



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Health and Human Services
Friday, February 13, 2023
1:00p.m.
Conference Room 225 and Videoconference**

**On the following measure:
S.B. 1340, RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS**

Chair San Buenaventura and Members of the Committee:

My name is Shelley Choy, and I am the Program Specialist for the Behavior Analyst Program (Program). The Program supports this measure.

The purposes of this bill are to: (1) make permanent the exemption from the behavior analyst licensing requirements for teachers working in collaboration with a licensed behavior analyst or licensed psychologist; (2) remove the exemption from the behavior analyst licensing requirements for direct support workers; and (3) allow a registered behavior technician who is under the direction of a licensed psychologist to implement applied behavior analysis service.

The Department recognizes the need for increased access to applied behavioral analysis services in schools and supports the implementation of applied behavioral analysis services by qualified and competent personnel who are working in direct collaboration with a licensed behavior analyst or a licensed psychologist.

Thank you for the opportunity to testify on this bill.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/13/2023

Time: 01:00 PM

Location: CR 225 & Videoconference

Committee: Senate Health and Human
Services

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: SB 1340 RELATING TO THE PRACTICE OF BEHAVIOR
ANALYSIS.

Purpose of Bill: Makes permanent the exemption from the behavior analyst licensing requirements for teachers working in collaboration with a licensed behavior analyst or licensed psychologist. Removes the exemption from the behavior analyst licensing requirements for direct support workers and allows a registered behavior technician who is under the direction of a licensed psychologist to implement applied behavior analysis services.

Department's Position:

The Hawaii State Department of Education (Department) supports SB 1340 to modify the exemptions allowed under Chapter 465D, Hawaii Revised Statutes. The Department advocates for licensed classroom teachers, or individuals who are working as a classroom teacher and are enrolled in a teacher preparation program working towards licensure, to be allowed to implement, but not design, Applied Behavior Analysis (ABA) services in a school setting when in direct collaboration with a licensed behavior analyst or a licensed psychologist.

Supporting the behavioral needs of students with appropriate interventions is part of a classroom teacher's job duties and scope of practice, therefore, they should be allowed to implement applied behavior analysis services.

Thank you for the opportunity to provide testimony on SB 1340.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
1010 RICHARDS STREET, Room 122
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
February 13, 2023

The Honorable Senator Joy San Buenaventura, Chair
Senate Committee on Health and Human Services
The Thirty-Second Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Buenaventura and Committee Members:

SUBJECT: SB1340 Relating to the Practice of Behavior Analysis

The Hawaii State Council on Developmental Disabilities **Supports SB1340**, which makes permanent the exemption from the behavior analyst licensing requirements for teachers working in collaboration with a licensed behavior analyst or licensed psychologist. Removes the exemption from the behavior analyst licensing requirements for direct support workers and allows a registered behavior technician who is under the direction of a licensed psychologist to implement applied behavior analysis services.

Hawaii DoE has a shortage of qualified individuals to offer ABA services to our youth with Autism. ABA stands for applied behavioral analysis and is the leading practice that can help individuals with Autism succeed in our community. ABA helps curb unwanted behaviors, improve academic performance, and enhance everyday functional skills. This measure looks at one way to help bolster Hawaii's workforce that can offer ABA services. Under the law, only a licensed ABA therapist can offer ABA services, even though others can be qualified.

Teachers who graduate with a specialization in severe/profound disabilities and an autism teacher licensure program, like that offered by UH should be able to provide ABA services. This program meets the state requirements to be qualified to offer ABA services. Allowing these teachers and licensed psychologists to offer ABA services will help our state better serve our intellectually and developmentally disabled keiki.

We defer to Special Education Advisory Council for any substantive comments. Thank you for the opportunity to submit testimony in **support of SB1340**.

Sincerely,

A handwritten signature in blue ink that reads "Daintry Bartoldus".

Daintry Bartoldus
Executive Administrator



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Osa Tui, Jr.
President
Logan Okita
Vice President
Lisa Morrison
Secretary-Treasurer
Ann Mahi
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEES ON HEALTH & HUMAN SERVICES

RE: SB 1340 - RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS

MONDAY, FEBRUARY 13, 2023

OSA TUI, JR., PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair San Buenaventura and Members of the Committee:

The Hawaii State Teachers Association **supports SB 1340**, relating to the practice of behavior analysis.

We are in agreement of removing the dates in sections (HRS465D-7; 2), which would remove perceived restrictions imposed on classroom teachers; and (HRS465D-7; 4B), as this provision is already in effect currently for psychologists, whose right to practice was never intended to be infringed upon. HSTA remains in support of licensed psychologists' right to practice applied behavior analysis (ABA), who have ABA in their "education, training, and competence".

However, we do want to remind this committee, that the last time a similar bill was heard in 2019, others tried to insert language into this law asking for an exemption of our special education teachers and we do not agree to any exemption someone may try to insert into this law for our special education teachers, should they try again. They should not be exempt from this additional license to be able to design/create and monitor Applied Behavior Analysis plans. Yes, some of their practices overlap, and that is fine and this law does not change that, but they should not be exempt from this licensure law. **When our special education teachers have used their practices and methods, but they are not seeing progress in their students' learning goals, 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. The HDOE receives Medicaid reimbursements for ABA services which are allowable, and teachers, not even SPED teachers, are NOT on that list for reimbursable services. The experts they list that are able to design/create and monitor ABA plans have a specialized license. Yes, some of our teachers do have that license and are Board Certified Behavior Analysts (BCBAs) and they, of course, may design/create and monitor ABA plans, but the majority of teachers are not BCBAs.



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Teachers often consult other experts such as psychiatrists, speech therapists, occupational therapists, social workers etc., and we need to. Thus, we also need to be able to consult BCBA's or psychologists as well, when our IEP Team decides we need additional help with a student.

