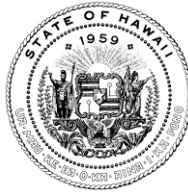


SB2638

Measure Title:	RELATING TO PROFESSIONAL AND VOCATIONAL LICENSING.
Report Title:	Professional and Vocational Licensing; Licensing Authority; Duties and Scope of Practice
Description:	Prohibits a licensing authority from adopting rules that authorize an unlicensed individual to perform duties that may overlap or conflict with the duties and scope of licensed professions or vocations.
Companion:	
Package:	None
Current Referral:	CPH
Introducer(s):	BAKER, Galuteria



DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
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CATHERINE P. AWAKUNI COLÓN
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JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Thursday, February 15, 2018
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2638, RELATING TO PROFESSIONAL AND
VOCATIONAL LICENSING.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department” or “DCCA”) appreciates the opportunity to testify on S.B. 2638. My name is Celia Suzuki, and I am the Licensing Administrator of the Department’s Professional and Vocational Licensing Division (“PVL”). PVL opposes this measure.

S.B. 2638 prohibits a licensing authority from adopting rules that authorize an unlicensed individual to perform duties that may overlap or conflict with the duties and scope of licensed professions or vocations.

The Department defers to the Board of Dental Examiners and its comments opposing this measure, since section 1 of the bill specifically identifies dental assistants as auxiliary personnel. Dental assistants assist dentists in the dentists’ practice, under the dentists’ supervision.

The Department has grave concerns with this measure, as it would add a new section to Hawaii Revised Statutes (“HRS”) chapter 436B, implicating supposed

“auxiliary personnel” for many of PVL’s licensing areas. Auxiliary personnel could mean any individual who is acting under the supervision of a license professional, such as a physician, dentist, electrician, plumber, massage therapist, beauty operator, or barber, to name a few. This measure is overly broad and could affect apprenticeship programs as well as clinical programs, especially in the labor industry, where it could raise union issues. Unions have apprenticeship programs that train people to be plumbers and electricians, among others.

Finally, the Department is concerned this measure prohibits a licensing authority from adopting any rule regarding the duties of such auxiliary personnel that may infringe upon, overlap with, or conflict with the duties and scope of practice of any licensed professional. The Department will have difficulty defining “infringe upon,” “overlap with,” or “conflict with,” because these are subjective terminologies.

Thank you for the opportunity to testify in opposition to S.B. 2638.



Hawai'i Psychological Association

For a Healthy Hawai'i

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COMMITTEE ON COMERCE, CONSUMER PROTECTION AND HEALTH

Senator Rosalyn H. Baker, Chair

Senator Jill N. Tokuda, Vice Chair

Thursday, February 15, 2018, 9:00AM

Conference Room 229

State Capitol

415 South Beretania Street

Testimony COMMENTING ON SB2638

RELATING TO PROFESSIONAL AND VOCATIONAL LICENSING

The Hawaii Psychological Association (HPA) represents a group of licensed professionals, Clinical Psychologists, who frequently utilize assistants of various types in our work. For example, a paraprofessional psychological assistant might work in a family's home, implementing a behavioral plan developed by a Psychologist to address a child's problematic behavior. In addition, psychologists frequently supervise trainees at various levels of training who may provide some psychological services to patients without the supervising psychologist being physically present. For example, just prior to licensure all psychologists must obtain a post-doctoral year of supervised practice where they typically are working alone with clients in therapy and conducting evaluations. These activities must be overseen by a Licensed Psychologist who meets with the post-doc weekly, discusses the ongoing work and reads and co-signs their documentation.

The HPA Legislative Action Committee has reviewed this bill, and we are having great difficulty understanding whether and how it could impact our practice and that of our assistants and supervisees. We are concerned that the purpose of this Act and amendment to Hawaii Revised Statutes Chapter 436B that this bill proposes on Page 2 Lines 11 – 17 could lead to prohibitions on some of our routine practices, such as those described above. We are also concerned that, given the broad and overreaching language used in Act 199 to define the practice of Licensed Behavior Analysts (LBAs), our supervisees' work will often overlap with the work of LBA's as well as the work of Psychologists and other licensed mental health professionals (e.g. using behavioral intervention strategies to modify problematic behavior).

We hope the Committee will consider narrowing and clarifying the language of this bill.

Thank you for the opportunity to comment on this important legislation.

