

DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

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

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DEPUTY DIRECTOR

**PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE**

**TO THE SENATE COMMITTEE ON
WAYS AND MEANS**

**TWENTY-EIGHTH STATE LEGISLATURE
REGULAR SESSION, 2015**

**FRIDAY, FEBRUARY 27, 2015
1:00 P.M.**

**WRITTEN TESTIMONY ONLY
ON
SENATE BILL NO. 40 S.D.2
RELATING TO LICENSING**

**TO THE HONORABLE JILL N. TOKUDA, CHAIR,
AND TO THE HONORABLE RONALD D. KOUCHI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:**

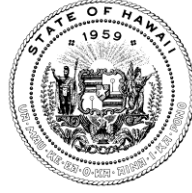
The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on Senate Bill No. 40 S.D.2, Relating to Licensing. My name is Daria Loy-Goto, Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers the following comments on the bill.

Senate Bill No. 40 S.D.2 establishes licensing requirements for the regulation of behavior analysts by the Department. The bill also sets forth conduct that would give rise to disciplinary action.

RICO concurs with the Department's Professional and Vocational Licensing Division that §26H-6, Hawaii Revised Statutes ("HRS"), would require a sunrise analysis by the Auditor prior to the regulation of any previously unregulated profession or vocation, as proposed in Senate Bill No. 40 S.D.2. RICO also defers to the Department's Professional and Vocational Licensing Division on the licensing provisions in the bill.

In its prior testimony before the Senate Committee on Commerce and Consumer Protection, RICO also expressed concerns that the enforcement provisions in the bill were problematic. RICO appreciates the amendments by the previous Committee aimed at addressing the bill's previously identified enforcement issues, irrespective of any issues related to sunrise analysis requirements under HRS §26H-6.

Thank you for the opportunity to testify on Senate Bill No. 40 S.D.2. I will be happy to answer any questions that the members of the Committee may have.



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TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

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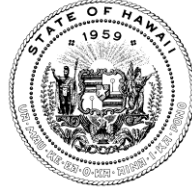
My name is Celia Suzuki, Licensing Administrator for the Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs (“Department”). The Department appreciates the opportunity to submit written comments on Senate Bill No. 40, S.D. 2, Relating to Licensing.

The purpose of Senate Bill No. 40, S.D. 2 is to establish the Behavior Analyst Program within the Department of Commerce and Consumer Affairs, as well as to establish licensing requirements for behavior analysts. Funds shall also be appropriated for the implementation of the new regulatory program.

Senate Bill No. 40, S.D. 2 creates a new chapter to regulate behavior analysts. Section 26H-6, Hawaii Revised Statutes, requires that new regulatory measures being considered for enactment be referred to the State Auditor for a sunrise analysis. Referral is required to be made by concurrent resolution that identifies a specific legislative bill to be analyzed. The statute further requires that the analysis shall set forth the probable effects of regulation, assess whether its enactment is consistent with the legislative policies of the Hawaii Regulatory Licensing Reform Act, and assess alternative forms of regulation. The Department must continue to do its due diligence by requesting that the Auditor conduct a sunrise analysis first on behavior analysts before regulation. Therefore, this bill should be deferred until a sunrise analysis on the measure is conducted by the Auditor.

For the Committee's information, the Department has been in discussions with the Senate Committee on Commerce and Consumer Protection regarding the sunrise study issue, and the Department would appreciate the opportunity to further discuss this issue in the event the measure moves forward.

Thank you for the opportunity to provide comments on Senate Bill No. 40,
S.D. 2.



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Thank you for the opportunity to provide comments on Senate Bill No. 40,
S.D. 2.

February 26, 2015

The Honorable Jill N. Tokuda, Chair
The Honorable Ronald D. Kouchi, Vice Chair
Senate Committee on Ways and Means

Conference Room 211
State Capitol
415 South Beretania Street

Re: SUPPORT for SB40 SD2 –Relating to Licensing

Dear Senator Tokuda, Senator Kouchi and Members of the Committee:

My name is Amy Smith Wiech, a Doctoral Level Board Certified Behavior Analyst and Founder of Autism Behavior Consulting Group (ABC Group) which employs 8 Behavior Analysts here on Oahu. I am also member of the Hawai'i Association for Behavior Analysis. Thank you so much for the opportunity to testify in **STRONG SUPPORT** of SB 40- SD2.

We look forward to the increased consumer protection that will be afforded with the successful passage of this bill. Thank you so much for addressing this important issue for our constituents.

Sincerely,



Amy Wiech, PhD, BCBA-D
Board Certified Behavior Analyst- Doctoral
COE/Founder



Autism Behavior Consulting Group, Inc. / ABC Group

PO Box 1162, Waialua, Hawaii 96791-1162
Phone: 808-277-7736 ~ Fax: (808) 748-0202
E-mail: info@autismbehaviorconsulting.com
www.AutismBehaviorConsulting.com

© Autism Behavior Consulting Group, Inc.
vs: 03/01/07



February 27, 2015

Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Rondald D. Kouchi, Vice Chair

State Capitol
415 South Beretania St
Honolulu, HI 96813

Re: In Support of SB40 SD2

Relating to Licensing. Establishes licensing requirements for the practice of behavior analysis.

