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## A BILL FOR AN ACT

RELATING TO HEALTH.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. In 2018, the legislature adopted Act 205,  
2 Session Laws of Hawaii 2018, to clarify and standardize the  
3 terminology used to refer to behavior analysis and the practice  
4 of applied behavior analysis, broaden the number of professional  
5 fields exempt from the behavior analysts law, and require the  
6 department of education to create an implementation plan to seek  
7 reimbursement of any applied behavior analysis that the  
8 department of education may provide to students diagnosed with  
9 autism spectrum disorder that is eligible for coverage by  
10 medicaid.

11           In December 2018, the department of education reported its  
12 plan to the legislature in response to Act 205. Among other  
13 things, the report indicated that the department needs thirty-  
14 four qualified applied behavior analyst professionals for  
15 assessment, program development, and supervision of qualified  
16 applied behavior analyst paraprofessionals plus training,  
17 mentoring, quality control, and program oversight.



1 Additionally, the department requires four hundred sixty-five  
2 qualified behavior analyst paraprofessionals to implement the  
3 plan.

4 The legislature expresses concern that funding for all of  
5 the positions required by the department of education may not be  
6 available because, according to some reports, applied behavior  
7 analysts charge approximately \$130 per hour for their services.  
8 The legislature also expresses concern that there may be an  
9 insufficient number of qualified applied behavior analysts  
10 available in Hawaii to meet the needs of the department of  
11 education students. Accordingly, the legislature finds the most  
12 sensible approach to meeting the needs of each student diagnosed  
13 with autism spectrum disorder is to allow the department of  
14 education to use other licensed professionals where appropriate.

15 The purpose of this Act is to provide the department of  
16 education with the flexibility to use licensed professionals in  
17 fields related to applied behavior analysis to control costs,  
18 meet paraprofessional staffing needs, and provide the necessary  
19 services to students diagnosed with autism spectrum disorder.

20 SECTION 2. Section 465D-7, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:



1           "(a) This chapter is not intended to restrict the practice  
2 of other licensed or credentialed practitioners practicing  
3 within their own recognized scopes of practice and shall not  
4 apply to:

5           (1) A licensed psychologist and any supervisee of the  
6 licensed psychologist; provided that applied behavior  
7 analysis services performed are within the boundaries  
8 of the licensed psychologist's education, training,  
9 and competence; provided further that neither the  
10 licensed psychologist nor any supervisee of the  
11 licensed psychologist purports to be a licensed  
12 behavior analyst; and provided further that master's  
13 level practitioners and postdoctoral fellows may  
14 provide training and supervision to direct support  
15 workers, paraprofessionals, caregivers, parents and  
16 guardians in a manner and to the extent determined by  
17 the supervising licensed psychologist.

18                       For purposes of this paragraph, "supervisee"  
19 means a master's level practitioner, postdoctoral  
20 fellow, direct support worker, paraprofessional,



1 caregiver, parent or guardian who provides applied  
2 behavior analysis services;

3 (2) A licensed classroom teacher or an individual who is  
4 working as a classroom teacher and is enrolled in a  
5 teacher preparation program working towards licensure  
6 who implements but does not design applied behavior  
7 analysis services in a school setting in direct  
8 collaboration with a licensed behavior analyst or a  
9 licensed psychologist on or before July 1, 2019;

10 (3) An individual licensed by a board, commission, or  
11 other regulatory body of the department of health,  
12 department of commerce and consumer affairs, or  
13 department of education, acting within the scope of  
14 their licensure, approved by the superintendent of  
15 education, and who implements but does not design  
16 applied behavior analysis services for students in a  
17 department of education school setting;

18 [+3+] (4) An individual who implements or designs applied  
19 behavior analysis services and possesses board  
20 certification as an assistant behavior analyst by the  
21 Behavior Analyst Certification Board and who practices



1 in accordance with the most recent supervisory and  
2 ethical requirements adopted by the Behavior Analyst  
3 Certification Board under the direction of a licensed  
4 behavior analyst;

5 ~~(4)~~ (5) An individual who directly implements applied  
6 behavior analysis services and:

7 (A) Is credentialed as a registered behavior  
8 technician by the Behavior Analyst Certification  
9 Board, and is under the direction of a licensed  
10 behavior analyst; or

11 (B) Is a direct support worker who directly  
12 implements an applied behavior analysis program  
13 under the supervision of a licensed behavior  
14 analyst or licensed psychologist on or before  
15 January 1, 2020;

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



1        [~~5~~] (6) A family member, legal guardian, or caregiver  
2                    implementing an applied behavior analysis plan and who  
3                    acts under the direction of a licensed behavior  
4                    analyst or Hawaii-licensed psychologist; provided that  
5                    for the purposes of this paragraph, "caregiver" means  
6                    an individual who provides habilitative services in an  
7                    adult foster home, developmental disabilities  
8                    domiciliary home, adult residential care home,  
9                    expanded adult residential care home, special  
10                    treatment facility, or therapeutic living program  
11                    pursuant to the medicaid home and community-based  
12                    services waiver program authorized by section 1915(c)  
13                    of the Social Security Act;

14        [~~6~~] (7) An individual who designs or implements applied  
15                    behavior analysis services to participants in the  
16                    medicaid home and community-based service waiver  
17                    program pursuant to section 1915(c) of the Social  
18                    Security Act on or before January 1, 2024;

19        [~~7~~] (8) An individual who engages in the practice of  
20                    applied behavior analysis with nonhuman or nonpatient  
21                    clients or consumers including but not limited to



1 applied animal behaviorists and practitioners of  
2 organizational behavior management;

3 ~~(8)~~ (9) A matriculated graduate student or postdoctoral  
4 fellow whose activities are part of a defined applied  
5 behavior analysis program of study, practicum, or  
6 intensive practicum; provided that the student's or  
7 fellow's activities or practice is directly supervised  
8 by a licensed behavior analyst, licensed psychologist,  
9 or an instructor from a nationally recognized training  
10 organization or in a Behavior Analyst Certification  
11 Board-approved course sequence; or

12 ~~(9)~~ (10) An individual pursuing experience in applied  
13 behavior analysis consistent with the Behavior Analyst  
14 Certification Board's experience requirements;  
15 provided that the experience is supervised by a  
16 licensed behavior analyst."

17 SECTION 3. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

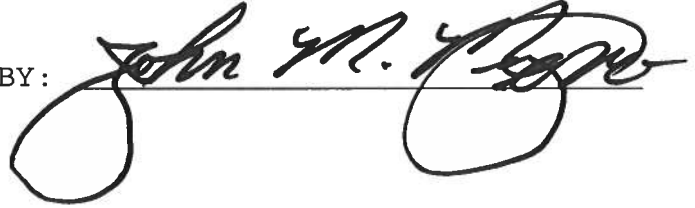


# H.B. NO. 663

1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to read "John M. Papp", is written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke.

JAN 18 2019





# H.B. NO. 663

**Report Title:**

DOE; Applied Behavior Analysts; Autism Spectrum Disorder:  
Special Education

**Description:**

Authorizes the Department of Education to use licensed professionals other than applied behavior analysts, where appropriate, to meet the department's needs for students diagnosed with autism spectrum disorder.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

