



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

Date: 03/21/2023

Time: 02:05 PM

Location: 309 VIA VIDEOCONFERENCE

Committee: House Education
House Health & Homelessness

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: SB 1340, SD2 RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS.

Purpose of Bill: Expands the exemption from the behavior analyst licensing requirements for certain 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. Allows a registered behavior technician who is under the direction of a licensed psychologist to implement applied behavior analysis services. Effective 7/1/2050. (SD2)

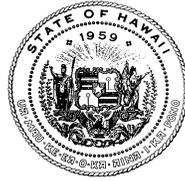
Department's Position:

The Hawaii State Department of Education (Department) supports SB 1340, SD2, 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 services in a school setting when in direct collaboration with a licensed behavior analyst or a licensed psychologist.

Supporting the behavioral needs of students is part of a classroom teacher's job duties and scope of practice, therefore, they should be allowed to implement applied behavior analysis services with the support and collaborative guidance of a licensed behavior analyst. Additionally, collaboration between classroom teachers and licensed behavior analysts promotes the generalization and maintenance of skills taught to students in the

classroom.

Thank you for the opportunity to provide testimony on this measure.



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. Box 3378
Honolulu, HI 96801-3378
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Testimony in SUPPORT of SB1340 SD2
RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS

REPRESENTATIVE JUSTIN H. WOODSON, CHAIR
HOUSE COMMITTEE ON EDUCATION

REPRESENTATIVE DELLA AU BELATTI, CHAIR
HOUSE COMMITTEE ON HEALTH AND HOMELESSNESS

Hearing Date: 3/21/23

Room Number: 309

1 **Department Testimony:**

2 The Department of Health (DOH), Developmental Disabilities Division (DDD), supports
3 this measure and respectfully requests an additional amendment to Hawaii Revised Statutes
4 (HRS) § 465D-7(a)(6).

5 The SD2 amends HRS § 465D-7(a) with respect to those who are exempted from the
6 licensing requirement for behavior analysts.

7 The DOH-DDD operates, on behalf of the Department of Human Services, Med-QUEST
8 Division, the §1915(c) Medicaid Waiver for Individuals with Intellectual and Developmental
9 disabilities.

10 The exemption in HRS § 465D-7(a)(6) pertaining to the §1915(c) Medicaid Waiver
11 automatically expires on January 1, 2024. Due to the workforce shortage, Medicaid Waiver
12 providers have not been able to obtain the training necessary for certification as a registered
13 behavior technician (RBT) from the Behavior Analyst Certification Board.

14 **Fiscal Implications:** None.

1 **Requested Amendment:**

2 The DOH-DDD respectfully requests an amendment to Section 2 of SD2 that makes
3 permanent the exemption in HRS § 465D-7(a)(6) for those who implement ABA services to
4 participants in the Medicaid HCBS waiver program.

5 (6) An individual who [~~designs or~~] implements applied behavior analysis services
6 to participants in the medicaid home and community-based service waiver
7 program pursuant to section 1915(c) of the Social Security Act [~~on or before~~
8 ~~January 1, 2024~~];

9 Thank you for the opportunity to testify.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
1010 RICHARDS STREET, Room 122
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
March 21, 2023

The Honorable Representative Justin H. Woodson, Chair
House Committee on Education
and
The Honorable Representative Della Au Belatti, Chair
House Committee on Health & Homelessness
The Thirty-Second Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Representative Woodson, Representative Belatti, and Committee Members:

SUBJECT: SB1340 SD2 RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS.

The Hawaii State Council on Developmental Disabilities **supports SB1340 SD2**, which expands the exemption from the behavior analyst licensing requirements for certain 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. Allows a registered behavior technician who is under the direction of a licensed psychologist to implement applied behavior analysis services.

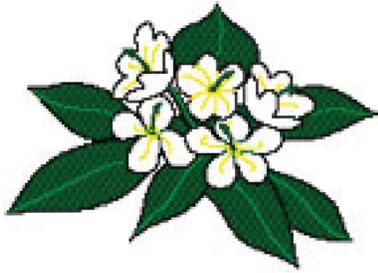
Hawaii DoE has a shortage of qualified individuals to offer ABA plans and implementation services to our youth with Autism. ABA stands for applied behavioral analysis and is the leading practice that can help individuals with Autism succeed in our community. ABA helps curb unwanted behaviors, improve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

Special Education Teachers graduate with a specialization in disabilities and are able to implement ABA plans. Allowing these teachers under the supervision of a licensed psychologist or BCBA to implement ABA services will help our state better serve our intellectually and developmentally disabled keiki.

We defer to the Special Education Advisory Council for any substantive comments. Thank you for the opportunity to submit testimony in **support of SB1340 SD2**.