Dear Chair Tokuda, Vice Chair Kouchi, and Members of the Committee:

I am Lorri Unumb, Vice President for State Government Affairs at Autism Speaks, the parent of a child with autism, and a consumer of Applied Behavior Analysis services for my child. Autism Speaks is the world's leading autism science and advocacy organization, dedicated to funding research into the causes, prevention, treatments and a cure for autism; increasing awareness of autism spectrum disorders; and advocating for the needs of individuals with autism and their families. Autism Speaks is pleased to submit testimony in strong support of SB40 SD2.

Autism Speaks has worked to pass autism insurance legislation in 38 states. In most of those states, insurance companies reimburse practitioners of Applied Behavior Analysis (ABA) on the basis of their national board certification, without the need for state licensure. As such, we know that licensure is not a prerequisite to insurance reimbursement for ABA services. Nevertheless, we support the professionalization of the ABA field and support the ability of states to protect consumers of ABA services, who are typically (though not always) individuals with autism. Many consumers of ABA services are children; some ABA consumers are non-verbal; as such, it is appropriate for the state to take an interest in regulating the providers who work with these individuals.

The professionals who design and oversee an ABA program for an individual with autism are called "behavior analysts." Behavior analysts can be certified by a non-profit national entity,

the Behavior Analyst Certification Board (BACB), which itself is credentialed by the National Commission on Certifying Agencies. The requirements to become a Board Certified Behavior Analyst (BCBA) are stringent, and they appropriately form the basis for state licensure of behavior analysts in the 19 states that now license behavior analysts.

The creation of a state license for behavior analysts under SB40 SD2 supports the provider scheme set forth in at least one of the autism insurance bills that is currently pending in the Hawaii legislature (SB791), as well as in the current coverage memorandum that outlines ABA benefits for the state's Medicaid population. As such, we encourage the committee to pass SB40 SD2, and we look forward to working with the Legislature and the State to ensure smooth and timely implementation.

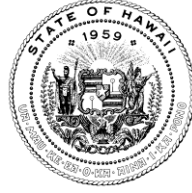
Respectfully submitted,

A handwritten signature in black ink that reads "Lorri Shealy Unumb". The signature is written in a cursive, slightly slanted style.

Lorri Shealy Unumb
Vice President, State Government Affairs
Autism Speaks

1 East 33rd Street
New York, NY
803-582-9905

Lorri.unumb@autismspeaks.org



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PRESENTATION OF THE PROFESSIONAL AND VOCATIONAL LICENSING DIVISION

TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

Friday, February 27, 2015
1:00 p.m.

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TO THE HONORABLE JILL N. TOKUDA, CHAIR,
AND MEMBERS OF THE COMMITTEE:

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Thank you for the opportunity to provide comments on Senate Bill No. 40,
S.D. 2.



Easter Seals Hawaii

Administrative Offices
710 Green Street
Honolulu, Hawaii 96813
Phone: 808.536.1015
Toll Free: 888.241.7450
Fax: 808.536.3765

February 26, 2015

To: Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Ron D. Kouchi, Vice Chair

From: Ron Brandvold, President and CEO

Re: **Support for SB 40/SD 2: Relating to Licensing**
Hearing Scheduled for: Friday, February 27, 2015 (1:00 pm)

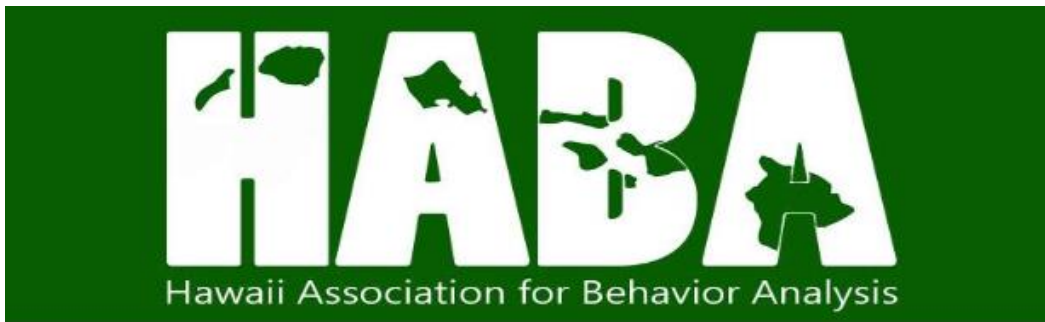
For over 60 years, Easter Seals Hawaii has provided exceptional, individualized, family-centered services to empower infants, children, youth and adults with disabilities or special needs to achieve their goals and live independent fulfilling lives. Easter Seals Hawaii is a statewide CARF accredited organization with 15 facilities from Waimea, Kauai to Hilo, Hawaii providing a variety of programs including Autism Services. These services include Applied Behavior Analysis /Verbal Behavior-Based Therapy, Speech/Language Pathology, Assessment, Training, Education and Consultation.

Easter Seals Hawaii supports the intent and licensing requirements for the practice of behavior analysis as set forth in **SB 40/SD2**.

SB 40/SD2 follows the professional credentialing standards of the Behavior Analyst Certification Board (BACB), a non-profit corporation whose mission is to protect consumers of behavior analysis services by establishing, promoting and disseminating professional standards. Such uniform standards as found in SD 40/SD2 meet the legal standards established through state, national, and case law, align with accepted standards for certification programs, and meet "best practices" and ethical standards of the behavior analysis profession.

