



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

Date: 02/03/2021

Time: 03:00 PM

Location: 229

Committee: Senate Education

Department: Education

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

Title of Bill: SB 0805 RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS.

Purpose of Bill: Makes the exemption from the behavior analyst licensing requirements permanent for certain teachers working in collaboration with a licensed behavior analyst or licensed psychologist. Clarifies exemptions from licensure as a behavioral analyst for general education teachers, direct support workers, special education teachers, and teacher trainees working in collaboration with or under the supervision of licensed professionals. Exempts licensed special education teachers and individuals in approved and accredited special education training programs who are working toward licensure as special education teachers whose scope of practice and training includes applied behavior analysis.

Department's Position:

The Hawaii State Department of Education (Department) supports the intent of SB 805 to modify the exemptions allowed under Hawaii Revised Statutes (HRS), Chapter 465D to allow licensed classroom teachers or individuals who are working as a classroom teacher and is enrolled in a teacher preparation program working towards licensure to implement Applied Behavior Analysis (ABA) services in a school setting when in direct collaboration with a licensed behavior analyst or a licensed psychologist. Additionally, the Department supports the intent of SB 805 to include the exemption of special education teachers licensed in severe/profound disabilities or autism from the ABA licensure requirements allowing them to implement and design ABA programs as this is within the boundaries and scope of their education, training, and practice.

The table below provides a side-by-side comparison of coursework for a severe/profound and

autism program and a behavior analysis program at the University of Hawaii at Manoa that demonstrates special education teachers licensed in severe/profound disabilities or autism have the foundational education and competency in ABA that enable them to implement and design ABA programs.

Coursework at University of Hawaii at Manoa, Department of Special Education	Special Education -Severe/Profound and Autism Program Requirements	Behavior Analysis Program Requirements
SPED 412: Individuals with Severe Disabilities/Autism	√	
SPED 501: Professional Development in Educational Technology	√	√
SPED 462: Assessment, Planning, Instruction—Severe Disabilities/Autism	√	
SPED 603: Principles of Behavior	√	√
SPED 632: Language/Communication Intervention—Communication Disorders/Autism	√	√
SPED 614: Assessment and Instruction—Severe Disabilities/Autism	√	√
SPED 618: Adaptations and Special Procedures— Severe Disabilities/Autism	√	
SPED 630: Positive Behavioral Support: —Severe Disabilities/Autism	√	√
SPED 635: Procedures for Children with S/A (pre-3) or SPED 652 Transition/Supported Employment	√	
SPED 671: Advanced Applied Behavior Analysis		√
SPED 673: Ethics & Professional Conduct		√
SPED 641h: Seminar on Single-Case Research in Special Education		√

Per the Hawaii Teacher Standards Board Code of Ethics (<https://hawaiiteacherstandardsboard.org/content/code-of-ethics/>), teachers are ethically obligated to accept and perform responsibilities and duties that correspond to their area of certification, licensure, and training as well as their professional skills, content knowledge, and competency. Therefore, should a teacher feel that they are not equipped to provide the level of quality ABA services they are tasked with in accordance with the proposed exemption modifications of this bill, they may decline to perform such services while they seek additional training and support in their area of deficit as part of their commitment to ongoing professional learning.

Efforts to build the Department's ABA capacity have resulted in the establishment of complex area behavior analyst positions. Licensed behavior analysts in these positions can provide special education teachers with the training and support needed to build their ABA expertise.

While the Department continues to build its internal capacity to provide ABA services to meet the licensure requirement under HRS, Chapter 465D, a large portion of the ABA services provided to our students must be contracted through a statewide contract. This comes at a very high cost to the Department. Given the dire fiscal situation the State of Hawaii is currently facing, it is imperative the Department have all options available to utilize our qualified and competent personnel.

At this time, the Department respectfully proposes the following amendments to SB 805:

Page 2, lines 8 - 14:

A licensed classroom teacher or an individual who is working as a classroom teacher and is enrolled in a teacher preparation program working toward 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, or a special education teacher licensed in severe/profound disabilities or autism on or before July 1 2019.

Page 3, lines 9 - 18:

Is a direct support worker who directly implements an applied behavior analysis program under the supervision of a licensed behavior analyst ~~or, a licensed psychologist on or before January 1, 2020,~~ or a special education teacher licensed in severe/profound disabilities or autism; provided that for the purpose of this paragraph, "direct support workers" means a paraprofessional who directly implements intervention or assessment plans under supervision and does not design intervention or assessment plans.

Page 5, lines 15 - 21 and Page 6, lines 1-4:

~~A licensed special education teacher or an individual who is working toward licensure as a special education teacher and who is enrolled in a state approved and nationally accredited special education teacher preparation program that includes training in behavior analysis assessment and interventions licensed in severe/profound disabilities or autism or their supervisee;~~ provided that the applied behavior analysis services performed are within the boundaries of the licensed special education teacher's ~~or individual working toward licensure as a special education teacher's~~ scope of education, training, and practice. For the purposes of this paragraph, "supervisee" means a special education teacher candidate currently pursuing licensure in a severe/profound disabilities or autism program.

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.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Education
Wednesday, February 3, 2021 at 3:00 p.m.

By
Nathan Murata
Dean, College of Education
University of Hawai'i at Mānoa

SB 805 – RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS

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

Thank you for the opportunity to provide testimony on SB 805, exempting special education teachers with training in Applied Behavior Analysis (ABA) from the Behavior Analyst Licensing Law.

The University of Hawai'i at Mānoa, College of Education supports SB 805 which exempts special education teachers with training in ABA from the Behavior Analyst Licensing law. A licensed special education teacher or an individual who is working toward licensure as a special education teacher and who is enrolled in a state—approved and nationally-accredited special education teacher preparation program that includes training in behavior analysis assessment and interventions; provided that the applied behavior analysis services performed are within the boundaries of the licensed special education teacher's or individual working toward licensure as a special education teacher's scope of education, training, and practice.

Thank you for allowing our testimony on SB805.

Testimony in Favor of SB 805, Relating to the Practice of Behavior Analysis
Submitted by Mary Jo Noonan, PhD, BCBA (noonan@hawaii.edu)
Professor and Chair, Department of Special Education, University of Hawai'i at Mānoa
February 3, 2021

Section 465D-7, Hawai'i Revised Statutes, indicates that the licensing of behavior analysts "is not intended to restrict the practice of other licensed or credentialed practitioners practicing within their own recognized scopes of practice and shall not apply to (1) An individual working within the scope of practice or duties of another licensed profession that overlaps with the practice of behavior analysis; provided that the person does not purport to be a behavior analyst." The statute, however, goes on to restrict the practice of licensed special education teachers—and concurrently accredited and state-approved special education teacher preparation programs in Hawaii—when it indicates who may and may not implement specific assessment and intervention practices.

Much of special education assessment and intervention procedures are applied behavior analysis procedures and are the foundation of teacher preparation programs in Hawaii and across the nation. This is especially true for the specialty areas of teaching students with severe/profound disabilities and autism. Prohibiting special educators from designing and implementing behavior analytic assessment and intervention practices infringes on their right to practice as licensed professionals and places the state of Hawaii at risk in meeting the federal requirements of providing free appropriate education for students with disabilities.

National personnel standards for special education teachers and teacher training programs include applied behavior analysis procedures, such as designing and conducting functional behavioral assessments and positive behavioral interventions. Accreditation for teacher preparation programs requires that standards of the profession be addressed through coursework and practicum. The current ABA licensure law (HRS 465D-2) technically prohibits special education teacher candidates from designing and implementing the applied behavior analysis standards included in the special education personnel preparation standards. Failing to address these standards will put national program accreditation at risk. Additionally, the standards are covered on the Praxis teacher licensure exams used by the State of Hawaii; thus, special education teacher candidates must be trained in applied behavior analysis procedures.

I have been preparing special education teachers to teach students with severe/profound disabilities and autism at the University of Hawaii since 1982. I know the teacher preparation curriculum thoroughly. I also helped design our behavior analyst training curriculum and have taught several of the required courses in this program. Often, students from each program are enrolled in the same course sections at the same time. The coursework and training competencies are not identical (the candidates are being prepared for two different roles), however, there is **substantial** overlap in the curriculum with extensive coursework, applied assignments, and fieldwork/student teaching covering behavior analytic procedures. The following table shows the overlap in the coursework for special education teacher candidates in the licensure area of severe/profound disabilities and autism and behavior analyst candidates:

Coursework at University of Hawaii at Manoa, Department of Special Education	Special Education - Severe/Profound and Autism Program Requirements	Behavior Analysis Program Requirements
SPED 412: Individuals with Severe Disabilities/Autism	✓	
SPED 501: Professional Development in Educational Technology	✓	✓
SPED 462: Assessment, Planning, Instruction—Severe Disabilities/Autism	✓	
SPED 603: Principles of Behavior	✓	✓
SPED 632: Language/Communication Intervention—Communication Disorders/Autism	✓	✓
SPED 614: Assessment and Instruction— Severe Disabilities/Autism	✓	✓
SPED 618: Adaptations and Special Procedures— Severe Disabilities/Autism	✓	
SPED 630: Positive Behavioral Support: — Severe Disabilities/Autism	✓	✓
SPED 635: Procedures for Children with S/A (pre-3) or SPED 652 Transition/Supported Employment	✓	
SPED 671: Advanced Applied Behavior Analysis		✓
SPED 673: Ethics & Professional Conduct/ NEA Ethics Modules (taken concurrently with Student Teaching)	✓	✓
SPED 641h: Seminar on Single-Case Research in Special Education		✓

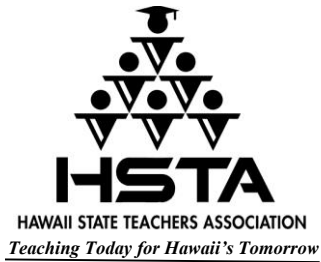
§Section 465D-7 lists professionals who are exempt from this licensing law, such as licensed psychologists with training in applied behavior analysis. Special education teachers and special education teacher candidates should also be exempt so that they may design and implement the special education practices that overlap with those of licensed behavior analysts. I fully support SB 805, with the following **modifications**:

§Section 465D-7 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 toward 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, or a special education teacher licensed in severe/profound disabilities or autism~~ on or behavior July 1 2019.”

and Exemption (10)

“~~A licensed special education teacher or an individual who is working toward licensure as a special education teacher and who is enrolled in a state—approved and nationally-accredited special education teacher preparation program that includes training in behavior analysis assessment and interventions~~ licensed in severe/profound disabilities or autism or their supervisee; provided that the applied behavior analysis services performed are within the boundaries of the licensed special education teacher's ~~or individual working toward licensure as a special education teacher's~~ scope of education, training, and practice. For the purposes of this paragraph, “supervisee” means a special education teacher candidate currently pursuing licensure in a severe/profound disabilities or autism program.”