Sincerely,

Tanya Gamby, Ph.D.
2018 HPA Presiden



AMERICAN
PSYCHOLOGICAL
ASSOCIATION
PRACTICE ORGANIZATION

Statement on Behavior Analysis and Behavior Analysts

The APAPO Board approved the following “Statement on Behavior Analysis and Behavior Analysts” at its February 2012 meeting:

Psychologists have a long history of developing and implementing effective services, including behavior analysis, for individuals with autism spectrum disorders and their families. Licensed psychologists with competence in behavior analysis are qualified to independently provide and to supervise the provision of behavior analytic services. Therefore, qualified licensed psychologists should be allowed to provide behavior analysis and to call the services they provide “behavior analysis” or “applied behavior analysis” without obtaining additional credentials or licensure. Other professionals who provide behavior analysis should be required by law or regulation to demonstrate education, training and supervision appropriate to a defined scope of practice and to the needs of the jurisdiction. The APAPO Board supports advocacy to ensure that any legislation or regulations regarding behavior analysts or the practice of behavior analysis contain provisions to protect consumers by ensuring that they receive services by appropriately qualified professionals. Further, the APAPO Board recommends that, to the extent that behavior analysts are regulated separately by state law, the benefits of regulation under the state board of psychology should be considered.

The APAPO Board position is supported by two APA policy documents, the [APA Model Act for State Licensure](#) (PDF, 111KB) and the [APA Ethical Principles of Psychologists and Code of Conduct](#). Specifically, section B.3 of the Model Act includes “behavior analysis and therapy” within the definition of the practice of psychology; and Ethics Code Standard 2 requires that “psychologists provide services, teach, and conduct research with populations and in areas only within the boundaries of their competence.”

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Applied Behavior Analysis

Adopted as APA Policy by APA Council of Representatives in February 2017

The principles of applied behavior analysis (also known as behavior modification and learning theory), developed and researched by psychology and competently applied in the treatment of various disorders based on that research, is clearly within the scope of the discipline of psychology and is an integral part of the discipline of psychology. Across the United States, applied behavior analysis is taught as a core skill in applied and health psychology programs. As such, the American Psychological Association (APA) affirms that the practice and supervision of applied behavior analysis are well-grounded in psychological science and evidence-based practice. APA also affirms that applied behavior analysis represents the applied form of behavior analysis which is included in the definition of the “Practice of Psychology” section of the APA Model Act for State Licensure of Psychologists. Therefore, APA asserts that the practice and supervision of applied behavior analysis is appropriately established within the scope of the discipline of psychology.

Suggested Citation

American Psychological Association. (2017). *APA Policy: Applied Behavior Analysis*. Retrieved from: <http://www.apa.org/about/policy/applied-behavior-analysis.aspx>

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Hawaii Dental Association

To: The Senate Committee on Commerce, Consumer Protection and Health
Time/Date: 9:00 a.m., February 15, 2018
Location: Capitol Conference Room 229
Re: SB 2638, RELATING TO PROFESSIONAL AND VOCATIONAL LICENSING.

Aloha Chair Baker, Vice Chair Tokuda and members of the committee! My name is Kim Nguyen and I serve as the executive director of the Hawaii Dental Association, a professional association comprised of approximately 950-member dentists. The Hawaii Dental Association (HDA) is a statewide professional membership organization representing dentists practicing in Hawaii and licensed by the State of Hawaii Board of Dental Examiners. HDA members are committed to protecting the oral health and well-being of all of the people of Hawaii, from keiki to kupuna and everyone in between.

SB 2638 seeks to prohibit a licensing authority from adopting rules that authorize an unlicensed individual to perform duties that may overlap or conflict with the duties and scope of licensed professions or vocations.

On January 24, the state auditor released a report recommending that dental assistants be regulated in a tiered approach. We respectfully oppose this measure and request that the recommendations of the auditor's report be taken into account prior to advancing additional legislation at this time.



Hawaii

Dental Hygienists' Association

Senate Committee on Commerce, Consumer Protection
and Health

February 12, 2018

Testimony in Support of SB 2638

Ellie Kelley-Miyashiro, RDH

Regulation and Practice Chairperson HDHA 2018

Dear Respected Members of the Senate Committee on
Commerce, Consumer Protection and Health:

The Hawaii Dental Hygienists' Association (HDHA) supports the intent of **SB 2638**. We would like to congratulate you on your leadership in initiating this important discussion during this legislative session to aid in increasing public safety.

