



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/24/2021

Time: 09:30 AM

Location: CR 229 & Videoconference

Committee: Senate Commerce and
Consumer Protection

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: SB 0805, SD1 RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS.

Purpose of Bill: 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. (SD1)

Department's Position:

The Hawaii State Department of Education (Department) supports the intent of SB 805, SD1 to modify the exemptions allowed under Hawaii Revised Statutes, Chapter 465D. The Department supports allowing licensed classroom teachers or individuals who are working as a classroom teacher and are enrolled in a teacher preparation program working towards licensure to implement Applied Behavior Analysis (ABA) services in a school setting when in direct collaboration with a licensed behavior analyst or a licensed psychologist.

The Department acknowledges that not all special education teachers have the education and training to design ABA programs. However, special education teachers who have a specialized added license field in severe/profound disabilities or autism complete intensive coursework and supervision grounded in ABA as part of their specialized licensure program. Furthermore, the severe/profound disabilities licensure exam includes questions on ABA-related topics such as Functional Behavior Assessments and behavior interventions to ensure the competency of the licensee in these program areas. Therefore, the Department

respectfully recommends including special education teachers with a specialized license in severe/profound disabilities or autism to Section 465D-7, Hawaii Revised Statutes, subsection (a), as independently designing ABA programs is within the boundaries and scope of their education, training, and practice.

The table below provides a side-by-side comparison of coursework for a severe/profound and autism program and a behavior analysis program at the University of Hawaii at Manoa that demonstrates special education teachers licensed in severe/profound disabilities or autism have the foundational education and competency in ABA that enable them to design ABA programs.

Coursework at University of Hawaii at Manoa, Department of Special Education	Special Education -Severe/Profound and Autism Program Requirements	Behavior Analysis Program Requirements
SPED 412: Individuals with Severe Disabilities/Autism	√	
SPED 501: Professional Development in Educational Technology	√	√
SPED 462: Assessment, Planning, Instruction—Severe Disabilities/Autism	√	
SPED 603: Principles of Behavior	√	√
SPED 632: Language/Communication Intervention—Communication Disorders/Autism	√	√
SPED 614: Assessment and Instruction— Severe Disabilities/Autism	√	√
SPED 618: Adaptations and Special Procedures— Severe Disabilities/Autism	√	
SPED 630: Positive Behavioral Support: — Severe Disabilities/Autism	√	√
SPED 635: Procedures for Children with S/A (pre-3) or SPED 652 Transition/Supported Employment	√	
SPED 671: Advanced Applied Behavior Analysis		√
SPED 673: Ethics & Professional Conduct		√
SPED 641h: Seminar on Single-Case Research in Special Education		√

Per the Hawaii Teacher Standards Board Code of Ethics (<https://hawaiiteacherstandardsboard.org/content/code-of-ethics/>), teachers are ethically obligated to accept and perform responsibilities and duties that correspond to their area of certification, licensure, and training as well as their professional skills, content knowledge, and competency. Therefore, should a teacher feel that they are not equipped to provide the level of quality ABA services they are tasked with in accordance with the proposed exemption modifications of this bill, they may decline to perform such services while they seek additional

training and support in their area of deficit as part of their commitment to ongoing professional learning.

Efforts to build the Department's ABA capacity have resulted in the establishment of complex area behavior analyst positions. Licensed behavior analysts in these positions can provide special education teachers with the training and support needed to build their ABA expertise. These complex area licensed behavior analysts are also able to provide ABA services, such as conducting Functional Behavioral Assessments, writing behavior intervention plans, and program monitoring, when the workload of a special education teacher licensed in severe/profound disabilities or autism prevents them from providing such services.

While the Department continues to build its internal capacity to provide ABA services to meet the licensure requirement under Hawaii Revised Statutes, Chapter 465D, a large portion of the ABA services provided to our students must be contracted through a statewide contract. This comes at a very high cost to the Department. Including special education teachers who have a specialized license in severe/profound or autism to the exemptions list will increase the pool of qualified ABA providers available to students while reducing the Department's dependency on contracting services. It is imperative that the Department builds internal capacity to sustain these services. Given the dire fiscal situation the State of Hawaii is currently facing, the Department must have all options available to utilize our qualified and competent personnel. Excluding the Department's qualified providers will hinder the Department's mission to establish a permanent and fiscally responsible solution to providing quality ABA services to our students.

At this time, the Department respectfully proposes the following amendments to SB 805, SD1:

Page 2, Lines 8 - 14:

A licensed classroom teacher or an individual who is working as a classroom teacher and is enrolled in a teacher preparation program working toward licensure who implements but does not design applied behavior analysis services in a school setting in direct collaboration with a licensed behavior analyst, or a licensed psychologist, or a special education teacher licensed in severe/profound disabilities or autism on or behavior July 1 2019.

Page 5, line 15 (Section 1):

A special education teacher licensed in severe/profound disabilities or autism or their supervisee; provided that the applied behavior analysis services performed are within the boundaries of the licensed special education teacher's scope of education, training, and practice. For the purposes of this paragraph, "supervisee" means a special education teacher candidate currently pursuing licensure in a severe/profound disabilities or autism program.