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

TESTIMONY BEFORE THE SENATE COMMITTEE ON
EDUCATION

RE: SB 805 - RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS

WEDNESDAY, FEBRUARY 3, 2021

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Michelle Kidani, and Members of the Committee:

The Hawaii State Teachers Association **opposes SB 805**, relating to the practice of behavior analysis. We suggest amendments that would gain our support.

We oppose the language that has been added to this bill listed as number 10, on page 5, line 15- 21, page 6 line 1-4, that would exempt our Special Education teachers from the additional license needed to be able conduct Functional Behavior Analysis and to design/create and monitor Applied Behavior Analysis plans. Yes, some practices overlap, and this law does not change that, but it should not exempt special education teachers from this licensure law, and add something to their workload that they are not licensed to do. When our special education teachers use their skills, instructional practices, and methods, but yet, they still do not see progress in their student(s) learning, and they need help, they should be allowed to consult outside experts, as determined in an IEP meeting, to assist them. In this case, they should be able to ask for the services of a Licensed Behavior Analyst (LBA) or psychologist with the appropriate training and credentials for support, as they are licensed to analyze behaviors that are preventing a child from learning and create Applied Behavior Analysis (ABA) Plans to help children access their learning.

It is also important to note that **the Department of Education is able to collect Medicaid reimbursements for ABA services during the school day, which are allowable; however, teachers, not even SPED teachers, are NOT on that list for reimbursable services.** Medicaid list experts that are able to conduct FBAs, design/create and monitor ABA plans have a specialized license, and special education teachers are NOT listed. Yes, some of our teachers do have an additional license and are Board Certified Behavior Analysts (BCBAs) and they, of course, may conduct FBAs and design/create and monitor ABA plans, but the majority of teachers



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are not BCBA's. **Teachers often consult other experts to support their students through the IEP process, such as psychiatrists, speech therapists, occupational therapists, social workers etc., and they absolutely need to be able to. Thus, teachers through the IEP process, also need to be able to consult LBAs or psychologists, to request a Functional Behavior Analysis (FBA) completed by a someone who is licensed do to so, which will allow an IEP Team to decide what additional help or support is needed with a student.**

We agree, with just removing the dates in sections (HRS465D-7; 2), which would remove perceived restrictions imposed on classroom teachers from implementing ABA plans. Page 2, line 14, [~~on or before July 1, 2019~~] as well as Part B on page 3, lines 9-13.

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 a Licensed Behavior Analyst or a licensed psychologist 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 **oppose** this bill in its current form.



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 EDUCATION
Senator Michelle M. Kidani, Chair
Senator Donna Mercado Kim, Vice Chair

DATE: Wednesday, February 3, 2021
TIME: 3:00pm
PLACE: Conference Room 229 - videoconference

Testimony in Strong Support of SB805 with Amendment
RELATED TO THE PRACTICE OF BEHAVIOR ANALYSIS

The Hawai'i Psychological Association (HPA) strongly supports SB805 which will ensure that psychologists are able to perform behavior analysis. In the past, there were misinterpretations by the Department of Education that the behavior analyst licensing laws prohibited psychologists from doing behavior analysis.

The legislature has clarified that licensed psychologists are exempt from the law regarding the licensing of behavior analysts (HRS 465D); provided that the behavior analysis services performed are within the boundaries of the licensed psychologist's education, training, and competence. HRS 465D-7 clarifies that a licensed psychologist may supervise master's level practitioners and postdoctoral fellows who may in turn supervise direct support workers, paraprofessionals, caregivers, parents, and guardians in a manner and to the extent determined by the supervising psychologist. SB805 would further clarify that an individual registered as a behavior technician by the Behavior Analyst Certification Board (BACB) may work under a licensed behavior analyst or a licensed psychologist, which is consistent with HRS 465D-7 as well as revised BACB guidelines.

HPA would also like to note that in prior iterations of this bill (i.e. SB341 S.D.2 H.D.2 from the 2019-2020 biennium), HPA recognized that the education, training and experience of many licensed special education teachers qualify them to provide applied behavior analysis services for the students in their classrooms and strongly supports an amendment, as we had seen made to SB341 in 2020, allowing a licensed special education teacher to provide applied behavior analysis services within the boundaries of the licensed special education teacher's education, training competence. All qualified professionals should be part of Hawaii's workforce and will make it that much stronger.

HPA also respectfully proposes amending SB807 to include guidance for the Department of Education to seek necessary approvals to bill for services provided for Medicaid-eligible students diagnosed with autism by an array of qualified licensed behavioral professionals and their supervisees as is the practice in other jurisdictions (e.g., California).

We recommend the following paragraph be added as SECTION 2 (page 6, starting on line 5), as was also done in SB341 S.D.2 H.D.2:

SECTION 2. The Department of Education shall seek any approvals that may be necessary from the Centers for Medicare and Medicaid services to amend the Hawaii Medicaid state plan to provide reimbursement for necessary applied behavior analysis services provided to medicaid-eligible students diagnosed with autism, including services provided by licensed mental health professionals with specialized training in applied behavior analysis. These licensed mental health professionals may include licensed behavior analysts, licensed psychologists, licensed clinical social workers, advanced practice registered nurses with a specialization in psychiatry, licensed marriage and family therapists, licensed mental health counselors, and those they supervise.

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

Sincerely,

A handwritten signature in cursive script that reads "Alex Lichten, Ph.D.".

Alex Lichten, Ph.D.
Chair, HPA Legislative Action Committee

SB-805

Submitted on: 1/30/2021 1:26:30 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Amanda Kelly	Testifying for Together For Our Keiki	Comments	No

Comments:

Aloha Chair Kidani and Vice Chair Mercado Kim,

I am writing on behalf of [Together For Our Keiki](#), a non-profit, educational advocacy organization based in Hawai'i. We are writing today to **SUBMIT COMMENTS ON SB805**, which seeks to make changes to the behavior analyst licensure law.

We fully support teachers having the right to implement behavior analysis practices and to work collaboratively with behavior analysts and psychologists, who have ABA in their "education, training, and competence". We agree removing the date of July 1, 2019 will allow teachers the freedom to properly implement, but not design, applied behavior analysis services in a school setting.

We also fully support removing the extension for direct support workers who are not credentialed as Registered Behavior Technicians (Section 1, Exemption 4B) or working under licensed psychologists (Section 1, Exemption 1).

We strongly disagree with proposal that special education teachers or those pursuing certification should be carved out and considered equivalent to behavior analysts (Section 1, [proposed] Exemption 10). There are several reasons why this is not appropriate. We respectfully direct your attention to the testimony submitted by the Hawai'i State Teachers Association (HSTA) for further explanation. In addition to the points made by HSTA, services provided by teachers are not eligible for reimbursement by Medicaid or other health plans, unless the teacher also possesses licensure as a behavior analyst.

We appreciate the opportunity to testify on this measure and are available to answer any questions you may have.

Mahalo nui loa,

[Lara Bollinger](#), JD, BCBA, LBA

Vice President & Co-Founder

Together For Our Keiki

SB-805

Submitted on: 2/1/2021 1:57:10 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Amoy Hugh-Pennie	Individual	Support	No

Comments:

SENATE COMMITTEE ON [EDUCATION](#)

Room 229, State Capitol
415 South Beretania Street

Honolulu, HI 96813

Dear Chair Kidani, Vice Chair Mercado Kim, and members of the Committee:

Mahalo for the opportunity to testify on SB 805 relating to the practice of behavior analysis.

I am a Board Certified Behavior Analyst-Doctoral Designation, Hawai'i LBA, Instructor of a Verified Course Sequence to prepare BCaBAs and BCBAs. Additionally, I am a permanent New York State Certified Special Education Teacher and School Administrator. I have been practicing across both fields for 25 years. I have taught at the graduate level in both Special Education Teacher Licensing programs and ABA Certification Courses in the USA and internationally. I would like to offer comments on this bill that seeks substantive changes to the behavior analyst licensure law.

I fully support teacher implementation of ABA procedures through direct collaboration with a licensed behavior analyst or a licensed psychologist. Further, I support changes to remove non-credentialed direct support workers and continue to allow Registered Behavior Technicians that are credentialed through the BACB credentialing body as covered by Section 1 Exemption 2 and Section 1 Exemption 4 (A) and (B). These particular exemptions will allow for teachers to implement strategies but only under the direct supervision and creation of programs by a Qualified and Licensed Behavior Analyst (or) Qualified Psychologist that ensures that direct support workers have a minimum qualification and standard for ongoing support and supervision further protecting consumers.

Although I fully support teachers implementing behavior analysis practices in the educational setting since Behavior Analysis has been used to improve teaching and increase learning across content areas, grade levels, and student populations for over 60 years. The way it is currently applied in school settings in Hawai'i specifically targets behavior change procedures and does not necessarily focus on academic programming and instruction. For this reason, I strongly oppose any language that would carve out a full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 in this bill.

This would dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming, and require teachers who are already struggling to manage their workload and new teaching strategies & teaching platforms under COVID -19 for distance learning to take on additional tasks they do not have the expertise nor capacity for such as:

- Review of clinical records to determine prior learning history, limitations, barriers and changes in patterns over time
- Functional behavior assessment (multiple types and sources of data collection methods, procedures, graphing and graphic analysis of data to be collected in class during instruction)
- Full understanding of behavioral terminology, antecedent and consequent relationships, principles of reinforcement, punishment, extinction, and functional relationships
- Self-reflection on how classroom contingencies intentionally or unintentionally contribute to behaviors and how to change teacher behaviors to address them
- Ability to implement procedures, collect data, graph data, analyze and make systematic decisions based on a graphic analysis of the data
- Regular changes to programming, selection of appropriate tactics from over 200 possible strategies and tactics
- How and when to make changes to existing individual and group contingencies to fade procedures to more naturally occurring reinforcement and contingencies in the classroom.

