.

**Purpose of Bill:** Makes exemptions from the behavior analyst licensing requirements permanent for certain teachers working in collaboration with, and direct support workers working under the supervision of, a licensed behavior analyst or licensed psychologist.

**Department's Position:**

The Department of Education (Department) supports SB 341 which lifts the timeline requirements regarding who can implement applied behavior analysis (ABA) services and ABA programs.

Specifically, teachers should be allowed to continue implementing ABA programs in collaboration with a Licensed Behavior Analyst (LBA) or a licensed psychologist as teachers work directly with students. Teachers would not be able to continue to educate students if the on or before July 1, 2019 deadline remains in place. Therefore, the Department agrees the deadline for teachers be lifted.

As required in Section 465D-7, HRS, Registered Behavior Technicians (RBTs) under LBA or Board Certified Assistant Behavior Analyst (BCaBA) supervision, direct support worker (paraprofessional) under licensed psychologist or their Master's level or postdoctoral fellow supervisees, direct support worker (paraprofessional) under the supervision of a LBA or licensed psychologist on or before January 1, 2020 can implement ABA services. Therefore, the Department agrees that the January 1, 2020 deadline be lifted as paraprofessionals are under supervision and should be allowed to continue to implement ABA services. This will allow the Department to better meet staffing needs and provide the necessary ABA services to all students.

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](http://www.hawaiipublicschools.org).



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
Senate Committee on Education  
Monday, February 4, 2019 at 2:55 p.m.

By

Dr. Nathan Murata

Dean, College of Education

And

Michael Bruno, PhD

Interim Vice Chancellor of Academic Affairs

University of Hawai'i at Mānoa

### SB 341 – RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS

Chair Kidani, Vice Chair Kim and members of the committee:

Thank you for allowing us to testify on SB 341 Related to the Practice of Behavior Analysis. This bill suggests that legislation and Section 465D-7, Hawai'i Revised Statutes, "is not intended to restrict the practice of other licensed or credentialed practitioners practicing within their own recognized scopes of practice."

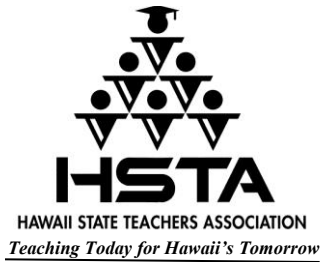
The University of Hawai'i at Mānoa (UHM), College of Education (College) is concerned with the current wording of this legislation and statute because it restricts the practice of licensed special education teachers—licensed professionals who have behavior analysis clearly within their scope of training and practice. In turn, this legislation prevents the College and other University of Hawai'i System (UH) Special Education Teacher Education programs from delivering our accredited and state approved teacher education program. Specifically, the current legislation does not allow UH Special Education programs to prepare special education teachers to conduct behavioral assessment or to develop and implement interventions based in applied behavior analysis. If we deliver our state-approved and nationally accredited special education teacher preparation program that includes training in behavior analysis assessment and interventions, we are in violation of Section 465D-7, Hawai'i Revised Statutes. Without applied behavior analysis in their training, special education teacher candidates who graduate from UHM and other state approved programs will not meet state licensing requirements (completion of a non-accredited program) and will not be prepared to pass the state licensing exam (Praxis) which includes questions on applied behavior analysis. Given the extreme and chronic shortage of licensed special education teachers in our state, it is in the interest of the state of Hawai'i to allow the College and other state approved programs to fully implement its accredited and state-approved special education teacher preparation programs.

Applied behavior analysis has a strong evidence base and is a foundation of special education assessment and instruction. More specifically, the College and Colleges of

Education across the nation have been preparing special educators in the area of severe disabilities and autism to implement behavior analysis procedures since the early 1970s – about 30 years prior to the licensing of behavior analysts. The UHM program for preparing behavior analysts (also in the College) uses the core courses of our special education teacher training program in the area of severe disabilities/autism. Our special education teacher graduates are well-trained in (a) principles of behavior, (b) behavioral assessment methods, (c) behavioral intervention methods, (d) procedures to promote generalization, (e) communication assessment and intervention, (f) functional behavior assessment for challenging behavior, and (g) positive behavior support interventions – scope of practice areas that overlap with those of behavior analysts. The fact that applied behavior analysis is within the training and scope of practice of special education teachers is evidenced in our journals, textbooks, accreditation standards, and licensing exams, including the Special Education Praxis exam required by the Hawai'i Teacher Standards Board.