HDHA feels that this measure has the potential to create law that would protect the public's safety across professionally licensed vocations. It would place in statute that clearly delineated duties of a licensed profession should not be within the scope of practice of another unlicensed, unregulated profession. Again, we feel this is for the public's safety.

Using the example of a dental office, dental assistants are undoubtedly an important part of the dental team.

Each team member plays a critical role in the execution of outstanding patient care. In the day to day work of a

dental office, many duties performed by Dental Hygienists are also performed by Dental Assistants. We feel this measure would help the Board of Dental Examiners, licensees, and those employing auxiliary, unlicensed team members understand that the five DEFINED duties of a licensed Dental Hygienist can not be performed by unlicensed Dental Assistants.

HDHA thanks you for your time and consideration of **SB 2638**. We would like to convey our desire that dentists, assistants and hygienists continue to be integral members of the oral health team, and feel that the public is best served and protected when all oral health providers and highly trained and work within their practice acts.

Thank you for your time and consideration.

SB-2638

Submitted on: 2/12/2018 7:49:32 PM

Testimony for CPH on 2/15/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Diane Brucato		Support	No

Comments:

This testimony is in strong support of SB2638. Promulgating rules that allow unlicensed individuals to perform duties that overlap with or are included in the definition of a licensed profession requiring standardized education and testing put the safety of the public at risk. SB2638 protects the public and especially children. Thank you for your consideration in support of this bill.

Respectfully,

Diane Brucato, RDH, EF, BS, FAADH

**PRESENTATION OF THE
BOARD OF DENTAL EXAMINERS**

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Thursday, February 15, 2018
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2638, RELATING TO PROFESSIONAL AND
VOCATIONAL LICENSING.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Paul Guevara, D.M.D., M.D.S., and I am the Chairperson of the Board of Dental Examiners ("Board"). Thank you for the opportunity to testify on S.B. 2638. The Board strongly opposes this measure.

This bill prohibits a licensing authority from adopting rules that authorize an unlicensed individual to perform duties that may overlap or conflict with the duties and scope of licensed professions or vocations.

Should this measure pass, it would prohibit dental assistants from applying fluoride, which the Board considers a simple procedure within the scope of practice of dental hygiene, as provided in Hawaii Revised Statutes ("HRS") chapter 447. The Board believes that dental assistants can safely apply fluoride. As being proposed in the Board's administrative rules, dental assistants would be able to apply fluoride in a manner appropriate by the American Dental Association, in a unit dose approved by the supervising licensed dentist or in an amount pre-measured by the supervising licensed dentist. Also, the Board requires the supervising-licensed dentists to appropriately train or provide training to dental assistants before performing any activity.

The Board does not intend to eliminate or erode the practices of dental hygiene, as dental hygienists provide extremely valuable services and skills and are a valuable part of the dental team. However, with changes to the practice of dentistry and rapid improvements to technology and equipment, the Board would like to continue having

the ability to implement changes through its administrative rules by using its expertise and protecting the health, safety, and welfare of the public. Therefore, the Board respectfully recommends deferral of this measure.

Thank you for the opportunity to testify on S.B. 2638.

SB-2638

Submitted on: 2/13/2018 4:20:29 PM

Testimony for CPH on 2/15/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Marshall		Support	No

Comments:

Petition to Submit Testimony in Support of SB2638

Petition summary and background:	<p>As Registered Dental Hygienists in the state of Hawaii, we feel it is of utmost importance that unlicensed, unregulated individuals, such as dental auxiliary personnel, do not infringe upon a particular licensed profession's scope of practice.</p> <p>Dental auxiliary personnel are considered a valuable part of a team. However, a majority are not licensed or certified in the state of Hawaii or required to meet the same stringent standards of training and care as licensed individuals in certain professions or vocations.</p> <p>It is inappropriate for unlicensed, unregulated dental auxiliary personnel to be expected or required to perform duties that are currently being performed by other licensed professionals.</p>
Action petitioned for:	<p>We, the undersigned, are concerned citizens who urge our leaders to act now to SUPPORT SB2638.</p> <p>In the best interest of the public's safety, this bill will prohibit a licensing authority from adopting rules that authorize an unlicensed, unregulated individual to perform duties that may overlap or conflict with the duties and scope of any licensed profession or vocation.</p>

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