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**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection & Commerce
Wednesday, June 24, 2020
10:00 a.m.**

State Capitol, House Conference Room 325

**On the following measure:
S.B. 2281, S.D. 1, H.D. 1, RELATING TO BEHAVIOR ANALYSTS**

WRITTEN TESTIMONY ONLY

Chair Takumi and Members of the Committee:

My name is Charlene Tamanaha, and I am the Licensing Administrator of the Department of Commerce and Consumer Affairs' (Department) Professional and Vocational Licensing Division. The Department appreciates the intent of and offers comments on this bill.

The purposes of this bill are to: (1) make permanent the regulation of behavior analysts; and (2) exempt the Behavior Analysts Licensing Program from the auditor evaluation requirement.

The Department appreciates the bill's intent to continue providing for the licensure of behavior analysts to protect the public from the unqualified practice of behavior analysis and from unprofessional conduct by behavior analysts.

Hawaii Revised Statutes (HRS) section 26H-4 requires that for professional and vocational regulatory programs enacted after January 1, 1994, an auditor shall perform

an evaluation of the program, pursuant to section 26H-5, prior to its repeal date. While the Department does not oppose removing the repeal date, the Department respectfully requests that the State Auditor be afforded sufficient time to conduct a sunset analysis on behavior analysts, consistent with the requirements of HRS 26H-5, prior to the law's repeal date of June 30, 2021. In an analogous situation, the Legislative Auditor issued a sunset analysis of athletic trainers in September 2017, and the Athletic Trainer law was made permanent in the subsequent session (Act 58, Session Laws of Hawaii 2018).

Thank you for the opportunity to testify on this bill.



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

Date: 06/24/2020
Time: 10:00 AM
Location: 325
Committee: House Consumer Protection &
Commerce

Department: Education

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

Title of Bill: SB 2281, SD1, HD1 RELATING TO BEHAVIOR ANALYSTS.

Purpose of Bill: Makes permanent the regulation of behavior analysts. Exempts the behavior analysts licensing program from the auditor's evaluation requirement. Effective 7/1/2050. (HD1)

Department's Position:

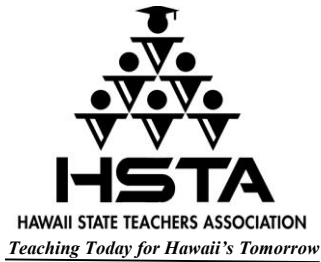
The Department of Education (Department) supports the intent of SB 2281 SD1, HD1 to continue the regulation and control of the practice of behavior analysts for the purpose of ensuring continued treatment of individuals with autism and protecting the public's health, safety, and welfare.

The Department is committed to providing quality Applied Behavior Analysis services to our students regardless of the continuation of Chapter 465D, HRS.

At this time, the Department does not propose any amendments to the current bill as written.

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

The Hawai'i State Department of Education is committed to delivering on our promises to students, providing an equitable, excellent, and innovative learning environment in every school to engage and elevate our communities. 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.



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TESTIMONY BEFORE THE HOUSE COMMITTEE ON CONSUMER
PROTECTION & COMMERCE

RE: SB 2281, SD1, HD1 - RELATING TO BEHAVIOR ANALYSIS

WEDNESDAY, JUNE 24, 2020

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Takumi and Members of the Committee:

The Hawaii State Teachers Association **supports SB 2281, SD1, HD1**, relating to behavior analysis. **This bill makes permanent the regulation of behavior analysts.**

Our teachers sometimes need the support of other professionals who support our students with other areas of expertise; this area is one of them, and these Licensed Behavior Analysts (LBAs) and School Psychologists are essential for our students to access their learning as **they have the licensing qualification required by Medicaid for their services to be reimbursable to the state.** This is vital and we want to state again, that these license standards should not be watered down. We are extremely supportive that **this law requires health plans to cover these services and these services should remain regulated and licensed accordingly. This law should be made permanent.**

The practice of behavior analysis includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis, as well as the use of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop positive behaviors.

Act 199, Session Laws of Hawaii 2015, 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. Act 205 further clarified the licensing qualifications for those who conduct Functional Behavior Assessments (FBAs), and design and monitor Applied Behavior Analysis (ABA) Plans in our state.