The license and recognized scope and practice of special education teachers in the state of Hawai'i must be respected and supported. The current wording of SB 341 and Section 465D-7, Hawai'i Revised Statutes, does not do that. Please rework the language of this bill to allow special education teachers and behavior analysts to meet the needs of Hawai'i's special education students. **The licensing of behavior analysts should not restrict the recognized scope and practice of licensed special education teachers.** We have attached a copy of SB 341 to this testimony with modifications and suggested wording so that we can support this bill.

Thank you.



Corey Rosenlee  
President  
Osa Tui Jr.  
Vice President  
Logan Okita  
Secretary-Treasurer  
Wilbert Holck  
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEES ON  
EDUCATION

RE: SB 341 - RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS

MONDAY, FEBRUARY 4, 2019

COREY ROSENLEE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Kidani and Members of the Committee:

The Hawaii State Teachers Association **supports SB 341**, relating to the practice of behavior analysis.

We are in agreement of removing the dates in sections (HRS465D-7; 2), which would remove perceived restrictions imposed on classroom teachers; and (HRS465D-7; 4B), as this provision is already in effect currently for psychologists, whose right to practice was never intended to be infringed upon. HSTA remains in support of licensed psychologists' right to practice applied behavior analysis (ABA), who have ABA in their "education, training, and competence".

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. Act 205 further clarified the licenses requirements for behavior analysts. The removal of these dates will ensure that our teachers may implement these ABA plans, under the direct supervision of an Licensed Behavior Analyst or a licensed psychologists who have ABA in their "education, training, and competence", as was the intention of this law.

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



COMMITTEE ON EDUCATION  
Senator Michelle N. Kidani, Chair  
Senator Donna Mercado Kim, Vice Chair  
Monday, February 4, 2019, 2:55 pm  
Conference Room 229, Hawaii State Capitol  
**SB341: SUPPORT WITH AMENDMENTS**

Honorable Chair Kidani and Vice Chair Kim,

On behalf of the Hawai'i Association for Behavior Analysis (HABA), we would like to thank the Chair, Vice Chair, and Education Committee for your continued support for our keiki and our teachers. We appreciate the opportunity to testify on this measure. In regard to SB341, HABA would like to offer our **SUPPORT WITH AMENDMENTS**.

- As the language in the law reads currently, direct support workers must be under the “direction” of licensed behavior analysts (4A) and under the “supervision” of licensed psychologists (4B). We would like to strike “direction” (4A) and “supervision” (4B), and propose replacing with the phrase “direct supervision” in both sections (HRS465D-7; 4A & 4B). If your committee feels a definition is necessary, we propose defining “direct supervision” as follows: *“Direct supervision” means a minimum of one face-to-face observation per month by a licensed behavior analyst or licensed psychologist who is responsible for designing and overseeing written protocols before they are implemented and as they are modified.* We believe this definition would meet the minimum supervision requirements for both licensed behavior analysts and licensed psychologists.
- We also would like to propose removing licensed behavior analysts from (4B). Ethically, and for insurance reimbursement purposes, licensed behavior analysts should be providing direct supervision to direct support workers who are credentialed as registered behavior technicians (RBTs) by the Behavior Analyst Certification Board (BACB).

- We are in agreement of removing the dates in sections (HRS465D-7; 2), which would remove perceived restrictions imposed on classroom teachers; and (HRS465D-7; 4B), as this provision is already in effect currently for psychologists, whose right to practice was never intended to be infringed upon. HABA remains in support of licensed psychologists' right to practice applied behavior analysis (ABA), who have ABA in their "education, training, and competence".

If additional definitions are sought by the Committee, HABA would be happy to work together to craft language for consideration. We appreciate the opportunity to testify today. We are available to answer questions, should any arise.