This is not an exhaustive list of what teachers would need to know, what they would be responsible to do, or how to implement procedures in order to engage in such practices. A lack of ongoing oversight, supervision, and review of programming by a qualified and licensed Behavior Analyst will invariably lead to an increased risk of harm. For example, decisions made to target behaviors such as vocal stereotypy which may be functional for a child with Autism without the determination of how to systematically provide a great enough replacement communication repertoire may lead to increased behavioral concerns. Such individuals who are not fully credentialed special or general education teachers, or behavior analysts who are still in process with their educational programs can easily engage in practices that lead to harm and cause greater challenges by creating instructional histories for students that make it more difficult to remediate associated behaviors later. Inconsistencies in training that are unable to be verified will

lead to an unknown and uneven level of skill across teachers will also increase liability to the State.

Some examples of current concerns expressed by the Autism community regarding Applied Behavior Analysis can be linked to issues of cultural competence, social significance, and not making decisions from an Autistic or neurodivergent point of view. While many well-meaning early career ABA professionals are excited about their new roles they are only starting to learn of these ethical concerns. I fear that those who are not engaged in actual ABA programs will not have the resources, oversight, or supervision required to confront these ethical concerns or learn of the new ethical codes, be held accountable to the ethical code, its recent changes, or engage in further professional development for cultural competency through CEU training concerning these and other current issues in the field, and especially as they relate to behavior change programming. This will greatly increase the risk of harm to consumers.

The behavior analyst licensure law has continually focused on consumer protection in all sectors but has also focused specifically on the improvement of behavior analytic services in the educational setting. I respectfully request the committee remove the proposed Exemption 10 entirely.

Thank you for the opportunity to testify on this bill I will be available during the hearing for further questions.

Mahalo,

Dr. Amoy Hugh-Pennie, Ph.D., BCBA-D, LBA

SENATE COMMITTEE ON EDUCATION

Room 229, State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 3, 2021
3:00 pm

COMMENTS ON SB 805

Honorable Chair Kidani, Vice Chair Mercado Kim, and members of the Committee:

Thank you for the opportunity to submit testimony on SB 805 relating to the practice of behavior analysis.

My name is Kristen Koba-Burdt and I am a licensed behavior analyst living and practicing on Maui. Additionally, I serve as the Autism Speaks Volunteer Advocacy Ambassador for the state of Hawai'i.

I support the proposed changes to Exemption 2 and Exemption 4 (A) and (B). These changes provide clarifications in the law and support teachers to implement behavior analytic programming as part of a student's educational programming through direct collaboration with a licensed behavior analyst or a licensed psychologist.

I strongly oppose the proposed Exemption 10 that would carve out licensed special education teachers and those in coursework. The design and oversight of behavior analytic services require specific training, supervised experience, demonstrated competency, and ongoing continuing education to establish the expertise needed. These requirements are all satisfied by the standards set for licensed behavior analysts in the existing law, but there is no mechanism for this for special education teachers. An exemption for licensed special education teachers and those in coursework would dramatically decrease consumer protection and remove the specialized professional support our teachers need.

Over the years, there have been numerous hearings related to proposed carveouts for teachers (e.g., SB 1311 in 2016 and SB 2925 in 2018 to name a few). Throughout these prior hearings the testimony from families, teachers, and service providers have remained consistent—they need the support of licensed behavior analysts to meet the needs of our keiki. Due to COVID-19 our community is facing significant challenges in many facets and the needs of students and teachers have increased, not decreased, making it crucial the supports afforded by the current licensure law remain intact and teachers continue to receive the support they need to address the needs of some of our most vulnerable students. Providing services as currently permitted in the licensure law, through qualified licensed behavior analysts and licensed psychologists, allows Medicaid billing and the opportunity to pull down federal funds that the State is not currently accessing.

Mahalo,



Kristen Koba-Burdt, BCBA, LBA (BA-9)
Autism Speaks Volunteer Advocacy Ambassador

Testimony in Favor of SB 805, Relating to the Practice of Behavior Analysis

Submitted by Rumi Heine, MEd, BCBA, LBA

Instructor, Department of Special Education, University of Hawai'i at Mānoa

February 3, 2021

Aloha,

My name is Rumi Heine. I am an instructor in the Special Education Department at UH Mānoa. I have been an instructor at UH Mānoa for eight years preparing teacher candidates to teach students with mild, moderate, and severe disabilities. Prior to my instructor role, I have eight years of teaching experience in the State of Hawaii. I taught English Language Arts to middle school students with mild to moderate disabilities.

I am currently a doctoral student in education at UH Mānoa. I have taken the courses in our applied behavior analysis (ABA) program which is also the courses in our severe/autism post-baccalaureate program. I can testify that the courses and ABA practicum experience has taught me to design, implement, analyze, and evaluate instructional and behavioral programs to improve socially valid behaviors in students with severe disabilities and autism spectrum disorder (ASD).

I am in favor of SB 805 because I believe that the teacher candidates who go through UH Mānoa's rigorous ABA and Post-Baccalaureate in Special Education Severe/Autism program learn how to effectively develop and implement applied behavior analysis procedures for students with disabilities. I am confident that our graduates (myself included) of these programs have the training and competencies to do so in their own classrooms. Restricting our graduates (special education teachers in Hawaii) will undermine their extensive training thus restricting our students with severe disabilities and autism spectrum disorder to receive timely and appropriate instruction.

Sincerely,

Rumi Heine

Rumi Heine



SENATE COMMITTEE ON [EDUCATION](#)

Room 229, State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 3, 2021
3:00 pm

COMMENTS ON SB 805

Dear Chair Kidani, Vice Chair Mercado Kim, and members of the Committee:

Thank you for the opportunity to testify on SB 805 relating to the practice of behavior analysis.

As the current President for the Hawaii Association for Behavior Analysis I would like to make clear the organizations mission is to foster collaborative relationships in our community to help continue building capacity in our state to support individuals receiving behavior analytic services, and supporting individuals pursuing career paths in behavior analysis. Our field is rapidly growing, and we recognize the importance of bridging relationships with other stakeholders in our community to ensure the greatest outcomes for the individuals and families we serve. With these considerations in mind, I would like to offer the following comments on SB 805 as this measure seeks substantive changes to the behavior analyst licensure law.

HABA supports teachers implementing behavior analysis practices in the educational setting through direct collaboration with a licensed behavior analyst or a licensed psychologist. We want to reiterate that the purpose of the chapter is “not to restrict the practice of other licensed or credentialed professionals” and make clear our position is to acknowledge and collaborate with the expertise of our professional colleagues to benefit all individuals and families who are recipients of behavior analytic services. **We support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8-14).** This will allow teachers to implement, *but not design*, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. This amendment was discussed during prior legislative sessions and we continue to support implementation by teachers as part of a student’s educational program.

Additionally, **HABA supports the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18).** The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board’s standards. The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum-level of competency and oversight.

HABA strongly opposes any language that would carve out full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill. Although we recognize some programs exist

that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, we still have concerns that coursework alone does not provide a metric to show competency. This carve out would dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming, and require our teachers who are already struggling to manage their workload take on additional tasks they do not have the capacity for.

There is no universal established standard for behavior analytic coursework within special education teacher preparation programs across universities, and more importantly, there is no requirement for measurement of competency in this area. In contrast, licensed behavior analysts are required to complete coursework that has set standards for content and hours across all universities, complete supervised experience hours, and demonstrate competency through a rigorous certification exam. Students pursuing behavior analyst certification must complete 2000 experience hours supervised by a licensed behavior analyst, of which 1200 hours must be specifically focused on activities related to designing and overseeing behavior analytic programming (e.g., conducting assessments, writing behavior intervention plans, monitoring intervention integrity) ([BACB, 2020a](#)). It is worth noting that, even after satisfying these requirements, one must sit for a formal exam which in 2020 had a 66% pass rate for first time test takers ([BACB, 2020b](#)). Please see the table below comparing general standards between licensed special education teachers and licensed behavior analysts.

Standard	Licensed Special Education Teachers	Licensed Behavior Analysts (LBA)
Specific required content areas established for behavior analysis coursework offered by universities	No set standard for universities	Requirements established by the Behavior Analyst Certification Board (BACB). All universities offering qualifying coursework must provide a verified coursework series (VCS) ensuring consistency in content and hours.
Supervised experience in behavior analysis	No set requirements	Requirements established by the BACB. 5th ed. Task List sets standards for content of supervision and requires that trainees complete 2000 hours supervised by an LBA.
Measurement of competency in behavior analysis	No set requirements	All LBA applicants must have passed a rigorous formal exam with set content by the BACB.
Ongoing required continuing education in behavior analysis	None	All LBAs must complete 32 continuing education units every two year recertification cycle. Content is required to be specific to the science and practice of behavior analysis.

Since 2015 the behavior analyst licensure law has continually focused on consumer protection in all sectors, but has also focused specifically on improvement of behavior analytic services in the educational setting. We recognize the tremendous impact effective, interdisciplinary collaboration can offer and in no way want to disregard the expertise of our professional colleagues. We simply want to provide high quality services to all individuals who deserve an inclusive and collaborative approach to maximize progress and increase their quality of life. **For these reasons, we respectfully request the committee remove the proposed Exemption 10 entirely.**

Thank you very much for the opportunity to testify on this bill and for your continued support of our field and vulnerable individuals.

Warmest regards,

A handwritten signature in black ink, appearing to read 'Roxanne M. Bristol', written in a cursive style.

Roxanne M. Bristol
HABA President

References

Behavior Analyst Certification Board (BACB) (2020a). BCBA 2022 eligibility requirements.
https://www.bacb.com/wp-content/uploads/2020/11/BCBA-2022EligibilityRequirements_201119-2.pdf

Behavior Analyst Certification Board (BACB) (2020b). BACB annual data report.
<https://www.bacb.com/bacb-certificant-annual-report-data/>



SENATE COMMITTEE ON [EDUCATION](#)

Room 229, State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 3, 2021
3:00 pm

COMMENTS ON SB 805

Dear Chair Kidani, Vice Chair Mercado Kim, and members of the Committee:

Mahalo for the opportunity to testify on SB 805 relating to the practice of behavior analysis.

I would like to offer comments on SB 805 as this measure seeks substantive changes to the behavior analyst licensure law.

This bill is important to me because I am a behavior analyst, parent of a child with autism, and a community stakeholder who is passionate about ensuring that the right to effective treatment for some of our most vulnerable keiki remains protected. I have worked in the field of education, mental health and behavior analysis for over a decade. Over the years I have seen first hand how high quality applied behavior analysis services delivered by licensed and appropriately trained professionals have helped change the quality of life for hundreds of individuals and their families, including my own.