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

The Hawai'i State Department of Education is committed to delivering on our promises to students, providing an equitable, excellent, and innovative learning environment in every school to engage and elevate our communities. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher

collaboration. Detailed information is available at www.hawaiipublicschools.org.



S E A C
Special Education Advisory Council
1010 Richards Street Honolulu, HI 96813
Phone: 586-8126 Fax: 586-8129
email: spin@doh.hawaii.gov
February 24, 2021

**Special Education
Advisory Council**

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Ms. Ivalee Sinclair, *Vice Chair*

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Amanda Kaahanui, Staff
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Senator Rosalyn H. Baker, Chair
Committee on Commerce and Consumer Protection
State Capitol
Honolulu, HI 96813

RE: SB 805, SD 1 - RELATING TO THE PRACTICE OF BEHAVIOR
ANALYSIS

Dear Chair Baker and Members of the Committee,

The Special Education Advisory Council (SEAC), Hawaii's State Advisory Panel under the Individuals with Disabilities Education Act (IDEA), **strongly supports** SB 805 which makes a permanent exemption from the behavior analyst licensing requirements for classroom teachers who implement applied behavior analysis services in a school setting in direct collaboration with or under the supervision of licensed professionals.

SEAC respectfully asks this Committee to restore proposed Exemption (a) (10) with the following language that addresses concerns expressed in the Committee on Education's hearing on SB 805:

Exemption (a)(10)

"A licensed special education teacher or an individual who is working toward licensure as a special education teacher and who is enrolled in a state-approved and nationally-accredited special education teacher preparation program that includes training in behavior analysis assessment and interventions licensed in severe/profound disabilities or autism or their supervisee; provided that the applied behavior analysis services performed are within the boundaries of the licensed special education teacher's or individual working toward licensure as a special education teacher's scope of education, training, and practice. For the purposes of this paragraph, "supervisee" means a special education teacher candidate currently pursuing licensure in a severe/profound disabilities or autism program."




SEAC acknowledges that while all special education teachers receive training in the delivery of a multi-tiered approach to teaching, including basic behavioral interventions to support learning, not every teacher has the required skillset to deliver ABA services to a subset of students with complex behavioral and communication needs. At the same time, teachers who have gone through a severe/profound disabilities and autism teacher licensure program, like that offered by the UH College of Education, are capable of and within the scope of their practice in conducting functional behavioral assessments (FBA) and behavior intervention plans without the need for additional licensure. These professionals are required to demonstrate competency in conducting an FBA and designing and implementing a behavioral plan for a student prior to receiving their license.

Teachers who graduate with a specialization in educating students with severe/profound disabilities and autism make up a relatively small percentage of the overall special education teacher population, yet they serve a very important function in designing educational supports to promote functional communication and potentially avoid disruptive behavior by addressing the student's complex needs in a holistic manner. When a complex behavior or communication issue arises, these teachers are best suited to assessing the factors behind the behavior or communication deficit, because they are familiar with the student's unique strengths, needs and patterns of behavior. They have the knowledge, skills and data to then design a timely and individualized plan for behavioral and communication support. They are also cost effective in that their behavioral interventions are part of the overall specially designed instruction provided to the student, negating the need to contract out for services or delay interventions until personnel are available.

Chapter 465D was not intended to restrict the practice of other licensed or credentialed professionals providing services within the scope of their established training and expertise, yet it has had to be amended several times to add to the list of those exempted from acquiring licensure as a behavior analyst. SEAC believes strongly that this group of educational professionals with training and experience serving students with severe/profound disabilities and autism should also receive an exemption in order to carry out the same behavioral interventions for their students, including conducting FBAs and behavioral intervention plans, that their counterparts in other states can now do freely without obtaining licensure as a behavior analyst.

SEAC believes these changes to the current ABA licensure law will help to ensure timely and appropriate services to those students in need of behavioral interventions to benefit from their education. We appreciate this opportunity to provide our recommendations and are available to your Committee to answer any questions or concerns you may have.

Respectfully,


Martha Quinan
Chair


Ivalee Sinclair
Legislative Committee Chair

SB-805-SD-1

Submitted on: 2/23/2021 6:21:17 AM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lara Bollinger	Testifying for Together For Our Keiki	Support	No

Comments:

Aloha Chair, Vice Chair, and Members of the Committee,

My name is Lara Bollinger and I represent Together For Our Keiki™. Together For Our Keiki (T.F.O.K.) is a non-profit 501(c)(3) organization whose mission is to advocate and create a diverse and inclusive community for our keiki by empowering parents and caregivers and educating local stakeholders. **We appreciate the opportunity to testify today in SUPPORT OF SB805 in its current form, which seeks to make behavior analysis licensure permanent.**

Mahalo,

Lara Bollinger, JD, BCBA, LBA

Vice President, Together For Our Keiki

www.forourkeiki.com / lara@forourkeiki.com

SB-805-SD-1

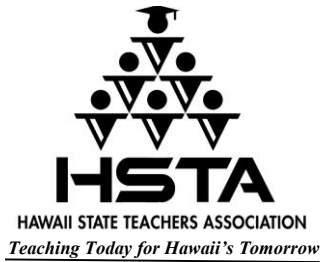
Submitted on: 2/19/2021 5:05:48 PM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Support	No

Comments:

We are in support.



Corey Rosenlee
President
Osa Tui Jr.
Vice President
Logan Okita
Secretary-Treasurer
Wilbert Holck
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEE ON
COMMERCE & CONSUMER PROTECTION

RE: SB 805, SD1 - RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS

WEDNESDAY, FEBRUARY 24, 2021

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Baker and Members of the Committee:

The Hawaii State Teachers Association **supports SB 805, SD1**, relating to the practice of behavior analysis. **We agree with removing the dates in sections (HRS465D-7; 2), which would remove perceived restrictions imposed on classroom teachers from implementing ABA plans. Page 2, line 14, [~~on or before July 1, 2019~~] as well as Part B on page 3, lines 9-18.**

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.

When our special education teachers use their skills, instructional practices, and methods, but yet, they still do not see progress in their student(s) learning, and they need help to support their students in accessing their learning, they need to consult outside experts, as determined in an IEP meeting, to assist them. In this case, they are able to ask for the services of a Licensed Behavior Analyst (LBA) or psychologist with the appropriate training and credentials for support, as they are licensed to analyze behaviors that are preventing a child from learning and create Applied Behavior Analysis (ABA) Plans to help children access their learning.

This bill as now written helps **the Department of Education to collect Medicaid reimbursements for ABA services during the school day, which are allowable for LBAs and psychologists.** Medicaid lists experts that are able to conduct FBAs, design/create and monitor ABA plans have a specialized license.

To ensure our most vulnerable keiki are given the care they deserve, the Hawaii State Teachers Association asks your committee to **support** this bill in its current form.



Hawai'i Psychological Association

For a Healthy Hawai'i

P.O. Box 833
Honolulu, HI 96808

www.hawaiiopsychology.org

Phone: (808) 521-8995

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

DATE: Wednesday, February 24, 2021

TIME: 9:30am

PLACE: Conference Room 229 - videoconference

Testimony in Strong Support of SB805 SD1 with Amendment RELATED TO THE PRACTICE OF BEHAVIOR ANALYSIS

The Hawai'i Psychological Association (HPA) strongly supports SB805 SD1 which will ensure that psychologists are able to perform behavior analysis. In the past, there were misinterpretations by the Department of Education that the behavior analyst licensing laws prohibited psychologists from doing behavior analysis.

The legislature has clarified that licensed psychologists are exempt from the law regarding the licensing of behavior analysts (HRS 465D); provided that the behavior analysis services performed are within the boundaries of the licensed psychologist's education, training, and competence. HRS 465D-7 clarifies that a licensed psychologist may supervise master's level practitioners and postdoctoral fellows who may in turn supervise direct support workers, paraprofessionals, caregivers, parents, and guardians in a manner and to the extent determined by the supervising psychologist. SB805 SD1 would further clarify that an individual registered as a behavior technician by the Behavior Analyst Certification Board (BACB) may work under a licensed behavior analyst or a licensed psychologist, which is consistent with HRS 465D-7 as well as revised BACB guidelines.

HPA would also like to note the removal – in the SD1 - of the exemption previously provided in SB805 for special education teachers and those in accredited training to be one. HPA recognizes that the education, training and experience of many licensed special education teachers qualify them to provide applied behavior analysis services for the students in their classrooms and strongly supports amendments to include them in this exemption, as we had seen made in a prior iteration of this bill in SB341 SD2HD2 from the 2019-2020 Biennium. That exemption allows a licensed special education teacher to provide applied behavior analysis services within the boundaries of the licensed special education teacher's education, training competence.

All qualified professionals should be part of Hawaii's workforce and will make it that much stronger.

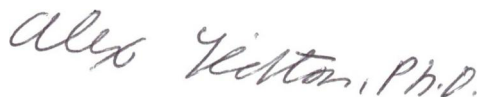
HPA also respectfully proposes amending SB805 SD1 to include guidance for the Department of Education to seek necessary approvals to bill for services provided for Medicaid-eligible students diagnosed with autism by an array of qualified licensed behavioral professionals and their supervisees as is the practice in other jurisdictions (e.g., California).

We recommend the following paragraph be added as SECTION 2 (page 5, starting on line 5), as was also done in SB341 S.D.2 H.D.2 (2019-2020 Biennium):

SECTION 2. The Department of Education shall seek any approvals that may be necessary from the Centers for Medicare and Medicaid services to amend the Hawaii Medicaid state plan to provide reimbursement for necessary applied behavior analysis services provided to medicaid-eligible students diagnosed with autism, including services provided by licensed mental health professionals with specialized training in applied behavior analysis. These licensed mental health professionals may include licensed behavior analysts, licensed psychologists, licensed clinical social workers, advanced practice registered nurses with a specialization in psychiatry, licensed marriage and family therapists, licensed mental health counselors, and those they supervise.

Thank you for the opportunity to provide input into this important bill.

Sincerely,

A handwritten signature in cursive script that reads "Alex Lichton, Ph.D.".

Alex Lichton, Ph.D.
Chair, HPA Legislative Action Committee

SB-805-SD-1

Submitted on: 2/19/2021 3:17:57 PM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Josliene Miller	Individual	Support	No

Comments:

I support the SD1 version of SB805 which removed the full teacher exemption to ensure teachers and students have the support they need from licensed behavior analysts.

SB-805-SD-1

Submitted on: 2/19/2021 3:22:13 PM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel Miller	Individual	Support	No

Comments:

I support the SD1 version of SB805 which removed the full teacher exemption to ensure teachers and students have the support they need from licensed behavior analysts.

SB-805-SD-1

Submitted on: 2/19/2021 3:28:30 PM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dallas Star	Individual	Support	No

Comments:

I support SB805 SD1 as written and thank the Education Committee for changes made to this bill to ensure continued consumer protection.

SB-805-SD-1

Submitted on: 2/19/2021 4:00:52 PM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrew Torres	Individual	Support	No

Comments:

I support the SD1 version of SB805 which removed the full teacher exemption to ensure teachers and students have the support they need from licensed behavior analysts.

SB-805-SD-1

Submitted on: 2/19/2021 4:21:52 PM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alissa Harris	Individual	Support	No

Comments:

As a Maui resident, I support this motion to ensure our children and teachers have access to the support they need from licensed behavior analysts in their classrooms. It is the level of care I would want for my own child.

Alissa Harris

Maui

SB-805-SD-1

Submitted on: 2/19/2021 5:26:22 PM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Erin Walters	Individual	Support	No

Comments:

I support SB805 SD1 as written and thank the Education Committee for changes made to this bill to ensure continued consumer protection.

SB-805-SD-1

Submitted on: 2/20/2021 9:37:07 AM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Maile Martin	Individual	Support	No

Comments:

I support the SD1 version of SB805 which removed the full teacher exemption to ensure teachers and students have the support they need from licensed behavior analysts.

SB-805-SD-1

Submitted on: 2/21/2021 7:47:59 PM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Doniel Wolfe	Individual	Support	No

Comments:

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

I would like to offer testimony in support of SB 805 SD1 relating to Behavior Analysts.

As a licensed special education teacher, in addition to being both a parent of two children with special needs and a Registered Behavior Technician, I know first hand the minimal oversight teachers receive when it comes to writing an Individualized Education Plan (IEP). Coupled by a relatively high-turn over in the special education field and the consequent lack of experience, I have grave concerns about teachers who are not BCBAs designing highly technical behavior analytic programs as it can be well outside their scope of practice. In addition, if minimal, or no, oversight is being provided for an IEP- a document that is Federally required- there can be little chance that behavior analytic programming will receive anything close to the depth of review (ongoing) mandated by the ethical standards that govern the practice of Board Certified Behavior Analysts (BCBAs).

The credential in behavior analysis is the standard for practice. It ensures that behavior analytic programming is informed by science and employs only those protocols for which a plethora of scientific research exists. This high level of accountability and evidence-based practice is why behavior analytic services, provided by credentialed providers, are now typically covered by health insurance. To say that Teachers, who are not also Board Certified Behavior Analysts, can appropriately design behavior analytic programming is akin to saying that teachers can provide an expert level of speech, occupational, and/or physical therapy services as effectively as credentialed SLPs, OTs, and PTs.

Further, credentialed services indicate the provision of highly individualized (1:1) programming provided by an individual whose practice requires strict adherence to an ethical code that prioritizes client protections. This ensures that the individual is receiving the most appropriate treatment in a continually evolving and closely supervised manner. Insurance companies have clearly identified the eligibility criteria for clinicians who provide behavior analytic programming to ensure accountability and maximize effectiveness and efficiency.

Certainly, teachers play a vital role as partners in the consistent implementation of a student's behavior analytic program. Helping to establish a comprehensive approach that will leverage the unified efforts of a student-focused team is the ideal for demonstrated and ongoing progress but it does not, it can not, negate the need for credentialed design and continued oversight by a BCBA.

Thank you for the opportunity to provide testimony in support of this measure.

SB-805-SD-1

Submitted on: 2/22/2021 8:54:16 AM

Testimony for CPN on 2/24/2021 9:30:00 AM

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

Comments:

Chair Baker, Vice-Chair Chang and members of the committee,

I support the SD1 version of SB805 which removed the full teacher exemption to ensure teachers and students.

The full teacher exemption should be removed as indicated by HSTA. If the individuals who are responsible for the execution of ABA are opposed to the full exemption that should be a clear indication of the challenge to implementing the full exemption.

Thanks for your consideration,

Jeffrey Krepps

Kailua-Kona, Hawai'i

SB-805-SD-1

Submitted on: 2/22/2021 9:05:46 AM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marchet Fullum	Individual	Support	No

Comments:

I support the SD1 version of SB805 which removed the full teacher exemption to ensure teachers and students have the support they need from licensed behavior analysts.

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

415 South Beretania Street
Honolulu, HI 96813
Room 229 via video conference

February 24, 2021
9:30 am

SUPPORT OF SB 805 SD1

Honorable Chair Baker, Vice Chair Chang, and members of the Committee:

Thank you for the opportunity to submit testimony on SB 805 SD1 relating to the practice of behavior analysis.

My name is Kristen Koba-Burdtt and I am a licensed behavior analyst living and practicing on Maui. Additionally, I serve as the Autism Speaks Volunteer Advocacy Ambassador for the state of Hawai'i.

I support the SD1 version of this bill and thank the Education Committee for the changes to this bill. The current SD1 proposes changes to Exemption 2 and Exemption 4 (A) and (B) that provide clarifications in the law and support teachers to implement behavior analytic programming as part of a student's educational programming through direct collaboration with a licensed behavior analyst or a licensed psychologist. These exemptions would continue to protect some of our most vulnerable keiki, maintain consistent and measurable regulation of the practice of behavior analysis, and provide teachers the support they have continually advocated for. Additionally, providing services as currently permitted in the licensure law, through qualified licensed behavior analysts and licensed psychologists, allows Medicaid billing and the opportunity to pull down federal funds that the State is yet to fully maximize the fiscal benefits of.

Mahalo nui loa Chair Baker and the CPN Committee for your continued support over the years for individuals with autism and the regulation of behavior analysis to ensure our keiki receive the quality services they need to make meaningful progress. I respectfully ask you once again support our community by passing SB805 SD1 as written.

Mahalo,



Kristen Koba-Burdtt, BCBA, LBA (BA-9)
Autism Speaks Volunteer Advocacy Ambassador
Maui

SB-805-SD-1

Submitted on: 2/22/2021 10:22:41 AM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Eliza Lipp	Individual	Support	No

Comments:

I support the SD1 version of SB805 which removed the full teacher exemption to ensure teachers and students have the support they need from Licensed Behavior Analysts.

SB-805-SD-1

Submitted on: 2/22/2021 12:59:29 PM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Krekel	Individual	Support	No

Comments:

Dear Chair Baker, Vice Chair Chang, and members of the Committee:

I would like to offer testimony **in support** of SB 805 SD1 relating to Behavior Analysts.

I am a behavior analyst, parent of a child with autism, and a community stakeholder who is passionate about ensuring that applied behavior analysis services for some of our most vulnerable keiki remain protected. I have worked in the field of education, mental health and behavior analysis for over a decade. Over the years I have seen first hand how high quality applied behavior analysis services delivered by licensed and appropriately trained professionals have helped change the quality of life for hundreds of individuals and their families, including my own.

In addition, I have unfortunately seen how these same services delivered by inappropriately trained, unlicensed professionals can lead to harm. I want to see our highly qualified teachers, who are already difficult to retain and recruit, supported and working in close collaboration with licensed behavior analysts instead of being overtaxed to “do it all” even when what they are being asked to do is outside of the range of their experience and training. I do however realize there are many things that teachers and can safely do in an educational setting.

- I do **support** teachers to implement, *but not design*, behavior analytic programming to ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming.
- I also **support** that licensed psychologists with expertise in the design and evaluation of behavior analytic programming (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs).

Thank you for the opportunity to provide testimony **in support** of this measure.

Sincerely,

Deborah Krekel

Testimony in Favor of SB 805, SD 1, Relating to the Practice of Behavior Analysis *with modification*

Submitted by Mary Jo Noonan, PhD, BCBA (noonan@hawaii.edu)
Professor and Chair, Department of Special Education, University of Hawai'i at Mānoa
February 22, 2021

Dear Chair Baker and Members of the Committee,

Section 465D-7, Hawai'i Revised Statutes, indicates that the licensing of behavior analysts "is not intended to restrict the practice of other licensed or credentialed 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." The statute, however, goes on to restrict the practice of licensed special education teachers—and concurrently accredited and state-approved special education teacher preparation programs in Hawaii—when it indicates who may and may not implement specific assessment and intervention practices. Therefore, I respectfully ask that Exemption (a) (10) be re-inserted in SB 805, SD1:

Exemption (a)(10)

"A licensed special education teacher or an individual who is working toward licensure as a special education teacher and who is enrolled in a state-approved and nationally-accredited special education teacher preparation program that includes training in behavior analysis assessment and interventions licensed in severe/profound disabilities or autism or their supervisee; provided that the applied behavior analysis services performed are within the boundaries of the licensed special education teacher's or individual working toward licensure as a special education teacher's scope of education, training, and practice. For the purposes of this paragraph, "supervisee" means a special education teacher candidate currently pursuing licensure in a severe/profound disabilities or autism program."

Much of special education assessment and intervention procedures are applied behavior analysis procedures and are the foundation of teacher preparation programs in Hawaii and across the nation. This is especially true for the specialty areas of teaching students with severe/profound disabilities and autism. Prohibiting special educators from designing and implementing behavior analytic assessment and intervention practices infringes on their right to practice as licensed professionals and places the state of Hawaii at risk in meeting the federal requirements of providing free appropriate education for students with disabilities.

National personnel standards for special education teachers and teacher training programs include applied behavior analysis procedures, such as designing and conducting functional behavioral assessments and positive behavioral interventions. Accreditation for teacher preparation programs requires that standards of the profession be addressed through coursework and practicum. Failing to address these standards will put national program accreditation at risk. Additionally, the standards are covered on the Praxis teacher licensure exams used by the State of Hawaii; thus, special education teacher candidates must be trained in applied behavior analysis procedures.

I have been preparing special education teachers to teach students with severe/profound disabilities and autism at the University of Hawaii since 1982. I know the teacher preparation curriculum thoroughly. I also helped design our behavior analyst training curriculum and have taught several of the required courses in this program. Often, students from each program are enrolled in the same course sections at the same time. The coursework and training competencies are not identical (the candidates are being prepared for two different roles), however, there is **substantial** overlap in the curriculum with extensive coursework, applied assignments, and fieldwork/student teaching covering behavior analytic procedures. The following table shows the overlap in the coursework for special education teacher candidates in the licensure area of severe/profound disabilities and autism and behavior analyst candidates:

Coursework at University of Hawaii at Manoa, Department of Special Education	Special Education - Severe/Profound and Autism Program Requirements	Behavior Analysis Program Requirements
SPED 412: Individuals with Severe Disabilities/Autism	✓	
SPED 501: Professional Development in Educational Technology	✓	✓
SPED 462: Assessment, Planning, Instruction—Severe Disabilities/Autism	✓	
SPED 603: Principles of Behavior	✓	✓
SPED 632: Language/Communication Intervention—Communication Disorders/Autism	✓	✓
SPED 614: Assessment and Instruction— Severe Disabilities/Autism	✓	✓
SPED 618: Adaptations and Special Procedures— Severe Disabilities/Autism	✓	
SPED 630: Positive Behavioral Support: — Severe Disabilities/Autism	✓	✓
SPED 635: Procedures for Children with S/A (pre-3) or SPED 652 Transition/Supported Employment	✓	
SPED 671: Advanced Applied Behavior Analysis		✓
SPED 673: Ethics & Professional Conduct/ NEA Ethics Modules (taken concurrently with Student Teaching)	✓	✓
SPED 641h: Seminar on Single-Case Research in Special Education		✓

In summary, I support SB 805 SD1 with the modification of re-inserting Exemption (a) (10) to allow Special Education teachers licensed in severe/profound disabilities/autism to implement ABA practices.

Thank you.

SB-805-SD-1

Submitted on: 2/22/2021 6:34:00 PM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Emma Palumbo	Individual	Support	No

Comments:

- As a licensed behavior analyst, I support collaboration with our teachers and support this bill.
- I stand with HSTA in support of our teachers and keiki to ensure continued access to ABA from licensed and qualified professionals.
- I am a licensed behavior analyst and I support SB805 SD1 as written to ensure continued consumer protection for our students.
- I am a licensed behavior analyst and I support the SD1 version of SB805 which removed the full teacher exemption to ensure teachers and students have the support they need from licensed behavior analysts.

SB-805-SD-1

Submitted on: 2/22/2021 7:13:50 PM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeanette White	Individual	Support	No

Comments:

SB-805-SD-1

Submitted on: 2/23/2021 6:32:17 AM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dr. Amanda Kelly	Individual	Support	No

Comments:

Aloha Chair, Vice Chair, and Members of the Committee,

Thank you for the opportunity to testify in SUPPORT of SB805, which seeks to remove the date prohibiting implementation of ABA services by teachers, "in direct collaboration with a licensed behavior analyst or licensed psychologist with ABA in their education, training, and competence".

Mahalo,

Amanda N Kelly, PhD, BCBA-D, LBA

Behavior Analyst License #1

Hawai'i Teacher License #53512

SB-805-SD-1

Submitted on: 2/23/2021 9:28:50 AM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Amoy Hugh-Pennie	Individual	Support	No

Comments:

Senate Committee on Commerce and Consumer Protection

Senator Rosalyn H. Baker, Chair

Senator Stanley Chang, Vice Chair

Wednesday, February 24, 2021

Re: SB 805 SD1, Relating to Behavior Analysis

TESTIMONY IN SUPPORT OF ON SB 805 SD1

Dear Chair Baker, Vice-Chair Chang, and members of the Committee:

Mahalo for the opportunity to testify on SB 805 SD1 relating to the practice of behavior analysis.

I am a Board Certified Behavior Analyst-Doctoral Designation, Hawai'i LBA, Instructor of a Verified Course Sequence to prepare BCaBAs and BCBAAs. Additionally, I am a permanent New York State Certified Special Education Teacher and School Administrator. I have been practicing across both fields for 25 years. I have taught at the graduate level in both Special Education Teacher Licensing programs and ABA Certification Courses in the USA and internationally. I would like to offer comments on this bill that seeks substantive changes to the behavior analyst licensure law.

I fully support teacher implementation of ABA procedures through direct collaboration with a licensed behavior analyst or a licensed psychologist.

I fully support teachers implementing behavior analysis practices in the educational setting since Behavior Analysis has been used to improve teaching and increase learning across content areas, grade levels, and student populations for over 60 years. The way it is currently applied in school settings in Hawai'i specifically targets behavior change procedures and does not necessarily focus on academic programming and instruction. For this reason, I strongly oppose any language that would carve out a full exemption for licensed special education teachers or those working toward licensure as a special education teacher, as previously proposed in Exemption 10 of this bill.