Our special education teachers, of course, may implement Applied Behavior Analysis plans, but they should not be the ones who design/create, nor monitor ABA plans.

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 license 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 **support** this bill.



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 13, 2023

**Special Education
Advisory Council**

Ms. Martha Guinan, *Chair*
Ms. Susan Wood, *Vice Chair*

Ms. Sara Alimoot
Ms. Virginia Beringer
Ms. Mary Brogan
Mr. Rick Bunny
Ms. Deborah Cheeseman
Ms. Annette Cooper
Ms. Shana Cruz
Mr. Mark Disher
Dr. Lisa Garcia
Ms. Mai Hall
Ms. Melissa Harper Osai
Mr. Kerry Iwashita
Ms. Melissa Johnson
Ms. Tina King
Ms. Jennifer Leoiki-Drino
Ms. Cheryl Matthews
Dr. Paul Meng
Ms. Kiele Pennington
Ms. Carrie Pisciotto
Ms. Kau'i Rezentes
Ms. Rosie Rowe
Ms. Ivalee Sinclair
Mr. Steven Vannatta
Ms. Lisa Vegas
Ms. Paula Whitaker
Ms. Jasmine Williams
Ms. Susan Wood

Ms. Roxanne Rokero, *liaison to
the Superintendent*
Ms. Wendy Nakasone-Kalani,
*liaison to the military
community*

Amanda Kaahanui, Staff
Susan Rocco, Staff

Senator Joy A. San Buenaventura, Chair
Committee on Health and Human Services
Hawaii State Capitol
Honolulu, HI 96813

RE: SB 1340 – Relating to the Practice of Behavior Analysis

Dear Chair San Buenaventura and Members of the Committee,

The Special Education Advisory Council (SEAC), Hawaii's State Advisory Council under the Individual's with Disabilities Act (IDEA) strongly supports SB 1340 which helps to ensure timely and appropriate applied behavior analysis (ABA) services for students who need these interventions in order to reach their academic, behavioral and functional goals.

This proposed amendment to Section 465D-7 of the Hawaii Revised Statutes will increase the number of competent personnel to implement ABA services in two important ways: 1) it will make permanent the exemption from the behavior analyst licensing requirements for classroom teachers and individuals working as a classroom teacher while enrolled in a teacher preparation program working toward licensure who are working in direct collaboration with a licensed behavior analyst or licensed psychologist, and 2) it allows registered behavior technicians to work under the direction of either a licensed behavior analyst or a licensed psychologist.

SEAC holds that these changes to the law are necessary to address current staff shortages by expanding the pool of individuals who can implement timely interventions while maintaining the safeguard of having licensed behavior analysts and psychologists conduct the behavioral assessment and design the student behavior plan.

Thank you for the opportunity to provide testimony.

Respectfully,

Martha Guinan, Chair

SB-1340

Submitted on: 2/10/2023 7:09:58 PM

Testimony for HHS on 2/13/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Comments	Remotely Via Zoom

Comments:

We are unclear as to the necessity of this bill. The issue of ABA services and teachers and psychologists has been the subject of years of exhausting debate at the legislature. It seemed to us that the matter had been settled and we question whether further discussion is actually needed. Many stakeholders have told us that the bill is unnecessary and we have concerns about opening up the issue again for fear that the DOE may attempt to erode existing protections for students who receive these services.



Committee on Health and Human Services

Monday, February 13, 2023

1:00 PM

Conference Room 225 & Videoconference

State Capitol

415 South Beretania Street

Comments on SB1340 Relating to the practice of behavior analysis

Chair San Buenaventura, Vice Chair Aquino, and members of the Committee:

On behalf of the Hawai'i Association for Behavior Analysis (HABA) we thank you for the opportunity to submit comments on SB1340. The association recognizes the need for ensuring the language of the law removes prior sunset dates and allows teachers to **implement, but not design** applied behavior analysis (ABA) services when working in collaboration with a licensed behavior analyst or licensed psychologist with ABA in their education, training, and competence.

We continue to focus on consumer protection, ensuring all recipients of ABA services in our state access licensed and qualified professionals to address their behavioral health needs.

Mahalo,

Kristen Koba-Burd, BCBA, LBA
Legislative Chair
Hawai'i Association for Behavior Analysis

TOGETHER FOR OUR KEIKI



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COMMITTEE ON HEALTH & HUMAN SERVICES
FEBRUARY 13, 2023

SB 1340
COMMENTS

Good afternoon, Chair and Vice Chair,

My name is Dr. Amanda N. Kelly, and I would like to submit comments on SB 1340, a bill pertaining to behavior analysis licensure. I am both a Hawai'i licensed teacher, as well as the first behavior analyst to be licensed in the State. I served previously as the President and Legislative Chair for the Hawai'i Association for Behavior Analysis (HABA). I serve currently as Secretary for Hawai'i Disability Rights Center (HDRC) and as President for Together For Our Keiki (TFOK).

As someone who is intimately connected with community and history of these licensure efforts, I have genuine concerns about opening and editing existing law. As HSTA points out, we saw a similar tactic in 2019, which nearly resulted in removal of all protections for our keiki. To my knowledge, no teacher has been denied the right to participate in the assessment of their students with behavioral health needs. However, teachers have reported feeling forced to complete assessments and perform activities, which they feel are beyond their scope. I stand in strong support of our keiki and my fellow educators and analysts and urge you to consider the real necessity of this bill before you.

Mahalo nui,

Amanda N Kelly, PhD, BCBA-D, LBA

Together For Our Keiki (T.F.O.K.) is a non-profit 501(c)(3) organization whose mission is to ensure our keiki can access appropriate educational and medical behavioral health services.