Mahalo nui loa,

*Kathleen Penland*

Kathleen Penland, M.Ed., BCBA, LBA  
HABA Past President (2019), President (2018)

In regard to SB341, we have reflected our suggested changes below:

(4) An individual who directly implements applied behavior analysis services and:

(A) Is credentialed as a registered behavior technician by the Behavior Analyst Certification Board, and is under the ~~direction~~ *direct supervision* of a licensed behavior analyst; or

(B) Is a direct support worker who directly implements an applied behavior analysis program under the *direct* supervision of a ~~licensed behavior analyst or~~ licensed psychologist ~~on or before January 1, 2020~~ *who has applied behavior analysis in their education, training, and competence*;

provided that for purposes of this paragraph, "direct support worker" means a paraprofessional who directly implements intervention or assessment plans under *direct* supervision and does not design intervention or assessment plans;





# Hawai'i Psychological Association

*For a Healthy Hawai'i*

P.O. Box 833  
Honolulu, HI 96808

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

Phone: (808) 521-8995

**LATE**

COMMITTEE ON EDUCATION  
Senator Michelle N. Kidani, Chair  
Senator Donna Mercado Kim, Vice Chair

DATE: Monday, February 4, 2019  
TIME: 2:55pm  
PLACE: Conference Room 229

Testimony in Strong Support of SB341, with Amendments  
RELATED TO THE PRACTICE OF BEHAVIOR ANALYSIS

The Hawai'i Psychological Association (HPA) strongly supports SB341, with amendments. HPA is very concerned that language in Act 199, the statute applying to treatment services for autism and the licensure of Board Certified Behavior Analysts (BCBAs), unintentionally restricted well-qualified professionals from continuing to provide services to children with autism and other behavioral challenges and unintentionally provided a monopoly for one certifying agency, the Behavior Analyst Certification Board. We appreciate that the legislature adopted Act 205 in 2018 which clarified and standardized the terminology used to refer to behavior analysis and the practice of Applied Behavior Analysis (ABA), broadened the number of professional fields exempt from the behavior analysis law, and required the Department of Education (DOE) to seek Medicaid reimbursement of any ABA provided to students diagnosed with autism spectrum disorder that may be eligible for coverage by Medicaid.

In response to ACT 205, the DOE identified the numbers of licensed behavior analysts and registered behavior technicians it would need to hire to implement Act 205 in a December 2018 report to the legislature. Unfortunately, licensed psychologists are marginally included in that statement of needs, and their supervisees are not included at all, despite the fact that the law (Act 205) clarifies that properly trained psychologists may supervise postdoctoral fellows and unlicensed master's level practitioners in a multi-tiered model where those individuals then supervise paraprofessionals, direct support workers, behavior technicians, and family members in the implementation of a behavioral program. This multi-tiered delivery model is the standard of practice in autism, is frequently employed to treat other behavioral disturbances, and has been used within the DOE for over twenty years.

We strongly support SB341 which clarifies that properly trained psychologists and other behaviorally trained licensed or credentialed professionals can continue to provide ABA services, including providing supervision for their supervisees. We ask that the committee to consider the following amendments that serve to remediate the potentially inadvertent omission of psychologists and those they supervise in the DOE's proposal to address a need that cannot currently be met by the licensed behavior analysts and

registered behavior technicians. We believe that SB341 *with the amendments we are proposing* will prevent an unnecessary and problematic narrowing of the workforce, delays in services, and costly services - which our state can ill-afford.

Section 1 (a) p.2, insert new paragraph (2), lines 8-12:

(2) A licensed clinical social worker, licensed marriage family therapist, or licensed mental health counselor and any supervisee of the licensed professional, provided that applied behavior analysis services performed by the licensed professional are within the boundaries of the licensed professional's education, training and competence; and provided further that neither the licensed professional nor any supervisee purports to be a licensed behavior analysis. For purposes of this paragraph a "supervisee" means an unlicensed master's level practitioner, direct support worker, paraprofessional, or behavior technician."