SB 40/SD2 licensing requirements also recognize the tiered service delivery model with a Behavior Analyst's clinical, supervisory, and case management activities supported by other staff working within the scope of their training, practice, competence, and licensure, thus helping to ensure cost-effective treatment. Under SB 40/SD 2 only behavior analysts must seek licensure through the Department of Commerce and Consumer Affairs (DCCA). Other key professions are recognized and exempt from licensure (e.g. assistant behavior analyst and registered behavior technician) but their work must be under the direction of a licensed behavior analyst. Finally, SB 40/SD 2 provides for licensure by DCCA by endorsement for those holding a current license in another State thereby expediting the process.

Thank you for noting the urgent need for a licensing process for behavior analysts in Hawaii who support individuals with autism spectrum disorders and their families. And thank you for the opportunity to submit this testimony.



2/27/15
COMMITTEE ON WAYS AND MEANS
Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair

Conference Romm 211
Hawaii State Capitol
415 South Beretania Street

Dear Chair Tokuda, Vice Chair Kouchi, and members of the committee:

Thank you for this opportunity to submit testimony in strong support of **SB40 SD2** for licensure of behavior analysts. My name is Kristen Koba-Burd, M.S., BCBA and I am the current Vice President of the Hawai'i Association for Behavior Analysis (HABA).

We thank you for your consideration of this bill which aims to increase consumer protection for applied behavior analysis (ABA) services in Hawaii.

Mahalo for your support,

Kristen Koba-Burd, M.S., BCBA
Vice President
Hawaii Association for Behavior Analysis
Maui

vicepresident@hawaiiaba.org



COMMITTEE ON WAYS AND MEANS

February 27, 2015, 1:00 pm

Senator Jill N. Tokuda, Chair and Senator Ronald D. Kouchi, Vice Chair

Hawaii State Capitol, Conference Room 211

415 South Beretania Street, Honolulu, HI

Dear Chair Tokuda, Vice Chair Kouchi, and members of the committee:

Thank you for this opportunity to submit testimony on behalf of SB40-SD2, which calls for licensure of behavior analysts. My name is [Amanda N. Kelly, PhD, BCBA-D](#) and I am the current President of the [Hawai'i Association for Behavior Analysis \(HABA\)](#). HABA is a professional organization that seeks to assist in the development and advancement of the field of behavior analysis within the state of Hawai'i through research, education, and dissemination of information. HABA represents Board Certified Behavior Analysts/-Doctoral (BCBA/BCBA-D) and Board Certified assistant Behavior Analysts (BcaBA) in Hawai'i.

Behavior analysis practitioners are currently credentialed in the form of an international certificate program administered through the [Behavior Analyst Certification Board \(BACB\)](#). However, there is growing interest in licensure for behavior analysis practitioners at the state level. Reasons for moving in this direction include protecting the rights of behavior analysts to practice their discipline and increased consumer protection (APBA, 2009). On behalf of HABA, we are grateful for your consideration of this bill. We wish to submit testimony in **strong support of SB40-SD2**.

- 1) [19 States currently regulate the practice of behavior analysis](#)¹
 - i. [18 states license](#)²: Alabama, Alaska, Arizona, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Missouri, North Dakota, Nevada, New York, Oklahoma, Oregon, Rhode Island, Tennessee, Virginia, Wisconsin.

¹ <http://www.apbahome.net/APBALicensure.php>

² <http://www.apbahome.net/pdf/State%20Regulation%20of%20BA%20062314%20V2.png>

- ii. 1 state provides certification at the state level: Ohio (although Ohio is currently seeking licensure)
 - iii. 16 states are currently pursuing licensure for behavior analysts (including Hawai'i)
- 2) [The Licensing of Behavior Analysts: Protecting the Profession and the Public](#)³ (Hassert, Kelly, Pritchard, Cautilli, 2008):

Applied behavior analysis is a hybrid tradition with roots in many mental health disciplines. Even with these diverse origins, the professional practice of behavior analysis remains distinct and identifiable.

Increased demand for behavior analytic services, especially as regards autism, and increased practitioner numbers has combined with a shift from a growing to maturing market (see Porter, 1980), in which educated consumers are less willing to accept uneven service quality, resulting in the public calling for the licensing of behavior analysis. The consumer's goal through licensing is to ensure stable, practically priced, and reliable source of distinctly behavior analytic providers and services. The behavior analyst goal is to build a quality image (Patton, 1959), while marketing key functions (Staudt, Taylor, & Bowersox, 1976) both of which licensing helps to achieve.

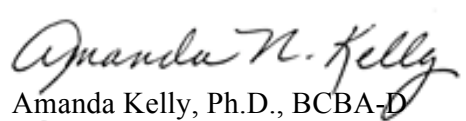
- 3) [The Case for Licensure of Applied Behavior Analysis \(ABA\)](#)⁴ (Dorsey, Weinberg, Zane, Guidi, 2009):

One potential downside of the increased recognition of the practice of ABA is an influx of individuals seeking to prosper from this opportunity who may have little or no training or experience in ABA – placing both the consumers of their services and the field at large at risk.

Some consumers may not be able to discriminate between adequately and inadequately trained providers, and they may trust providers who insist that they are “just as well trained” and have “many years of experience” in ABA.

After reviewing the current draft of SB40-SD2, I would like to submit a few minor/non-substantive edits for the committee's consideration, on behalf of HABA. We have attached the bill with the proposed edits highlighted for your convenience. Thank you again for your consideration of this bill and for the opportunity to submit our testimony in **strong support of SB40-SD2**.

