

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

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

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DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce, Consumer Protection, and Health
Wednesday, February 19, 2020
9:00 a.m.
State Capitol, Conference Room 229**

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

Chair Baker 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 purpose of this bill is to make permanent the regulation of behavior analysts. 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.



LATE

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

Date: 02/19/2020

Time: 09:00 AM

Location: 229

Committee: Senate Commerce, Consumer Protection, and Health

Department: Education

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

Title of Bill: SB 2281 RELATING TO BEHAVIOR ANALYSTS.

Purpose of Bill: Makes permanent the regulation of behavior analysts.

Department's Position:

The Department of Education (Department) supports the intent of SB 2281 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, Hawaii Revised Statutes. At this time, the Department proposes the following amendments to Chapter 465D, Hawaii Revised Statutes.

Modifying Exemption(A)(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, a licensed psychologist, or a special education teacher licensed in severe/profound disabilities or autism. ~~on or before July 1, 2019;~~

Adding Exemption (10)

(10) A special education teacher licensed in severe/profound disabilities or autism and any supervisee of the licensed special education teacher; provided that applied behavior analysis services 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 of the licensed special education teacher purports to be a licensed behavior analyst; and provided further that licensed special educators in the severe/profound disabilities or autism may provide training and supervision to direct support workers, paraprofessionals, caregivers, parents and guardians in a manner and to the extent

determined by the supervising licensed special education teacher.

For purposes of this paragraph, "supervisee" means a special education teacher candidate, direct support worker, paraprofessional, caregiver, and parent or guardian who provides applied behavior analysis services.

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.



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

Wednesday, February 19, 2020
9:00 AM
Conference Room 229 State Capitol
415 South Beretania Street

Support of SB2281

Honorable Chair Baker, Vice Chair Chang, and members of the committee:

The Hawai'i Association for Behavior Analysis (HABA) supports this measure, which makes permanent the regulation of behavior analysts under chapter 465D of the Hawai'i Revised Statutes. HABA would like to thank the Commerce, Consumer Protection, and Health Committee for its diligent efforts in ensuring consumers of behavior analysis services are protected by regulation of the practice.

Since the enactment of the 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 and continues to grow to meet the need for these services.

HABA notes that under the present law, an auditor evaluation of the licensure program would be required prior to the sunset date. While we believe that there is merit in making the program permanent, HABA also supports this audit being done, if the Committee is so inclined.

Mahalo,

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

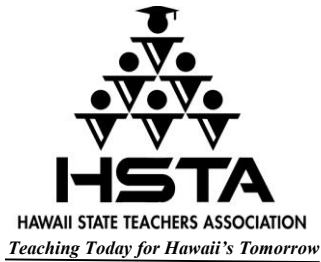
SB-2281

Submitted on: 2/14/2020 7:21:12 PM

Testimony for CPH on 2/19/2020 9:00:00 AM

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

Comments:



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

Corey Rosenlee
President

Osa Tui Jr.
Vice President

Logan Okita
Secretary-Treasurer

Wilbert Holck
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEE ON COMMERCE,
CONSUMER PROTECTION, AND HEALTH

RE: SB 2281 - RELATING TO BEHAVIOR ANALYSIS

WEDNESDAY, FEBRUARY 19, 2020

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Baker and Members of the Committee:

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

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

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, with which nearly 1,500 public school students are currently diagnosed. 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.

Our teachers sometimes need the support of other professionals who support our students with other areas of expertise; this area is one of them. Health plans should cover these services and these services should remain regulated and licensed accordingly.

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

Submitted on: 2/15/2020 1:38:56 PM

Testimony for CPH on 2/19/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Gerard Silva	Individual	Oppose	No

Comments:

SB-2281

Submitted on: 2/17/2020 1:51:19 PM

Testimony for CPH on 2/19/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rynette Keen	Individual	Support	No

Comments:

Aloha,

I am writing in support of SB2281. As a Bachelor's in Social Work student at the University of Hawaii - Manoa, I know the importance of proper accreditation for persons seeking to treat children, youth, and adults who have autism. I firmly ask that you also support this measure before you today.

Mahalo for your time and consideration.

Rynette K. Keen, AA, BSW Student

Myron B. Thompson School of Social Work

University of Hawaii - Manoa DE

SB-2281

Submitted on: 2/17/2020 1:51:48 PM

Testimony for CPH on 2/19/2020 9:00:00 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,

I am submitting testimony in support of SB2281, which requires an auditors report to remove the sunset for behavior analyst licensure. Since enacting Chapter 465D, hundreds of behavior analysts have become licensed, and thousands of children are now receiving access to applied behavior analysis (ABA) services, funded through commerical and MedQUEST health plans.

I am available for questions, if needed.

Mahalo,

Amanda N Kelly, PhD, BCBA-D, LBA

SB-2281

Submitted on: 2/18/2020 8:19:08 AM

Testimony for CPH on 2/19/2020 9:00:00 AM

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

Comments:

LATE

SB-2281

Submitted on: 2/18/2020 10:00:10 AM

Testimony for CPH on 2/19/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan P. Armstrong	Individual	Support	No

Comments:

Aloha Chair Baker, Vice Chair Chang, and Members of the Committee on Commerce, Consumer Protection and Health:

I write in support of Senate Bill 2281. I support the licensure of behavior analysts working with our children, young adults, and adults with autism, conforming with HRS Chapter 465D. Existing licensure regulations are going to sunset next year; this measure would make these requirements permanent.