To support access to learning experiences of our most vulnerable keiki, the Hawaii State Teachers Association asks your committee to **support** this bill.

SB-2281-HD-1

Submitted on: 6/22/2020 5:36:38 PM

Testimony for CPC on 6/24/2020 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------------------|---------------------------|---------------------------|
| Louis Erteschik | Hawaii Disability Rights Center | Support | No |

Comments:

We support this bill with a clean effective date in and would urge the Committee to resist any attempt to introduce any amendments that would add to or carve out any other professions from this particular chapter in the Hawaii Revised Statutes. There were several attempts along those lines and the Senate wisely chose to reject those efforts.

SB-2281-HD-1

Submitted on: 6/23/2020 7:42:08 AM

Testimony for CPC on 6/24/2020 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------|---|--------------------|--------------------|
| Amy Wiech | Autism Behavior Consulting Group (ABC Group Hawaii) | Support | No |

Comments:

23 June 2020

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

As a licensed special education teacher and a licensed behavior analyst in our State, I am writing today in STRONG SUPPORT OF SB2281, which seeks to make licensure for behavior analysts permanent in our State.

The law, as it stands, has served as a vehicle for increasing protections for consumers of behavior analysis. Hundreds of individuals (413) are now proudly licensed as behavior analysts (DCCA; 6/22/2020) in Hawai'i, which has allowed thousands of individuals to access much needed medical care in the form of applied behavior analysis (<https://pvl.ehawaii.gov/pvlsearch/license/BA-413>).

At ABC Group Hawai'i, we serve approximately 50 children on Oahu providing a clinic-based ABA treatment center for insurance funded as well as DOE funded clients to receive life-changing medically-rigorous ABA treatment. This life-changing treatment has been a game-changer for many families who are tasked with raising a child with a disability, let alone one with severe and challenging behavior. It allows them to access intensive medically-rigorous treatment, to change the trajectory for what is even possible in their journey towards independence and adulthood.

In my opinion, no substantive changes are needed to the existing language in our licensure law [Chapter 465D]. However, I do believe another date should be removed. I encourage the current committee to consider removing the expiration date for teachers (July 1, 2019), which is believed to unintentionally restrict teachers' ability to implement behavior analysis in direct collaboration with a licensed behavior analyst or licensed psychologist, with ABA in their education, training, and competence (Chapter 465D, Section 7, Exemption 2).

“(2) A licensed classroom 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 design applied behavior analysis services in a school setting in

direct collaboration with a licensed behavior analyst or a licensed psychologist [REMOVE] on or before July 1, 2019”.

Sincerely,

Amy Smith Wiech, PhD, BCBA-D (#1-04-1581), LBA (BA-#34)
Hawai'i Licensed Special Education Teacher

Amy Smith Wiech, Ph.D, BCBA-D, LBA
Behavioral Scientist & Executive Director
Direct (808) 277-7736 | Fax (888) 507-0177
ABCGroupHawaii.com We are a BHCOE.com Autism Center of Excellence!



SB-2281-HD-1

Submitted on: 6/22/2020 5:23:52 PM

Testimony for CPC on 6/24/2020 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|-------------------------|---------------------|---------------------------|---------------------------|
| Mr and Mrs John McComas | Individual | Support | No |

Comments:

Rep. Roy Takumi, Chair

Rep. Linda Ichiyama, Vice-Chair

Committee on Consumer Protection and Commerce

We support the removal of the Sunset date (expiration) which makes licensure of Behavior Analysts permanent in the state of Hawaii. As parents of two children with disabilities, it is crucial to offer this consumer protection for some of the most vulnerable members of our communities.

Thank you for the opportunity to provide our testimony on SB2281.

Respectfully yours,

John and Maureen McComas

SB-2281-HD-1

Submitted on: 6/22/2020 6:21:16 PM

Testimony for CPC on 6/24/2020 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Jennifer Lonardo | Individual | Support | No |

Comments:

I strongly support SB2281, which seeks to make permanent Behavior Analyst Licensure. As a Licensed Behavior Analyst, I find the cost associated with licensure is worth the protections it offers our consumers. Thank you for the opportunity to testify in support of SB2281.