Malama our keiki,



Amanda Kelly, Ph.D., BCBA-D
2015 HABA President

³ <http://files.eric.ed.gov/fulltext/EJ829086.pdf>

⁴ <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2854065/pdf/i1998-1929-2-1-53.pdf>

A BILL FOR AN ACT

RELATING TO LICENSING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the practice of behavior analysis in Hawaii affects the public's health safety, and welfare. The legislature further finds that behavior analysts and the practice of behavior analysis should be subject to regulation and control to protect the public from the unqualified practice of behavior analysis and from unprofessional conduct by persons licensed to practice behavior analysis.

The legislature additionally finds that certain measures introduced during the regular session of 2015 provide mandated insurance coverage for the diagnosis and treatment of autism. If such legislation is ultimately

enacted, it is critical that behavior analysts, who engage in the practice of behavior analysis with individuals with autism, be fully licensed. Federal requirements specify providers of services must be licensed in their profession in order to participate in Medicaid. Furthermore, health insurance plans in Hawaii will not provide reimbursement for services provided by behavior analysts unless those individuals are licensed in the State.

The legislature notes that it is imperative that the licensing of behavior analysts begin concurrently with any mandated insurance coverage for the diagnosis and treatment of autism.

Accordingly, the purpose of this Act is to address the urgent need for a licensing process for behavior analysts by establishing the behavior analyst program within the department of commerce and consumer affairs and establishing licensing requirements for the practice of behavior analysis by behavior analysts.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

BEHAVIOR ANALYSTS

§ -1 **Definitions.** For the purposes of this chapter:

"Applied behavior analysis" means

interventions that are based on scientific research and the direct observation and measurement of behavior and the environment.

"Behavior Analyst Certification Board" means the international accredited Behavior Analyst Certification Board or its successor.

"Department" means the department of commerce and consumer affairs.

"Director" means the director of commerce and consumer affairs.

"Licensed behavior analyst" means a person:

- (1) Who engages in the practice of behavior analysis and uses the title of licensed behavior analyst;
- (2) Who has been issued a license under this chapter; and
- (3) Whose license is in effect and not revoked, suspended, or encumbered.

"Practice of behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. Practice of behavior analysis includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis. Practice of behavior analysis also includes the use of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific

environmental conditions. Practice of behavior analysis expressly excludes psychological testing, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities.

§ -2 Behavior analyst program; established; personnel. (a) Notwithstanding any other law, there is established a behavior analyst program within the department to be administered by the director.

(b) The department may employ necessary personnel without regard to chapter 76 to assist with the implementation and continuing functions of this chapter.

§ -3 License required. (a) Beginning on January 1, 2016, except as specifically provided in this chapter, no person shall engage in the practice of behavior analysis or use the title "licensed behavior analyst" or "behavior analyst" without a valid license issued pursuant to this chapter.

(b) Any person who violates this section shall be subject to a fine of not more than \$1,000 for each separate offense. Each day of each violation shall constitute a separate offense.

§ -4 Powers and duties of the director. In addition to any other powers and duties authorized by law, the director shall have the

powers and duties to:

(1) Grant, deny, renew, refuse to renew, restore, terminate, reinstate, condition, restrict, suspend, or revoke a license issued pursuant to this chapter;

(2) Grant permission to a person to engage in the practice of behavior analysis and to use the title of "licensed behavior analyst" or a description indicating that the person is a licensed behavior analyst in this State;

(3) Adopt, amend, or repeal rules pursuant to chapter 91 as the director finds necessary to carry out this chapter;

(4) Administer, coordinate, and enforce this chapter;

(5) Discipline a licensed behavior analyst on grounds specified by this chapter or chapter 436B or for any violation of rules adopted by the director pursuant to this chapter; and

(6) Refuse to license a person for failure to meet the licensing requirements in this chapter or for any reason specified by this chapter as grounds to discipline a behavior analyst including but not limited to violations of the Behavior Analyst Certification Board's ethical **guidelines standards** for responsible conduct.

§ -5 Fees; disposition. (a) Upon issuance of a new license and at each license renewal period, each behavior analyst shall pay, in addition to a license fee or renewal fee, a surcharge of \$ _____, which shall be maintained in a separate account within the compliance resolution fund established pursuant to section 26-9(o). At the end of each quarter, the moneys contained in the separate account established pursuant to this section shall be transferred to the compliance resolution fund

until such time that the total transferred amounts equal the amount appropriated in section 4 of Act _____, Session Laws of Hawaii 2015. Thereafter, no surcharge shall be assessed, and any funds in excess of the amount appropriated in section 4 of Act _____, Session Laws of Hawaii 2015, shall be deposited into the compliance resolution fund.

(b) Application fees paid pursuant to this chapter shall not be refundable. Pursuant to section 26-9(1), the director shall establish examination, reexamination, license, renewal, restoration, enforcement, and other fees relating to the administration of this chapter by rule.

(c) Fees assessed pursuant to this chapter shall be used to defray costs incurred by the department in implementing this chapter.