In addition, I have unfortunately seen how these same services delivered by inappropriately trained, unlicensed professionals can lead to harm. The exemptions in this measure are of considerable concern to me because they water down the original intent of the behavior analysis licensure law chapter 465D, which ensures consumer protection of our keiki and allows them access to applied behavior analysis services from **only** highly qualified licensed professionals.

- As a concerned parent and licensed behavior analyst, I support teachers implementing behavior analysis practices in the educational setting through direct collaboration with a licensed behavior analyst or a licensed psychologist. I want to reiterate that the purpose of the chapter is “not to restrict the practice of other licensed or credentialed professionals” and make clear my position is to acknowledge and collaborate with the expertise of my professional colleagues to benefit all individuals and families who are recipients of behavior analytic services. **I support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8-14).** This will allow teachers to implement, *but not design*, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. This amendment was discussed during prior legislative sessions and I continue to support implementation by teachers as part of a student’s educational program.
- Additionally, **I support the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18).** The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board’s standards.

The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum-level of competency and oversight.

- I strongly oppose any language that would carve out full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill.** Although I recognize some programs do exist that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, I still have grave concerns that coursework alone does not provide a metric to show competency. This carve out would dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming, and require our teachers who are already struggling to manage their workload take on additional tasks they do not have the capacity for.
- There is no universal established standard for behavior analytic coursework within special education teacher preparation programs across universities, and more importantly, there is no requirement for measurement of competency in this area. In contrast, licensed behavior analysts are required to complete coursework that has set standards for content and hours across all universities, complete supervised experience hours, and demonstrate competency through a rigorous certification exam. Students pursuing behavior analyst certification must complete 2000 experience hours supervised by a licensed behavior analyst, of which 1200 hours must be specifically focused on activities related to designing and overseeing behavior analytic programming (e.g., conducting assessments, writing behavior intervention plans, monitoring intervention integrity) ([BACB, 2020a](#)). It is worth noting that, even after satisfying these requirements, one must sit for a formal exam which in 2020 had a 66% pass rate for first time test takers ([BACB, 2020b](#)). Please see the table below comparing general standards between licensed special education teachers and licensed behavior analysts.

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Measurement of competency in behavior analysis	No set requirements	All LBA applicants must have passed a rigorous formal exam with set content by the BACB.
Ongoing required continuing education in behavior analysis	None	All LBAs must complete 32 continuing education units every two year recertification cycle. Content is required to be specific to the science and practice of behavior analysis.

Since 2015 the behavior analyst licensure law has continually focused on consumer protection in all sectors, but has also focused specifically on improvement of behavior analytic services in the educational setting. I recognize the tremendous impact effective interdisciplinary collaboration can offer and in no way want to disregard the expertise of my professional colleagues. I simply want to provide high quality services to all individuals who deserve an inclusive and collaborative approach to maximize progress and increase their quality of life. **For these reasons, I respectfully request the committee remove the proposed Exemption 10 entirely.**

Thank you very much for the opportunity to testify on this bill and for your continued support of our most vulnerable keiki.

Mahalo,

Debbi Krekel MSCP, BCBA, LBA
Hawai'i Association for Behavior Analysis
HABA Board Member and Legislative Chair

References

Behavior Analyst Certification Board (BACB) (2020a). BCBA 2022 eligibility requirements. https://www.bacb.com/wp-content/uploads/2020/11/BCBA-2022EligibilityRequirements_201119-2.pdf

Behavior Analyst Certification Board (BACB) (2020b). BACB annual data report. <https://www.bacb.com/bacb-certificant-annual-report-data/>



SENATE COMMITTEE ON [EDUCATION](#)

Room 229, State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 3, 2021
3:00 pm

COMMENTS ON SB 805

Dear Chair Kidani, Vice Chair Mercado Kim, and members of the Committee:

Mahalo for the opportunity to testify on SB 805 relating to the practice of behavior analysis.

I would like to offer comments on SB 805 as this measure seeks substantive changes to the behavior analyst licensure law.

HABA supports teachers implementing behavior analysis practices in the educational setting through direct collaboration with a licensed behavior analyst or a licensed psychologist. We want to reiterate that the purpose of the chapter is “not to restrict the practice of other licensed or credentialed professionals” and make clear our position is to acknowledge and collaborate with the expertise of our professional colleagues to benefit all individuals and families who are recipients of behavior analytic services. **We support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8-14).** This will allow teachers to implement, *but not design*, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. This amendment was discussed during prior legislative sessions and we continue to support implementation by teachers as part of a student’s educational program.

Additionally, **HABA supports the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18).** The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board’s standards. The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum-level of competency and oversight.

HABA strongly opposes any language that would carve out full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill. Although we recognize some programs do exist that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, we still have concerns that coursework alone does not provide a metric to show competency. This carve out would dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming, and require our teachers who are already struggling to manage their workload take on additional tasks they do not have the capacity for.

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Since 2015 the behavior analyst licensure law has continually focused on consumer protection in all sectors, but has also focused specifically on improvement of behavior analytic services in the educational setting. We recognize the tremendous impact effective interdisciplinary collaboration can offer and in no way want to disregard the expertise of our professional colleagues. We simply want to provide high

quality services to all individuals who deserve an inclusive and collaborative approach to maximize progress and increase their quality of life. **For these reasons, we respectfully request the committee remove the proposed Exemption 10 entirely.**

Thank you very much for the opportunity to testify on this bill and for your continued support of our most vulnerable keiki.

Mahalo,

Ashley Hogan
Vice-President, Hawai'i Association for Behavior Analysis

References

Behavior Analyst Certification Board (BACB) (2020a). BCBA 2022 eligibility requirements.
https://www.bacb.com/wp-content/uploads/2020/11/BCBA-2022EligibilityRequirements_201119-2.pdf

Behavior Analyst Certification Board (BACB) (2020b). BACB annual data report.
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S E A C
Special Education Advisory Council
1010 Richards Street Honolulu, HI 96813
Phone: 586-8126 Fax: 586-8129
email: spin@doh.hawaii.gov
February 3, 2021

**Special Education
Advisory Council**

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

Ms. Andrea Alexander
Ms. Brendelyn Ancheta
Ms. Virginia Beringer
Ms. Mary Brogan
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Ms. Carrie Pisciotto
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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 Michelle N. Kidani
Committee on Education
State Capitol
Honolulu, HI 96813

RE: SB 805 - RELATING TO THE PRACTICE OF BEHAVIOR
ANALYSIS

Dear Chair Kidani and Members of the Committee,

The Special Education Advisory Council (SEAC), Hawaii's State Advisory Panel under the Individuals with Disabilities Education Act (IDEA), **strongly supports** SB 805 which makes a permanent exemption from the behavior analyst licensing requirements for classroom teachers who implement applied behavior analysis services in a school setting in direct collaboration with or under the supervision of licensed professionals. This legislation also creates an exemption for licensed special education teachers and individuals in approved and accredited special education training programs that are working toward licensure as special education teachers whose scope of practice and training includes applied behavior analysis.

While the original licensing law, 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. Special education teachers and special education teacher candidates should also be exempt so that they may design and implement the special education practices that overlap with those of licensed behavior analysts.

SEAC acknowledges that while all special education teachers receive training in the delivery of a multi-tiered approach to teaching, including basic behavioral interventions to support learning, not every teacher has the required skillset to deliver ABA services to a subset of students with complex behavioral and communication needs. At the same time, teachers who have gone through a severe/profound disabilities and



autism teacher licensure program, like that offered by the UH College of Education, are capable of and within the scope of their practice in conducting functional behavioral assessments (FBA) and behavior intervention plans without the need for additional licensure. These professionals are required to demonstrate competency in conducting an FBA and designing and implementing a behavioral plan for a student prior to receiving their license.

SEAC proposes the following additional amendment to Exemption (a)(10) to ensure that those special education teachers and teacher candidates who perform FBAs are well within their scope of education, training and practice:

Exemption (a)(10)

~~“A licensed special education teacher or an individual who is working toward licensure as a special education teacher and who is enrolled in a state-approved and nationally-accredited special education teacher preparation program that includes training in behavior analysis- assessment and interventions~~ licensed in severe/profound disabilities or autism or their supervisee; provided that the applied behavior analysis services performed are within the boundaries of the licensed special education teacher’s ~~or individual working toward licensure as a special education teacher’s~~ scope of education, training, and practice. For the purposes of this paragraph, “supervisee” means a special education teacher candidate currently pursuing licensure in a severe/profound disabilities or autism program.”

SEAC also proposes an additional change to Exemption (a)(2) to acknowledge the appropriateness of having a teacher identified in Exemption (a)(10) supervise other teachers working with a student with complex behavioral needs in implementing applied behavior analysis in the classroom:


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 toward 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, or a special education teacher licensed in severe/profound disabilities or autism on or before July 1 2019.”~~

SEAC believes these changes to the current ABA licensure law will help to ensure timely and appropriate services to those students in need of behavioral interventions to benefit from their education. We appreciate this opportunity to provide our recommendations and are available to your Committee to answer any questions or concerns you may have.

Respectfully,


Martha Guinan
Chair


Ivalee Sinclair
Legislative Committee Chair

SB-805

Submitted on: 2/1/2021 8:25:41 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

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

Comments:

We have some concerns about the proposed exemption for special education teachers or those who are working towards licensure. While we applaud their efforts to learn more about applied behavior analysis, unless and until they are properly licensed as behavior analysts, it does not seem appropriate to exempt them from the licensing requirements aimed at ensuring consumer protection.

SB-805

Submitted on: 2/2/2021 10:53:44 AM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Wiech	Testifying for ABC Group Hawaii (Autism Behavior Consulting Group, Inc)	Oppose	No

Comments:

Dear Chair Kidani, Vice Chair Kim, and members of the Committee:
I would like to offer comments on SB 805 relating to Behavior Analysts.

I am a doctoral level behavior analyst, and have worked in Hawaii for 21 years. I have been a State of Hawaii licensed special educator since 1995, as well as a Board Certified Behavior Analyst since 2004.

- I support removing the date of "July 1, 2019" from Section 1 Exemption 2 (page 2, lines 8-14). This will allow teachers to implement, but not design, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. This amendment was discussed during prior legislative sessions and we continue to support implementation by teachers as part of a student's educational program.

- I support the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18). The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board's standards. The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum-level of competency and oversight.