Sincerely,

Daintry Bartoldus
Executive Administrator



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
March 21, 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

Representative Justin H. Woodson, Chair
Committee on Education
Representative Della Au Belatti, Chair
Committee on Health & Homelessness
Hawaii State Capitol
Honolulu, HI 96813

RE: SB 1340, SD 2 – Relating to the Practice of Behavior Analysis

Dear Chairs Woodson and Belatti and Members of the Committees,

The Special Education Advisory Council (SEAC), Hawaii's State Advisory Council under the Individual's with Disabilities Act (IDEA) strongly supports SB 1340, SD 2 which helps to ensure timely and appropriate applied behavior analysis (ABA) services for students who need these interventions to enable them 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

*Mandated by the **Individuals with Disabilities Education Act***



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

TESTIMONY BEFORE THE HOUSE COMMITTEE ON EDUCATION AND THE
COMMITTEE ON HEALTH & HOMELESSNESS

RE: SB 1340 SD2 - RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS

TUESDAY, MARCH 20, 2023

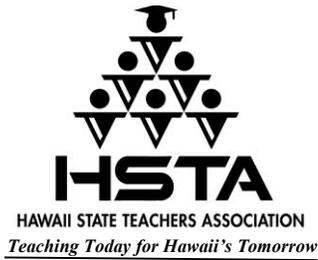
OSA TUI, JR., PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Woodson; Chair Belatti and Members of the Committees:

The Hawaii State Teachers Association **supports SB 1340, SD2**, 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. Our special education teachers are able to, as this bill provides currently, only IMPLEMENT these 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



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Secretary-Treasurer

Ann Mahi
Executive Director

Certified Behavior Analysts (CBAs) and they, of course, may design/create and monitor ABA plans, but the majority of teachers are not CBAs. **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 CBAs 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 licensed psychologists 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.



Committee on Education
Committee of Health and Homelessness

Tuesday, March 21, 2023
2:05 PM
Conference Room 309 & Videoconference
State Capitol
415 South Beretania Street

Comments on SB1340 SD2 Relating to the practice of behavior analysis

Chairs Woodson and Belatti, Vice Chairs Marten and Takenouchi, and members of the Committees:

On behalf of the Hawai'i Association for Behavior Analysis (HABA) we thank you for the opportunity to submit comments on SB1340 SD2 relating to the practice of behavior analysis and exemptions from the behavior analyst licensing requirements. 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-Burdt, BCBA, LBA, CDP
Legislative Chair
Hawai'i Association for Behavior Analysis

SB-1340-SD-2

Submitted on: 3/20/2023 9:47:08 AM

Testimony for EDN on 3/21/2023 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Catherine Orlans	Individual	Oppose	Written Testimony Only

Comments:

As a parent of a child in the DOE with autism spectrum disorder, I do not find this bill an appropriate solution to providing these services, that are his right to receive and that will help my child receive an appropriate education in the eyes of the federal government. I also think this is an ethically inappropriate bill to introduce, saying, our overworked teachers should just work harder to provide these services when they aren't trained to do so in the first place.

Please continue to allow for the contracting and services from qualified BCBA/RBT professionals that exist outside of the DOE to contract their services for in the school day to support my child's academic learning - and not just "in collaboration" as the bill currently states. My son is able to get services medically recommended by his doctor for speech by a certified SLP, why not his ABA services?

It's a poor excuse that staffing shortages is the reason for this bill when putting the additional task on teachers that also face a staffing shortage. This bill finds that the DOE has a shortage of qualified individuals to offer Applied Behavior Analysis (ABA) services to youth with autism. This bill is aiming to bolster the State's ABA workforce by allowing certain classroom teachers and registered behavior technicians under the direction of a licensed psychologist to implement ABA services. This is can also be seen as fadulent. Passing this bill and allowing this exemption will put my child at risk from inappropriate treatment and services as in the end, the people implementing these services will NOT be as qualified to implement these services at the level of a trained ABA licensed professional would. The real need for this bill just seems to be the issue of cost of these services to the DOE, which is extremely sad. Especially as a working parent in the tourism industry that generates millions of tax dollars for the state there really should be enough in the pot to continue to provide these contracted services to a smaller marginalizated popoulation of students like these students with Autism Spectrum Disorder. DOE, start with trimming the fat in your administration to make room in your budget for critical services for students.

ABA is the only scientifically validated treatment shown to be effective to teach individuals with ASD. In order for students to receive a curriculum based in ABA, the teaching staff must have expertise in behavior analysis. Unfortunately, there is not a lot of integration of ABA principles or how to run a classroom based on the principles of ABA in special education teacher training programs.

There are also no requirements for special education teachers to be knowledgeable about ABA in order to teach students with autism. Regardless of educational placement – self-contained, inclusion, or general education – it is important to provide individuals with autism spectrum disorders the proper level of support to be successful. While most self-contained classrooms provide individualized instruction using the principles of ABA with well trained staff and community collaboration, that is not always the case in inclusion or general education classrooms. In order to effectively support students in this environment, BCBA's need to allocate time with the one or two classroom teachers to understand where and when the BCBA's help is needed and provide the training and support in a really individualized manner.

Please reconsider the need for this bill. It seems like it would be a better investment of time, energy and resources, to put funding towards actually bolstering the state's critically lacking ABA workforce. Funding should be directed to help with providing an educational opportunities in the form of grants and scholarships that would encourage Hawai'i high school students to go into this field and stay here in Hawai'i in their future. This bill is incomplete with only including an exemption for the current workforce and does nothing to address the real issue at hand. Mahalo for the opportunity to testify in opposition to this measure.