This would dramatically decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming, and require teachers who are already struggling to manage their workload and new teaching strategies & teaching platforms under COVID -19 for distance learning to take on additional tasks they do not have the expertise nor capacity for such as:

- Review of clinical records to determine prior learning history, limitations, barriers, and changes in patterns over time
- Functional behavior assessment using multiple types and sources of data collection methods, procedures, graphing and graphic analysis of data to be collected in class during instruction
- Full understanding of behavioral terminology, antecedent and consequent relationships, principles of reinforcement, punishment, extinction, and functional relationships
- Self-reflection on how classroom contingencies intentionally or unintentionally contribute to behaviors and how to change teacher behaviors to address them
- Ability to implement procedures, collect data, graph data, analyze and make systematic decisions based on a graphic analysis of the data
- Regular changes to programming, selection of appropriate tactics from over 200 possible strategies and tactics
- How and when to make changes to existing individual and group contingencies to fade procedures to more naturally occurring reinforcement and contingencies in the classroom.

This is not an exhaustive list of what teachers would need to know, what they would be responsible to do, or how to implement procedures in order to engage in such practices. A lack of ongoing oversight, supervision, and review of programming by a qualified and licensed Behavior Analyst will invariably lead to an increased risk of harm. For example, decisions made to target behaviors such as vocal stereotypy which may be functional for a child with Autism without the determination of how to systematically provide a great enough replacement communication repertoire may lead to increased behavioral concerns, in addition to decreasing coping skills. Such individuals who are not fully credentialed special or general education teachers, or behavior analysts who are still in process with their educational programs can easily engage in practices that lead to harm and cause greater challenges by creating instructional histories for students that make it more difficult to remediate later. Inconsistencies in training that are unable to be

verified will lead to an unknown and uneven level of skill across teachers that will also increase liability to the State.

Some examples of current concerns expressed by the Autism community regarding Applied Behavior Analysis can be linked to issues of cultural competence, social significance, and not making decisions from an Autistic or neurodivergent point of view. While many well-meaning early career ABA professionals are excited about their new roles they are only starting to learn of these ethical concerns. The BACB has recently introduced a revised ethics code that will go into effect on January 1, 2022, that further addresses some of these concerns. I fear that those who are not engaged in actual ABA programs will not have the resources, oversight, or supervision required to confront these ethical concerns or learn of the new ethical codes, be held accountable to the ethical code, its recent changes, or engage in further professional development for cultural competency through CEU training concerning these and other current issues in the field, and especially as they relate to behavior change programming. This will greatly increase the risk of harm to consumers.

In addition, the field of Behavior Analysis already has a system in place to increase the capacity of competent professionals through a tiered system of training, fieldwork, and supervision as do many other professions. In the field of Behavior Analysis we have Registered Behavior Technicians who often further their coursework and fieldwork to the extent that they become Board Certified Assistant Behavior Analysts (BCaBA's), these individuals have obtained greater competencies, fieldwork hours, and supervision, are held accountable to the code of ethics and are in turn able to provide supervision and additional training to Registered Behavior Therapists under the supervision of a Board Certified and Licensed Behavior Analyst (BCBA/ LBA). Allowing this tiered model that already exists within the field to be implemented within the DOE could further increase current capacity to provide the competent professionals necessary to provide these services now and as we grow in the future.

The behavior analyst licensure law has continually focused on consumer protection in all sectors but has also focused specifically on the improvement of behavior analytic services in the educational setting. I completely support bill 805 SD1 as currently written and respectfully request the committee to consider ways in which we can increase capacity now in the State of Hawai'i for competent professionals in behavior analysis to engage in the practices within the scope of their profession toward increasing the ability to serve more of our Keiki in a manner that is culturally competent, socially significant, and protects them from harm either intentional or unintentional.

Thank you for the opportunity to testify on this bill. I will be available during the hearing if necessary for further questions.

Mahalo,

Dr. Amoy Hugh-Pennie, Ph.D., BCBA-D, LBA

SB-805-SD-1

Submitted on: 2/23/2021 8:50:43 AM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ashley Hogan	Individual	Support	No

Comments:

Dear Chair Baker, Vice Chair Chang, and members of the Committee:

I would like to offer testimony in support of SB 805 SD1 relating to Behavior Analysts.

I am a behavior analyst who has been working in the state of Hawaii for over 5 years. During this time, I have worked at an insurance funded clinic and as an instructor at the University of Hawaii in the Behavior Analyst Program. I have experience interacting, consulting, and collaborating with various service providers including special education teachers. I respect their training and expertise in the area of special education, but know first-hand, that their limited amount of training in behavior analysis does not prepare them enough to be completely proficient and competent in all aspects of behavior analysis. In addition, training in behavior analysis does not end at graduation. There are additional requirements needed to maintain your board certification, including continued education in the field of behavior analysis. If teachers were exempt from licensure and board certification, they will not be held to the same standards and may not be aware of changes in best practices. Implementing outdated and possibly ineffective strategies will put thousands of keiki at risk.

Therefore, **I support** teachers to implement, *but not design*, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming.

Additionally, **I support** that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs)

Thank you for the opportunity to provide testimony in support of this measure.

Ashley Hogan

SB-805-SD-1

Submitted on: 2/23/2021 9:15:06 AM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Ho'ohuli	Individual	Support	No

Comments:

Aloha e Chair Baker, Vice Chair Chang, and Members of the Committee,

I am a Registered Behavior Technician (RBT) and student of behavior analysis, living and working on the island of **Maui** and I am writing today to offer testimony in **support of SB805 SD1**, relating to Behavior Analysts.