- I oppose any language that would carve out full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill. Although we recognize some special education teacher preparation programs do exist that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, we still have concerns that coursework alone does not provide a metric or standard to show competency. The standard of minimal standard of competency in these domains is the Board Certification of Behavior Analysis and Behavior Analysts possess the requisite knowledge, skills and abilities as evidenced by their credential. **This proposed carve out of the law would**

dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming, and require our teachers who are already struggling to manage their workload take on additional tasks they do not have the capacity nor competency for.

- The rigor of training, supervision and formal exam required by the BACB for BCBA certification far exceeds what teachers obtain in preservice coursework. **An analogy would be the State of Hawaii allowing those who learn about foot surgery in college to operate on your broken foot. Or allowing someone who learned about heart surgery in their coursework at UH to operate and perform a triple bypass surgery.**

- BCBA's are required to obtain 36 CEUs in 3 years, including ethics and supervision. This requirement allows BCBA's to remain up to date with best practices in the Science of Behavior.

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

Dr. Amy Smith Wiech, PhD, BCBA-D, LBA (BACB # 1-04-1581)

Dear Chair Kidani, Vice Chair Kim, and members of the Committee:

I would like to offer comments on SB 805 relating to Behavior Analysts.

I am a licensed behavior analyst who has actively worked with children with special needs for the last 10 years. In that time, I have worked in various settings including special education classrooms here in Hawaii. While I feel the teachers I have worked alongside with have always had the best intentions, I am highly aware of the fact that the training they receive in the areas proposed are typically inefficient. Applied Behavior Analysis based treatment is not a one size fits all treatment by any means. To be effective, programming decisions need to be highly individualized as each child's needs can be drastically different from the next. Failure to do so, could result in serious harm to their students. Additionally, the person responsible for designing and implementing such interventions needs to continually monitor and assess the treatment for success. As a behavior analyst myself, I could not imagine the stress and demand of having to manage a classroom of children in addition to my current responsibilities. The teachers and students of Hawaii deserve the support of behavior analysts so that we can fully deliver the best special education possible.

- **I support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8-14).** This will allow teachers to implement, *but not design*, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. This amendment was discussed during prior legislative sessions and we continue to support implementation by teachers as part of a student's educational program.
- **I support the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18).** The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board's standards. The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum-level of competency and oversight.
- **I oppose any language that would carve out full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill.** Although we recognize some programs do exist that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, we still have concerns that coursework alone does not provide a metric to show competency. This carve out would dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming and require our teachers who are already struggling to manage their workload take on additional tasks they do not have the capacity for.

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

Cheryl Tse

SB-805

Submitted on: 2/2/2021 9:29:34 AM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
BOD	Testifying for Horizons Academy	Comments	No

Comments:

Dear Chair Kidani, Vice Chair Mercado Kim, and members of the Committee:

On behalf of Horizons Academy, I would like to offer comments on SB 805 relating to Behavior Analysts.

We are a non-profit organization who provides care to students and participants on the island of Maui. We would like to provide the comments in support:

- We support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8-14). This will allow teachers to implement, *but not design*, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. This amendment was discussed during prior legislative sessions and we continue to support implementation by teachers as part of a student’s educational program.**
- We support the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18). The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board’s standards. The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum-level of competency and oversight.**
- We however, oppose any language that would carve out full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill. We recognize some programs do exist that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, we still have concerns that coursework alone does not provide a metric to show competency. This carve out would dramatically decrease the consumer protection afforded by the current law, place**

children at risk of receiving substandard behavior analytic programming, and require our teachers who are already struggling to manage their workload take on additional tasks they do not have the capacity for.

- Discuss the rigor of training, supervision and formal exam required by the BACB for BCBA certification.**
- Discuss the continuing education requirements for maintaining certification to ensure that BCBAs stay up to date with best practices**

Mahalo nui for the opportunity to provide comments on this measure.

On behalf of Horizons Academy

-

**Strickland
President**

Shanda

Vice

SB-805

Submitted on: 1/31/2021 10:52:25 AM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dallas Star	Individual	Comments	No

Comments:

Oppose Exemption 10, in favor of exemptions 2 and 4.

Exemption 10 does not set an appropriate standard for replacing Board Certified Behavior Analysts with Licensed Special Education Teachers.

Exemption 2 clarifies that Licensed teachers may **implement but does not design** applied behavior analysis services in a school setting **in direct collaboration with a licensed behavior analyst or a licensed psychologist.**

Exemption 4 clarifies the role of a Registered Behavior Technician, which would be in line with what a Licensed Special Education Teachers training and education training and education in behavior analysis would be more equivalent to. Allowing them to impliment behavior analysis under the supervision of a licensed behavior analyst or licensed psychologist.

There is no standard for what constitutes "within scope of training, education and practice" in exemption 10. If Behavior analysis was within scope of their education and training enough that it met the standard of being able to practice independently, they should then apply for a license as a Licensed Behavior Analyst.

This exemption does not increase access to applied behavior analysis, it dilutes a the standard of professional requirements and puts our most vulnerable consituants at risk.

SB-805

Submitted on: 2/1/2021 9:25:43 AM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeffrey Krepps	Individual	Comments	No

Comments:

SB 805 RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS.

Aloha Education Committee Chair, Vice-Chair, and Committee,

I would like to submit comments on SB 805. I would strongly oppose exemption 10—this would fully carve out special education teachers, and those in coursework to become licensed special education teachers allowing them to complete FBAs, write BIPs, etc. with no measure of competency, no standardization of their coursework, etc. Applied Behavior Analysis (ABA) emerges from the fields of psychology and education. It is a specialty inter-discipline. For exemplary purposes, underwater welding requires knowledge of scuba and welding. We wouldn't want to give the job to people that couldn't swim or a journeyman carpenter that didn't know how to weld. Certain skills are interdisciplinary and require a more extensive breadth of knowledge.

In addition, I support wording changes to exemptions 2 and 4 which remove end dates from older language to clarify teachers can implement but not design ABA and direct support workers must be RBTs. Once again this protects the specialized field of ABA.

Mahalo,

Jeffrey Krepps

Kailua-Kona, HI

SB-805

Submitted on: 2/1/2021 2:19:03 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stacey Kuhn	Individual	Comments	No

Comments:

I would like to offer comments on SB805. I am a licesned Behavior Analyst in the state of Hawaii, and it is imperative that ongoing regulation of this service continue in the state. I submit the following statements. Thank you for your time.

- I Oppose Exemption 10— this would allow individuals to complete FBAs, write BIPs, etc. with no measure of competency in place.
- I Support the wording changes to exemptions 2 and 4.

SB-805

Submitted on: 2/1/2021 12:36:37 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

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

Comments:

Aloha Chair Kidani & vice-Chair Mercado-Kim. We are writing to submit our comments on SB805 which looks to change the requirements of the current law, 465-D regarding implementation of Applied Behavior Analysis in our public schools.

We support teachers being able to implement Applied Behavior Analysis to their students and working in collaboration with Licensed Behavior Analysts and Psychologists (who have ABA within the scope of their education, training and competence). Teachers implementing ABA should be fully licensed and credentialed teachers. However, they should not be allowed to design or oversee ABA in the school setting. We strongly disagree that teachers (who hold a bachelors degree, masters degree or doctorate) should be considered equivalent to LBA's as is implied in Section 1, Exemption 10, as they are not eligible for reimbursement of Medicaid or other insurances, unless they are a licensed behavior analyst.

Licensed Behavior Analysts must earn a minimum of a masters degree in a related field, while many teachers hold a bachelors degree. LBA's must also complete and pass a rigorous course in Behavior Analysis and pass the Behavior Analysis exam, along with completing many hours of supervision.

We thank you for the opportunity to share our comments regarding this bill.

Sincerely,

Mr. and Mrs. John McComas

SB-805

Submitted on: 2/1/2021 8:21:04 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Burdt	Individual	Comments	No

Comments:

Dear Chair Kidani, Vice Chair Mercado Kim, and members of the Committee:

Thank you for your prior support over the years for the regulation of behavior analysis and ensuring students have access to much needed services from licensed behavior analysts.

I support the bill language for Exemptions 2 and 4 (A) and (B); however, **I strongly oppose a full exemption for special education teachers as proposed in Exemption 10.** As a professional with a graduate degree in exceptional student education with an emphasis in applied behavior analysis (ABA), I can attest that although I completed the coursework, without additional supervised experience and training I would feel woefully unprepared to design behavior analytic programming in the classroom. It is atypical for a teacher to have this level of coursework specifically in behavior analysis, and while I am fortunate to have this experience, I can also recognize the limits of my knowledge and when support from other professionals with specific expertise is needed. I am not a licensed behavior analyst and can competently say there are students with needs in our schools outside of my scope who need the support of a licensed behavior analyst.

I respectfully ask the Education Committee to once again protect students and support teachers by removing Exemption 10 entirely.

Thank you,

Brian Burdt, M.A.

Maui

SB-805

Submitted on: 2/1/2021 10:24:43 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Roth, PhD, BCBA-D, LBA	Individual	Comments	No

Comments:

Dear Chair Kidani, Vice Chair Kim, and members of the Committee:

I would like to offer comments on SB 805 relating to Behavior Analysts.

I am a Board Certified Behavior Analyst that has been providing Applied Behavior Analysis (ABA) services to individuals and their families “from birth to earth” (all ages and abilities) but primarily those diagnosed with Autism Spectrum Disorder (ASD) for over 30 years.

I am writing today support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8-14) and support the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18). As noted by the Hawai'i Association for Behavior Analysis (HABA) “The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board’s standards. The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum-level of competency and oversight.”

I am also writing to say that I oppose any language that would carve out full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill. Again, as HABA has pointed out, “we recognize some programs do exist that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, we still have concerns that coursework alone does not provide a metric to show competency. This carve out would

dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming, and require our teachers who are already struggling to manage their workload take on additional tasks they do not have the capacity for.”

I have a Masters in Special Education and for a time thought I was going to be a Special Education teacher. Although I attended a nationally recognized program for teaching Special Educators to utilize the science of ABA, the rigor of training, supervision and formal exam required by the BACB for BCBA certification far exceeds what I was exposed to and required to complete for my degree. Not to mention the continuing education requirements for maintaining certification to ensure that BCBAs stay up to date with best practices, especially in the field of the ethical practice(s) in applying the principles and procedures of ABA.