Section 1(a), p. 2, paragraph (2), lines 8-14:

~~(2) (3) A licensed classroom special education teacher or an individual who is working as a classroom teacher and is enrolled in a teacher preparation program working towards licensure who implements but does not designed applied behavior analysis services in a school setting in direct collaboration with a licensed behavior analyst or a licensed psychologist [;on or before July 1, 2019] and any supervisee of the licensed teacher; provided that applied behavior analysis services performed by the licensed teacher are within the boundaries of the licensed teacher's education, training and competence; and provided further that neither the licensed professional nor any supervisee purports to be a licensed behavior analysis. For purposes of this paragraph a "supervisee" means a direct support worker, paraprofessional or behavior technician;~~

Section 1(a), p. 3. paragraph 4(B), lines 9-13:

~~(B) Is a direct support worker, paraprofessional or behavior technician who directly implements an applied behavior analysis program under the supervision of a licensed behavior analyst, or licensed psychologist, licensed clinical social worker, advance practice registered nurse with a specialization in psychiatry, licensed marriage family therapist, licensed mental health counselor, or licensed special education teacher; [;on or before January 1, 2020];~~

Section 1(a), p. 3, paragraph 5, lines 19-21 and p. 4, lines 1-10:

~~(5) A family member, legal guardian, or caregiver implementing an applied behavior analysis plan and who acts under the direction of a licensed behavior analyst, Hawaii-licensed psychologist, or other qualified licensed behavioral health provider; provided that for the purposes of this paragraph, "caregiver" means an individual who provides habilitative services in an adult foster home, developmental disabilities domiciliary home, adult residential care home, expanded adult residential care home, special treatment facility, or therapeutic living program pursuant to the Medicaid home and community-based services waiver program authorized by section 1915 (c) of the Social Security Act.~~

Section 1(a), p. 5, paragraph 8:

~~(8) A matriculated graduate student or postdoctoral fellow whose activities are part of a defined applied behavior analysis program of study, practicum or intensive practicum; provided that the student's or fellow's activities or practice is directly supervised by a licensed behavior analyst, licensed psychologist, licensed clinical social worker, advance practice registered nurse with a specialization in psychiatry, licensed marriage family therapist, licensed mental health counselor, licensed special education teacher or~~

an instructor from a nationally recognized training organization or in a Behavior Analyst Certification Board-approved course sequence; or

HPA further supports amending SB341 to seek any approvals that may be necessary for the DOE to bill for necessary services provided for Medicaid-eligible students diagnosed with autism by an array of qualified licensed behavioral professionals and their supervisees such as other jurisdictions have done. This amendment is as follows:

Section 2, p. 5, insert new paragraph, lines 15-16:

SECTION 2. The department of education will seek any approvals that may be necessary from the Centers for Medicare and Medicaid services to amend the state Medicaid plan to provide reimbursement for necessary ABA services provided to Medicaid-eligible students diagnosed with autism provided by licensed behavior analysts, licensed psychologists, licensed clinical social workers, advance practice registered nurses with a specialization in psychiatry, licensed marriage family therapists, licensed mental health counselors, and those they supervise.

Thank you for the opportunity to provide input into this important bill.

Sincerely,

Julie Takishima-Lacasa, Ph.D.  
Chair, HPA Legislative Action Committee

**SB-341**

Submitted on: 2/1/2019 4:22:03 PM

Testimony for EDU on 2/4/2019 2:55:00 PM

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

Comments:



**LATE**

2/3/2019  
COMMITTEE ON EDUCATION  
Senator Michelle N. Kidani, Chair  
Senator Donna Mercado Kim, Vice Chair

Conference Room 229  
Hawaii State Capitol  
415 South Beretania Street

On SB 341, we SUPPORT WITH AMENDMENTS

Honorable Senator Kidani, Senator Kim, and Committee Members,

My name is Anne Lau. I have been practicing behavior analysis in Hawai'i for the last 15 years, and am the Clinical Director for ABC Group. I would like to thank you for the opportunity to testify.

We have made amazing strides in recent years at ensuring that more and more children in our state have access to the life changing treatment of Applied Behavior Analysis. I am so thankful that I don't have to have many conversations with families who cannot afford the care that their child needs. But we can still do better.