§ -6 Exemptions. (a) This chapter is not intended to restrict the practice of other licensed or credentialed healthcare 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;

(2) An individual who implements or designs applied behavior analysis services and possesses board certification as an assistant behavior analyst by the Behavior Analyst Certification Board and who

practices in accordance with the most recent supervisory and ethical requirements adopted by the Behavior Analyst Certification Board under the direction of a behavior analyst licensed in this State;

(3) An individual who directly implements applied behavior analysis services, is credentialed as a registered behavior technician by the Behavior Analyst Certification Board, and is under the direction of a behavior analyst licensed in this State;

(4) A family member implementing an applied behavior analysis plan **within the home** who acts under the direction of a behavior analyst licensed in this State;

(5) An individual who engages in the practice of behavior analysis with nonhuman or nonpatient clients or consumers including but not limited to applied animal behaviorists and practitioners of organizational behavior management;

(6) A matriculated graduate student or postdoctoral fellow whose activities are part of a defined behavior analysis program of study, practicum, or intensive practicum; provided that the student's or fellow's activities or practice is directly supervised by a behavior analyst licensed in this State or an instructor in a Behavior Analyst Certification Board-approved course sequence; or

(7) An individual pursuing experience in behavior analysis consistent with the Behavior Analyst Certification Board's experience requirements; provided that the experience is supervised by a behavior analyst licensed in this State.

(b) Nothing in this chapter shall be construed to prevent any licensed psychologist from engaging in the practice of behavior analysis in this State as long as the person is not in any manner held out to the public as a "licensed behavior analyst" or "behavior

analyst" and the behavior analysis services provided by the licensed psychologist are within the licensed psychologist's recognized scope of practice.

§ -7 Application for licensure. The department shall issue a license under this chapter to an applicant for behavior analyst if the applicant provides satisfactory evidence to the department that the applicant meets the requirements for licensure contained in this chapter and rules adopted by the director and if the applicant for behavior analyst:

- (1) Successfully passed the Board Certified Behavior Analyst examination;
- (2) Maintains active status with the Behavior Analyst Certification Board as a board certified behavior analyst or **board certified behavior analyst-doctoral**; and
- (3) Pays all fees for licensure established by the director.

§ -8 Licensure by endorsement. The director may issue a license by endorsement to an applicant who holds a current and unencumbered license as a behavior analyst in another state; provided that the requirements for a license in that state are deemed by the director to be equivalent to or higher than the current requirements for licensure in this State.

§ -9 Renewal of license. Licenses issued pursuant to this chapter shall be valid for two years and shall be renewed upon the payment of a renewal fee within sixty days before the

expiration of the license. Failure to renew a license shall result in forfeiture of that license. Licenses that have been forfeited may be restored within one year of the forfeiture date upon payment of renewal and restoration fees. Failure to restore a forfeited license within one year shall result in the automatic termination of the license. A person whose license has been terminated pursuant to this section shall be required to reapply for a new license as a new applicant.

§ -10 Grounds for refusal to renew, reinstate, or restore a license and for denial, revocation, suspension, or condition of a license.

(a) In addition to any other acts or conditions provided by law, the director may refuse to renew, reinstate, or restore and may deny, revoke, suspend, or condition in any manner any license for any one or more of the following acts or conditions on the part of a licensee or license applicant:

- (1) Failure to meet or to maintain the conditions and requirements necessary to qualify for the granting of a license;
- (2) Engaging in false, fraudulent, or deceptive advertising, or making untruthful or improbable statements in advertising;
- (3) Engaging in the practice of behavior analysis while impaired by alcohol, drugs, physical disability, or mental instability;
- (4) Procuring through fraud, misrepresentation, or deceit a license to engage in the practice of behavior analysis;
- (5) Aiding and abetting an unlicensed person to directly or indirectly perform activities requiring a license for the practice of behavior

analysis;

(6) Engaging in professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of behavior analysis;

(7) Engaging in conduct or a practice contrary to recognized standards of the most recent ethical **guidelines standards** for the practice of behavior analysis as adopted by the Behavior Analyst Certification Board;

(8) Violating any condition or limitation imposed by the director on a license to practice behavior analysis;

(9) Engaging in the practice of behavior analysis in a manner that causes injury to one or more members of the public;

(10) Failing to comply with, observe, or adhere to any law in a manner that causes the director to determine that the applicant or holder is unfit to hold a license;

(11) Having a license revoked or suspended or other disciplinary action by any state or federal agency for any reason that is provided by the applicable licensing laws or by this section;

(12) Having been convicted or pleaded nolo contendere to a crime directly related to the qualifications, functions, or duties of the practice of behavior analysis;

(13) Failing to report in writing to the director any disciplinary decision issued against the licensee or applicant in another jurisdiction within thirty days of the disciplinary decision;

(14) Failing to report in writing to the director the Behavior Analyst Certification Board's revocation of the certification of a licensee or applicant within fifteen days of the revocation;

(15) Employing, whether gratuitously or for pay, any person not licensed **or exempted** pursuant to this chapter to perform the functions or duties of the practice of behavior analysis; or

(16) Violating this chapter, chapter 436B, or any rule or order of the

director.

(b) Any licensee or applicant who violates this section may also be fined not more than \$1,000 per violation."

SECTION 3. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 Repeal dates for newly enacted professional and vocational regulatory programs.

(a) Any professional or vocational regulatory program enacted after January 1, 1994, and listed in this section shall be repealed as specified in this section. The auditor shall perform an evaluation of the program, pursuant to section 26H-5, prior to its repeal date.

(b) Chapter 466D (respiratory therapists) shall be repealed on June 30, 2016.

(c) Chapter 436H (athletic trainers) shall be repealed on June 30, 2018.

