

---

---

# 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. The legislature finds that the department of  
2 education is finding it more difficult to attract and retain  
3 qualified licensed behavior analysts for the public school  
4 system. Staff shortages lead to students not obtaining adequate  
5 support in their education. While the department continues to  
6 build its internal capacity for its applied behavior analysis  
7 services to meet the licensure requirements under chapter 465D,  
8 Hawaii Revised Statutes, a large portion of the services  
9 provided must be contracted through a statewide contract at a  
10 high cost. To be able to continue providing adequate support to  
11 students, the department requires options to utilize qualified  
12 and competent personnel who may be able to implement applied  
13 behavior analysis services in direct collaboration with a  
14 licensed behavior analyst or a licensed psychologist.

15           The purpose of this Act is to:

16           (1) Beginning August 1, 2024:



1 (A) Increase the number of competent personnel  
2 available to support public school students by  
3 expanding the exemption from the behavior analyst  
4 licensing requirements for teachers working in  
5 collaboration with a licensed behavior analyst or  
6 licensed psychologist; and

7 (B) Remove the exemption from the behavior analyst  
8 licensing requirements for direct support workers  
9 and allow a registered behavior technician who is  
10 under the direction of a licensed psychologist to  
11 implement applied behavior analysis services;

12 (2) Expand the exemption for individuals who implement  
13 applied behavior analysis services to participants in  
14 the medicaid home and community-based service waiver  
15 program; and

16 (3) Require the department of education to report to the  
17 legislature on the status of implementing medicaid  
18 reimbursements for applied behavior analysis services.

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



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

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

18           For purposes of this paragraph, "supervisee"  
19 means a master's level practitioner, postdoctoral  
20 fellow, direct support worker, paraprofessional,



1 caregiver, parent, or guardian who provides applied  
2 behavior analysis services;

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

10 (3) An individual who implements or designs applied  
11 behavior analysis services and possesses board  
12 certification as an assistant behavior analyst by the  
13 Behavior Analyst Certification Board and who practices  
14 in accordance with the most recent supervisory and  
15 ethical requirements adopted by the Behavior Analyst  
16 Certification Board under the direction of a licensed  
17 behavior analyst;

18 (4) An individual who directly implements applied behavior  
19 analysis services and  
20 ~~(A) is~~ is credentialed as a registered behavior  
21 technician by the Behavior Analyst Certification



1 Board, and is under the direction of a licensed  
2 behavior analyst[; ~~or~~

3 ~~(B) Is a direct support worker who directly~~  
4 ~~implements an applied behavior analysis program~~  
5 ~~under the supervision of a licensed behavior~~  
6 ~~analyst or licensed psychologist on or before~~  
7 ~~January 1, 2020;~~

8 ~~provided that for purposes of this paragraph, "direct~~  
9 ~~support worker" means a paraprofessional who directly~~  
10 ~~implements intervention or assessment plans under~~  
11 ~~supervision and does not design intervention or~~  
12 ~~assessment plans;] or a licensed psychologist;~~

13 (5) A family member, legal guardian, or caregiver  
14 implementing an applied behavior analysis plan and who  
15 acts under the direction of a licensed behavior  
16 analyst or Hawaii-licensed psychologist; provided that  
17 for the purposes of this paragraph, "caregiver" means  
18 an individual who provides habilitative services in an  
19 adult foster home, developmental disabilities  
20 domiciliary home, adult residential care home,  
21 expanded adult residential care home, special



1 treatment facility, or therapeutic living program  
2 pursuant to the medicaid home and community-based  
3 services waiver program authorized by section 1915(c)  
4 of the Social Security Act;

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

10 (7) An individual who engages in the practice of applied  
11 behavior analysis with nonhuman or nonpatient clients  
12 or consumers, including but not limited to applied  
13 animal behaviorists and practitioners of  
14 organizational behavior management;

15 (8) A matriculated graduate student or postdoctoral fellow  
16 whose activities are part of a defined applied  
17 behavior analysis program of study, practicum, or  
18 intensive practicum; provided that the student's or  
19 fellow's activities or practice is directly supervised  
20 by a licensed behavior analyst, licensed psychologist,  
21 or an instructor from a nationally recognized training



1 organization or in a Behavior Analyst Certification  
2 Board-approved course sequence; or  
3 (9) An individual pursuing experience in applied behavior  
4 analysis consistent with the Behavior Analyst  
5 Certification Board's experience requirements;  
6 provided that the experience is supervised by a  
7 licensed behavior analyst."