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

Bill Roth, PhD, BCBA-D, LBA

SB-805

Submitted on: 2/1/2021 11:12:01 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tahnee Gatewood	Individual	Oppose	No

Comments:

Dear Chair Kidani, Vice Chair Kim, and members of the Committee:

I would like to offer comments on SB 805 relating to Behavior Analysts.

My name is Tahnee Gatewood. I am a certified Registered Behavior Technician, an inspiring Board Certified Behavioral Analyst, a future SPED educator, and a current college student earning a degree in SPED Education.

I restarted college in the Fall of 2019 after 2 years of working one-on-one with children with Autism and other disabilities. It was never my intention to become an RBT until I had my daughter Aaliyah-Rose. Working in the Applied Behavioral Analysis field for 4 years I found my passion and calling to support and advocate for the individuals who have disabilities. As a parent, I empathize with parents of those who have one or more diagnoses and do not have access to highly-qualified care. Their children matter as much as our own children and deserve to learn in an enriching environment with a qualified educator. As an Education major, I plan to go above and beyond to become one of these outstanding educators.

In part, my support of this bill would allow me to become an okay teacher and maybe even save me money from continuing my education. On the other side, I oppose this bill because I think that teachers **MUST be qualified to teach. Why would I need to attend school if I could just get the job now? I would not want to waste my time I could be spending with my family after I come home from a full day's work and money I could be saving to get out of low-income housing and off of welfare.**

My morale when I began working with special needs children is; I need to learn this (ABA) right, how can I teach it if I don't know it well?. I would not have trusted the anesthesiologist who injected potentially lethal anesthesia for c-section delivery if he/she did not get sufficient training in their field. Why would a hospital hire someone like that? Education is similar. For the best outcomes, we need to have the best professionals to do so.

Below are a few points I support and oppose:

- I support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8-

14). This will allow teachers to implement, but not design, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. This amendment was discussed during prior legislative sessions and HABA, and I will support the implementation by teachers as part of a student’s educational program.

- I support the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18).

The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board’s standards. The changes to 4(B) to fully remove non-credentialed direct support workers ensure increased consumer protection by establishing a minimum level of competency and oversight.

- I oppose any language that would carve out a full exemption for licensed special education

teachers or those working toward licensure as a special education teacher, as proposed in

Exemption 10 (page 5, line 15 – page 6, line 4) in this bill.

Although I recognize some programs do exist that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, we still have concerns that coursework alone does not provide a metric to show competency.

This carve-out would dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming, and require our teachers who are already struggling to manage their workload to take on additional tasks they do not have the capacity for.

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

Tahnee Gatewood

SB-805

Submitted on: 2/2/2021 12:36:35 AM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Ho'ohuli	Individual	Comments	No

Comments:

Aloha e Chair Kidani, Vice Chair Mercardo Kim and Members of the Committee,

I am a Registered Behavior Technician (RBT) and student of behavior analysis, living on the island of Maui and I am writing today to offer comments on SB805, which seeks to make substantive changes to the behavior analyst licensure law.

I support teachers in educational settings implementing behavior analysis practices while collaboratively working with licensed behavior analysts or licensed and qualified psychologists. I fully support removing the date of July 1, 2019 (Section 1 Exemption 2) as it will allow teachers to implement, but not design, behavior analytic programming.

I fully support removing the extension for non-credentialed direct support workers (Section 1, Exemption 4B). This will clarify that licensed psychologists and licensed behavior analysts are able to supervise and provide oversight to Registered Behavior Technicians (Section 1, Exemption 4A).

I strongly oppose the carve-out language which proposes full exemption from behavior analyst licensure for licensed special education teachers or those working toward licensure as a special education teacher (Section 1, Exemption 10). There are a number of reasons why I am in opposition. Of utmost importance is the safety and care of our most vulnerable population, the keiki and individuals who are receiving applied behavior analytic services. The proposed carve out would eliminate the current consumer protection that is afforded by law and upheld by the standards of the Behavior Analyst Certification Board, the credential-issuing body for behavior analysts, and registered behavior technicians. This not only leaves our keiki at risk for receiving substandard behavior analytic programming, but it further compounds the workload of our teachers by requiring them to take on tasks they do not have the capacity for.

I appreciate this opportunity to testify.

Mahalo,

Deborah Ho'ohuli

SB-805

Submitted on: 2/2/2021 8:52:46 AM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Celeste Nishijima	Individual	Oppose	No

Comments:

Dear Chair Kidani, Vice Chair Kim, and members of the Committee:

I am a behavior analyst. I have worked in the field of applied behavior analysis for the past six and a half years, working in the direct implementation of ABA under the close supervision of Board Certified Behavior Analysts for many years until I became a Board Certified Behavior Analyst. I strongly oppose SB 805.

- The Behavior Analysis Certification Board holds high standards for behavior analysts and registered behavior technicians. In order to become a Board Certified Behavior Analyst, one must obtain a Master's Degree, complete many hours of supervised fieldwork in the field of applied behavior analysis, and pass an exam. In addition, Board Certified Behavior Analysts are required to complete ongoing continuing education for their entire career, in order to stay up-to-date on research and evidence-based best practice. Finally, Board Certified Behavior Analysts are upheld to a strict ethics code, to ensure the best practices and outcomes for our clients. If teachers with some coursework are allowed to implement ABA without being overseen by a behavior analyst, students will be at-risk for poor services. Our students don't have any time to waste, and deserve high-quality evidence-based best practices by a licensed behavior analyst.**

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

Celeste Nishijima

SB-805

Submitted on: 2/2/2021 9:10:10 AM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shanda Strickland	Individual	Comments	No

Comments:

Dear Chair Kidani, Vice Chair Mercado Kim, and members of the Committee:

I would like to offer comments on SB 805 relating to Behavior Analysts.

As a behavior analyst:

I support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8-14). This will allow teachers to implement, *but not design*, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. This amendment was discussed during prior legislative sessions and I continue to support implementation by teachers as part of a student’s educational program.

I also support the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18). The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board’s standards.

The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum-level of competency and oversight.

That said - I oppose any language that would carve out *full exemption for licensed special education teachers or those working toward licensure as a special education teacher*, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill. I have concerns as coursework alone *does not provide* a metric to show competency. This carve out would dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming, and require our teachers who are already struggling to manage their workload take on additional tasks they do not have the capacity for.

- **Discuss the rigor of training, supervision and formal exam required by the BACB for BCBA certification.**
 - **Discuss the continuing education requirements for maintaining certification to ensure that BCBA's stay up to date with best practices.**
 - **Thank you for the opportunity to provide comments on this measure.**
- Shanda**

SB-805

Submitted on: 1/31/2021 11:09:42 AM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Josliene Miller	Individual	Comments	No

Comments:

- - Oppose Exemption 10—this would fully carve out special education teachers, and those in coursework to become licensed special education teachers allowing them to complete FBAs, write BIPs, etc. with no measure of competency, no standardization of their coursework, etc.
 - Support wording changes to exemptions 2 and 4 which remove end dates from older language to clarify teachers can implement but not design ABA and direct support workers must be RBTs

SB-805

Submitted on: 1/31/2021 2:23:15 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrew Torres	Individual	Comments	No

Comments:

- Oppose Exemption 10— I oppose exemption 10 of this bill, as this would allow individuals who have no training or do not have to meet standardized competencies to be able to practice Applied Behavior Analysis. Essentially, one would be able to practice a medical necessitated therapeutic intervention without all of the pre-requisite competencies and training.
- I support wording changes to exemptions 2 and 4 which remove end dates from older language to clarify teachers can implement but not design ABA and direct support workers must be RBTs

SB-805

Submitted on: 1/31/2021 5:37:13 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Erin Walters	Individual	Oppose	No

Comments:

- Oppose Exemption 10
- Support wording changes to exemptions 2 and 4 which remove end dates from older language to clarify teachers can implement but not design ABA and direct support workers must be RBTs

SB-805

Submitted on: 1/31/2021 7:51:33 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel Miller	Individual	Comments	No

Comments:

- Oppose Exemption 10—this would fully carve out special education teachers, and those in coursework to become licensed special education teachers allowing them to complete FBAs, write BIPs, etc. with no measure of competency, no standardization of their coursework, etc.
- Support wording changes to exemptions 2 and 4 which remove end dates from older language to clarify teachers can implement but not design ABA and direct support workers must be RBTs

SB-805

Submitted on: 2/1/2021 6:47:48 AM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Eliza Lipp	Individual	Comments	No

Comments:

- Oppose Exemption 10—this would fully carve out special education teachers, and those in coursework to become licensed special education teachers allowing them to complete FBAs, write BIPs, etc. with no measure of competency, no standardization of their coursework, etc.
- Support wording changes to exemptions 2 and 4 which remove end dates from older language to clarify teachers can implement but not design ABA and direct support workers must be RBTs

SB-805

Submitted on: 2/1/2021 10:44:09 AM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Leslie Allison Schurtz	Individual	Comments	No

Comments:

I oppose Exemption 10 and support wording changes to Exemptions 2 and 4

Dear Chair Kidani, Vice Chair Kim, and members of the Committee:

I would like to offer comments on SB 805 relating to Behavior Analysts.

I am a behavior analyst who works directly with children with Autism Spectrum Disorder (ASD). I have been working in the field of Applied Behavior Analysis since 2008 and have worked within the schools, at a non-profit and now at a private clinic for the last 2 and half years. I have been a Board Certified Behavior Analyst since 2012 and have seen numerous people claiming to provide ABA services to special needs learners, but this was not the case. There was no data being collected, they were not utilizing the principles of ABA and were reinforcing problematic behaviors. This is a dangerous situation as this could result in serious harm and at the very least will not lead to the best outcomes for these learners.

I support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8-14). This will allow teachers to implement, *but not design*, behavior analytic programming. It is necessary to ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. Much training is required to learn to implement behavior analytic programming with fidelity and even more training and expertise is required to learn to design these protocols. After implementation has begun there is still the need for evaluation and monitoring of the data and progress. This amendment was discussed during prior legislative sessions and we continue to support implementation by teachers as part of a student’s educational program.

I support the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18). The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board’s standards. The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum level of competency and oversight. This will further protect those who are receiving ABA services on the island.

I oppose any language that would carve out full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill. Although we recognize some programs do exist that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, we still have concerns that coursework alone does not provide a metric to show competency. I have seen from personal experience that coursework alone does not automatically equal competence within our field. What taught me the most was direct experience and supervision from competent mentors. This carve out would dramatically decrease the consumer protection afforded by the current law and place children at risk of receiving substandard behavior analytic programming. This would also require our teachers who are already struggling to manage their workload to take on additional tasks they do not have the capacity for.

The BCBA certification board (BACB) requires many hours of direct supervised experienced as well as indirect supervised hours before someone can be certified as a Board Certified Behavior Analyst. One must have experience across all areas of our task list and take a comprehensive board exam. Once you are certified you must continue to maintain continuing education requirements during each certification

period. We are required to complete 32 continuing education credits, 4 in ethics and 3 in supervision. This is to ensure that we stay up to date with the best practices in our field. All of these requirements were created to ensure that we are able to provide the best care and service to the individuals that we serve. Our job is to ensure that they are provided quality services to help them live as safely, happily and independently as possible.

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

Janell Kaneshiro

SB-805

Submitted on: 2/2/2021 12:33:22 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kali Ramos	Individual	Oppose	No

Comments:

Dear Chair Kidani, Vice Chair Kim, and members of the Committee,

I would like to offer comments on SB 805 relating to Behavior Analysts.

- I am a registered behavior technician with a clinic here in Hawaii. Lack of oversight by the state and allowing looser restrictions on ABA treatments will result in inadequate care and potentially harmful ABA treatment for children with autism and developmental disabilities. Teachers are already strained with their time and finances, why put a bigger burden on their shoulders that they may not be qualified to carry?
- **I support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8-14).** This will allow teachers to implement, *but not design*, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. This amendment was discussed during prior legislative sessions and I continue to support implementation by teachers as part of a student’s educational program.
- **I support the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18).** The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board’s standards. The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum level of competency and oversight.
- **I oppose any language that would carve out a full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill.** Although we recognize some programs do exist that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, we still have concerns that coursework alone does not provide a metric to show

competency. This carve-out would dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming and require our teachers who are already struggling to manage their workload to take on additional tasks they do not have the capacity for.

- The BACB requires 1000s of supervised hours in addition to a master's level degree to become a BCBA. These standards have been set to protect clients and children with autism and other developmental disabilities. BCBAs are highly specialized professionals who spend ALL of their time observing and utilizing ABA principles. BCBAs are constantly engaged in professional development courses and reading research in regard to ABA treatment.

Thank you for your concern,

Kali Ramos

SB-805

Submitted on: 2/2/2021 12:44:37 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
FRED K YUEN	Individual	Comments	No

Comments:

Dear Chair Kidani, Vice Chair Mercado Kim, and members of the Committee: I would like to offer comments on SB 805 relating to Behavior Analysts.

I am a behavior analyst and business owner of an ABA company. Although having had more regulation over the past years has created some obstacles and financial set back it has also offered clarity and a sense of confidence that services are appropriate and beneficial to all. I have witnessed a significant improvement in the quality of services statewide. Students and clients are finally getting services that they need and at a quality that is untouched and non-negotiable to lower standards. Please keep our keiki safe and keep ABA standards of high quality and direction.

- I support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8- 14). I work closely with teachers and they do not have the knowledge, the expertise, the support, or the tools to appropriately direct ABA services safely and effectively. One of the main issues is their support and their pressure to provide less costly and in effect, low standard services. This will allow teachers to implement, but not design, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. This amendment was discussed during prior legislative sessions and we continue to support implementation by teachers as part of a student’s educational program.
- I support the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18). [HABA RATIONALE, feel free to add your own language]:The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board’s standards. The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum-level of competency and oversight.
- I oppose any language that would carve out full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill. Although we recognize some programs do exist that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, we still have concerns that

coursework alone does not provide a metric to show competency. This carve out would dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming, and require our teachers who are already struggling to manage their workload take on additional tasks they do not have the capacity for.

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

Fred Yuen

2/1/2021

SB-805

Submitted on: 2/2/2021 12:58:48 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Liane Chu	Individual	Comments	No

Comments:

Dear Chair Kidani, Vice Chair Mercado Kim, and members of the Committee:

I would like to offer comments on SB 805 relating to Behavior Analysts.

I am a behavior analyst that has been practicing in the State of Hawaii for over 10 years. I am currently employed as the ABA Director of Behavioral and Therapeutic Services of Hawaii. BTSH provides ABA services through health insurances and through the ABA contract with the DOE.

- I support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8-14). This will allow teachers to implement, but not design, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. This amendment was discussed during prior legislative sessions and we continue to support implementation by teachers as part of a student’s educational program.**
- I support the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18). [HABA RATIONALE, feel free to add your own language]:The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board’s standards. The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum-level of competency and oversight.**
- I oppose any language that would carve out full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill. Although we recognize some programs do exist that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, we still have concerns that coursework alone does not provide a metric to show competency. This carve out would dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming,**

and require our teachers who are already struggling to manage their workload take on additional tasks they do not have the capacity for.

- **Becoming a Board Certified Behavior Analyst (BCBA) was a rigorous process, which involved completing ABA specific coursework, being directly supervised by a BCBA for a significant amount of hours, and providing a significant amount of direct ABA services to people with disabilities. BCBAs are required to pass a formal exam in order to become BCBA after all other coursework, training, and supervision requirements are met. This rigorous process ensures consumer protection in the sense that consumers are receiving services from licensed professionals in a highly regulated field. BCBAs are also required to retain their certification by completing continuing education courses every two years to ensure that they remain up to date with best practices within the field of ABA.**

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

Liane Chu, M.S., BCBA, LBA43

SB-805

Submitted on: 2/2/2021 1:09:05 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Adrienne Leduc	Individual	Oppose	No

Comments:

Dear Chair Kidani, Vice Chair Kim, and members of the Committee:

I would like to offer comments on SB 805 relating to Behavior Analysts.

I am a Licensed Behavior Analyst who has been working in the field of Autism intervention since 2010. I became a Registered Behavior Technician in 2016 and a Board Certified Behavior Analyst in July of 2020. I have worked in a variety of settings within this field, including in client homes, in school and in treatment centers.

I oppose any language that would carve out full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill. While teacher training programs may include coursework that describes behavior analytic interventions, this coursework often lacks the strong theoretical foundation in basic behavioral principles and experimental design that enable Behavior Analysts to evaluate the effectiveness of interventions and modify them based on the needs of a particular client. Thus, individuals who attempt to implement Behavior Analytic interventions without the rigorous education and supervised practical experience required to attain certification as a Behavior Analyst frequently implement interventions in a “cookie cutter” manner, without the skills to analyze and modify the procedure for a given individual. This can lead to interventions that are at best ineffective, or at worst actively detrimental to a client’s well-being.

While I was completing my graduate coursework, I worked as an Educational Assistant at a local elementary school, in a classroom specifically designed for children with Autism. While I was there, I observed staff, under the direction of a licensed Special Education Teacher, misapply behavior analytic interventions. Most troubling was the

use of a behavior intervention called the High Probability Request Sequence, an intervention in which the interventionist places demands the child is likely to comply with, which can then be reinforced in order to create behavioral momentum. In the classroom where I worked, EAs would contain the child at a study carrel and place demands to color a picture, but would not provide any praise or reinforcement to the child for complying. As a student of behavior analysis, I was concerned that this would lead to counter-control behaviors, and this is precisely what I observed. Students' behaviors would escalate when they were taken to the "punishment coloring" corner. Worse, this procedure conditioned coloring, which for many children is a fun and developmentally-appropriate play activity, into an aversive situation. A student that I worked with screamed and attempted to flee when her speech therapist presented a coloring page, which confused the therapist who had been trying to engage the student with a fun activity. Misapplication of a behavior analytic intervention by educational professionals led to this student being fearful of coloring, and did not lead to a reduction in maladaptive behaviors.

Many vulnerable students receive their only intervention through the schools. They deserve the same high-quality, scientifically-sound interventions that their more advantaged peers receive through insurance funding. Carving out an exception for Special Education teachers would weaken the protections available to these vulnerable children, many of whom have communication difficulties that make it difficult for them to advocate for themselves. We must all advocate on behalf of these individuals, so that they will receive interventions with the highest degree of scientific rigor and demonstrated effectiveness.

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

Adrienne Leduc, M.Ed., BCBA, LBA

Dear Chair Kidani, Vice Chair Kim, and members of the Committee:

I would like to offer comments on SB 805 relating to Behavior Analysts.

I am an Assistant Behavior Analyst (BCaBA) and behavior analysis student. As a behavior analysis professional for the past 8 years and student for some of that time, I have witnessed the hard work and dedication that behavior analysts endure in order to ethically practice behavior analysis to the best of their abilities. Through the BACB, behavior analysts work under a code of ethics promoting professionalism, keeping up to date with ABA technologies, and ensuring that those we serve are treated with respect and receive the best services available to them.

- **I support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8-14).**: This will allow teachers to implement, *but not design*, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. This amendment was discussed during prior legislative sessions and we continue to support implementation by teachers as part of a student’s educational program.
- **I support the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18).**: The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board’s standards. The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum level of competency and oversight.
- **I oppose any language that would carve out full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill.**: Although we recognize some programs do exist that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, we still have concerns that coursework alone does not provide a metric to show competency. This carve out would dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming and require our teachers who are already struggling to manage their workload take on additional tasks they do not have the capacity for.
- BCBA’s work through rigorous course work approved by the BACB in order to meet criteria to sit for a lengthy board exam that allows them to practice behavior analysis if passed.
- BCBA’s but also maintain their knowledge of the latest technologies in their field up to date and meet CEU requirements through the board (BACB) in order to keep their credentialing active.

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


Alexandra Sagastume, B.A., BCaBA

SENATE COMMITTEE ON [EDUCATION](#)

Room 229, State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 3, 2021
3:00 pm

COMMENTS ON SB 805

Dear Chair Kidani, Vice Chair Mercado Kim, and members of the Committee:

Mahalo for the opportunity to testify on SB 805 relating to the practice of behavior analysis.

We would like to offer comments on this bill that seeks substantive changes to the behavior analyst licensure law.

HABA supports teachers implementing behavior analysis practices in the educational setting through direct collaboration with a licensed behavior analyst or a licensed psychologist. We want to reiterate that the purpose of the chapter is “not to restrict the practice of other licensed or credentialed professionals” and make clear our position is to acknowledge and collaborate with the expertise of our professional colleagues to benefit all individuals and families who are recipients of behavior analytic services. **We support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8-14).** This will allow teachers to implement, *but not design*, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. This amendment was discussed during prior legislative sessions and we continue to support implementation by teachers as part of a student’s educational program.