(d) Chapter (behavior analysts) shall be repealed on June 30, ."

SECTION 4. There is appropriated out of the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes, the sum of \$ or so much thereof as may be necessary for fiscal year 2015-2016 and the same sum or so much thereof as may be necessary for fiscal year 2016-2017 to implement the behavior analyst program established pursuant to section 2 of this Act.

The sums appropriated shall be expended by the department of commerce and consumer affairs

for the purposes of this Act.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2015.

Report Title:

Licensing; Practice of Behavior Analysis;
Behavior Analysts; Behavior Analyst Program;
Department of Commerce and Consumer Affairs;
Appropriation

Description:

Establishing the behavior analyst program within the department of commerce and consumer affairs. Establishes licensing requirements for behavior analysts. Appropriates funds for the implementation of the behavior analyst program.

(SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

2/26/15

COMMITTEE ON WAYS AND MEANS

Senator Jill N. Tokuda, Chair

Senator Ronald D. Kouchi, Vice Chair

Conference Room 211

Hawaii State Capitol

415 South Beretania Street

Dear Chair Tokuda, Vice Chair Kouchi, and members of the committee,

Thank you for the opportunity to submit testimony in strong support of **SB40 SD2** for licensure of behavior analysts. My name is Carla Schmidt, Ph.D., BCBA-D and I am an Assistant Professor/Program Coordinator of the Behavior Analysis Program at the University of Hawaii-Manoa and Past-President of the Hawaii Association for Behavior Analysis.

I thank you for the consideration of this bill, which aims to increase consumer protection for applied behavior analysis (ABA) services in Hawaii.

Mahalo for your support,

A handwritten signature in cursive script that reads "Carla M. Schmidt". The signature is written in black ink and is positioned above a horizontal line.

Carla Schmidt, Ph.D., BCBA-D



COMMITTEE ON WAYS AND MEANS

February 27, 2015, 1:00 pm

Senator Jill N. Tokuda, Chair and Senator Ronald D. Kouchi, Vice Chair

Hawaii State Capitol, Conference Room 211

415 South Beretania Street, Honolulu, HI

Dear Chair Tokuda, Vice Chair Kouchi, and members of the committee:

Thank you for this opportunity to submit testimony in **strong support** of SB40-SD2 (licensure for behavior analysts). My name is Dr. Christine Walton. I am from Hawai'i and I am both a Clinical Psychologist and Board Certified Behavior Analyst-Doctoral (BCBA-D).

Again, I thank you for your consideration of this bill, which aims to increase consumer protection for applied behavior analysis (ABA) services in Hawai'i.

Malama our keiki,

Christine Walton, PhD, BCBA-D
Clinical Psychologist
Director, Behavior Analysis No Ka Oi

SB40

Submitted on: 2/26/2015

Testimony for WAM on Feb 27, 2015 13:00PM in Conference Room 211

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

Comments: Aloha, As a representative of BAYADA Behavioral Health an Applied Behavioral Analysis Agency, employing nearly 20 Board Certified Behavior Analysts, we support SB40 as written. It is vital that this bill, not impede or delay access to these critical services. All of our BCBA's are in good standing with the Board and are in favor of licensure. Increased accountability measures to provide quality services is in the best interest of our community, keiki, as well as qualified professionals. If this bill is passed as written, allowing for efficient and effective processing, we can ensure that our keiki with autism are supported immediately with the care they need. Mahalo, Dallas Hernandez Director, BAYADA Behavioral Health dhernandez@bayada.com

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COMMITTEE ON WAYS AND MEANS

February 27, 2015, 1:00 pm

Senator Jill N. Tokuda, Chair and Senator Ronald D. Kouchi, Vice Chair

Hawaii State Capitol, Conference Room 211

415 South Beretania Street, Honolulu, HI

Dear Chair Tokuda, Vice Chair Kouchi, and members of the committee:

Thank you for this opportunity to submit testimony in **strong support** of SB40-SD2 (licensure for behavior analysts). My name is Elizabeth Connolly and I am a teacher at a local private school and also a behavior technician at Behavior Analysis No Ka Oi.

Again, I thank you for your consideration of this bill, which aims to increase consumer protection for applied behavior analysis (ABA) services in Hawai'i.

Malama our keiki,

Elizabeth Connolly

connollyliz1@gmail.com



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
919 ALA MOANA BOULEVARD, ROOM 113
HONOLULU, HAWAII 96814
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
February 27, 2015

The Honorable Jill N. Tokuda, Chair
Senate Committee on Ways and Means
Twenty-Eighth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Senator Tokuda and Members of the Committee:

SUBJECT: SB 40 SD2 – Relating to Licensing

The State Council on Developmental Disabilities (DD) **SUPPORTS THE INTENT OF SB 40 SD2**. The purpose of this bill is to establish the behavior analyst program within the Department of Commerce and Consumer Affairs, establish licensing requirements for behavior analysts and assistant behavior analysts, and to appropriate funds for the implementation of the behavior analyst program.

The passage of this bill would address the need to develop an infrastructure that supports licensed providers, specifically behavior analysts and assistant behavior analysts. These groups of providers are recognized in providing treatment for individuals with autism spectrum disorders. Currently, there is no system or process in place. We understand that the process for other national recognized providers is a long and rigorous process, one that could take up to five years.