8 SECTION 3. Section 465D-7, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10 "(a) This chapter is not intended to restrict the practice  
11 of other licensed or credentialed practitioners practicing  
12 within their own recognized scopes of practice and shall not  
13 apply to:

14 (1) A licensed psychologist and any supervisee of the  
15 licensed psychologist; provided that applied behavior  
16 analysis services performed are within the boundaries  
17 of the licensed psychologist's education, training,  
18 and competence; provided further that neither the  
19 licensed psychologist nor any supervisee of the  
20 licensed psychologist purports to be a licensed  
21 behavior analyst; and provided further that master's



1 level practitioners and postdoctoral fellows may  
2 provide training and supervision to direct support  
3 workers, paraprofessionals, caregivers, parents and  
4 guardians in a manner and to the extent determined by  
5 the supervising licensed psychologist.

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

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

18 (3) An individual who implements or designs applied  
19 behavior analysis services and possesses board  
20 certification as an assistant behavior analyst by the  
21 Behavior Analyst Certification Board and who practices



1 in accordance with the most recent supervisory and  
2 ethical requirements adopted by the Behavior Analyst  
3 Certification Board under the direction of a licensed  
4 behavior analyst;

5 (4) An individual who directly implements applied behavior  
6 analysis services and:

7 (A) Is credentialed as a registered behavior  
8 technician by the Behavior Analyst Certification  
9 Board, and is under the direction of a licensed  
10 behavior analyst; or

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

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



- 1 (5) A family member, legal guardian, or caregiver  
2 implementing an applied behavior analysis plan and who  
3 acts under the direction of a licensed behavior  
4 analyst or Hawaii-licensed psychologist; provided that  
5 for the purposes of this paragraph, "caregiver" means  
6 an individual who provides habilitative services in an  
7 adult foster home, developmental disabilities  
8 domiciliary home, adult residential care home,  
9 expanded adult residential care home, special  
10 treatment facility, or therapeutic living program  
11 pursuant to the medicaid home and community-based  
12 services waiver program authorized by section 1915(c)  
13 of the Social Security Act;
- 14 (6) An individual who designs [~~or implements~~] applied  
15 behavior analysis services to participants in the  
16 medicaid home and community-based service waiver  
17 program pursuant to section 1915(c) of the Social  
18 Security Act [~~on or before January 1, 2024~~];
- 19 (7) An individual who engages in the practice of applied  
20 behavior analysis with nonhuman or nonpatient clients  
21 or consumers including but not limited to applied



- 1 animal behaviorists and practitioners of  
2 organizational behavior management;
- 3 (8) A matriculated graduate student or postdoctoral fellow  
4 whose activities are part of a defined applied  
5 behavior analysis program of study, practicum, or  
6 intensive practicum; provided that the student's or  
7 fellow's activities or practice is directly supervised  
8 by a licensed behavior analyst, licensed psychologist,  
9 or an instructor from a nationally recognized training  
10 organization or in a Behavior Analyst Certification  
11 Board-approved course sequence; or
- 12 (9) An individual pursuing experience in applied behavior  
13 analysis consistent with the Behavior Analyst  
14 Certification Board's experience requirements;  
15 provided that the experience is supervised by a  
16 licensed behavior analyst."

17 SECTION 4. The department of education shall submit a  
18 report to the legislature no later than February 1, 2024, on the  
19 status of implementing medicaid reimbursements for applied  
20 behavior analysis services.



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

3           SECTION 6. This Act shall take effect on June 30, 3000,  
4 provided that section 2 shall take effect on August 1, 2024.



**Report Title:**

Practice of Behavior Analysis; Exemptions; Department of Education; Report

**Description:**

Beginning August 1, 2024, 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; and allows a registered behavior technician who is under the direction of a licensed psychologist to implement applied behavior analysis services. Expands the exemption from the behavior analyst licensing requirements for individuals who implement applied behavior analysis services to participants in the Medicaid Home and Community-based Service Waiver Program. Requires the Department of Education to report to the Legislature on the implementation of Medicaid reimbursements for applied behavior analysis services. Effective 6/30/3000. (HD1)

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