SB-2281-HD-1

Submitted on: 6/22/2020 9:39:19 PM

Testimony for CPC on 6/24/2020 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|-----------------|--------------|--------------------|--------------------|
| Amanda N. Kelly | Individual | Support | No |

Comments:

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

Welcome back to the legislative session and at such an unprecedented time in our world. Thank you for scheduling this bill and moving these discussions forward, especially during such an unusual legislative session. As the first behavior analyst licensed in Hawai'i, I am writing today in **STRONG SUPPORT OF SB2281**, which seeks to make licensure for behavior analysts permanent in our State.

The law, as it stands, has served as a vehicle for increasing protections for consumers of behavior analysis. Hundreds of individuals (#413) are now proudly licensed as behavior analysts (DCCA; 6/22/2020) in Hawai'i, which has allowed thousands of individuals to access much needed medical care in the form of applied behavior analysis (<https://pvl.hawaii.gov/pvlsearch/license/BA-413>).

In my opinion, no substantive changes are needed to the existing language in our licensure law [Chapter 465D]. However, I do believe another date should be removed. I encourage the current committee to consider removing the expiration date for teachers (July 1, 2019), which is believed to unintentionally restrict teachers' ability to implement behavior analysis in direct collaboration with a licensed behavior analyst or licensed psychologist, with ABA in their education, training, and competence (Chapter 465D, Section 7, Exemption 2).

“(2) A licensed classroom 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 design 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”.

Please feel free to reach out to me directly if I can elaborate or offer any additional clarifications.

Mahalo nui loa,

Amanda N Kelly, PhD, BCBA-D (#1-08-4140), LBA (BA-#1)

Hawai'i Licensed Teacher (#52517)

Amanda.N.Kelly@Hotmail.com

COMMITTEE ON COMMERCE,
CONSUMER PROTECTION, AND HEALTH
Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

Wednesday, June 24, 2020; 10:00AM
Conference Room 325
State Capitol, 415 South Beretania Street

SB 2281: STRONG SUPPORT

Aloha Chairs, Vice Chairs, and Members of the Committee:

First, I want to thank you for scheduling this hearing as you resume hearing bills during this unprecedented time. I appreciate your efforts to support our keiki and their families in this time.

I stand in **strong support** of SB 2281, making licensure for behavior analysts permanent. Currently, there are over 400 licensed behavior analysts in Hawai'i. (DCCA; 6/22/2020). This licensure increases protection for consumers of applied behavior analysis, both for insurance-funded and school-funded services.

Thank you for remaining champions for our keiki!

Mahalo,

Lara Bollinger, J.D., BCBA, LBA
Lara.bollinger@gmail.com

SB-2281-HD-1

Submitted on: 6/23/2020 8:25:46 AM

Testimony for CPC on 6/24/2020 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Kristen Koba-Burd | Individual | Support | No |

Comments:

SB-2281-HD-1

Submitted on: 6/23/2020 8:26:29 AM

Testimony for CPC on 6/24/2020 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Brian Burdt | Individual | Support | No |

Comments:



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

Wednesday, June 24, 2020
10:00 AM
Conference Room 325, State Capitol

Support of SB2281 SD1 HD1

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

The Hawai'i Association for Behavior Analysis (HABA) **strongly supports** SB 2281, SD1 HD1, which makes permanent the regulation of behavior analysts under chapter 465D of the Hawai'i Revised Statutes.

Since the enactment of the behavior analyst licensure law in 2015, which was passed together with the autism insurance coverage law, licensed behavior analysts have helped many individuals with autism receive the services they need. The number of licensed behavior analysts in the State has steadily grown since the enactment of the law, and continues to grow to meet the need for these services.

We also note that this is a bill which solely addresses the expiration of a sunset date – HABA is opposed to watering down the existing licensure law by adding any exemptions to licensing requirements, as has been suggested by other testifiers in previous hearings.

We would respectfully request that this measure be amended to include an “upon approval” effective date.

Thank you for the opportunity to testify in support of this measure.

Mahalo,

Kyle Machos
President, Hawai'i Association for Behavior Analysis
On behalf of the HABA Board, Legislative Committee, and Members

SB-2281-HD-1

Submitted on: 6/23/2020 3:06:08 PM

Testimony for CPC on 6/24/2020 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Rayne Kauhi | Individual | Support | No |

Comments: