

STAND. COM. REP. NO.

1888

Honolulu, Hawaii

APR 03

, 2023

RE: S.B. No. 1340
S.D. 2
H.D. 2

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 1340, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Beginning August 1, 2024:
 - (A) Reinstate the exemption from behavior analyst licensing requirements for teachers working in collaboration with a licensed behavior analyst or licensed psychologist; and
 - (B) Expand the exemption for registered behavior technicians to implement applied behavior analysis services under the direction of a licensed psychologist;
- (2) Make permanent the exemption for individuals who design applied behavior analysis services to participants in the Medicaid Home and Community-Based Services Waiver Program; and

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- (3) Require the Department of Education to report to the Legislature on the state of implementing Medicaid reimbursements for applied behavior analysis services.

Your Committee received testimony in support of this measure from the Department of Health, Department of Education, State Council on Developmental Disabilities, Hawaii State Teachers Association, Special Education Advisory Council, and Full Life. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs and Hawai'i Association for Behavior Analysis.

Your Committee finds that the Department of Education has a shortage of qualified individuals who can offer applied behavioral analysis plans and implementation services to youth with autism. Your Committee further finds that special education teachers are qualified and, while not licensed as behavior analysts, are able to implement applied behavioral analysis plans. This measure addresses the much-needed gap in services by making permanent the exemption from the behavior analyst licensure laws that allows such teachers to implement applied behavioral analysis plans under the supervision of a licensed behavior analyst or a licensed psychologist.

Your Committee also finds that due to the statewide workforce shortage, providers under the Medicaid Home and Community-Based Services Waiver Program (Section 1915(c) Medicaid Waiver) who implement the behavioral plan developed by a licensed behavior analyst have not been able to obtain the training necessary for certification as a registered behavior technician from the Behavior Analyst Certification Board. This measure permanently exempts these Section 1915(c) Medicaid Waiver providers from the licensing requirements for behavior analysts, which will expand the pool of individuals who can implement timely interventions while maintaining the safeguard of having licensed behavior analysts and psychologists conduct behavioral assessments and design student behavior plans.

Your Committee has amended this measure by:

- (1) Making all amendments to the exemptions from the behavior analyst licensing requirements take effect on August 1, 2024;



- (2) Specifying that the exemption regarding applied behavior analysis services to participants in the Medicaid Home and Community-Based Services Waiver Program applies to individuals who implement, rather than design, applied behavior analysis services; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1340, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1340, S.D. 2, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,


MARK M. NAKASHIMA, Chair