With SB 791 – Relating to Autism Spectrum Disorders and HB 1108 – Relating to Health moving through the legislative process to provide mandated insurance coverage for the diagnosis and treatment of autism, it is imperative that a licensing process begin this year. We appreciate the Legislature's proactive approach to establish a behavior analyst program that includes licensing for behavior analysts and assistant behavior analysts.

Thank you for the opportunity to submit **supportive testimony for SB 40 SD2**.

Sincerely,

Waynette K.Y. Cabral, M.S.W.
Executive Administrator

Rosie Rowe
Chair

2/27/15

COMMITTEE ON WAYS AND MEANS

Senator Jill N. Tokuda, Chair

Senator Ronald D. Kouchi, Vice Chair

Conference Room 211

Hawaii State Capitol

415 South Beretania Street

Dear Chair Tokuda, Vice Chair Kouchi and members of the committee,

My name is Johanna Taylor and I am a Board Certified Behavior Analyst (BCBA) residing on the Big Island. I hold a PhD in Early Intervention with an emphasis on individuals with autism and related disorders.

I **strongly support SB40 SD2** for licensure of behavior analysts. Please consider this bill, which strengthens protection for individuals receiving applied behavior analysis (ABA) services in the state of Hawaii.

Mahalo for the opportunity to submit testimony,

Johanna P. Taylor, PhD., BCBA

Neighbor Island Representative

Hawaii Association for Behavior Analysis

info@hawaiiaba.org

2/27/15

COMMITTEE ON WAYS AND MEANS

Senator Jill N. Tokuda, Chair

Senator Ronald D. Kouchi, Vice Chair

Conference Room 211

Hawaii State Capitol

415 South Beretania Street

Dear Chair Tokuda, Vice Chair Kouchi and members of the committee,

My name is Johanna Taylor and I am a Board Certified Behavior Analyst (BCBA) residing on the Big Island. I hold a PhD in Early Intervention with an emphasis on individuals with autism and related disorders.

I **strongly support SB40 SD2** for licensure of behavior analysts. Please consider this bill, which strengthens protection for individuals receiving applied behavior analysis (ABA) services in the state of Hawaii.

Mahalo for the opportunity to submit testimony,

Johanna P. Taylor, PhD., BCBA

Neighbor Island Representative

Hawaii Association for Behavior Analysis

info@hawaiiaba.org



2/27/15

COMMITTEE ON WAYS AND MEANS

Senator Jill N. Tokuda, Chair

Senator Ronald D. Kouchi, Vice Chair

Conference Room 211

Hawaii State Capitol

415 South Beretania Street

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

My name is Lara Bollinger and I am a Board Certified Behavior Analyst and the Treasurer of the Hawaii Association for Behavior Analysis. I'm writing to you today to lend my support to Senate Bill 40 which would require licensure for Behavior Analysts in the state of Hawaii. I am in support of this bill to provide for increased consumer protection by ensuring that those providing behavior analysis services are competent to do so. I support the licensing of Board Certified Behavior Analysts as well as allowing Board Certified assistant Behavior Analysts and Registered Behavior Technicians to practice under the supervision of a Licensed Behavior Analyst.

Thank you for your time,

Lara Bollinger, M.S.Ed., BCBA

Treasurer, Hawaii Association for Behavior Analysis

Hawai'i Association for Behavior Analysis (HABA)

350 Ward Avenue

Ste 106-221

Honolulu, HI 96814

www.hawaiiaba.org

SB40

Submitted on: 2/25/2015

Testimony for WAM on Feb 27, 2015 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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2/27/15

COMMITTEE ON WAYS AND MEANS

Senator Jill N. Tokuda, Chair

Senator Ronald D. Kouchi, Vice Chair

Conference Room 211

Hawaii State Capitol

415 South Beretania Street

Members of the Committee on Ways and Means:

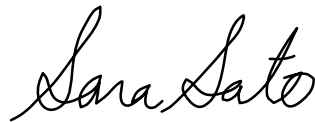
My name is Sara Sato and I was born and raised in Honolulu, Hawai'i. I am a Board Certified Behavior Analyst (BCBA) and hold a Master's Degree in Special Education with an Autism and Severe Disabilities Specialization from the University of Hawai'i at Manoa. I have been working with children with Autism for the past 16 years. Thank you for the opportunity to submit testimony today in support of SB40 SD2: Relating to Licensing Behavior Analysts.

The practice of Applied Behavior Analysis (ABA) focuses on making socially significant behavior change to individuals. ABA practitioners systematically apply evidence based procedures based on the principles of Behavior and Learning, frequently monitor progress by collecting data and graphing, make changes based on the information gathered, and promote the generalization of the skills learned. These procedures are extremely effective at teaching individuals to develop positive repertoires and eliminate behavior that is inappropriate.

I support licensure of Behavior Analysts in Hawai'i. As a BCBA, I have seen significant results produced as a result of the competent application of ABA. Additionally, as Behavior Analysts we follow a strict code of ethics that hold us to a high standard of professionalism. I am proud of the work that I do and stand behind our practice. Adding licensure would put our practice at an even higher standard which will ensure the consumer is receiving the best quality services they deserve.

Thank you again for the opportunity to voice my support for this important bill.

Sincerely,



Sara Sato, M.Ed., BCBA
Legislative Co-Chair

Hawaii Association for Behavior Analysis

SB40

Submitted on: 2/26/2015

Testimony for WAM on Feb 27, 2015 13:00PM in Conference Room 211

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

Comments: Aloha, As a representative of BAYADA Behavioral Health an Applied Behavioral Analysis Agency, employing nearly 20 Board Certified Behavior Analysts, we support SB40 as written. It is vital that this bill, not impede or delay access to these critical services. All of our BCBA's are in good standing with the Board and are in favor of licensure. Increased accountability measures to provide quality services is in the best interest of our community, keiki, as well as qualified professionals. If this bill is passed as written, allowing for efficient and effective processing, we can ensure that our keiki with autism are supported immediately with the care they need. Mahalo, Dallas Hernandez Director, BAYADA Behavioral Health dhernandez@bayada.com

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2/26/15
COMMITTEE ON WAYS AND MEANS
Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair

Conference Room 211
Hawaii State Capitol
415 South Beretania Street

Dear Chair Tokuda, Vice Chair Kouchi, and members of the committee,
Thank you for the opportunity to submit testimony in strong support of **SB40 SD2** for licensure of behavior analysts. My name is Carla Schmidt, Ph.D., BCBA-D and I am an Assistant Professor/Program Coordinator of the Behavior Analysis Program at the University of Hawaii-Manoa and Past-President of the Hawaii Association for Behavior Analysis.
I thank you for the consideration of this bill, which aims to increase consumer protection for applied behavior analysis (ABA) services in Hawaii.

Mahalo for your support,

A handwritten signature in cursive script, reading "Carla M. Schmidt", written over a horizontal line.

Carla Schmidt, Ph.D., BCBA-D

SB40

Submitted on: 2/26/2015

Testimony for WAM on Feb 27, 2015 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Connolly	Individual	Support	No

Comments:

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February 26, 2015

To Whom It May Concern,

I'm writing to strongly endorse bill SB40-SD2 requiring licensure for behavior analysts, and I recommend it pass without delay, as there will many challenges regarding service delivery and treatment until such licensure is adopted.

Autism insurance legislation and licensure legislation were both written in the same spirit, in order for people with autism to gain access to the most effective treatment. Current autism insurance legislation calls for the licensure of behavior analysts, so without this licensure legislation, all of your efforts working for solutions regarding access and the most effective treatment for autism will be further delayed, which I don't believe was the intent of either of these initiatives. I strongly endorse bill SB40-SD2 in order to ensure people with autism gain access to the most effective treatment, and as a matter of consumer protection.

Respectfully Submitted,
Molly Benson MS Sp.ED BCBA

COMMITTEE ON WAYS AND MEANS
SEN. JILL N. TOKUDA, CHAIR
SEN. RONALD D. KOUCHI, VICE CHAIR

Jeffrey D. Stern, Ph.D.
Licensed Clinical Psychologist
1833 Kalakaua Ave. Suite 908
Honolulu, HI 96815

Thursday, February 26, 2015

Honorable Chair Tokuda, Vice Chair Kouchi, and esteemed members of the Senate Committees on Ways and Means, in regards to **SB 40, SD2** that establishes the behavior analyst program within the DCCA, I am in strong support of this bill as it addresses a need for licensure of Applied Behavior Analysts.

My name is Jeffrey Stern and I am a psychologist that has provided intensive behavioral support services, including Applied Behavior Analysis, to children with Autism Spectrum Disorder for more than 15 years here in Honolulu. I am very pleased to see a licensure requirement moving forward so quickly for Board Certified Behavior Analysts, and I am also pleased to see that allied professionals, including psychologists, with ample experience and training can continue to provide ABA services to children with ASD as part of their scope of service.

I would, however, like to ask the esteemed members of this committee to consider an amendment or two.

First, I'd ask that a provision be added requiring continuing education for licensed Behavior Analysts, consistent with the recommendations of the Behavior Analyst Certification Board. It turns out, the Behavior Analysis Certification Board requires recertification every 3 years, not every two, which is what is required in this bill. BCBA's are required to complete 36 hours every three years, so I suggest that maintenance of the Behavior Analyst license be contingent upon current certification with the Behavior Analyst Certification Board and that documentation of said certification/recertification be required for renewal of the license.

Second, I'd ask that licensed Behavior Analysts providing supervision to those seeking licensure as Behavior Analysts be required to demonstrate competency in supervision via documentation of required supervision training, which the BACB now requires (as of 12/31/2014) in order to supervise aspiring behavior analysts. This training is not required of all BCBA's, only those who plan to supervise.

(see http://www.bacb.com/Downloadfiles/supervisor_curriculum.pdf) This 8-hour training requirement can be completed online, so it is not particularly burdensome. This will ensure that BCBA's seeking licensure receive adequate supervision.

Respectfully,

Jeffrey D. Stern, Ph.D
Past President, Hawai'i Psychological Association

SB40

Submitted on: 2/26/2015

Testimony for WAM on Feb 27, 2015 13:00PM in Conference Room 211

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

Comments: BAYADA Behavioral Health employs the largest number of Board Certified Behavior Analysts across Hawaii. We support SB 40 as written. Our BCBA staff are willing and excited to participate in licensure. We must, however, ensure that this additional measure, does not delay services for children with autism that desperately need this treatment. As you may know Luke of Luke's law is already 14 years old, and each year that passes without ABA services, set him further behind his peers, and his potential. If we work together as legislators and providers of these necessary services, we can ensure that keiki like Luke receive quality, life changing services, by licensed professionals that dedicate their lives to supporting our ohanas impacted by autism. Mahalo for your consideration.

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