I fully **support** teachers in educational settings implementing, but not designing, behavior analysis practices while collaboratively working with licensed behavior analysts or licensed and qualified psychologists. I have had the opportunity to work closely with teachers in more than 30 different public and private schools on the islands of Oahu and Maui and have witnessed firsthand successes resulting from these collaborations. I have also witnessed harm being caused to our most vulnerable keiki in these same settings as a result of improperly trained and unqualified practitioners attempting to design behavior analytic programs and/or oversee non-credentialed paraprofessionals in the implementation of these programs.

I **support** that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs).

I appreciate this opportunity to testify.

Mahalo,

Deborah Ho'ohuli

SB-805-SD-1

Submitted on: 2/23/2021 9:20:56 AM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristen Kagoshima	Individual	Support	No

Comments:

Dear Chair Baker, Vice Chair Chang, and Members of the Committee,

I am writing today in **support of SB805 SD1**, relating to Behavior Analysts.

I support teachers to implement, *but not design*, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming.

I support that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs)

Thank you for the opportunity to provide testimony in support of this measure.

Sincerely,

Kristen Kagoshima

RBT

Maui County

SB-805-SD-1

Submitted on: 2/23/2021 9:26:30 AM

Testimony for CPN on 2/24/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Gina Gillstrom	Individual	Support	No

Comments:

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

I would like to offer testimony in **support of SB 805 SD1** relating to Behavior Analysts.

I am a Registered Behavior Technician, residing in **Maui County**.

I support teachers to implement, *but not design*, behavior analytic programming and ensure they have the support of licensed professionals with expertise in the design and evaluation of behavior analytic programming.

I support that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs)

Thank you for the opportunity to provide testimony in support of this measure.

Sincerely,

Gina Gillstrom

Dear Chair Baker, Vice Chair Chang, and members of the Committee:

Thank you for the opportunity to testify in support of SB 805 SD1 relating to the practice of behavior analysis.

I am a behavior analyst, parent, and concerned member of the community. I support this bill allowing teachers to implement behavior analysis practices in the educational setting through direct collaboration with a licensed behavior analyst or a licensed psychologist. I agree with the clarification that licensed psychologists (in addition to licensed behavior analysts) are able to oversee Registered Behavior Technicians (RBTs).

I strongly support the amendment made by the prior committee in the SD1 to remove the specific carve out for special education teachers, and I oppose a full exemption for licensed special education teachers or those working toward licensure as a special education teacher. Under the SD1, special education teachers can continue to collaborate with licensed behavior analysts and practice fully as their scope allows.

A full exemption for licensed special education teachers or those working toward licensure as a special education teacher would dramatically and dangerously decrease the consumer protection afforded by the current law, place children at risk of receiving substandard behavior analytic programming, and require teachers who are already struggling to manage their workload take on additional tasks they do not have the capacity for. There is also not a universally established standard for behavior analytic coursework within special education teacher preparation programs across universities, and more importantly, there is no requirement for measurement of competency in this area.

Licensed behavior analysts are required to complete coursework that has set standards for content and hours across all universities, complete supervised experience hours, and demonstrate competency through a rigorous certification exam. Students pursuing behavior analyst certification must complete 2000 experience hours supervised by a licensed behavior analyst, of which 1200 hours must be specifically focused on activities related to designing and overseeing behavior analytic programming.

For these reasons, I strongly support the SD1 version of this bill.

Mahalo for the opportunity to testify on this increasingly critical issue facing our keiki,

A handwritten signature in black ink that reads "Kyle Machos". The signature is written in a cursive style and is positioned above a horizontal line.

Kyle Machos, MS, BCBA, LBA

SB-805-SD-1

Submitted on: 2/23/2021 10:55:28 AM

Testimony for CPN on 2/24/2021 9:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Chelsea Gornichec	Individual	Support	No

Comments:

I support the SD1 version of SB805 which removed the full teacher exemption to ensure teachers and students have the support they need from licensed behavior analysts.

Chair of Senate Committee Commerce and Consumer Protection: Rosaline H. Baker
Vice Chair of Senate Committee Commerce and Consumer Protection: Stanley Chang

SB805, SD1

Wednesday, February 24, 2021

Room CR229 and Videoconference at 9:30am

LATE

My name is Lourdes Lizette Adame, I am a student at the University of Hawaii, Thompson School of Social Work, and a parent to a student in special education. I want to thank you for the opportunity to submit testimony on SB 805 relating to the practice of behavior analysis.

As both a student and parent, it is important that an effective treatment plan according to the most up to date scientific data is used for the conducive learning environment for each student, which is why I oppose SB805. A special education teacher does obtain the in depth, extensive training, supervision and continued educational units that are required for licensure. They have my full support in them implementing any educational and treatment plans in collaboration with a licensed behavior analyst or psychologist. I strongly oppose any language that would place a full exemption on teachers in obtaining licensure if they are to assess, create on top of implement the plans.

Again, I must reiterate my opposition of SB805 due to the exemption being placed on teachers obtaining licensure if they are to assess, create in addition to implementing any plans that could be done by a professional that is licensed under the Behavioral Analyst Certification Board that focuses on their education the scientific and systematic information, training and measuring of their competency specifically in Behavioral Analysis.

Mahalo,
Lourdes L. Adame

District 12