We support SB 341 with the amendments that have been proposed by the Hawai'i Association for Behavior Analysis (HABA). By defining the minimum standards in our field of direct supervision we are maintaining safeguards for children that deserve their chance to thrive.

We look forward to another productive legislative session!  
Aloha,

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

[www.ABCGroupHawaii.com](http://www.ABCGroupHawaii.com)  
99-870 Iwaena Street #101  
Aiea, HI 96701  
808-277-7736

To: Senator Michelle N. Kidani, Chair, Committee on Education  
Senator Donna Mercado Kim, Vice Chair, Committee on Education

From: Richard J. Kravetz, Ph.D.,  
Hawai'i Licensed Psychologist, Clinical Director, and CEO  
Alaka'i Na Keiki  
1100 Alakea, 9<sup>th</sup> Floor  
Honolulu, HI 96813  
(808)258-2598

Date: Monday, February 4, 2019

Time; 2:55 PM

Place: Conference Room 229

Re: Testimony in Support of 391, 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.

I support SB391 with the amendments proposed by the Hawai'i Psychological Association (HPA), which would provide funding for needed contracts with qualified licensed behavior analysts as well as licensed psychologists and other licensed professionals, provided that they have the required education, training and competence in ABA to work with students with autism. Not all licensed behavior analysts, psychologists, or other licensed professionals may have experience in providing ABA services for children diagnosed with autism, and this would need to be ensured in order for any to work in an unsupervised capacity.

I would like to share a bit of history if I may. 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 interpreted this new law as restricting licensed psychologists and other professionals from supervising behavior analysis even though it is within their recognized scope of practice. Despite clarifications during the 2018 legislations that licensed psychologists and their supervisees are expressly exempt, the current funding bill does not appear to recognize that ABA services can be delivered by licensed psychologists and other licensed professionals with the appropriate training and competence.

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; was broadly disseminated to professionals in other fields, including special educators, and continues to be developed by the research efforts of several psychologists today and disseminated to professionals across disciplines.

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, and Licensed Special Education Teachers, 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.



COMMITTEE ON EDUCATION  
Senator Michelle N. Kidani, Chair  
Senator Donna Mercado Kim, Vice Chair  
Conference Room 229, Hawaii State Capitol  
Monday, February 4, 2019, 2:55 pm

#### **SB341: SUPPORT WITH AMENDMENTS**

Honorable Chair Kidani and Vice Chair Kim,

We appreciate the opportunity to submit written testimony on this measure. Together For Our Keiki (T.F.O.K.) is a non-profit advocacy group whose mission is to advocate and create an inclusive community for our keiki by empowering parents and educating local stakeholders.

We are grateful for your continued support and advocacy of applied behavior analysis (ABA), specifically in our public school settings. In regard to SB341, we stand in **support with amendments**, as proposed by the Hawai'i Association of Behavior Analysis (HABA). We are in agreement that defining direct supervision will help clarify language in our existing licensure law and will lead to increased protections for consumers of the science.

Mahalo nui loa,

*Lara Bollinger*

Lara Bollinger, M.S.Ed, BCBA, LBA  
Behavior Analyst and Law Student  
President and Founding Member  
Together For Our Keiki  
[forourkeiki@gmail.com](mailto:forourkeiki@gmail.com)



To: Senator Michelle N. Kidani, Chair, Committee on Education  
Senator Donna Mercado Kim, Vice Chair, Committee on Education

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

Date: Monday, February 4, 2019

Time; 2:55 PM

Place: Conference Room 229

Re: Testimony in Support of 341, Relating to Behavior Analysis Services as  
amended by the Hawaii Psychological Association

I am a behaviorally-trained psychologist and have been licensed within the state for over 30 years. My experience has included working in the DOE, CAMHD, independent practice and overseeing contracts to provide evidence-based services, including applied behavior analysis (ABA) for toddlers ages 1-3, elementary age and high school age youth in the DOE, CAMHD youth and their families, individuals receiving services through the DD Division, and children with autism under contracts with HMSA and other third-party payors.