Additionally, **HABA supports the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18).** The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board’s standards. The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum-level of competency and oversight.

HABA strongly opposes any language that would carve out full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill. Although we recognize some programs do exist that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, we still have concerns that coursework alone does not provide a metric to show competency. This carve out would dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming, and require our teachers who are already struggling to manage their workload take on additional tasks they do not have the capacity for.

There is no universal established standard for behavior analytic coursework within special education teacher preparation programs across universities, and more importantly, there is no requirement for measurement of competency in this area. In contrast, licensed behavior analysts are required to complete coursework that has set standards for content and hours across all universities, complete supervised experience hours, and demonstrate competency through a rigorous certification exam. Students pursuing behavior analyst certification must complete 2000 experience hours supervised by a licensed behavior analyst, of which 1200 hours must be specifically focused on activities related to designing and overseeing behavior analytic programming (e.g., conducting assessments, writing behavior intervention plans, monitoring intervention integrity) ([BACB, 2020a](#)). It is worth noting that, even after satisfying these requirements, one must sit for a formal exam which in 2020 had a 66% pass rate for first time test takers ([BACB, 2020b](#)). Please see the table below comparing general standards between licensed special education teachers and licensed behavior analysts.

Standard	Licensed Special Education Teachers	Licensed Behavior Analysts (LBA)
Specific required content areas established for behavior analysis coursework offered by universities	No set standard for universities	Requirements established by the Behavior Analyst Certification Board (BACB). All universities offering qualifying coursework must provide a verified coursework series (VCS) ensuring consistency in content and hours.
Supervised experience in behavior analysis	No set requirements	Requirements established by the BACB. 5th ed. Task List sets standards for content of supervision and requires that trainees complete 2000 hours supervised by an LBA.
Measurement of competency in behavior analysis	No set requirements	All LBA applicants must have passed a rigorous formal exam with set content by the BACB.
Ongoing required continuing education in behavior analysis	None	All LBAs must complete 32 continuing education units every two year recertification cycle. Content is required to be specific to the science and practice of behavior analysis.

The behavior analyst licensure law, throughout its many hearings in the State legislature since 2015, has continually focused on consumer protection in all sectors, but has also focused specifically on improvement of behavior analytic services in the educational setting. We recognize the tremendous impact effective collaboration can offer and in no way want to disregard the expertise of our professional

colleagues. We simply want to provide high quality services to all individuals who deserve an inclusive and collaborative approach to maximize progress and increase their quality of life. **For these reasons, we respectfully request the committee remove the proposed Exemption 10 entirely.**

Mahalo for the opportunity to testify on this bill and HABA representative will be available during the hearing for further questions.

Mahalo,

Kyle Machos
HABA Past President

References

Behavior Analyst Certification Board (BACB) (2020a). BCBA 2022 eligibility requirements.
https://www.bacb.com/wp-content/uploads/2020/11/BCBA-2022EligibilityRequirements_201119-2.pdf

Behavior Analyst Certification Board (BACB) (2020b). BACB annual data report.
<https://www.bacb.com/bacb-certificant-annual-report-data/>

SB-805

Submitted on: 2/2/2021 2:03:39 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Amanda Kelly	Individual	Comments	No

Comments:

Aloha Chair Kidani and Vice Chair Mercado Kim,

Thank you for scheduling this hearing so we can discuss further refining the licensure law for behavior analysts. I am writing today to SUBMIT COMMENTS ON SB805.

Trained as a teacher myself, I know how critical collaboration with specialists and IEP team members is to ensuring appropriate service for children and students. Having worked across various public school settings throughout my career, I fully support teachers having the right to implement behavior analysis practices and to work collaboratively with behavior analysts and psychologists, who have ABA in their "education, training, and competence". I agree removing the date of July 1, 2019 will allow teachers the freedom to properly implement applied behavior analysis (ABA) services in a school setting.

I also fully support removing the extension for direct support workers who are not credentialed as Registered Behavior Technicians (Section 1, Exemption 4B) or working under licensed psychologists (Section 1, Exemption 1).

I strongly disagree with proposal that special education teachers or those pursuing certification should be carved out and considered equivalent to behavior analysts (Section 1, [proposed] Exemption 10). I believe this language is identical to language introduced in previous years and wonder if it's inclusion in this session was an error or oversight. In case it is not an error, I wish to go on record noting this exemption, if passed as is, would be harmful. I respectfully direct your attention to the testimony submitted by the Hawai'i State Teachers Association (HSTA) for further explanation. In addition to the points made by HSTA, services provided by teachers are not eligible for reimbursement by Medicaid or other health plans, unless the teacher also possesses licensure as a behavior analyst. Carving out teachers does not protect our keiki nor would it allow the DOE to maximize federal reimbursements for Medicaid school-based claiming.

I appreciate the opportunity to testify on this measure and am available to answer any questions you may have.

Mahalo nui loa,

Amanda N. Kelly, PhD, BCBA-D, LBA
Hawaii Licensed Teacher (53512)
Licensed Behavior Analyst (BA-1)

Testimony in Favor of SB 805, Relating to the Practice of Behavior Analysis
Submitted by Patricia Sheehey PhD, BCBA, LBA
Professor, Department of Special Education, University of Hawai'i at Mānoa
February 3, 2021

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 has taught courses and supervised candidates in applied behavior analysis for 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 special education and applied behavior analysis. 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. My son made substantial progress because his licensed special education teachers used behavioral practices that they learned in their special education teacher preparation programs. These are the same behavioral practices that special educators who graduate from a program with a strong behavioral foundation and behavior analysts use. I am a strong proponent of special education and the use of behavioral practices when teaching students with disabilities.

Section 465D-7, 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 that is PRECISELY what this statute does 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. 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) which required that special education teacher candidates 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 demonstrating they have the knowledge and skills to design and implement applied behavior analysis assessments and interventions. **Licensed special educators who have had or are obtaining the education, training, and practice in applied behavior analysis should NOT be restricted in their scope and practice by the licensing of behavior analysts.**

In addition, as the current ABA licensure law (HRS 465D-2) is worded it would have a negative impact on special education teacher preparation programs in Hawaii. Essentially since the law prevents licensed special education teachers from designing and implementing behavior analysis assessments and interventions special education teacher preparation

programs cannot include behavior analytic assessments and practices in their course content, project assignments, and field experiences/student teaching. These restrictions to special education teacher content and field practices could result in special education teachers that do not meet state licensure requirements and national accreditation standards. And, they may not be prepared to pass the state licensing exam (Praxis) because items on the exam include application of applied behavior analysis including functional behavior assessment and behavior support plans. It is essential that special education teacher candidates acquire the knowledge and skills in applied behavior analysis procedures to practice within their own scope of practice when teaching students with disabilities.

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 including making data based decisions, (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. If my son had not had special educators who used applied behavior analysis practices with him each and every school day and who supported our use of those practices at home, he would not have learned the skills required to function at home, in school, or in the community. The amount of time special educators were able to provide ABA services at school and the extent of their knowledge and expertise in developing and implementing ABA practices ensured our son progressed beyond predictions made by his doctors and other health professionals. As a special educator I used those same ABA practices with my students who also made substantial progress. As a professor at UH Manoa in the Department of Special Education I have seen my students learn and use ABA practices with their school-aged students who also made progress as demonstrated by their students' data on interventions they developed and implemented.

Section 465D-7 lists professionals who are exempt from the ABA licensing law. Professionals listed include psychologists with training in applied behavior analysis. It is imperative that special education teachers and special education teacher candidates be exempt so they may design and implement special education practices that overlap with applied behavior analysis practices used by licensed behavior analysts. **I fully support SB 805 that adds the following exemption to Section 465D-7:**

“(10) A licensed special education teacher or an individual who is working toward licensure as a special education teacher and who is enrolled in a state-approved and nationally accredited special education teacher preparation program that includes

training in behavior analysis assessment and interventions; provided that the applied behavior analysis services performed are within the boundaries of the licensed special education teacher's or individual working toward licensure as a special education teacher's scope of education, training, and practice."

Thank you for allowing me to submit this testimony.

A handwritten signature in black ink that reads "Patricia Sheehey". The signature is written in a cursive style with a large initial 'P' and a long, sweeping underline.

Patricia Sheehey, PhD, BCBA, LBA

SB-805

Submitted on: 2/2/2021 2:37:08 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kelly Quitevis	Individual	Comments	No

Comments:

Dear Chair Kidani, Vice Chair Mercado Kim, and members of the Committee:

I would like to offer comments on SB 805 relating to Behavior Analysts.

I am a behavior analyst here in Hawaii. I have practiced as a BCBA for 2 years and was, many years ago, a special education teacher.

I support removing the date of “July 1, 2019” from Section 1 Exemption 2 (page 2, lines 8-14). This will allow teachers to implement, but not design, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming. This amendment was discussed during prior legislative sessions and we continue to support implementation by teachers as part of a student’s educational program.

I support the proposed changes to Section 1 Exemption 4 (A) and (B) (page 3, lines 3-18). The changes to 4 (A) will clarify that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs) which is consistent with the credential-issuing body, the Behavior Analyst Certification Board’s standards. The changes to 4(B) to fully remove non-credentialed direct support workers ensures increased consumer protection by establishing a minimum-level of competency and oversight.

I oppose any language that would carve out full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as proposed in Exemption 10 (page 5, line 15 – page 6, line 4) in this bill. Although we recognize some programs do exist that may provide coursework and training within the scope of behavior analytic principles, more specifically behavior analysis interventions and assessment, we still have concerns that coursework alone does not provide a metric to show competency. This carve out would dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming.

Training and credentialing requirements to become a BCBA is quite rigorous. My certification required 1.5 years of study after receiving a master’s degree. It also required 1500 hours of direct (working directly with clients) and indirect (conducting

assessments, designing appropriate, safe and ethical intervention plans, data analysis, report writing, and more) supervised fieldwork. Beginning 2022, this requirement will increase to 2000 hours of fieldwork. One must also pass the board exam, which has a pass rate of approximately 65% for first time test takers (higher than retake pass rate).

In order to maintain one's BCBA certificate with the certification board, BCBA's must complete 32 units of continuing education within a 2-year recertification cycle. These units must include study in ethics and supervision.

In order to practice ethically and effectively, BCBA's must meet these standards set forth by an experienced professional board. Practice in any other way puts children and families at risk.

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

Kelly Quitevis