The Hawai' State Teachers Association (HSTA) notes in its testimony that nearly 1,500 public school students are currently diagnosed as having autism spectrum disorder. The Hawai'i Association for Behavioral Analysts states that theirs is a growing professional field, and when such occupations grow in demand is appropriating time to formalize requirements for professional careers. Clearly, Functional Behavior Assessments (FBAs), and design and monitor Applied Behavior Analysis (ABA) Plans in our state affect a lot of people's lives and will continue to play an important role in our human services landscape.

Please vote yes for SB2281. Thank you.

Humbly,
Dylan P. Armstrong

LATE

Testimony on SB 2281: Relating to Behavior Analysts

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 support SB 2281 in regards to the licensing of behavior analysts provided the language in 456D Exemption (A)(2) is modified as follows: “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, a licensed psychologist, or a special education teacher licensed in severe/profound disabilities or autism.”

In addition, the following language should be substituted for 456D Exemption 10, “(10) A special education teacher licensed in severe/profound disabilities or autism and any supervisee of the licensed special education teacher; provided that applied behavior analysis services 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 of the licensed special education teacher purports to be a licensed behavior analyst; and provided further that licensed special educators in the severe/profound disabilities or autism may provide training and supervision to direct support workers, paraprofessionals, caregivers, parents and guardians in a manner and to the extent determined by the supervising licensed special education teacher.”

For purposes of this paragraph, "supervisee" means a special education teacher candidate, direct support worker, paraprofessional, caregiver, parent or guardian who provides applied behavior analysis services.”

Thank you for allowing me to submit this testimony,

Patricia Sheehey

Patricia Sheehey, Ph.D., BCBA, LBA



S E A C
Special Education Advisory Council
1010 Richards Street, Room 118
Honolulu, HI 96813
Phone: 586-8126 Fax: 586-8129
email: spin@doh.hawaii.gov

LATE

February 19, 2020

**Special Education
Advisory Council**

Ms. Martha Guinan, *Chair*
Ms. Dale Matsuura, *Vice Chair*
Dr. Patricia Sheehy, *Vice
Chair*
Ms. Ivalee Sinclair, *Vice Chair*

Ms. Andrea Alexander
Ms. Brendelyn Ancheta
Ms. Virginia Beringer
Ms. Mary Brogan
Ms. Deborah Cheeseman
Ms. Annette Cooper
Mr. Mark Disher
Dr. Kurt Humphrey
Ms. Cathy Kahoochanohano
Ms. Tina King
Ms. Bernadette Lane
Ms. Kaili Murbach
Ms. Carrie Pisciotto
Ms. Kau'i Rezentos
Ms. Rosie Rowe
Dr. David Royer
Mr. James Street
Mr. Francis Taele
Mr. Steven Vannatta
Ms. Lisa Vegas
Ms. Jasmine Williams
Ms. Susan Wood

Ms. Annie Kalama, *liaison
to the Superintendent*
Dr. Bob Campbell, *liaison to
the military community*

Amanda Kaahanui, Staff
Susan Rocco, Staff

Senator Rosalyn H. Baker, Chair
Committee on Commerce, Consumer Protection, and Health
Hawaii State Capitol
Honolulu, HI 96813

RE: SB 2281 - RELATING TO BEHAVIOR ANALYSTS

Dear Chair Baker and Members of the Committee,

The Special Education Advisory Council (SEAC) **supports** SB 2281 that makes permanent the regulation of behavior analysts under Chapter 465D.

SEAC was an early supporter of the legislation to provide Applied Behavior Analysis as a covered medical service under Hawaii's health insurers. Licensure ensures that children with autism and other developmental disabilities receive evidence-based treatment by a qualified and licensed provider.

While the original licensing law, Act 199 (now Chapter 465D) was not intended to restrict the practice of other licensed or credentialed professionals providing services within the scope of their established training and expertise, it has had to be amended several times to add to the list of those exempted from acquiring licensure as a behavior analyst. SEAC proposes the following additional amendments to ensure that public school students who require behavior analysis to benefit from their education have greater access to practitioners and educators with the appropriate expertise, training and experience.

**Under §Section 465D-7 Exemptions.
Modifying Exemption (a)(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



§Section 465D-7 Exemptions.

Modifying Exemption (a)(2) continued

licensed behavior analyst, or a licensed psychologist, or a special education teacher licensed in severe/profound disabilities or autism on or before July 1, 2019;

§Section 465D-7 Exemptions.

Adding Exemption (a)(10)

(10) A special education teacher licensed in severe/profound disabilities or autism and any supervisee of the licensed special education teacher; provided that applied behavior analysis services 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 of the licensed special education teacher purports to be a licensed behavior analyst; and provided further that licensed special educators in the severe/profound disabilities or autism may provide training and supervision to direct support workers, paraprofessionals, caregivers, parents and guardians in a manner and to the extent determined by the supervising licensed special education teacher.

