

JAN 22 2021

A BILL FOR AN ACT

RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS.

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

1 SECTION 1. Section 465D-7, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) This chapter is not intended to restrict the practice
4 of other licensed or credentialed practitioners practicing
5 within their own recognized scopes of practice and shall not
6 apply to:

7 (1) A licensed psychologist and any supervisee of the
8 licensed psychologist; provided that applied behavior
9 analysis services performed are within the boundaries
10 of the licensed psychologist's education, training,
11 and competence; provided further that neither the
12 licensed psychologist nor any supervisee of the
13 licensed psychologist purports to be a licensed
14 behavior analyst; and provided further that master's
15 level practitioners and postdoctoral fellows may
16 provide training and supervision to direct support
17 workers, paraprofessionals, caregivers, parents and



1 guardians in a manner and to the extent determined by
2 the supervising licensed psychologist.

3 For purposes of this paragraph, "supervisee"
4 means a master's level practitioner, postdoctoral
5 fellow, direct support worker, paraprofessional,
6 caregiver, parent or guardian who provides applied
7 behavior analysis services;

8 (2) A licensed classroom teacher or an individual who is
9 working as a classroom teacher and is enrolled in a
10 teacher preparation program working towards licensure
11 who implements but does not design applied behavior
12 analysis services in a school setting in direct
13 collaboration with a licensed behavior analyst or a
14 licensed psychologist [~~on or before July 1, 2019~~];

15 (3) An individual who implements or designs applied
16 behavior analysis services and possesses board
17 certification as an assistant behavior analyst by the
18 Behavior Analyst Certification Board and who practices
19 in accordance with the most recent supervisory and
20 ethical requirements adopted by the Behavior Analyst



1 Certification Board under the direction of a licensed
2 behavior analyst;

3 (4) An individual who directly implements applied behavior
4 analysis services and[+]

5 ~~(A)~~ ~~Is]~~ is credentialed as a registered behavior
6 technician by the Behavior Analyst Certification
7 Board, and is under the direction of a licensed
8 behavior analyst or licensed psychologist [~~+ or~~

9 ~~(B)~~ ~~Is a direct support worker who directly~~
10 ~~implements an applied behavior analysis program~~
11 ~~under the supervision of a licensed behavior~~
12 ~~analyst or licensed psychologist on or before~~
13 ~~January 1, 2020;~~

14 ~~provided that for purposes of this paragraph, "direct~~
15 ~~support worker" means a paraprofessional who directly~~
16 ~~implements intervention or assessment plans under~~
17 ~~supervision and does not design intervention or~~
18 ~~assessment plans];~~

19 (5) A family member, legal guardian, or caregiver
20 implementing an applied behavior analysis plan and who
21 acts under the direction of a licensed behavior



1 analyst or Hawaii-licensed psychologist; provided that
2 for the purposes of this paragraph, "caregiver" means
3 an individual who provides habilitative services in an
4 adult foster home, developmental disabilities
5 domiciliary home, adult residential care home,
6 expanded adult residential care home, special
7 treatment facility, or therapeutic living program
8 pursuant to the medicaid home and community-based
9 services waiver program authorized by section 1915(c)
10 of the Social Security Act;

11 (6) An individual who designs or implements applied
12 behavior analysis services to participants in the
13 medicaid home and community-based service waiver
14 program pursuant to section 1915(c) of the Social
15 Security Act on or before January 1, 2024;

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



- 1 (8) A matriculated graduate student or postdoctoral fellow
2 whose activities are part of a defined applied
3 behavior analysis program of study, practicum, or
4 intensive practicum; provided that the student's or
5 fellow's activities or practice is directly supervised
6 by a licensed behavior analyst, licensed psychologist,
7 or an instructor from a nationally recognized training
8 organization or in a Behavior Analyst Certification
9 Board-approved course sequence; [e¶]
- 10 (9) An individual pursuing experience in applied behavior
11 analysis consistent with the Behavior Analyst
12 Certification Board's experience requirements;
13 provided that the experience is supervised by a
14 licensed behavior analyst[-]; or
- 15 (10) A licensed special education teacher or an individual
16 who is working toward licensure as a special education
17 teacher and who is enrolled in a state-approved and
18 nationally-accredited special education teacher
19 preparation program that includes training in behavior
20 analysis assessment and interventions; provided that
21 the applied behavior analysis services performed are



1 within the boundaries of the licensed special
2 education teacher's or individual working toward
3 licensure as a special education teacher's scope of
4 education, training, and practice."

5 SECTION 2. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 3. This Act shall take effect on July 1, 2021.

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INTRODUCED BY: *Michelle R. Tidani*



S.B. NO. 805

Report Title:

Practice of Behavior Analysis; Exemptions

Description:

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.

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