I strongly support any exemptions for licensed special education teachers and other qualified licensed professionals as proposed in the amendments submitted by the Hawai'i Psychological Association (HPA) in its testimony. Our state needs the expertise provided by all licensed professionals who have been providing ABA services to students with autism, including the knowledge and experience of special education with regard to teaching the core curriculum, developing communication and social skills, as well as the knowledge and training mental health professionals have for students who are frequently have co-occurring mental health issues such as anxiety, depression, and ADHD.

The amendments proposed by the Hawai'i Psychological Association (APA) to include licensed psychologists and other licensed behavioral health professionals having the education, training and competence to provide ABA services, e.g., licensed clinical social workers, advance practice registered nurses with a specialization in psychiatry, licensed marriage family therapists, and licensed mental health counselors, will help to ensure that the department of education has a qualified network of providers to address the needs of students with autism. An adequate pool of licensed professionals working together with their supervisees will help to ensure that there no delays in services to these students due to an unnecessary narrowing of the workforce.

I also support requiring the department of education to seek any approvals that may be necessary from the Centers for Medicare and Medicaid services to amend the state Medicaid plan to provide reimbursement for necessary ABA services provided to Medical-eligible students with autism to all qualified professionals and their supervisees as has been done in other jurisdictions (e.g., California) as this will reduce costs to the state for the array of ABA services needed by our students with autism.

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



**SB-341**

Submitted on: 2/3/2019 2:45:49 PM

Testimony for EDU on 2/4/2019 2:55:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kendrick Farm	Individual	Support	No

Comments:

Please consider amending language brought fourth by HABA. With that proposed amendment(s) I support SB341

**LATE**

**SB-341**

Submitted on: 2/3/2019 3:33:17 PM

Testimony for EDU on 2/4/2019 2:55:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Maureen mcomas	Individual	Support	No

Comments:

Honorable Chair Kidani and Vice Chair Kim,

We support SB341 WITH THE AMENDMENTS provided by the Hawai'i Association for Behavior Analysis.

We sincerely thank you along with the Education Committee for your strong support for our keiki and our teachers.

Mr. and Mrs. John McComas, Honolulu

**LATE**

**SB-341**

Submitted on: 2/3/2019 7:03:43 PM

Testimony for EDU on 2/4/2019 2:55:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
maile rogers	Individual	Support	No

Comments:

I support SB341 with the amendments proposed by HABA. I am a parent of four minor children, two of which have been diagnosed with Autism and receive ABA therapy through our private insurance. My oldest child attends Waiialua Elementary and we have been trying to work with the school so he can access his medically and educationally necessary therapy during the school day, on campus, surrounded by his peers. As of yet we have been completely unsuccessful in this endeavor. The school has, however, agreed to allow a Licensed Behavior Analyst (LBA) on my sons IEP team. This person had to be contracted from an outside agency, and unfortunately, he was not a good example of what we should be expecting from our LBAs. When I asked for him to be replaced, the school filed due process against me. We just settled this last week, and I was given a new functional behavior assessment but the LBA of my choosing. Basically I'm telling you this because I have experience with my children being treated by unlicensed individuals, unethical but licensed individuals, and ethical and licensed individuals. We need appropriately licensed and properly trained people working with our kids. Irreparable harm is being done on a daily basis by well-meaning people who have no clue what they're doing, or people who KNOW what they should be doing, and choose not to for whatever reason. Please help our keiki get the qualified help they deserve. Thank you for your time!

COMMITTEE ON EDUCATION

Senator Michelle N. Kidani, Chair

Senator Donna Mercado Kim, Vice Chair

Conference Room 229, Hawai'i State Capitol

Monday February 4, 2019, 2:55 pm

**SB341: SUPPORT WITH AMENDMENTS**

Honorable Chair Kidani an Vice Chair Kim,

I appreciate the opportunity to submit written testimony on this measure. I am a mother with two young sons with autism spectrum disorder currently attending Hawai'i DOE. Your continued support to fund applied behavior analysis in all settings to include the DOE would greatly impact and improve the lives of our keiki and families statewide. We have a chance to give hope to the future and break barriers our keiki with disabilities face. In regard to SB341, I stand in **SUPPORT WITH AMENDMENTS** of this measure, as proposed by the Hawai'i Association of Behavior Analysis (HABA). I am in agreement that defining direct supervision will help clarify language in our existing licensure law and will lead to increased protections for consumers of science.