For purposes of this paragraph, "supervisee" means a special education teacher candidate, direct support worker, paraprofessional, caregiver, and parent or guardian who provides applied behavior analysis services.

Thank you for the opportunity to provide testimony on this important issue. Should you have any questions, we can be contacted at the above addresses.

Sincerely,

Martha Guinan
Chair

Ivalee Sinclair
Legislative Committee Chair



Hawai'i Psychological Association

For a Healthy Hawai'i

P.O. Box 833
Honolulu, HI 96808

www.hawaiipsychology.org

Phone: (808) 521-8995

COMMITTEE ON CONSUMER PROTECTION AND HEALTH

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice-Chair

LATE

DATE: Wednesday, February 19, 2020

TIME: 9:00 a.m.

PLACE: Conference Room 229

Testimony in Strong Support of SB2281 RELATING TO BEHAVIOR ANALYSIS

The Hawai'i Psychological Association (HPA) strongly supports SB2281 which makes permanent the regulation of behavior analysts, codified as chapter 465D, Hawaii Revised Statutes (Act 199).

The HPA notes that "This chapter is not intended to restrict (a) "the practice of other licensed or credentialed practitioners practicing within their own recognized scopes of practice..." (see section 465D-7 Exemptions) and specifically clarifies that it "shall not apply to: (1) A licensed psychologist and any supervisee of the licensed psychologist; provided that applied behavior analysis services performed are within the boundaries of the licensed psychologist's education, training, and competence; provided further that neither the licensed psychologist nor any supervisee of the licensed psychologists purports to be a licensed behavior analyst; and provided further that master's level practitioners and postdoctoral fellows may provide training and supervision to direct support workers, paraprofessionals, caregivers, parents and guardians in a manner and to the extent determined by the supervising licensed psychologist. For purposes of this paragraph, "supervisee" means a master's level practitioner, postdoctoral fellow, direct support worker, paraprofessional, caregiver, parent or guardian who provides behavior analysis service;"

The HPA requested the above language pertaining to licensed psychologists and their supervisees to clarify this exemption because the original version of the law licensing behavior analysts was being interpreted by state agencies and several insurance companies to restrict the practice of applied behavior analysis to licensed behavior analysts.

The HPA strongly supports SB2281 in that it provides for the continuing regulation of the practice of behavior analysts in order to protect the public's health, safety, and welfare. As the bill acknowledges the total number of licensed behavior analysis is still insufficient to meet the present demands. Individuals needing applied behavior analysis services should have access to all licensed or credentialed practitioners provided that the applied behavior analysis services performed are within the boundaries of their education, training and competence.

Thank you for the opportunity to provide testimony in strong support of this important bill.

Sincerely,

Julie Takishima-Lacasa, Ph.D., President
Chair, Legislative Action Committee
Hawai'i Psychological Association



Hawai'i Psychological Association

LATE

For a Healthy Hawai'i

P.O. Box 833
Honolulu, HI 96808

www.hawaiipsychology.org

Phone: (808) 521-8995

COMMITTEE ON CONSUMER PROTECTION AND HEALTH

Senator Rosalyn Baker, Chair
Senator Stanley Chang, Vice-Chair

DATE: Wednesday, February 19, 2020
TIME: 9:00 a.m.
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The HPA notes that "This chapter is not intended to restrict (a) "the practice of other licensed or credentialed practitioners practicing within their own recognized scopes of practice..." (see section 465D-7 Exemptions) and specifically clarifies that it "shall not apply to: (1) A licensed psychologist and any supervisee of the licensed psychologist; provided that applied behavior analysis services performed are within the boundaries of the licensed psychologist's education, training, and competence; provided further that neither the licensed psychologist nor any supervisee of the licensed psychologists purports to be a licensed behavior analyst; and provided further that master's level practitioners and postdoctoral fellows may provide training and supervision to direct support workers, paraprofessionals, caregivers, parents and guardians in a manner and to the extent determined by the supervising licensed psychologist. For purposes of this paragraph, "supervisee" means a master's level practitioner, postdoctoral fellow, direct support worker, paraprofessional, caregiver, parent or guardian who provides behavior analysis service;"

The HPA requested the above language pertaining to licensed psychologists and their supervisees to clarify this exemption because the original version of the law licensing behavior analysts was being interpreted by state agencies and several insurance companies to restrict the practice of applied behavior analysis to licensed behavior analysts.

The HPA strongly supports SB2281 as it provides for the continuing regulation of the practice of behavior analysts in order to protect the public's health, safety, and welfare. The bill acknowledges the total number of licensed behavior analysis is still insufficient to meet the present demands, and individuals needing applied behavior analysis services should have access to all licensed or credentialed

practitioners provided that the applied behavior analysis services performed are within the boundaries of their education, training, and competence.

Thank you for the opportunity to provide testimony in strong support of this important bill.

Sincerely,

Julie Takishima-Lacasa, Ph.D., President
Chair, Legislative Action Committee
Hawai'i Psychological Association