Mahalo nui loa,

Naomi Tachera, M.A Exceptional Student Education/Applied Behavior Analysis

Mary Jo Noonan, PhD, BCBA, LBA  
Testifying as a private citizen  
02/04/2019

## Testimony on SB 341: Related to the Practice of Behavior Analysis

Thank you for allowing me to testify. I am both a special educator and a licensed behavior analyst working in Hawaii. I work in special education teacher preparation, and I also prepare individuals to become behavior analysts. I am knowledgeable of the scope of training and practice in both fields.

I am opposed to SB 341 because it fails to recognize the license, training, and scope of practice of special educators when it prohibits them from **designing** and implementing applied behavior analysis assessments and interventions – practices that are clearly within the scope of their training. **The licensing of behavior analysts should not restrict the recognized scope and practice of licensed special education teachers.**

SB 341, amending Hawaii Revised Statutes, Section 465D-7 states, “This chapter is not intended to restrict the practice of other licensed or credentialed practitioners practicing within their own recognized scopes of practice.” In failing to exempt special education teachers from this legislation, however, that is EXACTLY what this bill does.

As currently worded, this bill will also have the unintended effect of negatively impacting special education teacher preparation in Hawaii. If special education teachers are not permitted to design and implement behavior analysis assessments and interventions, then teacher preparation programs throughout the state cannot include these skill competencies in their coursework and clinical practice/student teaching requirements. In turn, special education teacher candidates will graduate from programs that are not approved by the Hawaii Teacher Standards Board because they do not meet national accreditation standards. Furthermore, Hawaii’s special education teacher candidates will not be prepared to pass the Praxis state licensing exam because the exam includes items on applied behavior analysis and functional behavior assessment.

Applied behavior analysis has been the foundation of special education assessment and instruction for decades. As evidenced in special education journals, textbooks, accreditation standards, and the Praxis licensing exam, the special education scope of practice includes (a) principles of behavior, (b) behavioral assessment methods, (c) behavioral intervention methods, (d) procedures to promote generalization, (e) communication assessment and intervention, (f) functional behavior assessment for challenging behavior, and (g) positive behavior support interventions.

The license and recognized scope and practice of special education teachers in the state of Hawaii must be respected and supported. Please rework the language of SB 341 to allow special education teachers and behavior analysts to meet the needs of Hawaii’s special education students. I suggest that SB 341 and Hawaii Revised Statutes, Section 465D-7 be amended to exempt special education teachers by adding the following language to the bill on p. 1, Section 1(a):

(1) A licensed special education teacher and any supervisee of the licensed teacher; provided that applied behavior analysis services (including functional behavioral

assessments) performed are within the boundaries of the licensed special education teacher's education, training and competence; provided further that neither the licensed special education teacher nor any supervisee purports to be a licensed behavior analyst.

Similarly, language should be modified throughout the bill to allow licensed special education teachers to supervise paraprofessionals and special education field/clinical practice students in designing and implementing applied behavior analysis assessments and intervention.

**The licensing of behavior analysts should not restrict the recognized scope and practice of licensed special education teachers.**

Thank you for allowing me to submit this testimony.



**LATE**

Patricia Sheehey, PhD, BCBA, LBA  
Testifying as a private citizen  
02/04/2019

Testimony on SB 341: Related to the Practice of Behavior Analysis

Thank you for allowing me to testify. As a former special education teacher for the Hawaii Department of Education, a current faculty member of a state approved teacher education (SATE) program who teaches courses and supervises candidates in applied behavior analysis for both an approved behavior analyst program and a special education teacher preparation program, a Hawaii licensed behavior analyst, and a parent of two children who received special education services in Hawaii, I am knowledgeable of the content and practice in both fields. I have been involved in the field of special education and the use of behavioral principals and practices since 1976 when my son was born with significant disabilities and made substantial progress because his licensed special education teachers used behavioral practices that they learned in their special education teacher preparation programs. I am a strong proponent of special education and the use of behavioral practices when teaching students with disabilities.

I am opposed to SB 341 because it prohibits special educators from **designing** and implementing behavior analysis assessments and interventions (practices) despite the scope of behavior analysis that was included in their courses, field experiences, student teaching, and exams (course exams and national licensing exams). In addition, national and international professional organizations of special educators (e.g. the Council for Exceptional Children) also include professional standards that special educators must meet that include knowledge and skills related to designing and implementing behavior analytic practices including functional behavior assessments and behavior support plans. Most special education teacher preparation programs nationally are approved by the Council for Exceptional Children (CEC) and their special education teacher candidates must demonstrate competency in meeting those standards. Special education teachers who are licensed by the State of Hawaii have completed a SATE that includes demonstrating competency in meeting CEC standards and they have the knowledge and skills to design and implement applied behavior analysis assessments and interventions. **Licensed special educators should NOT be restricted in their scope and practice by the licensing of behavior analysts.**

Section 465D-7 of SB 341, amending Hawaii Revised Statutes states, "This chapter is not intended to restrict the practice of other licensed or credentialed practitioners practicing within their own recognized scopes of practice." And yet, by not exempting licensed special education teachers in this legislation that is PRECISELY what this bill does.

In addition, as this bill is currently worded it would have a negative impact on special education teacher preparation programs in Hawaii. If the law prevents licensed special education teachers from designing and implementing behavior analysis assessments and interventions, then special education teacher preparation programs cannot include behavior

analytic assessments and practices in their course content, project assignments, and field experiences/student teaching. This would result in special education teachers that do not meet state licensure requirements and national accreditation standards. And, they will not be prepared to pass the state licensing exam (Praxis) because items on the exam include application of applied behavior analysis and functional behavior assessment.

As stated previously my son's special education teachers used applied behavior analysis when teaching their students beginning in the late 1970s long before the licensing of behavior analysts was required. Applied behavior analysis has been the foundation of special education education assessment and instructional strategies since the 1970s. The scope and sequence of behavioral principles included in special education can be seen in textbooks, peer-reviewed journals, conference presentations, professional standards, and national licensing exams including the Praxis. The scope and sequence of special education overlaps with those of licensed behavior analysts and includes the following: (a) principles of behavior, (b) designing and conducting behavioral assessments, (c) designing and implementing interventions using behavioral methods, (d) behavioral procedures that promote maintenance and generalization, (e) assessment and interventions to improve communication, (f) designing and conducting functional behavior assessments to reduce challenging behaviors, and (g) positive behavior support interventions.

Please revise the language of SB 341 to recognize the license and scope of practice of special educators in Hawaii. Licensed special educators must be allowed to design and implement behavior analytic practices in the same way that licensed behavior analysts and licensed psychologists can. I recommend that SB 341 and Hawaii Revised Statutes Section 465D-7 be amended to exempt special education teachers. I suggest the following language to the bill on page 1, Section 1(a):

(1) A licensed special education teacher and any supervisee of the licensed teacher; provided that applied behavior analysis services (including functional behavioral assessments) performed are within the boundaries of the licensed special education teacher's education, training and competence; provided further that neither the licensed special education teacher nor any supervisee purports to be a licensed behavior analyst.

In the same way, language throughout the bill should be modified to allow licensed special education teachers to supervise paraprofessionals and special education teacher candidates in their field and clinical practice in designing and implementing applied behavior analysis assessments and interventions.

In conclusion, **the recognized scope and practice of licensed special education teachers should NOT be restricted by the licensing of behavior analysts.**

Thank you for allowing me to submit this testimony.

Aloha Sen Kidani and Scott

Hope you folks doing well. I wanted to give you a heads-up regarding SB 341.

First, the COE is in full support of the bill; however we do have some concerns over specific language regarding special education teachers and our teacher training programs across the UH System that may utilize Applied Behavior Analysis as the Foundation of their teaching education program like Manoa.

Much thanks and if you have any questions please feel free to contact me anytime

Mahalo for your time and support, much appreciated

Nathan  
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